

CHAPTER IV.a

Development of Human Rights in the Region



CHAPTER IV.A: SITUATION OF HUMAN RIGHTS IN THE REGION

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CHAPTER IV.A

SITUATION OF HUMAN RIGHTS IN THE REGION¹

OVERVIEW OF THE HUMAN RIGHTS SITUATION BY COUNTRY

METHODOLOGY

1. The Commission agreed that Chapter IV.A of its 2023 Annual Report would present an overview of the human rights situation in the States of the region, with a particular emphasis on the rights and issues prioritized by the Inter-American Commission, as well as on the following cross-cutting themes established by the Commission in its 2023-2027 Strategic Plan.

2. For the preparation of this section, the Commission took into account the information received on the situation of human rights in the region in 2023 in the course of its monitoring activities. The Commission relied on inputs from the various mechanisms through which it monitors the situation in each country, including, among others, public hearings, thematic visits, requests for information under Article 41 of the American Convention on Human Rights, precautionary measures, information from civil society organizations, and press articles, as well as decisions and recommendations from specialized international agencies.

3. In addition, and pursuant to the powers granted under Article 41 of the American Convention and Article 18 of the Statute of the Inter-American Commission on Human Rights, in September 2023, the Commission requested information from the member states on the aforementioned rights, issues and cross-cutting themes prioritized in the Strategic Plan. The Commission received responses from the following member states before the conclusion of the instant report: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Panama, Paraguay, Peru and the Dominican Republic.² The Commission thanks the above-mentioned States and appreciates the information sent, which has been included in this chapter.

4. The Commission is also grateful for the information provided by institutions and civil society organizations over the year through its different monitoring mechanisms, which has been included in this section.

TRENDS

5. This section presents an overview on the situation of human rights in the region based on the monitoring carried out during 2023. Within the framework of the 2023-2027 Strategic Plan, which mainstreams a cross-cutting gender, intercultural and intersectional approach, the Commission's monitoring activities focused especially on unequal power relations between individuals and social groups. These inequalities are rooted in a complex combination of historical, economic, political, and cultural factors that have led to historical and systematic discrimination, as well as to human rights violations.

¹ Chapter not approved by Commissioners Carlos Bernal Pulido and Stuardo Ralón Orellana, with a partial reasoned vote by Commissioner Carlos Bernal Pulido, joined by Commissioner Stuardo Ralón Orellana. The partial reasoned vote is found at the end of this chapter.

² The United States and Uruguay replied to the request for information on January 12, 2024, and January 16, 2024, respectively. Given the fact that they replied after the established report deadline, their responses will be considered for the Commission's 2024 monitoring tasks.

6. The first set of challenges to respecting and guaranteeing human rights is related to democratic institutionalism. The Commission observed that, in several countries of the region, undue influence was exerted with the purpose of weakening the independence of the judiciary, electoral bodies and national human rights institutions. Said undue influence comprised, among others: threats against justice operators; serious acts of corruption; the irregular removal and appointment of judges, prosecutors, ombudspersons and electoral authorities; ungrounded and reckless accusations aimed at discrediting electoral results and those responsible for supervising the election; excessive delays in the appointment of justice operators.

7. The weakening of judicial independence, in particular, severely affects the situation of human rights. First, it undermines the effective judicial control of the constitutionality, conventionality and legality of the acts of public authorities. Secondly, it fosters impunity and creates an atmosphere of leniency towards human rights violations and corruption. Thirdly, public institutions and democracy itself lose their credibility and reliability in the eyes of citizens, setting the stage for authoritarianism.

8. The second set of challenges concerns the exercise of freedom of expression and its related rights, such as the rights to peaceful assembly, to association, to the defense of human rights and to political participation. A number of practices persisted this year, including arbitrary restrictions on civic space; the excessive and disproportionate use of force in the context of protests; the adoption of decrees restricting some forms of protest, such as blockades, without evaluating each case; the stigmatization and criminalization of social protests; the closure of radio stations; the persecution of opposition political leaders and the Catholic Church; the arbitrary deprivation of nationality; the submission of bills restricting the registration of civil society organizations; and serious acts of violence against journalists and human rights defenders as retaliation for their work.

9. The Commission recalls that social protest is a right protected under the American Convention on Human Rights. In addition, journalists and defenders play a crucial role in the consolidation of democratic societies. For that reason, it is essential for States to have effective formal mechanisms in place to channel social demands. These spaces must guarantee the participation of civil society and include diverse voices through dynamic channels for dialogue, with a view to implementing public policies and ensuring their accountability.

10. Another set of challenges to human rights relates to citizen security. Several States in the region have resorted to the militarization of internal security, made an excessive use of states of exception and relaxed the requirements for carrying firearms. Furthermore, States have introduced criminal policy reforms tightening the sanctions for certain crimes, relaxing the use of pretrial detention, weakening due process of law guarantees and disregarding the principle of presumption of innocence, all of which have resulted in a significant increase in the number of people deprived of liberty.

11. The Commission recognizes that insecurity arising from criminal activities and violence constitutes a serious problem that States need to tackle. At the same time, the Commission is aware that some countries in the region have seen an increase in homicide rates and in the number of irregular armed groups in dispute over the control of illegal economic activities. Notwithstanding the foregoing, the Commission recalls that the issue of citizen security must be addressed with a human rights perspective, which focuses on protecting citizens rather than on fighting enemies. The Commission adds that pretrial detention is of an exceptional nature and that fundamental judicial guarantees cannot be suspended during states of exception.

12. Before analyzing the situation of human rights in each country individually, some of the particular challenges faced by persons and groups subject to historical and systematic discrimination will be presented.³ To that effect, the Inter-American Commission recalls that the whole legal structure of national and international public order rests on the principle of equality and nondiscrimination. This principle leads to negative obligations. For example, States must avoid giving differential treatment unless there is an objective and a reasonable justification for it. Likewise, positive protection obligations arise from said principle, which

³ Information will be presented according to the order in which the thematic rapporteurships were created within the Executive Secretariat of the IACHR.

need to consider the existing multiple structural and intersectional inequalities, so that rights are exercised on an equal footing.

13. This year, indigenous peoples struggled to access their economic, social, cultural and environmental rights (ESCERs), and to realize their right to self-determination. In particular, the Commission took note of measures which sought to remove prior consultation and the state obligation to demarcate indigenous territories. Likewise, bills which set a temporary limit on land tenure were submitted with the purpose of rebutting indigenous peoples' collective ownership of ancestral lands.

14. At the regional level, women encountered significant challenges in ensuring full compliance with and the protection of their fundamental rights in a context of violence and structural discrimination against them, marked by gender-based homicides, disappearances, harassment, sexual violence, and domestic violence, among other forms of violence. In addition, barriers to education, information, and sexual and reproductive health, as well as to equal employment opportunities and conditions, continued to exist.

15. Migrants faced challenges in relation to traveling pathways, the action of criminal groups and the absence of coordinated migration policies based on the principle of shared responsibility. In particular, unprecedented migration movements were documented at the Darien Gap, a dangerous jungle area. Likewise, collective expulsions, criminalization of migration, stigmatization, noncompliance with due process of law in migration procedures and the refusal to recognize the refugee status under the Cartagena Declaration were all recorded. In several countries in the region, the right to nationality is not automatically recognized for those who are born within the territory. As a result, the risk of statelessness persists in some cases.

16. Children and adolescents face the risk of being used by organized criminal groups. This situation results from a number of factors; namely, the pernicious interaction between poverty and social exclusion; corruption and institutional weakness; the infiltration of criminal structures into state formal institutions; and impunity. Organized criminal groups take advantage of the fear, the lack of opportunities and the need for a sense of belonging experienced by children, adolescents and young adults to expand their operations and territories using various methods of exploitation, which could even constitute new forms of slavery.

17. In 2023, human rights defenders faced regressive policies that undermined their right to defend rights. Such policies included closing nongovernmental organizations, adopting laws limiting or hindering their activities and curtailing the right to peaceful protest, all of which led to restrictions on freedom of expression and association. In addition, the Commission notes that stigmatizing statements aimed at discrediting the work of human rights defenders continue to exist.

18. Persons deprived of liberty endured high levels of violence and corruption in prisons due to the State's neglect of the prison system and the absence of a comprehensive criminal policy. Several States have adopted policies that favor imprisonment as the main solution for citizen security issues, which has led to an increase in the imposition of prison sentences and in the use of pretrial detention. As a result, no significant progress was made in reducing overcrowding, improving prison conditions or ensuring social reintegration.

19. In 2023, Afro-descendants encountered challenges in accessing their ESCERs. Their territories continued to be marked by weak state presence and high levels of poverty and extreme poverty. Furthermore, Afro-descendants were disproportionately affected by the violence arising from disputes between irregular armed groups and from citizen security operations.

20. LGBTI persons suffered violence, abuses and arbitrary detentions, all of which evidence bias against diverse sexual orientations, gender identities or expressions, and sexual characteristics. Moreover, some States in the region have not yet acknowledged the possibility of changing public records and identity documents so that they match gender identity, nor of correcting gender markers or, if applicable, references to sex in identity documents or records. Some States have also failed to guarantee all rights derived from family ties for same-sex couples.

21. Major setbacks were experienced in promoting memory, truth and justice for serious human rights violations, in particular, those committed in contexts of dictatorships, internal armed conflicts and interruption of the democratic order. Furthermore, pardons were granted to perpetrators of serious human rights violations; there were bills aimed at releasing state agents accused of carrying out extrajudicial executions from criminal liability; and military information that would contribute to the clarification of serious acts of violence was withheld. In addition, some States in the region have seen a re-emergence of statements denying the legacy of violence left by military dictatorships and downplaying the importance of ensuring access to justice for victims of serious human rights violations.

22. The elderly faced discrimination based on their age (ageism) and on stereotypes relating to factors such as illness, poverty, social exclusion and abandonment. These factors combined increase the vulnerability of older persons and prevent them from being recognized as subjects of law and active citizens who play a valuable role in society and contribute to its development.

23. Persons with disabilities faced formal and material challenges in attempting to lead an autonomous, independent and violence-free life. These challenges are linked to the absence of a social model in which disability is understood as the result of the interaction between a person's functional limitations and the barriers in the environment. The lack of reasonable accommodations at state institutions, as well as the existence of interdiction proceedings, evidence that the region relies on a medical or clinical model that sees disability as a defect and does not regard persons with disabilities as true subjects of law.

24. In accordance with Article 59.2.e.i of the Commission's Rules of Procedure, the following is a country-by-country overview of the human rights situation in the hemisphere observed by the Commission during 2023. Each section is divided into two parts: "General considerations," which addresses the progress and challenges identified by each of the thematic rapporteurships, and "Specific issues," which examines the cross-cutting themes prioritized in the Commission's Strategic Plan, in particular, democratic institutionalism, human rights institutions, access to justice, citizen security, equality and nondiscrimination. The overview is supplemented with the annual reports prepared by the Office of the Special Rapporteur for Freedom of Expression (RELE) and the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA).

I. ANTIGUA AND BARBUDA

• General considerations

25. As it relates to **progress**, the IACHR highlights a decrease in the level of homicides in Antigua and Barbuda. Additionally, highlights the State's initiative to prevent and end all forms of child labor. The IACHR also commends the measures adopted by the electoral bodies of the State to guarantee the right to vote of older people.

26. In relation to **challenges**, the Commission observes the high levels of violence against LGBTI persons in the State. Also, reiterates its concern regarding the conditions of detention at His Majesty's Prison. The IACHR once again highlights that the State has no centralized reporting mechanism for human rights violations or a centralized statistical gathering system.

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

• Specific issues

28. With respect to **democratic institutionalism**, the Commission took note of the General Elections held on January 19, 2023, which resulted in a third-consecutive term for the incumbent Prime

Minister. According to Commonwealth Observers, the general elections reflected the will of voters.⁴ Additionally, the OAS Electoral Observation Mission reported that the elections were conducted in a disciplined and professional manner.⁵ Nevertheless, the Commission notes that the OAS Electoral Observation Mission recommended that the State: i) implement a continuous voter registration process; ii) introduce a mandatory home/residence verification procedure to enhance voter accuracy; iii) utilize a biometric verification system to enhance the accuracy and security of voter authentication; iv) establish a more robust legislative and administrative system to regulate financial contributions to and expenditure by political parties; and v) implement training, mentoring programs, affirmative action measures, and anti-violence mechanisms to enhance women's participation, leadership, and safety in politics.⁶

29. With respect to **human rights institutions**, the IACHR once again notes that the State has no centralized reporting mechanism for human rights violations or a centralized statistical gathering system.⁷ The IACHR underscores the necessity of establishing an independent body at the national level for the promotion and protection of human rights.

30. Regarding **citizen security**, the IACHR takes note of the proposed amendment to the Evidence Act, and the decreasing level of homicides. Particularly, the Cabinet has agreed to an amendment to the Evidence Act aimed at allowing images from Police Body Cameras to be allowed into evidence, whenever the need arises.⁸ Additionally, according to public information, the State recorded 8 homicides for the year,⁹ below the previous year's total of ten homicides.¹⁰ This indicates that the State's homicide rate for 2023 was 8.53 per 100,000 inhabitants.¹¹

31. Regarding **access to justice**, the Commission notes that the government has amended the Criminal Prosecutions Service Act to empower police officers to charge persons without requiring permission from the Director of Public Prosecutions (DPP). Prior to the amendment, all criminal acts required the permission of the DPP for charges to be brought. The IACHR notes with concern that the amendment is retroactive and will validate all acts of the police officers who charged persons without the permission of the DPP.¹² This action was taken to address a 'loophole' which previously invalidated charges brought by police officers without the permission of the DPP.¹³

32. Regarding **trafficking in persons**, the Commission observes that Antigua and Barbuda Worker's Union (ABWU) announced its support to the Tourism Services Section Conference of the International Transport Workers' Federation (ITF) to approve a motion aimed at eradicating human trafficking in the tourism industry and across its supply chains. This motion paves the way for the ITF to strengthen cooperation across stakeholders and share best practices and information to suppress human trafficking.¹⁴

⁴ The Commonwealth, [Commonwealth observers say Antigua and Barbuda's general elections reflects 'the will of voters'](#), January 20, 2023.

⁵ Organization of America States, [Preliminary Report of the OAS Electoral Observation Mission for the General Elections of January 18, 2023 in Antigua and Barbuda](#), January 20, 2023.

⁶ Organization of America States, [Preliminary Report of the OAS Electoral Observation Mission for the General Elections of January 18, 2023 in Antigua and Barbuda](#), January 20, 2023.

⁷ IACHR, [Annual Report, Chapter IV.A "Antigua and Barbuda"](#), 2022, para. 22.

⁸ Antigua Newsroom, [CABINET NOTES of Wednesday March 1, 2023](#), March 2, 2023.

⁹ Antigua Newsroom, [Antigua & Barbuda records 8th murder of 2023](#), August 23, 2023.

¹⁰ Loop, [No homicides recorded in Antigua for the first quarter of 2023](#), April 21, 2023.

¹¹ The IACHR calculated the homicide rate based on the State's population of 93,763 according to data from The World Bank, [Population, total - Antigua and Barbuda](#), 2022.

¹² [Criminal Prosecutions Act, 2023](#), Section 4.

¹³ Antigua Breaking News, [2 cases withdrawn from Court based on provisions before recent amendments to Criminal Prosecutions Services Act](#), June 27, 2023.

¹⁴ Antigua and Barbuda Workers Union, [ABWU Initiates Motion to Eradicate Human Trafficking in Tourism](#), April 20, 2023; Antigua News Room, [ABWU Initiates Motion to Eradicate Human Trafficking in Tourism](#), April 20, 2023.

33. Regarding **children**, the Commission welcomes the State's initiative to conduct an assessment as part of the State's efforts to prevent and end all forms of child labor.¹⁵ In addition, the IACHR learned of the launch of the Opportunities to Advance and Support Youth for Success project, in which Dominica, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines also participate. The project seeks to promote a shift from punitive measures to rehabilitation and restorative justice in order to reduce recidivism rates and promote positive trajectories for adolescents in conflict with the criminal law.¹⁶

34. As for **persons deprived of liberty**, the Commission reiterates its concern regarding the conditions of detention at His Majesty's Prison, which have been the subject of protests by the inmates of the facility.¹⁷ A recently filed constitutional motion against the Commissioner of Police, claimed among other things that he has been subject to cruel and unusual punishment as he was placed in the maximum-security wing of the facility and was forced to sleep on a wooden structure and eat out of a water bottle.¹⁸

35. Concerning the **death penalty**, the IACHR once again notes that the State continues to retain the death penalty even though no execution has been carried out since 1991, and no one has been sentenced to death since this time.¹⁹ As of 2023, no progress has been made in removing this form of punishment from domestic law.

36. In relation to the rights of **older persons**, the IACHR recognizes the measures adopted by the electoral bodies of Antigua and Barbuda to guarantee the right to vote of older people during the General Elections held in January.²⁰ Additionally, the Commission welcomes the collaboration of the State and the United Nations Population Fund in hosting the Caribbean Population and Development Forum facilitating the Caribbean region's discussion regarding the Montevideo Consensus that includes aging and social protection.²¹ The IACHR encourages the State of Antigua and Barbuda to ratify the Inter-American Convention on the Protection of the Human Rights of Older persons.

II. ARGENTINA

• General considerations

37. In 2023, Argentina experienced significant **progress** in the field of human rights, especially in terms of policies aimed at tackling gender-based violence and promoting the social inclusion of groups in situations of historical vulnerability in the context of the economic crisis the country is undergoing, as well as several developments in issues related to memory, truth and justice.

38. Simultaneously, the country faced **challenges** connected to a severe macroeconomic crisis that has impacted the Argentine society, particularly people living in poverty and extreme poverty. The exploitation of natural resources also posed challenges to the protection of the rights of indigenous peoples. Judicial independence has also been an area of concern following the initiation of impeachment proceedings against some magistrates.

39. On October 13, 2023, the State submitted its response to the Commission's request for information so as to prepare this chapter.²²

¹⁵ Iniciativa Regional América Latina y el Caribe Libre de Trabajo Infantil, "[Antigua y Barbuda anuncia plan de evaluación rápida sobre trabajo infantil](#)", July 21, 2023.

¹⁶ Organization of Eastern Caribbean States, "[Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis](#)", July 11, 2023.

¹⁷ IACHR, [Annual Report, Chapter IV.A "Antigua and Barbuda", 2022](#), para. 28.

¹⁸ Antigua Newsroom, [An inmate at HM Prisons sues the Commissioner of Police](#), March 22, 2023.

¹⁹ World Coalition Against the Death Penalty, [Antigua and Barbuda](#), May 30, 2023.

²⁰ OAS, [Preliminary Report of the OAS Electoral Observation Mission for the General Elections of January 18, 2023 in Antigua and Barbuda](#), January 20, 2023.

²¹ Observer, [UNFPA hosts Caribbean Population and Development Forum](#), September 4, 2023.

²² Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023.

- **Specific issues**

40. In terms of **democratic institutional**ity, in 2023, the State organized the III World Forum on Human Rights to commemorate the 40th anniversary of the country's return to democratic rule. In addition to celebrating this democratic period, the purpose of said forum was to put human rights issues on the international agenda.²³ In relation to the foregoing, national elections were held peacefully and in accordance with the principles of participatory democracy.²⁴

41. Moreover, the initiation and development of impeachment proceedings against four members of Argentina's Supreme Court of Justice were reported. According to information in the public domain, said proceedings were allegedly originated by the suspicion of crimes committed by the magistrates in the exercise of their functions.²⁵ However, the Association of Magistrates and National Judiciary Officials denounced that such proceedings apparently entailed a political retribution on the Court due to the judgments it had issued against people linked to the government.²⁶

42. As it relates to **human rights institutions**, the Commission highlights the openness of the State to collaborate with international human rights organizations. For example, the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) made several visits to the country in 2023. Furthermore, 38 new friendly settlement agreements or agreements of compliance with recommendations were signed with the Commission, in addition to three agreements signed with UN treaty bodies.²⁷ Besides creating a website to showcase the international commitments of the Argentine State,²⁸ the country made progress in complying with the *Lhaka Honhat* judgment by drafting the First Work and Action Plan, which provided for – among other items – the restitution of 643,000 hectares of land to indigenous communities and peasant families.²⁹

43. However, it is a matter of concern that the National Office of the Ombudsperson has operated for 14 years now without the National Congress of Argentina appointing its head,³⁰ which weakens the institution.

44. As for **citizen security**, the State reported actions to prevent and clamp down on institutional violence, such as acting as a plaintiff in 16 cases of violence exerted by security forces. Among them, the case of a police officer who had sexually abused a woman during a raid, and who was convicted.³¹ The State also reported on the start of the oral trial in the case of Rafael Nahuel, who died in 2017 in a police chase and repression in Villa Mascardi.³²

45. Nevertheless, it was also reported that Facundo Molares died after being tackled by city police officers during a protest in the city of Buenos Aires. Images of the moment of his arrest showed the protester unconscious, held to the ground, offering no resistance and receiving no medical aid.³³ Similarly, an 11-year-old girl was murdered in an assault in Buenos Aires, an event that was condemned by candidates who were running in the elections.³⁴

²³ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 2.

²⁴ IDEMOE. <https://twitter.com/IDEMOEorg/status/1726405481739022419>. Posted on November 19, 2023.

²⁵ Chamber of Deputies, "[Juicio Político: Se aprobó la admisibilidad de los expedientes contra los miembros de la corte suprema de justicia](#)," February 9, 2023.

²⁶ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 2.

²⁷ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 3.

²⁸ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 3. See website at: <https://www.argentina.gob.ar/derechoshumanos/compromisos-internacionales-en-derechos-humanos>.

²⁹ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 9–10.

³⁰ Perfil, "[Hace 14 años que el Congreso no designa al titular de la Defensoría del Pueblo](#)," July 12, 2023.

³¹ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 38 and 39.

³² Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 39.

³³ AP, "[Muere manifestante tras ser detenido por policía en una protesta en Buenos Aires](#)," August 11, 2023.

³⁴ AP, "[Argentina: políticos cancelan actos de campaña tras la muerte de una niña en un robo](#)," August 10, 2023.

46. In relation to the **rights of indigenous peoples**, the Commission commends the incorporation of five indigenous languages into the victim assistance and counseling system when addressing cases of gender-based violence affecting women and LGBTI persons.³⁵ Moreover, the Commission notes that the Office of the Ombudsperson created a guide titled *Recomendaciones para el tratamiento mediático de pueblos indígenas* (Recommendations on How to Address Indigenous Peoples on the Media) to improve practices for dealing with indigenous issues in the media.³⁶ In addition, the Commission was informed of the progress towards the resolution of the territorial conflict in Villa Mascardi.³⁷

47. Additionally, the Commission notes with concern the approval of Resolution No. 1390 of the Chamber of Deputies of the Province of Mendoza, which denied the Mapuche people the right to be recognized as a native people, thus denying all their constitutional rights.³⁸ The Commission was also informed of the constitutional reform process in the province of Jujuy that affected the right to free, prior and informed consultation and consent in relation to extractive industries in the lands of indigenous communities.³⁹ This reform, which is still in force, sparked protests in which the State intervened making an excessive use of force.⁴⁰

48. With regard to the **rights of women**, the Ministry of Women, Genders and Diversity (MMGyD) continued to implement measures to address and tackle gender-based violence exerted against women. Among them, the territorial expansion of the program, “Acercar Derechos” (PAD) (Bringing Rights Closer);⁴¹ the development of the national campaign “Argentina Unida contra las Violencias por Motivos de Género” (Argentina United against Gender-Based Violence);⁴² the *Guía de Actuación para la Búsqueda de Mujeres y LGBTI+ desaparecidas en contexto de violencias por motivos de género* (Action Guide for the Search of Disappeared Women and LGBTI+ Persons in the Context of Gender-Based Violence), and the implementation of the Interministerial Coordination Unit for a comprehensive approach to violence, set up with the cooperation of the Ministry of Security;⁴³ as well as the creation of the Group for the Implementation of the Agreement on the Recognition of Protection Measures for Women in Gender-Based Violence Situations by the States Parties to the Mercosur.⁴⁴

49. Likewise, the Commission acknowledges the support provided by the MMGyD to indigenous women in situations of violence or violation of rights; these include legal actions and providing assistance to Mapuche women deprived of their liberty amidst their eviction from Villa Mascardi in 2022, as well as offering counseling and support to women and LGBTI persons who had been repressed during peaceful demonstrations in Jujuy.⁴⁵ The Commission also welcomes the enactment of the “Olimpia” Law, which incorporates violence against women in digital environments as a form of gender-based violence into Law No. 26,485.⁴⁶

50. Moreover, the Commission expresses its concern about the partial report of the National Office of the Ombudsperson, which recorded 151 victims of femicide over the first semester of the year, a figure that

³⁵ Government of Argentina, “[Línea 144: la nueva aplicación brinda respuesta en 5 lenguas indígenas, 5 idiomas extranjeros y en lenguaje de seña para personas sordas o hipoacúsicas](#),” September 18, 2023.

³⁶ Office for the Protection of Audiences of Audiovisual Communication Services, [Recomendaciones para el tratamiento mediático de pueblos indígenas](#), April 2023.

³⁷ Government of Argentina, “[Se arribó a un acuerdo en el marco de la Mesa de Diálogo por el conflicto territorial en Villa Mascardi](#),” June 2, 2023.

³⁸ Honorable Chamber of Deputies of the Province of Mendoza, [Resolution No. 1390](#), March 30, 2023.

³⁹ IACHR, 187th regular period of sessions, public hearing “[Human rights of indigenous peoples in Argentina](#),” July 10, 2023.

⁴⁰ IACHR, “[IACHR: Argentina Must Respect Standards for Use of Force During Protests in Jujuy Province](#),” June 20, 2023. Amnesty International, “[Argentina: Amnesty International demands immediate end to state repression in Jujuy](#),” June 22, 2023; CELS, “[Protests and escalation of state violence in the Argentine province of Jujuy](#),” June 21, 2023.

⁴¹ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 30–31.

⁴² Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 8 and 11.

⁴³ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 21; “[Mazzina y Fernández pusieron en funciones la Unidad de Coordinación Interministerial para el abordaje integral de las violencias](#),” April 26, 2023.

⁴⁴ Government of Argentina, “[Avanza en la región el primer mecanismo regional de protección para las mujeres en situación de violencia de género](#),” April 28, 2023.

⁴⁵ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 17; “[Intervención del Ministerio de Mujeres, Géneros y Diversidad en Jujuy](#),” June 22, 2023.

⁴⁶ Government of Argentina, “[Ley Olimpia: el Gobierno promulgó la legislación que incorpora la violencia digital como una modalidad de violencia de género](#),” October 24, 2023.

exceeds the numbers recorded for similar periods in previous years. In the majority of the cases (75 percent), the perpetrator was the victim's partner or former partner.⁴⁷ There is also a possible increase in the number of women murdered by hired killers and/or in contexts of organized crime.⁴⁸ As of September, the number of femicides had risen to 231, and even to 269, according to data from citizen observatories.⁴⁹ Under this circumstance, the Commission notes the reiterated request of civil society organizations to the National Congress to declare a national emergency due to gender-based violence.⁵⁰

51. Regarding sexual and reproductive rights, it was reported that the National Plan for the Prevention of Unintended Pregnancy in Adolescence (ENIA Plan) became federal, as its adhesion agreement was signed by all the provinces and the city of Buenos Aires.⁵¹ The Commission also values the efforts made by the State to facilitate access to reproductive health goods and services, such as the Ministry of Health's Resolution No. 1062/2023, which regulates the sale of emergency contraception without prescription in pharmacies; the national distribution of short-acting, long-acting and emergency contraceptive methods;⁵² judicial decisions that protect the right to reproductive health, including access to abortion;⁵³ among others. However, the Commission is concerned about the persistence of the acts of harassment by medical staff and other actors against women and girls who seek access to health services for the voluntary termination of their pregnancy.⁵⁴

52. Finally, the Commission is concerned about the situation of access to economic, social, cultural and environmental rights of indigenous children and adolescents, particularly in the province of Salta.⁵⁵ In spite of the regulation of the provincial law on intercultural health for indigenous peoples (Provincial Law No. 7,856),⁵⁶ deaths of indigenous children were still recorded in this province this year due to the lack of drinking water, risk of deficient nutrition and lack of access to intercultural health care.⁵⁷

53. With respect to the rights of **persons in the context of human mobility**, the Commission takes note of the adoption of Decree No. 7/2023, which reduced the time migrants are required to live in the country to receive disability pensions from 20 to 10 years, and which prioritized access to pensions for children and adolescents by establishing a three-year period of residence to receive it.⁵⁸ Note was also taken of the approval of the Regulations on Residency for Foreign Students and Knowledge-Related Activities, which streamlines the administrative process for granting residence to migrants who take part in educational and knowledge-based activities in Argentina.⁵⁹

⁴⁷ National Office of the Ombudsperson, [Informe Parcial del Observatorio de Femicidios de la DPN - 01/01/23 al 30/06/23](#), July 14, 2023.

⁴⁸ *Página 12*, "[Tres muertas en muy pocas horas](#)," February 2, 2023; *Aire de Santa Fe*, "[Violencia de género: en Argentina hay un ataque femicida cada 11 horas](#)," March 8, 2023; *Rosario3*, "[8M: 'Vamos a visibilizar las muertes de mujeres ligadas a la narco criminalidad'](#)," March 7, 2023.

⁴⁹ Observatory of gender-based violence Ahora Que Sí Nos Ven, "[Registro Nacional de Femicidios 2023, 231 femicidios en 2023](#)," from January 1 to September 30, 2023, n/d; Observatory Lucía Pérez, "[269 femicidios y travesticidios en lo que va del año](#)," October 31, 2023.

⁵⁰ *La capital*, "[Las feministas vuelven al Congreso a pedir la emergencia en violencia de género](#)," July 20, 2023.

⁵¹ Permanent Mission of Argentina to the OAS, Note No. 150. Inputs of Argentina for the 2023 Annual Report of the IACHR, October 13, 2023, p. 25. In IACHR files.

⁵² Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 25.

⁵³ CDC, FUNDEPS, and others, press release: "[La justicia provincial confirma que el aborto es ley en Córdoba](#)," May 18, 2023; CELS, "[Condenaron en segunda instancia a la plata por no dar información sobre políticas de acceso al aborto](#)," August 7, 2023.

⁵⁴ *El País*, "[Una ONG católica argentina retiene a una niña de 12 años violada por su padre para impedir que aborte](#)," January 4, 2023; *Infobae*, "[Aborto en Argentina: ¿por qué los médicos siguen denunciando a las pacientes?](#)," February 11, 2023.

⁵⁵ Asociación Civil por la Igualdad y la Justicia, "[En Salta, las infancias indígenas siguen abandonadas por el Estado](#)," April 24, 2023.

⁵⁶ Government of Salta, Argentina, "[El gobierno provincial reglamentó la ley de salud intercultural para pueblos indígenas](#)," October 19, 2023.

⁵⁷ Asociación Civil por la Igualdad y la Justicia, "[Briana, una muerte que ilumina la Argentina más desigual y marginada](#)," April 16, 2023.

⁵⁸ National Executive Branch of Argentina, [Decree No. 7/2023](#), January 5, 2023.

⁵⁹ National Directorate of Migration of Argentina, [Provision No. 2802/2023](#), August 17, 2023.

54. Regarding **trafficking in persons**, new regulations were enacted in the provinces of Neuquén and Salta to promote the labor inclusion of victims of the crime of trafficking for purposes of sexual or labor exploitation.⁶⁰ The Commission highlights that, according to official information, the State intervened in 1,006 cases of said nature in 15 provinces.⁶¹ Likewise, the Commission appreciates that, according to official data, as of March 2023, 33 victims of labor trafficking have obtained reparations.⁶²

55. With respect to the **rights of children and adolescents**, the “Lucio” Law was enacted, whose purpose is to prevent and detect child abuse at an early stage by means of the Federal Training Plan on the Rights of Children and Adolescents.⁶³ The State also participated in the international initiative “Aliados por la Infancia” (Allies for Children), alongside other countries in the region, to tackle sexual exploitation of children and adolescents.⁶⁴ In addition, it has implemented public policies to put an end to the practice known as *chineo*, which is the rape of indigenous girls and women by men, especially in the north of Argentina.⁶⁵

56. However, it is noted that indigenous girls and women still face difficulties in accessing the justice system and in reporting rape due to discrimination.⁶⁶ According to reports, 52 percent of the users of the national program for victims of sexual abuse are girls and adolescents, and in more than 50 percent of the cases, the reported persons are their parents or stepparents.⁶⁷ Moreover, the current socioeconomic crisis has made it difficult for children and adolescents to access basic health and nutrition services, as the monthly income of 41 percent of Argentine households where children live is not sufficient to cover essential spending on food, health, education, transportation and housing.⁶⁸

57. Regarding **persons deprived of liberty**, the Commission commends the approval of the *Guía de actuación para la implementación de apoyos y ajustes razonables para personas con discapacidad intelectual privadas de libertad en establecimientos penitenciarios del Servicio Penitenciario Federal* (Action guide for the implementation of reasonable supports and adjustments for persons with intellectual disabilities deprived of liberty in penitentiary establishments of the Federal Penitentiary Service), which contains action principles for the adoption of reasonable supports and adjustments that may be required by persons with intellectual disabilities during their accommodation in federal penitentiary facilities.⁶⁹ Also noteworthy is a decision issued by the Federal Criminal and Correctional Court of First Instance No. 2 of Lomas de Zamora, in the province of Buenos Aires, which granted a collective habeas corpus so that women and trans persons detained in Federal Penitentiary Complex IV could have access to health care services.⁷⁰

58. However, the continued use of police stations or police detention centers to retain persons on a permanent basis is still a matter of concern for the Commission.⁷¹ According to data from the National Office

⁶⁰ Government of Argentina, “[Se sancionaron ordenanzas de cupo laboral para víctimas de trata en localidades de Neuquén y Salta](#),” June 8, 2023.

⁶¹ Government of Argentina, *Programa Nacional de Rescate y Acompañamiento a las Personas Damnificadas por el Delito de Trata*, May 31, 2023.

⁶² Government of Argentina, “[El Fondo de Asistencia Directa a Víctimas de Trata de Personas reparó económicamente a 45 víctimas en sus primeros 15 meses de funcionamiento](#),” April 12, 2023.

⁶³ Government of Salta, Argentina, “[Autoridades provinciales y nacionales destacan la pronta implementación de la Ley Lucio en Salta](#),” June 7, 2023. See also: *CNN*, “[Gobierno de Argentina promulga la ‘Ley Lucio’: cuál es su origen y en qué consiste](#),” May 3, 2023.

⁶⁴ Office of the Public Prosecutor of the Province of Buenos Aires, Government of Argentina, “[Operación Internacional Aliados por la Infancia](#),” August 28, 2023.

⁶⁵ UN Women, “[El ‘chineo’, una forma de violencia sexual, racista y colonial que no debería existir](#),” September 9, 2022. See also: Ministry of Women, Genders and Diversity, Government of Argentina, “[Salta: se realizaron jornadas de sensibilización contra la violencia hacia mujeres indígenas](#),” August 28, 2023, and Ministry of Social Development, Government of Argentina, “[Se presentó Campaña ‘Basta de Chineo’ 2023 en Salta](#),” May 19, 2023.

⁶⁶ *Página 12*, “[Mujeres indígenas aseguran que la justicia les es inaccesible para denunciar violaciones](#),” May 8, 2023.

⁶⁷ Ministry of Justice and Human Rights, Government of Argentina, April 19, 2023. See also: *Página 12*, “[El 87% de los casos de abuso sexual recae sobre niñas y adolescentes](#),” April 14, 2023. According to Argentine law, a stepparent is a spouse or cohabitant living with the person in charge of caring for a child or adolescent.

⁶⁸ UNICEF, “[4 de cada 10 hogares con niñas, niños y adolescentes no alcanzan a cubrir sus gastos básicos](#),” September 14, 2023.

⁶⁹ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p. 11.

⁷⁰ National Office of the Prison Ombudsman (PPN), Government of Argentina, “[La justicia federal resolvió a favor de las mujeres y personas trans detenidas y solicitó que se realicen mejoras en el tipo de atención médica](#),” August 31, 2023.

⁷¹ See: IACHR, *2021 Annual Report, Chapter IV.A, Human Rights Development in the Region*, para. 38.

of the Prison Ombudsman (PPN), a total of 1,524 people were being held in non-penitentiary detention centers in the city of Buenos Aires;⁷² in the capital of the province of Tucumán, there were about 1,100 people detained in police stations; and in the capital of the province of Santa Fe, the number of people detained in police stations amounted to 444.⁷³

59. With regard to the fight against **torture**, according to the PPN, 22 criminal complaints were filed for cases of torture and ill-treatment countrywide in 2023.⁷⁴ Among them, the condemnable acts of torture allegedly committed by agents of an infantry squad of the provincial police against 20 people detained at the Yerba Buena police station in the province of Tucumán.⁷⁵

60. Regarding **Afro-descendants and the fight against racial discrimination**, the Commission welcomed the implementation of public policies focused on the inclusion and improvement of the living conditions of this population group. The State reported that the National Afro Plan (2021-2024) was still in place within the framework of the International Decade for Afro-descendants initiative.⁷⁶ Official sources highlighted the results of the *Primer Informe de Datos del Sistema Integrado de Casos de Violencia por Motivos de Género (SICVG)* (First Data Report of the Integrated System of Gender-Based Violence Cases), drafted in May 2023, that shed light on the situation of Afro-descendants affected by gender-based violence.⁷⁷

61. Nevertheless, the United Nations Committee on the Elimination of Racial Discrimination expressed its concern about the persistence of racial profiling by police forces and other law enforcement agents in Argentina, which particularly affects indigenous peoples, Afro-descendants, migrants, asylum seekers and refugees, many times resulting in police violence and the death of the victims.⁷⁸

62. The Commission welcomes the progress made on the subject of **human rights of LGBTI persons**, especially the fact that the State has gathered disaggregated information on gender-based violence for the first time through the first national survey. This effort is aimed at guiding the design of public protection and assistance policies.⁷⁹ In this context, the Commission commends the progress achieved in the “Brigadas” case trial, in which five trans women survivors testified that they had been victims of rape during the last civil-military dictatorship.⁸⁰ The Commission also highlights the progress made in terms of criminal liability proceedings brought against a Buenos Aires Police chief who had kept a trans woman detained in a jail with men, which resulted in her rape.⁸¹ In addition, the Commission acknowledges the holding of a trial following the disappearance of Tehuel de la Torre, a young trans man who is still missing.⁸²

⁷² In this regard, see: PPN, Government of Argentina, “[Decimosexto reporte mensual sobre alojamiento en alcaldías y comisarías de la Ciudad de Buenos Aires](#),” August 18, 2023.

⁷³ Regarding Tucumán, see: *Contexto*, “[Por la crisis carcelaria se registra un motín por día en las superpobladas comisarías de la capital tucumana](#),” August 1, 2023; *Los primeros*, “[En la última semana hubo un motín por día en comisarías de la Capital](#),” August 1, 2023; and *La Gaceta*, “[Crisis carcelaria: hay en promedio un motín por día en comisarías de la capital](#),” August 1, 2023. Regarding Santa Fe, see: *Página 12*, “[Comisario y dos internos heridos en la comisaría 10° Disturbios y sobrepoblación](#),” September 7, 2023; *La Prensa*, “[Un comisario y dos presos heridos tras una pelea en una comisaría](#),” September 6, 2023; and *El Litoral 105*, “[Intento de motín en la seccional 10°: el comisario y dos detenidos terminaron con heridas](#),” September 6, 2023.

⁷⁴ PPN, “[Nuevo Boletín Estadístico Trimestral de la PPN](#),” June 16, 2023.

⁷⁵ Center for Legal and Social Studies X account (@CELS_Argentina), “[Torturas en una comisaría en Tucumán](#)” (Torture at a police station in Tucumán), January 20, 2023.

⁷⁶ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, p.38. In IACHR files.

⁷⁷ Ministry of Women, Genders and Diversity, “[El Ministerio asistió a más de 1900 personas afrodescendientes en situación de violencia por motivos de género](#),” July 24, 2023.

⁷⁸ United Nations Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined twenty-fourth to twenty-sixth periodic reports of Argentina](#) CERD/C/ARG/CO/24-26, May 24, 2023.

⁷⁹ Ministry of Women, Genders and Diversity, “[El Ministerio de Justicia y Derechos Humanos realiza la primera Encuesta Nacional Sobre Violencias contra Personas LGBTI+](#),” May 17, 2023.

⁸⁰ Ministry of Women, Genders and Diversity, “[Audiencia histórica en el juicio ‘Brigadas’: declararon cinco mujeres trans que fueron víctimas del terrorismo de Estado](#),” April 19, 2023; *Infobae*, “[Histórica declaración de 5 mujeres trans sobrevivientes de la dictadura: ‘Nos hacían sexo y a la vez nos odiaban’](#),” May 7, 2023.

⁸¹ *Crónica*, “[Un comisario fue procesado porque metió presa a mujer trans en un calabozo con hombres y fue violada durante un motín](#),” May 30, 2023.

⁸² *Agencia Presentes*, “[Tehuel de la Torre: adelantaron el juicio oral para julio de 2024](#),” July 14, 2023.

63. Regarding the challenges observed, the Commission continued to receive information on the persistence of acts of violence and discrimination against trans women.⁸³ Such acts include the murder of Sofia Bravo, a 26-year-old trans woman and sex worker;⁸⁴ the case of Sofía Fernández, a 39-year-old trans woman who allegedly died while in custody in a police station in the province of Buenos Aires;⁸⁵ and the physical and verbal aggression suffered by activist Manu Mireles, a human rights defender and leader of the popular high school for trans and gender-diverse people “Mocha Celis.”⁸⁶ All this occurs in the context of the recently extended use of discriminatory and stigmatizing speech against lesbian, gay, bisexual, trans and intersex people, among others.⁸⁷

64. Regarding **memory, truth and justice**, the Commission [acknowledges](#) the continued application of a wide range of measures to fully repair and avoid repetition of the serious human rights violations and international crimes committed during the civil-military dictatorship, in the framework of the 40-year anniversary since the reestablishment of democracy in the country. The Commission [commended](#) the inclusion of the ESMA Memory Site Museum in the UNESCO World Heritage List, which entails granting it recognition and protection for its exceptional cultural value for humanity. It also welcomed the progress made in the marking of memory sites where emblematic events related to State terrorism took place, totaling 250 marked sites. It also noted the steps taken to open four new memory sites.⁸⁸ Conversely, the Commission repudiates the stigmatizing comments made towards Laura and Estela de Carlotto in institutional spaces, which demeans them as victims of human rights violations, and as mother and grandmother of victims and as human rights defenders.⁸⁹ The Commission is concerned about the fact that, in the electoral race, expressions that relativize the crimes against humanity committed during the dictatorship and deny their impact and the victims have been amplified.⁹⁰ Therefore, it underscores the importance of public policies to encourage memory as a reminder of the significance of defending and promoting human rights and democratic values, which thus creates tools for the non-repetition of human rights violations.⁹¹

65. The State reported that, since December 2019, it has resumed thousands of proceedings related to the payment of compensation and pensions enshrined in the laws of reparation for victims of the dictatorship, expanding the criteria for eligibility and adopting other measures of comprehensive assistance and support for the victims.⁹² It also indicated that the executive branch has submitted to the National Congress a bill on the search for disappeared persons, which was prepared with different state and civil society actors in line with international standards on the matter.⁹³ Moreover, the Commission learned of the identification of grandson no. 133 – whose mother has been disappeared since 1976 –, who [was reunited](#) with his father and siblings.

⁸³ *Página 12*, “[La violencia contra la población travesti trans registra ‘cifras alarmantes’ en CABA](#),” August 29, 2023.

⁸⁴ *La Voz*, “[Trabajo sexual: las vulnerabilidades y desprotección de quienes lo ejercen](#),” January 17, 2023.

⁸⁵ *Agencia Presentes*, “[Piden justicia por Sofía Fernández, una mujer trans que murió en una comisaría](#),” May 3, 2023; *TN*, “[Una mujer trans murió mientras estaba detenida en una comisaría y su familia denuncia que la mataron](#),” May 3, 2023.

⁸⁶ *Télam*, “[Denunciaron ataques violentos contra la referente del Bachillerato Mocha Celis](#),” September 22, 2023.

⁸⁷ The United Nations Office at Geneva, News & Media, “[Experts of the Committee on the Elimination of Racial Discrimination Commend Argentina for its Active Participation in United Nations Human Rights Protection Mechanisms. Ask about Hate Speech and Challenges to the Integration of Migrants, Asylum Seekers and Refugees](#),” April 18, 2023.

⁸⁸ Government of Argentina, Diplomatic Note to the OAS No. 150, Annex “Aportes de la Argentina para el Informe Anual 2023 de la Comisión Interamericana de Derechos Humanos,” October 13, 2023, pp. 19–20.

⁸⁹ Abuelas de Plaza de Mayo, “[A los agravios respondemos con verdad](#),” September 5, 2023; Secretariat of Human Rights, “[La Secretaría de Derechos Humanos manifiesta su preocupación por declaraciones negacionistas en el debate presidencial](#),” October 2, 2023; *Página 12*, “[Cómo fue el acto de Victoria Villarruel en la Legislatura: agravios a Estela Carlotto y corralito a la prensa](#),” September 5, 2023; *La Nación*, “[Victoria Villarruel tildó de ‘personaje siniestro’ a Estela de Carlotto y la presidenta de Abuelas de Plaza de Mayo le respondió](#),” September 5, 2023.

⁹⁰ Secretariat of Human Rights, “[La Secretaría de Derechos Humanos manifiesta su preocupación por declaraciones negacionistas en el debate presidencial](#),” October 2, 2023; *Clarín*, “[La polémica afirmación de Javier Milei sobre el número de desaparecidos: ‘No fueron 30 mil’](#),” October 1, 2023; *Página 12*, “[Javier Milei dijo que no hubo no hubo ‘30.000 desaparecidos sino 8,753’ durante la dictadura](#),” October 1, 2023.

⁹¹ IACHR, *Principles on Public Policies on Memory in the Americas*, Resolution 3/2019, November 9, 2019.

⁹² Government of Argentina, Diplomatic Note to the OAS No. 150, Annex “Aportes de la Argentina para el Informe Anual 2023 de la Comisión Interamericana de Derechos Humanos,” October 13, 2023, p. 19.

⁹³ Government of Argentina, Diplomatic Note to the OAS No. 150, Annex “Aportes de la Argentina para el Informe Anual 2023 de la Comisión Interamericana de Derechos Humanos,” October 13, 2023, pp. 8–9.

66. With regard to justice, the State reported a total of 673 cases pending from 2006 up to September 2023, out of which 307 (46 percent) have already been resolved in a sentence, 17 (2 percent) are in the trial stage, 65 (10 percent) are awaiting a trial date, and 284 (42 percent) are in the pretrial stage. Of the persons investigated, 1,159 were convicted and 178 acquitted, 419 are under prosecution, 144 cases were dropped due to a lack of evidence, 94 people were acquitted, 92 had their statements taken and their cases are still under investigation, and 503 are facing charges and await trial. The State also reported that the Strategic Plan for the Advancement of Trials for Crimes against Humanity continues to be implemented, with the National Secretariat of Human Rights being the institutional complainant in 265 criminal proceedings across the country, the State continues to conduct investigations, including expert reports, and to provide support to the victims. The State reported progress in the work of the Special Unit for the investigation of economically-motivated crimes against humanity – there are currently 31 cases in which the criminal liability for crimes against humanity allegedly committed by members of companies is under investigation. It also informed on concrete actions taken in extradition proceedings and on cases opened in other countries. Additionally, the State provided information regarding a campaign addressed at former conscripts who completed compulsory military service between 1975 and 1983, so that they can give their testimonies in trials for crimes against humanity.⁹⁴

67. In relation to the **rights of older persons**, the Commission particularly welcomes the passing of Law No. 27,770, which grants constitutional status to the Inter-American Convention on the Rights of Older Persons.⁹⁵ Moreover, the State reported on the creation of the General Framework for the Design and Implementation of Specific Prison Treatment Programs, which adopts an intersectional approach that recognizes age as a particularly significant element for consideration in penitentiaries.⁹⁶ Likewise, the Commission learned of the passing of Law No. 27,725, which has modified the income tax scheme, exempting retirees and pensioners who earn a salary lower than the sum of 15 minimum wages from said tax; as it has also learned of the granting of an economic bonus to retired persons receiving the minimum pension.⁹⁷

68. Regarding the **rights of persons with disabilities**, the National Agency for Disability (ANDIS) undertook efforts in the formulation and implementation of public policies for the inclusion and autonomy of this group. Among them, the economic support policy for those who provide accessible transportation services for persons with disabilities so as to help mitigate the effects of the current economic context.⁹⁸ Another example is that of Resolution No. 1/2023, which guarantees access for all persons, including those with disabilities, to state procedures and documents.⁹⁹ Moreover, there is a public policy initiative in Argentina that now makes it possible for people to have access to a job while maintaining the disability assistance pension.¹⁰⁰

69. Furthermore, the Commission learned of the work conducted by the National Program of Assistance for Persons with Disabilities in Relation to the Administration of Justice (ADAJUS), under the National Ministry of Justice and Human Rights, which launched the first National Registry of Communication Facilitators for Access to Justice for Persons with Disabilities in Latin America (RENAFAJU). This registry aims to assist persons with disabilities in judicial proceedings through communication facilitators and promotes the development of projects and actions to facilitate access to justice on an equal footing.¹⁰¹

⁹⁴ Government of Argentina, Diplomatic Note to the OAS No. 150, Annex “Aportes de la Argentina para el Informe Anual 2023 de la Comisión Interamericana de Derechos Humanos,” October 13, 2023, pp. 15–18.

⁹⁵ Ibero-American Program of Cooperation on the Situation of Older Persons, “[Argentina | Las políticas de cuidado con enfoque de derechos humanos](#),” February 1, 2023.

⁹⁶ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 21–22.

⁹⁷ Government of Argentina, Diplomatic Note to the OAS No. 150, October 13, 2023, pp. 21–22.

⁹⁸ *Diario UNO*, “[Gobierno refuerza el apoyo económico para el transporte de personas con discapacidad](#),” November 7, 2023.

⁹⁹ *Diario Popular*, “[El Gobierno facilitará la accesibilidad a los trámites estatales](#),” November 7, 2023.

¹⁰⁰ *Ámbito*, “[Trabajo y pensión por discapacidad, ahora compatibles](#),” by Daniela Aza, November 1, 2023.

¹⁰¹ Ministry of Justice and Human Rights of Argentina, “[El Ministerio de Justicia y Derechos Humanos puso en funcionamiento el primer Registro Nacional de Facilitadores de la Comunicación para el Acceso a la Justicia de las personas con discapacidad de Latinoamérica](#),” April 11, 2023.

III. BAHAMAS

- **General considerations**

70. As it relates to **progress**, the IACHR highlights the efforts by the State to establish a framework for the protection of human rights and the Ombudsman institute. The Commission notes the efforts of the Government to improve efficiency of the justice system and restore confidence in citizens' ability to access justice. The IACHR further highlights the Privy Council's decision allowing children born in the State to acquire nationality upon birth when one of their parents is Bahamian, regardless of marital status.

71. In relation to **challenges**, the Commission highlights that the State has made little progress in the implementation of campaign finance reform and amendments to its Electoral Acts. The IACHR further observes with concern the policy of detention and deportation of migrants without proper assessment of international protection needs.

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

- **Specific issues**

73. With respect to **democratic institutional**ity, the Commission noted that the State has made little progress in the implementation of Campaign Finance Reform and amendments to the Electoral Acts. In this regard, note is taken of previous calls by the Commonwealth Observer Group for the establishment of an independent election management body, with a view to building trust in the State's electoral process and to strengthen adherence to international good practices.¹⁰²

74. With respect to **human rights institutions**, the IACHR observes the efforts to establish a framework for the protection of human rights and the Ombudsman institute. In April 2023, the House of Assembly passed a resolution to establish a Human Rights Committee that will be responsible for assessing and evaluating all matters related to the protection and enforcement of human rights in The Bahamas. Additionally, the Committee will also investigate alleged human rights violations through parliamentary inquiries and holding public hearings on human rights related issues.¹⁰³

75. Moreover, in April 2023, the government tabled the Ombudsman Bill in the House of Assembly. According to this law, the Ombudsman will be responsible for the investigation of any administrative action of a State authority to determine whether there is evidence of maladministration or breach of fundamental rights and freedoms on the part of the authority.¹⁰⁴

76. Regarding **citizen security**, the IACHR takes note of the homicide rate, and the State's efforts to reduce crime. According to public information, the State recorded 107 homicides for 2023,¹⁰⁵ below the previous year's total of 128 homicides.¹⁰⁶ This also indicates that the State's homicide rate for 2023 was 26 per 100,000 inhabitants.¹⁰⁷ On the other hand, to combat the increase in crime, the Ministry of Social Services and Urban Development announced a two-week gun amnesty. This is part of the State's "Say No to Guns" campaign which will be done in collaboration with the Royal Bahamas Police Force and community groups.¹⁰⁸

¹⁰² The Nassau Guardian, [Remembering election reform](#), August 11, 2023.

¹⁰³ The Tribune, [Human Rights Committee resolution passed in HOA](#), April 27, 2023.

¹⁰⁴ Parliament of The Bahamas, [Ombudsman Act, 2023, Section 7](#). Also, see: The Nassau Guardian, [Ombudsman Bill tabled in House](#), April 27, 2023; The Tribune, [ORG: Tabling of Ombudsman Bill a 'public sign of progress'](#), May 3, 2023.

¹⁰⁵ EYEWITNESS NEWS, [107 recorded murders for the year so far](#), December 28, 2023.

¹⁰⁶ [The Nassau Guardian, In 2022, an almost percent jump in murders](#), January 4, 2023.

¹⁰⁷ The IACHR calculated the homicide rate based on the State's population of 409,984 according to data from The World Bank, [Population, total - The Bahamas](#), 2022.

¹⁰⁸ [The Nassau Guardian, Rahmin: Govt to offer gun amnesty for illegal weapons](#), June 22, 2023.

77. Regarding **access to justice**, the Commission observes the efforts to improve efficiency of the justice system and restore confidence in citizens' ability to access justice. In January 2023, the judiciary observed that several obstacles were compromising the efficiency of the court system and that more resources were required. Some of the issues concerned a shortage of staff, dispersed court buildings across the capital and the need for more effective legislation.¹⁰⁹ In this regard, in June 2023 the Government announced a plan to invest in the judiciary including the construction of a new Supreme Court and the appointment of five additional Supreme Court justices.¹¹⁰

78. Regarding the rights of **women**, the IACHR notes that in November the ILO Convention No. 190 regarding Violence and Harassment entered into force in The Bahamas.¹¹¹

79. In addition, the IACHR welcomes State's efforts to better address gender-based violence, particularly sexual and domestic violence. In particular, the IACHR highlights the following: (i) drafting of the Strategic Plan to address gender-based violence;¹¹² (ii) the advances in establishing a sexual offences court and a centralized unit to deal with such crimes to provide victims with the necessary privacy and to improve their access to professional care needs;¹¹³ and (iii) the proposed domestic violence unit in the police force.¹¹⁴ However, the IACHR remains concerned about the increase of sexual violence against women. According to the Royal Bahamas Police Force, until April 2023, there had been an increase of 10% in the number of rapes compared to the same period in 2022, with a 64% increase in New Providence.¹¹⁵

80. Also, the IACHR commends that an amendment to the Sexual Offences Act to criminalize marital rape is ongoing.¹¹⁶ However, it also notes that such amendment has been pending since last year.¹¹⁷ This delay has been called out by civil society organizations for the urgency of passing such law considering that married women constitute most of the victims of sexual offences.¹¹⁸ While the IACHR welcomes the passage of the Protection Against Violence Bill, it also takes note of the concerns expressed by women's rights groups to the fact that the Bill does not contain key provisions that would further help protect women and girls from violence. Those key provisions were part of the original proposal for a Gender-Based Violence Bill many years ago, which was replaced by the Protection Against Violence Bill.¹¹⁹

81. Regarding the rights of **people in the context of human mobility**, the Commission observes with concern the practice of detention and deportation of migrants. Regarding the State's detention policies, the IACHR takes note of the recommendations of the UNHCR which called upon the State not to detain irregular migrants except under circumstances where it is necessary, reasonable, and proportionate to the legitimate purpose achieved and justified by international law.¹²⁰ Moreover, the IACHR notes the April 5, 2023 ruling of

¹⁰⁹ EYEWITNESS NEWS, [Chief Justice: More resources are needed for the courts](#), January 2, 2023.

¹¹⁰ The Tribune, [Pinder: Govt to invest in new courts and justice](#), June 20, 2023.

¹¹¹ Human Rights Council, [National Report Submitted pursuant to Human Rights Resolutions 5/1 and 16/21. Bahamas. A/HRC/WG.6/43/BHS/1](#), 7 March, 2023, para. 60.

¹¹² Human Rights Council, National Report Submitted pursuant to Human Rights Resolutions 5/1 and 16/21. Bahamas, A/HRC/WG.6/43/BHS/1, 7 March, 2023, para. 27.

¹¹³ Human Rights Council, National Report Submitted pursuant to Human Rights Resolutions 5/1 and 16/21. Bahamas, A/HRC/WG.6/43/BHS/1, 7 March, 2023, para. 121; The Tribune, [Munroe: Rapes up 64 percent in New Providence](#), June 14 2023; The Tribune, [Police to make reporting sexual assault crimes 'easier' for women](#), February 1, 2023.

¹¹⁴ The Tribune, [Serious crime 28% down - but rape cases increase](#), April 25, 2023.

¹¹⁵ The Tribune, [Serious crime 28% down - but rape cases increase](#), April 25, 2023; The Tribune, [Munroe: Rapes up 64 percent in New Providence](#), June 14, 2023; The Nassau Guardian, [PM: Levels of violence against women remains unacceptable](#), August 23, 2023.

¹¹⁶ Human Rights Council, National Report Submitted pursuant to Human Rights Resolutions 5/1 and 16/21. Bahamas, A/HRC/WG.6/43/BHS/1, March 7, 2023, para. 27 and 86.

¹¹⁷ IACHR, [Annual Report of the IACHR, 2022, Chapter IV.a Development of Human Rights in the Region](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, parr.70.

¹¹⁸ Human Rights Council, [Summary of stakeholders' submissions on Bahamas](#), A/HRC/WG.6/43/BHS/3, January 26, 2023, para. 39; The Tribune, [GOVT STALLING ON MARITAL RAPE LAW: Activists say women's rights are not being treated as a priority](#), January 17, 2023; The Tribune, [Married women 'more likely to experience non-consensual sex'](#), August 17, 2023.

¹¹⁹ The Nassau Guardian, [MPs pass Protection Against Violence Bill](#), 28 July 2023; The Nassau Guardian, [CEDAW rep says new bill fails human rights standards](#), 31 July 2023; The Tribune, [Obie Wilchcombe comment was 'disingenuous': govt taking too long on Gender Violence Bill](#), 5 April 2023; Eye Witness News, [Women's groups focused on amending new anti-violence legislation](#), 9 August 2023.

¹²⁰ The Tribune, [UN urges The Bahamas not to detain asylum seekers](#), May 1, 2023.

the Judicial Committee of the Privy Council which held that the current detention practices of The Bahamas Immigration Department are unlawful. The ruling affirms that the State has no lawful right to detain persons with irregular immigration status for more than 48 hours, and that such persons must either be brought before the courts, released, or deported accordingly.¹²¹

82. Additionally, the IACHR observes with concern the continued deportation of migrants with irregular status in the State without proper assessment of international protection needs.¹²² However, in the context of the 2023 UN Universal Periodic Review, the State underscored efforts to improve the efficiency of interview, detention and repatriation exercises of persons in the context of human mobility. Moreover, the IACHR notes the affirmation by the State that all applications are considered by merit and each matter is adjudicated on a case-by-case basis.¹²³

83. Concerning the State's obligation to reduce and prevent **statelessness**, the IACHR welcomed the recent decision of the Judicial Committee of the Privy Council allowing children born in the State to acquire nationality upon birth when one of their parents is Bahamian, regardless of marital status.¹²⁴ The Commission noted that this decision is a significant milestone towards achieving equal nationality rights for all children in The Bahamas and reiterated that every person has the right to nationality to which they are entitled by law.¹²⁵

84. As for **trafficking in persons**, the Commission takes note of efforts implemented by the Inter-Ministry Committee through the program "Building Resiliency against Trafficking in Persons" aimed at raising awareness and sensitizing girls ages 11 through 18, to prevent trafficking in persons and the protection and promotion of the rights of victims. This program helps to identify signs, consequences, and facets of trafficking including sexual exploitation, child trafficking, labor trafficking, domestic servitude, forced marriage, organ harvesting and the withholding of passport and money.¹²⁶

85. As for the rights of **children**, the Commission takes note of the assessment conducted by the Ministry of Education which showed that 44% of public-school students require learning support. This assessment was conducted with the aim of establishing intervention strategies.¹²⁷ On the other hand, with regard to violence, the Commission is concerned that, according to public information, during the first quarter of 2023, the Department of Social Services registered 51 cases of sexual violence and 43 cases of physical violence against children, which might represent an increase in the number of cases.¹²⁸

86. As for **persons deprived of liberty**, the Commission once again takes note of the Government's plans to improve prisoners' living conditions. In particular, the IACHR notes the opening of a Juvenile detention facility at The Bahamas Department of Correction for male youth offenders awaiting proceedings or placement in a long-term facility. This facility provides classrooms, physical activities and exercise programs, recreational programs, library services, medical and mental health services, technical and vocational training, and religious services.¹²⁹ Also, the Commission notes that the State has made little progress in achieving its goal of constructing two new prison facilities, a maximum-security prison and a medium-

¹²¹ [Douglas Ngumi \(Appellant\) v Attorney General of the Bahamas and 3 others \(Respondents\) \(Bahamans\) \[2023\] UKPC 12](#), April 5, 2023, para. 40.

¹²² Government of the Bahamas, [259 Haitian National Repatriated From New Providence](#), April 18, 2023; Government of the Bahamas, [44 Cuban Nationals Repatriated](#), April 20, 2023.

¹²³ Human Rights Council, [National report submitted pursuant to Human Rights Council Resolution 5/1 and 16* Bahamas](#), May 3, 2023, para 113.

¹²⁴ Attorney General v Shannon Tyreck Rolle and 4 others [2023] UKPC 13, May 4, 2023.

¹²⁵ CIDH [@CIDH]. (May 8, 2023). *#TheBahamas #IACHR welcomes the Privy Council's decision to uphold the Court of Appeal's judgement allowing children born in the State to acquire nationality upon birth when one of their parents is Bahamian, regardless of marital status.* [Tweet]. Twitter <https://twitter.com/CIDH/status/1655573435441971200>.

¹²⁶ Government of The Bahamas, [Trafficking in Persons Inter-Ministry Committee conducts Training](#), March 1, 2023

¹²⁷ The Tribune, ["44 percent of students need 'urgent intervention'"](#), June 16, 2023. Also, see: Our News, ["Forty-Four Percent of Students in Urgent Need Of Intervention"](#), June 15, 2023.

¹²⁸ Our News Bahamas, ["Reported Child Abuse Numbers Up for 2023"](#), March 30, 2023.

¹²⁹ The Tribune, [Juvenile detention facility opened at Bahamas Department of Corrections](#), May 12, 2023.

security unit, to address the overcrowding and unsanitary conditions at the Bahamas Department of Correctional Services facility.¹³⁰

87. Concerning the **death penalty**, the IACHR once more notes that The Bahamas has a de facto moratorium in place. According to the World Coalition Against Capital Punishment, no execution has taken place since 2000, and no one has been sentenced to death since this time. The Commission further notes that, as of May 2023, no one was on death row in the State.¹³¹

88. Regarding the rights of **LGBTI persons**, the IACHR warns that Bahamian law continues to provide different ages of sexual consent between persons of the opposite sex and persons who are males engaging in sexual relations¹³². In addition to being discriminatory, the IACHR notes that these provisions foster a climate of social prejudice against non-normative sexual orientations, gender identities and expressions. On the other hand, the Commission also takes note of opposition over the University of The Bahamas' decision to host a LGBTI Pride Week forum on campus, based on claims the event promotes the "immoral indoctrination of our young people."¹³³ This resulted in a protest outside the University by religious leaders.¹³⁴

IV. BARBADOS

- **General considerations**

89. In relation to **progress**, the Commission highlights the passage of the Integrity in Public Life Act, and legislation which empowers the Chief Justice to create sentencing guidelines for criminal matters to assist in addressing the backlog of cases in the court system. Moreover, the Commission welcomes the decision of the Caribbean Court of Justice which advances the protection of unmarried women under the Domestic Violence Act. Finally, the IACHR welcomes the judgment of Supreme Court of Barbados which declared the offence of buggery under Sexual Offences Act as unconstitutional as it discriminated against members of the LGBTI community.

90. With respect to **challenges**, the IACHR expresses concern about the increase in recorded crimes in the State, the backlog of criminal cases awaiting trial and the establishment of residential care as a preferential alternative for children in the juvenile justice system.

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

- **Specific issues**

92. With respect to **democratic institutional**ity, the Commission notes the passage of the Integrity in Public Life Act in August 2023 which proposes the establishment of a commission to promote integrity of persons in public life and strengthen measures for the investigation and prosecution of acts of corruption. It also provides for substantial penalties for individuals convicted of offenses under the legislation, along with the potential disqualification from holding public office. These provisions extend to incoming judges of the Supreme Court, directors of public prosecution, and auditors general. Regarding the establishment of an Integrity Commission, the Act provides for a six-member Commission consisting of a chairman, an attorney-at-law, a chartered or certified accountant, among other members.¹³⁵

¹³⁰ IACHR, [Annual Report, Chapter IV.A "Bahamas"](#), 2022, para. 78.

¹³¹ World Coalition Against the Death Penalty, [The Bahamas](#), August 30, 2023.

¹³² Sexual Offences and Domestic Violence Act 1991, ss. 2 and 16.

¹³³ The Nassau Guardian, [UB urged to cancel LGBTQ panel talk](#), October 2, 2023.

¹³⁴ The Nassau Guardian, [Christian Protest Pride Forum](#), October 6, 2023.

¹³⁵ Barbados Parliament Channel, Sitting of the Honourable the Senate, August 16, 2023; Barbados Parliament, [Integrity in Public Life Act](#), 2023; Barbados Today, Integrity Bill Laid in Parliament, February 1, 2023. Barbados Today, [Six-member Integrity Commission to be set up](#), February 1, 2023.

93. Regarding **human rights institutions**, the IACHR notes that in the context of the 2023 UN Universal Periodic Review, the State underscored its commitment to establishing an independent National Human Rights Institution (NHRI) in keeping with the Paris Principles.¹³⁶ At the local level, the NHRI would be expected to investigate alleged human rights violations and support victims as they seek justice and redress. However, the establishment of an NHRI has been delayed due to prevailing adverse economic circumstances.¹³⁷

94. Concerning **citizen security**, the IACHR takes note of the results of crime fighting initiatives and an increase in overall crime in the State. Regarding the efforts by the State to reduce crime, the IACHR notes the Barbados Police Force's joint operation with the Barbados Defense Force which was launched in 2022. According to information reported by the Barbados Police Service in March 2023, 11 firearms and 142 rounds of ammunition were recovered and 58 people were arrested in connection with illegal firearm and ammunition possession and for drug-related offences.¹³⁸

95. Conversely, according to information provided by the Barbados Police Service, there was a 6% overall increase in crimes from January to July 2023 as compared to the same period in 2022.¹³⁹ On the other hand, in relation to homicides, the Barbados Police Service informed that there was a 29% decrease in homicides with 12 homicides recorded in the State as of July 20, 2023, as compared to 17 cases recorded for the same period in 2022.¹⁴⁰ This represents a homicide rate of 4 per 100,000 inhabitants.¹⁴¹

96. In relation to **access to justice**, the Commission notes the passage of the Supreme Court of Judicature Amendment Act which empowers the Chief Justice to create sentencing guidelines for criminal matters.¹⁴² According to public information, the provision of sentencing guidelines would allow for consistency in the law regarding sentencing. Also, there would be both general and specific guidelines; with specific guidelines provided for causing death by dangerous driving, firearm offences, rape and offences of theft, robbery and burglary.¹⁴³

97. Moreover, the IACHR notes the concerns expressed by the Attorney General over the persistence of a significant number of serious cases awaiting trial, despite the expansion of the criminal bench¹⁴⁴. The Attorney General emphasized that there were 94 murder charges, seven manslaughter cases, and 287 firearm offenses pending trial. Notably, the oldest murder charge dated back to a homicide committed in 2007.¹⁴⁵

98. Regarding the **rights of women**, the IACHR welcomes the decision of the Caribbean Court of Justice (CCJ) that granted standing to an unmarried woman to request a protection order under the Domestic Violence Act. In its ruling, the CCJ pointed out that domestic legislation gaps should be filled in a manner consistent with the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. In doing so, when the CCJ addressed the definition of "domestic relationship" contained in the Act, it took into consideration the context of intimate partner violence against women in the Caribbean, and the imbalance of power based on gender that underlies it.¹⁴⁶

¹³⁶ Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21* Barbados](#), March 7, 2023, para. 109.

¹³⁷ Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21* Barbados](#), March 7, 2023, para. 105.

¹³⁸ Barbados Government Information Service, [Community Policing Integral in Fighting Crime](#), March 8, 2023.

¹³⁹ Caribbean Broadcasting Corporation, [Barbados records 6% increase in crime](#), July 20, 2023.

¹⁴⁰ Caribbean Broadcasting Corporation, [Barbados records 6% increase in crime](#), July 20, 2023.

¹⁴¹ The IACHR calculated the homicide rate based on the State's population of 281,635 according to data from The World Bank. The World Bank, [Population, total - Barbados](#), 2022.

¹⁴² Parliament of Barbados, [Supreme Court of Judicature \(Amendment\) Act](#), 2023.

¹⁴³ Nation News, [Chief Justice given green light over sentencing guidelines](#), July 19, 2023.

¹⁴⁴ Barbados Today, [Court backlog still plaguing swift delivery of justice](#), March 11, 2023.

¹⁴⁵ Barbados Government Information Service, [Number of Serious Matters to be Tried is a Concern](#), April 5, 2023.

¹⁴⁶ Caribbean Court of Justice Appellate Jurisdiction. On Appeal from the Court of Appeal of Barbados, [2023] CCJ 10 (A) BB, Date of Reasons 28 July 2023, para. 32, 41, 81, 86 and 112.

99. The IACHR also takes note that a revised and updated National Policy on Gender is being consulted with stakeholders, which is expected to be finalized by the end of 2023.¹⁴⁷ It also observes that ILO Convention 190 (Violence and Harassment in the World of Work, 2019) entered into force this year for Barbados,¹⁴⁸ and that the Bureau of Gender Affairs is working with UN Women to promote males' participation in care work within the household.¹⁴⁹

100. Regarding the rights of **children**, the Commission observes that the State is working on legislative projects in the areas of child protection and juvenile justice. Specifically, with respect to child protection, the project would seek to respond to violence against children and adolescents, as well as to manage cases of child abuse in the justice system. The juvenile justice project would aim to improve conditions within the justice system by preferring the use of day care centers instead of penal centers and the reintegration into school and family life after sentencing.¹⁵⁰ However, the IACHR is concerned that the State is contemplating the creation of facilities and installations for children with "very tough" profiles, establishing residential care as a preferential alternative.¹⁵¹

101. With respect to the rights of **persons deprived of liberty**, the Commission notes the collaborative efforts of the National Peace Program and officials of Dodds Prison to provide rehabilitation services to prisoners. According to official information, the National Peace Program provided reflective journals to prisoners to provide an outlet for them to share their feelings on a range of matters. These journals are part of a wider rehabilitation project, that would also include music and cooking, with the aim of providing a therapeutic outlet for prisoners.¹⁵²

102. Regarding the **death penalty**, even though no executions have been carried out since 1984,¹⁵³ there remains a lack of progress in removing this punishment from the State's statutes. Currently, there are 6 persons sentenced to death in the State¹⁵⁴ which represents a decrease from the 10 persons reported in August 2021,¹⁵⁵ The IACHR once again calls on the State to abolish capital punishment.

103. Regarding the rights of **LGBTI persons**, the IACHR issued a press release in June welcoming the decision of the Barbados Supreme Court in the case of René Holder-McClean-Ramirez et al v. Attorney General of Barbados. The Court ruled that the offence of "buggery" and "serious indecency" under the Sexual Offences Act, were unconstitutional, null and void, and of no effect to the extent that they apply to consensual sexual relations between adults in private.¹⁵⁶ The Commission reiterated that States must also take positive action to create a legal framework to protect LGBTI persons from all forms of violence and discrimination.¹⁵⁷

¹⁴⁷ Human Rights Council, National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Barbados, A/HRC/WG.6/43/BRB/1, 7 March 2023, para. 19.

¹⁴⁸ Human Rights Council, National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Barbados, A/HRC/WG.6/43/BRB/1, 7 March 2023, para. 7, 41.

¹⁴⁹ Human Rights Council, National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Barbados, A/HRC/WG.6/43/BRB/1, 7 March 2023, para. 65.

¹⁵⁰ Barbados Government Information Service, "[Deadline Extended For Submissions On Child Protection & Child Justice Bills](#)", August 21, 2023. Also, see: Latina Republic, "[Barbados' New Child Justice Bill](#)", July 3, 2023.

¹⁵¹ Barbados Government Information Service, "[Secure Treatment Facility On The Cards For Children](#)", April 3, 2023.

¹⁵² Barbados Government Information Service, "[National Peace Programme Enhancing Partnership With Prison Service](#)", July 17, 2023.

¹⁵³ World Coalition Against the Death Penalty, [Barbados](#), May 23, 2023.

¹⁵⁴ World Coalition Against the Death Penalty, [Barbados](#), May 23, 2023.

¹⁵⁵ IACHR, [Annual Report, Chapter IV.A "Barbados"](#) 2021, para. 103.

¹⁵⁶ IACHR, [IACHR welcomes decision declaring criminalization of consensual same-sex relations unconstitutional in Barbados](#), June 19, 2023.

¹⁵⁷ IACHR, Press Release 126/23 - [IACHR welcomes decision declaring criminalization of consensual same-sex relations unconstitutional in Barbados](#), June 19, 2023.

V. BELIZE

• General considerations

104. Regarding **progress**, the IACHR welcomes the State's continued commitment to combatting corruption. Moreover, the Commission takes note of a decrease in homicides, and the proposed establishment of a Firearms and Ammunition Control Board. Additionally, the Commission values the State's coordination with the public and private sectors for the implementation of the Child Labor Strategy. Finally, the IACHR highlights the enactment of legislation for the provision of legal aid.

105. In relation to **challenges**, the Commission notes the concerns raised by the Ombudsman regarding the limited funding and staff which directly impacts its functionality. Moreover, the IACHR notes with concern cases of violence against LGBTI women and adolescents.

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

• Specific issues

107. In relation to **democratic institutional**ity, the IACHR takes note of the State's continued commitment to combatting corruption, and the work of the Peoples' Constitutional Commission. In July, the State passed the Civil Asset Recovery and Unexplained Wealth Order Act. This legislation provides measures to combat corruption and allows the Civil Recovery Authority to trace and recover assets acquired through unlawful means. Moreover, where a person's wealth exceeds their income, the burden will be placed on the person to account to the Court for their excessive wealth.¹⁵⁸

108. In addition, in relation to the work of the Peoples' Constitutional Commission (PCC) which was established in 2022 to conduct a comprehensive review of the Belizean Constitution,¹⁵⁹ the IACHR highlights the holding of the Commission's first lecture in Belmopan in July 2023. The lecture aimed to increase the population's understanding of the Belize Constitution.¹⁶⁰

109. With regards to **human rights institutions**, the Commission notes that Belize has an Office of the Ombudsman, which is a member of the Caribbean Ombudsman Association,¹⁶¹ and the Commonwealth Forum of National Human Rights Institutions.¹⁶² The IACHR takes note of concerns raised by the Office of the Ombudsman in its 2023 Mid-Year Annual Report, particularly in regard to the limited funding and staff which directly impact the Office's ability to function efficiently. Additionally, the Commission highlights the recommendation from the Mid-Year Annual Report which calls for the establishment of a National Human Rights Institution, headed by an Ombudsman, with powers to investigate human rights issues.¹⁶³

110. As for **citizen security**, the Commission takes note of crime suppression measures implemented by the State and a decrease in the number of homicides. Regarding the decreased in homicides, according to the Belize Crime Observatory, there were 74 homicides reported for the period January to October 2023, which represented an approximately 20% decrease as compared to the 93 cases reported for the same period in 2022.¹⁶⁴ This represents a homicide rate of 18 per 100,000 inhabitants.¹⁶⁵

¹⁵⁸ National Assembly of Belize, [Civil Asset Recovery and Unexplained Wealth Order Act](#), 2023, sec. 12.

¹⁵⁹ IACHR, [Annual Report 2022, Chapter IV.A "Belize"](#), para. 108.

¹⁶⁰ Amandala, [People's Constitution Commission holds its first lecture in Belmopan](#), July 12, 2023.

¹⁶¹ Caribbean Ombudsman Association, [General Information](#), 2023.

¹⁶² Commonwealth Forum of National Human Rights Institutions, [Belize](#), 2023.

¹⁶³ Office of the Ombudsman of Belize, [2023 Mid-Year Annual Report](#), August 18, 2023, pgs. 14 & 17.

¹⁶⁴ Belize Crime Observatory, [Crimes Comparative January - August 2022 - 2023](#), July 12, 2023.

¹⁶⁵ The IACHR calculated the homicide rate based on the State's population of 405,272 according to data from The World Bank. The World Bank, [Population, total - Belize](#), 2022.

111. Regarding crime suppression measures adopted by the State, the IACHR observes the proposed establishment of a Firearms and Ammunition Control Board to regulate firearm possession and decrease incidents of gun-related violence. According to official information, the Board will receive, consider and process firearm applications, provide regulations and criteria for the approval of firearms licensing, including training and certification of license holders, and develop a plan for the digitization of a firearms and ammunition licensing system.¹⁶⁶

112. Additionally, the Commission notes the use of a State of Emergency (SOE) in Belize City. According to public information, on July 28, 2023, the Government declared an SOE for 30 days in limited areas in Belize City as a result of the high-level criminal activity.¹⁶⁷ According to the Belize Police Department, the SOE which was lifted on August 28, assisted in preventing further gang-related homicides and a total of 25 persons were detained.¹⁶⁸

113. Regarding **access to justice**, the IACHR highlights the enactment of legislation for the provision of legal aid. In April, the State passed the Legal Aid Act, accompanied by an amendment to the Senior Courts Act of 2022, establishing a novel framework for providing legal assistance to qualified individuals as an integral part of the national justice system.¹⁶⁹ According to available information, these legislative measures entail the removal of provisions governing the court's assignment of attorneys-at-law for the provision of legal aid services. Following these changes, the newly established Legal Aid Commission, will possess extensive authority to appoint a Director of Legal Aid, allocate appropriate staff, and define provisions for the provision of legal aid, whether through court orders or voluntary engagement of lawyers.¹⁷⁰

114. Regarding the rights of **women**, the IACHR commends the endorsement of the Cabinet for the establishment of a Women Parliamentarians Caucus as a joint standing committee of the National Assembly. This Caucus provides a formal space to address issues of gender equality, greater participation in the legislative process, and the sensitizing of the National Assembly's work through a gendered lens.¹⁷¹ It also welcomes the launch of the National Gender Equality Index, which will measure women's access to safety, shelter and security, health, education, employment and participation in decision-making.¹⁷² In this regard, it also takes note of the commencing of the seventh round of the Multiple Indicator Cluster Survey, an important source of data for Belize on, among other issues, gender equality.¹⁷³

115. In relation to the rights of **persons in the context of human mobility**, the IACHR notes that according to public information, as of June 2023, the Ministry of Immigration has been undertaking a detailed security clearance process for 12,000 individuals who submitted an amnesty application by the official deadline in March 2023.¹⁷⁴ Additionally, in June 2023, the State announced the allocation of a half a million-dollar fund to facilitate the extension of the amnesty program launched in August 2022 to address the issue of irregular migrants, in order to receive additional applications from bona-fide applicants.¹⁷⁵

116. In relation to **trafficking in persons**, the Commission values that in May 2023, as part of the 12th meeting of Caribbean Labor Ministers convened by the International Labour Organization, Belize became a member of the Regional Initiative of Latin America and the Caribbean – Free of Child Labor, a tripartite

¹⁶⁶ Government of Belize Press Office, [Cabinet Brief](#), July 6, 2023.

¹⁶⁷ Caribbean National Weekly, [Belize City under state of emergency](#), August 1, 2023; Breaking Belize News, [State of Emergency implemented in 'limited area' of Belize City](#), July 28, 2023.

¹⁶⁸ Breaking Belize News, [Commissioner of Police declares August State of Emergency "successful;" discusses plans for September Celebrations](#), August 28, 2023.

¹⁶⁹ National Assembly of Belize, [Legal Aid Act](#), 2023.

¹⁷⁰ Belize Breaking News, [Senate approves new comprehensive Legal Aid scheme](#), April 19, 2023.

¹⁷¹ Government of Belize Press Office, [Cabinet Brief](#), February 2, 2023.

¹⁷² Breaking Belize News, [Agencies launch National Gender Equality Index Project](#), May 25, 2023.

¹⁷³ Government of Belize Press Office, [Government of Belize, UNICEF and SIB Sign MOU for MICS7](#), January 31, 2023.

¹⁷⁴ News 5, [More than 12,000 Individuals Applies for Amnesty in Belize](#), June 14, 2023.

¹⁷⁵ Belize Breaking News, [Government to provide \\$500,000 to extend Belize Amnesty Program](#), June 18, 2023. Also, see: IACHR, Annual Report, Chapter IV.A "Belize", 2022, para. 119.

network of countries working to accelerate actions to prevent and eradicate child labor and its worst forms.¹⁷⁶ In addition, the IACHR takes note of the actions adopted to raise awareness against trafficking in persons such as the inauguration of the first anti-human trafficking academy in Placencia (Southern Belize),¹⁷⁷ and the launch of the Transportation Leaders Empowered program to tackle human trafficking in the country.¹⁷⁸

117. Regarding the rights of **children**, the Commission commends the State of Belize for its coordination with the public and private sectors for the implementation of the Child Labor Strategy 2022-2025,¹⁷⁹ as well as for joining the Latin America and the Caribbean Child Labor Free Regional Initiative, with the objective of accelerating actions to prevent and eradicate child labor.¹⁸⁰ The IACHR also takes note of the initiative between the government of Belize and UNICEF to monitor the quality of internet connectivity in schools, help identify gaps in infrastructure, and seek efficient solutions to make connectivity affordable and sustainable.¹⁸¹

118. As for **persons deprived of liberty**, the Commission welcomes the digital literacy initiative implemented at the Kolbe Foundation in the Belize Central Prison launched by the Trust for the Americas in collaboration with the Caribbean School of Data (CSOD). This initiative aims to equip young inmates with essential digital skills to enhance their employability upon release. In this framework, from March to June 2023, the program provided 15 inmates with 60 hours of training.¹⁸²

119. Regarding the **death penalty**, the Commission notes that there has been a lack of progress in striking the death penalty from the statutory books, even though the State has not carried out executions since 1985 and no person is currently sentenced to death.¹⁸³

120. Regarding the rights of **LGBTI persons**, in a public hearing held during its 187th Period of Sessions,¹⁸⁴ the IACHR received information regarding violence against LGBTI women, girls and adolescents in Belize. According to the information received during the hearing, this population often experience gender-based violence, exclusion from the community, discrimination in employment, police brutality and harassment. In addition, the IACHR was informed that the proposed Equal Opportunities Bill remained delayed in the legislative process since 2021. During its respective intervention, the State requested time to provide a detailed, written response to the matters raised during the hearing. The IACHR highlighted the importance of the ratification of international treaties and requested more information regarding sexual violence against girls and adolescents in Belize.¹⁸⁵

121. With regard to the rights of **older persons**, the IACHR takes note of measures adopted by the Belize Institute of Statistics, particularly the inclusion of the elderly population as a variable in public policy studies and poverty measurement instruments, including the Multidimensional Poverty Index,¹⁸⁶ and in the

¹⁷⁶ ILO, [Belize newest country to join Regional Initiative Latin America and the Caribbean Free of Child Labour](#), May 24, 2023

¹⁷⁷ Belize News, [U.S. Embassy. Government partners to host Belize's 1st Human Trafficking Academy](#), February 21, 2023; The San Pedro Sun, [U.S. Embassy Partners with the Government of Belize's Anti-Trafficking in Persons \(A-TIP\) Council, the Human Trafficking Institute, and the Pan American Development Foundation to Host Belize's First Human Trafficking Academy](#), February 21, 2023; [News 5. Belize's First Human Trafficking Academy](#), February 20, 2023

¹⁷⁸ RET International, [Transportation Leaders Empowered through Education, Awareness, and Effective Policy Change on Human Trafficking in Belize](#), January 18, 2023; The San Pedro Sun, [Anti-human trafficking program launched in Belize](#), January 12, 2023.

¹⁷⁹ Government of Belize Press Office, ["Ministry of Labour Launches Education Tour on Child Labour Policy Implementation"](#), February 21, 2023.

¹⁸⁰ ILO, ["Belize newest country to join Regional Initiative Latin America and the Caribbean Free of Child Labour"](#), May 24, 2023.

¹⁸¹ UNICEF, ["Government of Belize and UNICEF Enter into Partnership to Transform Education Through Technology"](#), May 12, 2023.

¹⁸² The Trust for the Americas, [U.S.-Funded DIA Lab Belize and Caribbean School of Data Empower Young Inmates through Digital Literacy Training](#), June 29, 2023.

¹⁸³ World Coalition Against the Death Penalty, [Belize](#), May 23, 2023.

¹⁸⁴ IACHR, [Public Hearing "Violence and discrimination against women, children and adolescents in Belize"](#), 187th Period of Sessions, July 10 – 21, 2023.

¹⁸⁵ IACHR, [Summaries of Public Hearings: Annex Press Release 167/23 187 Period of Sessions](#), July 10 – 21, 2023.

¹⁸⁶ Statistical Institute of Belize, [Multidimensional Poverty Index to Complement Monetary Poverty Measurement in Belize](#), March 8, 2023.

Population and Housing Census.¹⁸⁷ The IACHR encourages the State of Belize to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

VI. BOLIVIA

• General considerations

122. Over the course of 2023, Bolivia experienced **progress** towards compliance with the recommendations of international human rights bodies, while it implemented initiatives aimed at assisting the victims of military dictatorships. Likewise, the rights of LGBTI persons were secured through the legal recognition of same-sex marriage.

123. Nevertheless, there continued to be **challenges** linked to the justice system, such as the failure to hold elections to select high-court magistrates. In addition, obstacles in the fight against gender-based violence and the effective implementation of measures to mitigate prison overcrowding were reported. These aspects underscore the need to address and overcome these challenges so as to strengthen the protection and promotion of rights in the country.

124. On October 20, 2023, the State submitted its response to the Commission's request for information to prepare this chapter.¹⁸⁸

• Specific issues

125. Regarding **democratic institutional**ity, the State made progress in the preparation of the National Population and Housing Census, which will be carried out in 2024 and will be essential for the execution of public policies and for the planning and development of the 2025 elections.¹⁸⁹ Among the achievements are the statistics map update at the national level; the approval of the census questionnaire following citizen participation, and the call for volunteers to conduct the census.¹⁹⁰ Likewise, the second National Meeting against Harassment and Political Violence was held by the Supreme Electoral Tribunal,¹⁹¹ which is relevant considering that, during the first semester of the year, the Office of the Ombudsperson recorded 40 cases of attacks and political violence against elected women authorities, including threats, harassment and physical aggression.¹⁹²

126. However, there were challenges in planning for the elections of the authorities of the Supreme Court of Justice, the Plurinational Constitutional Court, the Agro-environmental Court and the Council of the Judiciary.¹⁹³ According to the Political Constitution of the State, the elections were to be held in 2023. However, the lack of consensus in the Plurinational Legislative Assembly (ALP), among other challenges, prevented the timely preselection of candidates, which caused the Supreme Electoral Tribunal to announce that it was not possible to hold elections on time.¹⁹⁴

127. Faced with these challenges, the Commission urged the State to guarantee the elections in a timely manner and warned about the possible deterioration of the justice system as a result of this situation.¹⁹⁵ In addition, the Commission learned of the fragmentation among political leaders of Movimiento al Socialismo

¹⁸⁷ Statistical Institute of Belize, [Data Collection for 2022 Population and Housing Census completed, preliminary results to be available by Third quarter 2023](#), February 24, 2023.

¹⁸⁸ Plurinational State of Bolivia, Note MPB-OEA-NV219-23, October 20, 2023. In IACHR files.

¹⁸⁹ Plurinational State of Bolivia, National Statistics Institute, "[Presidente anuncia la realización del censo para el 23 de marzo de 2024](#)," October 26, 2023; and *La Razón*, "[El TSE aplicará tres criterios para la distribución de escaños](#)," November 16, 2022.

¹⁹⁰ Plurinational State of Bolivia, National Statistics Institute, "[El Consejo Nacional de Autonomías da su conformidad al avance técnico del Censo 2024](#)," October 26, 2023.

¹⁹¹ UNDP, "[TSE y PNUD Bolivia impulsan segundo encuentro contra el acoso y la violencia política](#)," June 30, 2023.

¹⁹² *El Deber*, "[La Defensoría reporta 40 casos de acoso y violencia política en lo que va que va de año](#)," June 19, 2023.

¹⁹³ IACHR, [Press Release No. 223/2023](#) "Bolivia: IACHR calls on the State to guarantee judicial elections," September 26, 2023.

¹⁹⁴ IACHR, [Press Release No. 223/2023](#) "Bolivia: IACHR calls on the State to guarantee judicial elections," September 26, 2023.

¹⁹⁵ IACHR, [Press Release No. 223/2023](#) "Bolivia: IACHR calls on the State to guarantee judicial elections," September 26, 2023.

– Movimiento Político por la Soberanía de los Pueblos (MAS-IPSP).¹⁹⁶ This situation has reflected a tendency towards political polarization in the Bolivian social fabric¹⁹⁷ and has had the potential to hinder government activity at different levels, such as the passing of laws;¹⁹⁸ it may also pose challenges for the upcoming electoral process.

128. As it relates to **human rights institutions**, the State reported on initiatives for compliance with the recommendations of international human rights bodies, which, during 2023, included the systematization of recommendations and a quarterly follow-up with those State institutions responsible for compliance.¹⁹⁹ On July 5, 2023, the Senate ratified three people in the positions of deputy ombudspersons at the Office of the Ombudsperson, eight months after their appointment by the Ombudsperson;²⁰⁰ this has reportedly had an impact on the adequate development of the office's functions.²⁰¹

129. Follow-up was given to **citizen security** in the context of demonstrations in the department of Santa Cruz de la Sierra after the arrest of its governor in December 2022. In this context, the Commission received reports of confrontations between civilians and police officers, which resulted in injuries, as well as reports of alleged cases of excessive use of police force, including cases where violence was exerted against journalists and social communicators.²⁰²

130. Regarding **access to justice and judicial independence**, efforts against procedural delays were reported, which have allowed the Civil Chamber of the Supreme Court of Justice to resolve cases within adequate legal timeframes, according to official information.²⁰³ In May 2023, in the department of Potosí, after the corresponding performance evaluation, 33 professionals who had been serving in transitory positions were awarded the status of professional judges. Likewise, the State indicated that by August 2023, 170 professional lawyers were expected to obtain the degree of judges at the State Judicial College.²⁰⁴

131. Civil society organizations continued to express their concern about structural challenges within the justice system and the lack of guarantees for judicial independence. This is so in view of the suspension of the judicial election process for an indefinite period of time, and due to the fact that the composition of the high courts could be unconstitutional since the judges' terms of office have been extended.²⁰⁵ Likewise, during a thematic hearing, the civil society pointed to hurdles in the access to the Plurinational Constitutional Court (TCP), as well as the excessive use of the criminal system; in this regard, the State highlighted that there were internal procedures for challenging the decisions of the TCP.²⁰⁶

132. Moreover, follow-up was given to the criminal proceedings titled "Golpe de Estado I" (*Coup d'Etat I*) and "Golpe de Estado II" (*Coup d'Etat II*) by the Bolivian justice system, which deal with the facts that

¹⁹⁶ Fragmentation is evidenced, among other aspects, by accusations made by party leaders and the holding of two opposing party activities, one in Lauca Ñ, Cochabamba, and another in La Paz, each convened by one of the opposed faction leaders. See: *La Razón*, "[Con duras críticas al Gobierno, Morales inaugura el congreso del MAS en Lauca Ñ](#)," October 3, 2023; and AP, "[Arce reta al líder de su partido Evo Morales con una multitudinaria concentración de sus partidarios](#)," October 17, 2023.

¹⁹⁷ This has been (warned)noted by the Commission on several occasions. See: IACHR, [Press Release No. 321/2019](#) "The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections," December 10, 2019; and [Press Release No. 059/2023](#), "IACHR Issues Preliminary Observations of On-Site Visit to Bolivia," April 11, 2023.

¹⁹⁸ IACHR meeting with the Office of the Ombudsperson, held on March 27, 2023, during its *in loco* visit to Bolivia.

¹⁹⁹ Plurinational State of Bolivia, Note MPB-OEA-NV219-23, October 20, 2023. In IACHR files.

²⁰⁰ *Agencia Boliviana de Información*, "[Senado ratifica nombramiento de tres Delegados Defensoriales Adjuntos](#)," July 5, 2023.

²⁰¹ As per information provided by the Office of the Ombudsperson to the Commission during its *in loco* visit held from March 27 to March 31, 2023.

²⁰² IACHR, [Press Release No. 005/2023](#) "Protests in Bolivia: IACHR and Its Special Rapporteurship for Freedom of Expression Monitor Events in Santa Cruz de la Sierra, Bolivia," January 17, 2023.

²⁰³ Supreme Court of Justice, "[SALA CIVIL DEL TSJ REALIZA SORTEO Y CONSERVA CERO MORA PROCESAL](#)," September 18, 2023.

²⁰⁴ Plurinational State of Bolivia, Note MPB-OEA-NV142-23 and Note MJTI-DESP-NE-Z-696-2023 of June 19, 2023, in response to the Commission's letter of request for complementary information to its visit, p. 7. In IACHR files.

²⁰⁵ Human Rights Watch, "[Organizaciones de la sociedad civil expresan su preocupación sobre la suspensión indefinida de las elecciones judiciales en Bolivia](#)," October 26, 2023.

²⁰⁶ Information received at public hearing "Bolivia: Access to justice and judicial independence," held during the 188th regular period of sessions of the IACHR.

occurred during or contributed to the 2019 electoral crisis. In the first case, the Office of the Prosecutor is reportedly about to issue its conclusive report – to the date of writing of the instant chapter –;²⁰⁷ while, in the second case, the decision on an appeal to the sentence of conviction issued in 2022 is reportedly underway.²⁰⁸

133. With regard to the rights of **indigenous peoples**, the State enacted the Law for the Creation of a Territorial Unit in favor of the peoples of the Multiethnic Indigenous Territory (TIM), and a cacique was elected as the first executive authority of the Autonomous Government of the TIM.²⁰⁹ Moreover, further information was submitted on the negative effects on the health of indigenous peoples of the inadequate regulation of the use and importation of mercury, with indigenous women being the most affected, since they are in direct contact with mercury when they carry out mining activities.²¹⁰

134. Regarding the **rights of women**, the Commission values the incorporation of content related to comprehensive sex education, gender equality and violence prevention into the updated curricula,²¹¹ as well as the State's efforts to share these contents with society and to rectify misinformation that has been spread about the new curricula based on biases and prejudices with the purpose of preventing their application.²¹²

135. Furthermore, the Office of the Attorney General has recorded 73 femicides nationwide as of November 13,²¹³ and 36,422 women victims of gender-based violence – including family or domestic violence, sexual abuse and rape – as of October 9.²¹⁴ The departments with the highest rate of this type of violence are La Paz, Santa Cruz and Cochabamba; in the latter, the Assembly has even issued a departmental declaration on the upsurge of femicides.²¹⁵

136. Of particular concern is the prevalence of sexual violence and early, forced or unwanted pregnancies among girls and adolescents.²¹⁶ Data from the Office of the Attorney General indicate that in 2023, up to October 9, 2,105 cases of rape of an infant, child or adolescent had been registered;²¹⁷ as of March, the Office of the Attorney General had a total of 6,169 active cases on agenda, out of which 2,408 were cases of statutory rape.²¹⁸ According to information provided by the civil society during a thematic hearing, between 2020 and 2023, the State recorded 131,695 pregnancies among girls and adolescents, six percent of which corresponded to girls under 15 years of age.²¹⁹ In this context, the Commission is concerned about the fact that

²⁰⁷ *La Razón*, "[En el caso Golpe I, la Fiscalía emitirá su informe conclusivo hasta noviembre; se analiza citar a Morales](#)," October 27, 2023.

²⁰⁸ *Erbol*, "[Caso 'Golpe II': Sentencia de Áñez habría sido ratificada y su defensa anticipa que presentará recurso de casación](#)," July 14, 2023.

²⁰⁹ Plurinational State of Bolivia, Law 1497, March 3, 2023, and Agencia de Noticias Fides, "[Eligen a Alfredo Matareco como primer cacique del Territorio Indígena Multiétnico](#)," 25 de julio de 2023.

²¹⁰ Information received at the meeting the IACHR held with civil society organizations in La Paz on March 27, 2023, during its *in loco* visit to Bolivia; *El país*, "[Las mujeres mineras, víctimas silenciosas de la fiebre del oro en Bolivia](#)," February 9, 2023; *Página 7*, "[Mujeres y niños indígenas, principales víctimas de la minería](#)," June 18, 2023.

²¹¹ Ministry of Education, "[ABC del Currículo Educativo 2023 actualizado](#)," February 3, 2023.

²¹² SEPMUD, "[Educación Integral en Sexualidad, conozca el verdadero contenido](#)," April 4, 2023; *Los tiempos*, "[Maestros vuelven a las aulas en medio de rechazo a contenidos ideológicos](#)," February 1, 2023; *Página Siete*, "[Pacto Nacional por los Derechos Sexuales pide mantener la Educación Integral en Sexualidad en la currícula educativa](#)," January 29, 2023.

²¹³ Office of the Attorney General, "[Feminicidios Reporte 13-11-2023](#)," n/d. Accessed on November 15, 2023].

²¹⁴ Office of the Attorney General, "[Ministerio público registra 36,422 mujeres víctimas de violencia a nivel nacional](#)," October 11, 2023.

²¹⁵ Cochabamba Departmental Assembly, "[Se aprobó la declaratoria departamental frente al crecimiento de casos de feminicidio en Cochabamba y a nivel nacional](#)," June 27, 2023.

²¹⁶ Committee on the Rights of the Child, "[Concluding observations on the combined fifth and sixth periodic reports of the Plurinational State of Bolivia](#)" CRC/C/BOL/CO/5-6, March 6, 2023, paras. 22 and 25; IACHR, thematic hearing "[Bolivia: Impact of child pregnancy and marriage on the rights of children and adolescents](#)," November 10, 2023.

²¹⁷ Office of the Attorney General, "[Ministerio público registra 36,422 mujeres víctimas de violencia a nivel nacional](#)," October 11, 2023.

²¹⁸ Information received at meeting the IACHR held with the Office of the Attorney General on March 29, 2023, during its *in loco* visit to Bolivia.

²¹⁹ IACHR, thematic hearing "[Bolivia: Impact of child pregnancy and marriage on the rights of children and adolescents](#)," November 10, 2023.

there is no comprehensive program to clamp down on sexual violence against children and adolescents,²²⁰ and that the State has not yet applied the regulatory changes ordered by the Inter-American Court aimed at eliminating the crime of statutory rape and at classifying all acts as rape when there is a lack of consent, rather than only considering the use of force or the threat to use force.²²¹ In 2023, a bill against child sexual abuse that provided for the imprescriptible nature of these crimes was rejected.²²²

137. In addition, obstacles persist in the access to health services for the termination of pregnancy, especially for girls and adolescents. For instance, information was submitted to the Commission on the impact on the exercise of this right due to the fact that the authorities required the authorization of a judge – which is no longer a requirement –, and due to conscientious objection by medical staff or harassment of those who provide these services; among others factors.²²³ In relation to the foregoing, the Commission expresses its concern over a departmental bill for the protection of life and the family submitted in Santa Cruz, which could limit access to the termination of pregnancy – even in cases where the life of the pregnant person is at risk –, given that said bill provides for the absolute protection of life since the moment of its conception.²²⁴

138. With respect to **persons in the context of human mobility**, the Commission notes that, as of June 2023, Bolivia was fostering a total of 16,810 people that had been forced to flee their countries of origin. Disaggregated data show that, reportedly, 1,131 of them are refugees, 70 are asylum seekers, and 15,609 face other international protection needs. Most of the refugees currently in the country are from Peru, Venezuela and Colombia. In addition, it is estimated that over the first half of 2023, more than 28,800 people circulated through Bolivia and headed to Chile and Peru.²²⁵

139. In relation to **trafficking in persons**, the Ministry of Foreign Affairs took actions to repatriate at least six Bolivian victims of human trafficking abroad over the first quarter of 2023.²²⁶ The Office of the Ombudsperson urged the Bolivian police, the Office of the Attorney General and the autonomous municipal governments to address cases of human trafficking appropriately.²²⁷

140. On the rights of **children and adolescents**, the Commission values the implementation of the project “Creciendo con Agua Segura” (Growing up on Safe Water), which seeks to contribute to the reduction of chronic child malnutrition through water and sanitation projects in several municipalities across Bolivia.²²⁸

141. However, during its *in loco* visit in March 2023, the Commission observed a high rate of femicides, sexual violence and forced pregnancies of girls and adolescents, as well as scarce integral services to assist survivors.²²⁹ Specifically, the Commission became aware of the disclosure of an investigation unveiling the sexual abuse of nearly 100 children and adolescents by a priest in Bolivia, which led to over 23 additional complaints against other priests nationwide.²³⁰ In this context, the Commission takes note of the measures

²²⁰ IACHR, thematic hearing “[Bolivia: Impact of child pregnancy and marriage on the rights of children and adolescents](#),” November 10, 2023.

²²¹ IACHR Court, [Angulo Losada v. Bolivia. Preliminary objections, merits, reparations and costs](#). Judgment of November 18, 2022. Series C No. 475, paras. 197–199.

²²² *La Razón*, “[Cámara de Diputados rechaza proyecto de ley contra abusos sexuales a menores](#),” September 22, 2023.

²²³ IACHR, thematic hearing “[Bolivia: Impact of child pregnancy and marriage on the rights of children and adolescents](#),” November 10, 2023; information received at a meeting held by the IACHR with the Supreme Court of Justice on March 29, 2023, during its *in loco* visit to Bolivia.

²²⁴ Departmental Bill for the Integral Protection of Life and the Family in Santa Cruz. In IACHR files.

²²⁵ UNHCR, [Bolivia Fact Sheet – June 2023](#), August 2023, p. 1.

²²⁶ Government of the Plurinational State of Bolivia, “[Cancillería de Bolivia gestionó la repatriación de 72 connacionales en primer trimestre de 2023](#),” April 15, 2023.

²²⁷ Office of the Ombudsperson, “[Día Mundial contra la Trata de Personas: Defensoría del Pueblo exhorta al Estado a atender adecuadamente a las víctimas de estos delitos](#),” July 30, 2023.

²²⁸ These projects are reportedly financed by the Development Bank of Latin America. Ministry of Health and Sports, Government of Bolivia, “[Gobierno lanza proyecto intersectorial para reducir la desnutrición crónica infantil](#),” March 12, 2023.

²²⁹ IACHR, [Press Release No. 059/23](#) “IACHR Issues Preliminary Observations of On-Site Visit to Bolivia,” Washington D.C., April 11, 2023. Annex, para. 18.

²³⁰ Senate Press, Government of Bolivia, “[Senado conforma una Comisión Especial para investigar delitos de abuso sexual a menores en entornos eclesiales](#),” July 12, 2023. See also: *BBC*, “[El escándalo de agresiones sexuales a menores en la Iglesia católica que](#)

adopted by the State. In particular, the Commission acknowledges the creation of a Special Commission at the Senate for the investigation of crimes of sexual violence against minors occurring in ecclesiastical environments;²³¹ the request for coordination with the Vatican in the investigation of cases of abuse committed by priests;²³² and investigations conducted by the Office of the Attorney General, which, as of June 2023, was investigating 17 cases of pederasty nationwide.²³³

142. Regarding **human rights defenders**, there were struggles for the legitimate representation of social organizations, including some with decades of history of human rights work. In particular, it was reported that the headquarters of the Permanent Assembly on Human Rights in Bolivia (APDHB) had been raided; that there was a subsequent escalation of confrontations between citizens claiming to legitimately represent this organization, and that defenders, especially older persons, were at risk.²³⁴ The foregoing reflects a tendency towards political polarization in the Bolivian social fabric.

143. With regard to **persons deprived of liberty**, the Commission acknowledges the setup of a computerized system to gather and record information on this population group.²³⁵ However, the excessive use of pretrial detention persists, being applied in 64 percent of cases;²³⁶ this is the alleged main cause of the high overcrowding rate, which reportedly accounts for 217 percent, according to information obtained by the Commission during its *in loco* visit to the country. In addition to overcrowding, persons deprived of liberty face the following challenges: i) shortage of water and food; ii) poor medical care due to insufficient medical staff and medicines; iii) lack of regular sexual and reproductive health services; iv) lack of private areas for visits; and v) difficulties in accessing higher education.²³⁷

144. Regarding **Afro-descendants and the fight against racial discrimination**, the Commission was informed of the lack of progress in the implementation of the Decade for the Afro-Bolivian People initiative, especially the lack of representation of Afro-descendants in state decision-making spaces. Organizations reported a lack of public information on processes of collective land titling of territories that have been historically occupied by Afro-descendant communities.²³⁸

145. With respect to **LGBTI persons**, on March 20, 2023, the Plurinational Constitutional Court issued a ruling in which it recognized the right to constitute free unions between people without discrimination

[conmociona a Bolivia \(y el duro reclamo del gobierno al Vaticano\)](#),” May 24, 2023. See also: Office of the Attorney General of Bolivia X account (@FGE_Bolivia), “Fiscalía investiga 17 casos de pederastia a nivel nacional y aguarda el envío oficial del diario completo del padre Pedrajas” (The Office of the Attorney General investigates 17 cases of pederasty nationwide and awaits the official dispatch of the complete diary of Father Pedrajas), June 27, 2023. https://twitter.com/FGE_Bolivia/status/1673748075813150731. Accessed on July 12, 2023. See also: BBC, “[El escándalo de agresiones sexuales a menores en la Iglesia católica que conmociona a Bolivia \(y el duro reclamo del gobierno al Vaticano\)](#),” May 24, 2023.

²³¹ Senate Press, Government of Bolivia, July 12, 2023. See also: BBC, “[El escándalo de agresiones sexuales a menores en la Iglesia católica que conmociona a Bolivia \(y el duro reclamo del gobierno al Vaticano\)](#),” May 24, 2023. See also: Office of the Attorney General of Bolivia X account (@FGE_Bolivia), “Fiscalía investiga 17 casos de pederastia a nivel nacional y aguarda el envío oficial del diario completo del padre Pedrajas” (The Office of the Attorney General investigates 17 cases of pedophilia nationwide and awaits the official dispatch of the complete diary of Father Pedrajas), June 27, 2023. https://twitter.com/FGE_Bolivia/status/1673748075813150731.

²³² Vatican News, “[Dolor y vergüenza del Papa por abusos sexuales en Bolivia](#),” May 31, 2023.

²³³ Office of the Attorney General of Bolivia X account (@FGE_Bolivia), “Fiscalía investiga 17 casos de pederastia a nivel nacional y aguarda el envío oficial del diario completo del padre Pedrajas” (The Office of the Attorney General investigates 17 cases of pederasty nationwide and awaits the official dispatch of the complete diary of Father Pedrajas), June 27, 2023. https://twitter.com/FGE_Bolivia/status/1673748075813150731.

²³⁴ Amnesty International issued an alert over the risk derived from the occupation of the APDHB headquarters in La Paz. See: Amnesty International, “[Bolivia: Raid on Human Rights NGO puts Defenders at Risk: Amparo Carvajal](#),” June 29, 2023; and AP, “[Activista de DD. HH. denuncia que fue despojada de su oficina en Bolivia](#),” June 6, 2023.

²³⁵ Information provided at the meeting the IACHR held with the General Directorate of the Penitentiary System during its *in loco* visit to Bolivia on March 27, 2023.

²³⁶ This percentage was calculated by the IACHR based on information provided by the General Directorate of the Penitentiary System during the IACHR’s *in loco* visit to Bolivia on March 27, 2023.

²³⁷ IACHR, [Press Release No. 059/23](#) “IACHR Issues Preliminary Observations of On-Site Visit to Bolivia,” April 11, 2023.

²³⁸ Meeting held by the IACHR with Afro-Bolivian organizations in Cochabamba during its *in loco* visit to Bolivia on March 29, 2023. Meeting minutes in IACHR files.

based on sexual orientation.²³⁹ This decision was based on state authorities' duty to carry out a conventionality control in light of the inter-American standards, including those set forth in Advisory Opinion No. 24/17 of the Inter-American Court of Human Rights. This ruling has also allowed for the recognition and registration of free unions of other couples, including LGBTI persons in prison.²⁴⁰ The Civil Registry Service (SERECI) has also updated its computer systems to allow for the registration of free unions of same-gender persons.²⁴¹

146. Regarding **memory, truth and justice**, the State reported that it continued to process requests of reparations for victims of political violence during the military dictatorship that took place from 1964 to 1982, in accordance with the corresponding regulations on reparations.²⁴² The State reported it had allocated sufficient economic funds to that end.²⁴³ It also indicated that a bill had been submitted to the Chamber of Deputies, which establishes an exceptional procedure for an extraordinary review of the classification process, so as to compensate cases that had been previously dismissed in reparation stages. This is an initiative that has been put forward by the executive branch following the signing of a National Agreement with the Victims. The State has further pointed out that the Ministry of Justice and Institutional Transparency has revised the Final Report of the Truth Commission, has held inter-institutional coordination meetings and has suggested concrete measures to comply with the recommendations.²⁴⁴

VII. BRAZIL

• General considerations

147. The Commission takes note of the **progress** made in connection to the strengthening of human rights institutions; the recognition of the territorial rights of indigenous peoples and Quilombolas; the strategies to prevent gender-based violence and guarantee sexual and reproductive rights; the policies to clamp down on racism; and the affirmative actions taken for the inclusion of Afro-descendants and indigenous persons. It also highlights the openness of the State to receive visits from the Commission, wherein the latter addressed issues related to LGBTI persons and precautionary measures.

148. Regarding the **challenges** faced by the country, the Commission notes with concern the persistence of violence generated by police operations in the *favelas* – which has had a differentiated impact on children and adolescents –, the alarming figures of persons working in conditions similar to slavery; and the overcrowding and acts of violence in penitentiaries.

149. On October 5, 2023, the State submitted its response to the Commission's request for information to prepare this chapter.²⁴⁵

• Specific issues

²³⁹ Plurinational Constitutional Court, Case 35012-2020-71-AAC, [Judgment No. 0577/2022-S2](#) of June 22, 2022. This was part of the judicial actions to protect the rights to equality and non-discrimination of David Víctor Aruquipa Pérez and Guido Álvaro Montaña Durán.

²⁴⁰ *Red Uno*, "[Por primera vez tres parejas del mismo sexo se casan en Palmasola](#)," March 29, 2023.

²⁴¹ Meeting held by the IACHR with the SERECI on March 27, 2023, during its *in loco* visit to the country.

²⁴² Law No. 2,640 of 2004; Law No. 238 of 2012, Supreme Decree No. 1,211 of 2012; and Law No. 1,446 of 2022.

²⁴³ Plurinational State of Bolivia, Note MPB-OEA-NV219-23, October 20, 2023. Input Document for the *2023 Annual Report* of the Inter-American Commission on Human Rights (IACHR) (January 1–August 31, 2023), pp. 1–2. In IACHR files.

²⁴⁴ Plurinational State of Bolivia, Note MPB-OEA-NV219-23, October 20, 2023. Input Document for the *2023 Annual Report* of the Inter-American Commission on Human Rights (IACHR) (January 1–August 31, 2023), p. 2. In IACHR files.

²⁴⁵ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023.

150. With regard to **democratic institutional**ity, the Commission commends the strategies implemented by Brazil in the fight against hate speech and extremism, which have even sparked acts of violence, mainly against women, Afro-descendants, indigenous peoples and LGBTI persons.²⁴⁶

151. Despite this progress, on January 8, followers of the country's former president and defeated presidential candidate violently broke into the premises that house the three branches of government in the capital city. The attacks targeted at democratic institutions were motivated by a possible military intervention to overthrow the legitimately elected government. Throughout the day, several people were injured, and damage was caused to public buildings housing the Federal Congress, the Supreme Court of Justice and the Presidential Palace.²⁴⁷

152. Moreover, following decisions of the Federal Supreme Court (STF) in cases involving the demarcation of indigenous lands and LGBTI rights, the National Congress passed laws that opposed constitutional rulings, as in the case of the establishment of the "timeframe thesis."²⁴⁸ It also moved forward with bills that seek to abridge the powers of the country's supreme court.²⁴⁹ Such attempts have the potential to undermine the separation and balance of powers and the Rule of Law.

153. With respect to the **human rights institutions**, during 2023, the State created and reestablished different bodies and entities aimed at guaranteeing the rights of groups in a situation of vulnerability. Namely, the Ministries of Women, Racial Equality, Indigenous Peoples, Human Rights and Citizenship,²⁵⁰ the National Council for the Rights of LGBTQIA+ Persons, and the National Policy for Homeless Persons (CIAMP Rua).²⁵¹ Likewise, the national councils for Human Rights, the Rights of Children and Adolescents, Persons with Disabilities and Older Persons were reinstated. The Committee and the National Mechanism to Prevent and Combat Torture were also strengthened. Additionally, the Commission underscores the restoration of the Amnesty Commission and the National Commission for the Eradication of Slave Labor (Conatrae).²⁵²

154. In 2023, complaints were filed regarding the budget cut ordered by the previous administration for many of these bodies in charge of implementing, maintaining or advancing social public policies.²⁵³ To alleviate these shortcomings, the State proposed an increase in resources allocated to social areas by 2024.²⁵⁴ However, the Institute for Socioeconomic Studies (INESC) pointed out that this increase (6.6 percent) would be insufficient to bridge the social gap generated by the dwindling public policies of the previous four years.²⁵⁵

155. As for **citizen security**, the Citizen Police Working Group was set up in February in order to implement programs and actions aimed at reducing lethality in police actions.²⁵⁶ In addition to this initiative,

²⁴⁶ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, pp. 4–6.

²⁴⁷ IACHR, [Press Release No. 006/23](#) "IACHR Condemns Attacks on Brazil's Democratic Institutions," January 23, 2023.

²⁴⁸ Chamber of Deputies, "[Câmara aprovou criação do marco temporal da ocupação de terras por povos indígenas](#)," July 24, 2024.

²⁴⁹ *O Globo*, "[Em votação relâmpago, CCJ do Senado aprova PEC que limita decisões monocráticas de ministros do STF](#)," October 4, 2023.

²⁵⁰ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, p. 2.

²⁵¹ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, p. 2.

²⁵² Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, p. 8.

²⁵³ National Health Council, "[CNS denuncia a organismos internacionais corte de R\\$ 22.7 bilhões no orçamento do SUS para 2023](#)," October 26, 2022.

²⁵⁴ *Agência Brasil*, "[Orçamento de 2024 cresce em áreas sociais, mostra levantamento](#)," October 18, 2023.

²⁵⁵ *Brasil de Fato*, "[Aumento de 6,6% no Orçamento de 2024 é insuficiente ante o déficit social, aponta Inesc](#)," October 18, 2023.

²⁵⁶ National Justice Council (CNJ), [Polícia Cidadã, Relatório](#), 2023.

the State enacted a decree on responsible gun control, which seeks to reverse the increase in the number of firearms recorded over the last four years.²⁵⁷

156. Despite the efforts made, there have been security operations throughout the year that have resulted in the violent deaths of people at the hands of state agents. During the police action known as “Operación Escudo” in the Baixada Santista region, in São Paulo, at least 28 people lost their lives as a result of security raids conducted in response to the murder of a police officer by organized crime members operating in that area.²⁵⁸ In Bahia, between July 2022 and June 2023, at least 1,097 people died as a result of operations carried out by security forces.²⁵⁹ In addition, between January and September, 19 children were injured and 12 died amidst operations carried out by security forces in the states of Bahia, Pernambuco and Rio de Janeiro.²⁶⁰

157. To address this situation, the State implemented strategies to guarantee **access to justice** with differentiated approaches and with a focus on groups in situations of vulnerability. Among other initiatives, the following stand out: the National Forum of the Judiciary for Racial Equity; a policy for the protection of children and adolescents exposed to serious and imminent death threats; a quota of three percent of vacancies in public competitive examinations for indigenous people to access judiciary positions; the Itinerant Cooperative Justice Program in the Amazônia Legal region; a working group at the Labor Court aimed at tackling labor in conditions similar to slavery and human trafficking, in addition to protecting the labor rights of migrants; a protocol for gender-sensitive judicial proceedings; specific procedures to support persons with hearing and/or visual disabilities, whether accused, prosecuted, convicted, deprived of liberty or adolescents in conflict with the law.²⁶¹

158. However, the country faces a complex scenario of impunity in several areas. In this regard, the Organisation for Economic Cooperation and Development (OECD) warned Brazil about patterns of impunity in cases of transnational corruption involving the country, due to the lack of sentences and punishment of those responsible.²⁶² Likewise, the United Nations Human Rights Committee issued its conclusions on its review of civil and political rights in the country, and highlighted that many cases of political violence remained unpunished, especially cases against women, Afro-descendants, indigenous peoples and LGBTI persons; particularly, the Committee pinpointed the lack of resolution of the case of councilwoman Marielle Franco.²⁶³ Likewise, the Office of the Federal Public Prosecutor and nine other institutions requested the investigations be referred to federal entities due to impunity in cases of massacres that had occurred in 2018 in the *Maré favela*, in Rio de Janeiro.²⁶⁴

159. With respect to the **rights of indigenous peoples**, the Federal Supreme Court (STF), through its Extraordinary Remedy (RE) No. 1017365 of September 21, declared the unconstitutionality of the “temporal landmark” judicial doctrine on the demarcation of indigenous territories.²⁶⁵ This decision led to significant progress in the protection of the right to land and territory of indigenous peoples. In addition, in 2023 the State undertook several actions to evict invaders from ancestral lands, such as an operation conducted in October in

²⁵⁷ Ministry of Justice and Public Security, *Decreto sobre o controle de armas é assinado pelo presidente Lula*, July 21, 2023.

²⁵⁸ IACHR, Press Release No. 177/23 “[IACHR Condemns the Violent Deaths of at Least 16 People in Police Operations in Brazil](#),” August 8, 2023. Also, for an update of the number of victims, see: Human Rights Watch, “[‘They Promised to Kill 30.’ Police Killings in Baixada Santista, São Paulo state, Brazil](#),” November 7, 2023.

²⁵⁹ *Brasil de Fato*, “[Escalada da violência policial: Bahia lidera ranking com 22% do total de mortes pela polícia no país](#),” August 17, 2023.

²⁶⁰ IACHR, Press Release No. 228/23 “[IACHR Concerned About Violence Against Children in Police Raids in Brazil](#),” September 28, 2023.

²⁶¹ Federative Republic of Brazil, “Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA,” September 2023, pp. 81–94.

²⁶² *O Globo*, “[OCDE revela 'expressa preocupação' com impunidade nos casos de corrupção no Brasil](#),” October 19, 2023.

²⁶³ *UN News*, “[Comitê de Direitos Humanos diz que Brasil deve combater impunidade da violência política](#),” July 27, 2023.

²⁶⁴ Office of the Federal Public Prosecutor, “[Violência policial: MPF e mais dez instituições querem federalizar apuração de caso de 2018](#),” November 6, 2023.

²⁶⁵ IACHR, Press Release No. 240/23 “[IACHR Welcomes the Fact That Brazil’s Temporal Landmark Judicial Doctrine on the Demarcation of Indigenous Territories Has Been Declared Unconstitutional](#),” October 6, 2023.

which over 1,000 people were removed from the Apyterewa and Trincheira Bacajá lands, in the southwest of Pará, a territory that is home to around 2,500 indigenous people from 51 different communities.²⁶⁶

160. In addition to the above, the State and the Commission signed a cooperation agreement for the creation of a follow-up mechanism for Precautionary Measure 449-22 in favor of Bruno Araújo Pereira, Dom Phillips and 11 members of the Union of Indigenous Peoples of the Javari Valley (UNIVAJA).²⁶⁷ This joint working group aims to redouble efforts to ascertain the situation and whereabouts of these disappeared persons, as well as that of people who were threatened for their work in protecting the rights of the indigenous peoples of the Jaravi valley and their territory.

161. Notwithstanding the STF's ruling, civil society organizations stated that the criterion established by the court to compensate the landowners who are occupying lands pending demarcation could hinder future demarcations.²⁶⁸ Furthermore, the Yanomami people faced a situation of extreme vulnerability that triggered a serious humanitarian crisis in January 2023.²⁶⁹ The ethnic-racial discrimination they have historically been subjected to²⁷⁰ has resulted in the death of at least 570 children, and it has created a situation of particular risk for women and girls of said ethnic group. Earlier this year, the Brazilian government reportedly identified at least 30 girls who were pregnant due to alleged sexual abuse committed by mining workers working in indigenous territories.²⁷¹

162. With regard to the **rights of women**, the State has applied a series of legislative, institutional and public policy measures to clamp down on gender-based violence, promote women's economic and political autonomy, and encourage their participation in decision-making spaces. These three cross-cutting pillars were integrated into the 2024-2027 Multiannual Plan, and just over 300 million Brazilian reais were allocated for its execution.²⁷² In addition, several laws and decrees were passed to strengthen the operation of the Specialized Police Stations for Women;²⁷³ to tackle sexual violence in the public administration at all levels of government;²⁷⁴ to facilitate the employment of women victims of gender-based violence;²⁷⁵ to guarantee equal pay²⁷⁶ and to improve women's working conditions.²⁷⁷

163. With respect to the fight against gender-based violence, the State devised the program "Mujeres Viviendo sin Violencia" (Women Living Without Violence), so as to integrate and expand existing services for survivors in the areas of health, justice and economic autonomy;²⁷⁸ it also approved the National Pact to Prevent Femicides, whose purpose is to implement cross-sectoral, comprehensive and concrete preventive actions on this matter.²⁷⁹ However, the Commission noted a prevalence of high rates of gender-

²⁶⁶ *G1*, "[Operação do governo federal retira mais de mil invasores de terras indígenas no Pará](#)," October 16, 2023.

²⁶⁷ IACHR, Press Release No. 179/23 "[Brazil: IACHR reports creation of the Joint Working Group on implementation of precautionary measures in favor of Bruno Araújo, Dom Phillips and members of UNIVAJA](#)," August 11, 2023.

²⁶⁸ Conselho Indigenista Missionário, "[Nota conjunta sobre as teses jurídicas apresentadas no julgamento do Marco Temporal](#)," September 27, 2023.

²⁶⁹ *Agência Brasil*, "[Yanomami: crise humanitária no coração da Amazônia](#)," February 6, 2023.

²⁷⁰ IACHR, Press Release No. 015/23 "[IACHR and Its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Stress That Brazil Must Ensure the Survival of the Yanomami People](#)," February 8, 2023.

²⁷¹ *O Globo*, "[Índigenas denunciam abusos de garimpeiros: pelo menos 30 meninas teriam engravidado](#)," February 3, 2023.

²⁷² Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, pp. 69 and 79.

²⁷³ Diário Oficial da União, [Law No. 14,541](#), April 3, 2023.

²⁷⁴ Diário Oficial da União, [Law No. 14,540](#), April 3, 2023.

²⁷⁵ Diário Oficial da União, [Law No. 14,542](#), April 3, 2023; Diário Oficial da União, [Decree No. 11,430](#), March 8, 2023.

²⁷⁶ Diário Oficial da União, [Law No. 14,611](#), July 3, 2023.

²⁷⁷ Diário Oficial da União, [Law No. 14,682](#), September 20, 2023.

²⁷⁸ Presidency of the Republic, [Decree No. 11,431](#), March 8, 2023. Within this framework, a process is underway to set up Houses of Brazilian Women and Brazilian Women's Centers (CRAMB) in all capital cities and some rural areas. Moreover, the emergency hotline "Ligue 180" (Call Center for Women) is being restructured. Permanent mission of Brazil to the OAS, "Subsídios do Estado brasileiro para elaboração do Relatório Anual da Comissão Interamericana de Direitos Humanos – CIDH/OEA (set/2023), Capítulo IV," October 5, 2023, pp. 75–76. In IACHR files.

²⁷⁹ Presidency of the Republic, [Decree No. 11,640](#), August 16, 2023.

based violence against women, especially against Afro-descendant, indigenous and Quilombola women.²⁸⁰ The situation of Yanomami women, girls and adolescents is of particular concern since, in addition to suffering health problems, they are subjected to various forms of gender-based violence, including sexual exploitation in the context of extractive industries operating in their territories.²⁸¹

164. As for gender equality, various programs and projects were implemented to promote the economic autonomy, food security and property ownership of black, Roma, Quilombola, indigenous and rural women.²⁸² In the political sphere, affirmative measures were adopted to promote participation, such as the gender parity rule for the promotion of judges, and the reservation of vacancies in the judiciary for women in situations of violence and other groups in a situation of vulnerability.²⁸³ However, the low levels of women participation in these spaces were maintained, especially among Afro-descendant, Quilombola, indigenous and LGBTI women.²⁸⁴ The reasons behind this include the non-compliance with the Gender Quota Law, the continuous political violence against women and the lack of sanctions in this regard.²⁸⁵ The Commission also notes that Afro-descendant and LGBTI women, especially trans and lesbian women, continue to be the main victims of political violence.²⁸⁶

165. As it relates to sexual and reproductive rights, the State withdrew from the Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, which sought to restrict women's exercise of these rights. In addition, it implemented health programs and policies to address maternal mortality, prevent adolescent pregnancy, expand access to clinical gynecological care in various contexts²⁸⁷ and promote dignified management of menstruation.²⁸⁸ However, over the course of this year, Brazil still showed a high maternal mortality rate, and there were cases of obstetric violence during the provision of sexual and reproductive health services, especially affecting Afro-descendant, indigenous and Quilombola women.²⁸⁹

166. Likewise, obstacles to access the legal termination of pregnancy remained – especially for girls and adolescents –, namely the denial of this service in healthcare centers, stigmatization and harassment by

²⁸⁰ Committee against Torture, [Concluding observations on the second periodic report of Brazil](#) CAT/C/BRA/CO/2, June 12, 2023, paras. 19(b), 41(a), (b) and (c); Human Rights Committee, [Concluding observations on the third periodic report of Brazil](#) CCPR/C/BRA/CO/3, September 6, 2023, para. 23; Terra, ["Violência invisível: a dor silenciosa das mulheres indígenas no Brasil"](#), April 30, 2023.

²⁸¹ Terra, ["Mulher é achada morta em área de garimpo em terra yanomami"](#), May 7, 2023; *GI*, ["Adolescente resgatada diz que era obrigada a fazer até 16 programas por noite em garimpos na Terra Yanomami"](#), March 15, 2023; *Carta Capital*, ["Deputada pede que PF investigue abusos sexuais contra meninas yanomamis"](#), February 13, 2023; *Correio 24 horas*, ["Gravidez de 30 garotas yanomamis estupradas por garimpeiros é herança trágica de um crime"](#), February 4, 2023; *UOL*, ["Gestação interrompida, medo e luta: como o garimpo afeta mulheres indígenas"](#), February 8, 2023.

²⁸² For example: "Beatriz Nascimento" Women in Science Program; Rural Women's Productive Courtyards Program; Good Living Citizenship Program for Women. Permanent mission of Brazil to the OAS, "Subsídios do Estado brasileiro para elaboração do Relatório Anual da Comissão Interamericana de Direitos Humanos – CIDH/OEA (set/2023), Capítulo IV," October 5, 2023, pp. 24, 38 and 39. In IACHR files.

²⁸³ *Folha de S. Paulo*, ["El Consejo Nacional de Justicia de Brasil aprueba una regla de paridad de género para la promoción de jueces"](#), September 27, 2023. Other examples include [Ordinance No. 147](#) of March 6, 2023, which sets forth that the councils and commissions that make up the General Secretariat of the Presidency must have gender parity in their composition and that at least 20 percent of their members must be self-declared black and brown persons; it also provides for the creation of the National Forum of Women's Policy Bodies. Permanent mission of Brazil to the OAS, "Subsídios do Estado brasileiro para elaboração do Relatório Anual da Comissão Interamericana de Direitos Humanos – CIDH/OEA (set/2023), Capítulo IV," October 5, 2023, pp. 69. In IACHR files.

²⁸⁴ Human Rights Committee, [Concluding observations on the third periodic report of Brazil](#) CCPR/C/BRA/CO/3, September 6, 2023, paras. 17 and 63; *Metrópolis*, ["Mulheres ocupam menos de 30% do secretariado executivo do governo Lula"](#), March 24, 2023.

²⁸⁵ Permanent mission of Brazil to the OAS, "Subsídios do Estado brasileiro para elaboração do Relatório Anual da Comissão Interamericana de Direitos Humanos – CIDH/OEA (set/2023), Capítulo IV," October 5, 2023, pp. 72 and 95. In IACHR files; Ministry of Women, [Official Note against PEC 9/2023. "Quando a participação política de mulheres será levada a sério?"](#), May 16, 2023; Human Rights Committee, [Concluding observations on the third periodic report of Brazil](#) CCPR/C/BRA/CO/3, September 6, 2023, para. 17; *Forum*, ["Deputadas alvo de pedido coletivo de cassação acionam Ministério das Mulheres e MPF"](#), June 22, 2023.

²⁸⁶ Human Rights Council, [Visit to Brazil. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association](#), Clément Nyaletsossi Voule A/HRC/53/38/Add.1, May 23, 2023, paras. 30–32; *Brasil de Fato*, ["Parlamentares vítimas de ataques lesbofóbicos se organizam contra ameaças coordenadas de 'estupro corretivo'"](#), August 25, 2023.

²⁸⁷ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, p. 68(H).

²⁸⁸ Presidency of the Republic, [Decree No. 11.432](#), March 8, 2023.

²⁸⁹ IACHR, 186th regular period of sessions, public hearing ["Reproductive rights and violence against women and girls in Brazil"](#), March 15, 2023; Committee against Torture, [Concluding observations on the second periodic report of Brazil](#) CAT/C/BRA/CO/2, June 12, 2023, para. 49; CESCR, [Concluding observations on the third periodic report of Brazil](#) E/C.12/BRA/CO/3, October 13, 2023, para. 61.

health staff and third parties, fear of criminal prosecution, criminalization of medical staff who provide this service, harassment and violence against those who advocate for the decriminalization of abortion, among others. Lack of access to abortion is even more serious for Afro-descendant women and girls, and for women living in rural areas and/or living in poverty.²⁹⁰ In this context, it is of concern that in view of the possible decriminalization of the voluntary termination of pregnancies of up to 12 weeks – currently being discussed by the Supreme Court of Justice –,²⁹¹ several bills have been submitted to Congress to impose greater restrictions on access to abortion.²⁹²

167. In relation to the **rights of people in the context of human mobility**, Brazil made progress by reentering the Global Compact for Safe, Orderly and Regular Migration, from which it had withdrawn in 2019.²⁹³ Moreover, the State approved MJSP/MRE Interministerial Ordinance No. 38, which facilitates the granting of temporary visas for family reunification to Haitians and stateless persons with family ties in the country.²⁹⁴ In the same line, MJSP/MRE Interministerial Ordinance No. 37 provided for the granting of temporary visas and residence permits for humanitarian purposes to Haitians and stateless persons affected by “a calamity of great proportions, an environmental disaster or a situation of institutional instability in Haiti.”²⁹⁵

168. In addition, the adoption of SENAJUS/MJSP Ordinance No. 70 established a working group on migration policies with the aim of drafting a national policy on migration, refugees and statelessness. Among other issues, the group shall discuss migration regularization, local integration, promotion and protection of rights and the fight against xenophobia and racism.²⁹⁶

169. Regarding the situation of Venezuelan nationals in Brazil, the available information indicates that, from January to July 2023, a total of 16,753 applications for the recognition of the refugee status were submitted. In addition, 65,485 residence authorizations were granted to regularize the migration status of this group of people in the country.²⁹⁷

170. Regarding the prevention, reduction and eradication of **statelessness**, on October 3, the State amended Article 12 of the Federal Constitution to eliminate the forfeiture of Brazilian nationality for those who acquire another nationality. This amendment allows for the renunciation of nationality, except when such renunciation leads to statelessness. In addition, it makes it possible for a person who renounces their nationality to reacquire it in accordance with the provisions of the law.²⁹⁸

²⁹⁰ IACHR, 186th regular period of sessions, public hearing “[Reproductive rights and violence against women and girls in Brazil](#),” March 15, 2023; Human Rights Committee, [Concluding observations on the third periodic report of Brazil](#), CCPR/C/BRA/CO/3, September 6, 2023, para. 25; Committee against Torture, [Concluding observations on the second periodic report of Brazil](#) CAT/C/BRA/CO/2, June 12, 2023, para. 49; CESCR, [Concluding observations on the third periodic report of Brazil](#) E/C.12/BRA/CO/3, October 13, 2023, para. 61; Human Rights Council, [Visit to Brazil. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule](#) A/HRC/53/38/Add.1, May 23, 2023, para. 82; BBC, “[As falhas em rede de proteção à infância no caso da menina de 12 anos grávida pela 2ª vez](#),” February 14, 2023.

²⁹¹ *G1*, “[Descriminalização do aborto no STF: entenda o que pode mudar na regra sobre gestação até a 12ª semana](#),” September 22, 2023.

²⁹² *Gazeta do Povo*, “[ADPF 442: parlamentares criticam el ativismo judicial do STF ao tentar legalizar o aborto](#),” October 8, 2023; *Correio Braziliense*, “[Setores conservadores do Congresso aceleram ações contra aborto](#),” October 3, 2023; *UOL*, “[Com 72 projetos de lei que limitam aborto, Brasil será questionado na ONU](#),” September 27, 2023; *G1*, “[Em reação ao STF, oposição no Senado apresenta pedido de plebiscito sobre aborto](#),” September 26, 2023.

²⁹³ Note from the Ministry of Foreign Affairs of Brazil, “[Retorno do Brasil ao Pacto Global para Migração Seguração. Ordenada e Regular](#),” January 5, 2023.

²⁹⁴ Ministry of Justice and Public Security, and Ministry of Foreign Affairs of Brazil, [MISP/MRE Interministerial Ordinance No. 38](#), April 10, 2023.

²⁹⁵ Ministry of Justice and Public Security, and Ministry of Foreign Affairs of Brazil, [MISP/MRE Interministerial Ordinance No. 37](#), March 30, 2023.

²⁹⁶ Ministry of Justice and Public Security, and National Secretariat of Justice of Brazil, [SENAJUS/MISP Ordinance No. 70](#), February 16, 2023.

²⁹⁷ IOM, [Migração Venezuelana. Janeiro 2017 - Julho 2023](#), August 23, 2023, p. 2.

²⁹⁸ Chamber of Deputies and Federal Senate of Brazil, [Constitutional Amendment No. 131](#), October 3, 2023.

171. In relation to the **rights of children and adolescents**, the State undertook commitments at the international level to take measures against the application of the Parental Alienation Law when it is used as a defense mechanism by allegedly abusive parents in cases of violence against this social group.²⁹⁹ In addition, in October, it enacted Law No. 14,717, which provides for a special pension equivalent to one minimum monthly salary for children and adolescents who became orphans as a result of femicides.³⁰⁰ The State also put an end to the civic-military schools program and made progress in the gradual demilitarization of the educational entities that were part of this program.³⁰¹

172. Moreover, the State took action to address chronic malnutrition among indigenous children of the Yanomami people. From January to April 2023, the Yanomami Emergency Operations Center (COE-Y) recorded more than 5,300 visits to hospitals and health centers and delivered more than 18,000 basic food baskets. During the same period, 63 Yanomami children who were in a serious nutritional situation received treatment, and another 26 are reportedly under treatment at this moment.³⁰²

173. Furthermore, the Ministry of Justice launched a digital platform to teach and help parents and guardians to monitor the activities of children and adolescents on the Internet. The purpose of this initiative is reportedly to explain the protection mechanisms offered by the most frequently used social media in Brazil, as well as to raise awareness among parents about crimes against children committed on the Internet.³⁰³

174. Regarding **human rights defenders**, the State indicated that there is a National Policy for the Protection of Human Rights Defenders (PNPDDH), managed in collaboration with federal entities. As part of Brazil's commitment to the defense of human rights, this protection program is implemented in the states of Pará, Amazonas, Maranhão, Ceará, Paraíba, Pernambuco, Bahia, Minas Gerais, Rio de Janeiro, Rio Grande do Sul and Mato Grosso. The work carried out includes ensuring the continuity of human rights advocacy work through risk analysis, conflict mediation and dissemination of advocacy activities.³⁰⁴ In addition to the above, the "Sales Pimenta" Technical Working Group (GTT) was created to prepare the National Plan for the Protection of Human Rights Defenders, Communicators and Environmentalists, as well as a draft bill on the National Policy for the Protection of Human Rights Defenders.³⁰⁵

175. Despite these efforts, human rights defenders continued to suffer violence – especially those engaged in the defense of land, territory and the environment –, which resulted in at least 11 people killed in the first eight months of the year.³⁰⁶ In its third periodic report on the implementation of the International

²⁹⁹ IACHR, 187th regular period of sessions, public hearing "[Parental Alienation Law in Brazil](#)," July 11, 2023. See also: Ministry of Human Rights and Citizenship, Government of Brazil, "[MDHC manifesta-se a favor da revogação da Lei da Alienação Parental](#)," July 11, 2023.

³⁰⁰ Presidency of the Republic, Executive Office, Special Secretariat of Legal Affairs, Government of Brazil, [Law No. 14.717](#), October 31, 2023.

³⁰¹ UOL, "[Governo Lula encerra programa de escolas cívico-militares de Bolsonaro](#)," July 12, 2023.

³⁰² Ministry of Health, Government of Brazil, "[Operação em território Yanomami completa três meses com melhorias na saúde](#)," April 22, 2023.

³⁰³ G1, "[Ministério da Justiça lança guia para auxiliar pais a monitorar menores de idade na internet](#)," October 16, 2023; *Gazeta Brasil*, "[De Boa na Rede: Governo Lula lança guia para auxiliar pais a monitorar menores de idade na internet](#)," October 16, 2023; *Farol de Bahia*, "[Governo lança guia para auxiliar pais a monitorar menores na internet](#)," October 16, 2023.

³⁰⁴ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, pp. 11–13.

³⁰⁵ Vladimir Herzog Institute, Answers to the consultation questionnaire, September 17, 2023.

³⁰⁶ IACHR, Press Release No. 138/23 "[IACHR: Ongoing Violence Against Human Rights Defenders in the First Four Months of 2023](#)," June 27, 2023. In January, Pataxó indigenous defenders Samuel Cristiano do Amor Divino and Nauí Brito de Jesus were murdered in Itabela, Bahia. In addition, indigenous defenders Valdemar Marciano Guajajara and José Inacio Guajajara, as well as defender Raimundo Ribeiro da Silva, were murdered in Araiboia, Maranhão. That same month, defenders Raniel Barbosa and Rodrigo Hawerth were murdered during a rescue operation in Nova Mutum-Paraná, Rondônia. Similarly, Patrick Gasparini Cardoso was murdered in the district of Nova Mutum-Paraná, in the rural area of Porto Velho and Nova Dimensão, in the municipality of Nova Mamoré, Rondônia. See also: IACHR, Press Release No. 138/23 "[IACHR: Ongoing Violence Against Human Rights Defenders in the First Four Months of 2023](#)," June 27, 2023. On August 20, indigenous leader Venancio Xirixana died at hospital following an attack on April 29 in the community of Uxiú, Alto Mucajaí region, Yanomami Indigenous Land. On August 17, Quilombola leader Bernadete Pacífico was murdered in Salvador, Bahia. According to information available in the public domain, three people were arrested for possibly being linked to her murder. On May 1, the body of Yanomami indigenous leader Angelita Prororita Yanomami – who had been disappeared for over a month – was found in Boa Vista, Roraima.

Covenant on Civil and Political Rights, the United Nations Human Rights Committee expressed its concern over the marked increase in murders, intimidation, illegal surveillance and criminalization of human rights defenders, particularly indigenous, environmental and women's rights defenders.³⁰⁷ In turn, civil society organizations have denounced flaws in the protection program due to the scarcity of resources, the absence of specific measures with a gender and ethnic-racial approach, and the lack of a legal framework, among other issues.³⁰⁸

176. Regarding **persons deprived of liberty**, a ruling by the Federal Supreme Court (STF) on October 4 confirmed the unconstitutionality of Brazilian prisons due to their precarious state and it established a six-month deadline for the State to draw up an emergency plan. The ruling also instructed that, as a continuation of the national plan, the other federal entities had to devise their own plans to address the problem.³⁰⁹ It should be taken into account that Brazil has the third largest prison population in the world.³¹⁰ According to the most recent data from the National Secretariat of Criminal Policy, as of December 2022, the total prison population amounted to 642,638 people. Considering that the official prison capacity is 477,056 people, the overcrowding rate accounts for 34.7 percent.³¹¹

177. With regard to prison violence, on July 26, violent events occurred at the Antônio Amaro Alves prison in Rio Branco, in the state of Acre, resulting in the death of five persons deprived of liberty during a riot triggered by the escape attempt of 13 inmates.³¹² Previously, in February, three inmates had died and 43 had been injured in a fire at the Florianópolis Penitentiary Complex.³¹³ This occurred in a context of inadequate healthcare in Brazilian prisons. An investigation by the National Justice Council (CNI) unveiled that 62 percent of the 112,017 deaths that occurred since 2021 were caused by heart failure, sepsis or widespread infection, pneumonia and tuberculosis, while only 25 percent were the result of acts of violence.³¹⁴

178. In addition to the foregoing, according to data from the National Mechanism to Prevent and Combat Torture (MNPCT), the indiscriminate use of less lethal weapons against persons deprived of liberty inside prisons was still observed this year.³¹⁵ As per information available in the public domain, in the states of Amazonas, Ceará, Pará, Rio Grande do Norte and Roraima, a torture technique consisting of breaking people's fingers is frequently applied.³¹⁶ Therefore, the Commission is concerned about the challenges for the effective functioning of torture prevention mechanisms, which are affected by a lack of budgetary and administrative

³⁰⁷ UN Human Rights Committee, *Concluding observations on the third periodic report of Brazil* CCPR/C/BRA/CO/3, September 6, 2023, para. 61.

³⁰⁸ Justiça Global, Answers to the consultation questionnaire, September 17, 2023.

³⁰⁹ *Brasil 247*, "CNI e Ministério da Justiça trabalharão em conjunto por medidas de melhoria do sistema carcerário," October 19, 2023; *Agência Brasil*, "STF dá seis meses para União elaborar plano contra crise carcerária," October 4, 2023; *Migalhas*, "STF dá 6 meses para governo criar plano para crise prisional," October 4, 2023.

³¹⁰ World Prison Brief and Institute for Crime & Justice Policy Research, *Highest to Lowest - Prison Population Total*, 2023.

³¹¹ National Secretariat of Criminal Policy, Ministry of Justice and Public Security, Government of Brazil, *Bases de Dados do SISDEPEN-Presos em Unidades Prisionais no Brasil – Período de Julho a Dezembro de 2022*, 2023. See also: IACHR, *2021 Annual Report, Chapter IV.A, Development of Human Rights in the Region*, 2022, para. 185.

³¹² Government of Brazil, Notícias do Acre, "Governo do Estado confirma pacificação do Presídio Antônio Amaro Alves," July 27, 2023.

³¹³ *Notimérica*, "Brasil - Un incendio en una cárcel brasileña deja al menos tres muertos y más de 40 heridos," February 15, 2023; *Prensa Latina*, "Confirman tres muertes por incendio en cárcel de Brasil," February 15, 2023; *Sputnik Mundo*, "Varios muertos por un incendio en una cárcel del sur de Brasil," February 15, 2023.

³¹⁴ National Justice Council, Government of Brazil, "Pesquisa do CNI destaca problemas de saúde e ameaças contra a vida nas prisões do Brasil," May 12, 2023.

³¹⁵ Information provided by the National Mechanism to Prevent and Combat Torture during the "Seminário internacional memória e perspectivas de luta contra a violência institucional carcerária" held in Brazil on August 22, 2023. See also: IACHR, *2021 Annual Report, Chapter IV.A, Development of Human Rights in the Region*, 2022, para. 185.

³¹⁶ *Istoé*, "Técnica de tortura de fraturar dedos de presos é usada em 5 estados," July 13, 2023; *Folha de S. Paulo*, "Técnica de tortura de quebrar dedo de presos é detectada em cinco estados," July 13, 2023; *Folha de Londrina*, "Técnica de tortura de fraturar dedos de presos é usada em 5 estados," July 14, 2023.

autonomy.³¹⁷ Out of these prevention mechanisms, three local and one national lack law enforcement agents and agencies in charge of managing places of deprivation of liberty.³¹⁸

179. With regard to the **rights of Afro-descendants**, Brazil has reaffirmed its commitment to preventing and punishing racism, as well as to protecting and including this group in public policies. Initiatives include the creation of the Working Group to Combat Religious Racism, a decree establishing that at least 30 percent of executive and trust positions in the federal public administration must be held by Afro-descendants, and the racial defamation law that equates racial slur to the crime of racism.³¹⁹ Also, in November, the State launched a set of 13 actions to combat racial discrimination, including the Aquilomba Brasil program, aimed at promoting the rights of the Quilombola population, and an understanding with several ministries to provide training to the country's childcare mechanisms in order to address racism.³²⁰

180. Nevertheless, recent research has shown that Afro-descendants made up 87 percent of victims killed by the police in eight states in 2022.³²¹ Additionally, 58 incidents of intolerance targeting cults, leaders and practitioners of religions of African origin were recorded in the first 20 days of 2023 alone.³²² On a different topic, a study indicated that in Brazil there are 236,000 people living in the streets, 62 percent of whom are located in the Southeast region; most of them are men (87 percent), adults (55 percent), and Afro-descendants (68 percent).³²³

181. From January to March 2023, the Ministry of Labor and Employment carried out operations that resulted in the rescue of 918 victims of **slave labor**, accounting for an increase of 124 percent compared to the first quarter of 2022.³²⁴ From January to June, the Labor Inspectorate managed to rescue a total of 1,443 workers in a situation similar to slavery.³²⁵ In August 2023 alone, authorities rescued 532 people that had been subjected to slave labor in a large-scale operation that spread over 22 states. Rescued people included 26 minors, a 90-year-old woman and 17 foreigners. In sum, as of September 2023, 2,077 workers have been rescued from degrading work conditions.³²⁶

182. During 2023, Brazil consolidated the protection of the **human rights of LGBTI persons** through its institutions. This was achieved by means of the restoration of the National Secretariat for the Promotion and Defense of the Rights of LGBTQIA+ Persons under the Ministry of Human Rights and Citizenship,³²⁷ as well as the creation of the National Council for the Rights of LGBTQIA+ Persons.³²⁸ Also, by applying an intersectional approach, the Ministry of Indigenous Peoples created the role of coordinator of public policies for LGBTQIA+ indigenous people.³²⁹ Furthermore, the State simplified the procedure for processing asylum applications for LGBTQIA+ persons from countries that apply the death penalty or

³¹⁷ Information provided to the IACHR in a communication submitted by the State Mechanism to Prevent and Combat Torture in Rio de Janeiro on June 8, 2023. In IACHR files.

³¹⁸ National Mechanism to Prevent and Combat Torture, State Mechanism to Prevent and Combat Torture of Rio de Janeiro, State Mechanism to Prevent and Combat Torture of Rondônia and State Mechanism to Prevent and Combat Torture of Paraíba, *Mapeamento Nacional. Implementação de mecanismos e comitês de prevenção e combate à tortura*, July 2023. In IACHR files.

³¹⁹ Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, pp. 22–26.

³²⁰ Agência Brasil, "[Igualdade racial: Lula lança ações e cinco quilombos são titulados](#)," November 20, 2023.

³²¹ Correio Braziliense, "[Negros são 87% dos mortos pela polícia de oito estados em 2022](#)," November 16, 2023.

³²² BBC News Brasil, "['Liberdade religiosa ainda não é realidade': os duros relatos de ataques por intolerância no Brasil](#)," January 29, 2023.

³²³ Ministry of Human Rights and Citizenship, "[MDHC lança relatório sobre pessoas em situação de rua no Brasil: estudo indica que 1 em cada mil brasileiros não tem moradia](#)," September 14, 2023.

³²⁴ G1, "[Brasil resgatou 918 vítimas de trabalho escravo em 2023, recorde para um 1º trimestre em 15 anos](#)," March 21, 2023.

³²⁵ Ministry of Labor and Employment, "[MTE resgatou 1.443 trabalhadores de condições análogas à escravidão em 2023](#)," June 16, 2023.

³²⁶ Contacto, "[Resgatadas 532 pessoas em trabalho escravo no Brasil. Mulher de 90 anos entre as vítimas](#)," September 6, 2023.

³²⁷ Ministry of Human Rights and Citizenship, "[Ministro dos Direitos Humanos e da Cidadania anuncia novos secretários nacionais da Pasta](#)," January 3, 2023.

³²⁸ Agência Brasil, "[Ministério dá posse a membros do conselho LGBTQIA+](#)," May 17, 2023.

³²⁹ SUMAUMA, "[Our sexual identity doesn't make us any less Indigenous](#)," June 21, 2023.

imprisonment based on people's sexual orientation or gender identity.³³⁰ In relation to the rights of intersex persons, the National Health Conference approved proposals aimed at eradicating harmful treatment and medical violence against this group.³³¹

183. Despite the foregoing progress, recorded rates of violence against LGBTI people remained high, especially those affecting trans persons and Afro-descendants in the country.³³² According to data shared by the civil society, between October 1, 2022, and September 30, 2023, at least 98 trans persons had been murdered. In addition, it was reported that trans women deprived of liberty were housed in prison with men in the state of São Paulo, ignoring their gender identity, which is contrary to the previously issued STF's ruling, CNJ's guidelines³³³ and inter-American standards on the matter.³³⁴ There have also been several cases of gender-based political violence and stigmatizing discourse made against trans women and women public officials.³³⁵ These issues have been exacerbated by an increase in stigmatizing discourse on social media in Brazil.³³⁶

184. In this context of discrimination and violence, the National Congress moved forward with a bill that seeks to create an alternative legal classification to marriage for same-sex couples, commonly known as "homoaffective union."³³⁷ This initiative entails a rollback of human rights for LGBTI persons in the country. In addition, Congress members have denied the existence of trans children and adolescents, which has contributed to making them invisible and to a lack of public policies on the matter.³³⁸

185. As for **trafficking in persons**, the Commission appreciates that, according to information provided by the State, in January 2023, the Superior Labor Court and the Superior Council of the Labor Court created a working group to draft a program to crack down on labor similar to slavery and on human trafficking, and to protect migrant labor.³³⁹

186. With respect to **memory, truth and justice**, the State has taken steps to rebuild and reactivate the effective operation of the Amnesty Commission.³⁴⁰ In addition, as it relates to justice, two judgments have reaffirmed the inapplicability of the Amnesty Law and ordered the reopening of the case on the violation of the rights of Inês Etienne Romeu in the "House of Death," while issuing sentences in relation to the disappearance

³³⁰ IACHR X account (@IACHR), [tweet](#) "#Brazil #CIDH saúda a aprovação de um procedimento simplificado para o trâmite de pedidos de refúgio de pessoas LGBTIQIA+..." (The IACHR welcomes the approval of a simplified procedure for processing refugee applications from LGBTIQIA+ persons...), May 23, 2023; Ministry of Human Rights and Citizenship, "[Pessoas LGBTIQIA+ refugiadas vindas de países que criminalizam suas existências terão procedimento simplificado para entrar no Brasil](#)," May 18, 2023; Federative Republic of Brazil, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA," September 2023, p. 14.

³³¹ Terra, "[Conferência Nacional de Saúde aprova fim de cirurgia em bebês intersexo](#)," July 10, 2023; Diadorim, "[Mutilação na infância: Brasil pode banir cirurgias em crianças intersexo](#)," September 18, 2023.

³³² ANTRA Brasil X account (@AntraBrasil) [tweet](#) "Os dados consideram o período de 1 de outubro de 2022 e 30 de setembro de 2023 e na atualização de 2023 revelam que pelo menos 98 pessoas trans foram mortas este período no Brasil (...)" (Data shows the period from October 1, 2022, to September 30, 2023, and the 2023 update reveals that at least 98 trans persons were killed during this period in Brazil), November 3, 2023.

³³³ UOL, "[SP ignora STF e nega transferência de mulheres trans para prisões femininas](#)," August 2, 2023.

³³⁴ IACHR Court, *Differentiated Approaches with Respect to Certain Groups of Persons Deprived of Liberty* (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments), Advisory Opinion OC-29/22, May 30, 2022, para. 242 et seq. IACHR, *Women Deprived of Liberty in the Americas*, March 8, 2023, para. 295.

³³⁵ UOL, "[Deputada trans ataca ódio em fala transfóbica e manda 'beijinho' a Nikolas](#)," March 8, 2023; UOL, "[Erika Hilton: 'Câmara e Senado são omissos na defesa da população LGBT'](#)," March 10, 2023; *Brasil 247*, "[Helena ameaça Duda Salabert e a chama de 'senhor' \(vídeo\)](#)," September 20, 2023, *Brasil de Fato*, "[Parlamentares vítimas de ataques lesbofóbicos se organizam contra ameaças coordenadas de estupro corretivo](#)," August 25, 2023.

³³⁶ ANDES, "[Brasil lidera discurso de ódio nas redes sociais contra população LGBTIQIAP+](#)," June 30, 2023.

³³⁷ Chamber of Deputies, "[Comissão aprova projeto que proíbe o casamento entre pessoas do mesmo sexo](#)," October 10, 2023.

³³⁸ IACHR, 188th regular period of sessions, public hearing "[Brazil: Protection of human rights of transgender children and adolescents](#)," November 7, 2023.

³³⁹ Government of Brazil, "[Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA \(September 2023\)](#)," October 6, 2023.

³⁴⁰ State of Brazil, Diplomatic Note No. 407, "Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA - CIDH/OEA (set/2023), Capítulo IV," October 5, 2023, p. 8.

of 12 political activists during the dictatorship.³⁴¹ In relation to this, the Office of the Federal Public Prosecutor has requested the opening of a criminal case against the experts who acted during the dictatorship.³⁴²

187. However, as of the date the instant report was concluded, the Special Commission on Political Deaths and Disappearances (CEMDP) – which ceased to exist in December 2022 – has not been reinstated, despite requests from human rights organizations.³⁴³ In addition, a diagnosis carried out by civil society organizations indicated that only two of the 29 recommendations issued by the Truth Commission in 2014 are reportedly fully complied with.³⁴⁴

188. In relation to the **rights of older persons**, the State implemented the program “Envelhecer nos Territórios” with the aim of promoting the right of all people to grow old and guaranteeing the human rights of older persons. This shall be achieved through the creation or strengthening of local institutions and cross-sectoral coordination, so as to ensure the effectiveness of policies addressing older persons in the territories they live in. The program seeks to encourage the creation of bodies responsible for managing human rights policies that target older persons at state and municipality levels. Moreover, the initiative focuses on training human rights agents for them to become experts in the rights of older persons in the territory, through a partnership between the Ministry of Human Rights and Citizenship (MDHC) and federal educational institutions.³⁴⁵

189. Still, the Ministry of Human Rights and Citizenship recorded an alarming figure of over 47,000 complaints of violence against older persons in 2023.³⁴⁶ Finally, another issue that affects this age group is financial fraud, which has increased by 70 percent.³⁴⁷ The Commission urges the State of Brazil to ratify the Inter-American Convention on the Rights of Older Persons.

VIII. CANADA

• General considerations

190. With respect to **progress**, the Commission takes note of the actions promoted by the government on the use of technology and artificial intelligence as tools to promote equal access to justice. It also welcomes the enactment of the Act to Combat Forced Labor and Child Labor in Supply Chains, as well as Canada’s potential accession to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

191. In relation to **challenges**, the Commission expresses its concern about gender-based violence in the country, especially against indigenous women and girls who are at high risk of domestic violence, disappearance, murder and trafficking. It also voices its concern over the Supreme Court’s ruling that decided

³⁴¹ Conjur, “[Carcereiro da Casa da Morte na ditadura responderá por tortura e estupro, diz TRF-2](#),” March 29, 2023; Office of the Federal Public Prosecutor, “[Ditadura militar: carcereiro da Casa da Morte deve responder por tortura e estupro, decide Justiça](#),” March 28, 2023; Office of the Federal Public Prosecutor, “[MPF obtém condenação de ex-delegado do Dops por ocultação de cadáver durante a ditadura militar](#),” June 12, 2023.

³⁴² Office of the Federal Public Prosecutor, “[MPF denuncia ex-legistas do IML por farsa em laudo necroscópico de dois opositores da ditadura mortos em 1973](#),” August 30, 2023; Office of the Federal Public Prosecutor, “[MPF pede condenação do estado do Acre e da União por omissões na investigação da morte de Wilson Pinheiro durante a ditadura militar](#),” February 15, 2023; Office of the Federal Public Prosecutor, “[MPF pede na Justiça que homenagens prestadas a pessoas ligadas à ditadura militar no Acre sejam identificadas e anuladas](#),” October 5, 2023.

³⁴³ *Correio Brasiliense*, “[Familiares de desaparecidos lutam desde janeiro pela volta de comissão](#),” October 30, 2023; *Brazil de Fato*, “[Recriação da Comissão Sobre Mortos e Desaparecidos Políticos deve acontecer em 25 de outubro](#),” October 2, 2023.

³⁴⁴ Ministry of Human Rights and Citizenship, “[Recomendações da Comissão Nacional da Verdade são responsabilidade do Estado brasileiro, diz Silvio Almeida no lançamento de relatório que aponta que 93% das recomendações não foram cumpridas](#),” April 26, 2023.

³⁴⁵ Federative Republic of Brazil, “Subsídios do Estado brasileiro para elaboração do Relatório Anual CIDH/OEA,” September 2023.

³⁴⁶ *Agência Brasil*, “[Disque 100 tem 47 mil denúncias de violência contra pessoas idosas](#),” June 2, 2023.

³⁴⁷ *G1*, “[Número de golpes contra pessoas idosas cresce mais de 70% em 2023](#),” July 3, 2023.

that the Canada–United States Safe Third Country Agreement was constitutional and that the detention of asylum seekers in adverse conditions in the United States was not fundamentally unfair.³⁴⁸

192. On November 2, 2023, the State submitted its response to the Commission’s request for information to prepare this chapter.³⁴⁹

- **Specific issues**

193. In relation to **democratic institutional**ity, the Commission received information from the State on measures to address possible foreign interference and to strengthen people’s confidence in Canada’s democracy. Among the measures reported were: i) the launch of public consultations on the creation of a foreign influence transparency registry; ii) briefings for members of Parliament and the Senate; and (iii) regular communications with the Canadian population on threats to democratic institutions in electoral processes.³⁵⁰ The Commission also welcomes the election of the first First Nations person as premier of the province of Manitoba.³⁵¹ Moreover, it takes note of the election of the first Afro-descendant speaker of the House of Commons, who took office recently.³⁵²

194. Regarding **citizen security**, the State indicated that it continues to promote Bill C-21, which would amend acts on firearms and strengthen firearms control measures to reign in violence through the parliamentary process.³⁵³ The Commission also notes the release of the report of the Public Order Emergency Commission regarding the federal government’s use of the Emergencies Act, which was invoked for nine days (February 14–23, 2022) to address illegal demonstrations and blockades in Ottawa and elsewhere in Canada, and eventually to put an end to the “Freedom Convoy” protests and blockades.³⁵⁴ This report includes 56 recommendations, and progress has been made in the use of cryptocurrencies, money laundering, security in the face of terrorism, and police reforms, among other issues.³⁵⁵

195. With respect to **access to justice**, the State provided the Commission with information on initiatives related to the use of technology and artificial intelligence as tools to promote equal access to justice.³⁵⁶ In this regard, the Commission welcomes the entry into force of Law C-9, which amended the Judges Act and updated federal government’s proceedings and the judiciary’s operation to end judicial misconduct, with the aim of making them fairer, faster and more efficient, while respecting the constitutional requirements of judicial independence.³⁵⁷

196. As it relates to the **rights of indigenous peoples**, the Commission commends the allocation of resources to the Indigenous Health Equity Fund, which aims to develop high quality and culturally sensitive health policies to reduce systemic gaps and inequities. This fund seeks to achieve its purpose through the engagement of indigenous communities in its creation and development.³⁵⁸ On a different note, the Commission is concerned about the effects of forest fires in British Columbia, which particularly affect indigenous

³⁴⁸ Supreme Court of Canada, [Canadian Council for Refugees v. Canada \(Citizenship and Immigration\)](#), June 16, 2023.

³⁴⁹ Government of Canada, [Response to the IACHR Annual Human Rights Report Request, Reporting Period January 1 – August 31, 2023](#), October 2023.

³⁵⁰ Government of Canada, [Response to the IACHR Annual Human Rights Report Request](#), November 2023.

³⁵¹ Government of Canada, [“Statement by the Prime Minister on the results of the provincial election in Manitoba,”](#) October 4, 2023; *The Guardian*, [“Canada’s first First Nations provincial premier elected in Manitoba,”](#) October 4, 2023; *Reuters*, [“Kinew to be Manitoba’s only First Nations premier as province elects NDP government,”](#) October 4, 2023.

³⁵² Government of Canada, [“Prime Minister welcomes the new Speaker of the House of Commons,”](#) October 3, 2023; *BBC*, [“Canada MPs elect first black House of Commons Speaker,”](#) October 4, 2023.

³⁵³ Government of Canada, [Response to the IACHR Annual Human Rights Report Request](#), November 2023.

³⁵⁴ Government of Canada [“Statement by the Prime Minister on the report of the Public Order Emergency Commission,”](#) February 17, 2023.

³⁵⁵ Government of Canada [“Six-month progress report on the Public Order Emergency Commission’s Report of the Public Inquiry into the 2022 Public Order Emergency,”](#) September 25, 2023.

³⁵⁶ Government of Canada, [Response to the IACHR Annual Human Rights Report Request](#), November 2023.

³⁵⁷ Government of Canada, [Response to the IACHR Annual Human Rights Report Request](#), November 2023.

³⁵⁸ Office of the Prime Minister, [“Working in partnership to deliver high-quality health care for Indigenous Peoples,”](#) March 2, 2023.

communities and have displaced over 25,000 people to Nova Scotia, as they have impacted their homes and cultural activities.³⁵⁹

197. Regarding the **rights of women**, the Commission welcomes the fact that, at different government levels, there is a discussion about Canada's potential accession to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.³⁶⁰ In this regard, it also commends the ratification of ILO Convention 190 on violence and harassment in the world of work.³⁶¹ In the legislative sphere, the Commission welcomes the fact that convictions under the Criminal Code for abortion-related, bawdy house and indecency-based offenses are eligible for expungement as part of an expansion of the Expungement of Historically Unjust Convictions Act, in which these offences were included.³⁶² It also welcomes the amendments made to criminal laws to strengthen the provisions on sexual assault with the purpose of facilitating access to gender-sensitive justice for survivors.³⁶³ Moreover, the Commission takes note of the submission of Bill C-21 to Parliament, which addresses the role of firearms in gender-based violence.³⁶⁴

198. Along these lines, the Commission expresses its concern about gender-based violence against women, especially indigenous women and girls. According to information available in the public domain, the rate of gender-based killings of women has steadily increased in recent years – from 2019 to 2022, there was a 27 percent upsurge,³⁶⁵ and at least 50 women and girls were killed between January 1 and April 30, 2023.³⁶⁶ Several sources indicate that indigenous women and girls are at an elevated risk of gender-based violence, including domestic violence, disappearance, murder and trafficking.³⁶⁷ There have also been reports of cases of forced sterilization of indigenous women.³⁶⁸

199. Regarding the situation of **persons in the context of human mobility**, the Commission welcomes the decision of the government of Ontario to terminate its immigration detention contract with the Canada Border Services Agency (CBSA).³⁶⁹ However, the Commission notes with concern that Canada continues to have provincial detention centers in place, where migrants are held in jails for indefinite periods of time, as there is no legally established maximum time limit for their detention.³⁷⁰

200. With respect to asylum seekers, official data indicates that, from January to September 2023, the CBSA processed 52,240 asylum applications at the Canadian border, while the Immigration, Refugees and Citizenship Canada (IRCC) agency processed 44,205 applications.³⁷¹ Furthermore, the Commission voices its concern over the Supreme Court's ruling of June 16, 2023, which decided that the Canada–United States Safe Third Country Agreement – with a view to controlling the flow of refugees across their shared border – was

³⁵⁹ *The New York Times*, "[Canada is ravaged by fire. No one has paid more dearly than indigenous people.](#)" July 29, 2023.

³⁶⁰ Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Canada](#) A/HRC/WG.6/44/CAN/1, September 12, 2023, para. 13.

³⁶¹ Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Canada](#) A/HRC/WG.6/44/CAN/1, September 12, 2023, para. 12.

³⁶² Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Canada](#) A/HRC/WG.6/44/CAN/1, September 12, 2023, para. 114.

³⁶³ Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21. Canada](#) A/HRC/WG.6/44/CAN/1, September 12, 2023, para. 63.

³⁶⁴ Government of Canada, [Response to the IACHR Annual Human Rights Report Request, Reporting Period January 1 - August 31, 2023](#), p. 5. In IACHR files.

³⁶⁵ *CTV News*, "[Femicides on the rise as report indicates a woman or girl is killed every 48 hours in Canada.](#)" April 2, 2023; Canadian Femicide Observatory X account (@CAN_Femicide), [tweet](#) posted on October 27, 2023.

³⁶⁶ Canadian Femicide Observatory X account (@CAN_Femicide), [tweet](#) posted on October 27, 2023.

³⁶⁷ National Human Rights Council, [Summary of stakeholders' submissions on Canada](#) A/HRC/WG.6/44/CAN/3, September 4, 2023, paras. 26, 45 and 84; National Human Rights Council, [Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Canada](#) A/HRC/WG.6/44/CAN/2, August 30, 2023, para. 16; United Nations Special Rapporteur on the rights of Indigenous Peoples, Mr. José Francisco Calí-Tzay, "[End of Mission Statement. Visit to Canada 1-10 March 2023](#)," March 2023.

³⁶⁸ *LA Times*, "[Canada's Indigenous women forcibly sterilized decades after other rich countries stopped.](#)" July 12, 2023; Amnesty International, [Report 2022/23: The State of the World's Human Rights](#), 2023, p. 142.

³⁶⁹ Human Rights Watch, "[Another Canadian Province To End Immigration Detention in Jails.](#)" June 16, 2023; IACHR, [2022 Annual Report, Chapter IV.A. Development of Human Rights in the Region. Canada](#), 2022, para. 196.

³⁷⁰ Global Detention Project, [Open Letter Calling for Canada to Stop the Use of Provincial Jails for Immigration Detention](#), March 7, 2023.

³⁷¹ Government of Canada, [Asylum claims by year - 2023](#), September 2023.

constitutional and that the detention of asylum seekers in adverse conditions in the United States was not fundamentally unfair.³⁷²

201. In addition, at a hearing held during the Commission's 188th regular period of sessions, civil society organizations expressed their concern about the deportation of long-term permanent residents in Canada on grounds of criminal inadmissibility. In particular, they pointed to a lack of proportionality in the assessment prior to the decision to expel them, and to limited possibilities to appeal said decision. They also highlighted that this deportation scheme violated the right to private and family life, since it did not take into consideration personal circumstances and family ties to Canada.³⁷³ In line with the above, the Commission takes note of the Supreme Court's ruling indicating that a person can only be declared inadmissible to the country – pursuant to Section 34(1)(e) of the Immigration and Refugee Protection Act (IRPA) – if they engage in violent conduct and pose a threat to national security.³⁷⁴ According to the information available, this ruling provides an opportunity to clarify and interpret the inadmissibility provisions currently in place in the country.³⁷⁵

202. Regarding **trafficking in persons**, the Commission takes note of actions in which the Royal Canadian Mounted Police (RCMP), together with the CBSA and non-governmental agencies, rescued 31 victims of labor exploitation in southwest Ontario.³⁷⁶ Additionally, it welcomes programs such as "Project Recover," which will provide survivors of human trafficking with housing, employment, education and financial independence.³⁷⁷ The Commission takes note of the observations on contemporary forms of slavery made by the United Nations Special Rapporteur, who indicated that "employer-specific work permit regimes, including certain Temporary Foreign Worker Programs, make migrant workers vulnerable to contemporary forms of slavery, as they cannot report abuses without fear of deportation."³⁷⁸

203. With respect to the **rights of children and adolescents**, the Commission welcomes the enactment of the Fighting Against Forced Labour and Child Labour in Supply Chains Act, which sets forth that companies operating in Canada are under the obligation to submit annual public reports on their efforts to eliminate the use of forced labor in their supply chains, as well as the prohibition on importing goods produced with child labor.³⁷⁹

204. Nevertheless, though the Commission acknowledges the efforts made by the State to guarantee accessibility to early childhood care spaces,³⁸⁰ the information available in the public domain indicates that around 48 percent of young children reportedly face difficulties in accessing child-care centers. In particular, the lack of a sufficient budget has reportedly resulted in insufficient care spaces across the country and in the migration of trained staff to jobs with a higher wage projection.³⁸¹

³⁷² Supreme Court of Canada, [Canadian Council for Refugees v. Canada \(Citizenship and Immigration\)](#), June 16, 2023.

³⁷³ IACHR, 188th regular period of sessions, thematic hearing "[Canada: Human Rights of Residents Deported on Criminal Grounds](#)," November 7, 2023.

³⁷⁴ Government of Canada, "[Mason v. Canada \(Citizenship and Immigration\). The Supreme Court quashes immigration decisions that found two foreign nationals inadmissible to Canada](#)," September 27, 2023.

³⁷⁵ *CICNews*, "[Supreme Court of Canada determines that a person can only be inadmissible to Canada if they are a threat to national security](#)," October 1, 2023.

³⁷⁶ Government of Canada, "[Police and border services rescue victims of human trafficking ring](#)," June 13, 2023.

³⁷⁷ Government of Canada, "[Government of Canada announces funding to help empower survivors of human trafficking to regain financial independence](#)," March 15, 2023.

³⁷⁸ United Nations, "[Canada: Anchor the fight against contemporary forms of slavery in human rights, a UN expert urges](#)," September 6, 2023.

³⁷⁹ Government of Canada, "[Fighting Against Forced Labour and Child Labour in Supply Chains Act](#)," May 11, 2023. See also: Global Rights Compliance, "[Canada passes legislation on due diligence in forced and child labour in supply chains](#)," June 13, 2023.

³⁸⁰ *The Monitor Magazine*, "[Not done yet. \\$10-a-day child care requires addressing Canada's child care deserts](#)," May 16, 2023. See also: *The Globe and Mail*, "[Child-care centres in Ontario, and across Canada, face staffing crisis](#)," March 12, 2023; *CTV News*, "[New report finds child-care spots available for only 29 per cent of those who need it](#)," May 8, 2023.

³⁸¹ *The Monitor Magazine*, "[Not done yet. \\$10-a-day child care requires addressing Canada's child care deserts](#)," May 16, 2023. See also: *The Globe and Mail*, "[Child-care centres in Ontario, and across Canada, face staffing crisis](#)," March 12, 2023.

205. As it relates to **Afro-descendants and the fight against racial discrimination**, the Commission encourages Canada to continue to adopt measures to combat and eradicate racial profiling; in particular, it takes note of a draft bill submitted in Quebec aimed at regulating police stops and combating racial discrimination. This bill reportedly seeks to turn the Police Ethics Committee into an administrative court that can conduct investigations, impose sanctions and carry out additional measures, such as training.³⁸²

206. Regarding the **rights of LGBTI persons**, the Commission recognizes that this year Canada expunged historic “indecency” and anti-abortion laws that impacted women and 2SLGBTQIA+ communities. Consequently, this allowed persons convicted of said offenses to have their criminal record expunged as well.³⁸³ The Commission also noted that the federal government announced funding of up to 1.5 million Canadian dollars for organizations across the country to scale up security measures at Pride parades.³⁸⁴ In May, the government of Canada announced funding for several organizations that promote the rights of indigenous women and 2SLGBTQIA+ persons in Quebec.³⁸⁵

207. Moreover, the Commission observes that, over the course of the year, several rallies against the rights of trans persons were organized in more than 70 cities. Most of these demonstrations showed a stance against the teaching about trans identity in schools.³⁸⁶ The Commission notes that, following the protests, the prime minister issued a strong statement in support of trans rights and their inclusion in Canadian society.³⁸⁷ The Commission was also forwarded information already in the public domain about several protests against drag events in different parts of Canada.³⁸⁸

IX. CHILE

• General considerations

208. During 2023, Chile experienced **significant progress** in the prevention and punishment of gender-based violence, the implementation of policies for the protection of human rights defenders, and the inclusion of Afro-descendants in public policies. In particular, the Commission commends the creation of the National Plan for the Search for Victims of Forced Disappearance during the 1973–1990 civil-military dictatorship, as well as the request for an advisory opinion on the climate emergency and human rights.

209. Moreover, Chile faced **challenges** related to the persistence of states of emergency in the Araucanía region, which escalated tensions between law enforcement officers and indigenous peoples. The Commission also highlights the possible disproportionate impact that the tightening of migration policies may have on children, adolescents and pregnant persons.

210. On October 10, 2023, the State submitted its response to the Commission’s request for information to prepare this chapter.³⁸⁹

³⁸² CTV News, “[Quebec bill aims to better regulate police stops, combat racial profiling](#),” March 16, 2023.

³⁸³ Reuters, “[Canada repeals historic laws targeting women, LGBTQ community](#),” March 7, 2023.

³⁸⁴ Canada.ca, “[Minister Marci len announces emergency security funding to support Pride organizations amidst increased hate](#),” June 5, 2023.

³⁸⁵ News Canada, “[Government of Canada announces funding for Indigenous women and 2SLGBTQIA+ organizations in Quebec](#),” May 3, 2023.

³⁸⁶ Vice News, “[Anti-Trans Protesters Organized Rallies in 77 Canadian Cities, They Were Far Outnumbered](#),” September 21, 2023; Global News, “[Gender ideology’ in spotlight as protests and counter-protests gather](#),” September 19, 2023.

³⁸⁷ Justin Trudeau X account (@JustinTrudeau), [tweet](#) “Let me make one thing very clear: Transphobia, homophobia, and biphobia have no place in this country...,” September 20, 2023.

³⁸⁸ The Washington Blade, “[Hate groups escalating tactics against LGBTQ+ people in Canada](#),” June 23, 2023; Global News, “[Drag events in Canada are facing a ‘crisis’ of hate, advocate warns. What can be done?](#),” January 17, 2023.

³⁸⁹ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023. In IACHR files.

- **Specific issues**

211. Regarding **democratic institutional**ity, the State reported on the conclusion of the work of the Constitutional Council on October 30, which had been comprised of three bodies in charge of drafting and approving the new constitutional text.³⁹⁰ The drafting of said text marked the end of the constitution-related work; it was delivered to the president of the Republic on November 7, and was submitted to a plebiscite on December 17, 2023.³⁹¹

212. However, the Commission notes with concern that the new constitutional proposal included articles that would entail a setback in terms of sexual and reproductive rights;³⁹² conscientious objection; control of constitutionality and conventionality; and economic, social, cultural and environmental rights (ESCR), such as the right to health, education, water, strike and pensions.³⁹³ This was at odds with the claims and demands made during the 2019–2020 protests by a large part of the Chilean society.

213. In terms of **human rights institutions**, the State highlighted progress in guaranteeing economic, social, cultural and environmental rights and the protection of ethnic peoples through the adoption of measures that are part of the 2022–2025 Second National Action Plan on Business and Human Rights (PAN);³⁹⁴ through the implementation of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights,³⁹⁵ and through the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).³⁹⁶ Likewise, Chile launched the National Search Plan (PNB) for victims of forced disappearance during the 1973–1990 civil-military dictatorship;³⁹⁷ and announced the continued work of the Comprehensive Reparation working group³⁹⁸ and the Plan of Support and Care for Victims of Ocular Trauma (PACTO),³⁹⁹ both of which focus on victims of human rights violations committed during the protests of 2019 and 2020. The Commission also highlighted progress in the regulation of the Framework Law on Climate Change.⁴⁰⁰

214. The Commission also underscores the State's commitment to international scrutiny through the progress made in implementing the suggestions of the joint mechanism to monitor the recommendations held in the report *Situation of Human Rights in Chile* (MESECH), signed jointly with the Commission.⁴⁰¹

215. With regard to **citizen security** policies, the Commission welcomes the strategies implemented to regulate the use of force, such as the initiative to modify and update the carabineros' law

³⁹⁰ *Emol*, Proceso Constitucional 2023, [Propuesta de Nueva Constitución](#). Accessed on November 15, 2023.

³⁹¹ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 6–7. In IACHR files.

³⁹² *El Mostrador*, “[Pone en jaque todos los avances en derechos de las mujeres’: análisis del primer borrador del CC](#),” October 9, 2023; *El dinamo*, “[Consejo Constitucional aprobó protección ‘de quien está por nacer’: ¿pone fin al aborto en tres causales?](#),” September 20, 2023.

³⁹³ *Ciper Chile*, “[Propuesta Constitucional: los ocho artículos que impedirían la competencia democrática de todas las ideas](#),” October 30, 2023; Proceso Constitucional de Chile, “[Consejo Constitucional aprueba propuesta de nueva Constitución](#),” October 30, 2023.

³⁹⁴ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 13–14. In IACHR files.

³⁹⁵ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 9. In IACHR files.

³⁹⁶ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 9–11. In IACHR files.

³⁹⁷ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 15–17. In IACHR files.

³⁹⁸ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 17–18. In IACHR files.

³⁹⁹ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 19. In IACHR files.

⁴⁰⁰ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 19–20. In IACHR files.

⁴⁰¹ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 7–8. In IACHR files.

enforcement protocols.⁴⁰² This effort has been complemented by the creation of a Specialized Human Rights Unit at the Office of the Public Prosecutor⁴⁰³ and the implementation of training programs for high-ranking police officers, which are focused on national and international standards on the use of force in police operations.⁴⁰⁴

216. However, the Commission notes with concern that there remain challenges arising from the 33rd extension of the constitutional state of emergency in the Araucanía region and in two provinces of the Biobío region, as approved by the Senate in Session No. 63/371.⁴⁰⁵ This measure allowed for the deployment of military forces to maintain public order in the midst of a prolonged historical conflict with the Mapuche communities, who continue to claim their right over the territory in said areas.⁴⁰⁶

217. Regarding **access to justice**, the Commission highlights the adoption of measures to guarantee greater accessibility to judicial services for the entire population; it particularly highlighted the continued application of the 2021–2025 Strategic Plan of the Judiciary and the Policy of Assistance to Users of the Judiciary.⁴⁰⁷ Moreover, the Commission underscored the free legal assistance offered by the Public Criminal Defense Office, the legal assistance corporations (CAJs), the family mediation services, the victim support programs, and the legal clinics of several law schools of the country's universities.⁴⁰⁸ Likewise, the Commission commends the implementation of innovations in access to justice at the community, local, national and international levels, such as those implemented in Mapuche indigenous communities.⁴⁰⁹

218. The Commission welcomes the progress made in the recognition of **indigenous peoples** in Chile, in particular, the recognition of the Selk'nam people.⁴¹⁰ It also appreciates the establishment of the Presidential Commission for Peace and Understanding, whose objective is to lay the foundations for a medium and long-term solution on issues of land and reparation for the Mapuche communities.⁴¹¹

219. However, the Commission is concerned about the tense situation in the Araucanía region, due to clashes during which Mapuche members of the Lof Triftrifko Autónomo community in Galvarino were injured, in August 2023.⁴¹²

220. Regarding the **rights of persons in the context of human mobility**, the State highlighted the progress made in the adoption of cross-cutting approaches for the protection of migrants, especially by means of the executive summary of the National Policy on Migration and Foreigners (PNME).⁴¹³ Furthermore, the National Migration Service's Refuge and Resettlement Department approved its administrative procedure

⁴⁰² Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 36. In IACHR files.

⁴⁰³ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 37. In IACHR files.

⁴⁰⁴ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 37. In IACHR files.

⁴⁰⁵ Senate of Chile, [Session No. 63/371](#), October 3, 2023.

⁴⁰⁶ DW, "[Chile prorroga estado de excepción por conflicto mapuche](#)," October 4, 2023.

⁴⁰⁷ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 38–39. In IACHR files.

⁴⁰⁸ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 40–45. In IACHR files.

⁴⁰⁹ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 45–46. In IACHR files.

⁴¹⁰ Government of Chile, "[Con reconocimiento del pueblo Selk'nam, Gobierno conmemoró 30 años de la Ley Indígena y creación de CONADI](#)," October 11, 2023.

⁴¹¹ Ministry of Foreign Affairs, Government of Chile, "[Canciller encabeza reunión con la Comisión Presidencial para la Paz y el Entendimiento y representantes de embajadas](#)," September 7, 2023.

⁴¹² *El ciudadano*, "[Tensión en la Araucanía: Denuncian represión policial y comuneros heridos](#)," August 4, 2023; *Resumen Latinoamericano*, "[Nación Mapuche. La desmedida violencia policial que vive el Lof Triftrifko Autónomo, comuna de Galvarino, resultando varias personas heridas entre ellos el lonko Jose Santander Pichún](#)," August 29, 2023.

⁴¹³ National Migration Service of Chile, "[Nueva Política Nacional de Migración y Extranjería](#)," July 6, 2023.

manual, which regulates the assistance provided to persons seeking refuge.⁴¹⁴ The Commission also welcomes the program “Niñez Migrante” (Migrant Children), which seeks to develop strategies to promote the regularization of the migration status of children and adolescents with a human rights approach.⁴¹⁵

221. The State also reported that, from January 1 to June 30, 2023, 9,998 persons in need of international protection were identified at the border crossing between Chile and Peru. For this reason, a reception center was set up in Colchane to provide healthcare and a space for the care of children and adolescents.⁴¹⁶ These actions took place as Chilean security forces were deployed on the border with Peru, with the purpose of addressing the increased migratory flow reported in that area since February 2023.⁴¹⁷ This situation has exposed hundreds of people to conditions of vulnerability and precariousness, without access to food, water and shelter, in addition to the extreme weather conditions prevailing in the area, all of which have led to a humanitarian emergency.⁴¹⁸ Moreover, Resolution No. 25,425 was issued, which established the biometric registration process for foreigners who entered the country through unauthorized passages or who evaded immigration controls and remain in Chile in an irregular manner.⁴¹⁹ The Commission has noticed that this policy does not incorporate protection guarantees for sensitive personal data, which could reinforce stereotypes based on factors such as national origin, ethnicity or race, among others.⁴²⁰

222. Civil society organizations have expressed concern about the challenges faced by people in human mobility, especially women, children and adolescents.⁴²¹ In this regard, the civil society regretted the deportation of a migrant woman, a survivor of gender-based violence, who only learned that there was a deportation order against her while she was carrying out the biometric registration process. Therefore, they reported the lack of guarantees of due process of law, the lack of gender perspective, and the violations of her son’s rights, who was deported despite there not being a deportation order against him and was detained for at least three days.⁴²² The organizations pointed out that this case is a clear example of the serious challenges faced by people in human mobility, who have expressed fear of going to register because of possibly being expelled from the country.

223. With respect to the **rights of children and adolescents**, the Commission welcomes the enactment of Law No. 21,565, which has provided for a scheme of comprehensive reparations for the children of victims of femicide, which reportedly includes a “reparatory pension” for children until they turn 18.⁴²³

224. On a different topic, in March, the Supreme Court released findings on the worrying overcrowding rates – around 43 percent – in residential care centers. The report pointed to the absence of policies for the prevention and eradication of violence, planning of life projects or adequate support for leaving said institutions.⁴²⁴ In addition, during the first half of 2023, the Ministry of Health declared a state of sanitary emergency in some localities due to an increase of environmental pollutants, which intoxicated approximately 100 children and adolescents in Valparaíso.⁴²⁵

⁴¹⁴ National Migration Service of Chile, [Resolution No 21.726 – Manual de Procedimiento Administrativo del Departamento de Refugio y Reasentamiento](#), May 11, 2023.

⁴¹⁵ National Migration Service of Chile, [Programa Niñez Migrante](#), January 2023.

⁴¹⁶ Government of Chile, Response to request for information 368-23/CIDH/SE/MPCT-Art41 – Humanitarian crisis on Chile’s northern border and processing of bills on migrant and refugee issues, August 7, 2023. In IACHR files.

⁴¹⁷ BBC, “[La crisis migratoria lleva al gobierno de Boric a militarizar la frontera norte de Chile](#),” February 27, 2023.

⁴¹⁸ Amnesty International, “[Chile y Perú: Autoridades deben poner fin a la militarización de fronteras como respuesta al ingreso de personas en necesidad de protección](#),” April 27, 2023.

⁴¹⁹ National Migration Service of Chile, [Resolution No. 25,425](#), May 31, 2023.

⁴²⁰ IACHR, [Resolution 04/19: Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking](#), December 7, 2019.

⁴²¹ CIPER, “[CARTAS: Situación de madre e hijo expulsados](#),” November 3, 2023.

⁴²² Clarín, “[Deportan a madre dominicana e hijo de 10 años tras proceso de empadronamiento en Chile](#),” November 4, 2023.

⁴²³ Ministry of Women and Gender Equality, Government of Chile, [Legislative Developments – Enacted Laws](#), May 9, 2023.

⁴²⁴ Judiciary of the Republic of Chile, Official Letter No. 35-2023, March 20, 2023.

⁴²⁵ Sputnik, “[‘Chernóbil chileno’: esto es lo que se sabe de la intoxicación de más de 100 menores en Valparaíso](#),” May 26, 2023.

See also: CNN Chile, “[Alcalde de Quintero explica suspensión de clases tras nuevo episodio de contaminación](#),” May 24, 2023; and Government of Chile, “[Ministerio de Salud anuncia proceso de Alerta Sanitaria en Concón, Quintero y Puchuncaví](#),” May 24, 2023.

225. With respect to the **rights of women**, the Commission appreciates the legislative, institutional and public policy measures promoted by the State for the protection of the rights of women and the prevention of gender-based violence. These include the initiative “Chile para todas” (Chile for all women);⁴²⁶ a law to protect the rights of victims of sexual crimes and to avoid their revictimization,⁴²⁷ and a law that establishes a regime of protection and integral reparation for victims of femicide or femicide-suicide and their families.⁴²⁸ These initiatives were complemented by the improvement of the comprehensive and immediate assistance for victims of sexual violence in the healthcare system; the updating and redesign of the 2021-2030 National Plan of Action to Combat Violence against Women and Gender-Based Violence; the creation of the Gender Mainstreaming Fund to finance initiatives of different public entities that seek to improve the lives of women; and a budget increase to address violence against women.⁴²⁹

226. Still, the Commission observes that challenges persisted in the exercise of sexual and reproductive rights, mainly in accessing quality contraceptive methods and health services for the legal termination of pregnancy. These included lack of economic resources, lack of accurate information on contraceptive methods,⁴³⁰ poor quality of some contraceptives, which diminished their effectiveness,⁴³¹ and a large number of conscientious objectors that hindered access to the legal termination of pregnancy.⁴³²

227. Regarding the protection of **human rights defenders**, the State reported on the development of a comprehensive policy with said purpose. It stated that it was preparing a protection protocol for human rights defenders, environmental defenders, communicators and justice operators, and that it had met with defenders to engage them in its drafting. In addition, the State referred to the Bill Bulletin No. 14,694-17, which “grants recognition to human rights defenders” and which is reportedly at the first constitutional stage in the National Senate.⁴³³

228. As it relates to **persons deprived of liberty**, the Commission takes note of the construction of a new prison for women, which according to the report of the National Human Rights Institute (INDH), will promote the reintegration of women into society and will include a mother-child unit.⁴³⁴ In addition, the Copiapó Court of Appeals ruled in favor of a remedy of legal protection filed by the INDH on behalf of women detained in the Copiapó’s Penitentiary Center, who had been deprived of access to toilets for up to 15 hours at a time.⁴³⁵ The Commission also commends a ruling of the Supreme Court that ordered that detainees at the Linares Penitentiary Center have access to a minimum number of hours of outdoor time per week, as well as adequate living and sanitary conditions.⁴³⁶

229. In relation to the fight against torture, the Commission underscores the implementation of a pilot project of the Public Criminal Defense Office (DPP) that establishes daily visits to police units by the DPP

⁴²⁶ *Gob.cl*, “[Día de la Mujer: En un nuevo 8M Gobierno anuncia una serie de medidas y beneficios para las mujeres chilenas](#),” March 8, 2023.

⁴²⁷ BCN Ley Chile, [Law No. 21.523](#), December 31, 2022.

⁴²⁸ BCN Ley Chile, [Law No. 21.565](#), May 9, 2023.

⁴²⁹ Ministry of Foreign Affairs, Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 22. In IACHR files; *El Mostrador*, “[Ministra Orellana: ‘El presupuesto crece en 1,7% para enfrentar la violencia contra las mujeres’](#),” October 6, 2023.

⁴³⁰ *El Mostrador*, “[Acceso a los anticonceptivos de larga duración: Las mujeres siguen pagando los costos en Chile](#),” August 24, 2023.

⁴³¹ *CNN Chile*, “[Pdta. de la Comisión de Mujeres calificó como ‘clara vulneración de derechos sexuales’ caso de anticonceptivo Marilow](#),” June 28, 2023.

⁴³² Human Rights Watch, [Informe Mundial 2023. Chile](#), 2023; *El Mostrador*, “[Altas cifras de objetores de conciencia alertan una deficiente aplicación de la ley de aborto en tres causales](#),” January 10, 2023.

⁴³³ Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 11–13.

⁴³⁴ INDH, “[INDH visitó obras de nueva cárcel femenina de Bulnes que contempla espacios especiales para embarazadas y madres de lactantes](#),” January 26, 2023.

⁴³⁵ Judiciary of the Republic of Chile, “[Corte de Apelaciones de Copiapó ordena a Gendarmería habilitar servicios higiénicos dignos para internas](#),” February 22, 2023.

⁴³⁶ Judiciary of the Republic of Chile, “[Corte Suprema ordena a Gendarmería garantizar condiciones mínimas de habitabilidad y salubridad en penal de Linares](#),” July 19, 2023.

once arrests have been made.⁴³⁷ However, the Commission still notes with concern that data indicates that between May 2022 and August 2023, 279 cases related to acts of torture and ill-treatment were recorded, mainly due to physical or psychological aggression, abuse of authority and a lack of medical assistance.⁴³⁸

230. With regard to **trafficking in persons**, the State reported the creation, in 2023, of the Comprehensive Training Unit of the National Migration Service (SERMIG), which incorporated the Interinstitutional Working Group against Human Trafficking.⁴³⁹ Similarly, actions were implemented by the States of Chile and Colombia to foster a commitment to work on regular and irregular migration, through specialized technical cooperation programs on various issues including the fight against human trafficking and the smuggling of migrants.⁴⁴⁰

231. Regarding **Afro-descendants and the fight against racial discrimination**, the Commission welcomes the inclusion of the Afro-descendant option in the self-identification question included in the population and housing census to be conducted in 2024. The questionnaire was previously shared with civil society organizations for their review and suggestions.⁴⁴¹ Also noteworthy is the prior consultation carried out with the Afro-descendant community on the new cultural heritage legislation.⁴⁴²

232. However, the new migration policy could massively exclude migrants from a regularization process and could create a differentiated impact on Afro-descendant migrants.⁴⁴³

233. With respect to **LGBTI persons**, the Undersecretariat for Women and Gender Equity (SERNAMEG) and the Undersecretariat for Crime Prevention signed an agreement to support victims of crimes based on gender identity or sexual orientation.⁴⁴⁴ Likewise, the Socioeconomic Characterization Survey (CASEN) included indicators on sexual orientation and gender identity.⁴⁴⁵ The State also reported on the implementation of a program to support trans and gender non-conforming children and adolescents in the healthcare system, as well as on the efforts of the National Statistics Institute (INE) to include questions on gender identity and sexual orientation in national surveys. It was also reported that, as of May 31, 2023, 2,974 same-sex marriages had been held in the country.⁴⁴⁶

234. Furthermore, the Commission received reports of violent attacks possibly related to the sexual orientation, gender identity or gender expression of the victims. The attack on the physical integrity of a trans man in April, presumably perpetrated by carabineros,⁴⁴⁷ stands out. In September, the murder and dismemberment of a trans man was reported in the city of Los Ángeles, in the Biobío region.⁴⁴⁸ In October, civil society organizations recorded the murder of a 16-year-old Colombian trans girl in the capital city.⁴⁴⁹ In this

⁴³⁷ APT, "[Chile: New project addresses risks of torture in first hours of custody](#)," February 4, 2023.

⁴³⁸ Information provided by the Public Criminal Defense Office of Chile during the International Seminar "Memória e perspectivas de luta contra a violência institucional carcerária" held in Brazil on August 22, 2023.

⁴³⁹ Government of Chile, [Report of the Republic of Chile to the Inter-American Commission on Human Rights](#), Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023.

⁴⁴⁰ Government of Chile, "[Presidente de la República Gabriel Boric Font: 'Chile y Colombia cumplen 200 años de relaciones diplomáticas. 200 trabajando juntos por mejorar la seguridad y bienestar de nuestros compatriotas'](#)," January 9, 2023.

⁴⁴¹ Permanent Mission of Chile to the Organization of American States, Note No. 273/2023, October 10, 2023; Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, pp. 29–30. In IACHR files.

⁴⁴² Ministry of Culture, Arts and Heritage, "[Comunidad Afrodescendiente participa en consulta previa a nueva Legislación Patrimonial](#)," October 24, 2023.

⁴⁴³ *El País*, "[La nueva política migratoria de Chile excluye una regularización masiva de migrantes](#)," July 11, 2023.

⁴⁴⁴ Ministry of Women and Gender Equality, "[Con la firma de un convenio para apoyar a víctimas de delitos por su identidad de género u orientación sexual finalizó el trabajo de la Mesa LGTBIQA+](#)," January 6, 2023.

⁴⁴⁵ *La Tercera*, "[Encuesta Casen: Radiografía a la diversidad sexual en Chile](#)," August 4, 2023.

⁴⁴⁶ Ministry of Foreign Affairs, Government of Chile, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 6, 2023, p. 28.

⁴⁴⁷ OTD, "[Alerta de ataque trans odiente perpetrado por carabineros de Chile](#)," April 13, 2023.

⁴⁴⁸ OTD, "[No estamos todos, falta Ever](#)," September 3, 2023; MOVILH, "[Horror: asesinan y descuartizan a hombre trans en Los Ángeles](#)," September 4, 2023; *BioBioChile*, "[Prisión preventiva para presunto autor de homicidio y descuartizamiento de joven trans en Los Ángeles](#)," September 5, 2023.

⁴⁴⁹ MOVILH, "[Asesinan a joven trans de 16 años en el centro de Santiago](#)," October 18, 2023.

context, it was also reported that the Diversity Memorial in the Santiago General Cemetery, where the remains of Daniel Zamudio rest, was vandalized.⁴⁵⁰

235. Regarding **memory, truth and justice**, in commemoration of the 50th anniversary of the *coup d'état*, the Commission [highlighted](#) the leading role of the victims and the civil society in reestablishing democratic order and human rights in the country. During a public hearing held in November, civil society organizations pointed out difficulties in the prosecution of crimes and comprehensive reparation to victims, emphasizing that the trauma they had undergone had a transgenerational effect that should be taken into consideration.⁴⁵¹

236. For its part, the State reported on the existing institutional framework and efforts adopted by different sectors on this matter. It also informed the Commission of the launching of the National Search Plan for victims of forced disappearance during the civil-military dictatorship, following several months of work with victims' relatives and organizations from all over the country. The State indicated that, in broad terms, its efforts are aimed at clarifying the circumstances of the disappearance and/or death of the victims and their whereabouts; guaranteeing access to information and engagement of victims' relatives and society as a whole in search processes; and implementing reparation measures and guarantees of non-repetition.⁴⁵² The Commission also [welcomed](#) the declassification of the United States' archives on the *coup d'état* at the request of the Chilean government, which entails a step towards knowing the historical truth about the dictatorship.

237. The State reported that there are 1,340 ongoing legal cases related to the dictatorship in different procedural stages.⁴⁵³ According to an assessment carried out by the civil society, between 1995 and June 30, 2023, 658 final judgments were issued in cases of crimes against humanity committed during this historical period; 534 of them involve criminal matters, some of which also entailed civil matters; and 124 only involve civil matters.⁴⁵⁴ The 534 criminal proceedings were conducted for crimes committed against 1,363 victims. Also, as of late July 2023, 258 people were reportedly under arrest for cases of human rights violations related to the dictatorship.⁴⁵⁵ In this context, the Commission learned of the Supreme Court's ruling on the aggravated kidnapping of Boris Weisfeiler Bernstein, in which it held that the crimes committed did not constitute crimes against humanity due to an absence of political motivation, and thus that the statute of limitations was applicable to the case.⁴⁵⁶

238. In this regard, the Commission recalls that the provisions on the statute of limitations cannot be an obstacle to punish those responsible for serious human rights violations such as torture, forced disappearance, or summary, extra-legal or arbitrary executions.⁴⁵⁷ Moreover, the Commission [took note](#) of the issuing of the final sentence on the case of the aggravated kidnapping and murder of musician Víctor Jara and of Littré Quiroga.⁴⁵⁸ The Commission also noted the ruling that had rejected the application of the statute of limitations and had upheld the conviction of three persons for the crimes of aggravated kidnapping, torture,

⁴⁵⁰ MOVILH, "[Delincuentes encapuchados vandalizan Memorial de la Diversidad donde descansan los restos de Daniel Zamudio](#)," September 13, 2023.

⁴⁵¹ IACHR, 188th regular period of sessions, public hearing "Chile: Memory, truth and justice, 50 years after the beginning of the civil-military dictatorship," November 8, 2023.

⁴⁵² State of Chile, Diplomatic Note No. 273, Report of the Republic of Chile to the Inter-American Commission on Human Rights, Communication 494-23/CIDH/SE/MPCT-IV, October 10, 2023, pp. 15-17.

⁴⁵³ IACHR, 188th regular period of sessions, public hearing "Chile: Memory, truth and justice, 50 years after the beginning of the civil-military dictatorship," November 8, 2023.

⁴⁵⁴ Human Rights Center, School of Law, Universidad Diego Portales, [Informe Anual sobre Derechos Humanos en Chile 2023](#), November 2023, pp. 85-86.

⁴⁵⁵ Human Rights Center, School of Law, Universidad Diego Portales, [Informe Anual sobre Derechos Humanos en Chile 2023](#), November 2023, pp. 85-86 and 117.

⁴⁵⁶ *Resumen*, "[Corte Suprema retrocede décadas y declara absolución de acusados de un secuestro calificado en dictadura](#)," November 1, 2023; *Publimicro*, "[Absueltos uniformados por caso de ciudadano ruso-norteamericano Boris Weisfeiler durante la Dictadura por prescripción](#)," November 3, 2023; CODEPU, "[Reciente fallo de la Corte Suprema es grave retroceso en justicia](#)," November 1, 2023.

⁴⁵⁷ IACHR Court, *Almonacid Arellano et al. v. Chile*. Preliminary objections, merits, reparations and costs. Judgment of September 26, 2006. Series C No. 154, para. 112.

⁴⁵⁸ *Diario Constitucional*, "[Corte Suprema dicta sentencia definitiva por secuestro y homicidio de cantautor Víctor Jara Martínez y director de prisiones Littré Quiroga Carvajal](#)," August 28, 2023; *France 24*, "[Víctor Jara obtiene justicia a 50 años de su asesinato: 'Excélsior'](#)," August 29, 2023.

and torture with sexual violence committed in the clandestine detention center known as “Venda Sexy” in 1974.⁴⁵⁹

239. In relation to the **rights of older persons**, the State reported that within the framework of the services provided by legal assistance corporations, the program of Comprehensive Legal Defense of the Elderly assisted a total of 12,550 older persons in the first quarter of 2023, giving rise to 2,343 legal actions related to domestic violence, in which the State contributed to the defense of the interests of the elderly victims, either through its sponsorship or as a legal representative appointed by a family court judge (curator *ad litem*).⁴⁶⁰

240. Additionally, the Commission learned of an initiative proposed by the National Service for the Elderly, which allocated funds for the implementation of various programs addressed at older persons.⁴⁶¹ In June, awareness-raising campaigns to combat violence against older persons were held as part of the World Elder Abuse Awareness Day. Moreover, according to information from the International Labor Organization (ILO) with respect to the right to work, in 2023, 51.4 percent of the elderly entered the informal labor market in Chile.⁴⁶²

241. Regarding the **rights of persons with disabilities**, the State approved the National Comprehensive Care System “Chile Cuida” (Chile Cares), which seeks to acknowledge and improve the quality of life of people in need of care and of caregivers.⁴⁶³

242. However, the Commission notes that the program for a transition to independent living of the National Care System only covers people with disabilities up to the age of 59, leaving out older persons with disabilities, for whom the offer is mostly centered on residential homes (institutionalization).⁴⁶⁴ In addition, it is of concern that the legal concepts of guardianship and conservatorship, which stand in place for the will and preferences of persons with disabilities, are still in force,⁴⁶⁵ as well as the use of practices such as electroshock or electroconvulsive therapy (ECT) on persons with psychosocial and intellectual disabilities in state-funded institutions.⁴⁶⁶

X. COLOMBIA

• General considerations

243. With respect to **progress**, the Commission welcomes the State’s efforts in the search for peace. In this regard, it highlights both the dialogue held with non-state armed groups and the actions aimed at remedying historical and structural inequities. Among these, there was progress in the investigations conducted by the Special Jurisdiction for Peace and, in particular, the opening of Macro-case 11, which will

⁴⁵⁹ Judiciary of Chile, “[Corte Suprema condena a agentes de la DINA por secuestros y torturas en la ‘Venda Sexy’ en 1974](#),” August 21, 2023.

⁴⁶⁰ Government of Chile, Report of the Republic of Chile to the IACHR, October 10, 2023, p. 42.

⁴⁶¹ Ministry of Social Development and Family of Chile, “[Senama lanza fondos por \\$ 82 millones para proyectos de adultos mayores en la región. 9 de octubre de 2023](#),” October 9, 2023.

⁴⁶² United Nations Chile, “[Chile: personas mayores trabajan principalmente de manera informal y por bajos ingresos](#),” January 11, 2023.

⁴⁶³ See Ministry of Women and Gender Equality, “[‘Chile Cuida’: Gobierno pone en marcha el Sistema Nacional e Integral de Cuidados y relanza credencial para personas cuidadoras](#),” November 6, 2023. See also: Ministry of Social Development and Family, [Programa Red Local de Apoyos y Cuidados](#), October 2023.

⁴⁶⁴ *Ibid.* International standards on the human rights of persons with disabilities emphasize the duty of State Parties to develop laws, policies and programs that aim at deinstitutionalization and community-based support. See United Nations, Committee on the Rights of Persons with Disabilities, [Guidelines on deinstitutionalization, including in emergencies](#) CRPD/C/5, September 9, 2022.

⁴⁶⁵ See Ministry of Justice, Government of Chile, [fija texto refundido, coordinado y sistematizado del Código Civil: de la ley n°4.808, sobre registro civil; de la Ley n°17.344, que autoriza cambio de nombres y apellidos; de la Ley n°16.618, Ley de menores; de la Ley n°14.908, sobre abandono de familia y pago de pensiones alimenticias, y de la Ley n°16.271, de impuesto a las herencias, asignaciones y donaciones](#), Articles 338 to 372 on guardianship and conservatorship, Santiago de Chile, May 16, 2000.

⁴⁶⁶ See *El Mostrador*, “[Lo que no se dijo de la terapia electroconvulsiva: psiquiátricos la aplican a menores de edad y personas con autismo](#),” article by Francisca Inostroza, February 25, 2023; *LitoralPress*, “[Esos dolorosos días en el Hospital Psiquiátrico de Valparaíso](#),” taken from *El Mercurio*, July 1, 2023.

investigate gender-based violence, including sexual and reproductive violence, and crimes committed on the basis of prejudice.

244. In relation to the **challenges** faced by Colombia, the Commission reiterates its concern about the violence resulting from the armed conflict and its particular impact on human rights defenders, social leaders, indigenous peoples, Afro-descendant and peasant communities, women, and children and adolescents. It also notes difficulties in the forging of social and political agreements to enable the effective implementation of state actions and changes in public policies.

245. On October 21, 2023, the State submitted its response to the Commission's request for information to prepare this chapter.⁴⁶⁷

- **Specific issues**

246. Regarding **democratic institutionalism**, as reported by the State, regional elections were held, resulting in the appointment of 32 governors, 418 deputies that will make up the departmental assemblies, 1,102 mayors, 12,072 councilpersons in all municipalities and cities of the country, and 6,513 legislators that will make up the local administrative boards (JALs).⁴⁶⁸ According to the Office of the Ombudsperson and the OAS Electoral Observation Mission, with the exception of two municipalities, the elections took place seamlessly.⁴⁶⁹

247. Despite this, the Office of the Ombudsperson issued an early warning denouncing the context of violence in which the elections took place, wherein 112 threats were made against individuals or political movements, 20 attacks were perpetrated against individuals or party headquarters, and 16 murders were recorded.⁴⁷⁰

248. With respect to **citizen security**, the State reported a change in the focus of security policies: instead of being centered on punitive actions, these policies are aimed at building a model of human security in which such actions are complemented by social and economic structural transformations. Within this framework, the State referred to the adoption of the 2022–2026 Security, Defense and Citizen Coexistence Policy titled "Garantías para la vida y la paz" (Guarantees for Life and Peace).⁴⁷¹

249. On the one hand, the State highlighted the teardown of 2,681 laboratories, the seizure of a record amount of cocaine and machinery used in illegal mining operations, and measures to stifle deforestation and the illegal trade in species.⁴⁷² On the other hand, it approved the 2023–2033 National Drug Policy, which sets for an illicit economic activities transition in rural areas, provides for the care for the environment, includes an initiative to address this issue from a right to health perspective, and focuses on rooting out strategic and core elements of the drug trafficking system.⁴⁷³ Although this policy is derived from the fourth item the Peace Agreement, little progress has been made in its implementation.⁴⁷⁴ The State also approved the National Development Plan, which outlines the full implementation of the Peace Agreement and has already allocated resources for the implementation of Chapter 1 thereof.⁴⁷⁵

⁴⁶⁷ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023.

⁴⁶⁸ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 2.

⁴⁶⁹ In this regard, see: Office of the Ombudsperson, "[Defensor del Pueblo destaca que la jornada de elecciones territoriales en el país transcurrió con normalidad](#)," October 29, 2023; also, Electoral Observation Mission, "[Informe de cierre de la observación electoral al proceso de elección de Autoridades Locales 2023](#)," October 29, 2023.

⁴⁷⁰ Office of the Ombudsperson, "[Alerta Temprana N° 030-23. Elecciones Regionales 2023](#)," August 23, 2023, p. 29.

⁴⁷¹ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 7.

⁴⁷² Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 7–8.

⁴⁷³ Ministry of Justice and Law, "[Política Nacional de Drogas 2023 – 2033](#)," October 3, 2023, p. 52.

⁴⁷⁴ Echavarría Álvarez, Josefina *et al.*, "[Informe trimestral: estado efectivo de la implementación del Acuerdo Final, abril – junio de 2023](#)," Kroc Institute, Notre Dame.

⁴⁷⁵ Congress of Colombia, "[Proyecto del ley número 274 de 2023 "Por el cual se expide el Plan Nacional de Desarrollo 2022–2026. Colombia potencia mundial de la vida"](#)," May 2023.

250. Furthermore, the State presented information on actions aimed at the demobilization of non-state armed groups and their prosecution. This was mainly done through a political dialogue with the ELN and the Central General Staff (EMC) in which the “Acuerdo de México: Nueva Agenda de Diálogos para la Paz” (Mexico Agreement: New Agenda for Peace Dialogues) was signed, which will be monitored by its parties together with the Episcopal Conference and the United Nations Verification Mission.⁴⁷⁶ Likewise, the State engaged in a dialogue with the EMC and agreed on a nationwide bilateral ceasefire, as well as a verification mechanism involving the Catholic Church, the United Nations Verification Mission and the MAPP/OAS.⁴⁷⁷

251. The State also approached the Conquistadores Self-Defense Forces of Sierra Nevada (ACSN) and the Gaitanista Self-Defense Forces of Colombia (AGC), and at the urban level, (with) the organized armed groups involved in high-impact crime in Buenaventura, Quibdó and Valle de Aburrá.⁴⁷⁸ All these conversations were held based on the regulation of Law No. 2,272 of 2022; however, the legal framework under which these groups shall be dismantled and brought to justice has not yet been established.⁴⁷⁹

252. Despite these efforts, acts of violence stemming from the armed conflict persisted, with a particular impact on human rights defenders, social leaders, indigenous peoples, Afro-Colombian and peasant communities, women, children and adolescents. These acts of violence took place mostly in Antioquia, Arauca, Cauca, Caquetá, Chocó, Meta, Nariño, the north part of Santander, Valle del Cauca and Putumayo,⁴⁸⁰ and resulted in the massive displacement of 36,000 people and the forced confinement of 53,000 people between January and August 2023.⁴⁸¹ Individual forced displacement – usually linked to threats against people in positions of leadership and to armed groups exercising territorial control – affected 34,212 people over the first half of the year.⁴⁸² Of this figure, 90 percent of the victims of displacement and 84 percent of the people in confinement lived in the Pacific region.⁴⁸³

253. The Commission also received reports on the installation of camps by non-state armed groups in indigenous and Afro-Colombian community land or in neighboring areas, which increased their control over the population and its ancestral forms of organization. In addition, there has been an increase in cases of sexual violence, femicides and disappearances of girls, adolescents and women, especially indigenous and Afro-descendant women. These crimes are not reported to the authorities due to the territorial control exerted by the armed groups and an absent State that failed to take action in these territories.⁴⁸⁴

⁴⁷⁶ High Commissioner for Peace X account, “[A continuación compartimos el ‘Acuerdo de México’: Nueva agenda de diálogos para la paz entre el Gobierno de la República de Colombia y el Ejército de Liberación Nacional](#)” (Below you’ll find the “Mexico Agreement.” New agenda for peace talks between the Government of the Republic of Colombia and the National Liberation Army), March 10, 2023. See also: United Nations Verification Mission, Monitoring and Verification Mechanism (MMV) of the Temporary National Bilateral Ceasefire (CFBNT), September 6, 2023.

⁴⁷⁷ Executive branch of Colombia, “[Gobierno y el EMC acuerdan cese el fuego bilateral por tres meses y se comprometen a avanzar en los diálogos de paz](#),” October 16, 2023.

⁴⁷⁸ MAPP/OAS, *Thirty-fifth Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS)*, November 8, 2023, p. 2.

⁴⁷⁹ Congress of Colombia, Law No. 2,272 of 2022, “whereby Law No. 418 of 1997 is extended, amended and expanded, as the latter was extended, amended and expanded by Laws No. 548 of 1999, 782 of 2002, 1,106 of 2006, 1,421 of 2010, 1,738 of 2014 and 1,941 of 2018; and whereby the State peace policy is outlined, the Social Service for Peace is created, and other provisions are established,” November 3, 2022.

⁴⁸⁰ MAPP/OAS, *Thirty-fifth Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS)*, November 8, 2023, p. 3.

⁴⁸¹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Informe de situación humanitaria 2023 – Enero a agosto de 2023*, September 22, 2023.

⁴⁸² ICRC, “[El miedo y la zozobra siguen condicionando la vida de miles de personas en Colombia](#),” August 1, 2023.

⁴⁸³ ICRC, “[El miedo y la zozobra siguen condicionando la vida de miles de personas en Colombia](#),” August 1, 2023.

⁴⁸⁴ IACHR, Press Release No. 208/23 “[IACHR Concerned About Violence in Colombia’s Pacific Region and About the Impact It Has on Indigenous Peoples and on Afro-Descendant and Peasant Communities](#),” September 1, 2023.

254. Moreover, the Commission became aware of the persistence of cases of excessive use of force, which reflected patterns of racial profiling;⁴⁸⁵ examples include the murders of Milton Andrés Perlaza on June 28, 2023, in Valle del Cauca, and of Johan Esteban Infante on July 15, 2023, in the islands of Barú.⁴⁸⁶

255. With respect to **access to justice**, the State reported the creation of 294 legal offices to strengthen the supply of justice and the implementation of legislative developments in disciplinary justice, contentious-administrative matters, asset forfeiture, and compliance with the rulings of the Constitutional Court nationwide.⁴⁸⁷ Similarly, actions were taken to bolster strategies to address crimes against human rights defenders and trade union leaders through the creation of 25 specialized criminal courts.⁴⁸⁸ In addition, the State reported on the clearance of 6,689 public officials where there were no conciliation centers in place, which contributed to holding 41,123 hearings in response to the 58,822 settlement requests filed in 2023 through alternative mechanisms.⁴⁸⁹

256. Likewise, the peasant population was constitutionally recognized as a subject requiring special protection, which guaranteed individual and collective rights for this group.⁴⁹⁰ In relation to this, the agrarian and rural jurisdiction was also created.⁴⁹¹

257. Furthermore, information from the Transparency Secretariat of the Presidency of the Republic indicated that, out of the 57,582 corruption complaints filed between 2010 and 2023, 94 percent remained without conviction and 77.15 percent were still under investigation.⁴⁹² The organization Temblores also reported high rates of impunity in cases of alleged human rights violations by law enforcement agents: out of 974 murders investigated between 2015 and 2020, only 90 were resolved in a conviction; out of the 7,383 investigations into physical violence, only 93 resulted in convictions; and out of the 948 indictments for sexual violence, 47 concluded in a conviction.⁴⁹³

258. It was also reported that the JEP issued an indictment against 15 former FARC guerrillas for various crimes committed against 254 women, girls and LGBTI persons, as part of Macro-case 02, which entails the investigation of crimes committed in the municipalities of Tumaco, Ricaurte and Barbacoas. The indictment points to gender-based violence against the victims, as well as violence based on prejudice against people of diverse sexual orientations, gender identities and gender expressions.⁴⁹⁴ Also, in September, the JEP announced the opening of Macro-case 11, in which authorities will investigate gender-based violence, including sexual and reproductive violence, and crimes based on prejudice.⁴⁹⁵

259. In relation to the **rights of indigenous peoples**, in the framework of the implementation of the Ethnic-Racial Decree Laws No. 4,633, 4,634 and 4,635 of 2011, working meetings were held with ethnic

⁴⁸⁵ ILEX-Acción Jurídica, "[‘Señora, o lo que sea, deme su cédula’: Retratos de la violencia policial racista desde la interseccionalidad.](#)" September 1, 2023. ISBN: 978-628-95637-2-6; CODHES, Race & Equality, ILEX, "[‘Silencio e impunidad: racismo sistémico y violencia policial contra personas afrodescendientes en Colombia.](#)" November 9, 2023. ISBN: 978-958-52847-6-0.

⁴⁸⁶ *Cambio*, "[‘El racismo en la Policía Nacional: ¿un problema estructural?’](#)" July 21, 2023; *Rolling Stone*, "[‘¿Por qué debemos hablar de racismo en la Policía no sólo cuando hay muertes?’](#)" July 27, 2023.

⁴⁸⁷ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p.104.

⁴⁸⁸ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p.103.

⁴⁸⁹ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p.107.

⁴⁹⁰ Congress of the Republic of Colombia, "[‘Acto Legislativo 01 de 2023 por medio del cual se reconoce al campesinado como sujeto de especial protección constitucional.](#)" July 5, 2023.

⁴⁹¹ Executive branch of the Republic of Colombia, "[Decreto 0151 de 3 de febrero de 2023. Por el cual se ordena la publicación del Proyecto de Acto Legislativo No. 035 de 2022 Senado – 173 de 2022 Cámara ‘Por el cual se reforma la Constitución Política de Colombia y se establece la Jurisdicción Agraria y Rural.’](#)" February 3, 2023.

⁴⁹² Transparency Secretariat, "[Mapa de la Impunidad en Colombia.](#)" July 17, 2023.

⁴⁹³ Temblores, "[El Estado de la impunidad.](#)" March 2023, pp. 76–83.

⁴⁹⁴ *El País*, "[‘La JEP acusa a exguerrilleros de las FARC que usaron la violencia sexual como arma de guerra.’](#)" July 14, 2023; Colombia Diversa X account (@ColombiaDiversa), "[‘The Colombian Transitional Court \(@JEP\) just issued an unprecedented opinion in macrocase 02.’](#)" July 13, 2023.

⁴⁹⁵ JEP, "[‘La JEP abre macrocaso 11, que investiga la violencia basada en género, incluyendo violencia sexual y reproductiva, y crímenes cometidos por prejuicio.’](#)" September 27, 2023; *Caribe Afirmativo*, "[‘La JEP abre Macrocaso 11 sobre violencia sexual, violencia reproductiva y otros crímenes cometidos por prejuicio, odio y discriminación de género, sexo, identidad y orientación sexual diversa en el marco del conflicto armado.’](#)" September 27, 2023.

peoples, wherein 13 agreements were reached. These included the Comprehensive Collective Reparation Plans and their accelerated implementation by the government; two agreements on collective reparation, return and relocation of indigenous peoples; and the drafting and execution of the plan for the effective implementation of Decree Law No. 4,633 of 2011 in a concerted manner.⁴⁹⁶

260. The State also reported that there has been progress in the implementation of the principles of respect and interculturality in land restitution in the context of the armed conflict, with an emphasis on the strengthening of the Ethnic Affairs Directorate of the Land Restitution Unit and a dialogue with the judicial offices specialized in land restitution, with a view to the practical and effective implementation of the rulings that have been issued on these matters.⁴⁹⁷ Nevertheless, the civil society indicated that progress has only been made in the different administrative stages of the process of restitution of 777,436 hectares, and that the land subfund provided for in the chapter on ethnic issues of the Peace Agreement continued to be inoperative.⁴⁹⁸

261. In relation to this, the State reported on the 2022-2023 return and relocation process of the Emberá community of Alto Andágueda, settled in the cities of Bogotá and Medellín, which includes the Emberá people of the Katío and Chamí ethnic groups. The Victims Unit coordinated efforts with territorial entities and the Office of the Public Prosecutor to guarantee the return of these groups to their reservations (*resguardos*) located in Bagadó and Bajo Baudó (Chocó), Pueblo Rico and Mistrató (Risaralda), and López de Micay and Timbiquí (Cauca).⁴⁹⁹

262. However, in 2023, 66 percent of the victims of displacement and forced confinement were indigenous and Afro-Colombian people. Of this number, approximately 75,000 – 24 percent – had not yet returned to their land, which may lead to violations of their rights in the future.⁵⁰⁰ According to the National Indigenous Organization of Colombia (ONIC), state actions to prevent, address and repair indigenous displacement are not working due to the lack of an ethnic focus in security and territorial protection policies.⁵⁰¹ An example of this is the situation of the Siona communities in the reservations (*resguardos*) of Buenavista and Santa Cruz de Piñuña Blanco, in Putumayo, who have been displaced and confined with no humanitarian support⁵⁰² and find themselves in a context of extreme poverty.⁵⁰³

263. Regarding the violence faced by indigenous peoples, on May 17, 2023, three indigenous adolescents from the Murui-Muina people who had been victims of forced recruitment were killed while trying to escape. The Organization of Indigenous Peoples of the Colombian Amazon (OPIAC) then denounced the little engagement of state institutions aimed at guaranteeing economic, social, cultural and environmental rights in Caquetá, Putumayo and Amazonas, and especially in the Pacific region. They also underscored the need to involve the peoples and communities affected by the armed conflict in the development of mitigation strategies.⁵⁰⁴

264. With regard to the **rights of women**, Colombia passed the Law on Violence against Women in Politics and a law adopting the pink alert and other prevention, protection and reparation measures for girls, adolescents and women victims of disappearance.⁵⁰⁵ This was complemented by various rulings issued by the Constitutional Court, which showed progress in terms of the protection against gender-based violence, (as well

⁴⁹⁶ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 14–15.

⁴⁹⁷ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 20–21.

⁴⁹⁸ National Commission of Indigenous Territories (CNTI), [Incongruencia en las cifras de formalización para los pueblos indígenas](#), August 3, 2023.

⁴⁹⁹ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 16–17.

⁵⁰⁰ United Nations Office for the Coordination of Humanitarian Affairs, [Tendencias e Impacto Humanitario en Colombia. Enero–Junio 2023](#), July 21, 2023.

⁵⁰¹ ONIC, [Dinámicas y Desafíos actuales del desplazamiento indígena forzado por la violencia](#), August 2023.

⁵⁰² IACHR, 188th regular period of sessions, public hearing “[Colombia: Violence and conflict’s impact on the human rights of Putumayo’s inhabitants](#),” November 6, 2023. Putumayo hearings.

⁵⁰³ Victims Unit, [Boletín 4. Datos para La Paz. Corte junio 2023](#), p. 15.

⁵⁰⁴ IACHR, Press Release No. 120/23 “[IACHR Condemns Murders of Indigenous Adolescents of the Murui-Muina People By An Illegal Armed Group in Colombia](#),” June 15, 2023.

⁵⁰⁵ Congress of the Republic of Colombia, “[Aprobado por unanimidad proyecto que busca prevenir la violencia política contra las mujeres](#),” April 18, 2023; Congress of the Republic of Colombia, [Law No. 2,326 of September 13, 2023](#), n/d.

as on) labor rights, equality and non-discrimination, and reproductive rights, among other issues.⁵⁰⁶ As it relates to sexual and reproductive rights, the State made progress with the recommendations of the CEDAW related to the decriminalization of abortion,⁵⁰⁷ and issued Resolution No. 051 of 2023 to regulate comprehensive healthcare for persons seeking a voluntary termination of pregnancy.⁵⁰⁸

265. Nevertheless, according to figures from the Office of the Inspector General, from January to May 5, 2023, 19,606 events of domestic violence against women had been reported, and 8,511 forensic examinations had been performed for alleged sexual crimes;⁵⁰⁹ as of July 3, 320 femicides had been recorded.⁵¹⁰ There were also reports of harassment and sexual violence against women committed by public officials⁵¹¹ and against girls and adolescents in educational environments,⁵¹² as well as reports of sexual violence, especially against indigenous women and girls, committed by members of armed groups and the army.⁵¹³

266. Obstacles to access the voluntary termination of pregnancy also persist, especially for women living in poverty. These include ignorance or restrictive interpretation of the applicable legal framework, shortcomings in the provision of health services⁵¹⁴ and the advancement of bills that could impose greater restrictions.⁵¹⁵ In addition, women and girls face negative impacts on their reproductive health due to their exposure to pesticides, including glyphosate.⁵¹⁶

267. Regarding the **rights of persons in the context of human mobility**, the State reported that, in follow-up to the implementation of the Temporary Protection Statute for Venezuelan Migrants (ETPV), between January 1 and August 31, a total of 81,887 Venezuelan nationals were at the registration stage; 24,447 at the survey stage; and 150,900 at the biometric registration stage. In addition, 255,139 temporary protection permits (PPT) were approved, 237,878 were issued, and 226,643 were delivered to beneficiaries.⁵¹⁷ Between

⁵⁰⁶ See: Constitutional Court, "[En decisiones sobre restitución internacional de menores de edad se debe considerar la perspectiva de género, en el marco de posible violencia contra la mujer.](#)" September 13, 2023; "[Corte declara inconstitucional la exigencia de 1300 semanas de cotización para que las mujeres obtengan la pensión de vejez.](#)" June 6, 2023; [Judgment SU091-23](#), "DERECHO A UNA VIDA LIBRE DE VIOLENCIA Y LIBERTAD DE EXPRESIÓN. Vulneración al invisibilizar la voz y la participación de la mujer en las decisiones de la comunidad indígena;" "[Corte exhorta a partidos y movimientos políticos para que adopten en sus códigos de ética directrices para sancionar hechos o incitación a la violencia en línea.](#)" May 17, 2023; "[La Corte Constitucional declaró estarse a lo resuelto en la Sentencia C-055 de 2022 frente a una demanda presentada contra el artículo 122 de la Ley 599 de 2000 referido a la penalización del aborto.](#)" August 2023.

⁵⁰⁷ Ministry of Foreign Affairs, Government of Colombia, "[Colombia retira las tres declaraciones que realizó en 2007 al Protocolo Facultativo de la Convención sobre la Eliminación de todas las Formas de Discriminación contra la Mujer de las Naciones Unidas.](#)" January 27, 2023. <https://www.cancilleria.gov.co/newsroom/news/colombia-retira-tres-declaraciones-realizo-2007-protocolo-facultativo-convencion>.

⁵⁰⁸ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 4, 5 and 69.

⁵⁰⁹ Office of the Inspector General, "[Violencia contra la mujer no cesa: Procuraduría.](#)" Bulletin 933-2023.

⁵¹⁰ Office of the Inspector General, "[Colombia no puede ser indiferente ante el aumento de cifras de feminicidios y ola de violencia contra la mujer: Procuraduría.](#)" Bulletin 1040-2023.

⁵¹¹ *El País*, "[Si quiere el trabajo esta es la manera.](#)" January 26, 2023; *Infobae*, "[Abuso y acoso en el parlamento colombiano.](#)" January 1, 2023; *Infobae*, "[Embajador de Colombia en Panamá es denunciado por acoso sexual.](#)" February 11, 2023; *El Tiempo*, "[Concejal de Medellín será investigado por presuntas conductas machistas.](#)" April 24, 2023.

⁵¹² *El País*, "[El Me Too de las estudiantes colombianas.](#)" March 28, 2023; *El Colombiano*, "[Grave hallazgo: en el 47% de las escuelas suceden casos de abuso.](#)" October 3, 2023.

⁵¹³ UN Human Rights Committee, "[Concluding observations on the eighth periodic report of Colombia](#)" CCPR/C/COL/CO/8, September 4, 2023, para. 12; Human Rights Council, "[Summary of stakeholders' submissions on Colombia. Report of the Office of the United Nations High Commissioner for Human Rights](#)" A/HRC/WG.6/44/COL/3, August 22, 2023, para. 53; *El País*, "[La justicia colombiana envía a la cárcel a un soldado del ejército por la violación de una niña indígena.](#)" March 6, 2023; *RCN Radio*, "[Mujeres indígenas del Chocó exigen justicia tras violaciones en su contra.](#)" March 8, 2023; *Infobae*, "[Defensoría confirmó el abuso sexual de una indígena por parte de un militar en Tierralta: 'Lo ocurrido no fue un hecho aislado.'](#)" September 19, 2023.

⁵¹⁴ Human Rights Council, "[Summary of stakeholders' submissions on Colombia. Report of the Office of the United Nations High Commissioner for Human Rights](#)" A/HRC/WG.6/44/COL/3, August 22, 2023, para. 42; *El País*, "[Los obstáculos para abortar en La Guajira: prejuicios, desinformación y déficit médico.](#)" June 30, 2023; *Infobae*, "[Aborto clandestino en Colombia: por qué sigue existiendo barreras a pesar de la sentencia de la Corte.](#)" June 11, 2023.

⁵¹⁵ House of Representatives of the Congress of the Republic of Colombia, "[Audiencia pública sobre adopción desde el vientre materno Proyecto de Ley 037/2021.](#)" May 24, 2023; *La Silla Vacía*, "[3 retrocesos de nuestros derechos con la 'Ley de Brazos Vacíos.'](#)" June 10, 2023.

⁵¹⁶ IACHR, 188th regular period of sessions, public hearing "[Region: Impacts of agrochemicals on reproductive rights.](#)" November 8, 2023.

⁵¹⁷ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 36.

February and August, the data of 19,000 Venezuelan migrants in Colombia's database was updated in order to provide each person with a PPT in an expeditious manner.⁵¹⁸

268. Furthermore, the Commission observed an increase in the number of people in the context of human mobility transiting through the country. In this regard, official information indicates that, as of August 31, 2023, the State had recorded the transit of 333,567 persons with an irregular migratory status. This figure accounts for an increase by 64 percent as compared to 2022, when 203,385 people had been reported to be in transit. People transiting through Colombia are mainly from Venezuela, Haiti and Ecuador.⁵¹⁹ In addition, out of the total number of people that were reported to be in transit, 283,121 were identified in the Turbo and Necoclí regions,⁵²⁰ and took the Darién Gap route to Panama.

269. With regard to the prevention, reduction and eradication of **statelessness**, the Commission welcomed the enactment of Law No. 2,332 of 2023, which sets forth requirements and procedures necessary for the acquisition, loss and recovery of Colombian nationality. Particularly noteworthy is the easy procedure to acquire nationality by naturalization and the granting of nationality to children born in Colombian territory, whether they are recognized as stateless or are protected by temporary mechanisms for migratory regularization. However, the Commission notes with concern that the law determines that for children to acquire the Colombian nationality by birth their mother or father's migratory status must be regular, and they are required to have resided in Colombian territory for three uninterrupted years.⁵²¹

270. With regard to **trafficking in persons**, progress was made in the implementation of strategies to identify different human exploitation purposes and to strengthen international cooperation for the protection of and assistance to migrant victims.⁵²² In addition, the Observatory on the Crime of Human Trafficking has reportedly identified 55 surviving victims in human mobility.⁵²³ Moreover, in organized crime contexts, Venezuelan migrant women and girls are particularly exposed to different forms of gender-based violence, including human trafficking for sexual exploitation purposes.⁵²⁴

271. Regarding the **rights of children and adolescents**, the State reported on the development of 190 activities in 52 municipalities under the strategy "Generación Futuro" (Future Generation), which, between January and August 2023, led to the disengagement of 184 children and adolescents from different illegal armed groups.⁵²⁵ The State also indicated that between January and August 2023, a total of 280 children and adolescents participated in the strategies "Salta la Cuerda" (Skipping Rope) and "Rotando la Vida" (Circle of Life), aimed at contributing to the comprehensive reparation of these victims in the face of the differentiated effect and damage they have suffered due to the armed conflict.⁵²⁶

272. However, during the year there were reports of people still being recruited by armed groups and by criminal groups linked to drug trafficking. Children and adolescents belonging to indigenous groups and Afro-Colombian communities are at special risk in this regard. According to the Risk Monitoring Mechanism of

⁵¹⁸ Ministry of Foreign Affairs, Migration Department, "[Migración Colombia invita a migrantes venezolanos a validar su información](#)," August 11, 2023.

⁵¹⁹ Ministry of Foreign Affairs, Migration Department, [Colombia: Migrantes irregulares en tránsito. Migración Colombia - corte a 31 Agosto 2023](#), September 12, 2023, p. 1.

⁵²⁰ Ministry of Foreign Affairs, Migration Department, [Colombia: Migrantes irregulares en tránsito. Migración Colombia - corte a 31 Agosto 2023](#), September 12, 2023, p. 2.

⁵²¹ Congress of Colombia, [Ley 2332 de 2023. Por medio de la cual se establecen los requisitos y el procedimiento necesarios para la adquisición, pérdida y recuperación de la nacionalidad colombiana y se dictan otras disposiciones](#), September 25, 2023. See also: IACHR, [Resolution 04/19: Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking](#), December 7, 2019.

⁵²² Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p. 82.

⁵²³ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p. 83.

⁵²⁴ Human Rights Council, [Summary of stakeholders' submissions on Colombia. Report of the Office of the United Nations High Commissioner for Human Rights](#) A/HRC/WG.6/44/COL/3, August 22, 2023, para. 34; *El Nacional*, "[41% de víctimas de trata de personas en Colombia son mujeres venezolanas](#)," June 30, 2023; *Caracol*, "[ONU insta al Estado para la protección de víctimas de trata y tráfico sexual en Colombia](#)," May 30, 2023.

⁵²⁵ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p. 61.

⁵²⁶ Republic of Colombia, Information for the *2023 Annual Report* MPC/OEA No. 1347/2023, October 23, 2023, p. 51.

the Integral System for Peace, between January and June, 74 people were reportedly recruited,⁵²⁷ and around 28,783 children and adolescents were affected.⁵²⁸

273. With respect to **human rights defenders**, the State indicated it had bolstered the Police Unit for Peace Building (UNIPPEP) and the National Police Elite Corps (CELIT) as part of the progress made under the 2022-2026 Security, Defense and Citizen Coexistence Policy “Garantías para la vida y la paz.” During 2023, the number of UNIPPEP police officers grew by 230, amounting to a total of 3,000. In the case of CELIT, the State reported that it had been strengthened with 100 new investigators to expand the scope of action of 15 investigative commissions focused on regions where social leaders, human rights defenders and signatories to the Peace Agreement are the most affected.⁵²⁹ These measures are reportedly added to the reactivation of the national protection program for human rights defenders in the exercise of their activities.⁵³⁰

274. Likewise, regarding threats, the State reported that it continues to implement the strategy for the investigation of this crime, which has been in force since 2018, and that it has been reinforced through the increase in the number of members of its working group and through a 24-hour assistance protocol to respond to threat reports. The State also noted that the efforts of the working group investigating threats has led to the following results between 2018 and September 2023: 10 convictions, seven cases in which the principle of opportunity has been applied by means of an agreement between the parties, 68 cases in which there has been a request for indictment or an indictment has been filed, 16 arrest warrants, and 34 ongoing trials.⁵³¹

275. Despite these measures, the Commission notes that violence against human rights defenders and social leaders continues to be a matter of concern in Colombia, which is why it issued three resolutions granting precautionary measures in favor of six persons.⁵³² On this matter, the State indicated that between January and July, 111 murders of human rights defenders have taken place, and that progress has been made towards clarifying the facts in 24 cases.⁵³³ For its part, between January 1 and September 31, the OHCHR reported 173 allegations of murders of human rights defenders, out of which 54 have been verified, 42 are under verification, and 77 are inconclusive.⁵³⁴

276. For its part, the MAPP/OAS has observed that this violence is targeted at those who expose and make visible the threats to their communities, the environment, the autonomy of collective territories, the rights of victims and the implementation of state strategies, such as the substitution of illicit crops, the Development Programs with a Territorial Approach (PDETs), land restitution processes and the search for

⁵²⁷ Risk Monitoring Mechanism of the Integral System for Peace, Government of Colombia, [Hechos violentos en Colombia](#), 2022. See also: *El Tiempo*, “[Denuncian reclutamiento forzado de tres menores en el Cauca](#),” April 18, 2022.

⁵²⁸ Children and Armed Conflict Observatory of COALICO (ONCA), [Boletín de monitoreo N° 29: Niñez y conflicto armado en Colombia](#), September 21, 2023.

⁵²⁹ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 25.

⁵³⁰ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 25.

⁵³¹ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 30–31.

⁵³² IACHR, [Resolution 43/2023](#), *Precautionary Measure No. 532-23 – David Estiven Fernández Soler regarding Colombia*, July 28, 2023. The Commission granted a precautionary measure in favor of David Estiven Fernández Soler, a young social activist and youth advisor in the Kennedy district who has been disappeared since June 7, 2023; IACHR, [Resolution 33/2023](#), *Precautionary Measure No. 903-22, David Mayorga Osorio and José Luis Moreno Álvarez regarding Colombia*, June 12, 2023. The Commission granted precautionary measures in favor of David Mayorga Osorio and José Luis Moreno Álvarez, members of the Integrated Corporation for the Defense of Human, Social, Political, Cultural, Environmental and Business Rights of Colombia (CORPOINDH), after having been the target of threats and harassment due to their investigations, denunciations and advice to the victims of the armed conflict, and for exposing the illicit activities carried out by armed groups operating in the Santander department and the Magdalena Medio region; IACHR, [Resolution 4/2023](#), *Precautionary Measure No. 931-22, Guillermo Andrés Mosquera Miranda et al. regarding Colombia*, February 6, 2023. The Commission also granted precautionary measures in favor of Guillermo Andrés Mosquera Miranda, his brother and his partner Nidia Marcela Montoya, peasant social leaders in the Cauca department, who have faced death threats from illegal armed groups, have been victims of forced displacement and have been subjected to acts of violence.

⁵³³ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 29.

⁵³⁴ OHCHR, [Homicidios de personas defensoras](#), September 2023.

persons reported disappeared.⁵³⁵ According to the United Nations Verification Mission, violence against these groups is concentrated in the Valle del Cauca, Nariño and Cauca departments.⁵³⁶

277. Despite the investigations conducted by the Office of the Attorney General (FGN), which from 2016 to September 2023 managed to elucidate 54.7 percent of cases,⁵³⁷ civil society organizations pointed out that impunity continued to be a structural cause of the persistence of these facts. These organizations also indicated that the results presented by the FGN were not convictions, but rather investigation breakthroughs usually focused on the perpetrators of the crimes.⁵³⁸ Representatives of the ONIC stated to the Commission that 90 percent of cases of violence against indigenous leaders remained unpunished.⁵³⁹

278. With regard to **persons deprived of liberty**, on February 6, a bill on the humanization of criminal and penitentiary policies was submitted so as to promote measures to ensure that the use of criminal law and criminal policies was reasonable. The State also provided data on the expansion of existing detention centers, as it increased their capacity to host 1,430 additional inmates between August 2022 and August 2023.⁵⁴⁰ Moreover, Law No. 2,292 of March 8, 2023 was enacted and regulated, allowing women heads of households convicted of certain crimes – including drug-related crimes – to have access to the alternative sentence of community service.⁵⁴¹ Likewise, the Constitutional Court issued a ruling that recognized people's right to social reintegration through work and educational activities.⁵⁴²

279. However, challenges still persist in terms of overcrowding; inadequate infrastructure; lack of water, electricity and health care; and difficulties in accessing administrative benefits or incentives.⁵⁴³ The overcrowding rate at temporary detention centers reportedly stands at 151 percent.⁵⁴⁴ The “North Police” and “South Police” centers of Bucaramanga are the most overcrowded, with rates of 1,260 percent and 642 percent, respectively.⁵⁴⁵ Prison staff is also at risk, considering that, between 2018 and 2023, at least 55 employees were reportedly murder victims.⁵⁴⁶

280. With regard to the fight against **torture**, Colombia has taken steps to ratify the bill on the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.⁵⁴⁷

281. With regard to the situation of **Afro-descendants and the fight against racial discrimination**, the State implemented assistance, attention, integral reparation and land restitution measures.⁵⁴⁸ For that purpose, it created the National Intersectoral Commission for Historical Reparation for

⁵³⁵ MAPP/OAS, *Thirty-fourth Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS)* OEA/Ser.G CP/doc.5873/23, May 1, 2023, p. 11.

⁵³⁶ United Nations Verification Mission in Colombia, *Report of the Secretary-General* S/2023/701, September 26, 2023, para. 58.

⁵³⁷ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, p. 29.

⁵³⁸ Coalition of 67 international organizations which participated in the fourth Universal Periodic Review, *Situación de Derechos Humanos en Colombia 2018-2022. Informe de las plataformas y organizaciones internacionales para el Examen Periódico Universal – Colombia 2023*, March 1, 2023, para. 52.

⁵³⁹ National Indigenous Organization of Colombia (ONIC), “[Prevenir, juzgar y sancionar los crímenes contra la naturaleza y sus defensores étnicos, vital para la construcción de paz](#),” November 8, 2023.

⁵⁴⁰ Republic of Colombia, Information for the 2023 Annual Report MPC/OEA No. 1347/2023, October 23, 2023, pp. 94 and 99.

⁵⁴¹ See: Department of Public Function, Government of Colombia, [Law No. 2,292](#), March 8, 2023; and Department of Public Function, Government of Colombia, [Decree No. 1,451](#), September 4, 2023.

⁵⁴² *Colombia.com*, “[Corte Constitucional recuerda al Gobierno permitir trabajo en las cárceles a los presos](#),” August 29, 2023; Department of Legal Affairs, “[La Corte Constitucional se pronuncia sobre trabajo de presos en las cárceles del país](#),” August 29, 2023.

⁵⁴³ Office of the Ombudsperson, Government of Colombia, [Décimo tercer informe de contraste de seguimiento al Estado de Cosas Inconstitucional-ECI- en materia penitenciaria y carcelaria](#), May 17, 2023, p. 16.

⁵⁴⁴ Office of the Ombudsperson, Government of Colombia, “[Hacinamiento en centros de detención transitoria \(CDT\) pone en riesgo la vida e integridad de personas privadas de la libertad](#),” February 16, 2023.

⁵⁴⁵ Office of the Ombudsperson, Government of Colombia, “[Hacinamiento en dos Centros de Detención Transitoria de Bucaramanga está desbordado](#),” September 5, 2023.

⁵⁴⁶ Information provided to the IACHR by the Unitary Trade Union of Public Employees in the Colombian Prison System. In IACHR files, July 11, 2023.

⁵⁴⁷ Ministry of Foreign Affairs, Government of Colombia, “[En esta administración nos hemos trazado poner por encima de cualquier otra consideración los Derechos Humanos: Canciller Álvaro Leyva Durán](#),” February 7, 2023.

⁵⁴⁸ Republic of Colombia, Information for the 2023 Annual Report, MPC/OEA No. 1347/2023, October 23, 2023, p. 31.

the consequences of slavery and colonialism. In Medellín, at the end of 2023, 151 victims were awarded symbolic and economic reparation.⁵⁴⁹ In addition, the international responsibility of the State was established in the case of the Afro-descendant communities displaced from the Cacarica river basin, in Chocó.⁵⁵⁰

282. The State also adopted measures to strengthen the community councils for the municipalities of San Antonio and El Castillo with the purpose of implementing the ethnically differential approach in the area of health,⁵⁵¹ and granted collective deeds to the Ma Kankamaná Community Council, in San Basilio de Palenque.⁵⁵² Furthermore, the first Afro-Colombian mobile justice day was held, which is an initiative that recognizes the ancestral justice system of ethnic peoples.⁵⁵³

283. However, the Commission learned that the State Council still had to decide whether to uphold the ruling of the Administrative Court of Bolívar, which had rendered the collective deeds of the Community Council of La Boquilla null and void. This could have a negative impact on the land rights of black communities.⁵⁵⁴ Soon afterwards, the Community Council of La Plata, in Bahía Málaga, Buenaventura, reported the constant threats from armed groups that they were facing.⁵⁵⁵

284. With regard to **LGBTI persons**, the First Commission of the House of Representatives made progress in the recognition of their rights by approving a bill seeking to prohibit the so-called “conversion therapy.”⁵⁵⁶ Furthermore, the Constitutional Court published Ruling C-324, which establishes that trans men and non-binary persons are also entitled to postpartum leaves.⁵⁵⁷ In this regard, the data from the first voluntary registry for the visibility of sexual diversity, created by the National Administrative Department of Statistics of Colombia (DANE), was published, which provided insights on the educational level and employment relations of LGBTI persons, as well as on their status as victims in the armed conflict.⁵⁵⁸ In this regard, the Commission was informed about the issuance of Directive 0006 of October 9, which establishes guidelines on the investigation and processing of cases of violence based on sexual orientation and/or gender identity.⁵⁵⁹

285. Furthermore, according to information provided by the State, between January 1 and August 30, 93 intentional murders of LGBTI persons had been recorded in 23 country divisions.⁵⁶⁰ In the Atlántico area, based on data collected by the civil society, 10 murders had been recorded.⁵⁶¹ In addition, as of September, the Office of the Ombudsperson had handled 43 cases of political violence based on gender and prejudice. Out of these, 42 involved women candidates, including three lesbian women and three trans women, as well as a gay man.⁵⁶²

⁵⁴⁹ *Telemedellín*, “[151 víctimas afrodescendientes de Medellín recibieron reparación.](#)” May 31, 2023.

⁵⁵⁰ Ministry of Foreign Affairs, Government of Colombia, “[El Estado colombiano pide perdón a las víctimas del caso ‘Comunidades Afrodescendientes Desplazadas de la Cuenca del Río Cacarica \(Operación Génesis\) vs. Colombia.’](#)” March 21, 2023.

⁵⁵¹ Republic of Colombia, Information for the *2023 Annual Report*, MPC/OEA No. 1347/2023, October 23, 2023, p. 32.

⁵⁵² *Caracol Radio*, “[Consejo Comunitario Ma Kankamaná de Palenque recibió su titulación colectiva.](#)” October 21, 2010.

⁵⁵³ *El Espectador*, “[La justicia ancestral afro se tomó Caloto \(Cauca\) para solucionar sus conflictos.](#)” May 24, 2023.

⁵⁵⁴ *El Universal*, “[La Boquilla en riesgo de despojo: Consejo de Estado decidirá el futuro de la comunidad.](#)” March 27, 2023.

⁵⁵⁵ *El Tiempo*, “[Líderes afro de Buenaventura piden protección al Gobierno ante nuevas amenazas.](#)” July 12, 2023.

⁵⁵⁶ *El Espectador*, “[Proyecto contra ‘terapias de conversión’ fue aprobado en primer debate en Cámara.](#)” June 13, 2023; *Infobae*, “[Ministro de Justicia afirmó que las ‘terapias de conversión’ en la comunidad LGBTI+ son ‘un método de tortura.’](#)” September 9, 2023.

⁵⁵⁷ *Ámbito Jurídico*, “[Licencias para la mujer en época de parto también aplicarán a hombres trans y personas no binarias.](#)” September 3, 2023; *Caribe Afirmativo*, “[Fallo histórico: hombres trans y personas no binarias con capacidad de gestar podrán acceder a licencia de maternidad.](#)” September 8, 2023.

⁵⁵⁸ *Infobae*, “[Más de 5 mil personas se autoidentificaron como LGBT+ en Colombia en el primer registro voluntario para la visibilidad de la diversidad sexual.](#)” July 6, 2023; DANE X account (@DANE_Colombia),

“[¡Lanzamos una nueva #NotaEstadística sobre el Registro Voluntario para la Visibilidad de la #DiversidadSexual y de #Género en #Colombia!](#)” July 2, 2023; DANE, [Nota estadística sobre registro voluntario para la visibilidad de la diversidad sexual y de género en Colombia](#), 2023.

⁵⁵⁹ Republic of Colombia, Information for the *2023 Annual Report*, MPC/OEA No. 1347/2023, October 23, 2023, p. 74.

⁵⁶⁰ Republic of Colombia, Information for the *2023 Annual Report*, MPC/OEA No. 1347/2023, October 23, 2023, p. 74.

⁵⁶¹ *Infobae*, “[Van 10 homicidios de personas de la comunidad LGBTIQ+ en el Atlántico con el asesinato de Luis Felipe Rolón Villegas.](#)” August 2, 2023.

⁵⁶² *SWI swissinfo.ch*, “[Defensoría colombiana atendió 43 casos de violencia política de género en septiembre.](#)” October 25, 2023.

286. With regard to **memory, truth and justice**, the State informed about several efforts and advances made by the National Center for Historical Memory, which included the following, among others: the design of a strategy to analyze and spread the legacy of the Truth Commission (CEV); technical assistance to the Special Jurisdiction for Peace (JEP) in matters of commemoration and symbolic reparation during the development of sanctions and compensation measures; territorial diagnostic dialogues for the creation of a public policy on memory and truth; the conduction of investigations relating to historical memory; the implementation of precautionary measures ordered by the JEP and of symbolic reparation measures granted through administrative, judicial and international proceedings; steps to obtain files from several entities and organizations, thus achieving progress in the recording and examination of information relating to human rights violations and to international humanitarian law.⁵⁶³ The State also submitted information about the actions of the Observatory of Memory and Conflict, the different elements that make up the Museum of Memory of Colombia and the territorial processes of memory reconstruction. According to the State, there were 68 work plans associated with historical memory initiatives in progress in 21 departments and in more than 60 municipalities of Colombia. The Commission takes note of the publication of the first report by the Follow-up and Monitoring Committee for the Implementation of the Recommendations of the CEV Report.⁵⁶⁴

287. With regard to the JEP, the Commission adopted and began the implementation of the Work Plan 2023-2024 within the framework of the Technical Cooperation Agreement with this entity.⁵⁶⁵ The State informed about the progress made in macrocases, in the implementation of precautionary measures and in the issuance of reparation orders to the Victim Assistance and Comprehensive Reparation Unit (UARIV).⁵⁶⁶ In this regard, the Commission welcomed the opening of Macrocase No. 11 by the JEP. Said macrocase concerns the investigation of gender-based violence, including sexual and reproductive violence, as well as the crimes based on prejudice that were committed in the context of the armed conflict.⁵⁶⁷ The State also indicated that the National System for the Search for Disappeared Persons had been created with the aim of fostering coordination and cooperation efforts between the different state entities that are involved in search proceedings, and of enabling the design of a comprehensive policy. The drafting of its regulatory decree is currently underway.⁵⁶⁸ Furthermore, the State informed about the processes established for the search and dignified delivery of the remains of the victims of forced disappearance and murder in the context of the armed conflict, which were conducted by the UARIV. As a result of said processes, 280 direct victims were returned with dignity. These returns involved 554 relatives between January and August 31.⁵⁶⁹ At the same time, the Commission commended the progress made in the legislative processing of Bill No. 242 of 2022, which recognizes and comprehensively protects the work and the rights of women and persons who search for victims of forced disappearance.

288. The State emphasized the challenge of directly guaranteeing the right to integral reparation for the victims of the armed conflict when it comes to operation and budget through an adequate and timely coordination between the transitional justice systems and the UARIV. For that purpose, the relevant entities have signed and implemented agreements. The State also reported on the steps taken by the UARIV and underscored, among others, the symbolic reparation through 10 actions or acts of commemoration with 86 victims between January and August 30, 2023; the participation of 24,651 people in different emotional recovery strategies; and the community rehabilitation measures for 21 collective reparation subjects.⁵⁷⁰

⁵⁶³ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the *2023 Annual Report of the IACHR*, January 1 - August 31, 2023, pp. 82-91.

⁵⁶⁴ Follow-up and Monitoring Committee for the Implementation of the Recommendations of the CEV Report, [First report by the Follow-up and Monitoring Committee for the Implementation of the Recommendations of the CEV Report](#), July 2023.

⁵⁶⁵ JEP, Communication No. 073, "[JEP y CIDH firman plan de trabajo](#)," June 29, 2023.

⁵⁶⁶ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the *2023 Annual Report of the IACHR*, January 1 - August 31, 2023, pp. 82-91.

⁵⁶⁷ JEP, Communication No. 112, "[La JEP abre macrocaso 11, que investiga la violencia basada en género, incluyendo violencia sexual y reproductiva, y crímenes cometidos por prejuicio](#)," September 27, 2023.

⁵⁶⁸ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the *2023 Annual Report of the IACHR*, January 1 - August 31, 2023, pp. 53-58.

⁵⁶⁹ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the *2023 Annual Report of the IACHR*, January 1 - August 31, 2023, pp. 53-58.

⁵⁷⁰ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the *2023 Annual Report of the IACHR*, January 1 - August 31, 2023, pp. 53-58 and 82-91.

Furthermore, with regard to Law No. 975 of 2005, 76 sentences were executed, which has led to several orders for the UARIV relating to reparation measures.⁵⁷¹

289. With regard to the rights of **older persons**, the State submitted information about the intersectional adoption of an age-based approach to the 2022-2026 National Development Plan⁵⁷² and to the state reparation policies for the emotional recovery of the victims of the armed conflict.⁵⁷³ In addition, the State indicated that, since 2022, its 2022-2032 National Public Policy on Aging and Old Age (PPNEV) has been in force. The State added that, in 2023, it made progress in reducing the economic dependence of the elderly, in fostering social inclusion and citizen participation for older people, and in adopting measures to ensure that they live a life free of violence.⁵⁷⁴

290. For its part, the Commission noted that there were restrictions on the access to a decent pension through the Colombian pension system, which covers 25.5 percent of older persons.⁵⁷⁵ As for their situation, according to reports, 24.7 percent of older adults declared that they had not eaten three daily meals in April 2023, and 28.4 percent lived in poverty.⁵⁷⁶

XI. COSTA RICA

• General considerations

291. As it relates to **progress**, the Commission acknowledges the information submitted concerning the adoption of several measures to enhance access to justice for different population groups. The Commission also welcomes the promotion of bills for the protection of LGBTI persons, as well as the implementation of the National Policy on Aging and Old Age.

292. With regard to **challenges**, the Commission notes the persistence of reports about practices and bills that reportedly affect the independence of the judiciary. Among these are the absence of clear and objective criteria in selection and appointment processes for justice operators, the lack of measures to promote the participation of women, and the lack of citizen participation mechanisms. In addition, the Commission is concerned about the challenges resulting from the significant increase in mixed south-north migration movements across the country.

293. The State submitted a response to the Commission's request for information to prepare this chapter.⁵⁷⁷

• Specific issues

294. With regard to **democratic institutionalism**, the State of Costa Rica sent the Commission a report indicating that, according to Article 9 of its Political Constitution, the government of the Republic is popular, representative, alternating and responsible. The government is exercised by three different and independent powers: the legislative, the executive and the judicial branches.⁵⁷⁸ In addition, there is a Supreme Electoral Tribunal (TSE), whose duties are set out in Article 99 of the Political Constitution: "the Supreme Electoral Tribunal is exclusively responsible for the organization, direction and supervision of all actions

⁵⁷¹ State of Colombia, Diplomatic Note MPC/OEA No. 1347/2023, October 23, 2023, Information for the 2023 Annual Report of the IACHR, January 1 - August 31, 2023, pp. 82-91.

⁵⁷² Republic of Colombia, Information for the 2023 Annual Report, MPC/OEA No. 1347/2023, October 23, 2023, p. 17.

⁵⁷³ Republic of Colombia, Information for the 2023 Annual Report, MPC/OEA No. 1347/2023, October 23, 2023, pp. 51 and 55.

⁵⁷⁴ Republic of Colombia, Information for the 2023 Annual Report, MPC/OEA No. 1347/2023, October 23, 2023, p. 78.

⁵⁷⁵ *La República*, "En Colombia solo 25,5% de los adultos mayores cuenta con un acceso a pensión," June 21, 2023.

⁵⁷⁶ *El País*, "El 29% de las mujeres y el 33% de los adultos mayores dicen comer menos de tres veces al día en Bogotá," April 24, 2023.

⁵⁷⁷ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the 2023 Annual Report. Chapter IV.A., October 25, 2023. In IACHR files.

⁵⁷⁸ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the 2023 Annual Report. Chapter IV.A., October 25, 2023, p. 3. In IACHR files.

related to voting, and exercises its function as an independent entity. All other electoral bodies are subordinated to said tribunal.”⁵⁷⁹

295. The State of Costa Rica indicated that, on March 29, 2023, the TSE submitted to the Legislative Assembly a set of reforms aimed at strengthening the electoral system, which covered the financing of political parties and representation, and the regulation of digital platforms.⁵⁸⁰ In September 2023, the Legislative Assembly approved the creation of a new commission to examine said reforms.⁵⁸¹

296. The Commission also received information about the weakening of judicial independence in Costa Rica as a result of the passing of several laws in recent years⁵⁸² and the reduction of the budget for the judiciary.⁵⁸³ In particular, in 2023, civil society organizations denounced the submission of a bill to reform Article 158 of the Constitution, which would limit the reelection of judges to only one additional term and reduce the term of office to five years. These reforms would clash with the need to guarantee that justice operators are not arbitrarily removed from office.⁵⁸⁴ Furthermore, the Commission received information indicating that challenges still persisted in the processes for the selection and appointment of justice operators due to the lack of procedures in line with international standards on the matters and to the delay in the designation of four officials of the Supreme Court of Justice.⁵⁸⁵

297. With regard to **human rights institutions**, the State of Costa Rica indicated that it “[played] a leading role at the international level in human rights matters, which [required] the State to play an active role, both in complying with ratified treaties on human rights and in promoting them nationwide and internationally.”⁵⁸⁶ In this vein, the State informed the Commission about the work and the structure of the Interinstitutional Commission for the Monitoring and Implementation of International Human Rights Obligations (CIDDHH), created in 2011.⁵⁸⁷ The State also put emphasis on the following measures, among others: the participation of Costa Rica as cohost at the Second Summit for Democracy, held in March 2023, and

⁵⁷⁹ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, p. 3. In IACHR files.

⁵⁸⁰ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, p. 5. In IACHR files.

⁵⁸¹ Legislative Assembly, Special Commission 23,949 (electoral reforms) was created to study, analyze, design and rule on bills related to the institutional structure and the political and electoral system of Costa Rica, as well as any other reform it considers relevant, September 20, 2023.

⁵⁸² Among these, the reform to the judiciary pension scheme (2017), the Law to Strengthen Public Finance (2018), the Public Employment Framework Law (2022) that grants power to the executive branch to exercise a direct influence over administrative matters of the judiciary. See also: Cyrus R. Vance Center for International Justice and Federación Centroamericana de Jueces por la Democracia, *Diagnóstico sobre el Sistema Judicial en Centroamérica y el Caribe*, Costa Rica, March 2023. In IACHR files; IACHR, 186th regular period of sessions, public hearing “Threat to judicial independence in Central and South America,” March 10, 2023.

⁵⁸³ In 2023, the budget for the judiciary was allegedly reduced by over 7.8 billion colones. Cyrus R. Vance Center for International Justice and Federación Centroamericana de Jueces por la Democracia, *Diagnóstico sobre el Sistema Judicial en Centroamérica y el Caribe*, Costa Rica, March 2023, p. 9. In IACHR files.

⁵⁸⁴ CEJIL, “[Costa Rica: Reforma constitucional para reelección de magistraturas atenta contra la independencia judicial](#),” January 24, 2023. *Semanario Universidad*, “[Dictaminan proyecto que limita reelección de magistrados de Poder Judicial a única vez](#),” March 1, 2023; IACHR, 186th regular period of sessions, public hearing “Threat to judicial independence in Central and South America”, March 10, 2023.

⁵⁸⁵ According to information available in the public domain, on August 28, 2023, a tenured judge was assigned to the First Division. Three other appointments are still pending: one judge for the First Division, as a result of William Molinari’s resignation; one judge for the Constitutional Division that Nancy Hernández left when she took over as judge of the Inter-American Court of Human Rights; and one judge for the Third Division, due to the death of Álvaro Burgos Mata. All these positions have remained vacant beyond the constitutional period of 30 calendar days, thus not complying with the constitutional term set forth in Article 163. CEJIL, “[Foro de Justicia insta a la asamblea legislativa a cumplir con igualdad de género y estándares internacionales en los nombramientos de magistratura](#),” September 14, 2023; *El Observador*, “[Diputados tienen pendiente la elección de cuatro magistrados de la Corte Suprema de Justicia](#),” August 2, 2023; *Delfino.cr*, “[Jorge Leiva Poveda electo magistrado de la Sala Primera por unanimidad](#),” August 28, 2023. Also: IACHR, 186th regular period of sessions, public hearing “Threat to judicial independence in Central and South America,” March 10, 2023.

⁵⁸⁶ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, p. 8. In IACHR files.

⁵⁸⁷ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, p. 8. In IACHR files.

the coordination of the Group of Friends of Freedom of Expression and Journalism (GALEP) of the OAS since March 2023.⁵⁸⁸

298. In this context, in 2023, the Commission took note of the concluding observations of the United Nations Independent Expert on human rights and international solidarity about Costa Rica, who highlighted the “long-standing tradition of international human rights solidarity at the international, regional and national levels,”⁵⁸⁹ of Costa Rica and its “strong and long-standing emphasis on multilateralism in the country’s foreign policy, which has allowed Costa Rica to stand out as a safe and peaceful beacon in a region with a troubled history.”⁵⁹⁰ The Independent Expert underscored that international cooperation is a fundamental part of the country’s foreign policy, which translates into the numerous efforts to advance international human rights solidarity locally and around the world. This commitment is consistent with Article 74 of the Constitution.⁵⁹¹ Finally, the Independent Expert added that “Costa Rica has a long, globally recognized tradition of peace and respect for human rights and attachment to the values of democracy and freedom.”⁵⁹²

299. With regard to the cross-cutting issue of **citizen security**, in a report submitted to the Commission, the State of Costa Rica acknowledged that it faced challenges in this area.⁵⁹³ Based on the information provided, in 2022, a murder rate of 12.5 per 100,000 inhabitants was documented, with approximately 650 murders, which constitutes the highest rate ever recorded in the country. The State indicated that this trend was expected to continue and to set a new historical record in 2023.⁵⁹⁴ The Commission notes that, between January and June 2023, 442 intentional murders were recorded, that is, 113 more murders than in the same period in 2022.⁵⁹⁵ In this regard, the State held that many reasons could explain the situation, including “the penetration of organized crime in the country.”⁵⁹⁶ According to the State, the Ministry of Public Security was developing measures to address and reduce these crime figures, such as: specific plans to fight the power of drug trafficking;⁵⁹⁷ the strengthening of public forces; violence prevention measures, in particular through the project “Sembremos Seguridad” (Let’s Sow Security); and the technological modernization of the Ministry of Security.⁵⁹⁸

300. The Commission acknowledges the steps taken by the State of Costa Rica in this regard. In accordance with the 2023 Joint Declaration for Security with Human Rights and Judicial Guarantees in the Americas, the Commission recalls the need to apply security policy models with a human rights approach that preserve democracy and the Rule of Law, and which combat organized crime in an ethical and legal manner. These models must take a preventive approach and address the underlying causes of organized crime in a way that includes alternatives and opportunities for populations who have historically experienced exclusion or discrimination, and who are disproportionately impacted by organized crime, such as children, adolescents

⁵⁸⁸ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, p. 6. In IACHR files.

⁵⁸⁹ United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1. May 18, 2023, para. 35.

⁵⁹⁰ United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1. May 18, 2023, para. 35.

⁵⁹¹ United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1. May 18, 2023, para. 36.

⁵⁹² United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1. May 18, 2023, para. 42.

⁵⁹³ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023. In IACHR files.

⁵⁹⁴ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023. In IACHR files.

⁵⁹⁵ United Nations Development Programme (UNDP) and the United States Agency for International Development (USAID), Infosegura Regional Project. [Analysis of intentional homicide in Costa Rica. January–June 2023](#), November 9, 2023.

⁵⁹⁶ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023. In IACHR files.

⁵⁹⁷ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023. In IACHR files.

⁵⁹⁸ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023. In IACHR files.

and young people; Afro-descendant and indigenous peoples and communities; women and older persons, among others.⁵⁹⁹

301. With regard to **access to justice and judicial independence**, the State of Costa Rica underscored the work of the judiciary and the operation of the Commission on Access to Justice through several subcommissions, which were created to ensure the rights of indigenous peoples, older persons, migrants and refugees, children and adolescents, persons with disabilities, persons deprived of liberty, LGBTIQ+ people, youth criminals and Afro-descendants.⁶⁰⁰ However, the Commission has not received updated information on the steps taken on this subject or the progress made.

302. On the rights of **indigenous peoples** in Costa Rica, the Commission takes note of the racism and xenophobia suffered by indigenous peoples living in the country, which was detected by the Special Rapporteur on the right to physical and mental health, Tlaleng Mofokeng. This fact limits the right to health of indigenous peoples, impacts social cohesion and enables systemic violence.⁶⁰¹

303. Regarding the **rights of women**, the Commission takes note of the measures adopted by the State in 2023 to fight gender-based violence and to move forward with equality without discrimination, which include the following: the launch of the 2023-2026 Gender Route, a national strategy to combat assault and sexual harassment against women; the continuity of attention and protection policies and programs for victims of gender-based violence;⁶⁰² the creation of the Program for Skilled Care during Pregnancy, Birth and Postpartum, with a focus on women, the birthing family and cultural sensitivity, and which will be implemented in maternity hospitals attached to the Costa Rican Social Security Fund (CCSS); the launch of the First National Action Plan on Gender Equality in Climate Action, which seeks to mitigate and adapt to the effects of climate change within a framework of equality between men and women; and the creation of the 2023-2026 Interinstitutional Agenda on Paid Domestic Work, which seeks to enhance the protection of the labor rights of these workers.⁶⁰³

304. The Commission also notes the persistence of gender-based violence against women, in particular, femicides, disappearances and sexual violence, which affect especially indigenous women, women living in remote rural areas and/or women in situation of human mobility.⁶⁰⁴ In addition, considering the levels of cross-border migration, the Commission observes that human trafficking is a latent risk that affects especially women and girls.⁶⁰⁵ Likewise, the Commission is concerned over the fact that the criminalization of the voluntary termination of pregnancy persists, except in cases in which the life of the pregnant person is in danger.⁶⁰⁶

305. With regard to **persons in the context of human mobility**, the State reported that Costa Rica was reportedly seeing a significant increase in mixed south-north migration movements across the country,

⁵⁹⁹ IACHR, Press Release No. 267/23, "[Joint Declaration for Security with Human Rights and Judicial Guarantees in the Americas](#)," Washington, D.C., November 15, 2023.

⁶⁰⁰ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A., October 25, 2023, pp. 12-21. In IACHR files.

⁶⁰¹ United Nations Human Rights Council's Special Procedures, [UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Preliminary observations](#). San José, Costa Rica, July 31, 2023.

⁶⁰² In particular, the different services offered by the National Institute of Women (INAMU); the emergency kit for adult women at risk of death from domestic violence; the national strategy for the identification of women affected by violence in areas of difficult access to ensure access to the available specialized and interdisciplinary services for them; local attention and prevention networks; and the rapid response team program that provides comprehensive care for rape victims. Ministry of Foreign Affairs and Worship of Costa Rica, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*, Chapter IV.A, n/d, pp. 24-26. In IACHR files.

⁶⁰³ Ministry of Foreign Affairs and Worship of Costa Rica, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*, Chapter IV.A, n/d, pp. 24-31. In IACHR files.

⁶⁰⁴ CEDAW Committee, [Concluding observations on the eighth periodic report of Costa Rica](#) CEDAW/C/CRI/CO/8, March 2, 2023, para. 23; United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity. Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1, May 18, 2023, paras. 82 and 83.

⁶⁰⁵ United Nations Human Rights Council, 53rd session, Visit to Costa Rica, [Report of the Independent Expert on human rights and international solidarity. Obiora Chinedu Okafor](#) A/HRC/53/32/Add.1, May 18, 2023, para. 83.

⁶⁰⁶ The United Nations Special Rapporteur on the right to health has recently expressed her concern as well. UN News, "[Experta en derechos humanos pide a Costa Rica despenalizar el aborto](#)," July 31, 2023.

mainly involving Venezuelans. The State also expects that these movements will grow further and that it will receive up to 5,000 migrants in transit per day.⁶⁰⁷ Similarly, based on a report published by the International Organization for Migration (IOM) in February 2023, it is estimated that, as of December 31, 2022, there was a total of 231,847 refugee applicants in Costa Rica. Out of these, 88 percent reportedly were of Nicaraguan nationality, 4 percent Venezuelan, 1 percent Cuban and 1 percent Colombian, among others. In addition, there were allegedly 14,109 refugees. Out of these, 50 percent were Nicaraguans, 16 percent Colombians, 14 percent Venezuelans and 5 percent Cubans, among others.⁶⁰⁸

306. In this context, the Commission notes that, on April 17, 2023, it started the document reception process for persons from Cuba, Venezuela and Nicaragua, so that they could apply for a stay through the special temporary category,⁶⁰⁹ which is granted to people with pending or rejected applications for the recognition of refugee status.⁶¹⁰ The Commission also takes note of the presentation of the 2023-2027 National Integration Plan, which has set a roadmap and priorities for the integration of migrants, refugees, refugee applicants and returnees. Said plan relies on a cross-cutting gender approach and on the involvement of local governments and international bodies, as well as of sectors of society in migration governance.⁶¹¹ The Commission notes that Costa Rica and the United States have entered into an agreement to open a safe mobility office (SMO) targeted at Venezuelans and Nicaraguans, in accordance with the Los Angeles Declaration on Migration and Protection.⁶¹² According to official information, 1,000 people are expected to enter the United States by legal means.⁶¹³

307. Regarding the rights of **children and adolescents**, the Commission commends that, between 2021 and April 2023, 37 safe spaces were created for national and migrant children and adolescents in priority migrant destination communities, thus providing child protection, psychosocial assistance and learning recovery services for a monthly average of 2,800 children and adolescents at risk.⁶¹⁴

308. Furthermore, the Commission notes that, according to data from the Organisation for Economic Co-operation and Development (OECD), around 30 percent of children and adolescents in Costa Rica live in poverty and lack the resources to meet their basic needs.⁶¹⁵ The Commission is concerned about the content of Bill No. 23,691 “to adapt the response of the youth criminal justice system to the challenges of violent and organized crime” submitted in April 2023, which seeks to double the length of pretrial detention for youth criminals in cases relating to organized crime. This would constitute a setback in the area of youth crime.⁶¹⁶

309. With regard to the rights of **Afro-descendants and the fight against racial discrimination**, the Commission welcomes the measures adopted by the State of Costa Rica to protect the rights of Afro-descendants and tribal communities, particularly in the area of access to justice and inclusion in public policies. In this regard, the State informed about the continuing operation of the Sub-Commission on Access to Justice for the Afro-descendant Population, which provides translation services in districts where the concentration

⁶⁰⁷ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*, Chapter IV.A, October 2023, p. 32. In IACHR files.

⁶⁰⁸ IOM, *Contexto migratorio en Costa Rica y últimas tendencias. Reporte de situación*, February 2023, p. 2.

⁶⁰⁹ IACHR, *2020 Annual Report*, Chapter IV.A “Costa Rica”, para. 292. See also: General Directorate of Migration and Immigration of Costa Rica, “[Categoría Especial Temporal para personas nacionales de Cuba, Venezuela y Nicaragua con solicitudes de refugio pendientes o denegadas](#),” n/d.

⁶¹⁰ General Directorate of Migration and Immigration of Costa Rica, press release, “[Ciudadanos de Cuba, Venezuela y Nicaragua podrán optar por la Categoría Especial Temporal a partir del 1 de marzo](#),” February 28, 2023. General Directorate of Migration and Immigration of Costa Rica, press release, “[Inicia proceso de atención para la solicitud de la Categoría Especial Temporal](#),” April 19, 2023.

⁶¹¹ General Directorate of Migration and Immigration of Costa Rica, *2023-2027 National Integration Plan for Costa Rica (PNICR)*, 2023.

⁶¹² The White House, [Los Angeles Declaration on Migration and Protection](#), June 10, 2022.

⁶¹³ General Directorate of Migration and Immigration of Costa Rica, press release, “[Costa Rica se une a la apertura del proyecto Movilidad Segura \(OMS\)](#),” June 13, 2023.

⁶¹⁴ UNICEF, press release, “[Costa Rica impulsa que más niñas y niños y personas adolescentes acudan a 37 espacios seguros](#),” April 5, 2023.

⁶¹⁵ *La República*, “[Costa Rica tiene la pobreza infantil más alta de la OCDE](#),” March 27, 2023. See also: OECD Data, [Poverty rate](#), August 14, 2023; UNICEF, [Country programme document](#), January 3, 2023, p. 2.

⁶¹⁶ DNI Costa Rica, [Open letter](#), 2023. See also: *Digital 506*, “[Jornadas 4/3 y ley contra crimen organizado encabezan proyectos del gobierno](#),” May 5, 2023; *La Nación*, “[Juzgar a adolescentes como adultos?](#),” June 10, 2023.

of Afro-Costa Ricans whose native language is other than Spanish is higher. The State is also conducting research on the Afro-descendants' access to justice, their specific needs and the causes and expressions of racial discrimination and intolerance with the aim of gathering information that will lead to improvements in the judicial area.⁶¹⁷

310. Furthermore, the State informed about the assessment conducted on the 2014-2025 National Policy for a Society Free of Racism, Racial Discrimination and Xenophobia. In view of said assessment, and based on the recommendation provided, the State decided to design a coordinated strategy with other relevant public entities working in this area, so that it could serve as a guide and be developed based on the requirements of each group. The strategy will offer guidance to ensure the implementation of measures with the necessary human and economic resources.⁶¹⁸

311. Soon afterwards, the Commission received troubling information about threats of eviction and demolition of tribal Afro-descendant community homes in the district of Cahuita, in Limón, in their ancestral territories. The situation reportedly arose within the framework of the Coastal Regulatory Plan (PCR), which was implemented under Law No. 6043 of 1977.⁶¹⁹ On July 26, 2023, according to public sources, social protests were allegedly held by Afro-descendant and indigenous communities, who denounced that they had not involved nor consulted in the development of this project.⁶²⁰

312. With regard to the rights of **LGBTI persons**, the State of Costa Rica underscored that the national legislation ensured the right to a pension, to health care, to education and to work without discrimination. The State added that it ensured the access of LGBTI persons to social care programs with a comprehensive human safety perspective and to any applicable economic reactivation measures adopted to mitigate the impact of the Covid-19 crisis. Through its Commissioner for Social Inclusion, the State indicated that it had requested the creation of LGBTI+ institutional commissions to prevent institutional harassment on the basis of sexual orientation and that it was working on an assistance protocol for LGBTI+ victims of discrimination.⁶²¹

313. The Commission welcomes the submission of Bill No. 23,809, which seeks to recognize the rights of trans, gender-diverse and intersex persons.⁶²² The bill prohibiting "conversion therapy" is still under analysis.⁶²³ In addition, the Commission appreciates the ruling of the Second Chamber of the Supreme Court of Justice, which upheld in March a decision on the survivor's right to a pension in a case involving a same-sex couple.⁶²⁴

314. The Commission also warns of the submission of Bill No. 23,857, which seeks to "eliminate gender ideology," to ban gender-affirming treatment for trans young people and to prevent them from using toilets based on their gender identity and from participating in sports competitions. The Commission notes that

⁶¹⁷ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*, Chapter IV.A, pp. 20 and 21. In IACHR files.

⁶¹⁸ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR for the *2023 Annual Report*. Chapter IV.A, p. 27. In IACHR files.

⁶¹⁹ IACHR Article 41 Letter Request regarding the Afro-descendant communities of the district of Cahuita, Costa Rica, which were affected by possible demolitions and evictions, addressed to Commissioner Margarette M. Macaulay and Executive Secretary Tania Reneaum, September 18, 2023. In IACHR files, Early Warning Letter regarding the risk of forced eviction of residents and the risk of demolition of tribal heritage homes in Cahuita, Limón, Costa Rica, addressed to Commissioner Margarette M. Macaulay on October 25, 2023.

⁶²⁰ *Delfino.cr*, "[Limonenses reclaman por la no participación ciudadana en Plan Regulador Costero](#)," July 26, 2023.

⁶²¹ Office of the Director General of Foreign Policy of the Ministry of Foreign Affairs and Worship, Report of Costa Rica requested by the IACHR, pp. 28 and 29. In IACHR files.

⁶²² *Semanario Universidad*, "[Nuevo proyecto de ley busca atender deuda en salud con personas trans e intersex](#)," June 26, 2023; *Delfino.cr*, [File No. 23,809, Law for the recognition of trans, nonbinary, gender-diverse and intersex identities](#), base text, June 22, 2023 (accessed on October 3, 2023).

⁶²³ *La República*, "[Diputados pedirán ayuda a la ONU para proyecto que prohíbe terapias de conversión sexual](#)," February 6, 2023.

⁶²⁴ *Elmundo.cr*, "[David Segura presenta proyecto para eliminar la ideología de género de todas las políticas públicas](#)," August 3, 2023; *Semanario Universidad*, "[Transfóbico proyecto de ley amenaza políticas del poder judicial contra la discriminación](#)," October 26, 2023.

said law would limit teaching of the gender-equality perspective, as well as the rights of trans and gender-diverse people.

315. With regard to the rights of **older persons**, the Commission became aware of the implementation of the new National Policy on Aging and Old Age, whose main goal is to reduce human rights violations and development gaps affecting the elderly.⁶²⁵ For example, 154,101 older persons have incomes below the family market basket.⁶²⁶

XII. DOMINICA

• General considerations

316. As it relates to **progress**, the Commission highlights the efforts made by the State regarding electoral system reform, the election of the first woman and indigenous person as the President of Dominica and the passage of a new Domestic Violence Act aiming to provide greater protection for victims of domestic violence.

317. In relation to **challenges**, the Commission notes with concern issues regarding protracted pretrial detentions, and the location of incarcerated persons with psychosocial disabilities together with general detainees.

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

• Specific issues

319. With respect to **democratic institutional**ity, the Commission saluted the appointment of H.E. Mrs. Sylvanie Burton as the President of the Commonwealth of Dominica, being the first woman and indigenous person elected to such position⁶²⁷, and efforts made by the State regarding electoral reform⁶²⁸. On June 17, 2023, the final report for the review of the State's electoral system was presented to the Prime Minister. In particular, a draft Regulations of Elections Bill, a draft House of Assembly (Elections) Bill, a draft House of Assembly (Electors) Regulations, a draft House of Assembly Elections Petitions Rules, and a draft Electoral Commissions Bill⁶²⁹. The report was presented to various groups and organizations including CSOs, media houses, churches, political parties, trade unions, among others⁶³⁰. Note is also taken of a series of public consultations on the review of the electoral system in the State conducted by Sir Dennis Byron, who was appointed by the State to advise on electoral reform. Representatives from the OAS, the Commonwealth, CARICOM and the OECS, were also invited to participate, on the invitation of the Prime Minister⁶³¹.

320. With respect to **human rights institutions**, the IACHR once again notes that the State has not yet established a national human rights institution in accordance with the Paris Principles⁶³². The IACHR reemphasizes the necessity of establishing an independent body at the national level for the promotion and protection of human rights.

⁶²⁵ *La República*, "[Proteger los derechos de los adultos mayores busca nueva Política Nacional de Envejecimiento y Vejez](#)," October 2, 2023.

⁶²⁶ *La República*, "[Proteger los derechos de los adultos mayores busca nueva Política Nacional de Envejecimiento y Vejez](#)," October 2, 2023.

⁶²⁷ IACHR [@CIDH], October 12, 2023, [[Tweet](#)], Twitter; Dominica News Online, [Update: Historic election of first female and Kalinago head of state](#), September 27, 2023

⁶²⁸ IACHR, [Annual Report, Chapter IV.A "Dominica"](#), 2022, para. 312.

⁶²⁹ Dominica News Online, [[Press Release](#)] [Prime Minister Roosevelt receives final report from Sir Dennis Byron following review of Dominica's electoral system](#), June 17, 2023.

⁶³⁰ Dominica News Online, [PM urges cross-sectional approach to managing of electoral reform](#), June 22, 2023.

⁶³¹ Dominica News Online, [Public consultation on electoral reform commence on Monday August 14, 2023](#), August 6, 2023.

⁶³² IACHR, [Annual Report, Chapter IV.A "Dominica"](#), 2022, para. 318.

321. Regarding **citizen security**, the IACHR takes note of the recorded homicides for the year, and the State's efforts to reduce crime. According to public information, the State recorded 14 homicides as of September 2023⁶³³. This indicates that the State's homicide rate for 2023 was 23.4 per 100,000 inhabitants which is relatively high when measured against the State's population⁶³⁴.

322. The Commission further notes that in September 2023, the State announced a one-month gun amnesty to surrender illegal firearms and ammunitions. This initiative is part of the government's commitment to ensure the safety and security of citizens. After the amnesty period ends the government intends to strengthen guns and bail Acts significantly⁶³⁵.

323. Regarding **access to justice**, the Commission observes efforts to modernize the Supreme Court. Specifically, the E-Litigation portal of the Eastern Caribbean Supreme Court was introduced in July 2023, and is expected to bring advantages to the magistracy of the State as it may transform the management of civil proceedings by providing electronic document filing and service. Also, the platform is expected to enhance efficiency and effectiveness of court services and improve access to justice⁶³⁶.

324. Regarding the rights of **women**, the IACHR notes that a new Domestic Violence Act was approved in Parliament, aiming to provide greater protection for victims of domestic violence and for the granting of protection orders to promote their safety⁶³⁷. In addition, it takes note of the creation of a subunit of the Criminal Investigations Unit of the Commonwealth of Dominica Police Force (CDPF) focused solely on reports of domestic violence and child abuse⁶³⁸.

325. On the other hand, the IACHR is concerned about alleged highly revictimizing practices in the investigation processes of sexual offenses employed by members of the CDPF. According to public information, a confrontation between complainant and defendant is held by the police, usually at the alleged crime scene, where the alleged victim is asked to repeat their allegations in the presence of the defendant⁶³⁹.

326. Regarding the rights of **children**, the Commission takes note of the enactment of the Status of Children Act and the Maintenance of Children Act, concerning the protection of children and alimony, respectively. These Acts are part of the Model Family Law Bills introduced in Parliament to improve the situation of groups at risk. The Commission also notes that Bills on adoption and alternative care, juvenile justice, and domestic violence are still being debated⁶⁴⁰. In addition, the IACHR learned of the launch of the Opportunities to Advance and Support Youth for Success project, in which Antigua and Barbuda, Grenada, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines also participate, which seeks to promote a shift from punitive measures to rehabilitation and restorative justice in order to reduce recidivism rates and promote positive trajectories for adolescents in conflict with the criminal law⁶⁴¹.

327. As for **persons deprived of liberty**, the Commission expresses its concern surrounding pretrial detention, and the situation of inmates with psychosocial disabilities. According to public information, as of June there was a total of 240 inmates in the Dominica State Prison, 119 of which are under pretrial detention. The length of time spent on pretrial is posing a severe challenge, as space at the Prison is limited. Reported data also noted that there are 35 inmates with psychosocial disabilities who are kept among the

⁶³³ Dominica News Online, [Double Homicide in Rosseau, Dominica's homicide toll at 14 for 2023](#), September 23, 2023.

⁶³⁴ The IACHR calculated the homicide rate based on the State's population of 72,737 according to data from The World Bank, [Population, total - Dominica](#), 2022.

⁶³⁵ Dominica New Online, [Government announces one month gun amnesty to surrender illegal firearms and ammunition](#), September 29, 2023.

⁶³⁶ GIS Dominica, [E-Litigation Portal launched](#), July 17, 2023.

⁶³⁷ Dominica News Online, [New Domestic Violence Act approved in Parliament](#), April 26, 2023.

⁶³⁸ Dominica News Online, [New Bills to be introduced at Parliament, focus on welfare of vulnerable groups](#), April 25, 2023.

⁶³⁹ Dominica News Online, [Resident judge encourages police investigators to revise method of investigation in sexual offenses](#), March 29, 2023.

⁶⁴⁰ Associates Times, [PM Roosevelt Skerrit to present family bills in Parliament on April 25](#), April 22, 2023.

⁶⁴¹ Organization of Eastern Caribbean States, [Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis](#), July 11, 2023.

general population, as currently the facility does not have a mental health wing. The Commission also notes that an expansion of the remand center is ongoing and is expected to be completed by the end of 2023⁶⁴².

328. Concerning the **death penalty**, the IACHR once more notes that Dominica continues to retain the death penalty even though no execution has been carried out since 1986⁶⁴³. The Commission further notes that, as of May 2023, no one was on death row in the State⁶⁴⁴, and no progress has been made in removing this form of punishment from domestic law.

XIII. ECUADOR

- **General considerations**

329. The Commission underscores the **progress** made in the area of human rights in Ecuador, which includes the enactment of the Law on the Right to Human Care and initiatives to ensure access to justice for LGBTI persons. The Commission also highlights the approval of regulatory frameworks to fight human trafficking and the efforts made to foster the political participation of women, older persons and Afro-descendants. In addition, as a result of the cooperation agreement aimed at strengthening capacities for the promotion, defense and protection of the rights of persons deprived of liberty, a work plan was created, which includes a series of specific measures for its implementation.

330. Notwithstanding the foregoing, the situation of human rights in Ecuador continues to be seriously affected by the **challenges** in citizen security arising from organized crime, especially in relation to the violence suffered by people involved in political activities or who hold public office. This violence not only hinders the work of public officials and the exercise of political rights, but it also represents a significant threat to democracy and the Rule of Law.

331. In September 2023, the State submitted a response to the Commission's request for information to prepare this chapter.⁶⁴⁵

- **Specific issues**

332. In 2023, the situation of **democratic institutionalism** was marked by the decision of the president of the Republic to dissolve the National Assembly by virtue of Article 148 of the Constitution. This measure was adopted based on a perceived serious political crisis and internal social unrest,⁶⁴⁶ especially in the context of the impeachment proceedings initiated by the Assembly against state ministers and the president.⁶⁴⁷ After the dissolution of the National Assembly, the president was only able to issue decree-laws on urgent economic matters, which had to be previously authorized by the Constitutional Court (CC).⁶⁴⁸ As of September, the CC had only approved two of the seven decree-laws that had been submitted.⁶⁴⁹

⁶⁴² Dominica News Online, [Remand and mentally ill population among major challenges at Dominica State Prison](#), July 25, 2023.

⁶⁴³ The Sun Dominica, [We're older, not over](#), September 24, 2023.

¹⁸ Against the Death Penalty, [Dominica](#), May 23, 2023.

⁶⁴⁵ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁶⁴⁶ See: Presidency of the Republic of Ecuador, [Executive Order No. 741](#), May 17, 2023; IACHR, Press Release No. 88/2023, "[IACHR closely monitors situation of democracy in Ecuador](#)," May 19, 2023.

⁶⁴⁷ See: Presidency of the Republic of Ecuador, [Executive Order No. 741](#), May 17, 2023; IACHR, Press Release No. 88/2023, "[IACHR closely monitors situation of democracy in Ecuador](#)," May 19, 2023.

⁶⁴⁸ Constitution of the Republic of Ecuador, Art. 148.

⁶⁴⁹ *El Universo*, "[Corte Constitucional da paso a un segundo decreto ley de Guillermo Lasso](#)," September 19, 2023.

333. At the same time, in the context of this previous constitutional review, the president of the Republic warned that the CC could create judicial insecurity in the country and “become a *de facto* political-economic actor.”⁶⁵⁰

334. The dissolution of the Assembly led to a call for early presidential and legislative elections,⁶⁵¹ as well as to two public consultations.⁶⁵² This was the first electoral process in which the law required the application of the 50 percent gender parity, both for presidential tickets and for Assembly candidate lists.⁶⁵³ In addition, women’s representation increased in the National Assembly, in municipalities and in city councils.⁶⁵⁴ During the election day, the Electoral Observation Mission of the Organization of American States (OAS) reported that citizens from overseas had faced challenges to vote and that the integrity of the telematic voting system might have been violated.⁶⁵⁵ Notwithstanding that, the Mission welcomed the levels of participation in the first round of elections, which had reached 80 percent. The Mission also noted with satisfaction that all presidential candidates had called to respect the electoral institutional framework and had accepted the results.⁶⁵⁶ After the second round, the names of the upcoming president, vicepresident and National Assembly members were known.⁶⁵⁷ In addition to the elections, the Commission learned that the president of the Council for Citizen Participation and Social Control (CPCCS) had been removed from office following his failure to comply with an order of the CC,⁶⁵⁸ and that the office of the CPCCS had been shut down based on a decision by the executive branch that was eventually suspended.⁶⁵⁹

335. With regard to **human rights institutions**, the State informed about the proposal to create the National Coordination Mechanism for the Implementation of and Follow-up on Human Rights Recommendations, as well as regulations to foster compliance with the integral reparation process and international obligations. Furthermore, the State reported on the progress made in diagnosing and on the existing gaps in the implementation of human rights standards in businesses.⁶⁶⁰

336. The electoral period was marked by political violence, which posed a threat to democracy and the Rule of Law, and constituted one of the main challenges in the area of **citizen security**.⁶⁶¹ This form of violence was especially evidenced by the threats made against journalist and presidential candidate Fernando Villavicencio and his subsequent murder.⁶⁶² In this same context, the mayor of Manta, Agustín Intriago,⁶⁶³ and

⁶⁵⁰ Guillermo Lasso X account (@LassoGuillermo), “[Queridos ecuatorianos, hago pública la carta que remití a la @CorteConstEcu con mi posición de defensa firme de las atribuciones que me corresponden como Presidente](#),” (Dear Ecuadorians. This is the letter I sent to the Constitutional Court of Ecuador defending the powers I have as President), June 28, 2023.

⁶⁵¹ National Electoral Council, Resolution PLE-CNE-1-18-5-2023, May 18, 2023.

⁶⁵² National Electoral Council, Resolution PLE-CNE-7-21-6-2023, June 21, 2023, and Resolution PLE-CNE-8-21-6-2023, June 21, 2023.

⁶⁵³ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, p. 43. In IACHR files.

⁶⁵⁴ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, p. 45. In IACHR files; *Ecuavisa*, “[Elecciones Asamblea 2023: en el Legislativo habrá más mujeres que en periodos anteriores, aunque todavía son la minoría](#),” August 25, 2023.

⁶⁵⁵ OAS Electoral Observation Mission in Ecuador, *Preliminary report of the OAS Electoral Observation Mission in Ecuador*, August 22, 2023.

⁶⁵⁶ OAS Electoral Observation Mission in Ecuador, *Preliminary report of the OAS Electoral Observation Mission in Ecuador*, August 22, 2023.

⁶⁵⁷ National Electoral Council, [2023 election results](#), accessed on November 20, 2023; *CNN*, “[Resultados y resumen de las elecciones presidenciales en Ecuador 2023 que Daniel Noboa ganó](#),” October 16, 2023.

⁶⁵⁸ Constitutional Court of Ecuador, “[El Pleno de la Corte Constitucional resuelve el incumplimiento del Dictamen 2-19-IC/19](#),” October 6, 2023.

⁶⁵⁹ *Gestión Digital*, “[Consejo de Participación evita desalojo de edificio en Quito](#),” June 14, 2023; *El Comercio*, “[Alembert Vera tilda de ilegal el retiro de la sede del Consejo de Participación](#),” June 8, 2023.

⁶⁶⁰ Republic of Ecuador, Inputs for the *2023 Annual Report* of the IACHR, September 2023. In IACHR files.

⁶⁶¹ The IACHR warned of this situation: IACHR, Press Release No. 180/2023, “[Ecuador: IACHR Condemns Political Violence and Warns of Attacks on Democracy](#),” August 11, 2023.

⁶⁶² National Assembly candidate Gisella Molina and eight other people who participated in the political meeting were also injured. The murder of Villavicencio was followed by threats against his political party and against Christian Zurita, who had replaced him as presidential candidate. See: IACHR, Press Release No. 188/2023, “[IACHR Grants Precautionary Measures to Christian Zurita, Journalist and Presidential Candidate in Ecuador](#),” August 20, 2023; AP News, “[Ecuador arrests six Colombians as suspects in slaying of anti-corruption presidential candidate](#),” August 10, 2023.

⁶⁶³ *BBC News*, “[Agustín Intriago: Ecuadorean mayor shot dead in port city](#),” July 24, 2023.

National Assembly candidate Rinder Sánchez⁶⁶⁴ were also murdered. In addition, there were reports of threats against the authorities of the National Electoral Council,⁶⁶⁵ of an armed attack against the mayor of Durán, Luis Chonillo,⁶⁶⁶ and of threats against officials of said municipality.⁶⁶⁷

337. Political violence is part of a greater problem in the area of citizen security that arises from organized crime and criminal groups inside Ecuadorian prisons.⁶⁶⁸ Violence has had a differentiated impact on specific groups, including children and adolescents,⁶⁶⁹ who are subject to forced recruitment by criminal gangs.⁶⁷⁰ As it has happened many times throughout its history, the government declared several states of emergency to fight violence.⁶⁷¹

338. With regard to **access to justice and judicial independence**, the State informed about the creation of the *Ruta Interinstitucional Integral - Enfoque en multiplicidad de sujetos de derechos* (Integral interinstitutional guidelines: focus on multiple subjects of law), which is a public policy aimed at ensuring access to justice through effective responses, in coordination with competent bodies to guarantee human rights and eradicate gender-based violence.⁶⁷²

339. In addition, the Council of the Judiciary extended the term of office for six members of the National Court of Justice until 2030⁶⁷³ and removed from office a judge who was hearing at least one criminal case allegedly involving influence peddling. In relation to this last case, the Office of the Attorney General voiced its concern, arguing that the removal could affect judicial certainty in the country.⁶⁷⁴

340. The **indigenous peoples** that had been represented at the dialogue roundtables held in 2022 decided to end their participation in said initiative because they considered that the State had no will to comply with the agreements reached after the strike of June 2022.⁶⁷⁵ As a result, these indigenous peoples organized new protests to continue the fight for their structural and historical claims.⁶⁷⁶

⁶⁶⁴ *El País*, "[Asesinatos, ataques a políticos y motines: el crimen organizado irrumpe en campaña en Ecuador](#)," July 25, 2023.

⁶⁶⁵ The threats were reported by the president of the National Electoral Council. See: *Primicias*, "[Atamaint: Consejeros del CNE han recibido amenazas de muerte](#)," August 7, 2023.

⁶⁶⁶ *El Comercio*, "[Luis Chonillo, alcalde de Durán, sufrió un atentado; un muerto y 5 heridos](#)," May 15, 2023.

⁶⁶⁷ The IACHR took this context into consideration when adopting Resolution 56/2023, which granted precautionary measures in favor of Luis Esteban Chonillo Breilh, mayor of the city of Durán, his wife, Silvia Cristina Córdova Arteaga, and his son based on the belief that they faced a serious, urgent risk of suffering irreparable harm to their rights in Ecuador. See: IACHR, Press Release No. 242/2023, "[IACHR Grants Precautionary Measures in Favor of Mayor Luis Esteban Chonillo Breilh and His Family in Ecuador](#)," October 6, 2023.

⁶⁶⁸ During the first semester of the current year, at least 3,513 homicides were reportedly recorded, which constituted a 58 percent increase compared to the same period in 2022. This was highlighted by the IACHR in a press release. IACHR, Press Release No. 180/2023, "[Ecuador: ACHR Condemns Political Violence and Warns of Attacks on Democracy](#)," August 11, 2023, based on official data analyzed and published by *El País. El País*, "[La inseguridad en Ecuador escala a niveles históricos y se impone como prioridad del próximo Gobierno](#)," July 10, 2023.

⁶⁶⁹ In this context, in several provinces, the right to education and recreation had been reportedly restricted or limited due to shootings or bomb threats, especially in the province of Esmeraldas, where schools had allegedly become a shelter during events of social unrest. See: *Primicias*, "[Ministerio de Educación suspende clases en cuatro cantones de Esmeraldas](#)," July 25, 2023, and "[Dos universidades, a clases virtuales por jornada violenta Guayaquil](#)," July 25, 2023; *El Universo*, "[Clases presenciales quedan suspendidas en Guayaquil, Durán, Samborombón y Esmeraldas por incremento de la violencia en las calles](#)," November 1, 2022.

⁶⁷⁰ *Primicias*, "[Reclutadores de las bandas delictivas irían a prisión hasta por 16 años](#)," January 27, 2023. See also: *El Universo*, "[Menores reclutados por bandas delictuales: ¿A qué edad se inician en la actividad delictiva?](#)," March 12, 2023.

⁶⁷¹ In this context, the IACHR takes note of the adoption of Executive Decree No. 823 of July 24, 2023, among others, which declared the state of emergency in all the centers of deprivation of liberty that were part of the Social Rehabilitation System. The state of emergency was implemented for 60 days and subsequently extended for an additional 30 days by Executive Decree No. 878 of September 21, 2023. See: General Secretariat of Communication of the Presidency of the Government of Ecuador, Communication No. 984, "[Estado de excepción en el Sistema de Rehabilitación Social](#)," July 25, 2023; Constitutional Court of Ecuador, [Resolution 7-23-EE/23](#), issued on October 5, 2023.

⁶⁷² Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁶⁷³ *Primicias*, "[Con dos votos de cinco, la Judicatura amplió el período de siete jueces](#)," September 7, 2023.

⁶⁷⁴ Office of the Attorney General, Press Release No. 042-DC-2023, "[Caso Vocales: sobre destitución del juez Macías](#)," August 19, 2023.

⁶⁷⁵ *AP*, "[Ecuador: el movimiento indígena rompe mesas de diálogo](#)," February 24, 2023.

⁶⁷⁶ *Primicias*, "[Conaie anuncia marchas para el 13 de junio, a un año del paro nacional](#)," June 2023.

341. With regard to the **rights of women**, the National Plan for the Prevention and Transformation of the Culture of Violence and the Public Policy for the Integral Reparation of Violence Victims were adopted.⁶⁷⁷ The Office of the Attorney General issued guidelines and policies on prevention, non-revictimization and attention to victims in intercultural contexts.⁶⁷⁸ The Council of the Judiciary issued guidelines and policies to promote a gender-sensitive administration of justice.⁶⁷⁹ The Interinstitutional Subcommission on Femicides was created to enhance the integral care for indirect victims of femicides, as well as the protection and restoration of their rights.⁶⁸⁰ Furthermore, the Organic Law to Promote the Violet Economy, which seeks to enhance access to private and public decision-making bodies, and the Law on the Right to Human Care were adopted.⁶⁸¹

342. The Commission also takes note of the sentence imposed on Germán Cáceres for the femicide of María Bernal,⁶⁸² as well as of the call to punish those who might have been involved in the cover-up of the facts.⁶⁸³

343. At the same time, the information on femicides for 2023 varies across authorities, and the figures reported by the civil society are different as well. As of October 8, the Office of the Attorney General had recorded 77 femicides. Most of them had been committed by a person close to the victim.⁶⁸⁴ However, as of September 30, the Council of the Judiciary had recorded a total of 433 violent deaths of women. Out of these, at least 80 were reportedly classified as femicides.⁶⁸⁵ Finally, the civil society reported that, as of September 25, 238 violent deaths of women had been recorded. Out of these, 94 were classified as femicides, and at least 130 were related to organized crime.⁶⁸⁶

344. With regard to **persons in the context of human mobility**, the United Nations High Commissioner for Refugees (UNHCR) reported in June 2023 that the deterioration of socioeconomic conditions in Ecuador had resulted in one of the largest displacements across the Darién region.⁶⁸⁷ Furthermore, as of May 2023, the country had received 583,456 persons in need of international protection. Out of these, 502,214 came from Venezuela.⁶⁸⁸ The Commission also learned about the implementation of the process of migration amnesty and extraordinary regularization for Venezuelan migrants and their families, which entered its third phase on February 17, 2023.⁶⁸⁹

345. Furthermore, the State made progress in enhancing protection against **trafficking in persons** by adopting the Organic Law on Human Trafficking and Illegal Trafficking of Migrants. Among other measures, this law provided for the creation of specialized units, interinstitutional collaboration, protection measures, the

⁶⁷⁷ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, pp. 56-58. In IACHR files.

⁶⁷⁸ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, p. 65. In IACHR files.

⁶⁷⁹ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, p. 54, 60 and 63. In IACHR files.

⁶⁸⁰ Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, p. 64. In IACHR files.

⁶⁸¹ This law seeks to create the necessary conditions for the exercise of this right through public policies, paid and unpaid leaves and permits, and other measures. Permanent Mission of Ecuador to the OAS, *2023 Annual Report* from Ecuador to the IACHR, September 27, 2023, pp. 35, 36. In IACHR files.

⁶⁸² *Expreso*, “[Germán Cáceres es sentenciado a 34 años y 8 meses de prisión](#),” May 25, 2023.

⁶⁸³ *El mercurio*, “[A un año del asesinato de María Belén Bernal, su madre pide justicia](#),” September 12, 2023.

⁶⁸⁴ Ministry of Women and Human Rights, [Información estadística de femicidios a nivel nacional. Informe 40](#), October 2023.

⁶⁸⁵ Council of the Judiciary, FemicidiosEc, [Infographics](#), January 1-September 30, 2023.

⁶⁸⁶ ALDEA, “[¡ALERTA! En Ecuador son 238 femi\(ni\)cidios en 2023, al menos 130 en sistemas criminales](#),” October 3, 2023; *Teleamazonas*, “[55% de los femicidios en Ecuador están relacionados con el crimen organizado](#),” October 2023.

⁶⁸⁷ UNHCR, [El desplazamiento forzado hacia Ecuador: Tendencias nacionales 2023](#), June 20, 2023, p. 3. See also: National Migration Service of Panama, [Table No. 1. Irregular transit of foreigners across the borders with Colombia by region and by relevance](#), n/d,

⁶⁸⁸ UNHCR, [El desplazamiento forzado hacia Ecuador: Tendencias nacionales 2023](#), June 20, 2023, p. 3.

⁶⁸⁹ As a result, since October 1, 2022, 71,672 visa applications have been recorded and 52,551 exceptional temporary residence visas (VIRTE) have been granted, along with 39,682 identity cards. The registration of Venezuelans continues and, as of June 9, 2023, 211,878 people had an appointment for the collection of biometric data and 168,057 people had a certificate of residence. R4V, [Ecuador: Reporte de situación - enero y febrero 2023](#), April 4, 2023; UNHCR, [El desplazamiento forzado hacia Ecuador: Tendencias nacionales 2023](#), June 20, 2023, p. 12.

mental health issues experienced by the relatives of the detainees, as well as on the lack of reparation for the families of those who had died while under the custody of the State.⁶⁹⁸ In addition, during several riots between July and August, a total of 194 security and control officials were held at different prison centers.⁶⁹⁹

350. Among the steps taken to strengthen capacities and to adhere to inter-American standards on the rights of persons deprived of liberty, the Commission underscores the two-day virtual course that was held on June 15 and 29, which addressed the standards that apply to the rights of persons deprived of liberty. Seventy members of the executive branch participated in said training.

351. On the situation of **Afro-descendants and the fight against racial discrimination**, the Commission highlights the continuity of public policies such as the 2021-2025 National Agenda for the Equal Rights of Indigenous Nationalities and Peoples, the Afro-Ecuadorian People and the Montubio People (ANIPIAM).⁷⁰⁰ The State also put emphasis on the efforts made to assist Afro-Ecuadorian people in business and human rights matters,⁷⁰¹ as well as in electoral and political participation issues.⁷⁰²

352. The Commission learned that, based on official data from the National Population and Housing Census, the Afro-descendant population had apparently fallen from 7.2 percent in 2010 to 4.8 percent in 2023.⁷⁰³

353. With regard to **LGBTI persons**, the Commission commends the publication of the Attention Protocol to Promote the Rights of LGBTIQ+ Persons⁷⁰⁴ by the Office of the Ombudsperson in collaboration with the civil society. The Commission also highlights the implementation of the Criminal Policy on Access to Justice for LGBTIQ+ Persons⁷⁰⁵ with the purpose of developing approaches to criminal policy that were more inclusive of diversity.⁷⁰⁶ In addition, the Commission learned about the approval by the Ministry of Public Health (MSP)

[Adolescentes Infractores informa](#)," April 4, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," January 13, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," October 6, 2023; United Nations, "[Ecuador: El Alto Comisionado insta a reformar la justicia penal y a respetar los derechos indígenas](#)," July 27, 2023; SNAI X account (@SNAI_Ec), "[Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," April 16, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," April 15, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," April 4, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," January 13, 2023; SNAI X account (@SNAI_Ec), "[Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," April 15, 2023; SNAI X account (@SNAI_Ec), "[Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," April 4, 2023; SNAI X account (@SNAI_Ec), "[Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," January 13, 2023.

⁶⁹⁸ IACHR, 187th regular period of sessions, public hearing "[Differential impact on the lives of women relatives of persons deprived of liberty in the Americas](#)," July 12, 2023.

⁶⁹⁹ In particular, on July 22 and 23, 2023, 137 penitentiary security agents were taken as hostages at several prisons. Furthermore, on August 31, 2023, 50 officers of the Penitentiary Security and Surveillance Corps and seven police officers were held at six penitentiary centers. In this regard, see: United Nations, "[Ecuador: El Alto Comisionado insta a reformar la justicia penal y a respetar los derechos indígenas](#)," July 27, 2023; SNAI X account (@SNAI_Ec), "[El Servicio Nacional de Atención Integral a Personas Adultas Privadas de la Libertad y a Adolescentes Infractores informa](#)," August 31, 2023.

⁷⁰⁰ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷⁰¹ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷⁰² Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷⁰³ According to the National Institute of Statistics and Census, 600,000 people were allegedly excluded from the survey because they could not be located. *El Norte*, "[Población afro bajó de 7.2% al 4.8%](#)," n/d; *Expreso*, "[La comunidad afroecuatoriana denuncia que ha sido "invisibilizada" en el censo](#)," September 29, 2023; *Primicias*, "[600.000 personas no respondieron al Censo, según el INEC](#)," September 24, 2023.

⁷⁰⁴ Office of the Ombudsperson of Ecuador, "[Defensoría Pública y Fundación Diálogo Diverso socializan protocolo para promoción de derechos de personas LGBTIQ+](#)," June 26, 2023.

⁷⁰⁵ Office of the Attorney General, [Criminal Policy on Access to Justice for LGBTIQ+ Persons](#), 2023.

⁷⁰⁶ The State reported that, as of August 31, 2023, the Diversity Action Plan (PAD) had been disseminated to territories in 17 of the 24 provinces through provincial roundtables, gender committees, provincial networks, among others. Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

of a comprehensive care protocol for intersex patients⁷⁰⁷ and about the implementation of the national strategy for inclusive and free-of-discrimination health services for LGBTI persons.⁷⁰⁸

354. The Commission also expresses its concern over the violence suffered by LGBTI persons over the year. According to data from January, in 2022, at least 25 LGBTI persons were murdered in Ecuador.⁷⁰⁹ Until June 2023, based on data collected by the civil society, at least 16 violent deaths were recorded. Six of the victims were trans women.⁷¹⁰ In addition to this context of violence, there were reports regarding the admission of LGBTI persons to institutions that seek to modify or suppress their identities and orientations, based on information provided by the State.⁷¹¹ Likewise, the Commission received news of discrimination in the exercise of the right to vote,⁷¹² as well as of attempts to ban the LGBTI pride parade in the city of Guayaquil.⁷¹³

355. With regard to the **rights of older persons**, the State informed that, as part of the measures to prevent and fight discrimination and violence against this group, the National Council for Intergenerational Equality addressed 74 cases of threats or violations of rights. Seventeen of all these victims were older persons. In addition, a report was drafted on the participation of older persons in the 2023 elections,⁷¹⁴ which underscored the need to adopt measures such as voting from home to ensure the exercise of this right.⁷¹⁵

XIV. EL SALVADOR⁷¹⁶

- **General considerations**

356. The Inter-American Commission observes some **progress** in the area of human rights in the country during 2023, particularly appreciating the adoption of various legislative and institutional strengthening measures to improve the protection and guarantee of women's rights. In this regard, it highlights reforms to criminal law to eliminate the statute of limitations for the exercise of criminal action in cases of femicide and aggravated femicide, reforms to labor law to guarantee the reinstatement of women who have been dismissed due to pregnancy, and the creation of a specialized labor inspection unit for labor complaints. The Commission recognizes the reduction of murder rates in the country. It also welcomes the measures adopted for the recognition and inclusion of Afro-descendants and indigenous peoples. In addition, the Commission highlights the implementation of the *Crecer Juntos* (Growing Together) Law, which seeks to guarantee the exercise and enjoyment of the rights of children and adolescents, and which establishes a national system for the comprehensive protection of early childhood, childhood and adolescence.

⁷⁰⁷ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷⁰⁸ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷⁰⁹ *Washington Blade*, "[25 personas LGTBO fueron asesinadas en 2022 en Ecuador](#)," January 18, 2023; *Edición 111*, "[25 personas LGTBO+ fueron asesinadas en 2022](#)," January 17, 2023.

⁷¹⁰ Silueta X, "[Mujer trans reportada como desaparecida es encontrada sin vida maniatada y con signos de violencia en Manabí, Ecuador](#)," June 27, 2023; Silueta X X account (@SiluetaX), "[Solo este año 2023 el informe Runa Sipiy de Silueta X Registra 9 asesinatos De los cuales 6 son Transfemicidios](#)," (Only in 2023 the Runa Sipiy report of Silueta X records nine deaths, out of which six are trans femicides), March 31, 2023.

⁷¹¹ *La Hora*, "[Padres mandan a secuestrar a sus hijos para enviarlos a clínicas de 'deshomosexualización'](#)," May 5, 2023; *Infobae*, "[Secuestros, abusos y torturas: así funcionan las horribles clínicas de deshomosexualización en Ecuador](#)," May 7, 2023; *Edición 111*, "[La falta de una normativa legal permite que los centros de «conversión» sigan operando en Ecuador](#)," September 5, 2023.

⁷¹² Silueta X X account (@SiluetaX), "Mujeres transgénero siguen siendo discriminadas durante el sufragio por su cédula," (Trans women continue to be discriminated in polls due to their ID card), February 13, 2023.

⁷¹³ *Infobae*, "[Escándalo en Guayaquil: el alcalde no permitirá que la marcha del orgullo LGTBO+ se desarrolle en el centro de la ciudad](#)," June 22, 2023; *TVN*, "[Alcalde en Ecuador prohíbe la marcha del orgullo LGTBO+ y desata la polémica](#)," June 23, 2023; *Primicias*, "[Juez dispone que marcha LGBTI sea en el centro de Guayaquil](#)," June 28, 2023; *El Universo*, "[La acción judicial que permite que la marcha LGTBO+ se realice en el centro de Guayaquil fue impulsada por un estudiante heterosexual de Derecho](#)," June 29, 2023.

⁷¹⁴ Republic of Ecuador, Inputs for the 2023 Annual Report of the IACHR, September 2023. In IACHR files.

⁷¹⁵ *El Universo*, "[Consejo Nacional Electoral inaugura el voto en casa para 587 personas con discapacidad física](#)," October 13, 2023.

⁷¹⁶ Section not approved by Commissioners Carlos Bernal Pulido and Stuardo Ralón Orellana, with a partial reasoned vote by Commissioner Carlos Bernal Pulido. The partial reasoned vote is found at the end of this chapter.

357. In relation to the **challenges**, the Inter-American Commission repeatedly expressed its concern regarding the successive suspension of rights and guarantees under the emergency regime established in March 2022. The Commission continued to receive various complaints of human rights violations related to citizen security, access to justice and the situation of persons deprived of liberty, including massive, illegal and arbitrary detentions based on discriminatory criteria, as well as violations of judicial guarantees and judicial protection of the detainees, as well as poor detention conditions. Likewise, the absolute criminalization of the voluntary termination of pregnancy persists, as well as the criminal prosecution of women who have suffered obstetric emergencies. In addition, the Commission received information on obstacles regarding the legal recognition of the gender identity of transgender persons.

358. On October 18, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.⁷¹⁷

- **Specific issues**

359. Regarding **democratic institutionalism**, the Commission notes that the Legislative Assembly approved the person appointed to fill the position of president of the Republic, when the president and vice president took leave of absence to dedicate themselves to the electoral campaign.⁷¹⁸ The above is framed within the ruling issued by the Constitutional Chamber of the Supreme Court of Justice in 2021, which addressed the issue of presidential reelection.⁷¹⁹ The Commission also notes with caution the repeal of the norm prohibiting modifications to the rules governing the electoral process one year before the elections.⁷²⁰ The State indicated that the Supreme Electoral Tribunal had carried out actions aimed at complying with the activities set by the electoral calendar scheduled for 2024.⁷²¹ It emphasized that, with the passing of the Special Law on the Exercise of Suffrage Abroad, the right of suffrage was recognized for the Salvadoran population abroad.⁷²² Likewise, it reported the reform of the Electoral Code, so as to establish a new composition of the Legislative Assembly with 60 regular deputies and an equal number of alternates, instead of 84 parliamentarians. It also reported the passing of the Special Municipal Re-structuring Law, which reduced the number of municipalities in the country from 262 to 44, so as to guarantee the proper functioning of the municipal administration.⁷²³ In this regard, civil society organizations criticized the fact that the municipal restructuring was based on the 2007 census, reflecting a different population situation, and expressed that the law led to more concentration of power and a decrease in citizen representation.⁷²⁴ They also called for ensuring security and transparency in the system and mechanisms that would implement electronic voting in the elections.⁷²⁵

360. In terms of **human rights institutions**, the State highlighted the appointment by the president of the Republic of the presidential commissioner for human rights and freedom of expression, so as to reinforce the respect for human rights.⁷²⁶ It also pointed out that the budget of the Office of the Attorney for

⁷¹⁷ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023. In IACHR files.

⁷¹⁸ Legislative Assembly, "[Asamblea Legislativa otorga licencia a Presidente Bukele](#)," December 1, 2023.

⁷¹⁹ Supreme Court of Justice, Constitutional Chamber, Judgment 01/2021, September 3, 2021.

⁷²⁰ Legislative Assembly, Legislative Decree No. 686 - Art. 291-A of the Electoral Code is superseded, March 15, 2023.

⁷²¹ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 3. In IACHR files.

⁷²² State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 1. In IACHR files.

⁷²³ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 2. In IACHR files.

⁷²⁴ Acción Ciudadana, [Informe Reestructuración municipal 2023](#), July 2023; The Washington Office on Latin America (WOLA), "[Electoral reforms in El Salvador Pave Way for Further Consolidation of Power](#)," March 23, 2023; *El Faro*, "[Bukelismo extingue fórmula electoral que favorecía a minorías](#)," June 9, 2023; *Gato Encerrado*, "[Asamblea de Bukele reduce diputados y cambia las reglas para sacudirse a la oposición](#)," June 7, 2023.

⁷²⁵ *Prensa Latina*, "[Crecen temores en El Salvador por voto electrónico](#)," May 12, 2023; *Diario El Mundo*, "[Tracoda crítica "poca experiencia técnica" en panel de voto electrónico](#)," November 10, 2023; *La Prensa Gráfica*, "[TSE modifica el contrato con Indra y asumirá más gastos para el voto exterior de elecciones El Salvador 2024](#)," November 14, 2023.

⁷²⁶ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023. In IACHR files.

the Defense of Human Rights has had an accumulated increase of 25.5 percent over the last four years.⁷²⁷ Furthermore, civil society organizations called for greater transparency and regularity in the dissemination of qualitative information on the exercise of said institution's mandate, particularly in the monitoring of measures adopted during the emergency regime.⁷²⁸

361. During 2023, the Commission continued to monitor the situation of **citizen security** and **access to justice** in El Salvador within the framework of the state of emergency. The State pointed out that public security strategies had been implemented in a technical manner and with a minimum impact on rights, using the necessary tools to help state institutions to defend the rights of citizens in the face of crime, without affecting the social and economic life of the country.⁷²⁹ The State indicated that, between June 2019 and July 2023, they reached the mark of 400 days without homicides, which was allegedly possible thanks to the implementation of the different phases of the Territorial Control Plan (TCP) and the application of the emergency regime.⁷³⁰ In this context, the State reported the creation of the Integration Directorate as part of Phase Six of the TCP, which focuses on medium and long-term needs by combating insecurity through development.⁷³¹

362. Despite the above, the Commission has heard multiple reports of human rights violations in the context of citizen security operations and in the administration of justice in cases involving people allegedly linked to gangs.⁷³² According to the available data, there were illegal and arbitrary detentions and restrictions to judicial protection, due process of law and judicial guarantees in the framework of the judicial proceedings carried out. In this regard, the Inter-American Commission [called on](#) the State to end the suspension of guarantees decreed in March 27, 2022, and to respect human rights in the adoption of measures for the prevention, control and response to crime, as well as to investigate, prosecute and punish criminal activities.

363. Furthermore, the State of El Salvador reported legal and institutional reforms and other actions aimed at strengthening the judicial system, and at promoting a human rights culture that guarantees justice.⁷³³ In this regard, it pointed out changes in the structure and competence of the judicial divisions; the non-application of the statute of limitations to certain crimes and the increase of the penalties for said crimes; internal training and awareness-raising initiatives; the expansion of the use of technology in judicial instances; the implementation of services to increase citizens' knowledge about law; among others. It emphasized that the Office of the Attorney General developed institutions and specialized regulations for the attention and investigation of crimes committed against people from different vulnerable groups. In addition, it pointed out actions taken by the Office of the Inspector General to guarantee the effective defense of the rights of children and adolescents, including the creation of a process management system; the strengthening of Childhood and Adolescence Units at the national level; research on institutional needs and capacities in the area of juvenile justice; and activities to promote rights. The State also reported that the Office of the Inspector General opened

⁷²⁷ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 9. In IACHR files.

⁷²⁸ Azul Originario, Centro de Estudios de la Diversidad Sexual y Genérica (AMATE), Cristosal, Fundación de Estudios para la Aplicación del Derecho (FESPAD), Instituto de Derechos Humanos de la UCA (Idhuca), Red Salvadoreña de Defensoras de Derechos Humanos, Servicio Social Pasionista (SSPAS), [Annual Report on Human Rights Violations during the State of Exception in El Salvador](#), March 2023, p. 57; Cristosal, *Un año bajo el régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos. Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023*, May 12, 2023, pp. 65–66; Amnesty International, ["Detrás del velo de la popularidad: represión y regresión en materia de derechos humanos en El Salvador."](#) December 2023, p. 82.

⁷²⁹ State of El Salvador, *Un Nuevo El Salvador*, Diplomatic Note MPOEA-OEA-117/2023, July 14, 2023, p. 11.

⁷³⁰ State of El Salvador, *Un Nuevo El Salvador*, Diplomatic Note MPOEA-OEA-117/2023, July 14, 2023, p. 7.

⁷³¹ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 30. In IACHR files.

⁷³² IACHR, public hearing "Human rights violations and states of exception in El Salvador," 187th regular period of sessions, July 14, 2023; IACHR, public hearing "El Salvador: Forced Disappearances during the state of emergency," 188th regular period of sessions, November 9, 2023; Amnesty International, ["Detrás del velo de la popularidad: represión y regresión en materia de derechos humanos en El Salvador."](#) December 2023; Azul Originario, AMATE, Cristosal, FESPAD, Idhuca, Red Salvadoreña de Defensoras de Derechos Humanos, SSPAS, [Annual Report on Human Rights Violations during the State of Exception in El Salvador](#), March 2023; Cristosal, *Un año bajo el régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos. Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023*, May 12, 2023.

⁷³³ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 22–30. In IACHR files.

a user service unit, and that it digitalized judicial proceedings and computerized notifications to family members in the context of the application of the emergency regime.⁷³⁴

364. During a public hearing held in November 2023, civil society organizations presented information on different cases and the State's response to disappearances committed by gangs, and forced disappearances committed by state agents in the context of the detentions carried out during the state of emergency.⁷³⁵ They reported that the search and investigation tools created in recent years were not being implemented and denounced difficulties in accessing information from multiple state agencies, including on the whereabouts and situation of detainees. The State addressed the measures adopted in the area of citizen security as a preventive aspect of the disappearances committed by gangs, and it rejected the existence of short-term forced disappearances related to the emergency regime. It also pointed out the legal reforms conducted in previous years, and the existing institutional framework to respond to disappearance cases, and it indicated that there would be a virtual platform to access information on detainees and their procedural status.⁷³⁶

365. Regarding the situation of **persons deprived of liberty**, according to the information received, more than 73,000 people have been detained since March 27, 2022, and the vast majority have been held in decreed preventive detention.⁷³⁷ The State reported that, as of June 27, 2023, there were 65,940 persons detained, and 5,308 had been released by a court order at the request of the prosecutorial body, and 988 by the administrative authority, with a total of 6,296 people released.⁷³⁸

366. In addition, the Commission continued to receive information about the deplorable detention conditions faced by the incarcerated persons, which presented serious risks to their life and integrity. According to the information received, those imprisoned reportedly faced high rates of overcrowding as a result of mass arrests; ill-treatment; the application of isolation and solitary confinement measures that are not in accordance with human rights standards; negligent medical care; and insufficient food.⁷³⁹ In addition, about 200 persons deprived of liberty during the emergency regime allegedly died between March 27, 2022, and the end of October 2023.⁷⁴⁰ Various civil society organizations criticized the restrictions on access to this type of information and, based on consolidated data from various sources, they indicated that there was a higher number of deaths.⁷⁴¹ In June 2023, the Commission took cognizance of the statement of the attorney general of the Republic, related to the archiving of the investigation of 142 cases on the death of persons deprived of liberty detained during the emergency regime.⁷⁴² At a public hearing held by the Commission in July 2023, the

⁷³⁴ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 22–30. In IACHR files.

⁷³⁵ IACHR, public hearing “El Salvador: Forced Disappearances during the state of emergency,” 188th regular period of sessions, November 9, 2023.

⁷³⁶ IACHR, public hearing “El Salvador: Forced Disappearances during the state of emergency,” 188th regular period of sessions, November 9, 2023.

⁷³⁷ *Diario Las Américas*, “El Salvador deroga ley de sanciones por difundir mensajes de pandillas,” November 2, 2023; NTN24, “En El Salvador hay más de 73.000 detenidos que no se sabe si son inocentes”: defensora en Derechos Humanos,” November 6, 2023.

⁷³⁸ State of El Salvador, *Un Nuevo El Salvador*, Diplomatic Note MPOEA-OEA-117/2023, July 14, 2023, p. 52.

⁷³⁹ IACHR, public hearing “Human rights violations and states of exception in El Salvador,” 187th regular period of sessions, July 14, 2023; Amnesty International, “Detrás del velo de la popularidad: represión y regresión en materia de derechos humanos en El Salvador,” December 2023; Azul Originario, AMATE, Cristosal, FESPAD, Idhuca, Red Salvadoreña de Defensoras de Derechos Humanos, SSPAS, *Annual Report on Human Rights Violations during the State of Exception in El Salvador*, March 2023; Cristosal, *Un año bajo el régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos. Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023*, May 12, 2023.

⁷⁴⁰ DW, “ONG: suben “víctimas” de régimen de excepción en El Salvador.” October 19, 2023; *La Prensa Gráfica*, “Sube a 200 la cifra de personas muertas en penales en régimen de excepción en El Salvador: “Cuando las mamás abrieron las cajas, estaban sus hijos completamente golpeados.”” October 31, 2023.

⁷⁴¹ Azul Originario et al., *Annual Report on Human Rights Violations during the State of Exception in El Salvador*, March 2023, pp. 54–59; Cristosal, Idhuca, Due Process of Law Foundation (DPLF), Red Salvadoreña de Defensoras de Derechos Humanos, SPASS, *Muertes en cárceles durante el Régimen de Excepción en El Salvador: presuntas ejecuciones extrajudiciales, Informe de organizaciones de sociedad civil ante el Relator Especial sobre Ejecuciones Extrajudiciales*, April 10, 2023 (hereinafter Cristosal et al., *Muertes en cárceles durante el Régimen de Excepción en El Salvador: presuntas ejecuciones extrajudiciales*, April 10, 2023), pp. 6–9.

⁷⁴² *El Salvador.com*, “Fiscal confirma 142 muertes de reos bajo régimen de excepción y defiende que “no hay delito que perseguir.”” June 13, 2023; *AP News*, “Fiscalía archiva 142 muertes en las cárceles de El Salvador que atribuye a causas naturales.” June 13, 2023.

head of the Office of the Attorney General reiterated that, in relation to the death of persons deprived of liberty, this office relied on scientific methods, endorsed by the Institute of Legal Medicine.⁷⁴³ To this effect, at a public hearing held in July 2023, the State indicated that the Office of the Attorney General had not received any complaints of torture or degrading human treatment.⁷⁴⁴

367. Regarding the situation of **human rights defenders**, in 2023, the Inter-American Commission received information on the broadcasting of stigmatizing speeches that had the effect of discrediting the work carried out by human rights defenders in El Salvador. Civil society organizations indicated to the Commission that the work of human rights organizations conducted within the framework of the state of emergency had been attacked and discredited by high-level government authorities.⁷⁴⁵ It has been common to equate the defense of rights with the defense of “gang members.”⁷⁴⁶ They pointed out that this had led to aggressions, including threats, especially on social media.⁷⁴⁷ The Commission recalls that the disqualification of the work carried out by human rights defenders through pronouncements by state officials generates stigmatization and, at the same time, can create a climate of hostility and intolerance among different sectors of the population that hinders the legitimate exercise of their freedom of association.⁷⁴⁸

368. As for the **rights of women**, the Commission appreciates the adoption of various legislative and institutional strengthening measures in 2023 to improve the protection and guarantee of their rights. Furthermore, reforms were made to criminal law to eliminate the statute of limitations for the exercise of criminal action in cases of femicide and aggravated femicide.⁷⁴⁹ For its part, the Salvadoran Women's Development Institute (ISDEMU) continued to provide specialized attention to victims of gender-based violence – to whom it offers psychological, social and legal counseling, health care, economic empowerment, among others – through its different mechanisms.⁷⁵⁰ It also implemented various training and awareness-raising processes on women's rights for public servants through the specialized training unit; and it promoted an strategy to foster women's autonomy and economic empowerment (*Estrategia Institucional de Promoción de la Autonomía y Empoderamiento Económico de las Mujeres 2022–2024*), for the progressive elimination of gender inequalities and the restitution of economic rights, with special emphasis on women survivors of violence.⁷⁵¹

369. The Commission also notes the efforts made to mainstream the approach of equality, non-discrimination and a life free of violence for women in state institutions in a cross-cutting manner and at the national level, with specific guidelines on the subject. Within this framework, with the advice and technical assistance of ISDEMU, nine plans for equality and for the prevention of violence against women were approved by municipal agreement, and two documents of plans for equality and for the prevention of violence against

⁷⁴³ IACHR, public hearing “Human rights violations and states of exception in El Salvador,” 187th regular period of sessions, July 14, 2023.

⁷⁴⁴ IACHR, public hearing “Human rights violations and states of exception in El Salvador,” 187th regular period of sessions, July 14, 2023.

⁷⁴⁵ Azul Originario *et al.*, [Annual Report on Human Rights Violations during the State of Exception in El Salvador](#) March 2023, p. 15.

⁷⁴⁶ Cristosal, *Un año bajo el régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos. Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023*, May 12, 2023, p. 19.

⁷⁴⁷ Cristosal, *Un año bajo el régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos. Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023*, May 12, 2023, p. 19.

⁷⁴⁸ IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 125.

⁷⁴⁹ Articles 32 and 34 of the Code of Criminal Procedure were amended, and Article 58-A was incorporated into the Comprehensive Special Law for a Life Free of Violence against Women. State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the *2023 Annual Report* of the IACHR, October 18, 2023, pp. 2 and 33. In IACHR files.

⁷⁵⁰ Through the existing mechanisms, namely the 126 toll-free, trust number; the *Plataforma 126 Te orienta* and *Plataforma 126 Te Orienta sin Fronteras*; 12 departmental attention centers and two specialized attention centers; six Ciudad Mujer specialized attention centers; the women's protection centers; and the mobile detection and referral windows. See: State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the *2023 Annual Report* of the IACHR, October 18, 2023, p. 14. In IACHR files.

⁷⁵¹ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the *2023 Annual Report* of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 12 and 13. In IACHR files.

women were finalized between January and August 2023. The Office of the Inspector General prepared the action plan for the equality and non-discrimination policy, and the training plan for technical and administrative staff of the office. In addition, the Supreme Electoral Tribunal presented the protocol for the prevention and attention of women victims of political violence in El Salvador. In addition, the Ministry of Public Works and Transport has its 2022-2026 Gender Equality and Equity Policy to mainstream the gender approach in all its activities.⁷⁵²

370. Furthermore, labor regulations were reformed to guarantee the reinstatement of women who had been dismissed due to pregnancy,⁷⁵³ and a specialized labor inspection unit was created for labor complaints, which verifies indicators of violence and harassment against women in the workplace, in addition to promoting compliance with their labor rights, especially for women engaged in paid domestic work.⁷⁵⁴

371. Despite these efforts, the Commission notes with concern that the situation of gender-based violence against women, girls and adolescents persists in the country and has not ceased under the emergency regime.⁷⁵⁵ As of October 17, 2023, approximately 38 femicides and violent deaths of women were recorded.⁷⁵⁶ Given the increase in femicides at the beginning of the year, the government decided to increase police and military presence in the streets;⁷⁵⁷ however, the Commission notes that the armed forces have been repeatedly reported for sexual harassment and violence committed against women and girls, especially in the most vulnerable communities of the country.⁷⁵⁸ Likewise, it warns that women continue to be affected economically and socially by the detentions carried out under the emergency regime, as they are being forced to assume care-taking roles, follow up on the legal proceedings of their detained family members, and face stigmatization and harassment by the authorities.⁷⁵⁹

372. Finally, although the Commission appreciates the release of two women accused of homicide after suffering out-of-hospital deliveries,⁷⁶⁰ it regrets that the absolute criminalization of voluntary termination of pregnancy persists, as well as the criminal prosecution of women who suffered obstetric emergencies.⁷⁶¹

373. Regarding the **rights of LGBTI persons**, the Commission appreciates the information from the State on the different training initiatives aimed at raising awareness and promoting the rights of LGBTI

⁷⁵² State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 14-16. In IACHR files.

⁷⁵³ Article 113-A was added to the Labor Code to guarantee the reinstatement of a pregnant woman who had been dismissed, either as a precautionary measure or because of the court's decision. See: State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, October 18, 2023, p. 32. In IACHR files.

⁷⁵⁴ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 17 and 18. In IACHR files.

⁷⁵⁵ *La Prensa Gráfica*, "[Violencia contra la mujer en El Salvador aumentó en el último año.](#)" August 20, 2023; *Volcánicas*, "[Ni el régimen de excepción detiene los feminicidios en El Salvador.](#)" April 24, 2023.

⁷⁵⁶ Observatorio de violencia contra las mujeres, "[Al menos una mujer ha sido asesinada cada semana de enero al 17 de octubre 2023.](#)" undated, accessed on October 31, 2023.

⁷⁵⁷ *La Prensa Gráfica*, "[Presidente convoca al gabinete de Seguridad por alza en feminicidios.](#)" February 12, 2023; *La Prensa Gráfica*, "[Gobierno salvadoreño decide enviar más militares y policías para enfrentar feminicidios.](#)" February 14, 2023.

⁷⁵⁸ Cristosal, "[Un año bajo régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos.](#)" May 12, 2023, p. 47; *La Prensa Gráfica*, "[Presentan requerimiento fiscal contra los seis militares vinculados en violación de menor.](#)" September 28, 2023; *La Prensa Gráfica*, "[Los soldados de Mizata no son los únicos acusados por violencia sexual.](#)" October 4, 2023; *La Prensa Gráfica*, "[Lideresas: régimen no garantiza los derechos de las mujeres.](#)" March 10, 2023; *El Salvador.com*, "[Violación a los derechos humanos en El Salvador ubica a las mujeres en 'emergencia.'](#)" March 19, 2023; *Diario Colatino*, "[Asamblea Feminista denuncia que jóvenes son víctimas de extorsión sexual por parte de policías y soldados.](#)" March 2, 2023.

⁷⁵⁹ IACHR, *2022 Annual Report, Chapter IV.a. Development of Human Rights in the Region*, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 382; *El País*, "[Madres a la fuerza: el impacto silencioso del régimen de excepción en El Salvador de Bukele.](#)" June 10, 2023; Cristosal, "[Un año bajo régimen de excepción: una medida permanente de represión y de violaciones a los derechos humanos.](#)" May 12, 2023, p. 47.

⁷⁶⁰ *Gato Encerrado*, "[Absuelven a joven acusada de homicidio tras sufrir un parto extrahospitalario en su trabajo.](#)" January 17, 2023; *Las 17* #NosFaltanLas17 #BringHomeThe17 [@Las17ElSalvador], posted on June 7, 2023, [Twiit], Twitter.

⁷⁶¹ Agrupación Ciudadana por la Despenalización del Aborto, "[Fiscalía salvadoreña continúa la persecución a mujeres que enfrentan emergencias obstétricas y partos extrahospitalarios.](#)" January 16, 2023; *La Prensa Gráfica*, "[Revierten admisión para revisar fallo en el caso de una mujer condenada por emergencia obstétrica que causó la muerte de recién nacida.](#)" June 21, 2023; Amnesty International, *Amnesty International Report 2022/23: The state of the world's human rights*, 2023, p. 184.

persons among public officials that took place during the year. These include sessions at the Supreme Court of Justice, the Institute of Legal Medicine, the Office of the Inspector General and the Ministry of Culture, among other institutions.⁷⁶² Also noteworthy is the information on training for public prosecutors through the Prosecutor Training School of the Office of the Attorney General.⁷⁶³

374. In this regard, according to public information, arbitrary detentions and abuses of power by state security forces against LGBT persons and particularly transgender persons have taken place within the framework of the emergency regime, with a record of at least 69 LGBT persons detained in this context.⁷⁶⁴ According to reports, many of them are detained based on prejudice against their gender expression and identity, and transgender people are unable to prove their identity due to the lack of identity documents that recognize their gender identity.⁷⁶⁵

375. In addition, there was information on obstacles regarding the legal recognition of the gender identity of transgender persons. During a thematic hearing,⁷⁶⁶ it was learned that in February 2022 the Constitutional Chamber of the Supreme Court of Justice declared Article 23, Paragraph 2, of the law of the name of the natural person unconstitutional, since it did not allow the change of name for gender identity reasons. The Supreme Court gave the Legislative Assembly a one-year term to amend the law, but the latter has not complied with the term granted for the amendment of the law.⁷⁶⁷ Similarly, it has been reported that despite winning a legal case in which a family court ordered the name and gender change on his birth certificate and other identity documents, human rights activist Aldo Alexander Peña⁷⁶⁸ was hindered in accessing his right. To this effect, activist Karla Guevara,⁷⁶⁹ who also obtained a favorable court ruling ordering the change of the gender marker on her documents, has had her request denied. In both cases, failure to execute these court decisions is related to the conscientious objection of the head of the Family Registry of the Municipality of San Salvador, as the registrar considers that recognizing gender identity is contrary to their convictions.⁷⁷⁰

376. On the rights of **Afro-descendants and the fight against racial discrimination**, the Commission welcomes the measures adopted by El Salvador for the recognition and inclusion of Afro-descendants. The State reported that in May 2023, the Municipal Council of San Alejo, La Unión, approved a municipal ordinance for the recognition of the rights of Afro-descendants.⁷⁷¹ It also reported that more than 60 activities have been carried out to promote the cultures and rights of indigenous and Afro-descendant peoples, including training on rights and cultural diversity, such as the “Second workshop to strengthen the capacities of community leaders and public managers to safeguard the region’s Afro-descendant intangible cultural heritage,” which included 32 community leaders and officials from Belize, Costa Rica, Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Panama and the Dominican Republic.⁷⁷²

377. With regard to the **rights of indigenous peoples**, the State indicated that it has made various efforts to guarantee their rights, having recognized indigenous peoples through a constitutional reform and

⁷⁶² State of El Salvador. Report of the State of El Salvador, in accordance with the recommendations of the report *The Human Rights Situation in El Salvador* issued by the Inter-American Commission on Human Rights, in the context of its *in loco* visit of 2019, October 3, 2023, pp. 42–44; State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 *Annual Report* of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 16 and 18. In IACHR files.

⁷⁶³ State of El Salvador, Report of the State of El Salvador, in accordance with the recommendations of the report *The Human Rights Situation in El Salvador* issued by the Inter-American Commission on Human Rights, in the context of its *in loco* visit of 2019, October 3, 2023, p. 44.

⁷⁶⁴ Azul Originario *et al.*, *Annual Report on Human Rights Violations during the State of Exception in El Salvador*, March 2023, pp. 40, 41; *La Prensa Gráfica*, “[Más de 80 personas LGTBI detenidas durante el régimen de excepción.](#)” June 28, 2023.

⁷⁶⁵ *Open Democracy*, “[Women and LGBTQ people caught up in El Salvador’s state of emergency.](#)” February 20, 2023.

⁷⁶⁶ IACHR, public hearing “Right to identity of trans persons in El Salvador,” 186th regular period of sessions, March 10, 2023.

⁷⁶⁷ *La Prensa Gráfica*, “[Asamblea incumple plazo para reformar ley del nombre.](#)” March 2, 2023.

⁷⁶⁸ *Contrapunto*, “[TRANS: Registro Familiar niega cambio de género.](#)” February 3, 2023.

⁷⁶⁹ *Contrapunto*, “[Trans: Karla Guevara denuncia el rechazo al cambio de género.](#)” February 24, 2023.

⁷⁷⁰ *ElSalvador.com*, “[Alcaldía mantiene estancado el proceso de cambio de nombre en personas trans.](#)” June 19, 2023.

⁷⁷¹ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 *Annual Report* of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 19. In IACHR files.

⁷⁷² State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 *Annual Report* of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 19. In IACHR files.

having formulated a national action plan for indigenous peoples.⁷⁷³ It reported that the Ministry of Culture completed the process of updating the national policy on indigenous peoples; and that the Legislative Assembly has adopted a series of reforms and decrees to foster interculturalism and intersectionality, thus promoting history and traditions, as well as the respect for indigenous peoples and different cultures. It also reported other efforts such as those related to education, promotion of cultures and rights,⁷⁷⁴ and that August 9 was declared “National Indigenous Peoples’ Day.”⁷⁷⁵

378. Regarding the rights of **children and adolescents**, the Commission notes the implementation of the Crecer Juntos Law on January 1, 2023. According to information provided by the State, this law seeks to fully guarantee the exercise and enjoyment of the rights of girls, boys and adolescents, and establishes a national system for the comprehensive protection of early childhood, childhood and adolescence, with the participation of families, society and the State.⁷⁷⁶ In addition, the State informed the Commission that, by July 2023, the Department of Technical Assistance for Protection Boards of the National Council for Children and Adolescents (CONAPINA) followed up on 132 cases processed in Protection Boards, and guaranteed the right to identity of 100 children living with their mothers deprived of liberty through their registration in the Family Registry and the delivery of their birth certificates to their mothers.⁷⁷⁷

379. Regarding the rights of **persons in the context of human mobility**, the State reported on the creation of a national coordination mechanism on human mobility, which is allegedly made up of more than 40 state institutions and which is aimed at creating a coordination space for the construction and improvement of public policies. The mechanism is reportedly composed of six priority areas: i) prevention of irregular migration; ii) assistance and protection; iii) labor mobility; iv) attention to the diaspora; v) reintegration; and vi) environmental factors.⁷⁷⁸ However, the State did not provide information on the institutions that allegedly make up the mechanism, as well as the way in which this coordination is carried out.

380. For its part, the Commission notes that the structural causes that generate the forced displacement of persons persist. In this regard, data from the United Nations High Commissioner for Refugees, published in June 2023, indicate that by the end of 2022 there were a total of 58,637 refugees of Salvadoran origin, while 148,758 asylum seekers were awaiting a resolution of their applications. These figures represent an increase of 12 percent and a decrease of 3 percent, respectively, compared to 2021.⁷⁷⁹

381. In addition, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families expressed their concern about the limited access to justice for migrant workers, regardless of their immigration status, due to: i) the lack of knowledge of administrative and judicial remedies to file complaints and receive effective reparations; and, ii) the lack of trust in national authorities.⁷⁸⁰ Although the Committee welcomed the implementation of the program *Bienvenidos a Casa* (Welcome Home), and the Program for the Attention and Reinsertion of Returnees, together with the presentation of a protocol for the care of women returnees, it expressed its concern over the lack of detailed information on the impact on preventing returnees from migrating again and ensuring their economic reintegration, as well as their social and cultural reintegration.⁷⁸¹

⁷⁷³ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 18-22. In IACHR files.

⁷⁷⁴ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, pp. 18-22. In IACHR files.

⁷⁷⁵ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023, p. 2. In IACHR files.

⁷⁷⁶ State of El Salvador, *Un Nuevo El Salvador* report, July 14, 2023, p. 30. In IACHR files.

⁷⁷⁷ State of El Salvador, *Un Nuevo El Salvador* report, July 14, 2023, p. 31. In IACHR files.

⁷⁷⁸ State of El Salvador, Report of the El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, October 18, 2023, p. 7. In IACHR files.

⁷⁷⁹ United Nations High Commissioner for Refugees (UNHCR), *UNHCR 2022 Global Trends*, June 2023, Tables 1 to 23 of the annex.

⁷⁸⁰ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding observations on the third periodic report of El Salvador*, CAT/C/SLV/CO/3, April 13, 2023, para. 27.

⁷⁸¹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding observations on the third periodic report of El Salvador*, CAT/C/SLV/CO/3, April 13, 2023, para. 45.

382. In terms of **forced internal displacement**, according to data from the Internal Displacement Monitoring Centre, published in May 2023, by the end of 2022 there were 52,000 people living in displacement. However, as some people have allegedly been forced to flee several times, 73,000 conflict and violence-related displacements were recorded during 2022.⁷⁸² In addition, 4,600 displacements related to natural disasters were reported.⁷⁸³

383. Regarding **persons with disabilities**, the information received during 2023 in the context of detentions during the emergency regime points to situations of physical mistreatment of deaf persons due to their difficulties in understanding verbal orders; the excessive use of force against persons with psychosocial disabilities due to decompensation caused by the stress of the environment; as well as the death of a person with intellectual disabilities under the custody of the State.⁷⁸⁴

384. In relation to the rights of the **older persons**, the State reported that through the Ministry of Local Development it has been implementing, in coordination with state institutions and local actors, workshops to bring comprehensive services to the elderly. Likewise, it pointed out that they have strengthened elderly care centers (private non-profit institutions) prioritizing those that care for older persons who are homeless, abandoned or victims of violence; and the attention to the requirements of food and non-food supplies for this population.⁷⁸⁵

385. With regard to **memory, truth and justice**, the Commission highlights the lack of progress made in the passing of national legislation on transitional justice as ordered by the Constitutional Chamber of the Supreme Court of Justice in 2016.⁷⁸⁶ The State indicated that the unit for the investigation of crimes committed in the armed conflict of the Office of the Attorney General processed 232 cases, out of which 201 were in the investigation stage, 28 had been prosecuted and 3 had been archived.⁷⁸⁷ The Commission [took note of](#) the judgment issued in *Massacres of El Mozote and neighboring places v. El Salvador*⁷⁸⁸ and called for progress in the investigation of the perpetrators of serious human rights violations, ensuring that due process of law guarantees are respected and that victims are involved in the process. The Commission also noted the return of the bone remains of a group of victims of the El Mozote Massacre, identified after the exhumations carried out in 2016 and 2017.⁷⁸⁹ Furthermore, it learned of reports of advances in construction work which had not been allegedly consulted with the victims, in locations that could affect sites of memory and put at risk the recovery of bone remains related to the case.⁷⁹⁰

⁷⁸² Internal Displacement Monitoring Centre (IDMC), [2023 Global Report on Internal Displacement](#), May 2023, p. 79.

⁷⁸³ IDMC, [2023 Global Report on Internal Displacement](#), May 2023, p. 137.

⁷⁸⁴ Cristosal, [Un año bajo el régimen de excepción: Informe situacional del 27 de marzo de 2022 al 27 de marzo de 2023](#). San Salvador, El Salvador, May 12, 2023.

⁷⁸⁵ State of El Salvador, Report of the State of El Salvador to the IACHR on the request for information regarding Chapter IV.A of the 2023 Annual Report of the IACHR, Diplomatic Note MPOEA-OEA-180/2023, October 18, 2023. In IACHR files.

⁷⁸⁶ *La Prensa Gráfica*, [“Discusión por la falta de estudio de ley de justicia transicional en El Salvador.”](#) December 13, 2023; *La Prensa Gráfica*, [“Piden a Asamblea aprobar ley para víctimas de guerra civil de El Salvador.”](#) March 20, 2023; *La Prensa Gráfica*, [“Un año sin discutir la ley de justicia transicional.”](#) February 23, 2023.

⁷⁸⁷ State of El Salvador. Report of the State of El Salvador, in accordance with the recommendations of the report *The Human Rights Situation in El Salvador* issued by the Inter-American Commission on Human Rights, in the context of its *in loco* visit of 2019, October 3, 2023, p. 2.

⁷⁸⁸ Preliminary investigation court of San Francisco Gotera, Morazán, Criminal Case No. 238/1990, December 22, 2023.

⁷⁸⁹ *La Prensa Gráfica*, [“Medicina Legal entregó osamentas de víctimas de masacre de El Mozote.”](#) July 14, 2023; DW, [“Restos de 16 víctimas de El Mozote recibirán sepultura.”](#) February 16, 2023; *La Prensa Gráfica*, [“Sepultan restos de varias víctimas de El Mozote.”](#) March 17, 2023.

⁷⁹⁰ *La Prensa Gráfica*, [“DOM expropia y construye en El Mozote sin hacer consultas.”](#) July 13, 2023; *La Prensa Gráfica*, [“Solo nos han escuchado cuando hacemos este tipo de denuncias.”](#) July 13, 2023; *La Prensa Gráfica*, [“Medicina Legal entregó osamentas de víctimas de masacre de El Mozote.”](#) July 14, 2023.

XV. THE UNITED STATES

• General considerations

386. In terms of **progress**, the IACHR acknowledges a landmark Supreme Court decision safeguarding voting rights and preventing gerrymandering, the establishment of an office addressing gun violence prevention, Department of Justice recommendations on pretrial detention center access to counsel, and the launch of a plan for improved justice access and language barrier overcoming.

387. Regarding **challenges**, the IACHR emphasizes ongoing concerns about persistent patterns of racism, institutional and structural inequalities, the continued application of the death penalty, the escalating frequency of mass shootings, gun-related violence, and excessive use of force by law enforcement in the United States. The Commission also expresses concern regarding LGBTI rights, and the implementation of regressive measures impacting women's reproductive rights.

• Specific issues

388. In terms of **democratic institutions**, the IACHR acknowledges the steps taken by the U.S. Supreme Court in the decision made in *Moore v. Harper* which proved to be a landmark case that ensures equal voting rights and prevents gerrymandering by state legislature.⁷⁹¹ In the same vein, the Commission recognizes the Supreme Court decision in *Allen v. Milligan* that determines changes in the congressional map in Alabama in order to include a second majority-Black district. This recognition comes in light of the fact that Black voters currently form a majority in only one district, despite constituting a quarter of the state's population.⁷⁹²

389. The Commission also acknowledges measures adopted by federal judges in Georgia and Texas, striking down unnecessary provisions that blocked voters from having fair access to the ballot box. These decisions convey that states are not allowed to enforce unnecessary regulations that prevent eligible voters from participating in the democratic process.⁷⁹³

390. Additionally, the IACHR highlights initiatives such as the "Summit for Democracy" hosted by the U.S. in April of this year. Throughout the summit, there was a focus on the importance of fostering social inclusion and prosperity, addressing the diminishing public faith in democracy, regulating surveillance technology, and combating the inappropriate spread of fake news on social media.⁷⁹⁴

391. With respect to **human rights institutions**, the IACHR notes that the United States does not yet have a national institution dedicated exclusively to the promotion and protection of human rights.

392. Regarding **citizen security**, the IACHR notes the establishment of the White House Office of Gun Violence Prevention on September 22, 2023. This is an important step towards the elimination of gun violence in the country and builds upon past actions like the Bipartisan Safer Communities Act.⁷⁹⁵ The Commission also pays regard to the meeting between the Office of Gun Violence Prevention and the Lieutenant Governors that occurred on October 24, 2023, with the goal of creating liaisons to enact policies that would prevent gun violence in their communities and discuss the resources that are available at the federal level to address gun crimes and violent crimes generally.⁷⁹⁶

⁷⁹¹ Supreme Court of the United States of America. [Moore v. Harper](#). Decided on June 27, 2023.

⁷⁹² Supreme Court of the United States of America. [Moore v. Harper](#). Decided on June 27, 2023.

⁷⁹³ United States District Court for the Western District of Texas San Antonio Division. [Case 5:21-CV-0844-XR](#). Decided on August 17, 2023. Also see United States District Court for the Northern District of Georgia Atlanta Division. [MASTER CASE NO. 1:21-mi-55555-IPB](#). Decided on August 18, 2023.

⁷⁹⁴ U.S. Department of State. [Summit for Democracy 2023](#). March 29, 2023.

⁷⁹⁵ The White House. [President Joe Biden to Establish First-Ever White House Office of Gun Violence Prevention. To Be Overseen by Vice President Kamala Harris](#), September 21, 2023.

⁷⁹⁶ The White House. [Readout of White House Meeting with Lt. Governors on Preventing Gun Violence](#). October 24, 2023.

393. On the other hand, the IACHR is concerned about the persistence of a high number of mass shootings and gun-related deaths during 2023. According to public information, as of mid-November 2023, a total of 603 mass shootings have been recorded. Additionally, within the same time frame, the Commission notes that the total number of gun violence deaths has surpassed 37,500. The Commission also expresses particular concern about the nearly 1,500 children and adolescents who have lost their lives due to gun-related injuries.⁷⁹⁷ In addition, according to the K-12 School Shooting Database, between January and October 2023, 299 incidents involving firearms were reported in educational institutions⁷⁹⁸.

394. Another issue that the IACHR has observed with concern is the excessive use of force by law enforcement in the country. As of 2023, there have been 1,029 deaths caused by the police.⁷⁹⁹ There is a slight reduction compared to 2022, but it still has been reported that the rate of killings by American law enforcement is among the highest in the world.⁸⁰⁰ In this regard, the Commission observes that black people are 2.9 times more likely to be killed by police than white people in the U.S.⁸⁰¹

395. Regarding **access to justice**, the IACHR highlights the report made by the U.S. Department of Justice with recommendations that move towards providing easier access to counsel in pretrial detention centers.⁸⁰² The Commission also acknowledges the launch of the “Language Access Plan” which will facilitate access to the Department’s services and activities for individuals that face language barriers. This plan will provide guidance to Department offices in various aspects such as improving translation and interpretation services and providing the public with various tools⁸⁰³.

396. In relation to **indigenous peoples**, the Commission acknowledges the presidential proclamation which recognizes the inherent sovereignty and invaluable contributions of indigenous peoples in the formation of the country⁸⁰⁴. Additionally, the IACHR highlights the investment of \$32 billion dollars made through the American Rescue Plan, which marked the largest single direct investment toward tribal nations in history⁸⁰⁵. Nonetheless, the IACHR noted the lack of indigenous language interpreters in detention centers and the judicial process, which deters indigenous immigrants from having full access to their rights⁸⁰⁶. The Commission also expressed concern about the negative repercussions on the quality of life for indigenous communities in Louisiana and Alaska caused by climate-induced displacement⁸⁰⁷.

397. Following an invitation from representatives of the Eastern Navajo Diné Community Association Against Uranium Mining and Red Water Pond Road, the IACHR carried out a promotional visit to New Mexico between July 26 and 27, 2023. The Commission will continue to monitor the human rights situation of the Navajo people, and in particular, the impact of uranium extraction and toxic waste on their lands and health.

398. Regarding the rights of **women**, the IACHR welcomes the release of the first National Plan to End Gender-Based Violence, which based on a comprehensive and intersectional approach focuses on prevention, racial justice, LGBTI equality, intergenerational healing, community wellness and social norms change⁸⁰⁸. It also takes note of efforts to establish legal protections to women’s rights at the federal level, by

⁷⁹⁷ Gun Violence Archive. [Gun Violence Archive 2023](#). Updated November 15, 2023.

⁷⁹⁸ K-12 School Shooting Database, “[All Shootings at Schools From 1966-Present](#)”, 2023.

⁷⁹⁹ Mapping Police Violence, [Mapping Police Violence](#). Updated October 15, 2023.

⁸⁰⁰ Police Brutality Center. [Police Brutality Statistics: What the Data Says About Police Violence in America](#). October 24, 2023.

⁸⁰¹ Mapping Police Violence, [Mapping Police Violence](#). Updated October 15, 2023.

⁸⁰² U.S. Department of Justice. [Report and Recommendations Concerning Access to Counsel at the Federal Bureau of Prisons’ Pretrial Facilities](#). July 20, 2023.

⁸⁰³ U.S. Department of Justice. [Justice Department Releases Language Access Plan to Expand Access to Department Resources and Programs](#), August 15, 2023.

⁸⁰⁴ The White House, [A Proclamation on National Native American Heritage Month](#), 2023, 31 October 2023.

⁸⁰⁵ The White House, [A Proclamation on National Native American Heritage Month](#), 2023, 31 October 2023.

⁸⁰⁶ CIDH. Audiencia pública, “[Situación de Movilidad Humana desde un Enfoque Étnico-Racial](#)”. 186 período ordinario de sesiones, Los Ángeles, California, 7 March de 2023.

⁸⁰⁷ CIDH. Comunicado de Prensa RD196/23. [Visita de REDESCA a Luisiana y Alaska, EE. UU.: Es urgente abordar el impacto de la emergencia climática en los derechos humanos de los pueblos indígenas](#). 28 August 2023.

⁸⁰⁸ The White House, [U.S. National Plan to End Gender-Based Violence: Strategies for action](#), May 2023.

reintroducing the Women's Health Protection Act of 2023, to guarantee access to comprehensive reproductive health care⁸⁰⁹; and to recognize the ratification of the Equal Rights Amendment, in order to enshrine in the Constitution, the prohibition of discrimination on the basis of sex⁸¹⁰.

399. However, the IACHR expresses its concern about the increased barriers for women to access reproductive health care after the U.S. Supreme Court decision on *Dobbs v. Jackson Women's Health Organization*. Up to October 2023, abortion is illegal or severely restricted in at least 15 states⁸¹¹, and many initiatives have been introduced and/or passed to further restrict its access by banning abortion pills, public funding of abortion services, reproductive health information, and out of state abortions⁸¹². In some states, there are converging laws, some in effect and others permanently enjoined or temporarily blocked and still under review by Court⁸¹³. It has particularly affected medical personnel, who are forced to make compromises in their practice for fear of being sanctioned, and women who are prevented from accessing quality reproductive health care even in cases of obstetric emergencies⁸¹⁴, which could lead to an increase in the maternal mortality rate⁸¹⁵. Although several states have introduced or expanded protection through measures like shield laws, allocation of funds for abortion care, patient data protection, insurance coverage, and licensing protections for medical staff⁸¹⁶, not all women are able to travel to those states. People of color, immigrants, and those of precarious socioeconomic status are the most affected⁸¹⁷.

400. On the rights of **persons in the context of human mobility**, the IACHR has closely monitored the impact that recent policies have had on their human rights. In particular, the extension of protection for individuals from certain countries, the restriction of rights under new migration programs, the end of Title 42 and the effects of its substitute rule under Title 8, and the humanitarian situation at the southwest border and certain key states.

401. In particular, the IACHR recognizes the efforts of the government in broadening the protection and access to justice for migrants and asylum seekers through different actions, such as: i) extending the Temporary Protection Status for Haitian and Venezuelan nationals;⁸¹⁸ ii) the implementation of new family reunification permit processes for nationals from Colombia, El Salvador, Honduras and Guatemala;⁸¹⁹ iii) requesting additional funding to manage the backlog of cases in the Executive Office for Immigration Review; and iv) provide resources to adults and families in immigration proceedings.⁸²⁰ It also applauds the

⁸⁰⁹ CRR, [Bill to Secure a Nationwide Right to Abortion Introduced in U.S. Congress](#), March 30th, 2023; Tammy Baldwin, [Baldwin, Blumenthal Lead 47 Members in Introducing Legislation to Restore and Protect Americans' Right to an Abortion Nationwide](#), March 8th, 2023.

⁸¹⁰ Congress.Gov, [H.J.Res.25 - Removing the deadline for the ratification of the equal rights amendment](#), as of October 30th 2023; The White House, [Statement from President Joe Biden on Equal Rights Amendment Centennial](#), August 26th, 2023.

⁸¹¹ Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, South Carolina and Georgia. See CRR, [After Roe Fell: Abortion Laws by State](#), Consulted on October 31st, 2023; Guttmacher Institute, [State Bans on Abortion Throughout Pregnancy](#), Consulted on October 31st, 2023.

⁸¹² Arkansas, Kansas, Alabama, Texas, Tennessee, Idaho, Utah, Florida, Nebraska, North Carolina, South Carolina, West Virginia, and Wyoming. Guttmacher Institute, [State Bans on Abortion Throughout Pregnancy](#), Consulted on October 31st, 2023.

⁸¹³ See Guttmacher Institute, [State Bans on Abortion Throughout Pregnancy](#), Consulted on October 31st, 2023; CRR, [After Roe Fell: Abortion Laws by State](#), Consulted on October 31st, 2023.

⁸¹⁴ USA Today, [Group files lawsuit over medical exceptions to abortion bans in 3 states](#), 13 September 2023; Fox News, [Texas judge rules state's abortion law is too restrictive for women with pregnancy complications](#), 5 August 2023.

⁸¹⁵ IACHR, [IACHR: The United States must protect and guarantee women's right to reproductive health](#), June 24, 2023; OHCHR, [United States: Abortion bans put millions of women and girls at risk, UN experts say](#), June 2nd, 2023.

⁸¹⁶ California, Connecticut, Hawaii, Illinois, Maine, Maryland, Montana, New York, Rhode Island, Washington, Vermont, Minnesota, Nevada, District of Columbia, South Dakota, Colorado, Oregon, Massachusetts, Michigan and New Mexico. Guttmacher Institute, [State Bans on Abortion Throughout Pregnancy](#), Consulted on October 31st, 2023.

⁸¹⁷ AP, Post-Roe, [Native Americans face even more abortion hurdles](#), February 14th, 2023; National Partnership, [State abortion bans threaten 6.7 million Latinas. Issue brief](#), October 2023.

⁸¹⁸ U.S. Department of Homeland Security. [Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act](#), September 30, 2023.

⁸¹⁹ IACHR, [Movilidad humana y obligaciones de protección: Hacia una perspectiva subregional](#), July 21, 2023.

⁸²⁰ The White House. [FACT SHEET: President Biden's Budget Strengthens Border Security, Enhances Legal Pathways, and Provides Resources to Enforce Our Immigration Laws](#), March 9, 2023.

introduction of the Welcome Corps program, which constitutes an important step in providing refugees access to educational opportunities and family reunification.⁸²¹

402. On the other hand, the IACHR notes with concern the incorporation of the program Family Expedited Removal Management and its potential interfere with the rights of family unit. The program imposes the use of ankle monitors and nighttime curfew on heads of households that are going through civil asylum processing.⁸²² This measure would place unnecessary obstacles on migrant families as they struggle to access legal counsel and address necessities such as housing, schooling, childcare, and mental health services, among others.⁸²³

403. Regarding Title 42, the Commission welcomed its termination, which prohibited the introduction of non-citizens at U.S. land borders based on public health concerns, and impeded access to asylum procedures and the identification of possible international protection needs. In addition, the IACHR noted with concern that a new measure announced by the government in January 2023⁸²⁴ and the enforcement of Title 8⁸²⁵ would continue to restrict access to request asylum in the country, due to the increase in costs and the burden of proof for persons with possible international protection needs. They would also limit the access of migrants to other mechanisms to regularize their immigration status in the United States, which could generate risks that increase their situation of vulnerability.⁸²⁶

404. In this context, the IACHR highlights the increase in deportations that have been occurring based on Title 8, which replaced Title 42 expulsions.⁸²⁷ Particularly, according to the new rule published by the Department of Homeland Services, individuals who cannot establish a valid claim to protection under the standards are to be removed under Title 8, which also carries a five-year ban on re-entry.⁸²⁸ The effects of this rule can be observed clearly in the southwest border, where more than 410,000 cases were classified as inadmissible in September 2023.⁸²⁹ This constitutes a 180% increase in comparison to September of last fiscal year.⁸³⁰ In addition, there has been a total number of 1,338 U.S. Immigration and Customs Enforcement removal flights⁸³¹.

405. The IACHR also observes with concern the conditions reported at the southwest border, where makeshift camps that lack access to basic services and facilities have been detected.⁸³² Additionally, there have been reports of alleged negligence, such as lack of access to medical services, improper nutrition, and prolonged detention at detention centers and camps for unaccompanied migrant children.⁸³³ Moreover, in

⁸²¹ UNHCR. [ACNUR celebra la generosa decisión de EE. UU. sobre el reasentamiento e insta a otros países a seguir su ejemplo](#). September 29, 2023.

⁸²² U.S. Immigration and Customs Enforcement. [ICE announces new process for placing family units in expedited removal](#). May 10, 2023.

⁸²³ National Immigrant Justice Center. [New Policy Brief: ICE's Family Expedited Removal Management \(FERM\) Program Puts Families At Risk](#). August 31, 2023.

⁸²⁴ Homeland Security, United States. [DHS Continues to Prepare for End of Title 42: Announces New Border Enforcement Measures and Additional Safe and Orderly Processes](#). January 5, 2023.

⁸²⁵ U.S. Citizenship and Immigration Services, [Immigration and Nationality Act](#), s.f.

⁸²⁶ IACHR. Press Release No. 099/23. [End of Title 42: IACHR calls on United States to protect rights of migrants and refugees](#). May 26, 2023.

⁸²⁷ U.S. Department of Homeland Security. [Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration](#). April 27, 2023.

⁸²⁸ U.S. Department of Homeland Security. [Fact Sheet: Circumvention of Lawful Pathways Final Rule](#). May 11, 2023.

⁸²⁹ U.S. Customs and Border Protection. [Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions Fiscal Year 2023](#). October 21, 2023.

⁸³⁰ U.S. Customs and Border Protection. [Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions Fiscal Year 2022](#). November 02, 2023.

⁸³¹ Witness at the Border. [ICE Air Flights August 2023 and Last 12 Months \(including summaries for 2020, 2021, 2022\)](#). September 5, 2023.

⁸³² KPBS. [Border Patrol once again puts migrants in outdoor San Ysidro camp with no bathrooms](#). September 12, 2023.

⁸³³ CBS News. [U.S. reopens troubled facility for migrant children in Texas amid spike in border arrivals](#). September 13, 2023. Freedom for Immigrants. [Detention by the Numbers](#). 2023.

the state of New York, asylum seekers were reportedly sleeping on the street due to the overwhelmed arrival intake center.⁸³⁴

406. In relation to **statelessness**, the IACHR welcomes the issuance of updated guidance for stateless individuals who desire to enter the country. According to official information, these guidelines will help in standardizing operating procedures for officers reviewing individual applications by clarifying how to identify potential statelessness and taking the steps to provide adequate protection if eligible.⁸³⁵

407. Regarding **human trafficking**, the Commission takes note of the proposal for the creation of a Human Trafficking Observatory in Puerto Rico due to the identification of this problem on the island. In this context, the Commission notes that, according to data from the Department of Corrections and Rehabilitation, as of August 2023, 29% of the children and adolescents who have entered the juvenile justice system have been victims of human trafficking prior to their admission.⁸³⁶

408. Regarding the rights of **children**, through a Press Release dated May 25, 2023, the Commission expressed its concern about the adoption of regressive regulations regarding access to sexual and reproductive rights. During 2023, in several states, laws that prohibit gender-affirming medical care for trans children and adolescents came into force. In addition, several of these legal measures simultaneously introduce an explicit exception for harmful and non-emergency medical procedures performed on intersex children.⁸³⁷

409. On the matter of **persons deprived of liberty**, the Commission welcomes the judicial decision that orders the state of Louisiana to remove children from Angola Prison, after considering that they used to be routinely held in solitary confinement and inhumane conditions.⁸³⁸ Also, values the closing of a high-security unit at Thomson Penitentiary in Illinois by the federal Bureau of Prisons, because of several reports of violence and abuse.⁸³⁹ Besides, the IACHR celebrates the agreement reached by Los Angeles County (L.A.) and the civil society organization American Civil Liberties Union (ACLU) that may improve the conditions of detention.⁸⁴⁰ Likewise, the Commission values the approval of Senate Bill 153 by the Governor of Nevada that will guarantee more equitable treatment for transgender and gender non-conforming people incarcerated within the Nevada Department of Corrections.⁸⁴¹

410. On the other hand, the Commission expresses its concern for the situation of women deprived of liberty at the California's San Francisco Bay prison facilities who, according to public information, filed a lawsuit against the Federal Bureau of Prisons alleging sexual abuse and exploitation.⁸⁴² Moreover, the IACHR is concerned about the public information that indicates people incarcerated in U.S. prisons would be forced to work for a below minimum wage and without the basic legal protections.⁸⁴³ Additionally, it is a matter of

⁸³⁴ NBC New York. [Central Park among NYC areas considered to house migrants: 'Everything is on the table'](#). August 2, 2023.

⁸³⁵ U.S. Department of Homeland Security. [DHS Issues Guidance for Stateless Noncitizens in the United States](#). August 1, 2023.

⁸³⁶ Senado del Estado Libre Asociado de Puerto Rico, "[Departamento de la Familia y Fundación Ricky Martin respaldan proyecto para crear Observatorio de Trata Humana](#)", August 31, 2023.

⁸³⁷ IACHR, Press Release 95/23 - [IACHR warns against regressive health care measures that impact trans and intersex youth in the United States of America](#) Washington DC, May 25, 2023.

⁸³⁸ American Civil Liberties Union, [Judge Orders Louisiana to Remove Children from Angola Prison by September 15](#), September 8, 2023.

⁸³⁹ The Marshall Project, [After Several Deaths, Feds to Close Violent Prison Unit in Illinois](#), February 14, 2023.

⁸⁴⁰ Los Angeles Times, [L.A. County and ACLU reach 'extraordinary' agreement to address jail conditions](#), June 17, 2023.

⁸⁴¹ Nevada Legislature, Government of Nevada, [SB153 – Text](#), May 31, 2023.

⁸⁴² Fox News, [CA female inmates file suit, citing prison sex abuse hasn't stopped despite previous prosecutions of officers](#), August 17, 2023; Toronto Star, [Inmates at California women's prison sue federal government over sexual abuse](#), August 16, 2023; and The Sacramento Bee, [Woman sues over sexual abuse at all-female prison known as 'rape club,' she says](#), August 3, 2023.

⁸⁴³ The Washington Post, [U.S. among 17 countries that practice forced labor, a form of 'modern slavery,' report finds](#), 25 de mayo de 2023. Also, see: Walk Free, [The Global Slavery Index](#), May 2023; and The Guardian, [US prison labor is cruel and pointless legalized slavery, I know first-hand](#), September 22, 2023.

concern to the Commission the proposed Massachusetts Bill HD.3822 which would give convicted prisoners between 60 days and a year off their sentence, if they donate their organs.⁸⁴⁴

411. Regarding the **death penalty**, the Commission continues to monitor its application and, despite the progress made in its abolition, reiterates that the United States is only country in the Western Hemisphere that executes persons sentenced to this punishment. In this sense, the IACHR celebrates that the state of Washington officially abolished the death penalty by adopting the Senate Bill 5087.⁸⁴⁵ However, the Commission observes that, according to the Death Penalty Information Center, as of October 11, 2023, a total of 20 prisoners have been executed in the country.⁸⁴⁶

412. In addition, the IACHR is concerned about the judicial decision adopted in January 2023 by the Alabama State Supreme Court that eliminated the requirement that all executions be carried out within one day and gave the Governor the power to set the deadline for executions. That decision eliminated the automatic "plain error" review, which consisted of the Alabama Court of Criminal Appeals automatically reviewing death penalty cases for plain error at trial. Thus, the Appellate Court can still conduct such a review, but they are no longer required to do so.⁸⁴⁷

413. Regarding the **people of African descent and against racial discrimination**, the IACHR took note of the executive order signed by President Biden to strengthen racial equity and provide support to underserved communities across the country.⁸⁴⁸ On the reparations matter, it was noted that the New York State Legislature passed a bill that would create a commission to consider reparations for slavery.⁸⁴⁹ As of the date of writing this report, the bill needs the approval or veto signature of the governor before the end of 2023.⁸⁵⁰ In May, the reparations task force of the State of California approved a report that includes more than 200 recommendations on how to undo centuries of unfair treatment of Black people in California, especially descendants of enslaved people.⁸⁵¹

414. Regarding the criminal justice system and citizen security policies, the Department of Justice opened an investigation into an audit that alleges that Connecticut state troopers have been submitting false information to a racial profiling database to conceal the ethnic background of motorists they stopped, making the data appear like police were stopping more white drivers.⁸⁵²

415. In addition, it is highlighted that the United Nations Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement visited the United States from April 24 to May 5, 2023. Among its main conclusions, it highlighted that systemic racism and racial discrimination by law enforcement officials in the United States against people of African descent is a direct legacy of slavery and dates to the founding of the country. In particular, the mechanism expressed alarm at the widespread use of solitary confinement, which

⁸⁴⁴ US News, [Massachusetts Bill Would Let Prisoners Donate Organs in Exchange for Shorter Sentence](#), February 9, 2023; CBS News, [Lawmakers propose letting Massachusetts prisoners donate organs for reduced sentences](#), February 2, 2023; and Insider, [A proposed Massachusetts bill would give inmates up to a year off their sentence — if they donate their organs](#), January 31, 2023.

⁸⁴⁵ Senate Democrats, [Government of Washington. Washington officially abolishes the death penalty](#), June 2, 2023.

⁸⁴⁶ Death Penalty Information Center, [Execution List 2023](#), October 11, 2023.

⁸⁴⁷ Fox News, [Alabama Supreme Court opens window to carry out death sentences after string of troubled executions](#), January 19, 2023; Associated Press News, [Alabama extends time for executions, ends automatic review](#), January 18, 2023; y Equal Justice Initiative, [Alabama Supreme Court Issues New Execution Rule That Is Unprecedented in the U.S.](#), January 17, 2023.

⁸⁴⁸ The White House, [FACT SHEET: President Biden Signs Executive Order to Strengthen Racial Equity and Support for Underserved Communities Across the Federal Government](#), February 16, 2023.

⁸⁴⁹ AP News, [New York lawmakers pass bill that considers reparations for slavery](#), June 8, 2023; USA Today, [New York lawmakers pass 'historic' bill to consider reparations for](#), June 9, 2023. Also, see: State of New York, [1163 A](#), In Senate, January 10, 2023.

⁸⁵⁰ The Tablet, [New York Legislature OKs Bill to Form a Reparations Commission](#), October 16, 2023.

⁸⁵¹ Cal Matters, [California is the first state to tackle reparations for Black residents. What that really means](#), June 29, 2023; [ABC 7News. Push for reparations in California takes significant step forward](#), August 22, 2023.

⁸⁵² The week, [DOJ investigating alleged racial profiling among Connecticut troopers. DOJ investigating alleged racial profiling among Connecticut troopers](#), August 5, 2023; AP News, [Connecticut troopers under federal investigation for allegedly submitting false traffic stop data](#), August 4, 2023.

appears to be applied disproportionately to prisoners of African descent and exposed the case of a Black man who had remained in solitary confinement for 11 continuous years.⁸⁵³

416. Regarding the field of education, the IACHR expressed its deep concern⁸⁵⁴ about the decision of the Supreme Court of the United States in the case of *SFFA v. Harvard* in which it ruled, on June 29, 2023, that the admissions policies of Harvard College and the University of North Carolina, which considered the ethnic-racial background of applicants during admission decisions, were unconstitutional under the Clause of Equal Protection of the 14th Amendment to the United States Constitution and violated Title VI of the Civil Rights Act of 1964.⁸⁵⁵ On the other hand, the origin of racism in American history is currently part of an ongoing national debate in which legislators, experts, and educators advocate for and against the teaching of Critical Race Theory (CRT)⁸⁵⁶ in schools across the country. Efforts to ban CRT are widespread, as dozens of states have passed laws, and more than 40 have proposed laws.⁸⁵⁷ Critics of CRT argue that the movement itself is discriminatory against non-racialized people.⁸⁵⁸

417. On the rights of **LGBTI persons**, the Commission positively notes that a number of state legislatures have approved bills to protect trans health care coverage and access.⁸⁵⁹ Likewise, a number of states and federal court decisions temporarily stopped the implementation of laws that seek to ban gender-affirming care, particularly for trans youth.⁸⁶⁰ In April 2023, the U.S. Education Department announced a proposal of changes to Title IX that would make it illegal for schools to broadly ban trans students from participating in sports teams that align with their gender identity.⁸⁶¹

418. Regarding intersex persons, the Commission welcomes the actions of the government to promote and recognize their rights, including a request for information to develop a report on promising practices for advancing health equity for intersex individuals,⁸⁶² and a series of meetings with intersex human rights defenders and state officials to bring visibility to their human rights concerns.⁸⁶³ Similarly, the State Department and the U.S. Agency for International Development (USAID) launched a LGBTQI+ inclusive development policy⁸⁶⁴ and released an updated U.S. Strategy to Prevent and Respond to Gender-Based Violence

⁸⁵³ [Human Rights Council, fifty-fourth session, International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement, Visit to the United States of America](#), A/HRC/54/CRP.7, 26 September 2023, p. 22, par. 101.

⁸⁵⁴ CIDH, Comunicado de prensa, No. 169, [CIDH urge a la Suprema Corte de los Estados Unidos de América a garantizar la igualdad de derechos y la no discriminación](#), 26 de julio de 2023.

⁸⁵⁵ BBC News, [Affirmative action: US Supreme Court overturns race-based college admissions](#), 29 June 2023. Supreme Court of the United States, October term, 2022, [students for fair admissions, INC. v. Error! Reference source not found.](#), 29 June 2023.

⁸⁵⁶ The IACHR understands that Critical Race Theory, as noted in previous [reports](#), is a concept that exposes how racism goes beyond individual prejudices and is a component rooted in the US society and history, revealing how Discrimination and inequity are woven into laws, policies, and systems.

⁸⁵⁷ Fox News, [44 states introduced bills, took steps to restrict teaching CRT or how teachers discuss racism, sexism: report](#), May 4, 2023.

⁸⁵⁸ Los Angeles Times, [Opinion: The censorship of critical race theory in American education](#), August 16, 2023.

⁸⁵⁹ NPR, [Minnesota to join at least 4 other states in protecting transgender care this year](#), April 21, 2023; Movement Advancement Project. "Equality Maps: Transgender Healthcare 'Shield' Laws." www.mapresearch.org/equality-maps/healthcare/trans_shield_laws. Accessed [October 29, 2023].

⁸⁶⁰ ACLU, [Montana Court Blocks Enforcement of Ban on Gender-Affirming Care for Trans Youth](#), September 27, 2023; NPR, [First in the nation gender-affirming care ban struck down in Arkansas](#), June 20, 2023; AP, [Federal judges in Kentucky and Tennessee block portions of transgender youth care bans](#), June 28, 2023; PBS, [Federal judge blocks most of Indiana's ban on gender-affirming care for minors](#), July 16, 2023; The Guardian, [Texas supreme court allows ban on transgender youth care to take effect](#), September 1st, 2023; AP, [US judge blocks Florida ban on trans minor care in narrow ruling, says 'gender identity is real'](#), June 7, 2023; Reuters, [Court revives Alabama ban on transgender youth treatment, judge blocks Georgia law](#), August 22, 2023. For the most up to date information see: Movement Advancement Project. "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth." https://www.mapresearch.org/equality-maps/healthcare/youth_medical_care_bans. Accessed [October 29th, 2023].

⁸⁶¹ NPR, [The Biden administration moves to make broad, transgender sports bans illegal](#), April 6, 2023.

⁸⁶² Federal Register, [Request for Information on Promising Practices for Advancing Health Equity for Intersex Individuals](#), February 10, 2023.

⁸⁶³ The Washington Blade, [State Department hosts intersex activists from around the world](#), September 29th, 2023.

⁸⁶⁴ USAID, [USAID Releases First-Ever LGBTQI+ Inclusive Development Policy](#), August 2, 2023.

(GBV) that is inclusive of the GBV risks and needs of LGBTQI+ persons, also addressing medically unnecessary and harmful surgeries on intersex persons.⁸⁶⁵

419. Despite these positive developments, the Commission has received information about an increase in anti-LGBTQ incidents of violence in recent times, according to the Federal Bureau of Investigation (FBI),⁸⁶⁶ and increasing threats against the LGBTQIA+ community, according to the Department of Homeland Security.⁸⁶⁷ The Commission also notes that until October 2023, as per public information, at least 25 trans and non-binary persons had suffered from violent deaths, and many are still currently under investigation.⁸⁶⁸

420. Also, during 2023, the IACHR noted many regressive measures particularly concerning the rights of trans children and youth.⁸⁶⁹ For instance, the Commission warned against states in the USA passing laws and policies that restrict gender-affirming healthcare for trans youth.⁸⁷⁰ Some of these measures also have negative impacts on the rights of intersex persons.⁸⁷¹

421. The Commission also notes that, in the case of *33 Creative LLC et al. v. Elenis*,⁸⁷² the Supreme Court held that the First Amendment to the U.S. Constitution permitted a website designer to refuse to design wedding websites for same-sex couples. As a result, the decision creates an avenue for discrimination based on sexual orientation, among other grounds.⁸⁷³ In this regard, the IACHR notes that the decision was regretted by the Executive branch.⁸⁷⁴

422. Moreover, the IACHR notes an increasing number of states banning the teaching of comprehensive sex education and discussion about gender and sexual diversity.⁸⁷⁵ In 2023, at least six state legislatures (Arkansas, Indiana, Iowa, Kentucky, and North Carolina) enacted so-called “don’t say gay” laws that limit or ban discussions on LGBTI issues on school grounds or school curricula. In April, the state of Florida expanded its 2022 law.⁸⁷⁶ Likewise, the Commission has known bills that would likely encompass a ban on LGBTQ material. This banning argues that the only goal is to rid schools of sexually explicit material. One of the bills could result in removing books about LGBTQ issues from school libraries in one state’s 327 districts if they’re successfully challenged in any of them.⁸⁷⁷ Similarly, the Commission is concerned about continued stigmatizing discourses against trans persons and drag artists and performers, especially by people with political leadership.⁸⁷⁸

⁸⁶⁵ The White House. [U.S. National Plan to End Gender-Based Violence: Strategies for Action](#). May 2023.

⁸⁶⁶ FBI, [FBI Releases 2022 Crime in the Nation Statistics](#), October 16th, 2023; The Washington Blade, [Sharp increase in anti-LGBTQ hate crimes](#), FBI finds, October 16th, 2023.

⁸⁶⁷ ABC News, [Threats against the LGBTQIA+ community intensifying: Department of Homeland Security](#), May 16, 2023.

⁸⁶⁸ HRC, [Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2023](#), October 2023.

⁸⁶⁹ CNN, [Record number of anti-LGBTQ bills have been introduced this year](#), April 6, 2023; ACLU; The ACLU is tracking 505 anti-LGBTQ bills in the U.S., 2023 Legislative session, <https://www.aclu.org/legislative-attacks-on-lgbtq-rights> (Visited October 28th, 2023); ABC News, [Map: Where gender-affirming care is being targeted in the US](#), May 22, 2023; CNN, [19 states have laws restricting gender-affirming care](#), some with the possibility of a felony charge, June 6, 2023. For more information and updated resources visit: Movement Advancement Project. "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth." https://www.mapresearch.org/equality-maps/healthcare/youth_medical_care_bans. Accessed October 3rd, 2023.

⁸⁷⁰ IACHR, [IACHR warns against regressive health care measures that impact trans and intersex youth in the United States of America](#), 25 May 2023; UCLA School of Law, Williams Institute, [Prohibiting Gender-Affirming Medical Care for Youth](#), March 2023.

⁸⁷¹ Maps research, [LGBTQ Policy Spotlight: Bans on Medical Care for Transgender People](#), 20 April 2023; IACHR, [IACHR warns against regressive health care measures that impact trans and intersex youth in the United States of America](#), 25 May 2023; ABC News, [Amid transgender care bans, exceptions made for surgery on intersex children](#), July 18th 2023.

⁸⁷² SCOTUS, [303 Creative LLC Et Al. V. Elenis et al](#), 30 June 2023.

⁸⁷³ SCOTUS, [303 Creative LLC Et Al. V. Elenis et al](#), 30 June 2023.

⁸⁷⁴ WH.GOV, [Statement from President Joe Biden on Supreme Court Decision in 303 Creative LLC v. Elenis](#), 30 June 2023.

⁸⁷⁵ Movement Advancement Project. "Equality Maps: LGBTQ Curricular Laws." October 11th, 2023. For updated information visit: Movement Advancement Project. "Equality Maps: LGBTQ Curricular Laws." https://www.lgbtmap.org/equality_maps/curricular_laws. Accessed 10/28/2023.

⁸⁷⁶ ABC News, [So-called 'Don't Say Gay' rules expanded through 12th grade in Florida](#), April 19th, 2023.

⁸⁷⁷ AP News, [School library book bans are seen as targeting LGBTQ content](#), March 20, 2023.

⁸⁷⁸ Times, [Tennessee Passed the Nation's First Law Limiting Drag Shows](#). Here's the Status of Anti-Drag Bills Across the U.S. March 5, 2023; HRC, [Human Rights Campaign Condemns Montana House for Passing Discriminatory Anti-Drag Bill](#), February 24, 2023;

XVI. GRENADA

• General considerations

423. As it relates to **progress**, the Commission notes the initiative to standardize the provision childcare services for children in early childhood. Further, the IACHR highlights efforts by the State to promote reintegration and restorative justice measures to reduce recidivism rates among adolescents. The Commission also highlights the modernization of the Supreme Court to enhance efficiency and effectiveness of court services and improve access to justice.

424. In relation to **challenges**, the IACHR observes the increase in homicide for the year and the continued overcrowding of the country's sole prison.

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

• Specific issues

426. With respect to **human rights institutions**, the IACHR once again notes that the State has no centralized reporting mechanism for human rights violations or a centralized statistical gathering system.⁸⁷⁹ The IACHR underscores the necessity of establishing an independent body at the national level for the promotion and protection of human rights.

427. Regarding **citizen security**, the IACHR takes note of the recorded homicides for the year, and the State's efforts to reduce crime. According to public information, the State recorded 14 homicides for 2023.⁸⁸⁰ This indicates that the State's homicide rate for 2023 was 11.2 per 100,000 inhabitants.⁸⁸¹ The Commission also notes an increase in the seizure of guns in the State. According to public information, for the first 6 months of 2023, 31 firearms were confiscated as compared to 16 seized in the corresponding period for 2022. This represents a 51.6% increase in seizure of illegal firearms.⁸⁸²

428. Regarding **access to justice**, the Commission highlights efforts to modernize the Supreme Court. In particular, the E-Litigation portal of the Eastern Caribbean Supreme Court is expected to bring advantages to the magistracy of the State as it may transform the management of civil proceedings, by providing electronic document filing and service. Also, it is expected to enhance efficiency and effectiveness of court services and improve access to justice.⁸⁸³ This new initiative is part of a regional initiative by the Eastern Caribbean Supreme Court's to enhance access to justice for the most vulnerable and marginalized people in the Caribbean region.⁸⁸⁴

429. Regarding the rights of **people in the context of human mobility**, the Commission notes with concern that, in February, 15 Haitian nationals were denied entry into Grenada and returned to Trinidad and Tobago, their port of embarkation.⁸⁸⁵ According to the Immigration Department, the refusal of entry was due

ABC News, "[Rise in anti-LGBTQ hate and extremism captured in new reports](#)", June 22, 2023; *The Guardian*, "[Anti-trans rhetoric took center stage at CPAC amid hostile Republican efforts](#)", March 7th 2023; *The Guardian*, "[The drag show bans sweeping the US are a chilling attack on free speech](#)", March 10th, 2023. [Rise in anti-LGBTQ hate and extremism captured in new reports](#), June 22, 2023; *The Guardian*, "[Anti-trans rhetoric took center stage at CPAC amid hostile Republican efforts](#)", March 7th 2023; *The Guardian*, "[The drag show bans sweeping the US are a chilling attack on free speech](#)", March 10th, 2023.

⁸⁷⁹ IACHR, *Annual Report, Chapter IV.A "Grenada"*, 2022, para. 442.

⁸⁸⁰ Loop Caribbean News, "[Grenada police confirms a slight increase in crime](#)", July 8, 2023.

⁸⁸¹ The IACHR calculated the homicide rate based on the State's population of 125,438 according to data from The World Bank, [Population, total – Grenada](#), 2022.

⁸⁸² Now Grenada, "[Gun-related criminal activities on increase](#)", July 18, 2023.

⁸⁸³ GIS Grenada, "[ECSC implements E-Litigation System in Grenada](#)", March 4, 2023.

⁸⁸⁴ Eastern Caribbean Supreme Court, "[ECSC E-Litigation Portal to Strengthen Access to Justice In the ECSC Jurisdiction](#)".

⁸⁸⁵ Loop Caribbean News, "[Grenada sends Haitian nationals to Trinidad and Tobago](#)", February 15, 2023.

to insufficient funds, considered a valid ground for refusal of entry to nationals of the Caribbean Community (CARICOM).⁸⁸⁶

430. With respect to the rights of **children**, the Commission welcomes the initiative to standardize the Mount Horne Child Development Center's model for providing structured childcare services for children in early childhood across the country. Specifically, this model would focus on respectful parenting and would aim to implement legislation so that the standards used in national centers would be applied in the private childcare system.⁸⁸⁷ The Commission also welcomes the activities carried out by the State in the beginning of 2023 to promote the vaccination of children at the national level.⁸⁸⁸ In the area of juvenile justice, the IACHR learned of the launch of the Opportunities to Advance and Support Youth for Success project, in which Antigua and Barbuda, Dominica, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines also participate, which seeks to promote a shift from punitive measures to reintegration and restorative justice in order to reduce recidivism rates and promote positive trajectories for adolescents in conflict with the criminal law.⁸⁸⁹

431. Concerning the **death penalty**, the IACHR once again notes that the State continues to retain the death penalty even though no execution has been carried out since 1978.⁸⁹⁰ The IACHR once again, expresses concern about the lone prisoner on death row,⁸⁹¹ and urges the State to comply compliance with recommendations to abolish the death penalty as a punishment.

XVII. GUYANA

- **General considerations**

432. With respect to **progress**, the IACHR highlights the launch of the Restorative Justice Centre Pilot Programme to enhance the criminal justice system and the reactivation of the Ethnic Relations Commission for the promotion of good relations between people of different ethnic groups.

433. In relation to **challenges**, the IACHR expresses concern about the increase in recorded serious crimes. In addition, the Commission notes concerns regarding the failure to constitute the Human Rights Commission and the situation of domestic violence, sexual violence and killings of women and girls in the State, especially indigenous women.

434. On October 20, 2023, the State submitted its response to the request for information sent for the preparation of this chapter.⁸⁹²

- **Specific issues**

435. In relation to **democratic institutional**ity, the Commission takes note of the holding of local government elections and the publishing of the report of the Commission of Inquiry into the March 2020 elections. In relation to the local government elections, the Commission notes that in June the State held elections for 80 Local Authority Areas.⁸⁹³ Via these elections, citizens were able to directly elect their local

⁸⁸⁶ Loop Caribbean News, [Grenada to deport 15 Haitian Nationals](#), February 13, 2023.

⁸⁸⁷ United Nations Office of South-South Cooperation, ["Early childhood education is the foundation for improved learning in Grenada"](#), August 3, 2023.

⁸⁸⁸ Pan American Health Organization, ["Vaccination Week in the Americas activities in full swing in Grenada"](#), May 3, 2023.

⁸⁸⁹ Organization of Eastern Caribbean States, ["Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis"](#), July 11, 2023.

⁸⁹⁰ World Coalition Against the Death Penalty, [Grenada](#), May 23, 2023.

⁸⁹¹ IACHR, [Annual Report, Chapter IV.A "Grenada"](#), 2022, para. 450; World Coalition Against the Death Penalty, [Grenada](#), May 23, 2023.

⁸⁹² The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, October 20, 2023. On file at the IACHR.

⁸⁹³ Department of Public Information, [PPP/C records resounding victory at local elections](#), June 15, 2023.

representatives and be involved in the management of their communities and municipalities.⁸⁹⁴ According to official information, the People's Progressive Party/Civic (PPP/C) won 66 of the 80 Local Authority Areas.⁸⁹⁵

436. Moreover, the IACHR notes that in April 2023, the State published its Report of the Commission of Inquiry into the General and Regional Elections held on March 2, 2020. The Commission of Inquiry recommended a reform of the structure of Guyana's Election Commission to allow for more balanced participation from other organizations or professionals with technical expertise; the reform of the legislative framework of elections to empower persons with disabilities to be able to vote and for the passage of legislation regarding campaign financing.⁸⁹⁶

437. Regarding **human rights institutions**, the Commission notes that the Guyana Constitution provides for the establishment of a Human Rights Commission to promote the respect for and investigate violations of the fundamental rights recognized by the laws of the State.⁸⁹⁷ However, the State still has not established this Commission despite previous commitments to do so and calls by citizens for its establishment.⁸⁹⁸

438. With regards to **citizen security**, the Inter-American Commission highlights the launch of the Restorative Justice Centre Pilot Programme at the Police Training Centre in April 2023. According to official information, the launch of this program is in keeping with the State's goal to enhance its criminal justice system.⁸⁹⁹ Regarding the Safe Country Initiative, the Commission notes that this initiative will create a country wide system of closed-circuit television (CCTV) cameras which will allow security agencies to monitor potential criminal activities and deter crime by increasing detection.⁹⁰⁰

439. On the other hand, according to public information, there was a 14.8% increase in serious crimes as of August 2023. The cause of this increase could be attributed to an upsurge in gun crimes in the country and to the Mahdia dorm fire incident which resulted in 20 homicides, according to a statement made by the Ministry of Home Affairs.⁹⁰¹

440. In terms of **access to justice**, the IACHR notes the passage of the Court of Appeal Amendment Act No. 22 of 2022, and the judgment of the High Court concerning appointments of a Chancellor and Chief Justice. In relation to the Court of Appeal Amendment Act, the Commission notes that it provides for an increase in the complement of Court of Appeal judges to "*not less than five and not more than nine Justices of Appeal*". According to information provided by the State, this will improve cases being expeditiously discharged, thus reducing the lengthy delays in cases before the judiciary.⁹⁰²

441. Additionally, the IACHR takes note of the High Court judgment urging the substantive appointments of a Chancellor and Chief Justice.⁹⁰³ Particularly, in determining the case, the Court held that the Government did not violate Article 127(1) of Guyana's Constitution which requires that the Chancellor and Chief Justice shall be appointed by the President after obtaining the agreement of the Leader of the Opposition.⁹⁰⁴ However, the Court frowned on the overall decades-long practice of only appointment acting

⁸⁹⁴ The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pg. 3.

⁸⁹⁵ Guyana Elections Commission, [Local Government Elections 2023 - Resource Hub](#), June 27, 2023.

⁸⁹⁶ Department of Public Information, [Report of the Commission of Inquiry into the General and Regional Elections of Guyana on March 2, 2020](#), April 26, 2023, pg. 107.

⁸⁹⁷ Parliament of Guyana, [Constitution of the Co-operative Republic of Guyana Act](#), Chap. 1:01, 1980 art. 212N.

⁸⁹⁸ Demerara Waves, Cathy Hughes prepares High Court, [Inter-American Human Rights Commission complaints against Jagdeo's "low-life" remark](#), November 27, 2023; Human Rights Council, Report of the Working Group on the Universal Periodic Review* Guyana, March 20, 2020, para 62.

⁸⁹⁹ Department of Public Information, [Restorative Justice Centre officially launched](#), April 26, 2023.

⁹⁰⁰ The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pg. 10.

⁹⁰¹ Demerara Waves, [Mahdia fire deaths, gun offences spike crime figures](#), August 9, 2023.

⁹⁰² The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pg. 5.

⁹⁰³ *Vinceroy Jordan v Attorney General of Guyana* 2022-HC-DEM-CIV-FDA-865.

⁹⁰⁴ Parliament of Guyana, [Constitution of the Co-operative Republic of Guyana Act](#), Chap. 1:01, 1980.

office holders to these two top judicial positions and noted that any further delay in complying with Article 127(1) of the Constitution would be detrimental to the independence of the Judiciary⁹⁰⁵.

442. In relation to the rights of **indigenous peoples**, the Commission values the distribution of economic benefits from carbon credits among indigenous communities, in recognition of their responsibility to protect the land and maintain the environment.⁹⁰⁶ On the other hand, the situation faced by members of the Chinese Landing indigenous community was viewed with concern. Due to their opposition to the mining activities taking place in their territories, this community has faced death threats, harassment and acts of violence. These events led the IACHR to issue precautionary measures in favor of this community.⁹⁰⁷

443. Regarding the **rights of women**, the IACHR welcomes the State efforts to better respond to domestic and sexual violence and further protect victims of such violence. In this sense, new domestic violence legislation is in process of being drafted, which would amend and update the “Domestic Violence Act” of 1996⁹⁰⁸ the Prevention of Discrimination Act is presently under review,⁹⁰⁹ and work is ongoing on a Sexual Harassment Bill;⁹¹⁰ the Apps ‘Help bot’ and ‘iMatter’ are being implemented to improve access for survivors to resources and support by phone;⁹¹¹ and a series of trainings of the Guyana Police Force in domestic and sexual violence response⁹¹² to raise awareness about gender-based violence and equip them with the knowledge and skills to support survivors.⁹¹³ However, the IACHR expresses concern about the situation of domestic violence, sexual violence and killings of women and girls, especially indigenous women. According to civil society organizations, numerous women have been killed through intimate partner violence, and there is an influx of persons seeking shelter from situations of gender-based violence.⁹¹⁴ Moreover, Indigenous women are at an elevated risk of domestic violence and sex slavery linked to the extractive industries.⁹¹⁵ In this regard, the Commission notes with concern reports of death threats and other attempts to silence women activist who have spoken out against mining, fossil fuel extraction and sexual violence.⁹¹⁶ Likewise, the IACHR takes note of the alleged irregularities in the investigation against a former government minister regarding allegations of rape involving a 16-year-old indigenous girl. These concerns were raised by CSOs and representatives of Indigenous peoples, who called for an independent investigation based on the significant public interest surrounding the case.⁹¹⁷

444. Concerning the rights of **persons in human mobility**, as of April 2023, the State was host to approximately 21,335 Venezuelan refugees and migrants, and 193 refugees and asylum-seekers of other nationalities. In this regard, the State continued to offer regularization services to migrants and is working on a strategy to include migrants in the labor market.⁹¹⁸ Additionally, the State has continued to ensure the integration of migrant children into the education system with the implementation of a “Big Sister Mentoring Programme”. According to official data, the program was aimed at helping adolescent girls to navigate the

⁹⁰⁵ Vinceroy Jordan v Attorney General of Guyana 2022-HC-DEM-CIV-FDA-865, para. 45.

⁹⁰⁶ News Room, Guyana. [Transformation ongoing as \\$2.6B carbon credit payments already dispersed to 238 indigenous villages.](#) August 31, 2023.

⁹⁰⁷ IACHR, Press Release 165/23. [IACHR grants precautionary measures to Indigenous Carib Community of Chinese Landing in Guyana.](#) July 24, 2023.

⁹⁰⁸ Department of Public Information, [Drafting of new domestic violence legislation in final stage.](#) April 13, 2023.

⁹⁰⁹ Cooperative Republic of Guyana, Submission for Chapter IV A – 2023 IACHR Annual Report, October 2023, p. 12. On IACHR files.

⁹¹⁰ Department of Public Information, [Attorney General meets with Women and Gender Equality Commission.](#) March 30, 2023.

⁹¹¹ Department of Public Information, [‘Help bot’ to be launched to complement domestic violence ‘iMatter’ app.](#) May 3, 2023.

⁹¹² Cooperative Republic of Guyana, Submission for Chapter IV A – 2023 IACHR Annual Report, October 2023, p. 9. On IACHR files.

⁹¹³ Department of Public Information, [Gov’t empowering community advocates to combat sexual offences, domestic violence.](#) 21 August 2023; DPI, [Region Nine residents benefit from social services awareness exercise.](#) May 20, 2023.

⁹¹⁴ IACHR, Inputs received on the Caribbean Dialogue Network – Second meeting, held on April 6, 2023. On IACHR files.

⁹¹⁵ IACHR, Inputs received on the Caribbean Dialogue Network – Second meeting, held on April 6, 2023. On IACHR files.

⁹¹⁶ Stabroek News, [Hands off Red Thread! Touch one! Touch All!](#), August 7, 2023; Global voices, [Concerns in Guyana about threats against women activists.](#) August 17, 2023.

⁹¹⁷ News Source Guyana, [Amerindian Peoples Association raises questions over treatment of indigenous girl who made rape allegations against Government Minister.](#) July 2, 2023; AP, [A top Guyana official resigns after authorities drop a rape case against him.](#) July 5, 2023; Stabroek News, [Does the Rule of Law exist in Guyana?](#) July 6, 2023.

⁹¹⁸ UNHCR, [Guyana: Country Fact Sheet \(as of April 2023\).](#) May 31, 2023.

challenges of living in a new country.⁹¹⁹ Regarding the indigenous communities, some of whom host communities of forcibly displaced Venezuelans, the Government has stated that 240 of these indigenous villages will receive funds for their development and sustainability from the sale of carbon credits.⁹²⁰

445. Regarding **trafficking in persons**, the Commission welcomes the passage of The Combating of Trafficking in Persons Bill No. 6 of 2023 which prescribes measures to combat this crime by protecting and assisting victims, facilitating the efficient investigation of cases, facilitating effective punishment of individuals and organizations involved in trafficking, and by promoting partnership and cooperation between Guyana and other countries.⁹²¹

446. Regarding the rights of **children**, the Commission takes note of the implementation of the Early Childhood Development Program which seeks to provide family support and care services to children. According to UNICEF, the program would benefit close to 1,000 children in various communities in Mabaruma, including more than 300 children in a situation of human mobility.⁹²² The IACHR also highlights the implementation of 14 Child Advocacy Centers nationwide with the aim of improving care for cases of sexual violence against children and adolescents.⁹²³

447. On the other hand, regarding children at risk, through a Press Release dated May 26, 2023, the Commission expressed its concern about the fire at the Mahdia Secondary School, Region Eight, which resulted in the death of 20 students, mainly from indigenous communities.⁹²⁴ In this context, the IACHR takes note of the creation of the Commission of Inquiry that would seek both the clarification of the facts and the issuance of recommendations to ensure non-repetition.⁹²⁵

448. On the matter of **persons deprived of liberty**, the State provided information related to different activities implemented to reduce offender recidivism which were carried out in the framework of the Citizens Security Strengthening Programme (CSSP), completed in October 2022. Those activities included designing a social reintegration model plan, training 129 Guyana Prison Service staff in rehabilitation and social integration, digital skills training and procurement of tools and equipment for the Prisons' trade shop to aid skills training.⁹²⁶ Also, the IACHR values that, according to official information, as of July 2023, 620 inmates across the country have completed training in technical and vocational skills to assist them in gaining employment upon release.⁹²⁷

449. On the other hand, the Commission observes the upgrade of custodial and correctional facilities. In line with its previous commitment,⁹²⁸ the State has completed the construction of three facilities at the Lusignan Prison seeking to ensure safe living conditions for inmates.⁹²⁹ Moreover, the prison is equipped with vocational centres to facilitate rehabilitative training sessions for inmates. Also, according to the Acting Director of Prisons, there are additional three facilities to be constructed, which will accommodate approximately 500 inmates.⁹³⁰

450. In relation to the **death penalty**, the Commission notes the lack of progress made in removing the death penalty from the statutes. Guyana remains the only country in South America that retains the death

⁹¹⁹ Ministry of Education, Guyana, [100 migrant students benefit from the Big Sister Mentoring Programme](#), July 28, 2023.

⁹²⁰ OCHA, [Guyana: Country Fact Sheet \(as of February 2023\)](#), April 26, 2023.

⁹²¹ Government of Guyana, [The Combating of Trafficking in Persons Bill 2023](#), May 10, 2023.

⁹²² UNICEF, ["Early Childhood Development programme in Region One"](#), July 7, 2023.

⁹²³ Devex, ["Opinion: World can learn from Guyana's fight against boys' sexual abuse"](#), April 13, 2023.

⁹²⁴ IACHR, Press Release 98/23 - [IACHR expresses its solidarity to the victims of the fire at the Mahdia Secondary School dormitory in Guyana](#) Washington DC, May 26, 2023.

⁹²⁵ Loop News, ["COI members sworn in to investigate Mahdia dorm fire"](#), August, 10 de agosto de 2023.

⁹²⁶ The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pgs. 4 and 9.

⁹²⁷ Department of Public Information, [620 prisoners trained as part of rehabilitation programme](#), July 25, 2023.

⁹²⁸ IACHR, [IACHR Annual Report, Chapter IV.A "Guyana"](#), 2022, para. 468.

⁹²⁹ Department of Public Information, [Lusignan Prison to centrally house inmates - Prison Director](#), July 31, 2023.

⁹³⁰ Department of Public Information, [Technical, vocational centres completed at Lusignan, Timehri Prisons](#), August 2, 2023.

penalty as a punishment, with the last known execution being carried out in 1997,⁹³¹ As of October 2023, according to official information,⁹³² the number of persons on death row was 16, which represents a decline of 3 persons in comparison to the 19 persons reported in 2022.⁹³³

451. Regarding the situation of **people of African descent and against racial discrimination**, the IACHR welcomes the measures adopted by the State for the prevention, punishment and eradication of discrimination based on ethnic-racial origin. The State reported that, in March, the Ethnic Relations Commission (ERC) was reactivated with the mandate of promoting good relations between people of different ethnic groups; investigating any issue affecting ethnic relations; and eliminating all forms of ethnic discrimination. Likewise, the State highlighted that ethnic origin is categorized within sensitive personal data, and therefore could only be processed in specific cases established in the data protection law.⁹³⁴

452. At the same time, the IACHR takes note that civil society organizations denounce situations of structural discrimination that impact the livelihoods of the Afro-descendant population. In particular, they point out that the State would have withdrawn the resources allocated to the International Decade for People of African Descent-Guyana. In addition, there are cases of land dispossession in villages purchased by enslaved African people after emancipation. They emphasize that these situations hinder the development of Afro-descendant communities in Guyana.⁹³⁵

453. Regarding the rights of **LGBTI persons**, the IACHR notes that according to the LGBTI Inclusion Index developed by the United Nations Development Program in partnership with the World Bank, Guyana scored zero in the areas of Education and Personal Safety and Violence. This ranking means that there is either no inclusion for LGBTI persons or the existing laws have the possibility of harming persons who identify as being from the LGBTI community.⁹³⁶

XVIII. HAITI

• General considerations

454. With regard to **progress**, the Commission highlights the work of the Office for Citizen Protection (OPC, for its acronym in French) in the defense and promotion of human rights. The Commission also takes note of the appointment of the members of the High Transition Council (HCT, for its acronym in French), whose structure seeks to promote dialogue and national consensus.

455. As regards **challenges**, the Commission notes with concern that, during 2023, the decades-old humanitarian, political, social and security crisis in the country has worsened. The Commission referred to this crisis on its report on the situation of human rights in Haiti, which was released on January 5, 2023.⁹³⁷ The Commission also express its concern over the sexual assaults perpetrated by armed groups against women and girls, and over the significant increase in the number of internally displaced persons in the capital of Haiti. Finally, the Commission warns of the detention conditions of persons deprived of liberty.

456. The State did not respond to the Commission's request for information to prepare this chapter.

⁹³¹ World Coalition Against the Death Penalty, [Guyana](#), May 23, 2023.

⁹³² The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pg. 9.

⁹³³ IACHR, [IACHR Annual Report, Chapter IV.A "Guyana"](#), 2022, para. 469.

⁹³⁴ The Co-operative Republic of Guyana, Inputs for the 2023 Annual Report of the IACHR, pgs. 6 and 11.

⁹³⁵ Jamaica Observer, [Guyana accused of State oppression against blacks](#), June 3, 2023.

⁹³⁶ News source, [Guyana scores poorly in report examining education, health and personal safety for LGBT community](#), 20 February 2023.

⁹³⁷ IACHR, Press Release No. 1/23, "[IACHR Releases Report on the Situation of Human Rights in Haiti](#)," January 5, 2023.

- **Specific issues**

457. With regard to **democratic institutional**ity, the Commission takes note of the establishment, in February 2023, of the HTC, aimed at promoting inclusive dialogue and holding transparent elections.⁹³⁸ Notwithstanding that, it shares the concerns of the United Nations Security Council over the disagreements among political actors, which hinders the organization of inclusive and participatory elections.⁹³⁹

458. In addition, based on information from the United Nations, the Commission notes that the year 2023 was reportedly marked by an increase of institutional and political instability resulting from gang violence in Haiti, which adds to the context of impunity.⁹⁴⁰ In this regard, as the United Nations Expert in Haiti has claimed after his official visit to the country in June 2023, the context of social tension is reportedly marked by the lack of trust in the legitimacy of state institutions, a growing public perception of corruption and high levels of impunity.⁹⁴¹

459. On **human rights institutions**, the Commission underscores the work of the OPC as the national human rights institution responsible for the monitoring of complaints and for the advocacy actions taken in light of the human rights situation in Haiti. In particular, the Commission refers to a report on arbitrary detentions in Haiti, which was released by the OPC on October 15, 2023. Said report highlights violations of the right to personal liberty arising from arbitrary detentions and criminal proceedings that do not guarantee due process of law, in addition to the challenges related to the fight against impunity.⁹⁴²

460. Furthermore, the effective enjoyment of human rights remains a challenge in a context marked by an increase in armed violence. In particular, as the United Nations Special Representative for Haiti has claimed, since January 2023, gang clashes were spreading at an alarming pace in a context of little to no police presence.⁹⁴³

461. As regards **citizen security**, in its country report released on January 5, 2023, the Commission analyzed, among others, the factors that contributed to the worsening of citizen insecurity. In this regard, the Commission highlighted the following structural challenges that, among others, Haiti faces in ensuring citizen security: i) challenges to the strengthening and consolidating of security institutions; ii) the presence of and conflicts between organized armed groups; iii) an indiscriminate access to firearms; and iv) the impunity for criminal acts, especially in cases where members of the security forces themselves are allegedly involved.⁹⁴⁴

462. In this scenario, in a press release dated September 12, 2023, the Commission took note of Resolution No. 2692 adopted by the United Nations Security Council on July 14, 2023, and urged Haitian authorities to promptly and comprehensively address the root causes of violence.⁹⁴⁵ Furthermore, on October

⁹³⁸ Ministry of Culture and Communication of Haiti "[Installation des membres du Haut Conseil de la Transition](#)," February 7, 2023.

⁹³⁹ United Nations, "[Speakers in Security Council Urge Fast Deployment of Support Mission, Sanctions Enforcement to Combat Worsening Gang Violence in Haiti](#)" SC/15460, October 23, 2023.

⁹⁴⁰ United Nations Security Council, "[Key Political Developments, Sanctions Offer Hope to Haiti's Recovery if Supported by International Community, Special Representative Tells Security Council](#)" CS/15181, January 24, 2023.

⁹⁴¹ United Nations, "[Experto en derechos humanos aboga por una fuerza internacional especializada en Haití](#)," June 29, 2023.

⁹⁴² OPC of Haiti, "[Rapport sur la Détention Arbitraire en Haïti](#)," October 15, 2023; OPC of Haiti, "[Résurgence des cas de Kidnapping : Note de protestation de l'OPC](#)," July 8, 2023; OPC of Haiti, "[Insécurité et kidnapping en Haïti : l'OPC s'engage à faciliter la coordination du sommet sur la sécurité](#)," March 23, 2023.

⁹⁴³ UN, "[Haïti: La continua violencia 'conduce a la ruptura del tejido social, con consecuencias imprevisibles' en la región](#)," April 26, 2023.

⁹⁴⁴ IACHR, [Human rights situation in Haiti](#), OAS/Ser.L/V/II. 358, August 30, 2022, para. 79.

⁹⁴⁵ IACHR, Press Release No. 216/23, "[Haiti: IACHR Condemns Massacre in a Context of Ever-Rising Violence in Haiti](#)," September 12, 2023. See also: United Nations Security Council, [Resolution 2692 \(2023\)](#) adopted by the Security Council at its 9377th meeting, on July 14, 2023.

4, 2023, the Commission welcomed Resolution No. 2699 of October 2, 2023, in which the United Nations Security Council authorized the deployment of the Multinational Security Support Mission in Haiti.⁹⁴⁶

463. The Commission also warned about the upsurge of violence caused by armed gangs in Haiti and about rising crime, including kidnappings, homicides, and acts of sexual and gender-based violence, which increased people's vulnerability and was compounded by persisting impunity. In addition, the Commission condemned the massacre that had occurred on August 26, 2023, in the Haitian province of Canaan, north of the country's capital, Port-au-Prince, leaving a toll of at least seven people dead.⁹⁴⁷

464. At a public hearing held during its 187th regular period of sessions, the Commission was informed about the upsurge of violence, which was evidenced by an increase in violations of the right to life, security and personal integrity. This situation was the result of the conflict between gangs and of the lack of effective actions from the State to ensure security. In addition, a significant increase in the number of kidnappings at the hands of criminal groups operating in Haiti was recorded.⁹⁴⁸

465. In particular, the last report from the United Nations Integrated Office in Haiti (BINUH, for its acronym in French) draws attention to a continuous increase in citizen insecurity, affecting especially the municipalities of Cité Soleil, Croix-des-Bouquets, Pétiyon Ville and Port-au-Prince. In this regard, according to the report, between January and September 2023, more than 5,655 people were murdered, injured or kidnapped.⁹⁴⁹ Likewise, based on the information provided by the OHCHR, between January 1 and August 15, 2023, at least 2,439 people were murdered, 902 people were injured and 951 people were kidnapped, due to the context of violence and the conflict between gangs.⁹⁵⁰ In addition, according to the latest data, the homicide rate in Haiti has risen to 20.7 every 100,000 inhabitants.⁹⁵¹

466. With regard to kidnappings, according to data collected by the BINUH, between July and September 2023, 585 kidnappings were recorded. Said figure represents a 96 percent increase compared to the previous quarter, where 298 kidnappings had been recorded.⁹⁵² The Commission is especially concerned over the kidnapping of the general secretary of the HCT in Port-au-Prince, which was perpetrated on October 18, 2023.⁹⁵³

467. On **access to justice**, the Commission takes note of the certification of 70 new judges in June 2023 by the Superior Council of the Magistracy. The Commission also notes that, between April and June 2023, Haitian judicial authorities allegedly made progress in the investigation and prosecution of corruption and other crimes involving former politicians and high-ranking public officials.⁹⁵⁴ Notwithstanding that, the Commission warns of the following challenges that judicial officials face in fulfilling their function: i) lack of independence of judicial actors; ii) generalized impunity, and iii) repeated strikes by justice agents.⁹⁵⁵ In particular, the Commission is concerned over the effects of the judicial stalemate in Haiti, resulting from the

⁹⁴⁶ IACHR X account (@CIDH), "[La CIDH salue la résolution du Conseil de Sécurité de l'ONU qui autorise le déploiement d'une force multinationale de sécurité en Haïti e qui réaffirme l'engagement international envers les besoins humanitaires et sécuritaires du pays.](#)" (The IACHR commends the UN Security Council's resolution that authorizes the deployment of a multinational security force and that reaffirms international involvement in humanitarian and security actions in the country), October 4, 2023. See also: United Nations Security Council, [Resolution 2699 \(2023\)](#) adopted by the Security Council at its 9430th meeting, on October 2, 2023.

⁹⁴⁷ IACHR, Press Release No. 216/23, "[Haïti: IACHR Condemns Massacre in a Context of Ever-Rising Violence in Haïti](#)," September 12, 2023.

⁹⁴⁸ IACHR, 187th period of sessions, thematic hearing "[Human rights situation in Haiti in the context of the humanitarian and citizen security crisis](#)," July 13, 2023.

⁹⁴⁹ BINUH, [Human Rights Situation: Main trends. Quarterly report: January – March 2023](#), May 9, 2023, p. 3; BINUH, [Human Rights Situation: Main trends. Quarterly report: April – June 2023](#), September 1, 2023, p. 3; BINUH, [Human Rights Situation: Main trends. Quarterly report: July – September 2023](#), October 27, 2023, p. 3.

⁹⁵⁰ OHCHR, press release, "[Haïti: Deaths and injuries amid gang violence](#)," August 18, 2023.

⁹⁵¹ WHO, [Violence Info. Haïti](#), August 12, 2022.

⁹⁵² BINUH, [Human Rights Situation: Main trends. Quarterly report: July – September 2023](#), October 27, 2023, p. 5.

⁹⁵³ United Nations, "[Speakers in Security Council Urge Fast Deployment of Support Mission, Sanctions Enforcement to Combat Worsening Gang Violence in Haïti](#)" SC/15460, October 23, 2023.

⁹⁵⁴ BINUH, [Human Rights Situation: Main trends. Quarterly report: April – June 2023](#), September 1, 2023, p. 6.

⁹⁵⁵ United Nations Development Programme (UNDP), [Programme d'appui à la justice et la lutte contre l'impunité](#), April 2023, p. 5 and 6.

strike by judicial officials who demand better working conditions. Said strike was held between March and June 2023, and joined by the Collective of Haitian Magistrates (COMADH, for its acronym in French) and the National Association of Court Clerks (ANAGH for its acronym in French). In addition to the foregoing, the Commission notes the persistent challenges in the operation of the courts of Port-au-Prince and Croix-des-Bouquets, which were attacked in June and July 2022 by armed gangs, and which, as of the date of preparation of this report, have not yet been relocated. As a result, they operate only three days a week in a space provided by the OPC.⁹⁵⁶

468. As for the **rights of women**, the Commission reiterates its concern over the fact that sexual violence against women, girls and adolescents remains a national emergency in the country. Said violence is perpetrated by armed groups and gangs in a context of impunity and a lack of strategies on victim assistance.⁹⁵⁷ In particular, at a public hearing held during its 187th regular period of sessions, the Commission learned about the serious situation of systematic sexual violence affecting mainly women and young girls in Haiti.⁹⁵⁸ An organization that works at several hospitals in Port-au-Prince reported that, between January and May 2023, it had allegedly assisted 1,005 sexual violence survivors in the capital city of Haiti, a figure that almost doubles the one recorded in the same period in 2022.⁹⁵⁹ Furthermore, according to information available in the public domain, gangs continue to use sexual violence, including gang rapes, as a means of inflicting terror on the communities, consolidating their territorial control and coercing victims' relatives into paying ransom.⁹⁶⁰ Especially, between April and September 2023, more than 107 gang rapes perpetrated against women and girls by criminal groups were recorded.⁹⁶¹

469. On the situation of **persons in the context of human mobility**, the Commission notes that, during the first quarter of 2023, more than 36,000 people were forcibly returned to Haiti, frequently exposing them to abusive conditions that posed a substantial risk to their lives and physical integrity.⁹⁶² In this regard, the Commission shares the concern of the United Nations Committee on the Elimination of Racial Discrimination (CERD) over the collective expulsions of Haitians – including pregnant women, unaccompanied children, victims of human trafficking and of gender-based violence – and their return to their country of origin without properly assessing the needs for protection in each individual case. Therefore, the Commission shares the Committee's call to suspend forced returns and adopt measures to protect Haitians on the move.⁹⁶³

470. With regard to **internal displacement**, the Commission notes with concern the rise in the number of internally displaced people as a result of the political, institutional and security situation of the country. In particular, according to the figures recorded by the Internal Displacement Monitoring Centre (IDMC) and released in May 2023, between March and December 2022, 171,000 people were internally displaced as a result of crime and violence, and 24,000 due to natural disasters.⁹⁶⁴

471. Furthermore, the International Organization for Migration (IOM) warned of a significant increase in the number of internally displaced people in the capital city of Haiti, who had to leave their

⁹⁵⁶ BINUH, *Human Rights Situation: Main trends. Quarterly report: April – June 2023*, September 1, 2023, p. 6; BINUH, *Human Rights Situation: Main trends. Quarterly report: July – September 2023*, October 27, 2023, p. 6.

⁹⁵⁷ IACHR, *2022 Annual Report. Chapter IV.A Development of Human Rights in the Region*, OEA/Ser.L/V/II. Doc. 50 rev. April 1, 2023, para. 488. IACHR, 186th period of sessions, thematic hearing “*Sexual violence against women and girls in Haiti*,” March 15, 2023.

⁹⁵⁸ IACHR, 187th period of sessions, thematic hearing “*Human rights situation in Haiti in the context of the humanitarian and citizen security crisis*,” July 13, 2023.

⁹⁵⁹ Human Rights Watch (HRW), “*Living a Nightmare*,” August 14, 2023.

⁹⁶⁰ UN, “*La violencia de género y sexual contra mujeres y niñas en Haití nunca debe normalizarse*,” aseguran expertos de la ONU,” May 10, 2023. UNICEF, “*UNICEF Executive Director Catherine Russell's remarks at the ECOSOC Special Session on Haiti - 'Saving Lives: Addressing the urgent food security needs of Haiti*,” June 16, 2023; Amnesty International, *Report 2022/23. The state of the world's human rights*, 2023, p. 231.

⁹⁶¹ ECCREDHH, *Rapport sur la situation générale des droits humains en Haïti au cours du mois d'Avril à Septembre 2023*, September 19, 2023, para. 13. IACHR Archive.

⁹⁶² OHCHR, press release, “*Stop deporting Haitians on the move in Americas. UN Committee warns*,” April 28, 2023.

⁹⁶³ OHCHR, press release, “*Stop deporting Haitians on the move in Americas. UN Committee warns*,” April 28, 2023.

⁹⁶⁴ IDMC, *Haiti Displacement Data*, May 24, 2023.

accommodations and were residing in improvised campsites, in unhealthy and extremely vulnerable conditions.⁹⁶⁵

472. With regard to **trafficking in persons**, the Commission takes note of the recommendation issued by the United Nations Office on Drugs and Crime (UNODC), in which it calls on the Caribbean Community (CARICOM) to engage with a range of issues that shape Haiti's security challenges, including human trafficking.⁹⁶⁶

473. As regards the rights of **children and adolescents**, the Commission voices its concern over the fact that, during 2023, most schools were partially or totally closed as a result of the situation of armed violence, which jeopardized the right to education of this group.⁹⁶⁷ In addition, the Commission warns that the recruitment of children by gangs continues to be especially worrisome. According to data from the BINUH, some children are recruited by force and threatened with reprisals against them or their families if they refuse to join the gang.⁹⁶⁸ The Commission also notes with concern that, based on the information available, one in four children under the age of five reportedly suffers acute malnutrition.⁹⁶⁹

474. On the rights of **persons deprived of liberty**, the Commission notes with concern the persistence of the previously identified challenges, especially in terms of overcrowding, excessive use of pretrial detention and detention conditions.⁹⁷⁰ In particular, based on the available data, Haiti continues to be the country with the highest overcrowding rate in the Americas, which now rises to 332 percent.⁹⁷¹ In this regard, the Commission notes that the excessive use of pretrial detention is presented as one of the main causes of the alarming overcrowding rate. According to Human Rights Watch, as of June 30, 2023, 11,836 people were deprived of their liberty in Haitian prisons. Out of these, 10,009 were subject to pretrial detention.⁹⁷² Said figures indicate that the rate of application of this measure is 84.6 percent, making Haiti the country with the highest level of people under pretrial detention in the region.⁹⁷³ Given this scenario, the Commission regrets that the implementation of the new penal and criminal procedure codes, which reportedly included provisions aimed at reducing the number of people under pretrial detention, was postponed from 2022 to 2024.⁹⁷⁴

475. The Commission also reiterates its concern over the deplorable detention conditions in Haitian prisons, which pose a risk to the life and integrity of detainees.⁹⁷⁵ In particular, in addition to overcrowding, said conditions are marked by the lack of access to adequate food, water and health services, as well as by poor hygiene.⁹⁷⁶ As regards nutrition, according to a study published in late 2022 by the University of Florida, College of Public Health and Health Professions, persons under detention in Haiti consume fewer than 500 calories a day and are at risk of developing scurvy and beriberi, which are caused by vitamin C and vitamin B1 deficiency, respectively.⁹⁷⁷ In this scenario, as of June 2023, at least 20 people in prison had reportedly died of malnutrition-related diseases.⁹⁷⁸ The Commission is also concerned over the situation of people under protracted detention in police stations or substations located in the Western Department, which

⁹⁶⁵ IOM, "[Displaced Haitians Face Greater Risks in Improvised sites](#)," August 16, 2023.

⁹⁶⁶ UNODC, [Haiti's criminal markets: mapping trends in firearms and drug trafficking](#), March 2, 2023, p. 32.

⁹⁶⁷ UNICEF, "[Haiti: Armed violence against schools increases nine-fold in one year - UNICEF](#)," February 9, 2023. See also: Education International, "[Haiti: Society and education communities in the grip of chaos](#)," February 16, 2023.

⁹⁶⁸ BINUH, [Human Rights Situation: Main trends. Quarterly report: April – June 2023](#), September 1, 2023, p. 5.

⁹⁶⁹ USAID, "[With USAID support, UNICEF conducted the 2023 Nutrition Analysis](#)," May 12, 2023. See also: UNICEF, [Haiti Humanitarian Situation Report No. 4](#), June 30, 2023.

⁹⁷⁰ IACHR, [2021 Annual Report. Chapter IV.A. Development of Human Rights in the Region](#), 2022, paras. 490 and 491.

⁹⁷¹ HRW, "[Living a Nightmare](#)," August 14, 2023. See also: World Prison Brief, [Highest to Lowest - Occupancy level \(based on official capacity\)](#), 2023.

⁹⁷² HRW, "[Living a Nightmare](#)," August 14, 2023.

⁹⁷³ World Prison Brief, [Highest to Lowest - Pre-trial detainees / remand prisoners](#), 2023.

⁹⁷⁴ HRW, "[Living a Nightmare](#)," August 14, 2023. See also: *Le Nouvelliste*, "[Le nouveau code pénal haïtien entrera en vigueur dans 24 mois](#)," July 2, 2020; HRW, "[Prisoners in Haiti Still Face Horrendous Conditions](#)," June 30, 2021.

⁹⁷⁵ IACHR, [2021 Annual Report. Chapter IV.A. Development of Human Rights in the Region](#), 2022, para. 491.

⁹⁷⁶ HRW, "[Living a Nightmare](#)," August 14, 2023. See also: *Al momento*, "[Denuncian condiciones precarias de cárceles en Puerto Príncipe](#)," September 7, 2023.

⁹⁷⁷ University of Florida Health, "[Haitian prisoners are severely malnourished, study finds](#)," December 19, 2022.

⁹⁷⁸ Associated Press News, "[Haitians are dying of thirst and starvation in severely overcrowded jails](#)," June 8, 2023; *CGTN*, "[Haitian prisoners are starving to death in jail](#)," June 9, 2023.

are attached to the trial courts of Port-au-Prince and Croix-des-Bouquets, respectively. In this regard, according to information released by the civil society in 2023, temporary facilities designed for holding people for no longer than 48 hours were reportedly used for permanent or extended detentions, which could last even months. Said facilities were marked by extreme overcrowding, inhuman conditions, inadequate infrastructure and lack of hygiene.⁹⁷⁹

476. With regard to the rights of **older persons**, the Commission learned about the health issues experienced by this group as a result of the situation of violence and the humanitarian crisis in the country.⁹⁸⁰ In this context of violence, coupled with food insecurity, forced displacements of older persons were recorded.⁹⁸¹

XIX. HONDURAS

• General considerations

477. As regards the **progress** observed during 2023, the Commission welcomes the State's consent to international monitoring during the Commission's *in loco* visit. In addition, the Commission learned about the new law on the prevention and protection of internally displaced people. It noted that the murder rate in Honduras continued its downward trend. Likewise, the Commission commends that the State repealed and amended decrees that hindered the investigation of corruption-related crimes. The Commission welcomes the approval of the executive decree that provides for the free use, sale, and marketing of the emergency contraceptive pill (ECP). The Commission also commends the presentation of the Vicky Hernández educational scholarship, which is targeted at trans people.

478. As regards **challenges**, during 2023, the Commission observed that the State successively extended the state of emergency as part of its citizen security policy. Furthermore, the Military Police for Public Order (PMOP) had been restored to manage and control detention centers. The Commission noted an increase in violence against women and human rights defenders in 2023. It continued to learn about the challenges in the operation of the National Protection System for Human Rights Defenders, Journalists, Social Communicators and Justice Operators.

479. On November 9, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.⁹⁸²

• Specific issues

480. Regarding **democratic institutional**ity, the Commission welcomes the progress made in the fight against corruption. In this regard, the Commission learned that, on July 12, 2023, the National Congress repealed Decree No. 57-2020 and amended Decree 93-2021.⁹⁸³ On August 3, 2023, the National Congress also

⁹⁷⁹ Réseau National de Défense des Droits Humains (RNDDH), "[Detention cells transformed into prisons: RNDDH is sounding the alarm](#)," June 1, 2023.

⁹⁸⁰ Médecins sans frontières, "[Haïti: les cliniques mobiles de MSF offrent des soins aux personnes piégées par la violence à Port-Au-Prince](#)," May 10, 2023.

⁹⁸¹ World Food Programme (WFP), "[Increased violence in the capital drives tens of thousands of Haitians from their homes, leaving them reliant on food aid](#)," October 30, 2023.

⁹⁸² Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023.

⁹⁸³ *Criterio HN*, "[Con derogación del decreto 57-2020 y reforma al decreto 93-2021 se abre camino para instalación de la CICIH](#)," July 13, 2023; *Hondudiario*, "['El tiempo nos dio la razón', dice la Fiscalía tras reformas a Ley de Lavado de Activos](#)," July 13, 2023. By Decree No. 93-2021, restrictions were placed on the Office of the Public Prosecutor's powers to request access to bank and financial information. In addition, said decree established the requirement for multiple authorizations, together with the judicial authorization, to intercept said information, which could endanger the secrecy of investigations. Likewise, Decree No. 57-2020 limited the power of the Office of the Public Prosecutor to take over public institutions and confiscate documents or objects that could serve as evidence of any acts of corruption.

repealed Decree No. 116-2019.⁹⁸⁴ The State indicated that, during 2023, negotiations continued between the president of the Republic, Xiomara Castro, and the United Nations to create the International Commission against Corruption and Impunity (CICIH);⁹⁸⁵ that the terms of reference for the arrival of the group of United Nations independent experts was defined;⁹⁸⁶ and that the United Nations technical mission conducted a second visit and informed about the institutional challenges to the implementation of this mechanism.⁹⁸⁷ At the same time, the Commission learned about public statements from state authorities against civil society organizations that engage in public oversight activities and in the fight against corruption.⁹⁸⁸

481. The State also indicated that, between January 1 and September 18, 2023, 485 demonstrations were recorded nationwide. Out of these, 472 were peaceful protests, whereas 13 were violent. In addition, the State underscored the approval of the *Manual uso de la fuerza y armas de fuego de la Policía Nacional* (Manual on the Use of Force and Firearms by the National Police) by means of Agreement No. 0441-2023.⁹⁸⁹ The State reported that, during 2023, violence in social conflicts was prevented thanks to the work of 32 prevention committees and to the issuance of 29 early warnings, as well as by promoting a culture of peace and by advising state bodies on how to mitigate human rights violations.⁹⁹⁰

482. The Commission learned that the president had announced the creation of the Commission on Agrarian Security and Access to Land, and that it had authorized the Property Institute and the National Agrarian Institute (INA) to conduct an exhaustive investigation into the unlawful acquisition of lands.⁹⁹¹ This measure was reportedly causing concern among the organizations involved in land conflicts because it enabled “preventive evictions”, as provided for in the amendments to the Criminal Code introduced by Decree No. 93-2021.⁹⁹²

483. As regards **human rights institutions**, Honduras has the Secretariat for Human Rights (SEDH) in place. The State argued that, to develop the new public policy, during 2023, the plan was created, and the roadmap is being disseminated among 12 state secretariats, the Human Rights Council and 43 civil society organizations. Furthermore, a methodological guide was designed to implement a human rights-based approach in the executive branch, focusing on policies that prioritize people in situations of vulnerability and promoting collaboration with civil society organizations and international bodies. The State also mentioned the steps taken to strengthen human rights training for 6,975 public officials, including 3,828 military and

⁹⁸⁴ Secretariat of Governance, Justice and Decentralization, “[Congreso Nacional aprobó derogatoria del decreto 116-2019 conocido como ‘Fondo Departamental y Pacto de Impunidad’](#),” August 4, 2023; CESPAD, “[¿Qué significa la derogación de algunos decretos que formaban parte de los denominados pactos de impunidad?](#),” September 25, 2023; *Criterio HN*, “[La derogación del Decreto Legislativo 116-19 y ‘la doctrina de los zombis’](#),” August 8, 2023. Legislative Decree No. 116-2019 banned the institution of criminal proceedings against public officials accused of embezzling public funds without a prior investigation by the Higher Court of Audit (TSE), which would determine whether there were indications of criminal liability. This process could last up to three years.

⁹⁸⁵ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 7.

⁹⁸⁶ *El Heraldo*, “[Xiomara Castro firma carta con términos de referencia para llegada de expertos de la ONU para instalación de la CICIH](#),” April 25, 2023.

⁹⁸⁷ *Confidencial HN*, “[Concluye segunda visita de misión de la ONU para instalación de la CICIH](#),” August 19, 2023; *Prensa Latina*, “[Expertos de ONU concluyeron segunda visita a Honduras](#),” August 19, 2023; *Proceso Digital*, “[Escenarios de conflictividad marcan nueva visita de misión ONU-CICIH](#),” August 16, 2023; CESPAD, “[Proceso para la instalación de la CICIH avanza con signos alentadores, pero con retos importantes que aún evitan el desmontaje total del entramado legal que favorece la impunidad y la corrupción en el país](#),” August 2023.

⁹⁸⁸ *Proceso Digital*, “[Nos preocupa el nivel de mediatización y parece que obedece a una agenda predeterminada: Roque sobre Castellanos](#),” June 18, 2023; *El Heraldo*, “[Es un resentimiento de Gabriela Castellanos’, Flores Lanza sobre nepotismo denunciado por el CNA](#),” May 24, 2023; *Hondudiario*, “[Cuál concentración de poder, si en el CN no podemos ratificar un acta, responde Castro al CNA](#),” May 25, 2023.

⁹⁸⁹ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 24.

⁹⁹⁰ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 9.

⁹⁹¹ SEDESOL, “[En Cadena Nacional la Presidenta Xiomara Castro dio a conocer la creación de la Comisión de Seguridad Agraria y Acceso a la Tierra](#),” June 6, 2023; *SWI swissinfo.ch*, “[La presidenta de Honduras crea Comisión de Seguridad Agraria y Acceso a la Tierra](#),” June 6, 2023; *Hondudiario*, “[Creación de ‘Comisión de Seguridad Agraria y Acceso a la Tierra’ anuncia Presidenta Castro](#),” June 6, 2023.

⁹⁹² CESPAD, “[Con desalojos y promesas de reformas, la administración de Xiomara Castro busca responder a la grave conflictividad agraria de Honduras](#),” June 12, 2023; *Criterio HN*, “[Alerta ante creación de comisión agraria que excluye a grupos campesinos e indígenas](#),” June 10, 2023.

police officers, as well as 2,428 public civil servants, with the purpose of preventing human rights violations in state entities.⁹⁹³

484. The State also informed about the creation of the Memory and Truth, Reparation, Justice, and Non-repetition Program Directorate in Honduras, aimed at ensuring the right to truth, the recovery of the memory, the integral reparation of the victims, transitional justice and the harmonization of criminal laws to comply with the human rights obligations of the State.

485. The National Human Rights Commissioner of Honduras (CONADEH) is an autonomous institution charged with promoting, ensuring and protecting human rights in the country. In this regard, the Commission was informed that officials from said institution had been threatened, followed and surveilled, possibly as retaliation for their work. According to the information available in the public domain, people at risk had reportedly requested protection from the national mechanism for the protection of defenders, which was allegedly denied.⁹⁹⁴ The State told the Commission that the State Secretariat's Security Office (SEDS) had implemented protection measures in the CONADEH's facilities by posting a police guard during office hours. The State underscored that the national protection mechanism had refused to award protection measures to said officials because it considered that the Protection Law did not apply to them.⁹⁹⁵

486. As regards **citizen security**, according to data from the National Police Statistics System (SEPOL), as of December 27, 2023, 2,994 murders were recorded, that is, 633 fewer murders against the same period in 2022.⁹⁹⁶ According to preliminary data from the Undersecretariat of Security on Police Matters of the Secretariat of Security, homicides fell by 17.45 percent during the first semester of 2023 against the same period in 2022.⁹⁹⁷ As reported by the National Police of Honduras, as of October 2023, the partial murder rate was at 30.72 percent every 100,000 inhabitants.⁹⁹⁸ The Commission notes that Honduras is seeing its lowest rate in recent years. The highest rate was recorded in 2011, when it rose to 85.6 murders every 100,000 inhabitants.⁹⁹⁹ The Undersecretariat of Security on Police Matters reported that 1,406 of the murder victims recorded during the first semester of 2023 were men, and 229 were women.¹⁰⁰⁰ The year 2023 saw an increase in the number of murder women victims, with a 48.7 percent increase during the first semester against the same period in 2022.¹⁰⁰¹

487. The State underscored that the SEDS and the National Police had complied with the implementation of the state of emergency.¹⁰⁰² The Commission noted that, since the state of emergency was first declared by decree in December 2022,¹⁰⁰³ the State had extended its effective period on eight occasions during 2023. The most recent decree was still in force by January 1, 2024.¹⁰⁰⁴ This decree reportedly applied

⁹⁹³ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 9.

⁹⁹⁴ IACHR, Request for information to the State of Honduras, Note No. 470-23/CIDH/SE/MPCT-Art.41, August 4, 2023.

⁹⁹⁵ Government of the Republic of Honduras, Reply to the request for information regarding the threats and persecution against CONADEH officials, August 29, 2022.

⁹⁹⁶ SEDS, [Comparative table on homicide figures nationwide \(preliminary data\). Monthly statistics up to October 2023](#), last updated on October 30, 2023.

⁹⁹⁷ UNDP, [Análisis sobre violencia y seguridad ciudadana en Honduras | enero - junio 2023](#), last updated on December 27, 2023.

⁹⁹⁸ SEDS, [Comparative table on homicide figures nationwide \(preliminary data\). Monthly statistics up to October 2023](#), last updated on December 27, 2023.

⁹⁹⁹ IACHR, *Situation of Human Rights in Honduras*, OEA/Ser.L/V/II. Doc. 146, August 27, 2019, para. 52.

¹⁰⁰⁰ Undersecretariat of Security on Police Matters, [Honduras: Análisis sobre la situación de la violencia y seguridad ciudadana, enero a junio 2023. Datos preliminares](#), 2023.

¹⁰⁰¹ Undersecretariat of Security on Police Matters, [Honduras: Análisis sobre la situación de la violencia y seguridad ciudadana, enero a junio 2023. Datos preliminares](#), 2023.

¹⁰⁰² Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 24.

¹⁰⁰³ Official Gazette of the Republic of Honduras, Executive Decree No. PCM-29-2022, December 3, 2022.

¹⁰⁰⁴ Honduras first declared the state of emergency through Executive Decree No. PCM-29-2022 of December 3, 2022, making it effective from December 6, 2022, to January 6, 2023. The state of emergency was extended successively on seven occasions through the following official orders: 1) Executive Decree No. PCM-01-2023 of January 6, 2023, effective from January 6, 2023, to February 20, 2023; 2) Executive Decree No. PCM-10-2023 of February 20, 2023, effective from February 20, 2023, to April 6, 2023; 3) Executive Decree No.

to 158 of the 289 municipalities of Honduras.¹⁰⁰⁵ The decrees provided that, during the state of emergency, constitutional rights, including the right to personal liberty, to freedom of association and assembly, to freedom of movement and to the inviolability of the home, were suspended for 45-day periods.¹⁰⁰⁶ The Commission recalls that the suspension of guarantees is an exceptional power granted under Article 27 of the American Convention, which may be exercised in time of war, public danger or other emergency that threatens the independence or security of a State. The imposition of a state of emergency must adhere to the principles of reasonableness, necessity and proportionality.¹⁰⁰⁷

488. On **access to justice**, the State reported that, to move forward with the investigations into the protests held after the 2021 elections, prosecutorial requests were filed, and an interinstitutional roundtable was created, in which the Secretariat of Security and the Office of the Public Prosecutor took part.¹⁰⁰⁸

489. The Commission was also informed about the persistence of high levels of impunity in Honduras, especially in relation to crimes against women, defenders and LGBTI persons.¹⁰⁰⁹ According to the CONADEH, by 2023, the rate of impunity for crimes against women would stand at 95 percent.¹⁰¹⁰ In addition, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions referred to the persistence of generalized impunity in the country.

490. With regard to **judicial independence**, the State underscored the appointment of members to the Supreme Court of Justice (CJS) and its new composition, highlighting the gender parity that had been achieved by selecting eight women justices and seven male justices.¹⁰¹¹ The Commission welcomed said appointment process, especially as regards the adoption of a new legal framework governing the composition of the Nominating Board, which enabled broad social participation and greater transparency.

491. Regarding the appointment of the new attorney general of the Republic and the deputy attorney general, the State reported that, on June 15, 2023, the Rules of the Proposing Board for the Nomination of Candidates for the Office of the Attorney General of the Republic and the Office of the Deputy Attorney General had been published on Official Gazette No. 29,504. Said rules set forth the guiding principles that govern the work of the Proposing Board.¹⁰¹² The Commission urged the State to ensure that international standards of independence and impartiality, transparency and gender parity were met.¹⁰¹³ The State indicated that, on November 2, 2023, Johel Zelaya and Mario Morazán had been elected as attorney general and deputy

PCM-15-2023 of April 6, 2023, effective from April 6, 2023, to May 21, 2023; 4) Executive Decree No. PCM-24-2023 of May 20, 2023, effective from May 21, 2023, to July 5, 2023; 5) Executive Decree No. PCM-033-2023 of July 5, 2023, effective from July 5, 2023, to August 19, 2023; 6) Executive Decree No. PCM 037-2023 of August 19, 2023, effective from August 19, 2023, to October 3, 2023. 7) Thanks to information available in the public domain, the Commission learned that the state of emergency had been extended to November 17, 2023. See: *La Prensa*, "[Honduras: extiende hasta el 17 de noviembre estado de excepción](#)," October 6, 2023; 8) Executive Decree PCM-43-23, November 17, 2023.

¹⁰⁰⁵ Official Gazette of the Republic of Honduras, Executive Decree No. PCM 037-2023, August 19, 2023; *La Prensa*, "[Honduras extiende el estado de excepción hasta el 3 de octubre](#)," August 22, 2023; *Criterio HN*, "[A pesar de cuestionados resultados, amplían estado de excepción hasta octubre](#)," August 23, 2023.

¹⁰⁰⁶ The rights suspended by the state of emergency are to freedom of movement, to association and assembly, not to be detained without a written warrant, not to be taken to prison even after paying the applicable bail bond and to the inviolability of the home.

¹⁰⁰⁷ IACHR Court, Habeas Corpus in Emergency Situations (Arts. 27.2, 25.1 and 7.6 of the American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8, para. 22.

¹⁰⁰⁸ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 17.

¹⁰⁰⁹ IACHR, Preliminary observations in the context of the IACHR *in loco* visit to Honduras held between April 24 and 27, 2023, para. 34.

¹⁰¹⁰ CONADEH, "[Recomienda CONADEH: Enfrentar la impunidad, entre los desafíos para evitar la violencia contra las mujeres en Honduras](#)," October 9, 2023.

¹⁰¹¹ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 5.

¹⁰¹² Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 6.

¹⁰¹³ IACHR, Press Release No. 204/23, "[IACHR and RFOE: Honduras Must Guarantee International Standards During Selection of Attorney General](#)," August 30, 2023.

attorney general, respectively.¹⁰¹⁴ The Commission voiced its concern over the acts of violence that had taken place at the National Congress on October 31 and over the decision of the Permanent Commission of the National Congress to appoint said interim officials.¹⁰¹⁵ The Commission also reiterated its call on all political forces in Honduras to engage in a constructive dialogue, as it is expected in representative democracies, to resume the appointment process for the attorney general and the deputy attorney general in accordance with national legislation, due process of law and the inter-American standards on judicial independence.¹⁰¹⁶

492. As regards the rights of **indigenous and Afro-Honduran persons**, the State reported that, between January 1 and August 31, 2023, it had received seven complaints of usurpation. In addition, proceedings were brought before the INA to speed up the requests filed by indigenous community leaders. The State indicated that the Office of the Special Prosecutor for Ethnic Affairs and Cultural Heritage had brought to court nine cases concerning the violation of the right to free, prior and informed consultation, and had conducted training on this issue for public officials, justice agents and members and leaders of the Miskito communities. Furthermore, on August 8, 2023, a third party was convicted for the crime of usurpation to the detriment of the Territorial Council of Wamaklisinasta. Together with the INA, operations were planned to identify the usurped lands and to file criminal actions.¹⁰¹⁷ The Commission underscores the risk to which the Garífuna communities of the Honduran Caribbean region are exposed, which affects especially the people who defend their territories and the environment,¹⁰¹⁸ and it takes note of the persistence of threats and aggression against defenders.¹⁰¹⁹ The forced disappearance of the four Garífuna leaders of the Triunfo de la Cruz community, which took place on July 18, 2020, remains unsolved.¹⁰²⁰

493. Regarding the **rights of women**, the Commission notes the persistence of violence and particular cruelty towards girls and women,¹⁰²¹ which disproportionately affects indigenous, Afro-descendant and Garífuna girls and women.¹⁰²² According to data from the civil society, 317 femicides and violent deaths of women were recorded between January and September 2023.¹⁰²³ The Commission also learned about the increase in the number of femicides and disappearances of women in the departments co-opted by organized crime.¹⁰²⁴ The State reported that, to prevent and address femicides and the violent deaths of women, the

¹⁰¹⁴ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 7.

¹⁰¹⁵ IACHR X account (@CIDH), "[#Honduras: #CIDH expresa preocupación por los hechos de violencia en el Congreso Nacional y llama a todas las fuerzas políticas a establecer un diálogo constructivo, digno de una democracia representativa, para elegir al Fiscal General y Adjunto de acuerdo con la legislación nacional y el debido proceso.](#)" (The IACHR shows its concern over the acts of violence in the National Congress and urges all political forces to establish a constructive dialogue, a symbol of a representative democracy, to choose the attorney general and the deputy attorney general according to national legislation and due process of law), November 2, 2023.

¹⁰¹⁶ IACHR, Press Release No. [312/23 - Honduras: CIDH recuerda que selección de titulares de Fiscalía General de la República es clave para preservar la independencia judicial.](#) December 21, 2023.

¹⁰¹⁷ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 16.

¹⁰¹⁸ DW, "[La ONU preocupada por situación de garífunas en Honduras.](#)" July 1, 2023.

¹⁰¹⁹ *Resumen Latinoamericano*, "[Honduras. Asesinan a miembro de la OFRANEH Garífuna en la comunidad del Triunfo de la Cruz.](#)" May 30, 2023; OHCHR Honduras X account (@OACNUDH), "[1/2 #OACNUDH condena la muerte del defensor garífuna de la tierra y el territorio. Martín Morales. De acuerdo al monitoreo de la Oficina, este sería el segundo defensor garífuna que es encontrado sin vida en el sector del Río Gama, comunidad Triunfo de la Cruz, Atlántida.](#)" (OHCHR condemns the death of Garífuna land defender Martín Morales. According to OHCHR monitoring, this is the second Garífuna defender found dead in the Gama river area, in the Triunfo de la Cruz community, Atlántida), May 31, 2023.

¹⁰²⁰ IACHR, Preliminary observations in the context of the IACHR *in loco* visit to Honduras held between April 24 and 27, 2023, para. 27. The Garífuna leaders reportedly were Alberth Snider Centeno Tomás, Suami Aparicio Mejía García, Junior Rafael Juárez Mejía and Milton Joel Martínez Álvarez.

¹⁰²¹ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; IACHR, [2022 Annual Report. Chapter IV. A](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 530; IACHR, [2021 Annual Report. Chapter IV. A](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 689; IACHR, [Situation of Human Rights in Honduras](#), OEA/Ser.L/V/II. Doc. 146, August 27, 2019, paras. 256, 259 and 261.

¹⁰²² Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; *Cholusat Sur*, "[Instan al Estado hondureño investigar muerte violenta de 31 mujeres y niñas leucas.](#)" undated; *SWI swissinfo.ch*, "[Encuentran a tres mujeres garífunas asesinadas en una playa de Honduras.](#)" January 15, 2023; *Proceso Digital*, "[ONU pide una estrategia nacional y acciones específicas contra los feminicidios en Honduras.](#)" March 6, 2023.

¹⁰²³ CDM, [Violence towards women in Honduras - 2023](#), undated, accessed on October 30, 2023.

¹⁰²⁴ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files.

Gender, Gender Equity and Femicides Unit conducted 21 consulting sessions for the Inter-Agency Commission for Monitoring the Investigation of Violent Deaths of Women and Femicides (CJSMVMF).¹⁰²⁵

494. The Commission is concerned over the delay in the adoption of key legislation to prevent, protect, investigate and punish violence against women, such as the Comprehensive Law on Violence against Women, the Law on Safe Houses and the Purple Alert Law for the search of disappeared women.¹⁰²⁶

495. The Commission commended the issuance of the executive decree approving the marketing, sale and use of the emergency contraceptive pill (ECP).¹⁰²⁷ However, it notes that the measures needed for its distribution and accessibility for every women in the country have not yet been implemented.¹⁰²⁸ The Commission also comments the steps taken to improve the attention and response to gender-based violence against women, namely: 1) the adoption of the 2023-2033 National Plan against Violence towards Women and Girls;¹⁰²⁹ 2) the inclusion of a provision relating to the implementation of gender-sensitive public policies on violence and discrimination against women in the 2023 General Budget of Revenues and Expenditures,¹⁰³⁰ as well as the composition of the high-level roundtable for gender-sensitive budget, which will seek to ensure compliance with the foregoing;¹⁰³¹ and 3) the continuity and expansion of the program Ciudad Mujer, which operates in six centers across the country as of the date of the report.¹⁰³²

496. The Commission also learned that the president had vetoed the Law on Comprehensive Education and Teenage Pregnancy Prevention,¹⁰³³ which was a key tool to identify and prevent sexual violence against children and adolescents, and to promote care for their reproductive health.¹⁰³⁴ Finally, the Commission was informed about cases of forced sterilization and obstetric violence against women living with HIV. In addition, the Commission was reported that no specific measures were in place to ensure their access to adequate sexual and reproductive health services.¹⁰³⁵

497. As regards **persons in the context of human mobility**, according to figures of the UNHCR, which were released in June 2023, by the end of 2022, there were 64,976 Honduran refugees. In addition,

¹⁰²⁵ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 10.

¹⁰²⁶ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; *Criterio HN*, "[Urgen al Congreso Nacional aprobar Ley de Casas Refugio](#)," October 9, 2023; IACHR, *2022 Annual Report. Chapter V. Honduras*, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 174; IACHR, *2022 Annual Report. Chapter IV. A*, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 529.

¹⁰²⁷ Official Gazette of the Republic of Honduras, [Section A. Agreements and Laws. Executive Agreement No. 75-2023](#), March 8, 2023; IACHR X account (@CIDH), "[#CIDH saluda el Acuerdo Ejecutivo del #8M que permite el libre uso y comercialización de la píldora anticonceptiva de emergencia y avanza en la garantía de los derechos sexuales y reproductivos de #MujeresNiñasyAdolescentes](#)" (IACHR commends the #8M Executive Agreement according to which the emergency contraceptive pill could be used and marketed, thus making progress in ensuring sexual and reproductive rights for #WomenGirlsandAdolescents), March 14, 2023.

¹⁰²⁸ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; *Criterio HN*, "[¿Dónde hay PAE en Honduras?](#)," May 5, 2023.

¹⁰²⁹ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files.

¹⁰³⁰ Official Gazette of the Republic of Honduras, [Section A Agreements and Laws. Decree No. 157-2022, Chapter V Gender Approach, Art. 9](#), January 12, 2023, p. 30.

¹⁰³¹ Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; *La Tribuna*, "[Asignarían presupuesto sensible al género](#)," May 1, 2023.

¹⁰³² Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files.

¹⁰³³ Xiomara Castro de Zelaya X account (@XiomaraCastroZ), "[Con la fórmula 'VUELVA AL CONGRESO' veté esta Ley por no cumplir su finalidad de ser integral y prevenir los embarazos en adolescentes de acuerdo a las razones expuestas en los fundamentos del veto](#)" (With the phrase "Return to Congress" I vetoed this law inasmuch as it did not constitute a comprehensive regulation that could prevent teenage pregnancy based on the reasons described in the veto), July 29, 2023.

¹⁰³⁴ United Nations Honduras, "[Comunicado sobre la Ley de Educación Integral de Prevención al Embarazo Adolescente](#)," June 2, 2023; Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files.

¹⁰³⁵ Fundación Llaves, Request for a (virtual) special thematic hearing during the 188th regular period of sessions of the IACHR, on the damages to the health and sexual and reproductive rights of women living with HIV in Honduras, August 10, 2023. In IACHR files. Information received in the context of the IACHR *in loco* visit to Honduras, from April 24 to April 28, 2023. In IACHR files; *The Globe and Mail*, "[Hondurans with HIV fight for justice after being sterilized against their Will](#)," August 26, 2023.

195,584 asylum-seekers were still waiting for a resolution. These figures account for a 27.7 and 15 percent increase, respectively, compared to 2021.¹⁰³⁶

498. The Commission also continues to note an exponential increase in the number of people in transit in Honduras.¹⁰³⁷ According to data from the National Institute of Migration (INM), between January 1 and September 20, 2023, 308,182 people were recorded to have entered the country irregularly. Out of these, 10.58 percent were boys, and 7.77 percent were girls. Said figure represents a 195.5 percent increase compared to the same period in 2022, during which 104,284 people entered the country. Even though the collection of biometric data is mandatory, people have also allegedly entered the country outside regular channels, so there is no official data about them.¹⁰³⁸ Hence, mixed movement figures are even higher than official statistics on recorded entries.¹⁰³⁹ In this context, the Commission takes note of the extension of Legislative Decree No. 42-2022, which suspends the administrative sanction for entering the country through unauthorized border points.¹⁰⁴⁰ As of May 30, 2023, 229,379 people had benefited from this amnesty.¹⁰⁴¹

499. Regarding the return of Hondurans to the country, between January 1 and September 20, 2023, the INM recorded 43,413 returns. Out of the total of returnees, 14.34 percent were boys, and 8.60 percent were girls. Said figure represents a 41.9 percent decrease compared to the same period in 2022.¹⁰⁴² According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the main challenge is to generate more lasting responses so that people assisted in the Migrant Return Centers (CAMR) achieve sustainable reintegration.¹⁰⁴³

500. On **forced internal displacement**, the State underscored the publication of a new law on prevention and protection of internally displaced persons.¹⁰⁴⁴ The Commission recognized this new law as an important step towards the protection of the rights of this group of people by acknowledging their right not to be forcibly displaced and called on the State to promptly implement said law.¹⁰⁴⁵ The State claimed that it had provided protection and humanitarian assistance to 253 people displaced by violence in 53 cases.¹⁰⁴⁶ In addition, according to data from the Internal Displacement Monitoring Centre (IDMC) released in 2023, during 2022, 46,000 internal displacements related to violence were reported, as well as 260 related to disasters.¹⁰⁴⁷ Notwithstanding that, due to the lack of official information since 2018, it is difficult to analyze trends in recent years and it is possible that these fail to capture the full scale of the phenomenon.¹⁰⁴⁸

501. As regards the rights of **children and adolescents**, the State reported that the Office of the Special Prosecutor for Child Protection had conducted workshops for health and education staff, prosecutors and police officers in several departments nationwide with the aim of promoting the rights of children and adolescents, especially their sexual and reproductive rights, thus optimizing attention and pregnancy

¹⁰³⁶ UNHCR, [UNHCR Global Trends 2022](#), June 2023, Annex Tables 1 to 23.

¹⁰³⁷ IACHR, [2021 Annual Report. Chapter IV.A Bahamas](#), para. 82. 518 and 519.

¹⁰³⁸ Meeting with the INM in the context of the IACHR *in loco* visit from April 24 to April 28, 2023, April 27, 2023. In IACHR files.

¹⁰³⁹ UNHCR, [Honduras Operational Update 17. March 2023](#), April 29, 2023, p. 5.

¹⁰⁴⁰ INM, "[Entra en vigencia amnistía migratoria](#)," August 4, 2022. National Congress of Honduras X account (@Congreso_HND), "[Con la aprobación en el Congreso Nacional de la Amnistía Migratoria, se estará beneficiando a las personas migrantes en situación de irregularidad que hicieron el ingreso al territorio hondureño antes del 1 de diciembre de 2022 y que no han regularizado su estatus migratorio](#)" (With the approval of the migration amnesty by the National Congress, irregular migrants who have entered Honduras before December 1, 2022, and who have not regularized their migration status will be benefited), August 3, 2022.

¹⁰⁴¹ INM X account (@MigracionHND), "[¡Atención!](#)" (Alert), May 31, 2023. Also: Meeting with the INM in the context of the IACHR *in loco* visit from April 24 to April 28, 2023, April 27, 2023.

¹⁰⁴² INM, [Honduran returnees](#), undated, accessed on September 25, 2023.

¹⁰⁴³ OCHA, "[Sustainable Reintegration: A Light at the End of the Tunnel for Hondurans Returning Home](#)," April 4, 2023.

¹⁰⁴⁴ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁴⁵ IACHR, Preliminary observations in the context of the IACHR *in loco* visit to Honduras held between April 24 and April 28, 2023, para. 34.

¹⁰⁴⁶ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁴⁷ IDMC, [Global Report on Internal Displacement 2023](#), May 2023, p. 138.

¹⁰⁴⁸ IDMC, [Global Report on Internal Displacement 2023](#), May 2023, p. 79.

prevention services. Furthermore, 90 teachers were trained on the steps to follow in cases involving children and adolescents in the departments of Francisco Morazán, Atlántida y Cortés.¹⁰⁴⁹

502. The State reported that, through the Honduran Inter-institutional Commission against Sexual and Commercial Exploitation and Trafficking in Persons (CICEST), workshops were conducted to bring awareness to 3,818 children in education centers nationwide. Furthermore, 6,849 police officers, institution representatives, civil society organizations, teachers, parents and members of the general public received training. The State added that, during 2023, 80 new victims from different regions of the country had been identified and assisted. Finally, according to the State, during 2023 children were victims of several crimes related to human trafficking.¹⁰⁵⁰

503. The Commission commends the signature of an interinstitutional agreement between the Directorate for Children, Adolescents and Families (DINAF) and the civil society organization Acogidos, aimed at reintegrating children and adolescents into their family units and at promoting the reincorporation of those who enter the protection system. Within the framework of said agreement, the engagement of a multidisciplinary team would guarantee that the best interest of the child was protected, and that children and adolescents remained with their family of origin.¹⁰⁵¹ The Commission also learned about the formal creation of the Ministry for Children, Adolescents and the Family (SENAF), which will begin to operate in January 2024.¹⁰⁵²

504. The Commission is concerned over the fact that, according to data from the National Observatory of Violence of the Universidad Nacional Autónoma de Honduras (UNAH), between January and October 2023, more than 57 violent deaths of children were allegedly recorded, which would constitute a 9.6 percent increase compared to 2022.¹⁰⁵³

505. With regard to **human rights defenders**, the State reported that it had learned about the murder of five defenders between January 1 and August 31, 2023.¹⁰⁵⁴ During that period, the Commission was informed about the murder of at least 11 defenders,¹⁰⁵⁵ which represents an increase compared to the same period in 2022, where eight murders had been recorded.¹⁰⁵⁶

506. The Commission also received complaints about other forms of violence towards defenders, including threats, physical assault, harassment or intimidation. Between January 1 and April 30, 2023, the OHCHR documented at least 86 attacks against defenders and journalists, resulting in 107 victims. Out of these, 83 carried out defense work.¹⁰⁵⁷ The Commission granted four precautionary measures in favor of 43 defenders

¹⁰⁴⁹ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 16.

¹⁰⁵⁰ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, pp. 18 and 19.

¹⁰⁵¹ *Poder Popular*, Government of Honduras, "[La DINAF y la Organización Internacional ACOGIDOS realizan firma de convenio interinstitucional para la reintegración de niños, niñas y adolescentes a sus núcleos familiares](#)," October 17, 2023.

¹⁰⁵² *La Tribuna*, "[La SENAF, por el bienestar de nuestra niñez](#)," October 18, 2023.

¹⁰⁵³ UNAH, "[Honduras registra casi 5.000 muertes violentas de infantes en los últimos 15 años, según ONV-IUDPAS](#)," October 23, 2023.

¹⁰⁵⁴ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁵⁵ IACHR, Press Release No. 248/23, "[IACHR Notes Persistently Alarming Violence Against Rights Defenders Over the Period May–August 2023](#)," October 20, 2023; IACHR, Press Release No. 138/23, "[IACHR: Ongoing Violence Against Human Rights Defenders in the First Four Months of 2023](#)," June 27, 2023. The Commission learned about the murder of indigenous defender Tolupán Amilcar Vieda in Yoro, department of Yoro, and indigenous defender Jacinto Meza in Dulce Nombre de Culmí, Olancho. In April, peasant leader José Gilberto Martínez Cardona was murdered in Olanchito, Yoro. In February, the Commission voiced its concern over the murder of peasant defender Santos Hipólito Rivas and his son in Trujillo, Colón, and land defender Benigno Maldonado in Tela, Atlántida, as well as the murders of land defender José Omar Cruz Tomé in Tocoa, Colón, and environmental and territorial defenders Aly Domínguez and Jairo Bonilla in the municipality of Tocoa, Colón, which had occurred in January. In addition, the OHCHR recorded the murder of three additional defenders whose names are kept confidential for security reasons.

¹⁰⁵⁶ IACHR, Press Release No. 114/22, "[IACHR: Increased Violence Against Human Rights Defenders during the First Four Months of 2022 Makes It More Urgent for States to Protect Their Lives and Work](#)," May 25, 2022; IACHR, Press Release No. 244/22, "[IACHR: Ongoing Violence Against Human Rights Defenders Recorded in Second Quarter of 2022](#)," November 2, 2022.

¹⁰⁵⁷ OHCHR, Data on the current situation of human rights in Honduras. Inputs for the IACHR, April 2023, p. 3.

inasmuch as their lives and personal integrity, in some cases even including those of their families, were reportedly at risk as a consequence of their advocacy work.¹⁰⁵⁸

507. As regards the national mechanism for the protection of defenders, the State has taken steps to strengthen it by hiring highly qualified professionals and by expanding its budget.¹⁰⁵⁹ The State also reported that the mechanism had ensured protection in 37 cases, safeguarding the lives of 165 beneficiaries and working on 185 active cases.¹⁰⁶⁰ According to the State, out of these 185 active cases, a reduced group of six cases with precautionary measures uses around 83 percent of the allocated budget, whereas the other 179 absorb the remaining 15 percent of the available resources.¹⁰⁶¹ Furthermore, within the framework of the public hearing “Honduras: Protection mechanism for human rights defenders,” civil society organizations referred to the challenges posed by the mechanism, such as: the absence of state authorities from the National Protection Council sessions, which would hinder decision-making; the lack of an adequate budget for its operation, which is not included in the general budget of the Republic; and the absence of a comprehensive, differentiated and intersectional approach in protection schemes. The State highlighted some additional measures implemented to strengthen the mechanism, such as the creation of interinstitutional partnerships to ensure a wider coverage; the consolidation of the technical capabilities of the staff working at operations units; and the selection of interdisciplinary staff.¹⁰⁶²

508. Regarding **persons deprived of liberty**, the State reported that it had taken steps forward and implemented comprehensive programs at its penitentiary centers, covering areas such as medical attention, education, human rights, gender equity, infrastructure and humanitarian aid.¹⁰⁶³ The State added that the INP had significantly improved the infrastructure of penitentiary centers. In addition, the State has worked on the installation of ramps to improve access for persons with disabilities.

509. The Commission notes that, since July 1, 2023, the PMOP has again become responsible for the management and control of detention centers for one year.¹⁰⁶⁴ The Commission is concerned over the reports alleging ill-treatment against detainees at the hands of the PMOP.¹⁰⁶⁵ The Commission is also concerned

¹⁰⁵⁸ IACHR, [Resolution No. 55/23](#), *Precautionary Measure 137-23, Identified members of the Comité Municipal de Defensa de los Bienes Comunes y Públicos de Tocoa, and members of the law firm Justicia para los Pueblos regarding Honduras*, October 5, 2023. The IACHR granted precautionary measures in favor of 30 identified members of the Municipal Committee for the Defense of Common and Public Goods of Tocoa and law firm Justicia para los Pueblos on the grounds that they were in a serious and urgent situation, inasmuch as they had been subjected to death threats, surveillance, harassment and other acts of violence, particularly in the context of their work as environmental rights defenders and as legal representatives of the Committee in relation to extractive and mining projects. [Resolution No. 47/23](#), *Precautionary Measure 404-23, Members of Honduran Alternative for Community and Environmental Vindication (ARCAH) regarding Honduras*, August 20, 2023. The IACHR granted precautionary measures in favor of 11 members of ARCAH on the grounds that they were in a serious and urgent situation inasmuch as they had been subjected to surveillance, monitoring, intimidation and threats, among others, as a consequence of their work in the defense of environmental rights and the complaints filed against industrial and extractive projects. [Resolution No. 18/23](#), *Precautionary Measure 937-22, Pedro de Jesús Pinto Cabrera and his family unit regarding Honduras*, April 13, 2023. The IACHR granted precautionary measures in favor of Pedro de Jesús Pinto Cabrera and his family on the grounds that they were in a serious and urgent situation as a consequence of their work in the defense of the environment in the municipality of La Labor, in the department of Ocotepeque. The beneficiary had been reportedly subjected to acts of violence, threats and intimidation since November 2022. [Resolution No. 11/23](#), *Precautionary Measure 41-22, Hedme Fátima Castro Vargas and her family unit regarding Honduras*, March 6, 2023. The IACHR granted precautionary measures in favor of defender and Asociación por una Ciudadanía Participativa (ACI-PARTICIPA) executive director Hedme Fátima Castro Vargas and her family unit on the grounds that they were in a serious and urgent situation inasmuch as they were being subjected to monitoring, surveillance, threats and other threatening events as a consequence of her work.

¹⁰⁵⁹ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁶⁰ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁶¹ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 8.

¹⁰⁶² IACHR, public hearing “[Honduras: Protection mechanism for human rights defenders](#),” 188th regular period of sessions, November 6, 2023.

¹⁰⁶³ Government of the Republic of Honduras, Electronic Communication No. 930-DPM-SRECI-2023, Reply to the IACHR Article 41 letter regarding the situation of human rights in Honduras during 2023, November 9, 2023, p. 24.

¹⁰⁶⁴ IACHR, Press Release No. 139/23, “[IACHR Condemns Deaths of At Least 46 Women in Honduran Prison](#),” June 28, 2023.

¹⁰⁶⁵ In this regard, see: Abriendo Brecha X account (@Abriendo_Brecha), “[Los representantes del Comisionado Nacional de Derechos Humanos ha difundido un video, en donde condena el trato inhumano y degradante que reciben algunos privados de libertad en](#)”

over the alarming overcrowding rate, which, as of April 2023, stood at 27 percent,¹⁰⁶⁶ mainly as a result of an excessive use of pretrial detention. The pretrial detention rate was of 49.5 percent over the same period.¹⁰⁶⁷

510. The Commission also condemned the acts of violence that had taken place on June 20 at the National Women's Penitentiary for Social Adaptation (PNFAS), which resulted in the death of at least 46 women in prison.¹⁰⁶⁸ In addition, the Commission learned about other acts of violence, such as those that had taken place simultaneously at the national penitentiary centers Támara, Ilama, Morocelí and Siria on April 8; at Ilama on April 25; and at Danlí on July 15. As a consequence, at least two women in prison died, and 14 were injured.¹⁰⁶⁹

511. On the fight against **torture**, the Commission notes the delays in the implementation of the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment (MNP-CONPAREV). According to the information received, on July 25, 2023, civil society organizations held their general meeting to elect their representative. Notwithstanding that, as of October 16, 2023, the State had not yet issued the appointment agreement nor sworn the new representative in, which prevented the newly elected official from taking office.¹⁰⁷⁰

512. With regard to **the rights of LGBTI persons**, the Commission commends the progress made in complying with the operative paragraphs of the judgment of the case of *Vicky Hernández et al. v. Honduras*, such as the presentation of the Vicky Hernández scholarship by the Secretariat of Social Development (SEDESOL), which is targeted at trans persons.¹⁰⁷¹

513. The Commission continues to note situations of discrimination and violence towards LGBTI persons. As of October, the civil society had recorded at least 40 violent deaths of LGBTI persons. Most of the victims were identified as gay men.¹⁰⁷² Furthermore, according to data from the CONADEH, around 23 percent of the cases of recent years were brought to court.¹⁰⁷³ The Commission learned about stigmatizing statements made against LGBTI persons by the mayor of San Pedro Sula.¹⁰⁷⁴ In Honduras, same-sex unions are not legally recognized. In addition, the ban on name change based on gender is still in force.

[penales o celdas de máxima seguridad en el país, exigen se investigue el hecho](#)" (National Human Rights Commissioner representatives have spread a video condemning the inhuman and degrading treatment received by people deprived of liberty at prisons or high-security cells in the country and demand clarification of the facts), September 14, 2023. *Coyuntura*, "[Militarización y torturas desencadenan crisis de derechos humanos desde las cárceles de Honduras](#)," July 11, 2023; *Notiactiva*, "[CONAPREV expresa preocupación por excesivo uso de la fuerza y tratos humillantes en intervención de cárceles hondureñas](#)," July 7, 2023; *Radioamerica*, "[CONAPREV recomienda a la Policía Militar abstenerse del uso excesivo de la fuerza con privados de libertad](#)," July 7, 2023.

¹⁰⁶⁶ IACHR's estimations are based on current population and capacity per detention center figures, which were taken from a document submitted by the INP, except for the PNFAS, whose data was provided by the center director during the IACHR's visit. In this regard, see: INP, Government of Honduras, INP report on the meetings with authorities during the *in loco* visit to Honduras, April 24, 2023, pp. 8-10; Information provided to the IACHR at its meeting with the PNFAS director, held during the *in loco* visit to Honduras, April 25, 2023.

¹⁰⁶⁷ INP, Government of Honduras, INP report on the meetings with authorities during the *in loco* visit to Honduras, April 24, 2023, pp. 8-10.

¹⁰⁶⁸ IACHR, Press Release No. 139/23, "[IACHR Condemns Deaths of At Least 46 Women in Honduran Prison](#)," June 28, 2023.

¹⁰⁶⁹ In this regard, see: Information provided to the IACHR by the Asociación Paz de Superación por Honduras (ASOPAZH) by email, April 26, 2023. In IACHR files; Information provided to the IACHR at its first meeting with the families of persons deprived of liberty held during the *in loco* visit to Honduras, April 25, 2023; *SWI swissinfo.ch*, "[Muere uno de dos privados de libertad heridos en amotinamiento en un presidio de Honduras](#)," July 16, 2023; Telesurtv, "[Amotinamiento en cárcel de Danlí, Honduras, deja un muerto](#)," July 16, 2023; *La Prensa*, "[Incendio y tiroteo en cárcel de Danlí: reos intentaron 'rebelarse' contra militares](#)," July 15, 2023.

¹⁰⁷⁰ IACHR, Information provided by Cozumel Trans by email, October 16, 2023. In IACHR files.

¹⁰⁷¹ *Criterio*, "[Beca Vicky Hernández es una realidad en Honduras](#)," May 9, 2023; SEDESOL, [Vicky Hernández scholarship-SEDESOL](#), undated, accessed on October 3, 2023.

¹⁰⁷² Data from the monitoring base of the organization Cattrachas, [TMIS observatory](#), accessed on October 3, 2023. The Commission received information about the murder of human rights defender and trans activist Soraya Álvarez, member of the collective Muñecas de Arcoiris.

¹⁰⁷³ *La Vanguardia*, "[Asesinados 194 miembros de la comunidad LGBTI en Honduras entre 2017 y 2022](#)," May 7, 2023.

¹⁰⁷⁴ Reportar Sin Miedo, "[Asco y repudio causa discurso de odio de Roberto Contreras contra personas LGBTIQ+ y afrodescendientes](#)," April 13, 2023.

514. As regards the recognition of the rights of diverse families, in Honduras, same-sex unions are not legally recognized. Furthermore, the ban on same-sex marriage continues to be in force since 2004,¹⁰⁷⁵ and adoption by same-sex couples is prohibited. In 2021, an amendment was made to Article 112 of the Constitution, which tightened the ban on same-sex marriage. In addition, it is worth mentioning that, to change Articles 67 and 112 banning voluntary termination of pregnancy and same-sex marriage, respectively, a qualified majority of three-quarters is required in the National Congress, even though Article 373 of the Constitution establishes that constitutional amendments shall only require a two-thirds majority vote.

XX. JAMAICA

• General considerations

515. In relation to **progress**, the Commission highlights the State's continued progress towards constitutional reform. Moreover, the IACHR takes note of a decrease in homicides, and proposed legislative amendments to reduce crime. Additionally, the Commission notes the passage of a new Bail Act which aims to reform the bail framework in criminal justice, and the establishment of the Office of the National Rapporteur on Trafficking in Persons.

516. With respect to **challenges**, the Commission notes with concern instances of detention and repatriation of Haitian citizens, and the overcrowding of the State's prisons.

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

• Specific issues

518. With respect to **democratic institutional**ity, the Commission highlights the State's continued progress towards constitutional reform. In line with its commitment to transition to a Republic,¹⁰⁷⁶ in March 2023, the State officially established its Constitutional Reform Committee (CRC).¹⁰⁷⁷ According to the Prime Minister, this Committee will provide expert guidance and oversight to the Government and people of Jamaica during the constitutional reform process and implement recommendations for the transition of Jamaica to a Republic on the basis of consensus.¹⁰⁷⁸ Also, the IACHR notes that as of June 2023, 12 CRC meetings have been convened and approximately 30 public consultations have been held across Jamaica in keeping with the Committee's goal to hear from a wide cross-section of the Jamaican population.¹⁰⁷⁹

519. Regarding **human rights institutions**, Jamaica has an Office of the Public Defender, which is a member of the Caribbean Ombudsman Association¹⁰⁸⁰ and the Commonwealth Forum of National Human Rights Institutions¹⁰⁸¹. According to public information, the State is in the process of transferring the functions of the Office of the Political Ombudsman to the Electoral Commission; meanwhile the Office of the Political Ombudsman remains vacant¹⁰⁸². In this regard, the IACHR notes calls by civil society to appoint a new Political Ombudsman in order to oversee the conduct of political aspirants and for the establishment of an independent National Human Rights Institution¹⁰⁸³.

¹⁰⁷⁵ Constitution of Honduras, Arts. 112 and 116.

¹⁰⁷⁶ IACHR, [Annual Report Chap IV.A "Jamaica", 2022](#), para. 537.

¹⁰⁷⁷ Jamaica Information Service, [Constitutional Reform Committee Established](#), March 2, 2023.

¹⁰⁷⁸ Jamaica Information Service, [Constitutional Reform Committee Established](#), March 2, 2023; [PM Announces Members of Constitutional Reform Committee](#), March 23, 2023.

¹⁰⁷⁹ Jamaica Information Service, [Significant Progress in Work to Reform Jamaica's Constitution](#), June 7, 2023.

¹⁰⁸⁰ Caribbean Ombudsman Association, [General Information](#), 2023.

¹⁰⁸¹ Commonwealth Forum of National Human Rights Institutions, [Jamaica](#), 2023.

¹⁰⁸² Jamaica Observer, [Gov't nears transferring political ombudsman functions to ECI](#), January 3, 2023. Also see IACHR, [Annual Report Chap IV.A "Jamaica", 2022](#), para. 538.

¹⁰⁸³ Jamaicans for Justice, [IFI's Call for the Implementation of an NHRI and Key Recommendations](#), August 31, 2023; Jamaica Gleaner, [NIA wants gap left by political ombudsman filled following Golding's dead voters comment](#), July 25, 2023; Nation Wide Radio JM, [Jamaicans for Justice: Name a Political Ombudsman](#), May 11, 2023.

520. As it relates to **citizen security**, the IACHR takes note of a decrease in homicides, proposed legislative amendments to reduce crime, and the continued use of states of emergency. According to the figures presented by the Jamaica Constabulary Force (JCF), there was a total of 1,159 homicides reported from January 1 to October 28, 2023, compared to 1,301 homicides reported in for the same period in 2022, which represented an approximately 11% decrease.¹⁰⁸⁴ However, Jamaica continues to have one of the highest homicide rates in the Caribbean and the Americas, with a rate of 40 per 100,000 inhabitants.¹⁰⁸⁵

521. The Commission notes the introduction of the Offenses Against the Person Amendment Bill and Criminal Justice Administration Amendment Bill which propose to implement stricter penalties for homicide. According to official information, the Bills propose an increase to mandatory minimum sentences in order to “aid” in the fight against the increasing crime rate. Particularly, under the Offenses Against the Person Amendment Bill, amendments to the sentence for homicide will increase the mandatory minimum sentence from 15 to 45 years, while under the Criminal Justice Administration Amendment Bill, the term of years to be deemed as life imprisonment for murder will increase from 30 to 50 years.¹⁰⁸⁶ In this regard, the IACHR notes the objection of civil society to these proposed legislative amendments. Particularly, according to civil society, these amendments would negatively impact the criminal justice system as they would serve as a deterrent of accused persons to enter into established plea-bargaining mechanisms and negatively impact the human rights of accused persons by exacerbating court backlogs, which in turn could lead to prison overcrowding.¹⁰⁸⁷

522. Additionally, the Commission notes the State’s use of States of Emergency (SOEs) and Zones of Special Operations (ZOSOs) as a crime suppression measure. In November, the State declared an SOE in the St. James parish for fourteen days, while Zones of Special Operations (ZOSOs) were operational in seven areas across Jamaica as of September 2023.¹⁰⁸⁸ In relation to ZOSOs, in September, the House of Representatives passed legislation to increase the initial timeline for operation period from 60 to 180 days.¹⁰⁸⁹

523. Regarding **access to justice**, the Commission notes the passage of the Amended Bail Act in the House of Representatives which aims to reform the bail framework in the criminal justice by permitting the grant of bail at three stages –pre-charge, post-charge and post-conviction in defined cases.¹⁰⁹⁰

524. Regarding the rights of **women**, the IACHR notes that the Sexual Harassment Act took effect in July 2023. This law addresses concerns about sexual harassment that are employment related, occurring in medical, psychiatric or correctional institutions, or arising in the landlord and tenant relationships. It also requires employers and institutions to keep a register with the details of every sexual harassment claim that has been logged. Additionally, a sexual harassment tribunal will be established.¹⁰⁹¹ The IACHR also welcomes the elimination of the conditions for marital rape which is being considered in the proposed amendments to the Offences Against the Person Act.¹⁰⁹²

525. The IACHR also takes note of efforts to better address domestic violence against women. In this regard, 24 police personnel of the Jamaica Constabulary Force (JCF) received training to respond effectively to domestic violence cases;¹⁰⁹³ survivors received training and resources to boost their economic

¹⁰⁸⁴ Jamaica Constabulary Force, [Crime Statistics: January 1-September 30, 2023](#), October 2023.

¹⁰⁸⁵ The IACHR calculated the homicide rate based on the State's population of 2,827,377 according to data from The World Bank. The World Bank, [Population, total - Jamaica](#), 2022.

¹⁰⁸⁶ Jamaica Information Service, [Joint Select Committee to Discuss Legislation to Impose Stricter Penalties for Murder](#), February 23, 2023.

¹⁰⁸⁷ Jamaicans for Justice, [Civil Society Urges Caution as Government Proposes Increased Mandatory Minimums](#), March 30, 2023.

¹⁰⁸⁸ Jamaica Information Service, [House Approves Extension of Seven Zones of Special Operations](#), July 19, 2023; [House Approves Further 60-Day Extension of Seven ZOSOs](#), June 22, 2023.

¹⁰⁸⁹ Jamaica Information Services, [House of Representatives Passes Zones of Special Operations Amendment Bill](#), September 28, 2023.

¹⁰⁹⁰ Jamaica Information Service, [Amended Bail Act Approved by the House](#), July 27, 2023.

¹⁰⁹¹ Jamaica Information Service; HYPERLINK "<https://jis.gov.jm/employers-required-to-maintain-register-under-sexual-harassment-act/>" [Employers Required to Maintain Register Under Sexual Harassment Act](#), July 10, 2023; [Law Ushers In Measures to End Sexual Harassment](#), July 4, 2023.

¹⁰⁹² Jamaica Information Service, [Conditions For Marital Rape to be Eliminated in Law](#), July 15, 2023.

¹⁰⁹³ Jamaica Information Service, [JCF's Ability to Respond to Domestic Violence Strengthened](#), July 23, 2023.

autonomy;¹⁰⁹⁴ and ten domestic violence centres were established at police stations island wide.¹⁰⁹⁵ However, the Commission observes that those centres are design to “assist with conflict resolution”. In this regard, it is important to highlight the incompatibility of conciliation or mediation mechanisms with the duties of due diligence, prevention, comprehensive protection, and access to justice in cases of domestic violence against women.¹⁰⁹⁶ On the other hand, it regrets that amidst the constitutional reform process, abortion remains fully penalised, with penalties including life sentences.¹⁰⁹⁷

526. With respect to **people in the context of human mobility**, the Commission noted that in July 2023, 37 Haitians nationals arrived in Jamaica and were accused of irregular entry and could face deportation. In this regard, under Article 18 of its Statute, the IACHR requested information from the State regarding the situation of these Haitian nationals.¹⁰⁹⁸ In response, the State informed that applications for asylum were being processed and, as a result, all 37 Haitian nationals remained in Jamaica while their applications were being reviewed.¹⁰⁹⁹ On the other hand, the Commission observes with concern that, in September 2023, a group of 36 Haitian citizens who landed in Portland were swiftly returned to Haiti within one day as their entry was denied based on the vetting process following the completion of immigration and security checks.¹¹⁰⁰ In response, civil society has raised concerns about the swift actions by the State and has questioned whether the State officials adhered to protocols for dealing with asylum seekers.¹¹⁰¹

527. As for **human trafficking**, the IACHR welcomes the establishment of the Office of the National Rapporteur on Trafficking in Persons and the creation of a specialized unit at the Jamaica Constabulary Force (JCF) for the investigation of cases.¹¹⁰² Additionally, the Commission takes note of the US-Jamaica Child Protection Compact Partnership that established a child-friendly center to help fight child trafficking in the country.¹¹⁰³

528. With respect to the rights of **children**, the Commission takes note of the initiative to revise the Childcare and Protection Act. However, as part of the reform process, the IACHR was made aware of UNICEF’s concerns regarding proposals that would require children convicted of murder to serve a mandatory 20-year prison sentence before being eligible for parole.¹¹⁰⁴ In addition, the IACHR was also informed by civil society that the reform proposal would allow the authorities to detain children who are deemed “uncontrollable” at juvenile correctional centers, even if they did not commit a crime.¹¹⁰⁵ In this regard, the IACHR expressed concern about the proposed amendments and reiterated that the practice of deprivation of liberty of children in juvenile justice system must be used as a last resort, only by way of exception, and for as short a time as possible.¹¹⁰⁶

529. On the matter of **persons deprived of liberty**, the Commission values the implementation of a training programme by the University of the West Indies (UWI) and the Department of Correctional Services

¹⁰⁹⁴ Jamaica Observer, [Domestic violence survivors gifted tablets to bolster access to small biz grants, resources](#), May 5, 2023.

¹⁰⁹⁵ Jamaica Information Service, [Number of Domestic Violence Intervention Centres Increases to 10](#), April 22, 2023.

¹⁰⁹⁶ IACHR, [Access to justice for women victims of sexual violence in Mesoamerica](#) (2011), para. 269, 270-275.

¹⁰⁹⁷ The Gleaner, [Buggery, abortion laws won't be changed during constitutional reform process – Malahoo Forte](#), June 7, 2023; The Gleaner, [Gay rights, abortion not included in reform of Constitution – Morgan](#), April 12, 2023.

¹⁰⁹⁸ IACHR, Jamaica – Deportation of Haitian citizens, Article 18 of American Declaration, August 11, 2023, IACHR Archive.

¹⁰⁹⁹ State of Jamaica, Response to the request for information under Article 41 of the ACHR, Deportation of Haitian Citizens. August 28, 2023, IACHR file.

¹¹⁰⁰ Jamaica Observer, [Entry Denied](#), September 12, 2023; Jamaica Observer, [36 Haitians who landed in Jamaica on boat returned home](#), September 11, 2023; Stand up for Jamaica, [Government's move to send back Haitians home is Reprehensible](#), September 11, 2023; and Loop News, [Gov't blasted for sending back Haitians under cover of darkness](#), September 12, 2023.

¹¹⁰¹ Stand up for Jamaica, Press Release, September 11, 2023. On file with the IACHR.

¹¹⁰² Government of Jamaica, [Jamaica Making Strides in Combatting Trafficking in Persons](#), July, 31, 2023.

¹¹⁰³ Government of Jamaica, [Centre Opens in Port Antonio to Deal with Children Who Have Been Abused](#), January 30, 2023.

¹¹⁰⁴ UNICEF, [UNICEF Submissions to the Joint Select Committee regarding the Criminal Justice \(Administration\) \(Amendment\) Act, 2023; Offences Against the Person \(Amendment\) Act, 2023; and Child Care and Protection \(Amendment\) Act, 2023](#), June 19, 2023.

¹¹⁰⁵ Civil Society organizations of Jamaica, [Open letter Civil society urges careful review of the proposed amendment to the Childcare and Protection Act](#), July 5, 2023.

¹¹⁰⁶ IACHR, Press Release 324/23 - [Jamaica: IACHR expresses concern regarding the proposed increase in minimum sentences for children](#), December 28, 2023.

(DCS), which is aimed at increasing access to higher education and improve reintegration outcomes for incarcerated people in Jamaica.¹¹⁰⁷

530. However, during a public hearing in the framework of its 188th Period of Sessions, the Commission received information concerning prison overcrowding, pre-trial detention, insufficient rehabilitation techniques, and on inmates with psychosocial disabilities. According to civil society, overcrowding remains an issue at the Tower Street Adult Correctional Centre and the St. Catherine Adult Correctional Centre, with both operating 200% and 107% above capacity, respectively. In this context, civil society organizations find that the increase in the incarcerated population might be related to the Jamaica's frequent use of states of emergency.¹¹⁰⁸ Regarding the detention of persons with psychological disabilities, the Commission received information regarding a prisoner who had been detained, found unfit to plea and left awaiting trial for decades before his death.¹¹⁰⁹

531. On the matter of the **death penalty**, the Commission notes the lack of progress in removing the death penalty from the statutory books, even though the State has not carried out executions since 1988 and no person is currently sentenced to death.¹¹¹⁰

532. Regarding the rights of **LGBTI persons**, the IACHR notes that the resolution of case Maurice Tomlinson v. Attorney General of Jamaica, which unsuccessfully attempted to challenge the laws that criminalize relationships between adults of the same sex as unconstitutional. Particularly, the Supreme Court of Jamaica, in dismissing the case, noted that it could not inquire into the constitutionality of these provisions due to a savings law clause, which prevents laws in existence before the coming into force of the Constitution from being declared unconstitutional.¹¹¹¹ The Court held that such law reform was the responsibility of Parliament. In this regard, the Commission has previously called upon the State to repeal the laws that criminalize private same sex consensual activity between adults and to adopt an anti-discrimination legal framework that prohibits discrimination based on sexual orientation, gender identity or expression – real or perceived – and body diversity.¹¹¹²

533. In relation to the rights of **older persons**, the IACHR was notified about the efforts of the Jamaican government to integrate people over 60 years of age into the Meals on Wheels program proposed by the National Council for Older Persons to guarantee the right to food of said population. Likewise, the Commission takes note of national programs that offer home support services for older people who cannot perform tasks on their own. On the other hand, the IACHR observes the guidance provided by the Ministry of Labor for the provision of national identification cards to senior citizens guarantying their right to identity.¹¹¹³ The IACHR encourages the State of Jamaica to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

XXI. MEXICO

• General considerations

534. Regarding **progress**, the Commission notes that plans, programs, guidelines and public policies have been designed in the fields of development, the fight against discrimination, attention to victims, search of disappeared persons, follow-up on sexual torture cases and the fight against corruption, all of which

¹¹⁰⁷ Jamaica Information System, [Inmates and Correctional Officers Participate in Training Course](#), August 23, 2023.

¹¹⁰⁸ The Advocates for Human Rights, The Greater Caribbean for Life, Independent Jamaica Council For Human Rights and The World Coalition Against the Death Penalty, [Jamaica's Compliance with the International Covenant on Civil and Political Rights Suggested List of Issues Prior to Reporting Relating to the Death Penalty and Death Row Conditions](#), May 2, 2023.

¹¹⁰⁹ IACHR, [Public Hearing "Jamaica: Rights of Persons Deprived of their Liberty"](#), 188th Period of Sessions, Oct 20 – Nov 10, 2023.

¹¹¹⁰ World Coalition Against the Death Penalty, [Jamaica](#), May 23, 2023.

¹¹¹¹ [Maurice Tomlinson v. Attorney General of Jamaica et al](#), Claim No. 2015HCV05731; The Washington Blade, [Jamaican Supreme Court upholds colonial-era sodomy law](#), October 27, 2023.

¹¹¹² IACHR. Report No. 400/23, Case 13.637, [Merits. Gareth Henry and Simone Carline Edwards, Jamaica](#), December 31, 2020, para. 100.

¹¹¹³ Jamaica Information Service, [Senior Citizens Urged to Take Advantage of Support Services](#), January 30, 2023.

were approved and in operation. The search for disappeared persons continues to be intensive and to cover most of the national territory with the support of the National Center for Human Identification. In addition, the Commission commends Mexico's willingness to receive several committees and working groups from the United Nations human rights protection system, and to follow up on their recommendations. The Commission also underscores the timely submission of the Universal Periodic Review (UPR), as well as the country's monitoring of and response to the different mechanisms of the inter-American system.

535. As regards **challenges**, the Commission notes that, during 2023, acts of violence towards journalists (eight murders as of September) and defenders (seven murders as of November) were reported. The levels of violence against women and femicides remained high (625 as of September), and at least 19 murders of LGBTI persons were recorded. Militarization continues to intensify in Mexico, extending to other spheres of civilian life beyond citizen security. The Commission is concerned over the reports received regarding the destabilization of the National Commission for the Search of Persons (CNB), caused by the resignation of its head following alleged political interference with the registry of disappeared persons through the verification census. Furthermore, budget cuts have been made to bodies that guarantee the transparency of and access to information (the National Institute of Transparency, Access to Information, and Protection of Personal Data, [INAI]), political rights (the National Electoral Institute [INE]) and access to justice (the judiciary), which reportedly affects the performance of their functions. Finally, stigmatizing statements from high-ranking authorities against persons and institutions that carry out human rights advocacy work must be eradicated from Mexico.

536. On October 14, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.¹¹¹⁴

- **Specific issues**

537. With regard to **democratic institutionalism**, the State reported that it had made progress in its anticorruption policy and that the National Anticorruption Policy and the 2019-2024 National Program to Combat Corruption and Impunity and to Improve Public Management were already in place.

538. As regards the state bodies upon which the institutional framework of Mexico relies, the Commission notes that there is concern over the electoral system, the transparency of and access to information, and judicial independence. The Commission will now briefly address said concerns.

539. Regarding the electoral system, during 2022, the Commission reported that the State had begun a process of amending its rules related to the administration of electoral bodies (the INE and the Federal Electoral Institute [IFE]), which sparked concern over its potential effect on the development of future elections.¹¹¹⁵ The Commission notes that the Supreme Court of Justice (SCJN) overruled the decree that established said amendments on the grounds that there had been serious violations of the legislative process.¹¹¹⁶

540. On the transparency of and access to public information, the Commission voices its concern over the appointment status of INAI commissioners. In this regard, Mexico reported that domestic proceedings were in progress to appoint commissioners to the vacancies that had arisen in 2022 and that, meanwhile, the State was working to ensure the right to access to information and the protection of personal data.¹¹¹⁷ Notwithstanding the foregoing, according to information available in the public domain, authorities of the

¹¹¹⁴ State of Mexico, Information from the Mexican State for the IACHR 2023 Annual Report (hereinafter, "Report of the Mexican State. Chapter IV, October 14, 2023"), submitted through Diplomatic Note OEA3660, File 4.5.01. October 14, 2023.

¹¹¹⁵ IACHR, *2022 Annual Report, Chapter IV.A*, para. 561.

¹¹¹⁶ SCJN, Press Release No. 222/2023, "[Invalida la Corte la segunda parte del paquete de reformas político-electorales 2022-2023 por violaciones al procedimiento legislativo](#)," June 22, 2023.

¹¹¹⁷ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 50-51.

executive branch have spoken against the INAI¹¹¹⁸ or advocated for its elimination.¹¹¹⁹ Some senators have linked the failure to appoint INAI commissioners to the high budget of said institute and to the proposal to reduce it.¹¹²⁰ Civil society organizations informed the Commission that the Senate was engaging in a “deliberate omission” for political reasons.¹¹²¹ As a response, the INAI filed a constitutional oversight remedy with the SCJN in view of the refusal of the Senate to appoint the commissioners required to form a quorum. In October 2023, the SCJN ruled that the INAI could operate with its four existing members and that the omission by the Senate constituted a failure to comply with its constitutional obligations, which should be promptly remedied.¹¹²²

541. With regard to judicial independence, the Commission notes that specialized agencies have voiced their concern over the frequent comments made by government officials against members of the federal judiciary who have expressed their disagreement with the federal government in court proceedings.¹¹²³ In addition, the president of the SCJN has warned of the emergence of voices and movements seeking to subtly or directly undermine the independence of the judiciary and to erode the division of powers.¹¹²⁴

542. Furthermore, the Commission notes that there is a debate around the budgets required for the operation of the INAI, the INE and the judiciary. In this regard, it is worth noting that 13 out of the 14 judiciary funds were eliminated. Said funds had been earmarked with different purposes, such as developing the infrastructure required to implement federal justice constitutional reforms. Others had been earmarked as supplementary pensions for in-office and retired justice operators, or had been allocated to other public officials, among other expenses.¹¹²⁵ The elimination of the funds has been regarded as a measure to end privileges¹¹²⁶ or has been justified on the grounds that such resources should be allocated to humanitarian aid and to the reconstruction of the areas affected by Hurricane Otis in the state of Guerrero.¹¹²⁷ Notwithstanding the foregoing, the SCJN held that the elimination of funds did affect federal judiciary employees.¹¹²⁸

543. In this regard, the collective La Justicia que Queremos voiced its concern over the fact that “for example, threats of budget cuts were being used by the government and legislative majority groups to exert pressure on or interfere with the work of the SCJN and other federal judges,” as it was reported to the Commission.¹¹²⁹

544. The Commission received ample information from the State for the preparation of this chapter. As regards **human rights institutions**, the State reported that it had been working on the 2019-2024 National Development Plan (PND), which promotes respect for disadvantaged groups and ensures that human rights are guaranteed without any form of discrimination.¹¹³⁰ The State also provided information about the progress made in the 2020-2024 National Human Rights Program (PNDH), which devises strategies and actions to ensure the exercise of human rights at the national level, in an attempt to close existing inequality gaps between different social classes and conditions, geographic regions, genders and ages.¹¹³¹ The State highlighted that, in June 2023, it had launched the PNDH monitoring digital platform, which is a technological tool to keep

¹¹¹⁸ *El País*, “[Adán Augusto López sobre el INAI: ‘Es un instituto inoperante y botín político de los partidos’](#),” April 25, 2023.

¹¹¹⁹ *El Economista*, “[AMLO propone sustituir al Inai con la ASF o la Fiscalía Anticorrupción](#),” April 18, 2023.

¹¹²⁰ MORENA parliamentary group “[El Senado ha cumplido cabalmente su responsabilidad en nombramientos del INAI, reafirma Eduardo Ramírez](#),” October 3, 2023.

¹¹²¹ IACHR, public hearing “Constitutional guarantor body institution for information access and personal data protection,” 188th regular period of sessions, November 9, 2023.

¹¹²² *Animal Político*, “[La Corte, el Senado y el INAI: sin pretextos para no designar](#),” October 5, 2023.

¹¹²³ *Aristegui Noticias*, “[Barra de abogados de EU llama a AMLO a respetar la independencia judicial](#),” July 30, 2023.

¹¹²⁴ Fundación para la Justicia y el Estado de Derecho, Information submitted to the IACHR on October 20, 2023; *Aristegui Noticias*, “[Ministra Piña alerta sobre movimientos que merman la independencia judicial](#),” July 20, 2023.

¹¹²⁵ *El Universal*, “[El camino de los fideicomisos del Poder Judicial](#),” November 8, 2023.

¹¹²⁶ *Expansión Política*, “[Es mentira que fideicomisos sean privilegios para PIF, dice Luis María Aguilar](#),” October 18, 2023.

¹¹²⁷ *Forbes México*, “[AMLO propone que 15.000 mdp de fideicomisos del PIF sean para damnificados en Guerrero](#),” October 31, 2023.

¹¹²⁸ SCJN, Press Release No. 362/2023, “[Tarjeta Informativa: La extinción de fideicomisos sí afecta a los y las trabajadores del PIF](#),” October 11, 2023.

¹¹²⁹ Fundación para la Justicia y el Estado de Derecho, Information submitted to the IACHR on October 20, 2023.

¹¹³⁰ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 3-4.

¹¹³¹ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 4-5.

citizens updated. According to said digital platform, progress was reported on 90 percent of all specific actions, which allegedly accounts for 170 of the 188 PNDH specific actions.¹¹³²

545. Regarding the steps taken to fight discrimination, the State indicated that the National Council for the Prevention of Discrimination (CONAPRED) had received 263 complaints. Out of these, 189 were against individual persons and 74 against federal public officials. According to reports, the main grounds for discrimination alleged in the complaints were age (87 complaints, 21.1 percent), disability (70 complaints, 16.69 percent), health condition (45 complaints, 10.9 percent), physical appearance (38 complaints, 9.2 percent) and gender (35 complaints, 8.5 percent). The State added that, as of June 2023, all the Mexican states had passed a nondiscrimination law and, except for Tamaulipas and Veracruz, all the Mexican states also had constitutional nondiscrimination provisions in place.¹¹³³ In this regard, the National Program for Equality and Nondiscrimination (PRONAIND) released its guidelines for the creation of equality and nondiscrimination state programs, its guidelines for public action on financial inclusion without discrimination, and its guidelines for the adoption of laws against discrimination.¹¹³⁴ The State also reported that, in May 2023, it had published the results of the 2022 National Survey on Discrimination (ENADIS).¹¹³⁵ The survey reveals that 23.7 percent of people surveyed – aged 18 and over – reported having suffered discrimination in the previous 12 months based on a personal quality or condition, such as skin color, origin or disability, among others.¹¹³⁶

546. As regards **human rights institutions**, the Commission also learned about some issues concerning the public policy on the search for disappeared persons. In connection with this, the resignation of the head of the CNB became public in August 2023.¹¹³⁷ The head of the executive branch held a press conference to explain that the commissioner's resignation was reportedly related to her disagreement with the revision of the number of disappeared persons.¹¹³⁸ Civil society organizations voiced their concern over the possibility that the commissioner might have resigned due to attempts to reverse the progress made or manipulate the records on disappeared persons.¹¹³⁹

547. In October 2023, the State appointed the new head of the CNB. The Commission notes that human rights organizations are concerned over the fact that the appointment was made without prior consultation to the families of the victims, who were not involved in the decision, and over the lack of transparency and clarity in the process.¹¹⁴⁰ The Commission has underscored the importance of having state

¹¹³² Accessed on November 6, 2023.

¹¹³³ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 5-7.

¹¹³⁴ Report of the Mexican State. Chapter IV, October 14, 2023, p. 5.

¹¹³⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 10.

¹¹³⁶ National Institute of Geographical and Statistical Information (INEGI), Press Release No. 275/23, [2022 ENADIS](#), May 25, 2023, p. 2.

¹¹³⁷ *El País*, "[Karla Quintana, comisionada de Búsqueda de Personas, renuncia al cargo en medio de la crisis de desaparecidos en México](#)," August 24, 2023.

¹¹³⁸ [Press conference by President Andrés Manuel López Obrador, October 12, 2023.](#)

¹¹³⁹ *Latinus*, "[Centro Prodh advierte que la salida de Karla Quintana de la Comisión de Búsqueda de Personas puede ocasionar retrocesos](#)," August 24, 2023.

¹¹⁴⁰ See: OHCHR Mexico X account (@ONU DHmexico), "[1/2 El proceso de designación de la nueva titular de la Comisión Nacional de Búsqueda no contó con los niveles de consulta, participación, transparencia y escrutinio deseables y a los que alentaron algunas víctimas y organizaciones nacionales e internacionales de derechos humanos](#)" (1/2 The appointment process of the new head of the CNB lacked the desirable levels of consultation, participation, transparency and clarity, contrary to what some victims and national and international human rights organizations had advocated for), October 23, 2023; Fundar X account (@FundarMexico), "[El nombramiento para la titularidad de @Busqueda Mx se da en un proceso opaco, discrecional, regresivo y sin escucha sustantiva de colectivos y familiares de personas desaparecidas. Desde Fundar y @Designaciones nos pronunciamos](#)" (The process of appointment of the head of @Busqueda_Mx was obscure, arbitrary and regressive, and lacked the participation of collectives and families of disappeared persons. Fundar and @Designaciones take a stand on the issue), October 23, 2023. Likewise, before the appointment, the Commission called on the State to ensure that technical standards were applied in the new appointment, and that the independence and institutional framework of the CNB were respected: IACHR X account (@CIDH), "[#México: ante la renuncia de la Comisionada Nacional de Búsqueda, #CIDH llama al Estado a mantener la calidad técnica en la nueva designación y la independencia e institucionalidad de @Busqueda MX así como la buena fe y el rigor técnico del registro de personas desaparecidas](#)" (Mexico: in view of the resignation of the CNB commissioner, the IACHR calls on the State to ensure that technical standards are applied in the new appointment, that the independence and institutional framework of the CNB are respected, and that the records of disappeared persons are entered in good faith and with technical accuracy), August 25, 2023. OHCHR Mexico also urged Mexico to ensure that the announced process of appointment of the new CNB commissioner is participatory,

bodies such as the CNB, which centralize coordination efforts in the search for disappeared persons in Mexico. Considering the severity of the crisis of disappearances in Mexico, the State needs to ensure the stability of the institutional framework on which this public policy relies.

548. On the policy of attention to victims of human rights violations, the State reported that, between January 1 and August 31, 2023, the Executive Commission for Attention to Victims (CEAV) provided guidance, advice, representation and legal support services to 393 victims of torture and to 233 victims of forced disappearance. In addition, more than 4,000 victims of both violations were recognized as beneficiaries of financial aid for travel expenses. The State added that, between September 2022 and August 31, 2023, the National Registry of Victims recorded 9,387 direct and indirect victims of crime and/or human rights violations. Out of these, 2,288 are being heard by federal courts (24.4 percent) and 7,099 (75.6 percent) by local courts.

549. Furthermore, according to the State, the National Council for the Evaluation of Social Development Policy (CONEVAL) had estimated a decrease in Mexico's multidimensional poverty rate from 41.9 percent to 36.3 percent (from 51.9 to 46.8 million people).¹¹⁴¹ The State reported that multiple policy actions, social programs and subsidies had been implemented to guarantee economic, social and cultural rights, such as the right to food,¹¹⁴² water and sanitation,¹¹⁴³ housing,¹¹⁴⁴ social security,¹¹⁴⁵ health,¹¹⁴⁶ education¹¹⁴⁷ and culture.¹¹⁴⁸ The Commission commends the State for having forwarded this information and encourages it to continue reporting on the situation of economic, social, cultural and environmental rights (ESCERs) in future submissions.

550. Finally, the Commission commends that the State submitted its fourth Universal Periodic Review (UPR) report to the United Nations. The Commission applauds the State's efforts to share its report with civil society organizations specialized in human rights so that they can examine it and make their contributions in areas such as gender, childhood and adolescence, disability, torture and persons deprived of liberty, among others.¹¹⁴⁹

551. With regard to **citizen security**, the State provided information on "the role of the armed forces in public security functions" and held that the Secretariat of the Navy (SEMAR) supported civil authorities in the area of public security. The State underscored that said military institution had received a 46 percent effectiveness score in the 2023 National Survey on Victimization and Perception of Public Security.¹¹⁵⁰ The State reported that, according to its National Commission on Human Rights (CNDH), "in the current regulatory framework governing public security, there [was] no militarization taking place, since neither the National Guard nor the army [were] acting autonomously or discretionarily."¹¹⁵¹ According to its data, between January and August 2023, the CNDH heard 396 cases through the collection of information in the case files of security-related complaints, which resulted in the drafting and final release of 30 recommendations mostly concerning public security agents.¹¹⁵²

inclusive and consultative, facilitating the designation of a qualified person for the role. OHCHR Mexico X account (@ONU DHmexico), "[Alentamos que el anunciado proceso de designación de la próxima persona titular de la Comisión Nacional de Búsqueda sea participativo, inclusivo y consultivo, viabilizando la designación de una persona idónea en tan importante puesto](#)" (We urge Mexico to ensure that the announced process of appointment of the new CNB commissioner is participatory, inclusive and consultative, facilitating the designation of a qualified person for such an important role), August 24, 2023.

¹¹⁴¹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 52.

¹¹⁴² Report of the Mexican State. Chapter IV, October 14, 2023, pp. 52-55.

¹¹⁴³ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 56-57.

¹¹⁴⁴ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 57-59.

¹¹⁴⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 60.

¹¹⁴⁶ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 61-63.

¹¹⁴⁷ Report of the Mexican State. Chapter IV, October 14, 2023, p. 64-65.

¹¹⁴⁸ Report of the Mexican State. Chapter IV, October 14, 2023, p. 66-69.

¹¹⁴⁹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 111.

¹¹⁵⁰ Report of the Mexican State. Chapter IV, October 14, 2023, p. 16.

¹¹⁵¹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 17.

¹¹⁵² Report of the Mexican State. Chapter IV, October 14, 2023, p. 17.

552. In 2022, the Commission held that, based on its observations, the Constitution and its 2019 amendments established that the National Guard was a civilian body with police functions. However, its transitory and subsequent regulation had consolidated the creation of a body comprised of military-type staff and structures rather than an eminently civilian security institution. Even though the last series of regulatory amendments aimed at transferring the operational and administrative control over the National Guard from the Secretariat of Security and Citizen Protection to the Secretariat of National Defense (SEDENA) were declared unconstitutional by the SCJN in April 2023,¹¹⁵³ the Commission notes with concern that the trend towards militarization continues in Mexico, expanding its scope of action from the sphere of citizen security to other areas of government.¹¹⁵⁴

553. In 2023, the CNDH reported that, the previous year, the Mexican Armed Forces and the National Guard headed the list of institutions with the highest numbers of reports of human rights violations in 2022 with more than 1,000 complaints in total.¹¹⁵⁵

554. As regards torture, Mexico reported that, in June 2023, the Office of the Special Prosecutor for the Investigation of the Crime of Torture held a nationwide workshop on the National Registry on the Crime of Torture in collaboration with state prosecutor's offices. Said offices claimed that they applied the Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹¹⁵⁶ In addition, the State reported that, between January and August 2023, 222 reports were filed for acts that could potentially constitute torture, three cases were regarded as having sufficient evidence to bring charges for the crime of torture and two request for arrest warrants had been issued against SEMAR officials, who had already received formal arrest warrants.¹¹⁵⁷

555. As regards rules and policies against torture, the State reported that, in March 2023, it had approved the guidelines for the Mechanism to Monitor Cases of Sexual Torture against Women and that, in June 2023, the federal executive had launched the first National Strategy against Torture, a policy that was collaboratively designed by 18 entities of the federal public administration in consultation with subject matter experts and the engagement of more than 20 civil society organizations.¹¹⁵⁸ Notwithstanding the foregoing, according to official data from the Observatory against Torture, as of December 2022, in eight years, only 64 sentences had been issued in relation to the crime of torture (43 at the federal level), and no sentences had been issued in any of the 24 Mexican states.¹¹⁵⁹

556. With regard to disappearances and forced disappearances, the State reported that, between September 2022 and June 30, 2023, the CNB had conducted 764 field search exercises in 29 states, covering 315 municipalities; it had followed up on 360 orders issued by the Committee on Enforced Disappearance (CED), on four views rendered by the Human Rights Committee, one by the CEDAW and one by the CED, as well as on an individual communication from the Working Group on Enforced or Involuntary Disappearances.¹¹⁶⁰

557. Regarding rules and guidelines, the State held that, in March 2023, the CNB had launched the National Program for the Search for Disappeared and Unlocated) Persons (PNBPDNL), which governs national policy on the matter and connects the efforts from government institutions involved in the process of search, localization and identification of disappeared and unlocated persons.¹¹⁶¹ The State added that, in April 2023, Guidelines L/001/2022 were issued, which govern the implementation and operation of the National Forensic

¹¹⁵³ Report of the Mexican State. Chapter IV, October 14, 2023, p. 18.

¹¹⁵⁴ WOLA, "[Militarized Transformation: Human Rights and Democratic Controls in a Context of Increasing Militarization in Mexico](#)," September 6, 2023.

¹¹⁵⁵ Infobae, "[Guardia Nacional y Ejército, líderes de las denuncias por violaciones a Derechos Humanos en el país](#)," March 6, 2023.

¹¹⁵⁶ Report of the Mexican State. Chapter IV, October 14, 2023, p. 20-24.

¹¹⁵⁷ Report of the Mexican State. Chapter IV, October 14, 2023, p. 22.

¹¹⁵⁸ Report of the Mexican State. Chapter IV, October 14, 2023, p. 21.

¹¹⁵⁹ UN, "[Guterres: Hay que dismantlar y transformar los sistemas que permiten la tortura](#)," June 26, 2023.

¹¹⁶⁰ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 24-25.

¹¹⁶¹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 25.

Data Bank, the Federal Forensic Registry, the National Registry of Unidentified and Unclaimed Deceased Persons, the National Registry of Common and Clandestine Graves, and the National Genetic Database.¹¹⁶²

558. With regard to forensic identification, the State held that the National Center for Human Identification had provided an effective, technical, scientific and adequate response to the cases of unidentified persons throughout the years. During the reporting period, said center allegedly took steps to coordinate the efforts of the multidisciplinary forensic system responsible for the mass identification of human remains by conducting nine state campaigns to take genetic samples from relatives of disappeared persons (2,493 samples).¹¹⁶³ The State added that, in general, the Extraordinary Mechanism for Forensic Identification (MEIF) fulfilled cross-cutting functions in coordination with the CNB and that the National Council of Humanities, Science and Technology had reportedly developed the Angelus software to support the search for disappeared persons. However, it did not offer details on the operation of said software.¹¹⁶⁴

559. According to the publicly accessible version of the National Registry of Disappeared and Unlocated Persons (RNPDO), as of November 2023, there were little over 113,000 disappeared and unlocated persons.

560. The Commission commends Mexico's openness to the CED and participation in the dialogue held on September 13 and 15, 2023, in which the Commission shared its observations following its 2021 visit to the country.¹¹⁶⁵

561. The State announced the creation of a population census aimed at checking the information contained in the RNPDO against other databases under the State's control. The Commission notes that this has been a cause for concern. The census has raised questions in relation to the lack of clarity of its methodology. In addition, families and organizations claimed that the staff conducting the census was not trained on how to communicate with relatives of disappeared persons and that neither the CNB nor the local search commissions had been involved in the execution of the census.¹¹⁶⁶ The Commission is concerned over the revictimization alleged by some of the relatives of the disappeared persons, which was the result of the phrasing of the questions included to verify whether the person was still disappeared or not.¹¹⁶⁷ The public statements made by the former CNB commissioner are also troubling, since they hinted that the purpose of the census was to reduce the number of disappeared persons, mainly under the current administration.¹¹⁶⁸

562. In view of the forensic identification policy, within the framework of its 186th regular period of sessions, the Commission convened a public hearing titled "Advances and challenges in forensic search in Mexico," during which the State reported the steps taken and the progress made in the search of disappeared persons and the mass identification of human remains in recent years, including the work of the MEIF and the creation of several registries on the matter, such as the Forensic Data Bank. The organizations that participated in the hearing acknowledged the progress achieved in the search for persons. However, they also described the existing limitations to the involvement of the families in the design of search policies, the inefficiency of the process and the poor coordination between the relevant state actors, all of which leads to revictimization.¹¹⁶⁹ The Commission believes that the collaboration between the MEIF and the National Center for Human Identification continues to be unclear.

¹¹⁶² Report of the Mexican State. Chapter IV, October 14, 2023, p. 26.

¹¹⁶³ Report of the Mexican State. Chapter IV, October 14, 2023, p. 27.

¹¹⁶⁴ Report of the Mexican State. Chapter IV, October 14, 2023, p. 27-28.

¹¹⁶⁵ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 28-30.

¹¹⁶⁶ *El País*, "[Los avances del nuevo censo de desaparecidos aumentan la tensión con la Comisión Nacional de Búsqueda: 'No sabemos qué está pasando.'](#)" October 12, 2023.

¹¹⁶⁷ *El Economista*, "[Nuevo censo en desaparecidos, sin cumplir con el estándar internacional.](#)" October 4, 2023.

¹¹⁶⁸ Proceso, "[Extitular de comisión de búsqueda: Gobierno quería reducir la cifra de desaparecidos en México.](#)" November 7, 2023.

¹¹⁶⁹ IACHR, public hearing "[Progress and challenges in forensic searches in Mexico.](#)" 186th regular period of sessions, March 15, 2023.

563. The Commission is concerned over the information indicating that the RNPDO could be affected by a verification policy that has been subject to substantial criticism from specialized organizations. The Commission encourages the State to build on the momentum from recent years towards the implementation and consolidation of a public policy on the disappearance, search and identification of disappeared persons in Mexico. Said policy must comply with international human rights standards, meet the most stringent technical requirements and be free from bias, so that it cannot be used for political purposes.

564. Finally, regarding the Ayotzinapa case, the Commission highlights the second report issued by the presidential commission for the Ayotzinapa case (COVAJ), which describes the ties between state authorities and the criminal group Guerreros Unidos, exposes the authorities that fabricated the so-called historical truth and addresses the remains that were recently found and are pending identification.¹¹⁷⁰ According to the COVAJ, there are 132 people currently under detention. Out of these, 35 have been arrested since August 2022. In addition, 135 searches were conducted in 522 sites.¹¹⁷¹ The Commission also notes that 16 arrest warrants against military staff were reactivated after their suspension in September 2023.¹¹⁷² Furthermore, within the framework of its 188th regular period of sessions, the Commission held an *ex officio* public hearing on the Ayotzinapa case,¹¹⁷³ at which the victims' families and their representatives reiterated that nine years had elapsed since the students disappeared and their whereabouts remained unknown. They added that the Armed Forces were still reluctant to provide information that could help clarify the facts. The representatives added that the evidence obtained under torture could not be included as part of the investigation of the case.

565. On **access to justice and judicial independence**, the State reported that, between January and August 2023, the Federal Institute of Public Defense (IFDP) had provided subject matter expert services, which included a total of 25,513 items broken down into counseling, reports, advisory services, among others. The State added that the CNDH had filed, during the same period, 180 claims of unconstitutionality against local and federal laws.¹¹⁷⁴

566. According to the survey conducted by the organization Mexicanos contra la Corrupción y la Impunidad, impunity is the main cause of corruption in Mexico.¹¹⁷⁵

567. Furthermore, the Commission received troubling information about the barriers to the independence of justice operators. Based on this information, the Commission learned that court decisions were questioned in public by high-ranking state authorities during press conferences. The attacks against this work reportedly affected not only judges and magistrates, but also justice operators such as court clerks or other court officials. The information received by the Commission describes a pattern of stigmatizing statements and even threats against justice operators to coerce them into ruling in favor of political interests.¹¹⁷⁶

568. In this regard, the Commission learned about the detention and criminal prosecution of Angélica Sánchez Hernández, supervisory judge for the 18th judicial district of the state of Veracruz. Based on the information received by the Commission, the day before the beginning of the criminal proceedings against her, Ms. Sánchez, in her capacity as judge, had admitted a writ of *amparo* that led to the release of a person charged with murder. Following this ruling, media outlets reported that the governor of Veracruz had publicly

¹¹⁷⁰ COVAJ, [Segundo informe de la Presidencia de la Comisión para la Verdad y el Acceso a la Justicia del caso Ayotzinapa](#), September 2023.

¹¹⁷¹ COVAJ, [Segundo informe de la Presidencia de la Comisión para la Verdad y el Acceso a la Justicia del caso Ayotzinapa](#), September 2023.

¹¹⁷² *La Jornada*, "[Libran 16 órdenes de aprehensión contra militares vinculados a caso Iguala](#)," September 17, 2023.

¹¹⁷³ IACHR, public hearing "[Precautionary Measure 409-14 of 43 missing students from the Raúl Isidro Burgos Rural School, Ayotzinapa, in Mexico](#)," 188th regular period of sessions, November 9, 2023.

¹¹⁷⁴ Report of the Mexican State. Chapter IV, October 14, 2023, p. 12.

¹¹⁷⁵ Mexicanos contra la Corrupción y la Impunidad, "[¿Cómo vemos las mexicanas y mexicanos la corrupción?](#)," September 26, 2023.

¹¹⁷⁶ Meeting held on November 16, 2023, with the National Association of Circuit Magistrates and District Judges of the Federal Judiciary.

requested an investigation into judge Sánchez and claimed that he had evidence that she had accepted a bribe.¹¹⁷⁷ The United Nations Office of the High Commissioner for Human Rights in Mexico reported that it had attempted to witness judge Sánchez's preliminary hearing, but it was denied access.¹¹⁷⁸

569. Regarding **indigenous peoples**, the Commission commends the creation of the Universidad de las Lenguas Indígenas de México (University of Indigenous Languages of Mexico, ULIM), which highlights the communities' linguistic richness and promotes their cultural rights inasmuch as 68 languages and 364 linguistic variants were identified in the country.¹¹⁷⁹ The Commission also applauds the decree issued on August 9, 2023, which seeks to protect places, indigenous sacred sites and pilgrimage routes, thus safeguarding them against possible aggression and occupation.¹¹⁸⁰

570. Notwithstanding the foregoing, the Commission notes with concern the disappearance and death of human right defenders and indigenous leaders in the context of conflicts resulting from the protection of their territory and access to natural resources. Such were the cases of Ricardo Lagunes and Antonio Díaz in the state of Colima,¹¹⁸¹ and of Alfredo Cisneros Madrigal in the municipality of Los Reyes.¹¹⁸² The Commission is also concerned over the information received regarding non-state armed groups that were allegedly carrying out illegal activities in the Lacandon jungle, in Chiapas. The physical presence of these groups, as well as their intention to control this territory, has grown as a result of their lengthy stay and the diversification of such illegal activities. Finally, the Commission condemns the criminalization of José Luis Gutiérrez Hernández and César Hernández Feliciano, defenders of the right to land and territory, who were prosecuted and convicted in Chiapas after having participated in protests in 2020.¹¹⁸³

571. The Commission reiterates its concern over the lives, integrity, and security of the 144 Triqui families of the community of Tierra Blanca Copala who, during 2023, continued to be forcibly displaced from their territories and to suffer constant threats of violence from armed groups, which led to the granting of precautionary measures by the Commission.¹¹⁸⁴

572. In relation to the **rights of women**, the Commission commends the progress made in terms of the participation and leadership of women in decision-making spaces, and highlights the parity representation achieved in the legislative branch at the federal and local levels in 2023,¹¹⁸⁵ as well as the appointment of Justice Norma Lucía Piña as the first woman president of the highest court in the country.¹¹⁸⁶ The Commission also applauds the continuity of the initiatives to foster gender parity in the judiciary, including the 2023-2026 Institutional Development Plan of the Federal Judicial Council (CJF)¹¹⁸⁷ and the release of the Protocol to Prevent, Punish and Eradicate Gender-based Violence in the CJF.¹¹⁸⁸ The Commission notes that the

¹¹⁷⁷ *El Economista* "[Jueza acusada de tráfico de influencias es liberada en Veracruz](#)," August 9, 2023.

¹¹⁷⁸ *Animal Político*, "[¿Intromisión de ONU DH en caso de jueza de Veracruz? Falso, las audiencias son públicas](#)," June 27, 2023.

¹¹⁷⁹ Government of Mexico, Communication No. 2948, "[Nace Universidad de las Lenguas Indígenas de México \(ULIM\) para preservar nuestra riqueza lingüística y cultural](#)," October 12, 2023.

¹¹⁸⁰ Official Gazette, "[Decree on the recognition, protection, preservation and defense of Wixárika, Náayeri, O'dam o Au'dam and Mexican indigenous peoples' sacred places and sites, as well as pilgrimage routes, and on the creation of the presidential commission for its compliance](#)," August 9, 2023.

¹¹⁸¹ OHCHR, "[Mexico must clarify fate and whereabouts of human rights defenders Ricardo Lagunes and Antonio Díaz and business must collaborate: UN experts](#)," February 20, 2023.

¹¹⁸² *SWI swissinfo.ch*, "[Asesinan a líder indígena defensor de bosques en estado mexicano de Michoacán](#)," February 23, 2023.

¹¹⁸³ International Federation for Human Rights "[México: Defensores de la tierra y el territorio del pueblo maya tseltal de Chilón condenados injustamente](#)," May 15, 2023.

¹¹⁸⁴ IACHR, [Resolution 62/2023](#), *Precautionary Measure 279-22, Triqui families from the Community of Tierra Blanca Copala who have been displaced to the neighboring community of Yosoyuxi Copala regarding Mexico*, October 27, 2023.

¹¹⁸⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 88.

¹¹⁸⁶ IACHR X account (@CIDH), "[#CIDH saluda el nombramiento de la Ministra Norma Lucía Piña como primera mujer presidenta de la @SJCN. Su nombramiento representa un avance para una mayor representatividad de las mujeres en Altas Cortes](#)" (The IACHR commends the appointment of Justice Norma Lucía Piña as the first woman president of the @SJCN. Her appointment represents a step forward towards higher representativity of women in high courts), January 5, 2023.

¹¹⁸⁷ Report of the Mexican State. Chapter IV, October 14, 2023, p. 87; CJF, [2023-2026 Institutional Development Plan](#).

¹¹⁸⁸ Official Gazette, [CJF plenary agreement](#), April 10, 2023.

Chamber of Deputies is driving forward an amendment to the Mexican Foreign Service Law, with the aim of ensuring gender parity when appointing ambassadors and consuls.¹¹⁸⁹

573. The Commission commends the several measures adopted in 2023 to improve the attention and response to gender-based violence, including the following: the approval of the National Protocol for Police Action in Cases of Violence against Women and Femicides, which adheres to human rights standards;¹¹⁹⁰ the amendment of the National Code of Criminal Procedures to include the obligation of police officers to adopt a gender perspective during the investigation of crimes;¹¹⁹¹ the release of the Model for the Criminal Classification of Femicides and the efforts made to unify and harmonize states' criminal regulations;^{1192,1193} and the publication of the *Guía para la creación y funcionamiento de las Unidades de Análisis y Contexto para atender la Violencia Feminicida y el feminicidio* (Guidelines for the Creation and Operation of Analysis and Context Units to Address Gender-based Violence and Femicide).¹¹⁹⁴ The Commission also takes note of the legislative and institutional strengthening measures promoted by Mexican states, in coordination with the federal government, to prevent and fight violence against women at the state level.¹¹⁹⁵

574. In terms of sexual and reproductive rights, the Commission commends the SCJN's ruling declaring the unconstitutionality of the provisions of the Federal Criminal Code that absolutely criminalize and impose penalties for the voluntary termination of pregnancy¹¹⁹⁶ and notes that, to comply with said ruling, an initiative was introduced to the Federal Congress to repeal the relevant provisions.¹¹⁹⁷ Furthermore, the SCJN declared the unconstitutionality of the provisions banning abortion in the states of Aguascalientes and Chihuahua.¹¹⁹⁸ Within this framework, the Commission underscores the decrease in the maternal mortality rate in the country, including abortion-related deaths.¹¹⁹⁹ Likewise, the Commission applauds the legal support

¹¹⁸⁹ Chamber of Deputies, "[Comisión aprueba dictamen que promueve la paridad de género en nombramientos de embajadores y cónsules](#)," July 6, 2023.

¹¹⁹⁰ Official Gazette, [Agreement 04/XLVIII/22. Approval of the National Protocol for Police Action in Cases of Violence against Women and Femicides](#), December 23, 2022.

¹¹⁹¹ Official Gazette, [Decree on the amendment, addition and repeal of several provisions of the Federal Criminal Code, the National Code of Criminal Procedure, the General Law on the National System of Public Security, the General Law on Victims and the General Law on the Access of Women to a Life Free from Violence, in relation to the investigation, punishment and integral reparation of the crime of femicide](#), April 25, 2023.

¹¹⁹² Agreement No. 02-26/04/2023 was approved, which urges Mexican states to promote its revision.

¹¹⁹³ Government of Mexico, "[Modelo de tipo penal de feminicidio](#)," April 26, 2023.

¹¹⁹⁴ Secretariat of Governance, [Guía para la creación y funcionamiento de las Unidades de Análisis y Contexto para atender la Violencia Feminicida y el feminicidio](#), 2023; Government of Mexico, Annual Report of the Mexican State in response to the IACHR note of September 1, 2023, October 13, 2023, pp. 89-90. In IACHR files.

¹¹⁹⁵ *El Universal*, "[Gobierno federal destinará 12 mdp a Puebla para atender la violencia contra las mujeres](#)," May 23, 2023; *La Silla Rota*, "[Federación urge a Veracruz atender violencia contra mujeres: manda dinero extra](#)," May 6, 2023; *El Universal*, "[Alfredo del Mazo inaugura la Ciudad Mujeres en Los Reyes La Paz](#)," March 8, 2023. Fundación para la Justicia, "[Creación de la Fiscalía Especializada en Femicidios en SLP](#)," February 17, 2023; *Debate*, "[Se actualiza el delito de feminicidio en Sinaloa](#)," February 3, 2023.

¹¹⁹⁶ IACHR X account (@CIDH), "[#CIDH saluda decisión de la Primera Sala de la #SCJN que determinó la inconstitucionalidad de las disposiciones del Código Penal Federal que criminalizan de forma absoluta la interrupción voluntaria del embarazo, y reconoce el impacto de esta decisión para mejorar el acceso a servicios de aborto en instituciones federales de salud](#)" (The IACHR commends the decision of the First Chamber of the #SCJN declaring the unconstitutionality of the provisions of the Federal Criminal Code that absolutely criminalize and impose penalties for the voluntary termination of pregnancy and recognizes the impact of this decision to improve the access to abortion services in federal health institutions), September 8, 2023; Government of Mexico, Annual Report of the Mexican State in response to the IACHR note of September 1, 2023, October 13, 2023, p. 91. In IACHR files.

¹¹⁹⁷ Senator Patricia Mercado X account (@Pat_MercadoC), "[A partir de la resolución de la @SCJN del pasado 6 de septiembre, que declara inconstitucional catalogar el #aborto como un delito, hoy senadoras de diferentes grupos parlamentarios presentamos una nueva iniciativa para derogar los artículos correspondientes del Código Penal Federal](#)" (Following the @SCJN ruling rendered on September 6, which declares the unconstitutionality of the classification of #abortion as a crime, today, senators from different parliamentary groups introduced a new initiative to repeal the relevant articles of the Federal Criminal Code), September 27, 2023.

¹¹⁹⁸ AP, "[México: la Suprema Corte despenaliza el aborto en Chihuahua y ya son 13 de 32 estados](#)," October 18, 2023; Ipas México X account (@IpasMEX), "[La Suprema Corte de Justicia de México declara la invalidez de la penalización del aborto en #Aguascalientes. Es la segunda vez, después de Coahuila, que se consigue la despenalización del aborto mediante una acción judicial ordenada por la @SCJN](#)" (The Mexican Supreme Court of Justice ruled the decriminalization of abortion in #Aguascalientes. It is the second time, after Coahuila, that the @SCJN ruled that the State must decriminalized the practice of abortion), August 30, 2023.

¹¹⁹⁹ For comparative purposes, from the 44th week of 2020 to the 44th week of 2023, the overall death rate went from 594 to 555. See: Secretariat of Health, *Informe Semanal de Notificación Inmediata de Muerte Materna*, Epidemiological (EPI) Week [44 of 2020](#), EPI Week [44 of 2021](#), EPI Week [44 of 2022](#), and EPI Week [44 of 2023](#), accessed on November 7, 2023; *Forbes México*, "[Acceso al aborto incide a reducir mortalidad materna en México](#)," May 9, 2023.

provided by the Federal Institute of Public Defenders to pregnant persons and women who had been criminalized for terminating their pregnancies.¹²⁰⁰ The Commission also takes note of traditional midwives' opposition to the draft bill on childbirth (*Norma Oficial Mexicana de Partería*) introduced by the Secretariat of Health because they consider that it violates the rights of indigenous communities by failing to acknowledge the attention and care services provided by traditional midwives.¹²⁰¹

575. The Commission warns of the persistence of high levels of gender-based violence against women, girls and adolescents in the country. While it commends the reported 29.7 percent decrease in the femicide rate,¹²⁰² between January and September 2023, an alarming total of 625 femicides were recorded.¹²⁰³ Over the same period, the State recorded 1,955 intentional murders of women; 17,769 rape reports; 220,291 domestic violence reports; 164 kidnappings, already surpassing the total for 2022; and 485 human trafficking cases.¹²⁰⁴

576. In addition, between January and October 2023, at least 9,296 cases of disappeared women were reported. Out of these, 6,000 were found alive and 122 dead. The Commission also notes with concern that women engaged in the search for disappeared persons continue to suffer assaults, denigration and are even victims of murder.¹²⁰⁵

577. Regarding the rights of **persons in the context of human mobility**, according to data from the Migration Policy, Registry and Identity of Persons Unit (UPMRIP), between January and July 2023, 402,324 irregular migrants were identified by the authorities in the country.¹²⁰⁶ Out of these, 15.63 percent were children and adolescents.¹²⁰⁷ Said figure accounts for a 94.4 percent increase compared to the same period in 2022.¹²⁰⁸

578. Regarding refugees and complementary protection, according to data from the Mexican Commission for Refugee Aid (COMAR), between January and August 2023, 99,881 people requested asylum in Mexico, which represents a 28.9 percent increase compared to the same period in 2022, where 77,469 applications were received.¹²⁰⁹ Based on the information provided by the State, the three main states concentrating 85.14 percent of all the requests for international protection are Chiapas (61.11 percent), Mexico City (18.86 percent) and Tabasco (5.17 percent).¹²¹⁰ The State also reported that the COMAR had allegedly increased the efficiency of and had sped up the resolution process in view of the increase in the number of

¹²⁰⁰ Government of Mexico, Annual Report of the Mexican State in response to the IACHR note of September 1, 2023, October 13, 2023, p. 91. In IACHR files.

¹²⁰¹ *Proceso*, "[Embate oficial contra las parteras](#)," April 7, 2023; *La Verdad Noticias*, "[Parteras tradicionales rechazan ser reguladas por la Secretaría de Salud](#)," March 25, 2023.

¹²⁰² Government of Mexico, "[Contundente baja en incidencia de feminicidios, reflejo del trabajo para prevenir violencias basadas en el género](#)," August 23, 2023.

¹²⁰³ Executive Secretariat of the National Public Security System, [Information on violence against women. Information as of September 30, 2023](#), p. 9.

¹²⁰⁴ Executive Secretariat of the National Public Security System, [Information on violence against women. Information as of September 30, 2023](#), pp. 20, 37, 54, 59 and 68.

¹²⁰⁵ IACHR X account (@CIDH), "[#CIDH repudia el asesinato de Teresa Magueyale, madre buscadora. en #Guanajuato el 2/5 y exhorta al Estado investigar según estándares interamericanos sobre crímenes contra #PersonasDefensoras de #DerechosHumanos. a sancionar responsables y reparar familiares](#)" (The IACHR condemns the murder of Teresa Magueyale, a woman who had been searching for her disappeared son, in #Guanajuato on May 2 and urges the State to conduct an investigation in line with the inter-American standards on crimes against #humanrights #defenders, and to punish those responsible and redress her next of kin), May 8, 2023; *Zona Docs*, "[No queremos que quede impune la agresión en nuestra contra: Madres buscadoras de Luz de Esperanza](#)," April 16, 2023; *El País*, "[El crimen se ensaña en Guanajuato contra las madres buscadoras](#)," July 21, 2023; *El Financiero*, "[Ceci Flores responde al Gobierno tras descartar agresión: '¿Que nos disparen de frente?'](#)" September 11, 2023.

¹²⁰⁶ UPMRIP, [III People with irregular migration status \(in the past, they were called foreigners presented and returned\). 2023](#), Table 3.1, Events of persons with irregular migration status in Mexico, by state.

¹²⁰⁷ UPMRIP, [III People with irregular migration status \(in the past, they were called foreigners presented and returned\). 2023](#), Table 3.1.4, Events of children or adolescents with irregular migration status, by continent, nationality, age group, travel status and state, January-August 2023.

¹²⁰⁸ IACHR, [2022 Annual Report. Chapter IV.A Mexico](#), para. 587.

¹²⁰⁹ COMAR and Government of Mexico, "[La COMAR en números. Agosto 2023](#)," September 4, 2023.

¹²¹⁰ Report of the Mexican State. Chapter IV, October 14, 2023, p. 107.

international protection seekers in the country.¹²¹¹ Furthermore, according to official data, by the end of July 2023, 94,458 visitor cards for humanitarian reasons had been delivered, which represents a 32 percent increase compared to the same period in 2022.¹²¹²

579. Finally, the Commission regretted to learn that 40 migrants had died and another 27 had been injured as a consequence of the fire that broke out at the “B” type Temporary Station of the INM in Ciudad Juárez, Chihuahua, on March 27, 2023. The Commission condemned the loss of migrant lives under the custody of the State and called on Mexico to apply due diligence to investigate, punish those responsible, properly redress the victims and adopt urgent measures to ensure non repetition.¹²¹³ At a public hearing before the Commission, the victims’ representatives claimed that, thanks to the investigation, some potential perpetrators of the crimes related to the fire had been identified. Notwithstanding that, the representatives also reported that they had encountered obstacles in the representation of migrants.¹²¹⁴ The Commission commends the budget allocated to compensate the victims and urges Mexico to complete all pending money transfers.

580. With regard to the rights of **children and adolescents**, the State reported that, on June 3, 2023, the National Human Rights Commission announced the creation of the Mechanism to Prevent, Certify, Conciliate and Mediate in Conflicts Involving the Violation of Human Rights, which would prioritize the protection of children and adolescents.¹²¹⁵ In addition, the Commission takes note of the agreement signed by the Chamber of Deputies and UNICEF for the drafting of bills and decrees for the protection of the rights of children and adolescents.¹²¹⁶

581. Nevertheless, the Commission notes with concern that, according to official information, as of May 2023, there were 3.2 million children and adolescents performing child labor in Mexico, out of which 2 million were engaged in unauthorized labor and 1.2 million performed domestic work under inadequate conditions.¹²¹⁷ In addition, with regard to the violence and security situation, according to official figures, more than 19,000 crimes against children and adolescents were reported during the first semester of 2023, including 38 femicides and 213 cases of human trafficking against girls and adolescents.¹²¹⁸ Furthermore, according to the RNPDO, 1,131 cases of disappearances of children and adolescents were reported between January and August 2023, of which 63 percent were girls and adolescents.¹²¹⁹

582. On the situation of **human rights defenders**, the State reported that, as of July 2023, 2,130 persons had been included in the Mechanism to Protect Human Rights Defenders and Journalists, of which 1,158 were human rights defenders. Additionally, the State highlighted that, as of January 2023, 26, Mexican states had enacted at least one specialized legal instrument to protect human rights defenders, journalists or both. The State informed that the staff of the national mechanism had increased by 70 percent by the end of 2022 and that they had received human rights training.¹²²⁰

583. Despite these efforts, the Inter-American Commission observed that the defense of human rights in Mexico remained a dangerous activity during 2023. Between January and August 2023, the

¹²¹¹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 107.

¹²¹² UPMRIP, [II Documentation and status of stay in Mexico, 2023](#), Table 2.1, Selected migration procedures to prove status of stay of foreigners in Mexico, 2023.

¹²¹³ IACHR, Press Release No. 081/23, “[Mexico: One Month After Fire at Migrant Detention Center, IACHR Urges State to Identify Responsible Parties and Ensure Nonrepetition](#),” May 1, 2023.

¹²¹⁴ IACHR, public hearing “Mexico: human rights and access to justice for persons detained due to immigration-related matters,” 188th regular period of sessions, November 9, 2023.

¹²¹⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 95.

¹²¹⁶ UNICEF, press release, “[Firman convenio UNICEF y Cámara de Diputados a favor de los derechos de la niñez y la adolescencia](#),” April 28, 2023.

¹²¹⁷ Senate of the Republic, Government of Mexico, “En México trabajan 3.2 millones de personas menores de edad, señala estudio del IBD,” June 4, 2023.

¹²¹⁸ REDIM, “[Tráfico de niñas, niños y adolescentes en México](#),” May 19, 2023. See also: Government of Mexico, “[Datos Abiertos de Incidencia Delictiva](#),” July 20, 2023.

¹²¹⁹ National Commission for the Search of Persons, Government of Mexico, [Public Version National Registry of Disappeared and Unlocated Persons](#), 2023.

¹²²⁰ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 109 and 110.

Commission learned about the murder of at least seven human rights defenders. In addition, the Commission received information on the disappearance of at least three human rights defenders and on the disappearance of two other defenders who were subsequently found alive.¹²²¹ In addition, the Commission learned that Esthela Guadalupe Estrada Ávila, a member of *Luz de Esperanza*, a group of relatives of disappeared persons, disappeared on the night of March 29 in the municipality of Tlajomulco de Zuñiga, Jalisco, although she was the beneficiary of protective measures granted by the national mechanism.¹²²² According to information available in the public domain, she was found dead two months after she had disappeared.¹²²³

584. Furthermore, the Inter-American Commission learned about other obstacles which are reportedly preventing the free exercise of the defense of human rights. In this regard, the Commission received information on the use of the Pegasus malware by the State to spy on human rights defenders and organizations, including Raymundo Ramos and two members of the Prodh Center.¹²²⁴ In addition, with regard to the criminalization of human rights defenders, the Commission learned about the case of territorial rights defender Alejandro Torres Chocolatl, who was allegedly arrested in Mexico on June 30 and released on July 24 once it emerged that there was no evidence that he had committed any crimes involving attacks on communications infrastructure and transportation security or other efforts to prevent public works.¹²²⁵ It is worth noting that the speeches aimed at stigmatizing and discrediting the work of human rights defenders and organizations in Mexico continued during 2023. These remarks were reportedly made by the highest authorities of the State.¹²²⁶

585. Regarding **persons deprived of liberty**, the State informed that the Decentralized Administrative Agency for Prevention and Social Readaptation (OADPRS) launched campaign “México sin tortura” (No Torture in Mexico) in the Federal Centers for Social Readaptation (CEFERESOs) to prevent cases of torture and other forms of cruel, inhumane and degrading treatment in the context of deprivation of liberty. In addition, the State reported that more than 7,000 public officials participated in training courses offered by the OADPRS focused on the legitimate use of force, human rights, equality and non-discrimination, gender and prevention of torture.¹²²⁷

¹²²¹ IACHR, Press Release No. 138/23, “[IACHR: Ongoing Violence Against Human Rights Defenders in the First Four Months of 2023](#),” June 27, 2023. In April, land defender Félix Vicente Cruz was murdered in San Francisco Ixhuatán, Oaxaca, and environmental defender Eustacio Alcalá Díaz was murdered in Chinicuila, Michoacán. In March, LGBTI defender Gustavo Robles Taboada was murdered in Cuautla, Morelos; and in February, environmental defender Alfredo Cisneros Madrigal was murdered in Los Reyes, Michoacán. Furthermore, the disappearance of indigenous human rights defender Alejandro Ortiz Vázquez in Metlatónoc, Guerrero, was reported in April. In January, the disappearances of human rights defenders Antonio Díaz Valencia and Ricardo Lagunes in Colima were reported. The IACHR was informed of the disappearance of indigenous defender Wixariti Santos de la Cruz Carrillo in January in Nayarit and indigenous defender Daniel Gómez Sántiz in February in Chiapas, both of whom were subsequently found alive. See also: IACHR, Press Release No. 248/23, “[IACHR Notes Persistently Alarming Violence Against Rights Defenders Over the Period May–August 2023](#),” October 20, 2023. The following individuals were murdered over the May–July period: LGBTI rights defender Ulises Nava Juárez in Aguascalientes, Aguascalientes; environmental defender Álvaro Arvizu in Tlalmanalco, in the state of Mexico; and Teresa Magueyal, a woman who had been searching for her disappeared son, in Celaya, Guanajuato. On May 21, Yenesina Guadalupe Durazo, a member of the Madres Buscadoras de Sonora organization (which brings together mothers who were searching for their disappeared children), disappeared in Mexico. According to public reports, she returned to her home following a search conducted by the Office of the Attorney General of the state of Sonora.

¹²²² OHCHR Mexico, “[La ONU-DH condena los recientes ataques contra personas defensoras](#),” April 5, 2023.

¹²²³ *La Verdad Noticias*, “[Así fue como madre buscadora encontró a su hija](#),” June 11, 2023; *Uno más uno*, “[Madre buscadora encuentra a sin vida a su hija desaparecida](#),” June 12, 2023; *Mural*, “[Encuentran cuerpo de Esthela Guadalupe Estrada Ávila](#),” June 18, 2023.

¹²²⁴ *El País*, “[El Ejército mexicano espío con Pegasus al activista Raymundo Ramos para interferir en una investigación sobre ejecuciones extrajudiciales](#),” March 7, 2023; FIDH, “[México: Nuevos actos de espionaje contra Centro Prodh con el software Pegasus](#),” April 28, 2023.

¹²²⁵ IACHR, Press Release No. 248/23, “[IACHR Notes Persistently Alarming Violence Against Rights Defenders Over the Period May–August 2023](#),” October 20, 2023; *Milenio*, “[Liberan al activista Alejandro Torres Chocolatl, tras detención arbitraria en Puebla](#),” June 30, 2023; PBI, “[PBI-Mexico accompanies hearing of criminalized Indigenous Nahua water protector Alejandro Torres Chocolatl](#),” July 26, 2023.

¹²²⁶ IACHR, Press Release No. 248/23, “[IACHR Notes Persistently Alarming Violence Against Rights Defenders Over the Period May–August 2023](#),” October 20, 2023; IACHR, Press Release No. 109/23, “[IACHR Expresses Concern Over the Increase in Cases Concerning the Use of Pegasus Spyware in Mexico](#),” June 2, 2023; Article 19, “[Organizaciones de derechos humanos y personas defensoras reprobamos las declaraciones en contra del Centro de Derechos Humanos Miguel Agustín Pro Juárez](#),” June 5, 2023.

¹²²⁷ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 23–24.

586. In terms of health care for persons deprived of liberty, the State reported the installation of an operating room in CEFERESO No. 14, the creation of medical units in CEFERESOs No. 1, 14, 16 and Papantla, which would serve as regional prison hospitals for referrals, and the implementation of a crisis intervention program for suicide prevention, among other actions taken between 2022 and 2023.¹²²⁸ The State informed that, in 2023, it had submitted 878 requests for the alteration of precautionary measures, out of which 106 had been granted, thus ordering the substitution of the *ex officio* pretrial detention for another precautionary measure.

587. The Commission welcomes the openness of Mexico to receive an official visit from the United Nations Working Group on Arbitrary Detention from September 18 to September 29, 2023.¹²²⁹

588. Notwithstanding the above, the Inter-American Commission reiterates its concern over the excessive use of pretrial detention in the country. In particular, according to official information, as of July 2023 this measure had been applied in 55.8 and 39.5 percent of the cases by federal courts and state courts, respectively.¹²³⁰ In this regard, the Commission shares and endorses the call of the United Nations Working Group on Arbitrary Detention for the abolishment of mandatory pretrial detention.¹²³¹ Furthermore, the Commission is concerned about the possibility that the failure to apply alternative measures might be a consequence of the lack of training of justice operators in this area, as well as of their fear for social repercussions.¹²³²

589. Additionally, at a public hearing held during the 187th regular period of sessions, the Commission received information about cases in which members of the police, the National Guard and the military detained persons arbitrarily. During this act, the Commission learned about instances in which evidence against individuals had been planted to charge them with crimes they did not commit or in which they had reportedly been tortured to obtain a self-incriminating confession. In addition, the relatives of the persons detained had reportedly been forced to pay sums of money to bring in food and other items, as well as exposed to exhaustive searches.¹²³³ For its part, the State reported on the various measures adopted to guarantee the human rights of incarcerated persons in terms of health, employment and decent living conditions.¹²³⁴

590. With regard to the rights of **Afro-descendants and the fight against racial discrimination**, the State informed that, during 2023, within the framework of the Indigenous and Afro-Mexican Women's Houses program, it had supported the promotion, prevention, guidance, counseling, channeling and assistance for Afro-Mexican women in the areas of obstetric and domestic violence, sexual and reproductive rights, political rights, agrarian rights, political participation, and leadership among young people and adolescents.¹²³⁵ In addition, in order to honor the memory of Afro-descendant people, the Permanent Commission of the local congress encouraged the Authority of the Historical District and the Secretariat of Culture to install a memorial plaque for the murder of 33 Afro-descendants who were executed in the main square of Mexico City in 1612.¹²³⁶

591. The Commission also learned about the prior consultation to indigenous and Afro-Mexican peoples and communities on the amendment to the General Law of Education, which was carried out in April

¹²²⁸ Report of the Mexican State. Chapter IV, October 14, 2023, p. 35.

¹²²⁹ Report of the Mexican State. Chapter IV, October 14, 2023, p. 32.

¹²³⁰ Office of the Security and Citizen Protection Secretary, Government of Mexico, [Cuaderno mensual de información estadística penitenciaria nacional](#), July, 2023, p. 4.

¹²³¹ United Nations - UN News, "[México: Grupo de expertos destaca la aplicación excesiva de la prisión preventiva y pide abolirla](#)," September 29, 2023.

¹²³² Information provided to the IACHR by Mexican civil society organizations during a meeting, February 22, 2023. In IACHR files.

¹²³³ In addition, with respect to the negative impact on the families of incarcerated persons in Mexico, see: IACHR, public hearing "[Differential impact on the lives of women relatives of persons deprived of liberty in the Americas](#)," 187th regular period of sessions, July 12, 2023.

¹²³⁴ IACHR, public hearing "[Situation of people deprived of liberty in Mexico](#)," 187th regular period of sessions, July 14, 2023.

¹²³⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 80.

¹²³⁶ Congress of Mexico City, "[Congreso CDMX pide reconocimiento a comunidades afrodescendientes](#)," August 17, 2023.

2023 in compliance with the ruling of the SCJN on Unconstitutionality Appeal [No. 121/2019](#).¹²³⁷ In the same vein, the Commission took note of the consultation to indigenous and Afro-Mexican communities conducted by the Local Electoral Public Entity (OPLE) in October 2023, with the purpose of listening to reflections and proposals regarding affirmative actions on political-electoral participation and representation.¹²³⁸

592. Regarding **intra-prison violence**, the Commission condemned the acts of violence that took place on January 1, 2023, in Social Reinsertion Center (CERESO) No. 3 of Ciudad Juárez which caused the death of at least 17 persons.¹²³⁹ Likewise, the Commission condemns the riot that occurred in the CERESO of the municipality of Cárdenas de Tabasco on October 12 and 13, 2023, which resulted in the death of five people who were detained.¹²⁴⁰

593. With regard to **LGBT persons**, the State reported that 28 of the 32 Mexican states had recognized same-sex marriage in their legislation and that 19 states recognize the right to gender identity. Furthermore, the State informed that, between January and August 2023, the CNDH had managed 14 cases related to alleged violations of the human rights of LGBTTTIQ+ persons and that, between January 1 and July 31, 2023, the Federal Institute of Public Defense had provided legal advice and criminal defense for LGBTTTIQ+ persons in 273 and 28 cases, respectively.¹²⁴¹

594. The Inter-American Commission welcomes the progress achieved in the country on the rights of LGBTI persons, in particular, those related to the recognition of non-binary identities. In February, the INE approved the addition of the non-binary variable “x” in the voting credential with the aim of recognizing this population.¹²⁴² In addition, the Secretariat of Foreign Affairs issued the first non-binary passport.¹²⁴³ The Commission positively acknowledges the amendments to the Criminal Code of Mexico City, which criminalize the so-called conversion therapies¹²⁴⁴ and the prohibition of such practices in the states of Querétaro and Sinaloa,¹²⁴⁵ as well as the bills introduced on the federal level to prohibit these practices nationally.¹²⁴⁶ The Commission also acknowledges the ruling of the SCJN which guarantees the right to a pension for members of same-sex couples whose spouse passed away.¹²⁴⁷

595. However, the Commission is concerned about the acts of violence committed against LGBTI persons. As of May, *Siluetas X* had reported the murder of up to 19 LGBTI persons.¹²⁴⁸ Among these events, the

¹²³⁷ MORENA Parliamentary Group, LXV Legislature, “[Reformamos la ley general de educación. previa consulta a pueblos y comunidades indígenas y afroamericanas](#),” October 10, 2023.

¹²³⁸ *Vanguardia de Veracruz*, “[XALA PAOPLE inicia consulta a pueblos indígenas y afroamericanos](#),” October 28, 2023; *Diario de Xalapa*, “[OPLE inicia proceso de consulta a comunidades indígenas y afroamericanas](#),” October 28, 2023.

¹²³⁹ CIDH [@CIDH] X account, January 5, 2023. “CIDH condena los hechos de violencia en el Centro de Reinserción Social No 3 de Ciudad Juárez.” ([tweet](#)) (The IACHR condemns the acts of violence at Social Reinsertion Center No. 3 of Ciudad Juárez).

¹²⁴⁰ Telesur, “[Motín en una cárcel de México deja cinco reos muertos](#),” October 14, 2023; Associated Press, “[Cinco muertos deja motín en cárcel del sur de México](#),” October 13, 2023; and *Semana*, “[Motín en cárcel mexicana dejó cinco muertos: reclusos se quejaban de presuntas extorsiones dentro del penal](#),” October 13, 2023.

¹²⁴¹ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 82-86.

¹²⁴² INE, “[Aprueba INE incorporación del dato que reconozca a las personas no binarias en la Credencial para Votar](#),” February 27, 2023.

¹²⁴³ Government of Mexico, “[El canciller Marcelo Ebrard expide los primeros pasaportes con género no binario en México y en el exterior](#),” May 17, 2023.

¹²⁴⁴ Congress of Mexico City, “[El Congreso CDMX aprueba reformas al Código Penal que tipifican como delito las ‘terapias de conversión’](#),” undated.

¹²⁴⁵ *El Financiero*, “[Nada que curar: Congreso de Querétaro prohíbe las terapias de conversión](#),” June 30, 2023; Congress of Sinaloa, “[Penaliza Congreso de Sinaloa terapias de conversión](#),” July 27, 2023.

¹²⁴⁶ Chamber of Deputies, “[Comisiones Unidas avalan, por mayoría, dictamen a minuta que prohíbe terapias de reorientación sexual](#),” April 19, 2023; Fundación Heinrich Böll, “[¿Cuánto falta para que los ECOSIG sean prohibidos a nivel nacional en México?](#),” June 21, 2023.

¹²⁴⁷ *Informador*, “[Esto determinó la Suprema Corte sobre pensión por viudez a parejas del mismo sexo](#),” September 6, 2023.

¹²⁴⁸ *Vanguardia*, “[19 personas LGBT asesinadas en México en 2023: más de la mitad son mujeres trans](#),” May 17, 2023.

Commission learned about the murder of human rights defenders Michel Castro¹²⁴⁹ and Ulises Nava,¹²⁵⁰ and the attack against trans activist Paulette Cárdenas.¹²⁵¹

596. In addition, according to public reports, LGBTI activists and human rights defenders were assaulted in February by security forces of the Congress of Mexico City who reportedly used excessive force to disperse a protest against bills introduced by a congresswoman which would prohibit gender affirming treatment for trans and gender-diverse youth.¹²⁵² The Commission also notes the demonstrations and protests called “No al borrado de las mujeres” (Say no to the erasure of women), which took place in the context of the International Women’s Day. The Commission considers that these acts promote trans exclusionary speech; however, it appreciates the public statements issued by state institutions which reaffirm the rights of trans persons and all women.¹²⁵³

597. With regard to **memory, truth and justice**, the State informed that the CNDH had issued Recommendation No. 98VG/2023 on cases involving serious human rights violations committed between 1965 and 1990, during the state-sponsored political violence period. In this regard, the recommendation recognizes 814 victims of political violence and seeks to promote truth, memory, justice, and non-repetition processes.¹²⁵⁴ The State also reported that, in August 2023, the SCJN published its compilation on case law and jurisprudential criteria regarding the right of victims to know the truth.¹²⁵⁵ Notwithstanding the above, the Commission also noted that two experts from the Mechanism for Historical Clarification for the period known as the “Dirty War” resigned from their positions due to a lack of resources to fulfill their mandates.¹²⁵⁶ In addition to this, the mechanism denounced the lack of collaboration of the army in its first report due to their refusal to contribute and their concealment of information through the alteration, tearing down, and total or partial destruction of files.¹²⁵⁷

598. In relation to **older persons**, the State reported that, from September 2022 to June 2023, the Pension Program for the Welfare of Older Adults had granted pensions to 11,427,224 persons aged 65 and over, out of which 998,470 live in indigenous or Afro-Mexican municipalities or localities. During this period, 634,960 older persons became part of the program.¹²⁵⁸ In addition, the State acceded to the Inter-American Convention on Protecting the Human Rights of Older Persons on April 20, 2023. The Commission welcomed this decision and stated that this accession marked the beginning of a new stage in Mexico for the respect and guarantee of the rights of older persons.

XXII. PANAMA

• General considerations

599. In terms of **progress**, the Commission highlights the creation of the Ministry of Women and observes that a series of regulations, policies and programs have been implemented to guarantee the development of indigenous peoples, eradicate discrimination against Afro-descendant peoples, protect the integrity of children and promote the right to culture, the care of older persons and gender equality. The Commission notes the relevance of the actions to guarantee political rights in the upcoming general elections

¹²⁴⁹ Agencia Presentes, “[El activista Michel Castro estuvo diez días desaparecido y lo encontraron asesinado](#),” June 7, 2023.

¹²⁵⁰ Agencia Presentes, “[México: asesinaron al activista Ulises Nava al salir de un congreso LGBTI](#),” July 18, 2023.

¹²⁵¹ Agencia Presentes, “[Intentaron asesinar a la activista trans Paulette Cárdenas en CDMX](#),” May 29, 2023.

¹²⁵² *Aristegui Noticias*, “[Acaba en trifulca protesta trans afuera de Congreso CDMX](#),” February 13, 2023.

¹²⁵³ Council to Prevent and Eradicate Discrimination in Mexico City, “[COPRED reitera que los discursos transodiantes son inaceptables y vulneran la dignidad de las personas](#),” March 28, 2023; Animal Político, “[Pronunciamiento contra la marcha ‘del borrado de mujeres’ y los discursos y actos de transodio](#),” March 3, 2023.

¹²⁵⁴ Report of the Mexican State. Chapter IV, October 14, 2023, p. 13.

¹²⁵⁵ Report of the Mexican State. Chapter IV, October 14, 2023, p. 44.

¹²⁵⁶ *Proceso*, “[Por falta de recursos renuncian expertos de la Comisión de la Verdad de la Guerra Sucia](#),” May 9, 2023.

¹²⁵⁷ Mechanism for the Truth and Historical Clarification, “[Pronunciamiento: #SEDENAAbreTusArchivos](#),” October 11, 2023.

¹²⁵⁸ Report of the Mexican State. Chapter IV, October 14, 2023, pp. 108-109.

and the call for a referendum to decide the fate of the mining contract law as a result of citizen demands raised through the exercise of the right to protest across the country.

600. With regard to the **challenges**, the Inter-American Commission observes an exponential increase in the number of persons who, as a result of the obstacles and disincentives to safe and orderly migration, decide to cross dangerous migration routes, such as the Darién Gap, with more than 330,000 persons making this journey in Panama between January and August 2023. There is information on forced sterilization of indigenous women and the prohibition of access to the voluntary termination of pregnancy. The Commission also acknowledges the attacks against LGBTIQ persons. Additionally, the Inter-American Commission received information about the negative impact suffered on the island territory of the Guna people, who require prompt relocation due to rising sea levels caused by climate change.

601. On October 20, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.¹²⁵⁹

- **Specific issues**

602. With regard to **democratic institutional**ity, the State reported that it had been progressively adopting measures to guarantee the political rights in advance of the upcoming general electoral process, which will be held in May 2024. With this purpose, the Electoral Tribunal promoted the creation of the "Digital Ethical Pact" to promote a responsible, ethical and respectful digital environment during the electoral process, so as to encourage transparency, respect, and truthfulness in the information disseminated in digital platforms.¹²⁶⁰ In the same vein, the State also reported the provision of citizen training, information campaigns on social media, presidential debates, projects to raise awareness among children on electoral issues ("Elections for Children and Adolescents"), an open data website, and the accountability of the Electoral Tribunal, among other actions.¹²⁶¹

603. In terms of social protection, the State reported that it had made innovations aimed at developing new communication interfaces to improve the economic and health benefits provided by the Social Security Fund. The measures adopted included the creation of a section for transparency and access to information, applications to improve social security processes, training of staff in sign language and the improvement of website accessibility for people with disabilities and older persons, among others.¹²⁶²

604. Regarding the fight against corruption, the State informed that it had carried out two training sessions in this area, with the participation of officials from the Office of the Attorney General, the Ministry of Security, the National Authority for Transparency and Access to Information, and the Office of the Public Auditor, with the attendance of 197 persons who received training. In addition, the State reported that it had published the *Guía para la prevención y persecución de la corrupción pública y privada* (Guide for the Prevention and Prosecution of Public and Private Corruption) in the official website of the Office of the Public Prosecutor and that this represents an effective tool that gathers essential information for understanding the issue of corruption.¹²⁶³

605. Furthermore, the Commission welcomes the call for a referendum to consult the population about the fate of the mining contract law, which resulted from requests and demands raised by citizens in demonstrations across the country due to concerns over the environmental impact of new mining concessions

¹²⁵⁹ Panamanian State, *Annual Report, Promotion and Protection of Human Rights in the Country*, January 1 to August 31, 2023. Diplomatic Note from the Permanent Mission of Panama to the OAS PANA-OEA-6-481 (hereinafter, "Report of the Panamanian State. Chapter IV, October 20, 2023").

¹²⁶⁰ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 8.

¹²⁶¹ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 9.

¹²⁶² Report of the Panamanian State. Chapter IV, October 20, 2023, para. 8.

¹²⁶³ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 93-94.

which had been granted.¹²⁶⁴ Notwithstanding the above, the Commission reiterates to the State that any regulation of its extractive industries must comply with its human rights obligations in environmental matters.

606. In this regard, the Commission reported in a press release that, social protests had been taking place in Panama demanding Law No. 406, which granted a private company a 20-year concession to exploit the largest open-pit copper mine in Central America, be repealed. According to the available reports, this contract was negotiated after the country's Supreme Court of Justice declared another concession granted to the same company unconstitutional, which had been in force since 2017. Complaints say that the new concession was rushed through and that it was unconstitutional too, due to its negative impact on natural resources and on the environment more generally. At the time, the Commission called on the Panamanian State to respect and protect the right to freedom of peaceful assembly, association, and expression in compliance with the applicable inter-American standards.¹²⁶⁵ The Commission also notes that, on November 27, the Supreme Court ruled the unconstitutionality of Law 406.¹²⁶⁶

607. With respect to **human rights institutions**, the State reported that Panama would be one of the three host countries for the commemoration of the 75th anniversary of the Universal Declaration of Human Rights.¹²⁶⁷ The Commission highlights the work of the Office of the Ombudsperson of Panama to protect the right to protest in the context of the social demonstrations against the mining law and its monitoring of the human rights situation of the migrants transiting through the Darién Gap.

608. On the human rights institutions for protection of children, the State reported the creation of a strategy to disseminate information on the law which created the System for the Guarantee and Comprehensive Protection of the Rights of Children and Adolescents of 2022. In addition, in 2023, the State established the Technical Committee for Comprehensive Early Childhood Care, a high-level technical entity tasked with following up and monitoring the implementation of the route for comprehensive early childhood care.¹²⁶⁸

609. The State also reported the creation of the Program for the Dissemination of Public Policies for Indigenous Peoples and that it had trained 400 indigenous persons between January and August 2023. In addition, the State informed about actions undertaken to promote economic development (sustainable farms) and the improvement in the access to radio communication systems in the Ngäbe Buglé territory.¹²⁶⁹

610. Additionally, the State informed that its Electoral Tribunal published 72 articles on the importance of human rights in Panama.¹²⁷⁰ The State also reported the adoption of rules to promote the right to culture through the regulation of cultural expressions and the creative economy, the promotion of the law of artists and the creation of an institutional framework for the coordination of creative and cultural industries.¹²⁷¹

611. Finally, on the institutions for poverty alleviation and social development, the State reported the implementation of a series of programs of conditioned cash transfers aimed at persons with severe disabilities, persons living in extreme poverty and older persons to guarantee food security.¹²⁷²

¹²⁶⁴ Europapress, "[El presidente de Panamá anuncia un referéndum para decidir si se deroga la ley de contrato minero.](#)" October 30, 2023.

¹²⁶⁵ IACHR, Press Release No. 261/23, "[The IACHR and Its Special Rapporteurship for Freedom of Expression Call on the State of Panama to Protect the Right to Peaceful Protest.](#)" November 9, 2023.

¹²⁶⁶ Ministry of the Presidency, "[Órgano Ejecutivo publica en Gaceta Oficial fallo de inconstitucionalidad de la Ley 406, que aprobó el Contrato Ley.](#)" December 2, 2023.

¹²⁶⁷ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 18-20.

¹²⁶⁸ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 28-29.

¹²⁶⁹ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 22.

¹²⁷⁰ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 23.

¹²⁷¹ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 24-26.

¹²⁷² Report of the Panamanian State. Chapter IV, October 20, 2023, para. 38.

612. With regard to **citizen security**, the State informed that it had adopted the Madrid Declaration on actions to strengthen international legal cooperation and restorative juvenile justice, among other aspects.¹²⁷³ The State reported that it had strengthened its penitentiary system with the addition of 148 agents to that system and to the Institute for Interdisciplinary Studies.¹²⁷⁴

613. On **access to justice and judicial independence**, the State reported a series of measures to improve the electoral and criminal justice systems. In the electoral justice system, the amendments to the Electoral Code resulted in the establishment and normal operation of the administrative electoral courts and the criminal courts with jurisdiction over electoral matters. With regard to criminal justice, the State informed that it had modernized the management model for the Office of the Public Prosecutor with the objective of streamlining its operation¹²⁷⁵ and that it had implemented the program to certify the professional competencies of public prosecutors.¹²⁷⁶

614. In the same area, the State reported that the Office of the Attorney General broadcasted a weekly program on different social media platforms with updates on relevant cases and other services provided by the institution, always maintaining the confidentiality of the investigations and the presumption of innocence.¹²⁷⁷

615. With regard to the rights of **indigenous peoples**, the Commission welcomes the creation of the Plan for the Empowerment of Indigenous Women aimed at promoting their comprehensive development. This initiative coordinates the commitments of diverse stakeholders to advance towards inclusion and the protection of their economic and social rights.¹²⁷⁸

616. Nevertheless, the Commission is concerned about the delay in the transfer of the Guna people who inhabit the Gardi Sugdub Island or “Crab Island,” which is becoming smaller due to rising sea levels caused by the climate crisis. In addition, the Commission is closely monitoring that the relocation plan for the members of the Guna people is adequately conducted in terms of access to services.¹²⁷⁹

617. With regard to the **rights of women**, the Commission welcomes the creation of the Ministry of Women in 2023, an entity which will oversee public policies, plans and programs aimed at preventing, detecting, evaluating and eradicating discrimination and violence against women. The Commission also appreciates the expansion of the Comprehensive Care Centers (CAI) for women subjected to violence or violation of their rights, which now include 17 CAI distributed in every province of the country. The Commission particularly highlights the opening of the CAI in the village of Metetí, in the province of Darién, considering the migration route.¹²⁸⁰ The Commission also notes the execution of a pilot plan for the implementation of the electronic bracelet as a protection measure for victims of violence.¹²⁸¹

618. Furthermore, the Commission notes positively that several actions have been conducted to promote gender equality in the economic, social and political spheres. In this regard, the Electoral Tribunal approved the *Plan Estratégico de Igualdad de Género 2022-2026* (2022-2026 Strategic Plan for Gender Equality) and the *Protocolo de Atención, Prevención y Sanción en casos de violencia de género, acoso o discriminación en el Tribunal Electoral* (Protocol for the Attention, Prevention and Punishment in cases of gender violence, harassment or discrimination in the Electoral Tribunal), and it conducted digital and traditional campaigns to

¹²⁷³ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 78.

¹²⁷⁴ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 78-79.

¹²⁷⁵ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 85-87.

¹²⁷⁶ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 91.

¹²⁷⁷ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 89.

¹²⁷⁸ Republic of Panama, [Plan de Empoderamiento Económico de las Mujeres Indígenas de Panamá \(PEMIP 2025\)](#), September 5, 2023.

¹²⁷⁹ Human Rights Watch, [“The sea is eating the land below our homes,”](#) July 31, 2023.

¹²⁸⁰ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 50 a) and b).

¹²⁸¹ En Segundos, [“Firman convenio interinstitucional para la puesta en ejecución del brazalete electrónico,”](#) July 27, 2023; Mi diario, [“Implementarán brazaletes electrónicos para proteger a las mujeres víctimas de la violencia.”](#) July 19, 2023.

promote the political participation of women.¹²⁸² A bill to create the National Care System¹²⁸³ was introduced in the National Assembly, and the Gender Parity Initiative (IPG) has been implemented to reduce economic gender gaps in the business environment.¹²⁸⁴ In addition, the Commission highlights the adoption of the *Plan de Empoderamiento Económico de las Mujeres Indígenas de Panamá* (Plan for the Empowerment of Indigenous Women in Panama), as well as the establishment of the Institutional Roundtable for its implementation, which seeks to promote the leadership of indigenous women in rural and urban areas of the country, and to improve the quality of life of these women and their families.¹²⁸⁵

619. However, the Commission is concerned about reports that indigenous women continue to be subjected to forced sterilization and that the barriers to access to the voluntary termination of pregnancy remain even in cases allowed by law, especially for girls and adolescents.¹²⁸⁶ Likewise, the Commission observes the persistence of gender-based violence against women, mainly sexual and domestic violence, femicides, and human trafficking for purposes of sexual and labor exploitation, which affects mostly migrant Afro-descendant women and girls.¹²⁸⁷ Some provinces even recorded an increase in these forms of violence during 2023.¹²⁸⁸

620. With regard to **persons in the context of human mobility**, the State reported that it had adopted a resolution to once again establish the Sub-regional Office of Bajo Chiquito in April 2023, where it keeps staff in the Lajas Blancas Migration Reception Center, in the province of Darién; and that it provided staff at least twice per week to the San Vicente Migration Reception Center, in Darién.¹²⁸⁹ The State reported that it had established a form that migrants should fill to gain access to justice once they had arrived at the community of Bajo Chiquito. This form was translated to several languages, such as Spanish, English, Portuguese, French and Creole and would allow persons to provide preliminary information about their journey and to initially disclose whether they had been subjected to any crime, or if any companion had lost their life.¹²⁹⁰

621. The Commission observes the sharp increase in the number of persons who have crossed the Darién region. According to the information available in the public domain, between January and August 2023, more than 330,000 persons reportedly crossed this area, a figure that greatly exceeds the 248,000 persons who transited that route during 2022.¹²⁹¹ According to the United Nations, restrictions in the access to visas in the Americas, paired with other restrictions and new migration policies, have forced migrants to seek more dangerous routes, including crossing the Darién.¹²⁹²

622. Faced with this scenario, Panama has emphasized the need to find joint solutions among the countries which are part of the migration route to guarantee the protection of the rights of people in mobility, in light of the principle of shared responsibility. In particular, Panama stressed the importance of aligning

¹²⁸² Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 51 b) and c); Electoral Tribunal, [Plan Estratégico de Igualdad de Género 2022-2026](#), May 2023

¹²⁸³ Ministry of Social Development of Panama [@MIDESPma] X account, July 10, 2023 [[Tweet](#)].

¹²⁸⁴ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 58.

¹²⁸⁵ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 61 a) and b).

¹²⁸⁶ IACHR, *2022 Annual Report, Chapter IV.A. Human Rights Development in the Region*, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 601; Committee on Economic, Social and Cultural Rights, [Concluding observations on the third periodic report of Panama](#), E/C.12/PAN/CO/3, March 31, 2023, para. 48; Human Rights Committee, [Concluding observations on the fourth periodic report of Panama](#), CCPR/C/PAN/CO/4, April 12, 2023, para. 19.

¹²⁸⁷ Human Rights Committee, [Concluding observations on the fourth periodic report of Panama](#), CCPR/C/PAN/CO/4, April 12, 2023, paras. 17, 29; Committee on Economic, Social and Cultural Rights, [Concluding observations on the third periodic report of Panama](#), E/C.12/PAN/CO/3, March 31, 2023, paras. 34, 42; *La Estrella de Panamá*, “[Inclusión económica e integridad física. el talón de Aquiles de Panamá para la igualdad de género](#),” July 13, 2023.

¹²⁸⁸ *Día a día*, “[Piden que se declare ‘emergencia social’ en la Comarca Ngäbe Buglé ante tantos casos de violencia](#),” August 2, 2023; UNICEF, *Panama Humanitarian Situation Report (Children on the Move)*, March 10, 2023.

¹²⁸⁹ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 46.

¹²⁹⁰ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 85.

¹²⁹¹ United Nations, “[Más de 330.000 migrantes han cruzado El Darién en lo que va del año. la quinta parte son niños](#),” September 5, 2023.

¹²⁹² United Nations, “[Darién Gap: a risky path in search of a safer life](#),” September 5, 2023.

migration policies with available resources and capabilities and requested support from other countries and international organizations.¹²⁹³

623. In addition, in the context of the fourth periodic report submitted by Panama, the Human Rights Committee noted the efforts made by the State to protect the rights of migrants, refugees and asylum-seekers. Nevertheless, the Human Rights Committee expressed its concern about reports that these persons are killed, disappeared, kidnapped, subjected to sexual violence, trafficked, assaulted, robbed, intimidated and threatened by criminal groups along the Darién Gap migration route. The Human Rights Committee also expressed its concern about allegations that some persons housed in migrant reception centers are reportedly *de facto* deprived of their liberty, in precarious living conditions and with limited access to basic services.¹²⁹⁴

624. Regarding the rights of **children and adolescents**, the State informed the Commission that the Centers for Comprehensive Early Childhood Care had been modernized to guarantee early education, infant stimulation and play. According to official data, 2,250 children were enrolled by August 2023. In addition, the State reported that the implementation of the Integrated Services Model had begun in 2023 in 13 communities from the West Panama province and the Emberá Wounaan territory with the goal of strengthening the multisectoral and coordinated response for children and adolescents in situations of vulnerability. The State also provided information on the 2023 awareness campaign “Soy una persona, no un objeto” (I am a person, not an object), aimed at warning children and adolescents about the risks of social media and promoting the importance of reporting.¹²⁹⁵

625. Additionally, the Commission welcomes the enactment of Law No. 569, which creates the Judicial System for the Protection of Children and Adolescents, with the purpose of offering an integrated service adapted to the needs of children and adolescents within the judicial system.¹²⁹⁶ Likewise, the Commission notes the involvement of Panama in the “Partners for Children International Operation,” which has been implemented jointly with Argentina, Brazil, Chile, Ecuador, the United States of America, Paraguay and Puerto Rico to combat the sexual exploitation of children and adolescents. According to official data, during 2023 and as of August, that operation had made possible the investigations against more than 200 users of child pornography in the region, as well as several raids in Veraguas, Chiriquí, Panama and West Panama.¹²⁹⁷

626. The Commission also takes note of the conviction of former officials from the National Secretariat for Children, Adolescents and Families (SENNAIF) for the abuse of children and adolescents who had been removed from their families and placed in shelters administered by the SENNAIF.¹²⁹⁸ The Commission highlights the progress in terms of justice and fight against impunity shown by these convictions, as well as their impact on the prevention of violence against this population. Nevertheless, the Commission notes with concern that, according to the Office of the Public Prosecutor, more than 1,300 complaints related to crimes of a sexual nature against children and adolescents had been received between January and June 2023.¹²⁹⁹

627. In addition, with regard to children and adolescents in the context of human mobility, according to UNICEF, 9,656 children and adolescents crossed the Darién National Park between January and February 2023. The same report showed that the capacity of shelters for migrants was exceeded by

¹²⁹³ Ministry of Public Security, Panama. “[Panamá y Costa Rica realizan encuentro bilateral para revisar temas de seguridad, migración y cooperación](#),” September 1, 2023.

¹²⁹⁴ Human Rights Committee, *Concluding observations on the fourth periodic report of Panama*, CCPR/C/PAN/CO/4, April 12, 2023, paras. 35 and 36.

¹²⁹⁵ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 29, 30 and 63.

¹²⁹⁶ National Assembly, Government of Panama, “[Fortalecen derechos de los niños y adolescentes con acceso a la justicia expedita](#),” April 10, 2023. See also: Panorama Económico, “[Niñez y adolescentes serán protegidos por el Sistema Judicial](#),” April 10, 2023.

¹²⁹⁷ National Police X account [@ProtegerServir]. (August 29, 2023). Partners for Children Operation [Tweet].

¹²⁹⁸ *Foco*, “[Condenan a dos funcionarias del Senniaf por caso de albergues](#),” August 3, 2023. See also: *La Estrella de Panamá*, “[Condenan a dos exfuncionarios de la Senniaf por caso albergues](#),” August 2, 2023; *Prensa Latina*, “[Condenarán a exfuncionarias panameñas por maltrato de menores](#),” August 2, 2023.

¹²⁹⁹ Office of the Public Prosecutor of Panama, Government of Panama, “[Cantidad de denuncias registradas por los delitos contra la libertad e integridad sexual](#),” 2023.

600 percent, which exposed children and adolescents, especially those traveling alone, to sexual exploitation and abuse.¹³⁰⁰

628. With regard to the rights of **Afro-descendants and the fight against racial discrimination**, the Commission welcomes the incorporation of Afro-descendants in various national statistics systems. In this regard, the State informed about the creation of the National Secretariat for Policies and Development for the Afro-Panamanians (SENADAP)¹³⁰¹ and the continuation of the *Plan Maestro de Desarrollo para los afrodescendientes con visión 2022-2030* (Master development plan for Afro-descendants with a 2022-2030 vision).¹³⁰²

629. In addition, the State reported that the National Census of Population and Housing conducted during the first quarter of 2023 included ethnic-racial self-identification as a disaggregated category, which resulted in 31.7 percent of the national population identifying as Afro-descendant.¹³⁰³ In the same vein, the State highlighted measures which set up preventive actions to avoid discrimination or distinction based on ethnic and cultural aspects in the country's official and private educational centers, as well as the inclusion of the Afro-descendant variable in every facility of the Ministry of Health which uses the Electronic Health Information System (SEIS).¹³⁰⁴

630. Regarding the rights of **LGBTI persons**, the Commission welcomes the creation of the first National Observatory of Human Rights of the LGBTIQ+ Population, an effort coordinated by the Office of the Ombudsperson and 15 civil society organizations, which aims to bring visibility to human rights violations committed against LGBTI persons in Panama.¹³⁰⁵ In addition, the Commission takes note of a study which shows an increase in positive opinions towards same-sex couples and the recognition of their rights among the Panamanian population, according to which "7 out of 10 Panamanians consider that the State has the obligation to protect same-sex couples and their families."¹³⁰⁶

631. However, the Commission regretted a ruling issued by the plenary of the Supreme Court of Justice which declared, on a case submitted in 2016, that the provisions in the Family Code and the Private International Law Code which limit the institution of civil marriage to persons of the opposite sex were not unconstitutional.¹³⁰⁷ The Commission considered that this ruling contravenes inter-American standards and called on the State to recognize the rights of LGBTI persons.¹³⁰⁸

632. The Commission acknowledges the violence against LGBTI persons and individuals who defend their rights. According to information available in the public domain, LGBTI rights defenders have reported being victims of harassment and bullying by media outlets and on social media.¹³⁰⁹ In addition, the Commission received information on the beating of a trans woman in August 2023. As a result of this attack, the victim was hospitalized in a serious condition with fractures and swelling, lost all her teeth and suffered

¹³⁰⁰ UNICEF, *Situation Report*, 2023.

¹³⁰¹ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 12.

¹³⁰² Report of the Panamanian State. Chapter IV, October 20, 2023, para. 42.

¹³⁰³ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 45.

¹³⁰⁴ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 45.

¹³⁰⁵ TVN, "[Crean observatorio nacional en pro de derechos humanos de la comunidad LGBTIQ+](#)," February 8, 2023; United Nations Panama, "[Panamá ya tiene Observatorio de Derechos Humanos de la Población LGBTIQ+](#)," May 17, 2023.

¹³⁰⁶ *ECO*, "[Panamá: Crece aceptación hacia parejas del mismo sexo](#)," September 6, 2023.

¹³⁰⁷ Judicial branch, "[Pleno de la CSJ declara que no son inconstitucionales artículos del código de la familia](#)," March 1, 2023; *Metro Libre*, "[CSJ declara que no son inconstitucionales artículos del código de la familia](#)," March 1, 2023; *Washington Blade*, "[Panamanian Supreme Court rejects marriage equality](#)," March 3, 2023.

¹³⁰⁸ IACHR, Press Release No. 047/23, "[IACHR calls on Panama to guarantee marriage equality and the right to equality and non-discrimination](#)," March 24, 2023; CNN, "[CIDH pide a Panamá garantizar el matrimonio igualitario, la igualdad y la no discriminación](#)," March 25, 2023; DW, "[CIDH insta a América Latina a aprobar matrimonio igualitario](#)," March 25, 2023.

¹³⁰⁹ *Efeminista.com*, "[Activistas LGTBI denuncian hostigamiento en medios de comunicación de Panamá](#)," June 28, 2023.

neurological damage.¹³¹⁰ The Commission highlights that the alleged perpetrator was promptly detained by the national police.¹³¹¹

633. Regarding the **rights of older persons**, the State informed that it was implementing the 120/65 Social Program, which is aimed at improving the quality of life of people over 65 years of age who do not have a retirement pension or any other pension in Panama.¹³¹² Additionally, the Commission welcomes the creation of the National Care System of Panama, which seeks the comprehensive development, autonomy and well-being of the population in need of care, including older persons.¹³¹³

634. With regard to the rights of **persons with disabilities**, the State reported the existence of the 2020-2030 Social Inclusion Policy for Persons with Disabilities, which is implemented through the 2020-2024 National Strategic Plan for Persons with Disabilities (PEN). Under this policy, the State has been establishing Equal Opportunity Offices in every institution in the country. The State also informed about the second National Disability Survey; the National Disability Observatory, which monitors the aforementioned inclusion policy and the Convention on the Rights of Persons with Disabilities; and the 2022-2023 National Plan for Universal Accessibility in Panama. The State also submitted information on a series of subsidies and economic incentives for persons with disabilities aimed at eradicating multidimensional poverty, improving employment opportunities and providing financial support for people with disabilities so that they can achieve autonomy and independence, among others.¹³¹⁴

XXIII. PARAGUAY

- **General considerations**

635. The Commission noted **progress** in the development of successful and transparent electoral processes, which included initiatives to guarantee the political rights of persons with disabilities; as well as progress in the fight against human trafficking and related crimes, and efforts to eradicate child labor.

636. **Challenges** related to regressive initiatives that negatively impact the rights of women and LGBTI persons persisted during 2023. Additionally, Paraguay faced challenges in terms of citizen security due to organized crime.

637. On October 5, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.¹³¹⁵

- **Specific issues**

638. With regard to **democratic institutionalism**, the general, complementary and Council of Magistrates elections were held in 2023.¹³¹⁶ These elections included initiatives aimed at ensuring the accessibility of voting for persons with disabilities.¹³¹⁷ Furthermore, the State implemented mechanisms which

¹³¹⁰ *La Prensa*, "[Estrella, la mujer trans golpeada en la vía Israel, se encuentra grave](#)," August 17, 2023.

¹³¹¹ Swiss info, "[Una mujer transgénero resulta herida de gravedad tras ser brutalmente atacada en Panamá](#)," August 17, 2023; TVN, "[Ordenan detención de hombre acusado de tentativa de homicidio en Vía Israel](#)," August 17, 2023; Office of the Attorney General X account [@PGN_PANAMA], [[Tweet](#)], August 28, 2023; National Police X account [@ProtegerServir] [[Tweet](#)], August 16, 2023.

¹³¹² Report of the Panamanian State. Chapter IV, October 20, 2023, para. 38.

¹³¹³ Report of the Panamanian State. Chapter IV, October 20, 2023, para. 33.

¹³¹⁴ Report of the Panamanian State. Chapter IV, October 20, 2023, paras. 13-15.

¹³¹⁵ Republic of Paraguay, Note Verbale 1294-23/MPP/OEA with information for the *Annual Report* of the Inter-American Commission on Human Rights, sent on October 10, 2023.

¹³¹⁶ Superior Tribunal of Electoral Justice (TSJE), "[Elecciones Generales 2022-2023](#)," "[Elecciones Complementarias 2023](#)," and "[Elecciones Consejo de la Magistratura](#)," accessed on November 13, 2023.

¹³¹⁷ TSJE, "[Destacan aplicación del Voto Accesible en Elecciones de Abogados](#)," November 4, 2023 and "[Beneficiarios del Voto en Casa agradecen sufragar en sus domicilios](#)," September 10, 2023.

facilitated international observation and guaranteed free access to information.¹³¹⁸ In general, the elections were considered transparent by the international electoral observation missions.¹³¹⁹

639. However, persons with public leadership voiced unfounded accusations of irregularities in the electoral process during the vote counting phase.¹³²⁰ The narrative of an alleged fraud prompted demonstrations, some of which became violent,¹³²¹ demanding a manual recount of all the ballots, a mechanism which is not contemplated by law. Those fraud allegations were rejected by technical reports and the challenges filed timely against the process were addressed through the appropriate institutional channels.¹³²²

640. The Commission emphasizes that the unfounded accusations of electoral fraud are part of a minority anti-democratic tendency in the region, with the potential to negatively impact democracy and the Rule of Law.

641. Regarding **human rights institutions**, the Office of the Ombudsperson signed agreements and held inter-institutional working groups for the promotion and protection of economic, social, cultural and environmental rights.¹³²³ In addition, the State submitted updated information about the activities carried out by the Human Rights Network of the executive branch and the mechanisms for monitoring recommendations or compliance with international human rights judgments, requests and commitments, with a focus on indigenous peoples and persons deprived of liberty.¹³²⁴ As of April 2023, the Office of the Ombudsperson, in its capacity as national human rights institution, obtained a “B” status accredited by the Global Alliance of National Human Rights Institutions (GANHRI) since it had not complied fully with the Paris Principles. Among other challenges, the GANHRI noted that the process for the appointment of the head of the office was not sufficiently broad or transparent and that there was a lack of interaction of the institution with the international human rights system.¹³²⁵

642. On **citizen security**, the State reported actions to ensure a human rights perspective, including the edition of a protocol which regulates the use of conducted energy devices (CEDs) by the police, also known as tasers,¹³²⁶ training workshops for police officers, as well as preventive monitoring of police stations to verify the conditions of persons in custody.¹³²⁷

¹³¹⁸ Republic of Paraguay, Note Verbale 1294-23/MPP/OEA with information for the *Annual Report* of the Inter-American Commission on Human Rights, sent on October 10, 2023.

¹³¹⁹ In particular, the Commission takes note of the preliminary report of the Electoral Observation Mission (EOM) of the Organization of American States (OAS) which stated that the mission did not note any serious incidents, interruptions in the processing of sensitive electoral information or serious deficiencies in the chain of custody of electoral material. Likewise, the EOM of the European Union assessed the overall conduct of voting as good or very good in 94 percent of the observed polling stations and described the process as transparent. See: OAS, [Preliminary Report of the Electoral Observation Mission to Paraguay](#), May 2, 2023; and EOM EU, [Final report: general and departmental elections](#), April 30, 2023.

¹³²⁰ *El País*, [“Furia callejera en Paraguay contra un supuesto fraude electoral del Partido Colorado,”](#) May 3, 2023; DW, [“Paraguayo Cubas: ‘Nos robaron las elecciones’ de Paraguay,”](#) May 2, 2023.

¹³²¹ *La Nación*, [“La legislación paraguaya no permite el recuento de votos dice ministro del TSJE,”](#) May 5, 2023.

¹³²² According to information published by the Office of the Public Prosecutor: “Inflammatory speech and social media posts incited violence, leading to demonstrations in several cities in the country. These protests resulted in riots, damage to public and private property, and assault against police officers.” See: Office of the Public Prosecutor, [“Fiscalía presentó acusación contra Paraguayo Cubas,”](#) November 6, 2023; and *El País*, [“Detenido en Paraguay ‘Payo’ Cubas, el opositor que llama a movilizarse contra un supuesto fraude electoral,”](#) May 5, 2023.

¹³²³ Office of the Ombudsperson of Paraguay, [“Mesa de Trabajo de Derechos Humanos y Laborales de la Red de Pacto Global Paraguay,”](#) October 19, 2023; [“Mesa de trabajo interinstitucional sobre Derechos Humanos y Medio ambiente sano,”](#) October 25, 2023; [“Firma de Convenio Marco de Cooperación Interinstitucional con la Municipalidad de Asunción,”](#) September 14, 2023 and [“Firma de convenio marco de cooperación interinstitucional Defensoría del Pueblo – OEL,”](#) October 30, 2023.

¹³²⁴ Republic of Paraguay, Note Verbale 1294-23/MPP/OEA with information for the *Annual Report* of the Inter-American Commission on Human Rights, sent on October 10, 2023.

¹³²⁵ GANHRI, [Informe y recomendaciones del período de sesiones del Subcomité de Acreditación](#), 2019.

¹³²⁶ Also known as electroshock or taser weapons according to the National Mechanism for the Prevention of Torture (MNPT). See: MNPT, [“Comunicación,”](#) March 22, 2023.

¹³²⁷ Republic of Paraguay, Note Verbale 1294-23/MPP/OEA with information for the *Annual Report* of the Inter-American Commission on Human Rights, sent on October 10, 2023.

643. In addition, the Commission observed that the phenomenon of organized crime persists in the country. According to research conducted by the civil society, Paraguay is among the top four countries with the highest incidence rate of organized crime in the world.¹³²⁸ The State continued monitoring the situation in the northern region of the country and the new administration announced the strengthening of the Joint Task Force, which operates in the area.¹³²⁹ Furthermore, the calls for the search and release of three persons kidnapped between 2014 and 2020 by the so-called Paraguayan People's Army (EPP) in that area continued. These persons remain in captivity.¹³³⁰

644. In terms of **access to justice and judicial independence**, the Supreme Court of Justice informed about initiatives for the training of judicial staff to prevent discrimination, as well as the implementation of the *Protocolo de Actuación para una Justicia Intercultural* (Protocol of Action for an Intercultural Justice).¹³³¹ In addition, the State reported that it had provided legal assistance to 47 LGBTI persons between January and August through the *Protocolo de atención a personas pertenecientes al colectivo LGBTI* (Protocol for the Assistance to LGBTI persons) of the Ministry of Public Defense.¹³³²

645. Regarding the **rights of indigenous peoples**, on June 9, the “15 de enero” indigenous community of the Mbya Guaraní people was forcefully evicted.¹³³³ In this context, although the State informed that the police conducted the eviction proceedings pursuant to a judicial order and with the involvement of the Human Rights Directorate,¹³³⁴ human rights organizations expressed their concern about the absence of mechanisms aimed at protecting and assisting the evicted communities.¹³³⁵ In addition, in the Itakyry district, Alto Paraná, the Avá Guaraní people was forcefully evicted on October 27 and two young adults were arrested.¹³³⁶

646. With regard to the **rights of women**, the Ministry of Women (MINMUJER) held inter-institutional meetings to coordinate joint actions to address and respond to gender-based violence. It also launched the “inter-institutional intervention route for the comprehensive care of women victims of sexual violence,” implemented preventive measures such as the “safe corridor for women,” updated the 2018-2022 National Program for Prevention and Integral Care of Women, Children and Adolescents subjected to gender-based, domestic or intrafamily violence of the Ministry of Public Health and Social Welfare (MSPBS), and conducted awareness workshops and gender training.¹³³⁷ The Office of the Public Prosecutor approved the Protocol for the Criminal Investigation of Femicides.¹³³⁸ The National Care Policy was approved¹³³⁹ and the

¹³²⁸ Global Organized Crime Index, [2023 Report. Ranking tables](#), accessed on November 13, 2023; BBC, “[Por qué Paraguay se sumó a Colombia y México como uno de los países con mayor criminalidad organizada del mundo](#),” October 31, 2023; *Ultima Hora*, “[Paraguay, entre los cuatro países que lideran el crimen organizado a nivel mundial](#),” September 29, 2023.

¹³²⁹ *La Nación*, “[Santiago Peña se compromete a fortalecer a la FTC](#),” August 3, 2023.

¹³³⁰ *UH*, “[Sigue la tortura inmisericorde del EPP a familias de secuestrados](#),” October 18, 2023.

¹³³¹ Republic of Paraguay, Note Verbale 1294-23/MPP/OEA with information for the *Annual Report* of the Inter-American Commission on Human Rights, sent on October 10, 2023.

¹³³² Ministry of Public Defense, Note VMER/UGDH/N918/2023, September 25, 2023, p. 4.

¹³³³ Human Rights Coordinator of Paraguay, “[El Estado paraguayo desalojó a la comunidad indígena 15 de enero, ubicada en el distrito de Nueva Toledo, en el departamento de Caaguazú](#),” June 9, 2023.

¹³³⁴ Also known as electroshock or taser weapons according to the National Mechanism for the Prevention of Torture (MNPT). See: MNPT, “[Comunicación](#),” March 22, 2023.

¹³³⁵ Human Rights Coordinator of Paraguay, “[La Comunidad indígena 15 de enero sufrió un desalojo forzoso y solicita protección y asistencia inmediata](#),” June 24, 2023.

¹³³⁶ Resumen Latinoamericano. “[Paraguay. Repudian desalojo a indígenas y exigen la libertad de jóvenes detenidos](#),” October 30, 2023.

¹³³⁷ Permanent Mission of Paraguay to the OAS. Report of the State. Request for information - *2023 IACHR Annual Report*, October 10, 2023, paras. 21, 22, 25, 27, 31. In IACHR files.

¹³³⁸ Permanent Mission of Paraguay to the OAS. Report of the State. Request for information - *2023 IACHR Annual Report*, October 10, 2023. Annex VII from of the Office of the Public Prosecutor of the Republic of Paraguay, p. 9. In IACHR files.

¹³³⁹ Permanent Mission of Paraguay to the OAS. Report of the State. Request for information - *2023 IACHR Annual Report*, October 10, 2023, para. 23. In IACHR files.

Inter-Institutional Committee for Monitoring the Implementation of Law No. 5446/2015 on public policies for rural women was created.¹³⁴⁰

647. Nevertheless, the Commission warns of an increase in gender-based violence against women, especially femicides, with 31 consummated femicides and 31 attempted femicides recorded between January and October 2023.¹³⁴¹ In response, an amendment to the law was passed to declare a one-year national emergency due to femicides so as to strengthen prevention mechanisms and comprehensive care for victims.¹³⁴² The State also regulated the use of ankle monitor bracelets in judicial proceedings as a measure to protect women who have been victims of violence.¹³⁴³ There were reports on deficiencies in care and prevention, such as the insufficiency of the budget allocated to MINMUJER, the lack of coordination between the Office of the Public Prosecutor, the police and MINMUJER in response to acts of violence against women, the lack of specialized units in the Office of the Public Prosecutor and the lack of human and material resources to support the victims.¹³⁴⁴ Furthermore, the Commission notes with concern the reports of cases involving the sexual exploitation of indigenous children in Asunción, a practice which is allegedly recurrent in the bus station area.¹³⁴⁵

648. Regarding **persons in the context of human mobility**, the Commission notes the *Manual para los Servidores Públicos de Frontera* (Manual for Public Servants working in Borders) published by the National Directorate of Migration with the ultimate goal of guaranteeing the human rights of migrants.¹³⁴⁶ In addition, according to the UNHCR, as of June 2023, Paraguay was hosting 7,463 persons who had been forced to flee from their countries, of which 5,905 were refugees, 1,331 were asylum seekers, 226 had other international protection needs and one was a stateless person.¹³⁴⁷ With regard to **trafficking in persons**, Paraguay and Bolivia passed a draft law to strengthen the fight against this crime and related offenses.¹³⁴⁸ Additionally, the State conducted joint operations with Spain to rescue women victims of human trafficking, specifically those targeted on social media for sexual exploitation.¹³⁴⁹

649. On the rights of **children and adolescents**, the Commission welcomes the implementation of measures to prevent sexual abuse and any form of violence against this group, such as “#WeAreAllResponsible,” the tool “Children First”¹³⁵⁰ and the Labor Vulnerability Index.¹³⁵¹ However, according to reports published by the Office of the Public Prosecutor and the Committee on Human Rights of the National Congress, 762 cases of sexual abuse, 374 cases of abuse and 8,327 cases of family violence against children and adolescents were recorded during the first quarter of 2023.¹³⁵²

¹³⁴⁰ Permanent Mission of Paraguay to the OAS. Report of the State. Request for information - 2023 IACHR Annual Report, October 10, 2023, para. 25. In IACHR files.

¹³⁴¹ ABC, “[Fiscalía revela alarmantes datos de feminicidio en Paraguay](#),” October 19, 2023.

¹³⁴² Library and Central Archives of the National Congress (BACN), [Laws of Paraguay, Law No. 7.183](#), October 19, 2023; ABC, “[Senadores declaran emergencia nacional por feminicidios pero solo por un año](#),” September 28, 2023.

¹³⁴³ Noticias Sin, “[Paraguay usará tobilleras electrónicas para frenar violencia familiar y contra mujeres](#),” October 6, 2023; HOY, “[Violencia contra la mujer: ‘Es un problema real que no podemos tolerar’, dice Peña](#),” August 28, 2023.

¹³⁴⁴ ABC, “[Los primeros objetivos de la nueva ministra de la mujer](#),” August 20, 2023; ABC, “[Exponen a la ministra de la mujer serie de falencias en la prevención de feminicidios](#),” September 1, 2023.

¹³⁴⁵ ABC, “[Explotación sexual de niñas indígenas en zona de la Terminal](#),” March 8, 2023; La Nación, “[Realizaron allanamientos por explotación sexual de niñas indígenas: 6 fueron rescatados](#),” March 13, 2023.

¹³⁴⁶ National Directorate of Migration of Paraguay, “[Migraciones presenta nuevo manual de procedimientos para los servidores públicos de frontera](#),” July 24, 2023.

¹³⁴⁷ UNHCR, [Hoja Informativa Estadística ACNUR Paraguay – Junio 2023](#), p. 1.

¹³⁴⁸ Government of Paraguay, “[Aprueban acuerdo para fortalecer la lucha contra la trata de personas y delitos conexos](#),” March 27, 2023.

¹³⁴⁹ Government of Spain, “[Desarticuladas en España y Paraguay dos organizaciones criminales dedicadas a la trata de mujeres para su explotación sexual](#),” April 27, 2023; NPY, “[Rescatan a paraguayas víctimas de trata de mujeres en España](#),” April 27, 2023.

¹³⁵⁰ This initiative, aimed at providing an adequate follow-up to children and adolescents who are not being looked after by their families, is in its pilot phase. IACHR, Press Release No. 057/23, “[IACHR Concludes Promotional Visit to Paraguay](#),” Washington, D.C., April 5, 2023.

¹³⁵¹ Ministry of Labor, Employment and Social Security, Government of Paraguay, “[MTESS presenta herramienta sobre índice de vulnerabilidad al trabajo infantil](#),” May 18, 2023.

¹³⁵² National Congress, Government of Paraguay, “[Alarma el aumento de casos de denuncia de abuso sexual en menores](#),” March 23, 2023. See also: Office of the Public Prosecutor of the Republic of Paraguay, [Trata de personas, violencia y abuso](#), 2023.

650. With regard to the situation of **Afro-descendants and the fight against racial discrimination**, Paraguay took steps to recognize and include these persons in the design and development of public policies. In this regard, the State informed that the Afro-descendant variable had been included within the scope of persons in a situation of vulnerability within the system of the Ministry of Public Defense.¹³⁵³

651. However, civil society organizations reiterated their opposition to the exclusion of the variable of Afro-descendant self-recognition from the 2022 national census,¹³⁵⁴ and expressed that they had not been consulted during the drafting of the regulations of Law No. 6,940, which contemplates mechanisms and procedures to prevent and punish acts of racism and discrimination against Afro-descendants.¹³⁵⁵

652. Regarding **persons deprived of liberty**, the State reported that the Ministry of Justice had implemented a prison reform plan. This plan introduces a new model for prison management, with the purpose of reforming the management of prisons to improve detention conditions. Three new detention centers are being built and furnished as part of these initiatives.¹³⁵⁶ Nevertheless, Paraguay continues to use pretrial detention excessively, ranking second among the countries which recur most frequently to it in the region, with a 67 percent rate in 2023. This is considered the main cause of the high rate of overcrowding in prisons, which amounts to 71.6 percent.¹³⁵⁷

653. In this context, the long-standing situation of self-government by organized crime and intra-prison violence has persisted in the Tacambú prison, the main detention center in the country. Violent incidents occurred between October 10 and 11, resulting in the death of a detainee and the illegitimate deprivation of liberty of the director of the prison and approximately 20 guards.¹³⁵⁸ In addition, approximately 50 prison officials have gone on a hunger strike in front of the Ministry of Justice since October 23, 2023, demanding better working conditions and guarantees to perform their duties safely.¹³⁵⁹

654. With regard to **LGBTI persons**, this group continued to face a context of setbacks in the recognition of their rights and an absence of public policies, such as the advancement of a bill “prohibiting the promotion, encouragement or teaching of gender ideology in education centers in the country,”¹³⁶⁰ aimed at criminalizing “homosexual indoctrination.”¹³⁶¹ Civil society organizations rejected this bill, which would prohibit the use of a gender perspective, with a direct impact on the rights of women, LGBTI persons, comprehensive sex education, freedom of expression and access to information.¹³⁶²

¹³⁵³ Annex V: Ministry of Public Defense, Note DG No. 383/2023, p. 20.

¹³⁵⁴ IACHR, “[IACHR Visits Argentina, Paraguay, and Uruguay to Discuss the Rights of Afro-Descendant Persons](#),” June 7, 2023; *La Nación*, “[INE confirma que retiran la opción para identificar a los afrodescendientes en el censo](#),” September 19, 2022; *Última Hora*, “[Comunidad afroparaguaya cuestiona exclusión del Censo 2022](#),” October 8, 2022.

¹³⁵⁵ Meeting with Afro-Paraguayan organizations in the context of the promotional visit of the IACHR to Paraguay on the rights of Afro-descendant persons, June 7, 2023, Asunción. Minute of meeting. In IACHR files.

¹³⁵⁶ Ministry of Justice, Government of Paraguay, “[La reforma penitenciaria está en marcha](#),” August 2, 2023.

¹³⁵⁷ In this regard, see: World Prison Brief, Institute for Crime & Justice Policy Research, [World Prison Brief data - Paraguay](#), 2023.

¹³⁵⁸ *Infobae*, “[Confirman el fallecimiento de un reo en la penitenciaría paraguaya tomada por reclusos](#),” October 11, 2023; Swiss info, “[Confirman la muerte de un reo en una cárcel paraguaya tomada por reclusos](#),” October 11, 2023; and *La Vanguardia*, “[Confirman la muerte de un reo en una cárcel paraguaya tomada por reclusos](#),” October 11, 2023.

¹³⁵⁹ Swiss info, “[Funcionarios penitenciarios de Paraguay entran en huelga de hambre por reclamos laborales](#),” October 23, 2023; *ABC*, “[Guardiacarceles van a huelga de hambre](#),” October 23, 2023; and *Prensa Latina*, “[Guardias penitenciarios paraguayos en huelga de hambre por mejoras](#),” October 23, 2023.

¹³⁶⁰ Senate, bill “prohibiting the promotion, encouragement or teaching of gender ideology in education centers in the country,” [File No.: S-2300017](#) of July 6, 2023; *Nota al pie*, “[Paraguay y un evidente retroceso en materia de género](#),” August 25, 2023; *Resumen Latinoamericano*, “[Feminismos. Nuevo gobierno de Paraguay promete combatir ideología de género y quitar ayudas sociales a las infancias](#),” August 14, 2023.

¹³⁶¹ *ABC*, “[Video: Lizarella Valiente dice que en Paraguay ‘no hay machismo’](#),” August 1, 2023.

¹³⁶² Amnesty International, [Preocupaciones de Amnistía Internacional sobre el proyecto de ley “por el cual se prohíbe la promoción, fomento o enseñanza de la ideología de género en las instituciones educativas del país](#),” 2023.

655. On the rights **older persons**, the State reported that 3,266 persons received guidance between January and August 2023 as part of its protocol to assist older persons, which is mandatory in all the branches of the Ministry of Public Defense in the country.¹³⁶³

XXIV. PERU

• General considerations

656. During the year, Peru made significant **progress** in guaranteeing the rights of older persons with disabilities in a situation of family abandonment or at risk of social exclusion. In addition, the enactment of the law prohibiting child marriage provided greater protection to children and adolescents.

657. However, the State continued to face institutional **challenges** caused by the use of ambiguous legal concepts which have weakened democracy and the Rule of Law. In addition, the information recorded on gender-based violence against women and LGBTI persons is alarming. LGBTI persons still face obstacles related to the lack of full recognition of their right to form a family.

658. On October 14, 2023, The State submitted a response to the Commission's request for information to prepare this chapter.¹³⁶⁴

• Specific issues

659. With regard to **democratic institutional**ity, the State has taken a series of steps to prevent and manage social conflict. In particular, the State conducted workshops to promote interstate relations, democratic governance and dialogue. Additionally, a team was created within the Secretariat of Social Management and Dialogue to develop a National Policy for the Prevention and Management of Social Conflict. The State also opened Peace and Governance Dialogue spaces in ten departments of the country.¹³⁶⁵

660. However, the use of ambiguous constitutional provisions with no objective definition persisted throughout the year. For instance, the legislative branch repeatedly opened constitutional accusation proceedings against several authorities of the judiciary and the electoral system. These proceedings have weakened the independence and separation of powers to the detriment of democracy and the Rule of Law.¹³⁶⁶

661. In this context, the Congress of the Republic opened four constitutional accusation proceedings against the members of the National Justice Board (JNJ). Additionally, it opened constitutional accusation proceedings against Attorney General Zoraida Ávalos and, on June 20, ordered her removal and disqualification to hold public office for five years.¹³⁶⁷ According to public reports, after the dismissal of Ávalos and the reform to the Organic Law of the Office of the Public Prosecutor, the Attorney General is allegedly able to appoint her replacement from the Board of Supreme Prosecutors,¹³⁶⁸ the entity with the authority to reelect the head of the Office of the Public Prosecutor.¹³⁶⁹

¹³⁶³ Paraguayan State, Report submitted by the State, Request for Information – 2023 Annual Report of the IACHR, No. 1204-23/MPP/OEA, October 10, 2023, Annexes II and V.

¹³⁶⁴ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the 2023 Annual Report, October 14, 2023, para. 61.

¹³⁶⁵ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the 2023 Annual Report, October 14, 2023, pp. 20-29.

¹³⁶⁶ IACHR, "[Peru: IACHR expresses concern over constitutional accusations against justice operators and calls for respect for due process guarantees](#)," June 21, 2023.

¹³⁶⁷ *El Peruano*, Official Gazette of the Bicentenary, "[Congreso resuelve inhabilitar por cinco años a ex fiscal de la Nación Zoraida Ávalos](#)," June 21, 2023.

¹³⁶⁸ *Infobae*, "[¿Cuál es el riesgo de la inhabilitación de Zoraida Ávalos y cómo beneficiaría a la fiscal de la Nación, Patricia Benavides?](#)," June 21, 2023.

¹³⁶⁹ Organic law of the Office of the Public Prosecutor, Decree No. 052, Art. 37.

662. In addition to the constitutional accusations against the JNJ, the legislative branch opened a “summary inquiry” against the members of the JNJ since, among other things, an official had remained in office after she reached 75 years of age. Civil society organizations denounced that these proceedings are not contemplated by law and thus represent an abuse of the powers vested upon Congress and a violation of due process of law.¹³⁷⁰

663. The work of the National Justice Board, the entity in charge of appointing and periodically evaluating justice operators and electoral authorities, contributes to avoid political interference by other branches in the appointment of justice operators and electoral authorities, such as the Attorney General and the members of the National Election Jury.¹³⁷¹

664. Furthermore, the Office of the Public Prosecutor has taken action against judges who have issued injunctions against acts of the legislative branch and prosecutors who oversee high profile investigations. In the same vein, the Commission learned that an investigation was opened against three judges of the Third Constitutional Chamber of the Superior Court of Justice. The investigation was opened as a result of a writ of *amparo* which protected the right to due process of law of the JNJ and suspended the impeachment proceedings conducted by Congress against its members.¹³⁷²

665. Additionally, the National Control Authority of the Office of the Public Prosecutor suspended Prosecutor Rafael Vela for eight months and 15 days by means of Resolution No. 007-2023-ANC of October 5. Prosecutor Vela, a beneficiary of precautionary measures granted by the Inter-American Commission, had been working as coordinator of the *Lava Jato* Special Team. This group investigates political leaders such as former president Ollanta Humala and Keiko Fujimori.¹³⁷³

666. Regarding **human rights institutions**, the State approved the 2023-2026 General Government Policy and the National Policy Guidelines which established directives to ensure the respect for human rights by the public administration.¹³⁷⁴ At the same time, the Congress of the Republic appointed the new head of the Office of the Ombudsperson, thus ending a period in which said position had been occupied by interim ombudspersons.¹³⁷⁵

667. However, five deputy ombudspersons submitted their resignations due to disagreements with the management model implemented by the new ombudsperson.¹³⁷⁶ In addition, at the legislative level, members of Congress submitted a bill for the denunciation of the American Convention on Human Rights (ACHR).¹³⁷⁷ This proposal, which was widely rejected by the civil society and by the Office of the Ombudsperson, remains under analysis before Congress.¹³⁷⁸

¹³⁷⁰ DPLF, “[International organizations condemn parliamentary attack against the National Board of Justice in Peru](#),” September 8, 2023.

¹³⁷¹ DPLF, “[International organizations condemn parliamentary attack against the National Board of Justice in Peru](#),” September 8, 2023.

¹³⁷² *El Comercio Perú*, “[Fiscalía abre investigación preliminar a jueces que otorgaron medida cautelar a JNJ](#),” November 8, 2023. See also: *Infobae*, “[Los argumentos de la JNJ que el PI acogió para dictar la medida cautelar que ordenó paralizar proceso en el Congreso](#),” November 8, 2023.

¹³⁷³ *El Comercio*, “[Autoridad de Control del Ministerio Público suspende al fiscal Rafael Vela por más de ocho meses](#),” October 6, 2023.

¹³⁷⁴ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, paras. 20-29.

¹³⁷⁵ Congress of the Republic of Peru, “[Congreso elige como nuevo defensor del pueblo a Josué Gutiérrez Córdor](#),” May 18, 2023.

¹³⁷⁶ *Gestión Perú*, “[Adjunto Percy Castillo renuncia a la Defensoría del Pueblo](#),” November 1, 2023; *Infobae*, “[Crisis en la Defensoría del Pueblo: cinco funcionarios renunciaron por diferencias con Josué Gutiérrez](#),” September 25, 2023; and *Infobae*, “[Sindicato de la Defensoría del Pueblo denuncia maltrato y exige respeto a sus derechos laborales](#),” October 6, 2023.

¹³⁷⁷ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, paras. 30-40.

¹³⁷⁸ The Office of the Ombudsperson warned about the effects of said denunciation and reminded that the authority to denounce treaties is vested exclusively upon the president. See: Office of the Ombudsperson of Peru, “[Defensoría del Pueblo: no es conveniente para peruanas y peruanos denunciar la Convención Americana sobre Derechos Humanos](#),” June 8, 2023.

668. In the area of **citizen security**, the State adopted and implemented guidelines for the use of potentially lethal weapons. The purpose of these provisions, adopted by the National Police, is to ensure that the police perform its duties while respecting human rights.¹³⁷⁹ In addition, the State conducted several training activities and implemented ministerial protocols and guidelines of the Office of the Public Prosecutor specially designed to guarantee the respect for human rights in the context of social protests.¹³⁸⁰

669. During the protests which took place in January 2023, 23 persons were killed by gunshot wounds and blunt objects in Juliaca, Cusco, Puno, Arequipa and La Libertad, among others, where confrontations between demonstrators and security forces were reported.¹³⁸¹ In addition, security forces acted violently and arrested demonstrators massively during the dispersion of the crowd from the facilities of the Universidad Nacional de San Marcos, in Lima.¹³⁸² In August 2023, civil society organizations denounced the indiscriminate use of pellets and tear gas during another day of protests, as well as alleged arbitrary arrests by officers of the Terna Group of Peru's National Police (PNP), who were wearing civilian clothes.¹³⁸³ The State resorted to declaring states of emergency on several occasions due to citizen security issues.¹³⁸⁴

670. With regard to **access to justice**, the State reported institutional decisions which, in its opinion, strengthen the justice system, such as dividing the Offices of the Public Prosecutors Specialized in Human Rights, Interculturalism and Terrorist Crimes into: i) the Office of the National Criminal Superior Public Prosecutor and the Offices of the Criminal Supra-Provincial Public Prosecutors Specialized in Human Rights and Interculturalism, and ii) the Office of the National Criminal Superior Public Prosecutor and the Offices of the Criminal Supra-Provincial Public Prosecutors Specialized in Terrorism and Related Crimes; as well as the creation of offices of prosecutors across the country to strengthen those offices specialized in human rights and interculturalism.¹³⁸⁵

671. Nevertheless, organizations, relatives and victims of human rights violations committed between December 7, 2022, and January 23, 2023, expressed their concern over the lack of progress in investigations, punishment and reparations, over the changes in the offices of public prosecutors in charge of

¹³⁷⁹ Command Order No. 20230000180-COMASGEN-CO-PNP-CENOPPOL approved on January 6, 2023, providing that the directors of the National Directorate for Criminal Investigation (DIRNIC) and the National Directorate for Order and Security (DIRNOS), and the heads of the Police Macro Regions, Police Fronts and Police Regions of Lima and Callao shall instruct their staff on the need to refrain from taking forceful action against peaceful demonstrations and to comply with the provisions on the execution of operations for the maintenance and restoration of public order established in the *Manual de derechos humanos aplicados a la Función Policial* (Manual of Human Rights Applied to Police Functions); Command Order No. 202300012116-COMASGEN-CO-PNP/OFIPOI of July 13, 2023, providing that the heads of the Police Macro Regions, Police Fronts, Police Region of Lima, Police Region of Callao, DIRNOS and DIRNIC shall adopt actions and measures on the unrestricted respect for the right to life and physical integrity of the persons attending demonstrations, as well as other fundamental rights; and Command Order No. 202300012221 - COMASGEN-CO-PNP/SEC of July 14, 2023, providing that the heads of the Police Macro Regions, Police Fronts Police Region of Lima, Police Region of Callao, DIRNOS and DIRNIC shall instruct their staff on the applicable intervention protocol in accordance with the regulatory framework for the respect for human rights and the progressive use of force, and adopt security measures in the event of any disturbance of public order and acts against public and private property.

¹³⁸⁰ "Protocol for the attention of persons in situation of special vulnerability who have been arrested and/or detained in the context of social protests;" "Protocol for the attention of persons whose rights have reportedly been violated in the context of social protests, according to reports from civil society organizations;" "Protocol for the joint action of the State to coordinate services in the context of detention, arrest and police intervention involving women and persons in situation of vulnerability;" and the Directive on the exercise of the prosecutorial function in the face of arbitrary or illegitimate use of force by agents responsible for guaranteeing, maintaining and restoring domestic order."

¹³⁸¹ According to information in: IACHR, *Situation of Human Rights in Peru in the Context of Social Protests*, OEA/Ser.L/V/II. Doc. 57/23.

¹³⁸² IACHR, Press Release No. 10/2023, "[Peru: IACHR and its Special Rapporteurship for Freedom of Expression Condemn Violent Crowd Dispersions Within National University of San Marcos](#)," January 27, 2023.

¹³⁸³ IACHR, Press Release No. 174/2023, "[Peru Must Respect the Applicable Standards on the Use of Force and Protect Freedom of Expression During Social Protests, the IACHR and Its Special Rapporteurship for Freedom of Expression Say](#)," August 3, 2023.

¹³⁸⁴ State of Peru, Office of the President of the Republic, Supreme Decree declaring or extending states of emergency: 009-2023-PCM, 010-2023-PCM, 018-2023-PCM, 022-2023-PCM, 105-2023-PCM.

¹³⁸⁵ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, paras. 55-59.

the investigations, as well as over the State's failure to comply with the recommendations made by the Inter-American Commission in its report titled *Situation of Human Rights in Peru in the Context of Social Protests*.¹³⁸⁶

672. The State reported that the Office of the Public Prosecutor had convened a special team to address the cases of victims of the social protests¹³⁸⁷ and stated that 51 cases involving deaths during protests were in the preliminary investigation stage at the Office of the Public Prosecutor, which was conducting investigations into other acts committed in this context.¹³⁸⁸ Civil society organizations requested the State to establish of a mechanism to follow up on the recommendations made in the aforementioned report published by the Commission.¹³⁸⁹

673. With regard to the **rights of women**, Peru passed a law prohibiting child marriage.¹³⁹⁰ In line with this development, the Ministry for Women and Vulnerable Populations (MIMP) promoted multisectoral strategy "Gobernando Juntas" (Women Governing Together), which seeks to strengthen management capabilities with a gender-sensitive approach and to promote the political empowerment of elected women officials. As part of this strategy, the General Directorate for the Promotion and Development of the Economic Autonomy of Women was included in the organizational structure of MIMP, and a pilot project was implemented as part of the development of the National Care System.¹³⁹¹

674. During 2023, the MIMP also promoted the expansion of shelters and victim support services, as well as the approval of the Rural Multisectoral Strategy for the prevention, support, protection and recovery from violence and sexual violence against women and their family members in rural areas. In addition, the State conducted campaigns to raise awareness and include all members of society in efforts to prevent and combat violence against women and girls.¹³⁹²

675. In the same vein, the State established the strategy titled "Promoción de Familias Igualitarias y Libres de Violencia" (Promoting Equal and Violence-Free Families), approved the Comprehensive Specialized Service to Prevent Violence in Families (SIEF), continued the Module to Promote Equal and Violence-Free Families, a preventive tool, and approved a document titled *Estándar Básico de Defensa Legal de Casos de Violencia a favor de las Mujeres y los Integrantes del Grupo Familiar* (Basic Standard for the Legal Defense of Cases of Violence against Women and Family Members).¹³⁹³

676. Nevertheless, the bill which proposes to change the name of the MIMP to "Ministry of the Family and Vulnerable Populations" remains under legislative consideration.¹³⁹⁴ This proposal is part of a tendency to equate the experiences and needs of women to those of families, diminishing their role to that of a family caretaker and ignoring the nature of gender-based discrimination.

677. In this context of discrimination, Peru continued to record high rates of gender-based violence against women, girls and adolescents, including femicides, disappearances and sexual violence against girls and

¹³⁸⁶ Information received during the hearing "Follow-up on 2023 country report's recommendations in the context of social protests (*ex officio*)," held during the 188th regular period of sessions of the IACHR. See also: AP News, "[Crítica lenta investigación de muertes en protestas de Perú](#)," April 5, 2023.

¹³⁸⁷ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, para. 57.

¹³⁸⁸ *El Peruano*, "[Perú expone ante CIDH situación de investigación de muertes ocurridas durante protestas](#)," November 10, 2023.

¹³⁸⁹ WOLA, "[Peru: International Organizations Support the IACHR Recommendation to Create an Interdisciplinary Group of Independent Experts to Support Investigations of Serious Human Rights Violations](#)," May 15, 2023.

¹³⁹⁰ *TV Perú*, "[Pleno del Congreso aprobó dictamen que prohíbe el matrimonio infantil](#)," November 2, 2023.

¹³⁹¹ Permanent Mission of Peru to the OAS, Response of the Peruvian State to the request for information submitted by the IACHR for the *2023 Annual Report*, October 14, 2023, paras. 78-82. In IACHR files.

¹³⁹² Permanent Mission of Peru to the OAS, Response of the Peruvian State to the request for information submitted by the IACHR for the *2023 Annual Report*, October 14, 2023, paras. 85-88. In IACHR files; Government of Peru, "[Madre de Dios: Mimp lanza campaña Encontrarte y el aplicativo Yanapp para prevenir la violencia contra las mujeres, niñas y adolescentes](#)," July 17, 2023.

¹³⁹³ Permanent Mission of Peru to the OAS, Response of the Peruvian State to the request for information submitted by the IACHR for the *2023 Annual Report*, October 14, 2023, paras. 83, 89, 91 and 93. In IACHR files.

¹³⁹⁴ IACHR, *2022 Annual Report, Chapter IV.A. Human Rights Development in the Region*, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 654.

adolescents.¹³⁹⁵ According to figures published by the MIMP, as of September, 122 cases involving the death of women with femicidal patterns and 192 attempted femicides had been reported.¹³⁹⁶ During the first semester of the year, the Office of the Ombudsperson identified 1,232 reports of disappeared women and 1,657 reports of disappeared girls and adolescents, and the National Police recorded 5,341 complaints concerning the disappearance of women, 54 percent of whom were found.¹³⁹⁷

678. In addition, more than 8,000 complaints concerning the rape of girls and adolescents were recorded in the first half of the year.¹³⁹⁸ There were reports of sexual violence committed by public officials performing official duties, as well as sexist comments and content published in media outlets, including comments made by public officials.¹³⁹⁹ These incidents contribute to a climate in which violence against women is tolerated by society. The Commission observed that the institutions created to face gender-based violence and discrimination against women weakened. For instance, the Directorate for Gender Mainstreaming became a unit with reduced duties, among other cases that show the weakening of institutions.¹⁴⁰⁰ In addition, Draft Law No. 3,464, which limits the use of inclusive language in school texts, was passed,¹⁴⁰¹ and public officials were reluctant to receive gender training.¹⁴⁰²

¹³⁹⁵ IACHR X account (@CIDH). "CIDH rechaza el feminicidio de una enfermera el #12Abril, quien murió tras ser agredida física y sexualmente en Ayaviri, Puno. Urge al Estado investigar y sancionar a responsables, con debida diligencia y enfoque de #género, y brindar reparación a sus familiares." ([tweet](#)) (The IACHR condemns the femicide of a nurse who died on #April12 after being physically and sexually assaulted in Ayaviri, Puno, and urges the State to investigate and punish those responsible with due diligence and a #gender-based approach, and to provide reparations to her relatives), April 14, 2023; Human Rights Committee, [Concluding observations on the sixth periodic report of Peru](#), CCPR/C/PER/CO/6, April 5, 2023, para. 22.

¹³⁹⁶ MIMP, MIMP Statistics, [Atención de casos con características de feminicidio y de tentativa de feminicidio](#), [accessed on November 10, 2023].

¹³⁹⁷ Office of the Ombudsperson, [Reporte Igualdad y No Violencia :Qué pasó con ellas? No. 41](#), June, 2023.

¹³⁹⁸ *Andina*, "[Violencia contra la mujer: más de 8,000 adolescentes fueron violadas en lo que va del 2023](#)," July 8, 2023.

¹³⁹⁹ Government of Peru, "[Corte de Lima Norte dicta cadena perpetua contra exasesor congresal Marvin Gianinni Gómez por abusar sexualmente de menores de edad](#)," August 24, 2023; *Diario Correo*, "[Denuncian a dos policías por delitos de violencia contra la mujer en Lambayeque](#)," June 14, 2023; Office of the Ombudsperson of Peru X account (@Defensoria_Peru). "#Puno Tras conocer actuación de @MininterPeru ante violación sexual de mujer de 22 años por 3 policías detenidos en Macusani, señalamos que toda forma de violencia contra mujeres debe ser repudiada, más aún cuando la realizan funcionarios encargados de protegerlas. (1/4)" ([tweet](#)) (#Puno Upon learning about the actions taken by @MininterPeru after a 22-year-old woman was raped by three police officers arrested in Macusani, we emphasize that every form of violence against women should be repudiated, especially when committed by public officials tasked with protecting them [1/4]), April 15, 2023; Judiciary of Peru X account (@Poder_Judicial_) X account. "Sala Penal Permanente de la Corte Suprema ordenó nueve meses de #PrisiónPreventiva contra el excongresista Freddy Díaz Monago, investigado por el presunto delito de violación sexual en estado de inconsciencia" ([tweet](#)) (Permanent Criminal Chamber of the Supreme Court ordered the #PreventiveDetention of former congressman Freddy Díaz Monago, investigated for the alleged crime of rape against an unconscious victim, for a period of nine months), February 17, 2023.

¹⁴⁰⁰ *El Peruano* Official Gazette, [Supreme Decree No. 010-2023-MIMP](#), October 4, 2023. Likewise, in the municipality of Lima, the Office of the Municipal Manager for Women and Equality was downgraded to the Office of the Municipal Deputy Manager for Women and Family and its duties and its hierarchy were restricted. In addition, Ordinance No. 2355-2021, which approved the gender mainstreaming guidelines in policies, public services and institutional management in the Metropolitan Municipality of Lima, was repealed. See: *El Peruano* Official Gazette, [Ordinance No. 2537](#), published on April 19, 2023; Office of the Ombudsperson, [Official Letter No. 0136-2023-DP](#) addressed to the Mayor of the Metropolitan Municipality of Lima, April 21, 2023.

¹⁴⁰¹ *El Peruano* Official Gazette, "[Congreso: aprueban ley que promueve uso adecuado del lenguaje inclusivo en textos escolares](#)," September 15, 2023.

¹⁴⁰² Alejandro Muñante X account (@AlejoMunante). "#URGENTE | He solicitado a la presidente de la Comisión de Constitución del Congreso, cite con carácter de urgencia a la Ministra de la Mujer y a la Presidenta Ejecutiva de la Autoridad Nacional del Servicio Civil - @SERVIR_PERU a la siguiente sesión ordinaria de la comisión, a fin de que informen respecto del "Plan de capacitación obligatoria en enfoque de género" para servidores públicos. Lo que incluirá la utilidad de la capacitación, su justificación legal, quiénes serán los proveedores o capacitadores y la cantidad de dinero que se les pagará por ello, entre otros. Esta obligatoriedad rompe con el derecho constitucional a la libertad de conciencia, pensamiento y libre desarrollo de los trabajadores estatales, lo que en la práctica se traduce en adoctrinamiento puro y duro con el impuesto de todos los peruanos. #PolíticaValienteYSinComplejos #VamosPorMás" ([tweet](#)) (#URGENTE | I have requested the president of the Committee on the Constitution of Congress to urgently summon the Minister for Women and the Executive President of the National Civil Service Authority - @SERVIR_PERU - for the next regular session of the committee in order for them to report on the "Plan for mandatory gender training" for public officials. This will include whether the training is useful, its legal justification, the identity of those who will provide the training and the amount of money they will be paid for it, among other issues. Making the training mandatory infringes the constitutional right to freedom of conscience, thought and free development of state workers, which in practice translates into pure and harsh indoctrination financed by the taxes of all Peruvians. #BravePoliticsWithoutReserve #AimingForMore"), August 23, 2023.

679. At the same time, the State achieved progress with regard to sexual and reproductive rights with a ruling of the Constitutional Court which ordered the Ministry of Health to distribute emergency oral contraception (EOC) nationally and free of charge.¹⁴⁰³

680. However, the State implemented measures which impacted the protection of women and persons with the capacity to gestate by enacting Law No. 31,935, which recognizes rights to the unborn and restricts access to therapeutic abortion and EOC even in cases of sexual violence or when the health or life of women, girls and adolescents is at risk.¹⁴⁰⁴ In this context, access to therapeutic abortion was denied to girls as young as 10 years of age who had become pregnant as a result of rape, despite the risk to their health and life.¹⁴⁰⁵ This situation also impacted a 13-year-old girl in Junín, who died of pregnancy complications resulting from rape.¹⁴⁰⁶

681. With regard to **persons in the context of human mobility**, the State has achieved progress in the protection of the rights of this group by granting an amnesty for the fines imposed to foreigners who had infringed the migration law.¹⁴⁰⁷ In addition, the State prohibited the expulsion of migrant women and their children in a situation of vulnerability who had been subjected to family or sexual violence, human trafficking or migrant trafficking.¹⁴⁰⁸ Both measures were adopted pursuant to laws passed by Congress. The State also implemented a supreme decree to regulate the proceedings for the regularization of migrants, the issuance of residence permits, among others,¹⁴⁰⁹ and established the protocol to support refugee and migrant children and adolescents at risk due to family abandonment.¹⁴¹⁰

682. However, the amendments to Legislative Decree No. 1,350 on Migration, according to which a person needs to show documents that prove their legal residence and the legal residence of the rest of the individuals who would live in the property before entering into a lease contract, could pose challenges to the rights of persons in human mobility.¹⁴¹¹ In particular, landlords are required to report the lease contract to the National Migration Superintendency.¹⁴¹²

¹⁴⁰³ Constitutional Court, Plenary Chamber, [Judgment No. 197/2023](#), March 30, 2023.

¹⁴⁰⁴ *El Peruano* Official Gazette, [Law No. 31,395 which recognizes rights to the conceived](#), November 16, 2023. See: MESECVI-OEA CEVI X account (@MESECVI). "Perú. Desde @MESECVI expresamos preocupación por la aprobación de la ley que reconoce derechos al concebido y su impacto sobre el respeto a los derechos sexuales y reproductivos de mujeres y niñas. Saludamos pronunciamiento de @MimpPeru y compromiso para proteger sus derechos" [[tweet](#)] (Peru @MESECVI expresses its concern for the enactment of the law which recognizes rights to the conceived and for its impact on the sexual and reproductive rights of women and girls. We welcome the statement published by @MimpPeru and its commitment to protect their rights"), November 10, 2023.

¹⁴⁰⁵ UNICEF Peru, OHCHR "[ONUSIDA, ONU Mujeres, UNFPA y UNICEF expresan su profunda preocupación por un nuevo caso de vulneración a los derechos de una niña de 11 años, bajo el pseudónimo de Mila](#)," August 8, 2023; *Infobae*, "[Niña embarazada por abuso sexual en Cajamarca: anuncian medidas contra psicóloga del CEM que maltrató a menor](#)," October 19, 2023; *Infobae*, "[Cusco: denuncian que hospital estaría dilutando autorización de aborto terapéutico a niña de 12 años](#)," October 11, 2023; Center for the Promotion and Defense of Sexual and Reproductive Rights X account (@promsex). "Pronunciamiento: Expresamos nuestra profunda preocupación por el incumplimiento de los protocolos médicos que garantizan la interrupción de un embarazo que pone en riesgo la vida de una niña. #AbortoLegal#AbortoTerapéutico" [[tweet](#)] (Statement: We express our deep concern about the failure to comply with medical protocols that guarantee the termination of a pregnancy, which has endangered the life of a girl. #LegalAbortion #TherapeuticAbortion, February 23, 2023.

¹⁴⁰⁶ Save the Children X account (@SaveChildrenPE). "Pronunciamiento | Ante la lamentable muerte de la niña de 13 años en Junín, quien falleció en labor de parto por haberle negado a acceder a su derecho de la interrupción de su embarazo, expresamos lo siguiente #NiñasNoMadres #EmbarazoInfantilEsTortura [[tweet](#)] (Statement | Our statement on the unfortunate death of a 13-year-old girl in Junín, who died in labor because she was denied the right to have her pregnancy terminated: #GirlsNotMothers #ChildPregnancyIsTorture), September 29, 2023.

¹⁴⁰⁷ Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, p. 20. In IACHR files.

¹⁴⁰⁸ Congress of the Republic of Peru, [Law No. 31,685](#), February 15, 2023.

¹⁴⁰⁹ Ministry of the Interior of Peru, "[Supreme Decree No. 003-2023-IN](#)," April 26, 2023.

¹⁴¹⁰ Ministry of Women and Vulnerable Populations of Peru, General Directorate for Children and Adolescents, [Protocol of the Special Protection Units for the support of refugee and migrant children and adolescents at risk due to family abandonment](#), June 26, 2023.

¹⁴¹¹ Congress of the Republic of Peru, [Law No. 31,689](#), February 15, 2023.

¹⁴¹² United Nations - UN News, "[Perú: Expertos de la ONU preocupados por la ley que penaliza alquilar viviendas a migrantes indocumentados](#)," May 22, 2023.

683. Clashes between security forces and migrants were reported in southern provinces of the country at the beginning of the year,¹⁴¹³ after the declaration of a state of emergency which authorized the National Police of Peru and the Armed Forces to intervene.¹⁴¹⁴ As of April 13, 2023, 340 migrants were in the border between Peru and Chile. These migrants were transferred to temporary shelters as a result of the convening of a regional dialogue panel between the UNHCR, the IOM and local and regional authorities. In this regard, a permanent working group was established by Peruvian and Chilean authorities to cooperate in the joint search for short-term and medium-term solutions.¹⁴¹⁵

684. On the prevention, reduction and eradication of **statelessness**, the State published Supreme Decree No. 004-2023-IN, which set the procedure for recovering Peruvian nationality in cases of renunciation.¹⁴¹⁶

685. Regarding the **rights of older persons**, the State passed Law No. 31,781 which strengthens the support for older persons with disabilities in a situation of family abandonment or at risk of social exclusion, and the Technical Health Care Regulations for the Comprehensive Care of Older Persons.¹⁴¹⁷ In addition, the State created proceedings to grant social protection measures to older persons at risk, which identified and evaluated 1,401 older persons at risk during the first eight months of 2023.¹⁴¹⁸

686. In the same vein, local governments in provinces and districts created 384 support centers for older persons, and 1,393 comprehensive support centers for older adults.¹⁴¹⁹

687. With regard to **human rights defenders**, the State adopted the Directive on the prevention, support, protection and recognition of women human rights defenders. In this regard, four regional groups were created to coordinate protection measures for defenders in Madre de Dios, Ucayali, San Martín and Loreto.¹⁴²⁰ Eleven protective measures for human rights defenders at risk were granted as part of the Early Alert Procedure (PAT).¹⁴²¹ Among the 15 requests submitted to PAT which already had a resolution issued by the deputy minister, 11 were granted, and protective measures were thus adopted.¹⁴²²

¹⁴¹³ UNHCR, press release, "[Perú: ACNUR y la OIM alertan de la grave situación en Tacna para personas refugiadas y migrantes](#)," April 20, 2023.

¹⁴¹⁴ After Supreme Decree No. 055-2023-PCM was enacted, declaring a state of emergency in several provinces in the south of the country. See: Government of Peru, executive branch, "[Supreme Decree No. 055-2023-PCM](#)," April 27, 2023 and Ministry of Defense of Peru, press release, "[Fuerzas Armadas ya se encuentran en la zona de frontera en Tacna brindado apoyo a la Policía Nacional](#)," April 28, 2023.

¹⁴¹⁵ Peru, Response to request for information 371-23-CIDH/SE/MPCT-Art-41 - Peru: humanitarian crisis in the southern border, July 7, 2023. In IACHR files.

¹⁴¹⁶ Response of the Peruvian State to the request for information submitted by the IACHR (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, p. 21. In IACHR files. See also: Office of the President of the Republic, Peru, [Supreme Decree No. 004-2023-IN including articles 94-C, 94-D, 94-E, 94-F, 94-G and amending articles 94-A and 94-B of the Regulations for the implementation of the Legislative Decree No. 1,350, Legislative Decree on Migration, and amending articles 28, 29 and 30 of the Regulations for the implementation of Law No. 26,574, Nationality Law](#), April 27, 2023.

¹⁴¹⁷ State of Peru, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, pp. 36 *et seq.*

¹⁴¹⁸ 45.32 percent are men, and 54.68 percent are women.

¹⁴¹⁹ Out of which 349 are residential support centers (CAR), 29 are day support centers (CAD), three are night support centers (CAN), and three are temporary support centers (CAT).

¹⁴²⁰ These working groups are a territorial strategy for coordinating actions and decision-making for the protection of human rights defenders. The State reported that four regional working groups had been installed as of October 2023. State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, paras. 66 and 67.

¹⁴²¹ In addition, the purpose of PAT is to evaluate the requests for protective measures. The State reported that 46 requests had been processed between April 23, 2019, and September 19, 2023, out of which 22 fulfilled the admission requirements and the State identified situations of risk for the exercise of human rights defense. In this regard, see: State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, para. 64.

¹⁴²² State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, para. 65.

688. However, both the ombudsperson and the civil society reported problems with inter-institutional coordination, a lack of budget and the absence of a gender-sensitive and intercultural approach, among other challenges, which hinder the effective implementation of protective measures.¹⁴²³ This occurred in a context in which the State recorded 125 situations of risk between January 1 and September 30, 2023.¹⁴²⁴ Human rights defenders face various risk situations, from threats to attacks against their personal or family safety.¹⁴²⁵ These risks are greater for those who work in the defense of the environment or advocate for the rights of indigenous peoples.¹⁴²⁶

689. In the same vein, at least two defenders were murdered during the first eight months of the year. According to public reports, indigenous leaders have received death threats, presumably due to their defense activities. Furthermore, the Commission has learned about stigmatizing speeches, especially aimed at those who advocate for the environment. In Peru, defenders are usually considered terrorists or *terrucos*.¹⁴²⁷

690. At the same time, persons who work in the area of **access to justice and judicial independence** were subjected to investigations and faced risk situations. Therefore, on November 8, the Commission decided to keep the precautionary measures granted to José Domingo Pérez in place after learning that his risk situation persisted. Furthermore, the Commission decided to extend these precautionary measures to Prosecutor Rafael Vela, considering that he was also at risk as a result of his duties as prosecutor.¹⁴²⁸ On the same topic, in July, the Commission requested the Inter-American Court of Human Rights to grant provisional measures in favor of Jorge Luis Salas Arenas who, due to his role as president of the National Election Jury, had allegedly been subject to stigmatization campaigns, acts of intimidation, doxing, harassment and death threats.¹⁴²⁹

¹⁴²³ Additionally, civil society organizations identified other challenges of the mechanism, such as: a lack of staff and budgetary resources, coordination problems, failure to meet deadlines, the absence of a gender- and culture-sensitive approach or one addressing collective protection, and the non-inclusion of justice officials. United Nations. General Assembly. Working Group on the Universal Periodic Review, 42nd session, January 23 to February 3, 2023, [Summary of stakeholders' submissions on Peru](#), A/HRC/WG.6/42/PER/3, October 27, 2022, paras 5 and 38.

¹⁴²⁴ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, para. 61.

¹⁴²⁵ This would help to identify the areas of greatest risk and the structural problems that generate these risk situations, to determine which groups are the most vulnerable, and to identify and bring visibility to the most frequent patterns of attacks against these people; as well as to obtain information for monitoring and evaluating the implementation of prevention and protection measures. State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, paras. 68-70.

¹⁴²⁶ The State reported that illegal activities accounted for 70 percent of the risk situations faced by human rights defenders. The main activities identified are drug trafficking (22 percent), illegal logging (21 percent) and land trafficking (15%). The regions with the greatest number of risk situations recorded are Ucayali (25 percent), Lima (17 percent), Loreto (8 percent), Huánuco (7 percent), Madre de Dios (6 percent), San Martín (5 percent), Piura (6 percent), Amazonas (5 percent) and Junín (5 percent). See: State of Peru, Note No. 7-5-M/238. Additionally, according to public reports, indigenous leaders have received death threats allegedly due to their defense activities. See: Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, para. 71; and *Mongabay*, "[Líderes asháninkas criminalizados recibían amenazas de mafias que operan en la selva central de Perú](#)," September 21, 2023; *Avispa*, "[Perú: Líderes indígenas entre persecución política y amenazas de narcotráfico](#)," September 28, 2023; *El País*, "[El asesinato a sangre fría de Santiago Contoricón y la desprotección de los líderes indígenas en Perú](#)," April 12, 2023.

¹⁴²⁷ IACHR, Press Release No. 138/23, "[IACHR: Ongoing Violence Against Human Rights Defenders in the First Four Months of 2023](#)," June 27, 2023. Territorial defender Cristino Melchor Flores was murdered in April in the city of Piura, Piura; and Asháninka indigenous defender Santiago Contoricón was murdered in the Puerto Ocopa Native Community in the Río Tambo district, Satipo, Junín. The State informed that, in the case of Cristiano Melchor Flores, the Ministry of Justice and Human Rights (MINJUDH) had agreed to provide his family with economic benefits, as well as legal assistance. With regard to the case of Santiago Contoricón, the State reported that it had committed to providing economic assistance to his relatives and that it had requested the Office of the Public Prosecutor to appoint a forensic expert and to create an Office of the Public Prosecutor Specialized in Organized Crime in Satipo. See also: National Human Rights Coordinator, [Defensoras y defensores de los derechos humanos en Cajamarca, Perú: luchas y desafíos para su protección efectiva](#), January, 2023, p. 9.

¹⁴²⁸ IACHR, Press Release No. 263/23, "[IACHR Follows Up on Precautionary Measures Granted in Favor of José Pérez and Extends Precautionary Measures in Favor of Rafael Vela in Peru](#)," November 9, 2023; and IACHR, Press Release No. 161/23, "[IACHR Requests IA Court Grant Provisional Measures in Favor of Jorge Luis Salas Arenas, President of the National Election Jury in Peru](#)," July 20, 2023.

¹⁴²⁹ Inter-American Court of Human Rights, [Adoption of Provisional Measures. Matter of Salas Arenas et al. regarding Peru](#) (in Spanish), September 4, 2023.

691. Regarding **persons deprived of liberty**, the State approved the 2022-2023 Prioritized Mental Health Action Strategy for Population Deprived of Liberty and adopted a law to guarantee the access to higher education for persons deprived of liberty.¹⁴³⁰ In addition, the State and the United Nations signed a memorandum of understanding to create a framework for cooperation and facilitate collaboration in prison matters.¹⁴³¹ The National Mechanism for the Prevention of Torture conducted investigations on the detention conditions and guarantee of the rights of LGBTI persons under the State's custody and found recurrent violations against their human rights.¹⁴³² In parallel, the prison system of Peru showed a high rate of overcrowding which, according to the National Penitentiary Institute (INPE), reached 125 percent by June 2023.¹⁴³³

692. With regard to **LGBTI persons**, the Ministry of Health approved technical regulations aimed at eradicating discriminatory practices in access to health care.¹⁴³⁴ In addition, a bill was introduced to punish crimes motivated by prejudice.¹⁴³⁵ In parallel, the Constitutional Court issued a ruling which recognizes the rights to nationality and to a name of a boy and a girl born through surrogacy and under the care of their father, who is a gay man.¹⁴³⁶

693. In addition, a working group was created to develop a protocol for the investigation and administration of justice in cases of violence against LGBTI persons in compliance with the judgment issued by the Inter-American Court of Human Rights in *Azul Rojas Marín et al. v. Peru*. Furthermore, the State approved the protocol to guarantee the right to vote of trans and non-binary persons during elections.¹⁴³⁷

694. However, a high level of violence against LGBTI persons was recorded in Peru during the year. More than 10 women sexual workers, including trans women, were murdered in the country during January and February. According to the information available in the public domain, these crimes were related to the collection of payments and extortion by organized crime groups.¹⁴³⁸ In response to this situation, a massive demonstration was held in Lima in February, with the population demanding the guarantee of the rights of women sexual workers, women and LGBTI persons.¹⁴³⁹

695. In this context of discrimination, the Congress rejected a bill aimed at guaranteeing the right to same-sex marriage, a decision which has been regretted by the civil society and the Office of the Ombudsman of Peru.¹⁴⁴⁰ In addition, civil society organizations denounced that diverse families in Peru continued to lack access to basic protections, such as the extension of health insurance, the transfer of assets and care.¹⁴⁴¹

¹⁴³⁰ *El Peruano*, Government of Peru, [Law No. 31,840](#), enacted on June 27, 2023.

¹⁴³¹ Government of Peru, Diplomatic Note No. 7-5-M/238 - Annex, October 14, 2023, paras. 109, 111.

¹⁴³² MNPT, "[Mecanismo Nacional de Prevención de la Tortura de la Defensoría del Pueblo: INPE debe registrar, investigar y sancionar casos de violencia y discriminación a personas LGBTI privadas de libertad](#)," April 22, 2023; and *La República*, "[El infierno tras las rejas](#)," May 7, 2023.

¹⁴³³ National Penitentiary Institute - Prison Statistics Information System (SIEP), Government of Peru, [Población Penal – Situación Actual de la Capacidad de Albergue y Sobrepoblación – 2023 – Junio](#), September 2023.

¹⁴³⁴ *Conexión Vida*, "[El Ministerio de Salud publicó hoy en el Diario Oficial El Peruano, norma técnica de prevención combinada del Virus de la Inmunodeficiencia Humana \(VIH\) para poblaciones en alto riesgo](#)," June 18, 2023.

¹⁴³⁵ *RPP*, "[Congreso: Susel Paredes presenta proyecto de ley que busca sancionar los crímenes de odio en el país](#)," February 13, 2023.

¹⁴³⁶ *El Comercio*, "[Tribunal Constitucional ordenó al Reniec inscribir a los hijos de Ricardo Morán y reconocerlos como peruanos](#)," October 13, 2023; *Infobae*, "[Ricardo Morán gana juicio y Tribunal Constitucional da nacionalidad peruana a sus hijos: 'Se hizo justicia'](#)," October 14, 2023; Constitutional Court, "[TC ordenó al Reniec la inscripción inmediata de los hijos de Ricardo Morán y reconocer su nacionalidad peruana](#)," October 13, 2023.

¹⁴³⁷ National Office of Electoral Processes, [Resolution No. 000618-2023-JN/ONPE, issued by the head of the office](#), June 8, 2023.

¹⁴³⁸ Swiss Info, "[Onusida alerta sobre asesinatos de trabajadoras sexuales cis y trans en Perú](#)," February 17, 2023.

¹⁴³⁹ *El Comercio*, "[Crímenes de odio: organizaciones LGTBI y de personas trans marchan contra asesinatos de trabajadoras sexuales](#)," February 22, 2023.

¹⁴⁴⁰ *La República*, "[Comisión de Justicia archivó proyecto de ley de matrimonio igualitario](#)," January 4, 2023.

¹⁴⁴¹ *El Comercio*, "[Los costos ocultos de la discriminación: Seis de cada diez familias LGTBQ+ han sido discriminadas](#)," May 9, 2023; and *Infobae*, "[Familias homoparentales presentan estudio: 6 de cada 10 han sido discriminadas en la vía pública](#)," May 20, 2023.

696. With regard to **memory, truth and justice**, the State developed the National Plan for Memory, Peace and Reconciliation to guarantee the recognition of and respect for the civilian, police and military victims of the period of violence between 1980 and 2000, through a process which engaged victims, officials and expert individuals and organizations,¹⁴⁴² among other initiatives.¹⁴⁴³ According to official records, between January 1 and August 31, 2023, 4,281 beneficiaries of the Comprehensive Reparations Plan (PIR) were registered in the Unified Registry of Victims (RUV).¹⁴⁴⁴

697. In addition, 192 communities and three organizations of displaced persons received support from resources transferred and projects implemented under the Collective Reparations Program. The State informed that, as a result of these actions, by August 2023, 4,500 organizations of the 5,906 beneficiaries of the PIR that had registered in the RUV received support, which represents a 76.19 percent improvement rate for this reparation measure. The State also informed that the Ministry of Health had been developing technical assistance to improve individual and community interventions for the victims of this period of political violence. It also had been training of health staff and had been providing psychosocial support for the families of disappeared persons.¹⁴⁴⁵

698. With regard to the search of disappeared persons, the General Directorate for the Search of Disappeared Persons presented results which showed that, between January and August 31, it had provided an answer on the final whereabouts of 320 persons, restored the mortal remains of 70 of them to their relatives and reunited one person found alive with their family. In addition, various state institutions involved in this matter took several actions, including: the management of the National Registry of Disappeared Persons and Burial Sites, as well as the Genetic Database; investigations on the whereabouts and fate of victims; the exhumation, identification, restitution and subsequent burial of the skeletal remains or the arrangements for a family reunion with a person found alive; psychosocial support for victims and their families; among others. The partial return of the mortal remains of victims of the *La Cantuta* case was conducted.¹⁴⁴⁶

XXV. DOMINICAN REPUBLIC

• General considerations

699. In terms of **progress**, the Commission notes the progressive implementation of the police reform, as well as the reduction of the judicial delays in the Supreme Court of Justice (SCJ). In addition, the Commission welcomes the publication of the instruction of the Office of the Attorney General of the Republic which seeks to improve the support provided to LGBTI persons. In addition, the Commission notes the efforts made by the State to prevent and protect against violence against women. Furthermore, the Commission takes note of the launch of a digital portal to receive reports of images and videos of sexual abuse of children and adolescents, and the enactment of a law that recognizes the use of sign language in the Dominican Republic.

700. Among the **challenges**, the IACHR continues to note obstacles to the exercise of the right to nationality of Haitians and Dominicans of Haitian descent, as well as the persistence of a context of structural discrimination against them. Additionally, the Commission received information about the expulsion of pregnant and breastfeeding Haitian women and their children from the Dominican Republic. The Commission also notes that sexual orientation was not included in the draft Criminal Code as a category protected against

¹⁴⁴² State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, pp. 32-34.

¹⁴⁴³ In particular, the unveiling of a plaque and a public ceremony held in recognition of the victims of the San Isidro de Añay community, in the Huácar district, province of Ambo; as well as the creation, inauguration and reinauguration of spaces for memory in Sacsamarca, province of Huancasancos, Ayacucho; Chuschi, Víctor Fajardo and Huancapi.

¹⁴⁴⁴ Among these, 2,310 are individual victims, 9 are collective victims, and 1,962 are special beneficiaries of the Education Reparations Program.

¹⁴⁴⁵ *La República*, “[Masacre de La Cantuta: 31 años después darán entierro digno a restos de 5 víctimas](#),” August 31, 2023; State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, pp. 32-34.

¹⁴⁴⁶ State of Peru, Note No. 7-5-M/238, Response of the Peruvian State to the request for information submitted by the Inter-American Commission on Human Rights (507-23/CIDH/SE/MPCT-IV) for the *2023 Annual Report*, October 14, 2023, pp. 34-36.

discrimination and that the absolute criminalization of the termination of pregnancy is maintained in the draft Code. Furthermore, the Commission is concerned about the persistence of pregnancies and early unions involving girls and adolescents. Finally, the Commission continues to observe with concern the situation of overcrowding in prisons and the excessive use of pretrial detention.

701. On November 8, 2023, the State submitted a response to the Commission's request for information to prepare this chapter.¹⁴⁴⁷

- **Specific issues**

702. In relation to **democratic institutionalism**, the IACHR notes that the Anti-Corruption Capacity Index (CCI) indicates that the Dominican Republic has maintained its progress in the fight against corruption. This is reflected on a four percent improvement compared to 2022, thus retaining the fifth place in the index.¹⁴⁴⁸ For its part, the State reported on opening of judicial proceedings regarding 14 corruption-related cases between 2020 and 2023.¹⁴⁴⁹ In addition, it informed about the launching of the project titled "Fortalecimiento del acceso a los servicios de asistencia, protección y representación legal para las víctimas de ilícitos penales" (Strengthening access to assistance, protection and legal representation services for victims of criminal offenses), which is aimed at identifying the services available to crime victims in the Dominican criminal justice system. As part of the project, coordination efforts between the state agencies involved are allegedly being made to guarantee the rights of the victims.¹⁴⁵⁰

703. In terms of **citizen security**, official information indicates that between January and June 2023, the number of homicides due to crime dropped by 23 percent; there was a nine-percent reduction in deaths due to social conflicts, a 20-percent drop in the number of people injured due to crime, a 16-percent reduction in the number of robberies; and a 19-percent drop in the number of assaults. The State also reported a 44 percent improvement in actions against drug trafficking.¹⁴⁵¹ In addition, the Commission followed up on the implementation of the police reform. In this regard, it noted that the government had announced a new police training center as part of the work program established to carry out said reform.¹⁴⁵²

704. Regarding **access to justice**, the Commission highlights the implementation of a plan to reduce judicial delays.¹⁴⁵³ In this respect, the State reported that, until August 2023, the Second and Third Chambers of the judiciary eliminated judicial delays related to those files processed under the law on cassation proceedings. It also indicated that the First Chamber was also expected to reduce judicial delays by December 2023.¹⁴⁵⁴ Likewise, information from the judiciary published in January 2023 indicated that by the end of 2022 the Supreme Court of Justice had reduced by 81 percent the total number of cases pending resolution.¹⁴⁵⁵ The Commission also notes the case management software (SGC) was extended to the criminal jurisdiction (among others), so as to facilitate the follow-up and monitoring of court activity.¹⁴⁵⁶ In addition, in November 2023, the State informed that in December 2022, the *Guía de Comunicación con Perspectiva de Género* (Guide on

¹⁴⁴⁷ Ministry of Foreign Affairs, Dominican Republic, Information corresponding to the Dominican State as a contribution to the 2023 Annual Report of the IACHR, November 7, 2023. In IACHR files.

¹⁴⁴⁸ Americas Society / Council of the Americas, [The Anti-Corruption Capacity Index \(CCI\) Assessing Latin America's capacity to detect, punish and prevent corruption](#), 2023, p. 16.

¹⁴⁴⁹ Ministry of Foreign Affairs, Dominican Republic, Information provided by the Dominican State for the 2023 Annual Report of the IACHR, November 7, 2023, p. 2. In IACHR files.

¹⁴⁵⁰ Ministry of Foreign Affairs, Dominican Republic, Information provided by the Dominican State for the 2023 Annual Report of the IACHR, November 7, 2023, p. 3. In IACHR files.

¹⁴⁵¹ National Police, Dominican Republic, "[Presidente Abinader pasa balance a medidas han permitido reducir criminalidad en 2023 en comparación con el 2022.](#)" July 30, 2023.

¹⁴⁵² Presidency of the Dominican Republic, "[President Abinader inaugurates important Police Training Center.](#)" October 11, 2023.

¹⁴⁵³ IACHR, [2022 Annual Report, Chapter IV.A "Dominican Republic."](#) para. 673.

¹⁴⁵⁴ Ministry of Foreign Affairs, Dominican Republic, Information provided by the Dominican State for the 2023 Annual Report of the IACHR, November 7, 2023, p. 25. In IACHR files.

¹⁴⁵⁵ Judiciary, Dominican Republic, [Resumen de un año de trabajo 2022: en ocasión de la conmemoración del día del Poder Judicial, audiencia solemne](#), January 7, 2023, p. 14.

¹⁴⁵⁶ Judiciary, Dominican Republic, "[Poder Judicial ampliará nuevo Sistema de Gestión de Casos.](#)" January 17, 2023.

Communication with a Gender Perspective) was published, with the objective of promoting inclusive language among judicial operators.¹⁴⁵⁷

705. With regard to the **rights of women**, the Commission notes the State's efforts to prevent and protect against violence through the *212 hotline and shelters. According to information from the Ministry of Women, these measures have allowed for a timely intervention in cases of imminent risk to women's lives.¹⁴⁵⁸ It also notes that a bill on the prevention and attention to violence against women is being discussed by the National Congress, which seeks to recognize different types of gender violence, as well as to establish a comprehensive system to prevent violence.¹⁴⁵⁹ However, while femicides have reportedly decreased in recent years,¹⁴⁶⁰ the Commission remains concerned about their high prevalence. According to information in the public domain, 42 cases¹⁴⁶¹ were registered in the first half of 2023, increasing to 57 by the end of October.¹⁴⁶²

706. On the other hand, the Commission notes that the draft of the new Criminal Code adopted by the Senate in February 2023 does not include the decriminalization of abortion on the grounds of danger to the life or health of the gestating person, or when the pregnancy is the result of rape or incest.¹⁴⁶³ However, it warns that the draft code should be reintroduced in Congress, and its discussion should be initiated again in the Chamber of Deputies.¹⁴⁶⁴ In this context, the Commission notes women groups and civil organization's concern over and rejection of the possible final passing of this draft code without including the aforementioned situations.¹⁴⁶⁵ For its part, the State reported persistently high levels of domestic violence in the country. From January to March 2023, the National Police provided assistance to 3,084 women victims of domestic violence.¹⁴⁶⁶

707. With respect to **persons in the context of human mobility**, the Commission held a public hearing during the 188th period of sessions to follow up on the expulsions of pregnant women, children and adolescents from Haiti.¹⁴⁶⁷ In this regard, the Commission received complaints¹⁴⁶⁸ and videos,¹⁴⁶⁹ disseminated on social media showing that the General Directorate of Migration is carrying out immigration control

¹⁴⁵⁷ Ministry of Foreign Affairs, Dominican Republic, Information provided by the Dominican State for the *2023 Annual Report* of the IACHR, November 7, 2023, p. 10. In IACHR files. See also: Judiciary, Dominican Republic, "[Poder Judicial implementa Guía de Comunicación con Perspectiva de Género](#)," December 28, 2022.

¹⁴⁵⁸ *El día*, "[Ministerio de Mujer rescata entre 10 y 15 féminas a la semana en riesgo por causa violencia de género](#)," August 10, 2023; *El Caribe*, "[Emiten 5,611 órdenes arresto por violencia a mujeres en lo que va de año](#)," August 14, 2023.

¹⁴⁵⁹ Senate of the Republic, Dominican Republic, "[Comisión Senado y ministra de la Mujer analizan proyecto ley crea Sistema Integral para erradicación violencia contra mujer](#)," September 13, 2023; *El Caribe*, "[Emiten 5,611 órdenes arresto por violencia a mujeres en lo que va de año](#)," August 14, 2023. *En segundos*, "[Médicos que provoquen muerte de mujeres por negarles aborto serían condenados a 30 años de cárcel](#)," October 15, 2023.

¹⁴⁶⁰ *Hoy*, "[Rendición de cuentas de Abinader: Las mujeres son el principal objetivo de políticas públicas de este gobierno](#)," February 27, 2023.

¹⁴⁶¹ *CNN*, "[Los femicidios en República Dominicana aumentan en más de un 20% el primer semestre de 2023, según cifras oficiales](#)," July 6, 2023.

¹⁴⁶² *El Caribe*, "[Femicidios en 10 meses de este año casi superan las cifras del 2022](#)," October 14, 2023.

¹⁴⁶³ Senate of the Republic, Dominican Republic, "[Aprueban en segunda lectura Código Penal: establece nuevos tipos penales](#)," February 14, 2023.

¹⁴⁶⁴ Human Rights Watch, "[Dominican Republic: Submission to the UN Committee on the Rights of the Child](#)," August 31, 2023.

¹⁴⁶⁵ MESECVI-OEA X account (@MESECVI), February 17, 2023, ([tweet](#)); *Hoy*, "[Organizaciones de mujeres campesinas rechazan aprobación Código Penal sin las causales](#)," February 8, 2023. *En segundos*, "[Organizaciones repudian Código Penal aprobado en el Senado](#)," February 15, 2023; *El Caribe*, "[Objetan informe CP sin tres causales ni inclusión LGBTQI+](#)," May 23, 2023; *Hoy*, "[ACD pide Código Penal permita abortar](#)," August 29, 2023.

¹⁴⁶⁶ Ministry of Foreign Affairs, Dominican Republic, Information provided by the Dominican State for the *2023 Annual Report* of the IACHR, November 7, 2023, p. 20. In IACHR files.

¹⁴⁶⁷ IACHR, *2021 Annual Report, Chapter IV.a. Dominican Republic*, para. 846. See also: IACHR, [Press Release No. 320/21 – "IACHR Expresses Concern Over Pregnant Women Expelled from the Dominican Republic and Calls on State to Guarantee Access to Protection Mechanisms and Reproductive Health Services"](#), Washington, D.C., December 1, 2021. IACHR, [thematic hearing "Access to health care for pregnant Haitian migrant women and girls"](#), 188th regular period of sessions, November 6, 2023.

¹⁴⁶⁸ Sergia Galvan X account (@sergiagalvan). (July 20, 2023). Mujeres embarazadas en República que acuden a hospitales bajo ataque del gobierno por ser o parecer ser Haitianas, (Pregnant women in the Republic who go to hospitals under attack by the government for being or appearing to be Haitian), ([tweet](#)).

¹⁴⁶⁹ Sergia Galvan X account (@sergiagalvan). (July 20, 2023). En RD la Dirección de Migración apostada en los hospitales para sacar a las embarazadas haitianas, (In the Dominican Republic, the Migration Department is stationed in hospitals to remove Haitian pregnant women), ([tweet](#)).

operations at different hospitals across the country. These operations disproportionately affect Haitian or Dominican pregnant¹⁴⁷⁰ women of Haitian descent, most of whom are Afro descendants. In addition, publicly disclosed information indicates that these actions are also affecting Haitian women who, in turn, are seeking access to medical care with or for children. According to the information received, these women were allegedly forced to take the vehicles of the General Directorate of Migration to different Haitian border access points and to leave Dominican Republic.¹⁴⁷¹ According to civil society organizations, these situations are part of a context of historical **racial discrimination** that persists against Haitians in the Dominican Republic as a result of the legacy of racism, colonialism and slavery.¹⁴⁷²

708. For its part, the State indicated to the Commission that migration control operations to deport pregnant women and/or foreigners were not a state practice. It also emphasized that it has a hospital system that provides health protection, maternity care and neonatal attention to all women, children and adolescents, regardless of their migration status, and despite the socioeconomic impact of irregular migration in the country. In particular, the State reported that, according to data from the Repository of Information and Statistics of the National Health Service, between January and August 2023, 68,378 births were reported, out of which 24,100 corresponded to Haitian women, a figure that accounted for 35.24 percent of the total number of births in the country.¹⁴⁷³

709. Furthermore, the Commission continued to observe with concern the situation of Haitians and Dominicans of Haitian descent in the Dominican Republic, most of whom are Afro-descendants, in particular, in relation to the effects of the Constitutional Court's Ruling No. 168-13¹⁴⁷⁴ and the obstacles for the registration of daughters and sons of Haitian nationals born in Dominican territory.¹⁴⁷⁵ By means of a press release dated September 29, 2023, the Commission noted that, according to information from civil society organizations, more than 34,000 people have not recovered their Dominican identity documents regardless of the entering into force of Law 169-14 in 2014, which restored Dominican nationality to persons identified in Article 1(a) of said law and ordered that the process be expedited without additional requirements. The organizations also indicated that 799 people registered in the National Plan for the Regularization of Foreigners with irregular migration status have not yet received documents proving their nationality, despite a presidential decree that provided for their naturalization, whereas 1,000 people are still waiting for such decrees. At the same time, the Commission observed that expressions of hostility persisted against those who had criticized Ruling TC/0168/13 and had defended the right to nationality of Dominicans of Haitian descent; and that racism and xenophobia increased.¹⁴⁷⁶

710. For its part, the State reported that, in application of Law 169-14, the legal status prior to Ruling TC/0168/13 was restored, and Dominican identity documents were issued to 60,773 people identified by the Central Electoral Board. Out of these, only 26,123 people came to pick up their documents, while the remaining 34,610 people did not show up. In addition, 7,159 people obtained approval to be included in the National Plan for the Regularization of Foreigners, so that they could apply for naturalization after two years. According to the information available, Presidential Decrees 262-20 and 297-21 were issued, granting

¹⁴⁷⁰ RD_ANTI_RRACISTA, "[Declaración conjunta](#)," July 26, 2023.

¹⁴⁷¹ MOSCTHA, "[El Movimiento Socio Cultural de los Trabajadores Haitianos \(MOSCTHA\), expresa su preocupación por el atropello del que fueron víctimas unas mujeres embarazadas](#)," July 22.

¹⁴⁷² Movimiento Socio Cultural para los Trabajadores Haitianos (MOSCTHA) and Red de Encuentro Dominicano Haitiano Jacques Viau (REDH-JV), *Report on the context of racism in the Dominican Republic, October 19, 2023*, pp. 5-7. In IACHR files.

¹⁴⁷³ Ministry of Foreign Affairs, Dominican Republic, Information on the expulsion of pregnant Haitian women, September 29, 2023. In IACHR files.

¹⁴⁷⁴ IACHR, [2022 Annual Report, Chapter IV.a. Dominican Republic](#), 2022, para. 675.

¹⁴⁷⁵ IACHR, Press Release No. 232/23 - "[Dominican Republic: IACHR urges the State to Eradicate Statelessness](#)," September 29, 2023.

¹⁴⁷⁶ IACHR, Press Release No. 232/23 - "[Dominican Republic: IACHR urges the State to Eradicate Statelessness](#)," September 29, 2023.

naturalization to 799 people. As part of this procedure, the State is in the process of reopening the office that delivers these documents to ensure the regular stay of these people in the country.¹⁴⁷⁷

711. Regarding **trafficking in persons**, the Commission welcomes the holding of trials before the collegiate courts of first instance of the judicial districts of La Altagracia and the province of La Vega, whereby human trafficking perpetrators were sentenced to 10 years in prison.¹⁴⁷⁸ In addition, the Commission notes with concern the withdrawal of the draft comprehensive law on trafficking in persons, exploitation and smuggling of migrants, which was submitted by the executive branch and was being discussed at the Congress of the Republic.¹⁴⁷⁹

712. Regarding the rights of **children and adolescents**, the Commission welcomes the launch of a digital portal to receive reports of images and videos of sexual abuse of children and adolescents, which seeks to combat online child sexual abuse.¹⁴⁸⁰ In addition, it notes that the Ministry of Education of the Dominican Republic (MINERD) ratified that under no circumstances may education be denied to children and adolescents based on reasons such as the absence of parents, representatives or guardians, the lack of identity documents, insufficient economic resources or other causes that violate their rights.¹⁴⁸¹

713. With respect to child marriage, the Commission shares the concern expressed by the United Nations Committee on the Rights of the Child regarding the lack of regulations on the age of consent, which allegedly results in high rates of early unions.¹⁴⁸² It also notes the statements made by the Cabinet for Children and Adolescents (GANA) and the National Council for Children and Adolescents (CONANI) regarding the high number of girls and adolescents who are pregnant and in early unions, as well as those who are already mothers and those who have been victims of rape and incest. In citing measures that should be strengthened, GANA and CONANI include comprehensive sexual education, which should be provided both in formal and out-of-school education to prevent the sexual abuse of girls and adolescents.¹⁴⁸³

714. With regard to **persons deprived of liberty**, the Commission reiterates its concern about overcrowding, the excessive use of pretrial detention and the deplorable conditions of detention faced by this population. According to World Prison Brief data, as of July 31, 2023, the overcrowding rate was 163.4 percent.¹⁴⁸⁴ The National Office of Public Defender reports that the prisons of La Victoria, Bani, Azua, San Juan de la Maguana and Barahona are the most overcrowded.¹⁴⁸⁵ In this scenario, the excessive use of preventive detention allegedly appears to be one of the main causes of overcrowding. Its application rate, as of July 31, 2023, reached 58 percent.¹⁴⁸⁶

715. The Commission is also concerned about the conditions of detention faced by persons deprived of liberty in the Dominican Republic. According to data published in 2023 by the National Office of the Public Defender, in addition to overcrowding, these conditions include: i) the lack of medical attention; ii)

¹⁴⁷⁷ IACHR, Press Release No. 232/23 – [“Dominican Republic: IACHR urges the State to Eradicate Statelessness,”](#) September 29, 2023. See also: Presidency of the Dominican Republic, [“Gobierno dominicano rechaza acusaciones de la Comisión Interamericana de Derechos Humanos sobre la nacionalidad,”](#) September 29, 2023.

¹⁴⁷⁸ Government of the Dominican Republic, [“Por arduo trabajo policial contra la trata y tráfico de personas, justicia condena a seis personas a 10 años de prisión por este delito,”](#) March 7, 2023.

¹⁴⁷⁹ Government of the Dominican Republic, [“Government withdraws the Trafficking Law project to produce greater consensus,”](#) February 12, 2023; Government of the Dominican Republic, [“El presidente del Senado asegura que se harán las modificaciones necesarias al Proyecto de Ley de Trata de Personas para proteger la soberanía nacional,”](#) February 9, 2023; *Listin Diario*, [“Abel Martínez dice es de ‘alta traición’ proyecto de ley de protección a víctimas de trata y tráfico de migrantes,”](#) February 9, 2023.

¹⁴⁸⁰ UNICEF, [“Lanzan portal de denuncias de imágenes y videos de abuso sexual de niñas, niños y adolescentes,”](#) April 25, 2023.

¹⁴⁸¹ Presidency of the Dominican Republic, [“MINERD indicates lack of birth certificate will not be an obstacle to enrolling students,”](#) July 31, 2023.

¹⁴⁸² United Nations, [“Experts of the Committee on the Rights of the Child Praise the Dominican Republic’s Progress in Promoting Birth Registration, Ask about High Levels of De Facto Child Marriage and Support for Asylum-Seeking Children from Haiti,”](#) September 6, 2023.

¹⁴⁸³ Presidency of the Dominican Republic, [“Cabinet for Children and Adolescents and CONANI affirm MINERD figures on pregnancies should promote comprehensive sexual education,”](#) May 10, 2023.

¹⁴⁸⁴ World Prison Brief, [World Prison Brief data – Dominican Republic](#), 2023.

¹⁴⁸⁵ National Office of the Public Defender, Dominican Republic, [Informe Anual 2022](#), August 2023, p. 64.

¹⁴⁸⁶ World Prison Brief, [World Prison Brief data – Dominican Republic](#), 2023.

the lack of medicines for people with terminal illnesses; iii) the lack of mattresses for 40 percent of the prison population in the traditional model prisons; iv) scarce technical and custody staff; and v) no effective separation by gender in the prisons of Salcedo, Nagua and Samaná. In addition to the above, the budget to address this situation has been reduced to approach this situation.¹⁴⁸⁷

716. The Commission is also concerned about the situation faced by adolescents detained in the country's correctional centers, characterized by an excessive use of preventive detention. These groups also faces challenges in terms of social reintegration. In this regard, according to data from the National Office of the Public Defender, out of the 323 adolescents deprived of liberty as of March 2023, 61 percent were subject to preventive detention. Regarding social reintegration, the same source indicates that "no work is being done for this group's rehabilitation, education and reintegration into society."¹⁴⁸⁸

717. In relation to the rights of **LGBTI persons**, the Commission welcomes the publication of the Instruction No. 00002 of 2023 of the Office of the Attorney General of the Republic, which seeks to improve the attention of the Office of the Public Prosecutor towards LGBTI persons and other groups at special risk. The instruction mandates, among others, to respect the self-perceived gender identity of transgender persons and to protect confidential information of LGBTI persons and those who are victims of violence.¹⁴⁸⁹ However, the Commission notes with concern the widespread opposition to the publication of this instruction, on the grounds that it allegedly violates the Constitution of the country.¹⁴⁹⁰ In this context, a coalition of civil society actors, including the Catholic Church and the business sector, have reportedly filed objections to the referred instruction.¹⁴⁹¹

718. Furthermore, the Commission also notes that while earlier versions of the draft Criminal Code included sexual orientation as a category protected against discrimination, in the draft adopted by the Senate in February 2023, such protections were eliminated.¹⁴⁹² For their part, civil society organizations pointed out that the draft Criminal Code "does not protect the community" and "promotes impunity and violence."¹⁴⁹³ Finally, the Commission is concerned about reports of stigmatizing speech and online anti-LGBT and racist attacks against human rights defenders because of their sexual orientation and the activities they carry out in defense of the rights of LGBTI persons.¹⁴⁹⁴

719. Regarding the rights of the **older persons**, the Commission notes the presentation of the *Protocolo de manejo nutricional e integral del adulto mayor* (Protocol for the nutritional and integral management of the older persons), which aims to contribute to the reduction of physical deterioration, disability, morbidity and mortality related to the nutrition of this population. According to official information, this protocol allegedly establishes a national reference for the nutritional assessment of hospitalized, institutionalized or ambulatory older persons, to guide the detection and timely treatment of malnutrition.¹⁴⁹⁵

720. Regarding the rights of **persons with disabilities**, the Commission notes the enactment of a law that recognizes the use of sign language in the Dominican Republic and incorporates it as an official mechanism of communication for deaf and hearing-impaired people in the country. Said law establishes the

¹⁴⁸⁷ National Office of the Public Defender, Dominican Republic, *Informe Anual 2022*, August 2023, pp. 29, 33, 64.

¹⁴⁸⁸ National Office of the Public Defender, Dominican Republic, "[Los Centros Correccionales de menores son Tierra de Nadie](#)," March 9, 2023.

¹⁴⁸⁹ *Diario Libre*, "[Activista LGBTIQ califica como un "avance" resolución de procuradora general](#)," September 7, 2023; *Acento*, "[Procuradora instruye al MP sobre manejo de casos que involucran poblaciones vulnerables](#)," August 7, 2023.

¹⁴⁹⁰ N.com, "[Capricho de preferencia comunidad LGBTIQ viola Constitución y Ley del Estado Civil](#)," September 8, 2023; *Diario Libre*, "[Causa revuelo instrucción sobre el manejo de los casos que involucran a Comunidad LGBTIQ](#)," September 8, 2023.

¹⁴⁹¹ *El Nacional*, "[Refutan instrucción PGR sobre trato a grupo LGBTQ](#)," September 26, 2023.

¹⁴⁹² *El Caribe*, "[Senadores aprueban Código Penal en primera lectura sin las tres causales](#)," February 8, 2023.

¹⁴⁹³ TRANSSA X account (@TRANSSA_TransRD). El Código Penal aprobado en segunda lectura no protege a la comunidad #LGBTIQ+, las #mujeres y las #niñas contra la #discriminación y la #violencia (...). (The Criminal Code approved in second reading does not protect the LGBTIQ+ community, women and girls against discrimination and violence [...]), [tweet](#), February 17, 2023.

¹⁴⁹⁴ Communication sent to the IACHR by the alleged victim in the archives of the IACHR and copy of report of discrimination by local business sent to the Office of the General Attorney and the Office of the Public Prosecutor.

¹⁴⁹⁵ Presidency of the Dominican Republic, "[Public Health presents nutritional management protocol for the elderly](#)," October 18, 2023.

promotion of bilingual education, based on Spanish and sign language, and the creation of training and learning programs for teachers and administrative staff as a responsibility of the Ministries of Education and Higher Education.¹⁴⁹⁶ In addition, the Commission commends the presentation of an inclusion strategy that involves the training of staff in all areas of government, so as to effectively respond to the needs of persons with disabilities when they request services in public institutions.¹⁴⁹⁷

XXVI. SAINT KITTS AND NEVIS

• General considerations

721. As it relates to **progress**, the Commission highlights the passage of legislation to strengthen the State's good governance agenda. Also, the IACHR salutes the appointment of the first female Governor-General, the Commission highlights the launch of the Opportunities to Advance and Support Youth for Success project to reintegrate adolescents and measures adopted by the State to facilitate the social reintegration of persons deprived of liberty.

722. In relation to **challenges**, the State has recorded an increase in homicides for the year. The Commission also observes the lack of progress in establishing a human rights institution in accordance with the Paris Principles and the continued retention of the death penalty as the punishment for the crime of murder.

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

• Specific issues

724. With respect to **democratic institutional**ity, the Commission notes the progress of the State in strengthening its good governance agenda. Particularly, on February 22, 2023, the State passed the Anti-Corruption Bill, the Integrity in Public Life Amendment Bill, and the Freedom of Information Amendment Bill. The Anti-Corruption Bill defines and creates criminal offenses of corrupt conduct and creates the office of a Special Prosecutor to receive complaints, investigate and prosecute acts of persons in public life in Saint Christopher and Nevis.¹⁴⁹⁸

725. With respect to **human rights institutions**, the IACHR once again notes the lack of progress in establishing a human rights institution in accordance with the Paris Principles. While the State has installed an acting Ombudsman, it lacks the requirements of establishment under primary law or the Constitution and a broad mandate to promote and address human rights as it is not empowered to investigate violations of human rights.¹⁴⁹⁹

726. Regarding **citizen security**, the IACHR observes the efforts to reduce crime such as increased security presence in communities, further engagement of regional and international security experts to work along with local forces, strengthening of the intelligence capabilities of the security forces and enhancement of evidence gathering capabilities to ensure that perpetrators are brought to justice. Note is also taken of the new National Security Taskforce¹⁵⁰⁰ a new initiative that approaches crime and violence from a public health perspective. In addition, according to public information, the State recorded 17 homicides as of September

¹⁴⁹⁶ Presidency of the Dominican Republic, "[President Abinader leads promulgation of the Law that recognizes sign language in the Dominican Republic](#)," August 11, 2023.

¹⁴⁹⁷ Presidency of the Dominican Republic, "[MAP and Ombudsman will promote the inclusion of people with disabilities in public institutions](#)," July 11, 2023.

¹⁴⁹⁸ National Assembly, [Anti-Corruption Bill](#), 2023

¹⁴⁹⁹ St. Kitts and Nevis Information Service, [Acting Ombudsman installed as part of Government's good governance transformation](#), March 20, 2023.

¹⁵⁰⁰ St. Kitts and Nevis Information Service, [Prime Minister and Minister of National Security Commissions National Security Taskforce to Address the Crime and Violence as Public Health Issue](#), June 6, 2023.

2023¹⁵⁰¹ This indicates that the State's homicide rate for 2023 was 35.7 per 100,000 inhabitants which is relatively high.¹⁵⁰²

727. Regarding **access to justice**, according to available information, Saint Kitts and Nevis is one step closer to establishing an Access to Justice Bureau aimed at strengthening the Rule of Law in the country and positively impacting people's quality of life. Particularly, the Bureau will consist of three arms to improve citizen's access to justice and proper representation. The first arm would be the Legal Aid Clinic, where people can attend and receive service for civil matters, including family court. The second arm would be the Public Defender's Office, where the Government will pay for lawyers to be able to defend persons charged with criminal offenses, at very low fees. The third arm would be Alternative Dispute Resolution and Restorative Justice to assist in resolving disputes amicably without the intervention of the court. This would improve citizens' access to justice and proper representation.¹⁵⁰³

728. Regarding the rights of **women**, the IACHR salutes the appointment of Marcella Liburd as the first female Governor-General, the highest office in the Federation of St. Kitts and Nevis.¹⁵⁰⁴ It also takes note of support provided by the Government to NGOs to improve services for women and children who experience domestic violence.¹⁵⁰⁵

729. Regarding the rights of **people in the context of human mobility**, the Commission noted that on February 2, 2023, 15 Haitian nationals arrived irregularly in the State and were detained in a government facility. In June, they were released from detention by the Government and placed into the care of a local Haitian Community.¹⁵⁰⁶ On the other hand, according to public information, to strengthen the regional thrust against irregular migration, the Government would soon revise and enhance its laws and procedures through which asylum is sort.¹⁵⁰⁷

730. In relation to **human trafficking**, the Commission takes note of the country's pledge to suppress trafficking in persons as this crime is becoming a national security concern with non-nationals alighting from boats arriving at the country's borders.¹⁵⁰⁸

731. With respect to the rights of **children**, the Commission takes note of the launch of the Opportunities to Advance and Support Youth for Success project, in which Antigua and Barbuda, Dominica, Saint Lucia and Saint Vincent and the Grenadines also participate, that seeks to reintegrate adolescents in conflict with the criminal law and implement the restorative justice model in order to reduce recidivism rates and promote positive life trajectories.¹⁵⁰⁹ In addition, the IACHR takes note of the agreements between the Ministry of Education and the Organization of Eastern Caribbean States for the delivery of educational and learning resources to the country, and for the launching of the "Pearl Project" that would improve the quality of teaching and learning in the State.¹⁵¹⁰ Also, the IACHR welcomes the initiatives adopted by the State in the

¹⁵⁰¹ Winnfm.com, [Crime remains pervasive in St. Kitts Nevis](#), September 14, 2023.

¹⁵⁰² The IACHR calculated the homicide rate based on the State's population of 47,657 according to data from The World Bank, [Population, total – St. Kitts and Nevis](#), 2022.

¹⁵⁰³ St. Kitts Nevis Information Service, [St. Kitts And Nevis One Step Closer To Establishing An Access To Justice Bureau](#), May 18, 2023.

¹⁵⁰⁴ SKNIS, [Her excellency Marcella Liburd IP sworn in as St. Kitts and Nevis' first female Governor-General](#), February 3, 2023.

¹⁵⁰⁵ SKNIS, [Government signs MOU with garden of rebirth to enhance assistance to victims of gender-based violence](#), March 9, 2023.

¹⁵⁰⁶ St. Kitts Nevis Information Service, [Statement Of Update Re: Haitian Detainees](#), June 11, 2023.

¹⁵⁰⁷ St. Kitts Nevis Information Service, [Government Of St. Kitts And Nevis Vows To Clamp Down On Human Smuggling](#), July 15, 2023; Loop Caribbean News, [St Kitts and Nevis to crack down on human trafficking](#), July 16, 2023.

¹⁵⁰⁸ Government of Saint Kitts and Nevis, [Government of St. Kitts and Nevis vows to clamp down on human smuggling](#), July 15, 2023.

¹⁵⁰⁹ Organization of Eastern Caribbean States, ["Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis"](#), July 11, 2023.

¹⁵¹⁰ St. Kitts & Nevis Information Service, [Ministry of Education Together with the OECS Commission Working to Enhance Education Sector via Pearl Project](#), September 30, 2022.

area of health to reduce the mortality rate and make childbirth safer and to train nurses and other personnel in neonatal care.¹⁵¹¹

732. On the matter of **persons deprived of liberty**, the Commission welcomes the measures adopted to facilitate the social reintegration of released people. According to official information, in February 2023, the Cabinet of Ministers launched an initiative that allow released inmates who are members of the Rehabilitation Programme to be attached to the Skills Training Empowerment Programme (STEP) or a similar programme where they can gain employment to support themselves and their families. Specifically, this Rehabilitation Programme engages incarcerated men and women in educational programmes, music, art, agriculture, construction, baking, mentorship, and training, among others.¹⁵¹²

733. Concerning the **death penalty**, the IACHR once more notes that Saint Kitts and Nevis continues to retain the death penalty even though no execution has been carried out since 2008. The Commission further notes that, as of May 2023, no one was on death row in the State, and no progress has been made in removing this form of punishment from national law.¹⁵¹³

734. In relation to the rights of **older persons**, the IACHR learned of the State's efforts to grant certifications through the Skills Training Empowerment Program (STEP). This will allow health centers aimed at older persons to have a new volume of specialized professionals in the needs of this population.¹⁵¹⁴ The IACHR encourages the State of Saint Kitts and Nevis to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

XXVII. SAINT VINCENT AND THE GRENADINES

- **General considerations**

735. As it relates to **progress**, the IACHR values the State's initiative to establish an inclusive education system for students with disabilities. Also, the Commission highlights the holding of meetings between public authorities and civil society to create the first national legislation aimed at older people in the country, and an initiative geared towards facilitating social reintegration of persons deprived of liberty through education.

736. In relation to **challenges**, the IACHR observes the recorded increase in homicides. Also, the Commission notes the situation of the violence and discrimination that LGBTI persons experienced in the State.

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

- **Specific issues**

738. Regarding **democratic institutional**ity, the IACHR takes note that according to the Rule of Law Index issued by the World Justice Project (WJP), the State placed 7 out of 32 countries of the region of Latin

¹⁵¹¹ SKN Vibes, [“Healthcare sector in St. Kitts and Nevis earmarked for even more improvements, Says Prime Minister Dr. Drew”](#), July 26, 2023. St. Kitts Nevis Information Service, [Nurses in St. Kitts and Nevis Benefit from training in neonatal care from The World Pediatric Project](#), June 6, 2023. See also: Associates Times, [“EXPLAINED: Quick Review of One year of St Kitts and Nevis government in office”](#), August 5, 2023.

¹⁵¹² St. Kitts Nevis Information Service, [Government Creates Job Opportunities for Reformed HMP Residents upon Release](#), February 2, 2023.

¹⁵¹³ World Coalition Against the Death Penalty, [Saint Kitts and Nevis](#), May 23, 2023.

¹⁵¹⁴ SKINS, [Eighteen new elderly care providers graduate as government bolsters seniors' programmes](#), March 24, 2023.

America and the Caribbean; and 42 out of 140 countries worldwide.¹⁵¹⁵ This represents a slight improvement from the State's previous position of 7th in the region and 41st globally in 2022.

739. With respect to **human rights institutions**, the IACHR once again notes the lack of progress in establishing a national human rights institution in accordance with the Paris Principles.¹⁵¹⁶

740. Regarding **citizen security**, according to public information, the State has increased the police presence and will hold town hall meetings in various communities to update the public on measures to address the increase in crime. According to the State, the objective is to improve the level of policing and be more effective in protecting the people.¹⁵¹⁷ On the other hand, according to public information, the State recorded 55 homicides in 2023.¹⁵¹⁸ This is an increase from the 42 homicides recorded in the previous year.¹⁵¹⁹ This also indicates that the State's homicide rate for 2023 was 53 per 100,000 inhabitants.¹⁵²⁰

741. Regarding **access to justice**, the Commission highlights the efforts to modernize the Supreme Court. Particularly, the use of the E-Litigation portal of the Eastern Caribbean Supreme Court would bring advantages to the Family Court of the State as it may transform the management of family court proceedings, by providing electronic document filing and service. It would also enhance efficiency and effectiveness of court services and improve access to justice.¹⁵²¹

742. Regarding **human trafficking**, the Commission takes note of the 2023 Amendment to the Prevention of Trafficking in Persons Act 2011, which states that any person convicted of an offence in contravention of this legislation is subject to lengthy jail time ranging from twelve to twenty-five years.¹⁵²²

743. Regarding the rights of **children**, the IACHR was made aware of a project that seeks to establish an inclusive education system, through the incorporation of educational opportunities for students with disabilities and/or facing other challenges.¹⁵²³ In addition, the Commission was informed of the delivery of laptops to 2,500 students, within the framework of cooperation with the Government of the Republic of China.¹⁵²⁴

744. Regarding juvenile criminal system, the IACHR welcomes the launch of the Opportunities to Advance and Support Youth for Success project, in which Antigua and Barbuda, Grenada, Saint Kitts and Nevis, Saint Lucia and Dominica also participate, which seeks to promote a shift from punitive measures to social reintegration and restorative justice in order to reduce recidivism rates and promote positive trajectories for adolescents in conflict with the criminal law.¹⁵²⁵

745. On the other hand, according to data from the Pan American Health Organization, by the end of 2023, the teenage pregnancy rate is expected to be of 45.2, while in 2000 the rate was 77.1. This represents a decrease of 41.3%.¹⁵²⁶ On the other hand, and under Article 18 of its Statute, the IACHR requested information from the State regarding possible gaps covering legal protection of children under the Criminal Code.¹⁵²⁷ The

¹⁵¹⁵ World Justice Project, [WIP Rule of Law Index – Saint Vincent and the Grenadines](#), 2023.

¹⁵¹⁶ IACHR, [Annual Report, Chapter IV.A “Saint Vincent and the Grenadines”](#), 2022, para. 711.

¹⁵¹⁷ Searchlight, [“Every community” to see increase police presence in 2023](#), January 31, 2023.

¹⁵¹⁸ One News SVG, [Over 4,100 criminal offences recorded in SVG during 2023, new measures coming](#), January 3, 2024.

¹⁵¹⁹ IWitness News, [With 35 murders already, SVG close to shattering the 2022 record of 42](#), July 20, 2023.

¹⁵²⁰ The IACHR calculated the homicide rate based on the State's population of 103,748 according to data from The World Bank, [Population, total – St. Vincent and the Grenadines](#), 2022.

¹⁵²¹ Searchlight, [SVG now on ECSC E-litigation portal for the Family Court](#), May 26, 2023.

¹⁵²² Government of Saint Vincent and the Grenadines, [Human Trafficking, a Global Phenomenon](#), March 3, 2023.

¹⁵²³ St. Vincent Times, [“St Vincent advances an inclusive education system”](#), February 25, 2023.

¹⁵²⁴ Ministry of Education and National Reconciliation, [SVG - Only Caribbean Country to Procure And Provide Learning Devices For Students](#), May 26, 2023.

¹⁵²⁵ Organization of Eastern Caribbean States, [“Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis”](#), July 11, 2023.

¹⁵²⁶ Pan American Health Organization, [Country Profile: Saint Vincent and the Grenadines](#), 2023.

¹⁵²⁷ IACHR, St. Vincent and the Grenadines – Gaps covering legal protection of children under the Criminal Code, Article 18 of the American Declaration, October 19, 2023, IACHR Archive.”

Commission was informed that cases of sexual violence against male children are punished as “buggery”,¹⁵²⁸ since the criminal law classifies as rape only acts of a sexual nature committed by men against women. This would generate different and discriminatory criminal proceedings to the detriment of male children.

746. Concerning **persons deprived of liberty**, the Commission values the State’s initiative geared towards facilitating the social reintegration through education. According to public information, in January 2023, 72 prison inmates housed at the Belle Isle Correctional Facility graduated from skills training programs such as Bamboo Craft Making, Small Appliance Repair and Tie Dyeing.¹⁵²⁹ Additionally, in September, a literacy program designed for imprisoned adult learners has resumed in St. Vincent’s two prisons after restrictions posed by the COVID-19 pandemic and the volcanic eruption which interrupted the initial project. The project intends to have 25% of the prison population involved in the program as mentors/librarians or learners by the end of 2024.¹⁵³⁰

747. Concerning the **death penalty**, the IACHR once more notes that Saint Vincent and the Grenadines has a *de facto* moratorium in place and that no execution has taken place since 1995, and no one has been sentenced to death since this time. Moreover, the IACHR expresses concern about the lone prisoner on death row since February 2010.¹⁵³¹ Additionally, the Commission takes note with concern of the comments of the Prime Minister of Saint Vincent and the Grenadines urging CARICOM countries to use the death penalty as a deterrent to murder.¹⁵³² Once again, the IACHR urges the State to comply with the recommendations to abolish the death penalty as a punishment.

748. Regarding the rights of **LGBTI persons**, based on public information, the IACHR notes that for the first-time civil society and other actors publicly celebrated LGBTI Pride Month in June.¹⁵³³ Nonetheless, the Commission also learned of the situation of the violence and discrimination that LGBTI persons experience in Saint Vincent and the Grenadines. Particularly, a report published in July exposed the physical and verbal assaults, family violence, homelessness, workplace harassment, bullying, and sexual violence that sexual and gender minorities face under discriminatory laws. According to the report, violence is generally perpetrated by people close to LGBTI people, such as family members, neighbors, coworkers, classmates, and teachers.¹⁵³⁴

749. In relation to the rights of **older persons**, the IACHR values the holding of meetings between public authorities from the Ministries of Health, Wellness and the Environment, Education and National Reconciliation, National Mobilization, Social Development, Family, Gender Issues, People with Disabilities and Youth to create the first national legislation aimed at older people in the country. This also included the participation of civil society organizations.¹⁵³⁵ Without prejudice to the above, the IACHR learned of the alleged deficit of 44.4% in the State’s pension fund for the period 2003-2021. The deficit would be a result of a decline in the number of contributors relative to the number of retirees.¹⁵³⁶ The IACHR encourages the State of Saint Vincent and the Grenadines to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

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¹⁵²⁸ Human Rights Watch, [“They Can Harass Us Because of the Laws” Violence and Discrimination against LGBT People in Saint Vincent and the Grenadines](#), July 20, 2023. Also, see: iWitness News, [“Man, 52, to be sentenced for attempting to bugger boy”](#), July 17, 2023.

¹⁵²⁹ St. Vincent Times, [72 prisoners graduate from eight month skill-training programs](#), January 19, 2023.

¹⁵³⁰ St. Vincent Times, [Maria Holder Trust funds Hand2Earth’s SVG prison ‘new leaf literacy project’](#), September 24, 2023.

¹⁵³¹ World Coalition Against the Death Penalty, [Saint Vincent and the Grenadines](#), May 23, 2023; St Vincent Times, [St. Vincent’s gruesome murders and the call for the ‘death penalty’](#), March 6, 2023.

¹⁵³² iWitness News, [PM Gonsalves wants death penalty carried out despite European position](#), April 17, 2023.

¹⁵³³ St. Vincent Times, [Vincentians turn out in historic Pride event to celebrate LGBTQIA+ rights](#), June 21, 2023.

¹⁵³⁴ Human Rights Watch, [“They can harass us because of the laws” Violence and Discrimination Against LGBT People in Saint Vincent and the Grenadines](#), July 21, 2023.

¹⁵³⁵ Searchlight, [SVG to establish legislation to better protect the elderly](#), April 14, 2023.

¹⁵³⁶ Searchlight, [Social Security Reform in the Eastern Caribbean \(Part 3\)](#), September 22, 2023.

- **General considerations**

750. As it relates to **progress**, the IACHR highlights the accession of the State to the Caribbean Court of Justice and the ongoing efforts to improve the conditions of the Bordelais Correctional Facility, the sole prison in the State. The Commission also highlights the promotional visit conducted in June 2023 to Saint Lucia and capacity building efforts that followed the visit.

751. In relation to **challenges**, the IACHR notes that the State continues to retain the death penalty as a punishment for the crime of murder.

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

- **Specific issues**

753. Regarding **democratic institutional**ity, the IACHR takes note that, according to the Rule of Law Index issued by the World Justice Project, the State placed 8 out of 32 countries of the region of Latin America and the Caribbean; and 43 out of 142 countries worldwide.¹⁵³⁷ This global ranking is based on the State's adherence to the universal principles of accountability, absence of corruption, compliance with the law, open government, and civil justice, among other factors.

754. Concerning **human rights institutions**, from June 27 to 30, 2023 the IACHR held a promotional visit to Saint Lucia. This visit focused on enhancing the collaboration of the IACHR with State and non-state actors, promoting institutional strengthening through technical cooperation and capacity building on the Inter-American human rights system and its mechanisms, in keeping with the Commission's Strategic Plan 2023-2027. The visit was followed by a detailed analysis by the IACHR of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities to support the State's deliberations towards ratification.

755. Regarding **citizen security**, the IACHR takes note of the decrease in homicides for the year, and the appointment of the Firearms and Licensing Board. According to public information, the State recorded 71 homicides as of November 2023.¹⁵³⁸ This indicates that the State's homicide rate for 2023 was 39.47 per 100,000 inhabitants.¹⁵³⁹ On the other hand, the Commission notes the appointment of members to serve on the newly created Firearms and Licensing Board. According to official information, this Board will expand the pool of persons responsible for vetting and approving firearm licenses, which previously was the sole responsibility of the Commissioner of Police. It is the intention of the State that the Board will provide more vigorous and transparent oversight over the process for granting of firearm licenses.¹⁵⁴⁰

756. Regarding **access to justice**, the Commission highlights the accession of the State to the Caribbean Court of Justice (CCJ) in July 2023. Particularly, Saint Lucia's removal of the Judicial Committee of the Privy Council as its final court of appeal and accession to the Appellate Jurisdiction to the Caribbean Court of Justice. This process began in March 2022 with the appointment of the CCJ (Accession) Committee, chaired by retired Justice, Sir Dennis Byron, a former president of the CCJ. The Commission notes that the Committee conducted a focused series of public information events, including press briefings, community town hall meetings and dissemination of information via conventional and social media. According to an official statement, through this accession, Saint Lucia endeavors to make justice more accessible to its citizens.¹⁵⁴¹

757. Regarding **trafficking in persons**, the IACHR takes note of the efforts by the Royal Saint Lucia Police Force and its program "Human and Drug Trafficking Interdiction Subject Matter Expert Exchange" aimed

¹⁵³⁷ World Justice Project, [WJP Rule of Law Index – Saint Lucia](#), 2023.

¹⁵³⁸ Loop Caribbean News, [PM Pierre lauds police for notable achievement in homicide-free streak](#), November 21, 2023.

¹⁵³⁹ The IACHR calculated the homicide rate based on the State's population of 179,857 according to data from The World Bank, [Population, total – St. Lucia](#), 2022.

¹⁵⁴⁰ Government of Saint Lucia, [The Appointment of the Firearms and Licensing Board](#), April 11, 2023.

¹⁵⁴¹ Government of Saint Lucia, [Saint Lucia accedes to the CCJ](#), August 4, 2023.

at providing law enforcement officials with the skills and techniques to recognize human trafficking victims, offer support to survivors, and end impunity.¹⁵⁴²

758. With regard to the rights of **children**, the IACHR takes note of the launch of the Opportunities to Advance and Support Youth for Success project, in which Antigua and Barbuda, Grenada, Saint Kitts and Nevis, Dominica and Saint Vincent and the Grenadines also participate, which seeks to promote a shift from punitive measures to rehabilitation and restorative justice, in order to reduce recidivism rates of adolescents in conflict with the criminal law.¹⁵⁴³ In addition, the Commission recognizes the State's efforts to implement nationwide vaccination campaigns for children during the beginning of 2023.¹⁵⁴⁴

759. Regarding **persons deprived of liberty**, the Commission values the ongoing efforts to improve the conditions of the Bordelais Correctional Facility (BCF), which is the sole prison in the State. According to public information, the Government has spent over ten million dollars in additional funding for the BCF to improve the security by re-fencing and provisioning cameras, locks and other items, as well as to buy about 100 mattresses.¹⁵⁴⁵

760. Concerning the **death penalty**, the IACHR once more notes that Saint Lucia has a de facto moratorium in place. No executions have taken place since 1995, and no one has been sentenced to death since this time. The Commission further notes that, as of May 2023, no one was on death row in the State.¹⁵⁴⁶

761. In relation to **older persons rights**, the IACHR encourages the State of Saint Lucia to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

XXIX. SURINAME

• General considerations

762. In terms of **progress**, the IACHR notes the State's efforts to address corruption and progress made towards electoral reform. Also, highlights the installation of the Suicide Prevention and Psychosocial Guidance Committee aimed at reducing suicides among adolescents. Moreover, the IACHR welcomes the State's accession to the Inter-American Convention on the Protection of the Human Rights of Older Persons. Finally, the Commission takes note of the Constitutional Court's ruling which declared the Amnesty Law 1989 unconstitutional.

763. In relation to **challenges**, the IACHR notes the Constitutional Court's ruling not to recognize and legalize a same-sex marriage. Moreover, it expresses its concern regarding the situation of indigenous persons in the State. The Commission also notes with concern the condition of the State's detentions centers. The protests come as Santokhi's Cabinet implements cost-cutting measures ordered by the International Monetary Fund as it phases out subsidies on electricity, water, and fuel. The current inflation rate is 58% and increases in cost-of-living expenses are angering many.

764. On October 5, 2023, the State submitted its response to the request for information sent for the preparation of this chapter¹⁵⁴⁷.

• Specific issues

765. In relation to **democratic institutional**ity, the IACHR notes the State's efforts to address corruption, achieve electoral reform to establish a fairer electoral system and citizen participation in anti-

¹⁵⁴² Government of Saint Lucia, [Law enforcement participates in human and drug trafficking exchange](#), August 24, 2023

¹⁵⁴³ Org. of Eastern Caribbean States, [Turning the Tides on Youth Crime: Launch of OASYS in St. Kitts and Nevis](#), July 11, 2023.

¹⁵⁴⁴ Pan American Health Organization, ["St. Lucia urged to keep up with vaccination tradition"](#), May 3, 2023.

¹⁵⁴⁵ St. Lucia Times, [BCF Inmates Get New Mattresses As Part Of Prison Improvements](#), September 28, 2023.

¹⁵⁴⁶ World Coalition Against the Death Penalty, [Saint Lucia](#), May 23, 2023.

¹⁵⁴⁷ Republic of Suriname, , Inputs for the 2023 Annual Report of the IACHR, October 5, 2023. On file at the IACHR.

government protests. Regarding combatting corruption, the State installed the Anti-Corruption Commission on May 5, 2023, pursuant to Article 2 of the Anti-Corruption Law. According to official information, the focus of the Commission will be on sustaining the rule of law through the prevention of acts of corruption. As such, the State intends for there to be early identification of abuses within State institutions and investigation of all corruption reports by the Attorney General.¹⁵⁴⁸ Further, the State issued a new decree on “Declaration of Income and Assets and Register of Receipts,” aimed at making the financial position of public officials in Suriname more transparent in order to prevent possible corruption.¹⁵⁴⁹

766. Regarding electoral reform, the Commission highlights the installation of a Technical Committee on March 29, 2023 tasked with the preparation of a draft law to amend the electoral regime.¹⁵⁵⁰ This follows the ruling of the Constitutional Court in 2022 which held that the current electoral system does not comply with a fair electoral system, especially in terms of equality of votes.¹⁵⁵¹ Taking this into consideration, the State has directed that the Committee must complete the draft law within two months so that internal government discussions can be conducted quickly for the Bill to be presented to the National Assembly for consideration. Also, the Government has pledged to ensure that the new law on the electoral system modification can be passed in 2023 so that the General Elections of 2025 are not compromised.¹⁵⁵² In this regard, the Commission notes social protests regarding the proposed reform, with some activists alleging that the State is attempting to postpone the 2025 general election by delaying the electoral reform process.¹⁵⁵³

767. Additionally, the Commission notes with concern violent, anti-government protests in February 2023. According to public information, these protests occurred because of price increases of power, fuel and water due to the government’s removal of subsidies.¹⁵⁵⁴ The protests resulted in injury to several persons and damage to the National Assembly and private property and the United Nations called for restraint from violence and resort to inclusive dialogue.¹⁵⁵⁵

768. Regarding **human rights institutions**, from February 6-8, 2023, the IACHR carried out a promotional visit to Suriname which focused on promoting technical cooperation mechanisms and Inter-American human rights standards in keeping with the Commission’s Strategic Plan 2023-2027. The visit included a training for civil society organizations to strengthen capacity building on the Commission’s mechanisms and additional exchanges with the State regarding the establishment of a National Human Rights Institution and domestic violence legislation.

769. Regarding the establishment of a National Human Rights Institution, it is noted that the State intends to transform its Human Rights Office into a National Human Rights Institute with a broader scope, mandate, increased authority and a better structure.¹⁵⁵⁶ Additionally, in accordance with the Paris Principles, the State intends for this institute to function as an independent watchdog for human rights in the entire country. For this purpose, an education campaign will be launched to educate citizens about the institute and its proposed functions.¹⁵⁵⁷

¹⁵⁴⁸ Government of Suriname, “[Anti-corruptie Commissie geïnstalleerd als meerwaarde voor rechtstaat](#)”, May 5, 2023; Government of Suriname, “[Regering in startblokken voor installatie Nationale Anti-Corruptie Commissie](#)”, March 16, 2023.

¹⁵⁴⁹ Government of Suriname, “[Nieuw Staatsbesluit ter uitvoering van de Anti-corruptiewet](#)”, August 31, 2023.

¹⁵⁵⁰ Government of Suriname, “[President Santokhi installeert technische commissie voor wijziging kiesregeling](#)”, March 30, 2023.

¹⁵⁵¹ IACHR, [Annual Report, Chapter IV.A “Suriname”, 2022](#), paras. 743-746.

¹⁵⁵² Government of Suriname, “[President Santokhi installeert technische commissie voor wijziging kiesregeling](#)”, March 30, 2023.

¹⁵⁵³ AP News, [Protesters in Suriname demand president resign](#), March 24, 2023.

¹⁵⁵⁴ Suriname Herald, “[19 personen gewond geraakt bij protestdemonstratie](#)”, February 18, 2023; “[SVI veroordeelt vandalisme en aanval op journalisten](#)”, February 18, 2023.

¹⁵⁵⁵ United Nations, [Secretary-General Concerned about Violent Protests at National Assembly in Suriname](#), February 19, 2023.

¹⁵⁵⁶ National Assembly of Suriname, “[Staatsbegroting van uitgaven en ontvangsten voor het dienstjaar 2023](#)”, February 24, 2023, pg. 30.

¹⁵⁵⁷ National Assembly of Suriname, “[Staatsbegroting van uitgaven en ontvangsten voor het dienstjaar 2023](#)”, February 24, 2023, pg. 30.

770. With respect to **citizen security**, the Commission notes with concern that, according to information published in 2023, the State recorded 47 homicides between January and December 2022, which represented a murder rate of 7.7 per 100,000 citizens. This figure represented an approximately 47% increase as compared to the 32 homicides recorded in 2021.¹⁵⁵⁸

771. On **truth, memory and justice**, the IACHR takes note of the Constitutional Court's ruling which declared the Amnesty Act 1989 unconstitutional. This judgment follows the Constitutional Court's 2021 ruling in which the Court decided that the 2012 amendment to the Amnesty Act was unconstitutional and in conflict with the State's international obligations under the American Convention on Human Rights (ACHR). Particularly, according to available information, the Amnesty Act granted amnesty for approximately twenty criminal offenses from the Surinamese Criminal Code that were committed between January 1, 1985 and August 19, 1992 during the so-called "Internal War."¹⁵⁵⁹ The Court ruled that according to the settled case law of the Inter-American Court of Human Rights, if an amnesty is contrary to the principles of the ACHR, it must be annulled.¹⁵⁶⁰ The Court emphasized that amnesty laws perpetuate impunity and lead to powerlessness among victims.¹⁵⁶¹ Additionally, it was held that those who were granted amnesty in accordance with this law in the period from 1 January 1985 to 20 August 1992 regarding crimes against humanity, war crimes and genocide, are not immune from criminal prosecution.¹⁵⁶² Furthermore, the IACHR welcomed the country's highest court decision to uphold the conviction of ex-President Desi Bouterse for the murders of 15 political opponents during the military regime in December 1982, marking a crucial step for justice, the rule of law, and combating impunity.¹⁵⁶³

772. In relation to the rights of **indigenous peoples**, the Commission received information during its 188th Period of Sessions about the situation of indigenous and tribal peoples in Suriname. Particularly, the organizations referred to, the absence of legal progress regarding the recognition of their rights, the advancement of mining concessions in their territories, pollution of aquatic resources and deforestation. In addition, acts of violence were also noted, including two homicides and the prosecution of protesters during social protests to denounce the challenges faced by indigenous and tribal peoples. During the hearing, the State informed of the creation of two mechanisms for the participation of indigenous organizations to find solutions to the highlighted issues.¹⁵⁶⁴

773. Likewise, the Commission expresses its concern about the progress of the Land Conversion Bill and its impact on the recognition and protection of Indigenous and Tribal peoples. This Bill, which was presented in the National Assembly in July 2021, aims to facilitate the conversion of lease titles for public lands into property titles and could disproportionately impact the recognition and titling of people's lands as indigenous and tribal people have not been officially recognized.¹⁵⁶⁵

774. Regarding the rights of **persons in human mobility**, in April 2023, the State, in collaboration with the International Organization for Migration (IOM), organized a three-day training workshop on migration management. These sessions aimed to emphasize the interaction between different thematic areas in the context of migration with a government-wide approach as well as cooperation at the national, regional and global level.¹⁵⁶⁶

¹⁵⁵⁸ Suriname Herald, "[1355 kilo cocaïne vorig jaar onderschept](#)", January 12, 2023.

¹⁵⁵⁹ Communication Service Suriname - YouTube, "[Constitutioneel Hof Openbare Zitting Toetsing Amnestiewet](#)", August 3, 2023.

¹⁵⁶⁰ Government of Suriname, "[Amnestiewet in strijd met delen van de Grondwet](#)", August 3, 2023.

¹⁵⁶¹ Communication Service Suriname - YouTube, "[Constitutioneel Hof Openbare Zitting Toetsing Amnestiewet 1989](#)", August 3, 2023.

¹⁵⁶² Government of Suriname, "[Amnestiewet in strijd met delen van de Grondwet](#)", August 3, 2023.

¹⁵⁶³ CIDH-IACHR [@CIDH]. (December 27, 2023). [#Suriname: #IACHR greets the country's highest court decision to uphold the conviction of ex-President Desi Bouterse for the murders of 15 leading opponents during the military regime in December 1982. This marks a crucial step for justice, the rule of law, and combating impunity. #HumanRights](#) [Tweet]. Twitter.

¹⁵⁶⁴ IACHR, [Public Hearing "Suriname: Legislative basis for the rights of indigenous and tribal peoples"](#), 188th Period of Sessions, Oct 20 – Nov 10, 2023.

¹⁵⁶⁵ Suriname Herald, "[Inheemse en tribale volken eisen stop op gronduitgifte totdat grondenrechten zijn erkend](#)", April 7 2023.

¹⁵⁶⁶ Government of Suriname, "[Kennis overheidsfunctionarissen inzake migratiebeheer aangescherpt](#)", April 20, 2023.

775. In relation to **trafficking in persons**, the Commission takes note that this crime represents a threat within the small-scale gold mining sector. According to information published by the OAS in 2023, 72 cases have been documented as child labor, sexual slavery and commercial sex work, human trafficking, and other crimes that often accompany illicit mining.¹⁵⁶⁷

776. With regard to the rights of **children**, the IACHR takes note of the implementation of the Suicide Prevention and Psychosocial Guidance Committee, aimed at reducing and preventing the number of suicides and suicide attempts among adolescents. The implementation of the Committee is in response to a survey conducted by the Ministry of Labor, Employment and Youth Affairs on suicidal behavior among young people between 16 and 25 years of age, which, according to the State, showed “very worrying results.”¹⁵⁶⁸

777. On the other hand, the Commission is concerned that, according to official data, primary schools in rural areas are run mainly by teachers with limited training and experience. In addition, only 33% of children attend kindergarten in rural areas, against 50% in urban areas. Likewise, only 6% of adolescents attend secondary school in rural areas, while 35% in urban areas.¹⁵⁶⁹

778. On the matter of **persons deprived of liberty**, the IACHR notes the signing of a Memorandum of Understanding between the Ministry of Justice and Police and Ministry of Labor, Employment & Youth Affairs to provide detainees with tools for life after their detention by offering vocational and entrepreneurial training. This project aims to re-socialize and reintegrate detainees back into society.¹⁵⁷⁰

779. Regarding the rights of **LGBTI persons**, the IACHR notes¹⁵⁷¹ that the Constitutional Court of Suriname ruled not to recognize and legalize a same-sex marriage between two Surinamese men that took place abroad. The IACHR encourages the State to advance the principle of equality and non-discrimination by ensuring that both same-sex and heterosexual couples are able to enjoy equal rights, including the right to marry and have those unions recognized, free from discrimination.¹⁵⁷²

780. In relation to the rights of **older persons**, the IACHR welcomed Suriname's decision to accede to the Inter-American Convention on the Protection of the Human Rights of Older Persons¹⁵⁷³. Likewise, it takes note of the situation of a group of citizens who lived in Suriname when it was still under the rule of the Kingdom of the Netherlands and are now not considered residents for pension purposes for either State. After achieving its independence, Suriname organized its own pension system. However, older persons of retirement age have been left in a legal vacuum¹⁵⁷⁴, with many retirees in a situation of not qualifying for the pension regime in Suriname or the Netherlands.¹⁵⁷⁵

XXX. TRINIDAD AND TOBAGO

- **General considerations**

781. With regard to **progress**, the Commission notes the proclamation of procurement legislation in order to increase accountability and transparency in the State. Additionally, takes note of the first conviction

¹⁵⁶⁷ OAS Department against Transnational Organized Crime, [On the Trail of Illicit Gold Proceeds: Strengthening the Fight against Illegal Mining Finances](#), March 2023; Global Americans, [On the Trail of Suriname's Illicit Gold Proceeds](#), May 9, 2023.

¹⁵⁶⁸ Government of Suriname, ["AWI focust op suïcidepreventie onder jongeren met installatie van commissie"](#), April 17, 2023.

¹⁵⁶⁹ Government of Suriname, [Third National Communication to the United Nations Framework Convention on Climate Change](#), April, 2023, p. 68-71.

¹⁵⁷⁰ Waterkant, [Ministeries werken samen aan resocialisatie en re-integratie van personen in gevangenis](#), November 10, 2023.

¹⁵⁷¹ Dwtonline, [LGBTQIA gemeenschap krijgt bittere pil te slikken](#), February 1, 2023.

¹⁵⁷² Inter-American Court, [Gender identity and equal protection and non-discrimination for same-sex couples](#), Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24, para. 199.

¹⁵⁷³ IACHR, [IACHR Welcomes Suriname's Accession to the Inter-American Convention on the Rights of Older Persons](#), May 24, 2023.

¹⁵⁷⁴ Dutch News, [Surinamese pensioners to get compensation for pension gap](#), April 29, 2023.

¹⁵⁷⁵ Dutch News, [State gives € 5000 to elderly Surinamese without full pensions](#), May 18, 2023.

of a person for human trafficking under the Trafficking in Persons Act. In addition, the IACHR welcomes the measures implemented to facilitate the social reintegration of persons deprived of liberty.

782. With respect to **challenges**, the IACHR notes with concern an increase in homicides and in cases of violence against children and adolescents in the State. Moreover, the Commission observes with concern the ruling of the High Court which declared that asylum seekers can be deported as they are not protected under local laws and reports of sexual violence against migrant women allegedly committed by State agents.

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

- **Specific issues**

784. In relation to **democratic institutionalism**, in April 2023, the Government fully proclaimed the Public Procurement and Disposal of Public Property Act, which was originally passed in 2015. The full proclamation of the Act had the effect of bringing all its provisions into force. This Public Procurement Act seeks to reform the procurement laws of Trinidad and Tobago in keeping with principles of good governance. The objects of the Act are to promote: (i) the principles of accountability, integrity, transparency and value for money; (ii) efficiency, fairness, equity and public confidence; and (iii) local industry development, sustainable procurement and sustainable development.¹⁵⁷⁶

785. Additionally, the Commission takes note of the May 2023 decision from the Privy Council, the State's highest Court of Appeal, regarding local government elections. In this judgment, the Court held that the amendments to the Municipal Corporations Act could not lawfully extend the terms of office of present Councilors and Aldermen from three years to four years. Also, the Court held that these amendments could not be interpreted to have a retroactive effect, however, did not rule on whether the postponement of the elections infringed on the constitutional rights of citizens.¹⁵⁷⁷ Subsequently, on August 14, 2023, the State held local government elections, which resulted in the People's National Movement and the United National Congress — the two main political parties— each winning 7 of the 14 corporations up for election.¹⁵⁷⁸

786. Regarding **human rights institutions**, the IACHR highlights the renewed call by the Integrity Commission for the Parliament to consider amendments to the Integrity in Public Life Act (IPLA). Particularly, the Integrity Commission noted that while IPLA stipulates what persons in public life and persons exercising public functions should do, it does not always prescribe a consequence for failing to do so. In this regard, there is no criminal offence in relation to breaches concerning the filing of Statements of Registrable Interests and breaches of the Code of Conduct which are essential mechanisms for combatting corruption by public officials.¹⁵⁷⁹

787. On the issue of **citizen security**, according to information provided by the Trinidad and Tobago Police Service, for period January to September 2023, there were approximately 448 homicides recorded in Trinidad and Tobago, as compared to 437 homicides recorded over the same period in 2022, which

¹⁵⁷⁶ Republic of Trinidad and Tobago, [Legal Notice No. 106](#), April 25, 2023; Trinidad and Tobago Guardian, [Public Procurement Act proclaimed after 8-year delay](#), April 21, 2023. Also, see: Republic of Trinidad and Tobago, [The Public Procurement and Disposal of Public Property Act](#), 2015.

¹⁵⁷⁷ Privy Council, [Ravi Balgobin Maharaj \(Appellant\) v The Cabinet of the Republic of Trinidad and Tobago and another \(Respondents\) \(Trinidad and Tobago\)](#) May 18, 2023.

¹⁵⁷⁸ Elections and Boundaries Commission, [The Preliminary Results for the 2023 Local Government Elections](#), August 15, 2023; Trinidad and Tobago Express, [7/7 TIE](#), August 15, 2023.

¹⁵⁷⁹ Integrity Commission of Trinidad and Tobago, [Press Release: Critical amendments Needed for The Integrity in Public Life Act \(IPLA\)](#), September 11, 2023.

represents an approximately 3% increase.¹⁵⁸⁰ Trinidad and Tobago continues to have one of the highest homicide rates in the Caribbean and the Americas, with a rate of 34 per 100,000 inhabitants.¹⁵⁸¹

788. With respect to **access to justice**, in January 2023, the Judiciary issued practice directions for the establishment of a special criminal court procedure for sexual offences and human trafficking. These practice directions provide for the expedition of specific cases in the criminal justice system.¹⁵⁸² The IACHR observes that upon the proclamation of the amended Administration of Justice Act, police officers will be required to file charges in indictable proceedings directly at the High Court, removing the additional step of preliminary enquiries and allowing the Judiciary to have better control over the progress of cases.¹⁵⁸³ Even though the Act was passed in Parliament and assented to by the President in July 2023, at the time of the writing of this report it had not as yet been proclaimed.¹⁵⁸⁴

789. Regarding the rights of **women**, the IACHR observes that in 2023 Mrs. Christine Kangaloo was appointed President, the second women to hold such position.¹⁵⁸⁵ Likewise, Ms. Erla Christopher became the first women appointed as substantive Commissioner of Police, the highest rank in the Trinidad and Tobago Police Service.¹⁵⁸⁶ The Government also announced its commitment to implement the Women, Peace and Security Agenda through the establishment of a National Action Plan that considers women's insight and experiences when responding to conflicts including crime, violence and other security challenges.¹⁵⁸⁷

790. On the other hand, the Commission was informed about continuous reports of trafficking of women and girls in the country, mainly for sexual and labor exploitation. According to information received, there is a lack of detection of victims and underreporting of these cases. This would be because of state agents allegedly being involved in the human trafficking network, absence of conditions to remain anonymous when making reports, language barriers, among others.¹⁵⁸⁸ Also, the IACHR is concerned about reports of sexual violence against migrant women allegedly committed by State agents.¹⁵⁸⁹ In this regard, the IACHR values information provided by the State, indicating that allegations against State Officials receive the utmost priority and urgency. As well as information that show that trafficking victims are put under the care and protection of the Counter Trafficking Unit (CTU) where they are provided with secure accommodation, medical and dental health services, psychosocial counselling, medication, food, and clothing.¹⁵⁹⁰

791. In relation to the rights of **people in the context of human mobility**, the Commission values the extension, until December 31, 2023, of work permits for Venezuelan migrants living in Trinidad and Tobago who were registered during the registration process implemented in 2019.¹⁵⁹¹ On the other hand, the IACHR observes with concern the ruling of the High Court that asylum seekers could be deported. In particular, the High Court ruled that the obligations under the 1951 United Nations Refugee Convention and the principles of *non-refoulement* do not apply to Trinidad and Tobago as the Convention is not incorporated into the domestic law of the State. Furthermore, the High Court ruled that all migrants who have not been granted asylum or

¹⁵⁸⁰ Trinidad and Tobago Police Service, [TTPS Crime Comparison Year by Month](#), October 2023.

¹⁵⁸¹ The IACHR calculated the homicide rate based on the State's population of 1,531,044 according to data from The World Bank. The World Bank, [Population, total - Trinidad and Tobago](#), 2023.

¹⁵⁸² Judiciary of Trinidad and Tobago, [Judiciary to Establish Special Criminal Court Procedure for Sexual Offences and Human Trafficking](#), January 23, 2023. Also, see: Trinidad and Tobago Gazette, [Gazette No. 12 of 2023 - Practice Direction](#), January 23, 2023.

¹⁵⁸³ Judiciary of Trinidad and Tobago, [Judiciary to Establish Special Criminal Court Procedure for Sexual Offences and Human Trafficking](#), January 23, 2023.

¹⁵⁸⁴ Parliament of the Republic of Trinidad and Tobago, [The Administration of Justice \(Indictable Proceedings\) \(Amendment\) Bill, 2023](#), September 2023.

¹⁵⁸⁵ Parliament of the Republic of Trinidad and Tobago, [Ms. Christine Kangaloo elected President of the Republic of Trinidad and Tobago](#), 2023.

¹⁵⁸⁶ T&T Newsday, [Government, Opposition votes 'aye' for Trinidad and Tobago's first female top cop](#), February 3, 2023.

¹⁵⁸⁷ UN Women Caribbean, [Trinidad and Tobago to Develop Women, Peace and Security National Action Plan](#), June 21, 2023.

¹⁵⁸⁸ IACHR, Inputs received on the Caribbean Dialogue Network – Second meeting, held on April 6, 2023. On IACHR files.

¹⁵⁸⁹ Daily express, [Migrant rape under probe](#), 5 June 2023; T&T Guardian, [Lawyers of migrant who claimed rape at Heliport report more incidents](#), June 2023.

¹⁵⁹⁰ Ministry of National Security, Response to the IACHR regarding the request for information on the situation of persons in the context of human mobility detained at the Chaguaramas heliport facility, August 14, 2023. On IACHR files.

¹⁵⁹¹ Ministry of National Security, Trinidad and Tobago, [Press Release – Registration Period extended for Work Permit Exemption for registered Venezuelan Nationals in Trinidad and Tobago](#), July 30, 2023.

refugee status in the State could be deported under the provisions of its Immigration Act – including those holding a UNHCR certificate recognizing their status of refugee.¹⁵⁹² In response, United Nations experts warned that the judgment could have grave implications on the lives of migrants and people seeking international protection and called on the State to urgently incorporate the Refugee Convention into domestic law.¹⁵⁹³

792. In addition, the IACHR received information regarding the conditions of detention at the Chaguaramas Heliport immigration facility which houses detained migrants. According to civil society, there are inadequate sleeping quarters, a scarcity of portable water, issues concerning the sanitation, and neglect of the health needs of detained migrants as medical personnel are reportedly not allowed to access the facility.¹⁵⁹⁴

793. In relation to **human trafficking**, under Article 18 of its Statute, the IACHR requested information from the State on the situation concerning sexual abuse against a Venezuelan migrant at the immigration center in the Chaguaramas Heliport facility and measures used to screen victims of human trafficking.¹⁵⁹⁵ On August 11, 2023, the State informed that when the allegations of sexual assault of a migrant woman came to its attention, all arms of law enforcement were engaged to investigate the claims made, and that the Trinidad and Tobago Police Service prompted the investigation to gather evidence to the alleged occurrences of criminal conduct.¹⁵⁹⁶

794. On the other hand, the Commission takes note that the Ministry of National Security and the United Nations Office on Drugs and Crime (UNODC), worked together to establish standard operation procedures for the State's Counter Trafficking Unit which are aimed to transform alerts into criminal justice responses to human trafficking within migration flows.¹⁵⁹⁷ Also, on November 2, 2023, the State recorded its first conviction under the Trafficking in Persons Act of a person who was found guilty on five counts of Trafficking of a Child.¹⁵⁹⁸

795. Regarding the situation of the rights of **children**, the IACHR takes note of the work carried out jointly with the ILO to define the concepts of "dangerous" and "light" work, in the framework of the elimination of child labor in the country.¹⁵⁹⁹ Also, in the area of education, the Commission values the proposed inclusion of migrant and refugee children in the country's primary education.¹⁶⁰⁰ On the other hand, with respect to institutionalized children, the IACHR takes note of the training program implemented for residential care workers in children's homes, which would provide training on the principles and practice of child protection and safeguarding, and the legislative and regulatory components of care, among other subjects.¹⁶⁰¹ Likewise, the Commission is aware of the increase in inspections of residential care centers, and the coordination with academia to conduct studies on the protection system.¹⁶⁰²

¹⁵⁹² High Court of Trinidad and Tobago, [Rangel Dominguez, Yohan, I. v Minister of National Security: Attorney General](#), Claim No. CV 2023 – 00767, July 4, 2023, paras. 15 and 23.

¹⁵⁹³ Office of the United Nations High Commissioner for Human Rights, [Trinidad and Tobago: Court ruling on deportations will gravely impact refugees and migrants, UN experts say](#), July 26, 2023.

¹⁵⁹⁴ IACHR, Meeting with civil society organizations, August 14, 2023, IACHR Archive.

¹⁵⁹⁵ IACHR, Trinidad and Tobago – The Situation of persons in the context of human mobility at the Chaguaramas Heliport facility, Article 18 of American Declaration, June 21, 2023, IACHR Archive.

¹⁵⁹⁶ Government of Trinidad and Tobago, The Situation of persons in the context of human mobility at the Chaguaramas Heliport facility, June 21, 2023, IACHR Archive.

¹⁵⁹⁷ Government of Trinidad and Tobago, [Standard Operating Procedures Launched for Counter Trafficking Unit](#), August 15, 2023.

¹⁵⁹⁸ Judiciary of Trinidad and Tobago, [Media Release: First conviction under the Trafficking in Persons Act](#), November 3, 2023.

¹⁵⁹⁹ International Labour Organization, ["Trinidad and Tobago defining hazardous and light work for the elimination of child labour"](#), June 18, 2023.

¹⁶⁰⁰ United Nations, ["UN in T&T Welcomes Decision to Include Migrant and Refugee Children in National Education"](#), July 18, 2023.

¹⁶⁰¹ Trinidad and Tobago Newsday, ["Children's Authority begins training programme for residential home workers"](#), May 8, 2023.

¹⁶⁰² Office of the Prime Minister, Gender and Child Affairs, Government of Trinidad and Tobago, [Status of implementation of the workplan on the recommendations contained in The Justice Jones Report On Child Abuse in Children's Home \(Second Report\)](#), January 13, 2023.

796. Regarding violence, the IACHR is concerned about the increase in cases of violence against children. According to data from the Trinidad and Tobago Police Service, between January and July 2023, a total of 895 reports of child abuse were registered. These figures represent a slightly increase of 5.29% compared to the 850 registered during the same period in 2022.¹⁶⁰³ Furthermore, of the total number of cases reported between January and July 2023, 504 correspond to cases of sexual violence, with 85% of the perpetrators being men close to the victims.¹⁶⁰⁴

797. In relation to **persons deprived of liberty**, the IACHR welcomes the measures implemented to facilitate the social reintegration of this population. According to official information, in March 2023, the Preparation for Release Programme within the country's prison system was launched by the Ministry of National Security together with Vision on Mission (VOM) and the Trinidad and Tobago Prison Service. This Release Programme is designed to provide cognitive, behavioural, restructuring, resettlement opportunities and linkages to the necessary support services to improve offenders' transition from Prison to communities. It is primarily offered and delivered to convicted inmates who have 18-24 months remaining in their sentence.¹⁶⁰⁵ Additionally, the same month, the College of Science, Technology and Applied Arts of Trinidad and Tobago (COSTAATT) launched its "Link-Up" initiative which links formerly incarcerated students up to other stakeholders, to aid in their reintegration into society. In this sense, the programme offers training to incarcerated students in agri-entrepreneurship and communication skills, and upon the completion of their sentence, a place at COSTAATT to pursue additional educational pathways and networking opportunities.¹⁶⁰⁶

798. With respect to the **death penalty**, the Commission notes that there has been a lack of progress in removing the death penalty from the statutory books, even though the State has not carried out executions since 1999. There are currently 48 persons sentenced to death in the State.¹⁶⁰⁷

799. Regarding the rights of **LGBTI persons**, the IACHR takes note of civil society's claims concerning the lack of public policies to guarantee the rights of LGBTI persons following the 2018 judgment that decriminalized sexual activity between consenting male adults. The IACHR also notes the calls for the inclusion of LGBTI persons in pieces of legislation for the protection of rights, such as the Equality of Opportunities Act.¹⁶⁰⁸

800. Concerning the rights of **older persons**, the IACHR encourages the State of Trinidad and Tobago to ratify the Inter-American Convention on the Protection of the Human Rights of Older Persons.

XXXI. URUGUAY

• General considerations

801. In 2023, Uruguay continued to be a country with a solid democratic institutional framework, making **progress** in the areas of gender diversity and visibility, and policies for LGBTI persons, as well as in terms of memory, truth and justice, with the inauguration of a gender-focused memorial site.

¹⁶⁰³ Loop News, "[Not all men but almost: 85% male perps in child abuse cases, says TTPS](#)", July 20, 2023.

¹⁶⁰⁴ Loop News, "[Not all men but almost: 85% male perps in child abuse cases, says TTPS](#)", July 20, 2023.

¹⁶⁰⁵ Ministry of National Security, "[2023 Preparation for Release Programme Launched in the Nation's Prisons](#)", March 17, 2023.

¹⁶⁰⁶ College of Science, Technology and Applied Arts of Trinidad and Tobago, "[COSTAATT launches its Link-Up Initiative](#)", March 9, 2023.

¹⁶⁰⁷ World Coalition Against the Death Penalty, "[Trinidad and Tobago](#)", May 23, 2023.

¹⁶⁰⁸ Trinidad Express, "[ALGBT Plea](#)", May 16 2023.

802. However, it faced **challenges** related to the recognition of the rights of indigenous peoples and Afro-Uruguayans. In addition, challenges related to incarceration rates and the conditions of detention of persons deprived of liberty persisted.

803. The State did not provide information for the preparation of this chapter.

- **Specific issues**

804. In terms of **democratic institutional**ity, in 2023, the State continued to work towards a solid democratic foundation. According to a survey, Uruguay is positioned as the Latin American country with the second highest level of satisfaction with democracy.¹⁶⁰⁹ Likewise, Uruguay stands out in the region as one of the least likely countries to have a *coup d'état*.¹⁶¹⁰

805. Despite the high level of public trust in political parties, the private financing of electoral campaigns continues to be a challenge.¹⁶¹¹ The burden on the Electoral Court, which apparently has only two technical accountants, and the lack of clear rules in this area, could create difficulties in tracking donations from private sources, including those of a suspicious or illicit nature.¹⁶¹² In addition, in October 2023, the country's justice system indicted a former military officer accused of espionage against senators who opposed to the government.¹⁶¹³

806. On the issue of **citizen security**, a survey indicated that 46 percent of the Uruguayan population considered that security continued to be an urgent challenge.¹⁶¹⁴ According to data from the Ministry of the Interior, homicides decreased by 3.9 percent compared to the previous year (from 10.8 percent in 2022 to 6.9 percent in 2023), from 285 to 274 cases between January and September. There was also a 3.7 percent decrease in thefts. However, domestic violence figures increased by 4.8 percent compared to the same period in 2022; robbery figures also increased by 0.1 percent.¹⁶¹⁵

807. Regarding the **rights of women**, the Commission notes the creation of the country's second specialized court for gender-based, domestic and sexual violence, as well as the announcement of the establishment of two more specialized courts this year, plus two specialized prosecutors' offices in January 2024.¹⁶¹⁶ However, challenges persist in terms of the insufficient budget allocation for the implementation of the Law on Gender-Based Violence against Women;¹⁶¹⁷ the lack of specialized training in this area for public servants in the justice system and the lack of victim assistance;¹⁶¹⁸ and the obstacles to access to pregnancy termination, especially in rural and remote areas, such as the invocation of conscientious objection and the imposition of a medically unnecessary waiting period.¹⁶¹⁹

¹⁶⁰⁹ Latinobarómetro. [Informe Latinobarómetro 2023: La recesión democrática de América Latina](#). July 21, 2023, p. 37.

¹⁶¹⁰ Latinobarómetro. [Informe Latinobarómetro 2023: La recesión democrática de América Latina](#). July 21, 2023, p. 46.

¹⁶¹¹ Latinobarómetro. [Informe Latinobarómetro 2023: La recesión democrática de América Latina](#). July 21, 2023, p. 46.

¹⁶¹² *El País*. "La financiación de los partidos políticos, el lado oscuro de la democracia uruguaya," September 12, 2023.

¹⁶¹³ APNews. "Uruguay: militar acusado de espionaje político es imputado por cohecho," October 11, 2023.

¹⁶¹⁴ Equipos Consultores. "¡Inseguridad y desempleo continúan siendo los principales problemas del país para los uruguayos," October 11, 2023.

¹⁶¹⁵ Ministry of the Interior, "Visualizador de Homicidios y denuncias de otros delitos," November 15, 2023.

¹⁶¹⁶ *La Diaria*, "Comité Cedaw pidió explicaciones a Uruguay sobre la falta de presupuesto para la ley de violencia de género y las 'resistencias' a la paridad," October 20, 2023; *La Diaria*, "Se inauguró en Salto el segundo juzgado especializado en violencia basada en género del país," October 6, 2023.

¹⁶¹⁷ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, paras. 11 and 21; National Institute of Human Rights and Office of the Ombudsperson (INDDHH), [Informe complementario de la INDDHH para la 86ª sesión del CEDAW](#), undated, paras. 11-14.

¹⁶¹⁸ CEDAW, [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, para. 11 and 21; Amnesty International, [Informe al Comité para la Eliminación de la Discriminación contra la Mujer: 86ª sesión, 9 octubre – 27 octubre 2023](#), undated, p. 4.

¹⁶¹⁹ CEDAW, [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, para. 35.

808. Furthermore, gender-based violence persisted in 2023, especially femicides, domestic and sexual violence.¹⁶²⁰ Despite the challenges related to the official data system, such as insufficient transparency, the lack of open data and updated information, and the lack of resources for the systematization of information,¹⁶²¹ according to publicly available information, 29 deaths of women were recorded from January to August. Approximately 12 of these deaths were considered femicides.¹⁶²² Likewise, during the first half of 2023, domestic violence reports increased by 4.8 percent compared to the same period in 2022.¹⁶²³ The above took place in a context in which state authorities disseminated information that reproduced gender stereotypes and discriminatory practices against women, especially lesbian women.¹⁶²⁴

809. It was also noted with concern that Law No. 20.141, on co-responsibility in parenting, published in May 2023,¹⁶²⁵ could favor the continuation of violence against women in family relationships by disregarding this factor in court decisions on custody and visitation rights.¹⁶²⁶ Finally, the low participation of women in public and private decision-making spaces was noted: only 26 percent of the deputies of the Chamber of Deputies and 10.5 percent of municipal officials are women, and only 2 of the 14 government ministries are headed by women.¹⁶²⁷

810. In relation to the rights of **persons in the context of human mobility**, data from the United Nations High Commissioner for Refugees (UNHCR) indicated that, until the end of June 2023, Uruguay was hosting 51,503 people in a situation of human mobility (forced to flee from their countries), which accounts for a 25.3-percent increase in relation to the same period in 2022. Disaggregated data allegedly show that there are 1,245 refugees, and 21,174 asylum seekers, and that 29,080 people have other international protection needs, in addition to seven stateless people. Most of the refugees and asylum seekers in Uruguay come from Venezuela and Cuba.¹⁶²⁸

811. In relation to **trafficking in persons**, the Third National Plan for the Eradication of Commercial and Non-commercial Sexual Exploitation of Children and Adolescents 2023-2028 was created. The plan seeks to generate commitments for the prevention, detection, attention and reparation of victims of sexual exploitation.¹⁶²⁹ However, it was learned that Uruguay was a transit and destination country for women and children in terms of sexual exploitation, and although trafficking is criminalized, there is not much information on the incidence of this crime among children.¹⁶³⁰

812. With regard to the rights of **children and adolescents**, significant efforts were made in 2023 to address cases of suicide or self-harm among adolescents and young people, whose rate in Uruguay doubles

¹⁶²⁰ CEDAW, [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, para. 21; INDDHH, [Informe complementario de la INDDHH para la 86ª sesión del CEDAW](#), undated, para. 36.

¹⁶²¹ INDDHH, [Informe complementario de la INDDHH para la 86ª sesión del CEDAW](#), undated, paras. 11-14; CEDAW, [Informe alternativo de coalición de sociedad civil Uruguay al Comité CEDAW 86 Sesión](#), undated, p. 5.

¹⁶²² CEDAW, [Informe alternativo de coalición de sociedad civil Uruguay al Comité CEDAW 86 Sesión](#), undated, p. 5; Femicidio Uruguay, [Base de datos](#), undated, accessed on October 30, 2023.

¹⁶²³ Ministry of the Interior, Security Observatory. [Visualizador de Homicidios y denuncias de otros delitos](#), undated, accessed on October 30, 2023; CEDAW, [Informe alternativo de coalición de sociedad civil Uruguay al Comité CEDAW 86 Sesión](#), undated, p. 5.

¹⁶²⁴ *La Diaria*, “[Dirección de Género de Maldonado dará talleres para victimarias basados en datos “no oficiales”, que indicarían que 60% de las mujeres son violentas, especialmente las lesbianas](#),” January 31, 2023; MESECVI-OEA-CEVI X account (@MESECVI), posted on February 3, 2023, [[tweet](#)].

¹⁶²⁵ National Directorate of Official Printing and Publications (IMPO), Uruguayan Legislation and Legal Notices, [Law No. 20.141](#), published on May 29, 2023.

¹⁶²⁶ See: CEDAW, [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, para. 45; INDDHH, [Informe complementario de la INDDHH para la 86ª sesión del CEDAW](#), undated, para. 16 iii.

¹⁶²⁷ CEDAW, [Concluding observations on the tenth periodic report of Uruguay](#), CEDAW/C/URY/CO/10, advanced unedited version, October 30, 2023, para. 27.

¹⁶²⁸ United Nations High Commissioner for Refugees (UNHCR), [Hoja Informativa Estadística](#), June 2023, pp. 1 and 2.

¹⁶²⁹ United Nations, “[Se presentó en Canelones el tercer Plan nacional para la erradicación de la explotación sexual comercial y no comercial de la niñez y la adolescencia](#),” June 29, 2023.

¹⁶³⁰ United Nations, “[Observaciones preliminares de la Relatora Especial sobre la venta, la explotación sexual y el abuso sexual de niños, visita a Uruguay](#),” May 26, 2023, p. 2.

the regional average.¹⁶³¹ Furthermore, the Commission learned about the enactment of Law No. 20.141 on parental co-responsibility, as well as the discussion of the bill on guarantees for early childhood, childhood and adolescence.¹⁶³²

813. In this regard, the Commission learned about the fact that children protection agencies and service providers are working beyond their capacity, which allegedly increases the risk of re-victimization of child and adolescent survivors of sexual abuse.¹⁶³³ In addition, the Commission was informed of the alleged involvement of a member of the Uruguayan General Assembly in acts of sexual exploitation of children and adolescents.¹⁶³⁴

814. With regard to **persons deprived of liberty**, the Commission welcomes the ruling of the Court of Appeals that upheld the collective habeas corpus filed by officers of Women's Penitentiary Unit No. 5, and ordered the Ministry of the Interior to adopt measures to improve the conditions of confinement of said unit, including overcrowding reduction.¹⁶³⁵ However, it noted with concern that Uruguay maintained an incarceration rate of 417 every 100,000 inhabitants in 2023, ranking fifth in the region and tenth worldwide with the highest detention rates.¹⁶³⁶ In this scenario, the overall prison occupancy rate reached 130 percent, with a differentiated impact on women, with an occupancy rate of 152 percent.¹⁶³⁷

815. In terms of detention conditions, the Commission learned that detainees in Uruguayan prisons also face deficient medical care, as well as the lack of implementation of programs to address problematic substance use in some prisons. In addition, 56 percent of the prison population have no access to one hour of daily outdoor time.¹⁶³⁸ According to the parliamentary commissioner for prisons, the State should declare a penitentiary emergency in Women's Unit No. 5, Module 2 in Canelones, and in Modules 3, 4, 10 and 11 of the Santiago Vázquez prison, since these sites reportedly have the worst detention conditions in the country.¹⁶³⁹

816. In particular, women detainees are reportedly experiencing overcrowding, lack of sexual and reproductive health care due to the absence of gynecological staff at the center,¹⁶⁴⁰ lack of adequate treatment for their mental health,¹⁶⁴¹ and acts of intra-prison violence attributed to other incarcerated women who

¹⁶³¹ Institute of Children and Adolescents, Government of Uruguay, "[Ni Silencio ni Tabú lanzó su edición 2023.](#)" July 25, 2023. See also: Ministry of Public Health, Uruguay, "[17 de julio: día nacional para la prevención del suicidio. Salud mental; una prioridad para Uruguay.](#)" July 17, 2023.

¹⁶³² Center of Official Information, [Law No. 20141](#), May 29, 2023. See also: *La Diaria Política*, "[Comisión aprobó por unanimidad el proyecto de ley sobre primera infancia.](#)" July 6, 2023.

¹⁶³³ United Nations, "[La explotación y abuso sexual de niños están normalizados socialmente en Uruguay.](#)" May 26, 2023.

¹⁶³⁴ General Assembly of Uruguay, [Desafuero del Senador Penadés](#), June 7, 2023. See also: *BBC*, "[Gustavo Penadés: el escándalo de explotación sexual de menores que hundió al importante senador oficialista y sacude a Uruguay.](#)" June 8, 2023.

¹⁶³⁵ *La Diaria*, "[Hábeas corpus en Unidad 5: Tribunal de Apelaciones mantuvo parcialmente los reclamos de los funcionarios.](#)" October 10, 2023; *Subrayado*, "[Familiares de reclusos piden que el Ejecutivo no apele fallo que obliga a deshacinar la Cárcel de Mujeres.](#)" September 6, 2023; *El País*, "[Justicia ordenó mejoras en la cárcel de mujeres. Luego de que guardias presentaran recurso legal.](#)" September 4, 2023; *El Observador*, "[Cárcel de Mujeres: Justicia ordena a Interior mejoras en condiciones de reclusión del centro penitenciario.](#)" September 4, 2023; and *La Diaria*, "[Operadores y policías de la Unidad 5 presentaron un habeas corpus para que dejen de ingresar mujeres a esta cárcel que tiene 184% de hacinamiento.](#)" September 1, 2023.

¹⁶³⁶ In this regard, see: General Assembly of Uruguay, Government of Uruguay, "[Comisionado Parlamentario Penitenciario – Algunos números.](#)" April 30, 2023; and World Prison Brief, [World Prison Brief data – Highest to Lowest – Prison Population Rate](#), 2023.

¹⁶³⁷ See: General Assembly of Uruguay, Government of Uruguay, "[Comisionado Parlamentario Penitenciario – Algunos números.](#)" April 30, 2023.

¹⁶³⁸ General Assembly of Uruguay, Government of Uruguay, "[El Estado no está haciendo todo lo que puede. No tengo ni tenemos la conciencia tranquila](#)" dijo el Comisionado sobre situaciones críticas en cárceles." May 10, 2023.

¹⁶³⁹ General Assembly of Uruguay, Government of Uruguay, "[El Estado no está haciendo todo lo que puede. No tengo ni tenemos la conciencia tranquila](#)" dijo el Comisionado sobre situaciones críticas en cárceles." May 10, 2023.

¹⁶⁴⁰ General Assembly of Uruguay, Government of Uruguay, "[El Estado no está haciendo todo lo que puede. No tengo ni tenemos la conciencia tranquila](#)" dijo el Comisionado sobre situaciones críticas en cárceles." May 10, 2023.

¹⁶⁴¹ Parliamentary commissioner for prisons (CPP), National Prevention Mechanism (MNP) and INDDHH, [Informe conjunto sobre las condiciones de atención en salud mental de la población privada de libertad en el quinto nivel de la Unidad 5](#), August 16, 2023.

allegedly sell drugs at Unit No. 5 (this unit concentrates 70 percent of the country's women prison population).¹⁶⁴²

817. With respect to the situation of **Afro-descendants and the fight against racial discrimination**, the Commission recognizes the efforts made by the State to implement the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.¹⁶⁴³ In addition, official sources highlight the presentation of a guide by the Ministry of Social Development which indicates that eight percent of the employees in public agencies should be Afro-descendants in accordance with the established quota.¹⁶⁴⁴

818. However, the United Nations Committee on the Elimination of Racial Discrimination expressed its deep concern over cases of religious intolerance based on discriminatory biases regarding the religions and beliefs of the Afro-descendant population. The environment of structural racial discrimination has led to persistent racial profiling, ill-treatment, acts of torture, deaths in custody, abuse of authority and excessive use of force by law enforcement agents against individuals and groups protected by the International Convention on the Elimination of All Forms of Racial Discrimination. It has also led to the overrepresentation of racial and ethnic minorities, particularly the Afro-descendant and indigenous populations, in prisons.¹⁶⁴⁵

819. With respect to **LGBTI persons**, it is noteworthy that the 2023 national census incorporated a collection of data on gender identity.¹⁶⁴⁶ Likewise, public information indicates that the State Health Services Administration worked on measures to reduce the list of people waiting for gender affirmation treatments and surgeries.¹⁶⁴⁷ Moreover, the Ministry of Social Development undertook important efforts to promote the mental health of LGBTI persons.¹⁶⁴⁸ The Diversity Secretariat of the municipality of Montevideo also conducted several investigations to make the realities of LGBTI people visible. Among its efforts were the first survey of non-binary people's data.¹⁶⁴⁹

820. Likewise, according to official information, in 2023, 324 requests for name or registered sex adjustment were made by transgender persons. In addition, 102 procedures pending from previous years were completed, in compliance with Law 19,684 (Comprehensive Law on Trans Persons). To comply with the reparation measures set forth by said law, 204 applications were approved between 2019–2023.¹⁶⁵⁰ The State also advanced on the implementation of various public policies on the protection and inclusion of transgender persons, including the granting of 148 scholarships by the Ministry of Education and Culture. In addition, 2,166 transgender persons were included in a program to support individuals in an extreme situation of

¹⁶⁴² *Prensa Latina*, "Consignan maltratos en Cárcel de Mujeres de Montevideo," August 25, 2023; *El Observador*, "[Te voy a tatuar mi nombre: Fiscalía investiga varios hechos de violencia extrema en la Cárcel de Mujeres](#)," August 22, 2023; Montevideo Portal, "[Estoy toda lastimada: el relato de una de las reclusas agredidas en la Cárcel de Mujeres](#)," August 22, 2023; and *El Observador*, "[Reclusas de la Cárcel de Mujeres denunciaron que fueron secuestradas por otras presas: una de ellas denunció que la intentaron violar](#)," August 8, 2023.

¹⁶⁴³ By means of Diplomatic Note No. 136/2023, dated November 1, 2023, the Permanent Mission of Uruguay to the Organization of American States requested technical cooperation from the IACHR for advice on the implementation of the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, ratified by Uruguay in 2017. In IACHR files.

¹⁶⁴⁴ Presidency of Uruguay, "[Gobierno presentó guía para cumplir con cupo de personas afrodescendientes en llamados públicos](#)," July 24, 2023.

¹⁶⁴⁵ United Nations, Committee on the Elimination of Racial Discrimination, [Observaciones finales sobre los informes periódicos 24º a 26º combinados del Uruguay](#), September 13, 2023, CERD/C/URY/CO/24-26.

¹⁶⁴⁶ *La Diaria*, "[El censo 2023 incorporará por primera vez la variable identidad de género para recoger datos sobre personas trans](#)," March 29, 2023; *El País*, "[Justicia rechazó recurso presentado para detener el Censo y eliminar pregunta sobre género](#)," May 10, 2023.

¹⁶⁴⁷ *La Diaria*, "[ASSE trabaja en medidas para reducir la lista de espera de personas que aguardan por cirugías de reafirmación de género](#)," October 5, 2023.

¹⁶⁴⁸ Ministry of Social Development, "[Lanzamiento del Mes de la Diversidad](#)," September 1, 2023.

¹⁶⁴⁹ Municipality of Montevideo, [Envejecer con orgullo](#), August 30, 2023; *La Diaria*, "[Envejecer con orgullo: una primera aproximación a las vejeces de varones homosexuales y bisexuales en Montevideo](#)," September 13, 2023; *La Diaria*, "[Para las personas no binarias de Montevideo, el principal problema es la falta de reconocimiento de su identidad](#)," July 28, 2023; Subrayado, "[IMM presentó primera encuesta sobre población no binaria: datos muestran discriminación en varios ámbitos](#)," July 28, 2023.

¹⁶⁵⁰ Ministry of Social Development, [Rendición de cuentas Mes de la Diversidad](#), 2023.

socioeconomic vulnerability. Furthermore, until July 2023, 78 transgender, homeless persons were assisted and housed in shelters while respecting their gender identity.¹⁶⁵¹

821. In addition, civil society organizations denounced situations of violence against LGBTI persons in the departments of Florida, Rivera, San José, Maldonado, Rocha, Río Negro and Cerro Largo.¹⁶⁵² Moreover, intersex persons demanded greater recognition of their human rights in legislation and public policies, and denounced the lack of legal protections for cosmetic treatments, which are carried out without their personal, prior and informed consent.¹⁶⁵³ Finally, information was received on the difficulties of transgender persons to access locker rooms and bathrooms that respect their gender identity in sport clubs.¹⁶⁵⁴

822. The Commission also noted the persistent situation of invisibility to which **indigenous peoples** are subjected to in the country. Racial discrimination against these indigenous peoples continues to foster an environment of denial and harmful racial stereotyping to the detriment of this group.¹⁶⁵⁵

823. In the area of **memory, truth and justice**, the Commission **commended** the inauguration of a memorial site honoring Uruguayan women political prisoners.¹⁶⁵⁶ The adoption of this type of measures emphasized the importance of advancing transitional justice policies that include a gender perspective, in the context of the 50th anniversary of the *coup d'état* in the country. The Commission also **welcomed** the placement of a memorial plaque in Infantry Battalion Unit No. 12 in the department of Rocha, which had been an illegal center of detention and torture.¹⁶⁵⁷ The Commission also learned of attacks against a human rights defender specialized in truth, memory and justice.¹⁶⁵⁸

824. The Commission also notes the passing of Law No. 20,193, which recognizes the right to reparations for victims of unlawful acts committed by members of armed groups, for political or ideological reasons, between January 1, 1962, and December 31, 1976.¹⁶⁵⁹ In this regard, civil society organizations criticized the time frame delimited in the initiative, which established differentiated criteria and significantly higher reparations compared to those defined by Law 18,596 of 2009, which regulated “reparations to the victims of the illegitimate actions of the State in the period between June 13, 1968, and February 28, 1985.”¹⁶⁶⁰ In addition, the Commission received information from a victims’ association on the lack of informed citizen participation in the processing of the draft bill that sought to regulate the administration of the dictatorship’s archives.¹⁶⁶¹

825. With regard to the administration of justice for crimes committed during the dictatorship, according to information available in the public domain, between 2018 and 2023, there were advances in 40

¹⁶⁵¹ Ministry of Social Development, [Rendición de cuentas Mes de la Diversidad](#), 2023

¹⁶⁵² *La Diaria*, [“Colectivos LGBTI+ denuncian un ‘aumento exponencial en todas las formas de violencia hacia las disidencias sexogenéricas’ en Uruguay.”](#) October 9, 2023.

¹⁶⁵³ *La Diaria*, [“Las reivindicaciones de las personas intersexuales: mayor visibilidad, más información disponible y erradicar las vulneraciones en el sistema médico.”](#) March 15, 2023.

¹⁶⁵⁴ *La Diaria*, [“Resistir o renunciar”: el acceso de las personas trans a los baños y vestuarios de los clubes deportivos.”](#) September 29, 2023.

¹⁶⁵⁵ United Nations, [“Uruguay debe dar mayor visibilidad a los pueblos indígenas.”](#) August 31, 2023.

¹⁶⁵⁶ Municipality of Montevideo, [“Se inaugurará el Memorial de expresas políticas.”](#) June 26, 2023; Universidad de la República de Uruguay, [“‘Women build history defending life’: the memorial for former political prisoners was inaugurated.”](#) June 30, 2023.

¹⁶⁵⁷ *La Diaria*, [“Colocaron placa de la memoria frente al Batallón de Infantería de la ciudad de Rocha.”](#) February 11, 2023.

¹⁶⁵⁸ Montevideo Portal, [“Arrojaron una bolsa de huesos y una nota a nombre de la IUP en la casa de una militante.”](#) October 31, 2023; *La Diaria*, [“El ministro del Interior recibió a Crysol y Madres y Familiares tras amenazas a militante de derechos humanos.”](#) November 17, 2023.

¹⁶⁵⁹ Presidency of Uruguay, [Ley N° 20.193 de fecha 24/08/2023 Reconocimiento de derecho a reparación de víctimas de hechos ilícitos cometidos por integrantes de grupos armados, por motivos políticos o ideológicos, entre el 1.º de enero de 1962 y el 31 de diciembre de 1976](#), August 24, 2023.

¹⁶⁶⁰ *La Nación*, [“El Senado uruguayo convirtió en ley la pensión reparatoria para víctimas de la guerrilla.”](#) August 15, 2023; Montevideo Portal, [“FA no votará proyecto para resarcir a víctimas de guerrilla y critica ‘visión hemipléjica’.”](#) March 28, 2023; Agencia Uruguaya de Noticias, [“Crysol opina que reparación a víctimas de la guerrilla es una ‘provocación a las víctimas del terrorismo de Estado.’”](#) March 29, 2023.

¹⁶⁶¹ Crysol, Letter to the President of the Inter-American Commission on Human Rights, October 4, 2023. In IACHR files; *El País*, [“Los archivos de la dictadura uruguaya enfrentan al Gobierno con asociaciones de víctimas.”](#) October 6, 2023.

cases on crimes against humanity, with 13 convictions and 32 prosecutions and indictments, which were in addition to the 14 prosecutions and convictions recorded between 2003 and 2017.¹⁶⁶² Moreover, according to government data released by a civil society organization, 29 of the convicted individuals are reportedly serving their sentences in prisons and 14 are in house arrest.¹⁶⁶³ The Commission received information on the progress in the discussion of the bill that would make it possible to apply the regime of house arrest for health reasons or for individuals over the age of 65, among other cases.¹⁶⁶⁴ According to the information available in the public domain, the text approved by the Senate's Committee on Constitution and Legislation excludes the application of this regime to those convicted for certain crimes, including genocide, war crimes and crimes against humanity.

826. Likewise, civil society organizations warn about issues in the draft bill, due to the fact that in most of the cases the acts committed are allegedly not classified as crimes against humanity, but rather as other types of crimes, even though they meet the elements of international crimes or serious human rights violations.¹⁶⁶⁵ In view of the foregoing, the Commission reiterates that the application of benefits in the execution of sentences for acts constituting serious human rights violations requires the evaluation of specific factors and criteria, and cannot be based solely on the health or age of the convicted persons.¹⁶⁶⁶

¹⁶⁶² *La Diaria*, "[Desde la creación de la Fiscalía Especializada hubo tres veces más condenas a represores que en el resto del periodo posdictadura](#)," May 19, 2023.

¹⁶⁶³ PIT-CNT, "[A regañadientes: Gobierno informó al Observatorio Luz Ibarburu datos oficiales de represores encarcelados por crímenes de la dictadura](#)," August 2, 2023; Observatorio Luz Ibarburu, "[Situación de procesados y condenados por crímenes de la dictadura](#)," August 2, 2023.

¹⁶⁶⁴ General Assembly of Uruguay, [Asunto: 151994](#); General Assembly of Uruguay, [Versión Taquigráfica. Comisión de Constitución y Legislación. \(Sesión celebrada el día 31 de octubre de 2023\)](#), October 31, 2023.

¹⁶⁶⁵ *El Observador*, "[Coalición selló acuerdo por prisión domiciliaria, uno de los proyectos más controvertidos del período](#)," October 31, 2023; *La Diaria*, "[Coalición aprobó en comisión un proyecto unificado de prisión domiciliaria para mayores de 65 años](#)," October 31, 2023; *Ámbito*, "[El proyecto de prisión domiciliaria para mayores de 65 años se aprobó en comisión](#)," November 1, 2023; Observatorio Luz Ibarburu, "[Comunicado sobre proyecto de prisión domiciliaria](#)," May 17, 2023.

¹⁶⁶⁶ Inter-American Court of Human Rights. Differential approaches to certain groups of people deprived of liberty (interpretation and scope of Articles 1.1, 4.1, 5, 11.2, 12, 13, 17.1, 19, 24 and 26 of the American Convention on Human Rights and other instruments concerning the protection of human rights). *Advisory Opinion OC-29/22*, May 30, 2022. Series A No. 29, para. 350; IACHR, *Resolution No. 1/2020: Pandemic and Human Rights in the Americas*, April 10, 2020, para. 46.

REASONED VOTE OF COMMISSIONER CARLOS BERNAL PULIDO ON CHAPTER IV.A OF THE 2023 ANNUAL REPORT

With all due respect for my colleagues and in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Commission on Human Rights ("the Commission" or "the IACHR"), I hereby submit a partial reasoned vote on certain points raised by the majority of the plenary of the Commission in Chapter IV.A ("the Chapter") of the 2023 Annual Report (the "Report" or the "Annual Report"). While I welcome the structural follow-up that the Chapter provides on the situation of the different States in the region, as well as the emphasis on cross-cutting and relevant issues such as democratic institutions, access to justice, citizen security, and the rights of subjects of special protection, in this explanation of my vote I will present some discrepancies in aspects incorporated in the text on sexual and reproductive rights, abortion, conscientious objection, and gender identity.

In particular, I will state that Chapter IV-A: (i) contains considerations that pose a risk to pregnant women and ignore integral needs of women; (ii) takes an erroneous approach to the right to conscientious objection that envisages it as an obstacle and ignores its fundamental nature; (iii) adopts an insufficient approach in relation to the approval and use of contraceptive methods; (iv) omits the absence of any legal basis for deriving the existence of a right to gender identity; (v) blatantly ignores the vision that the ACHR incorporated on marriage, and (vi) suffers from significant omissions regarding the right of parents to choose the education of their children.

1. Chapter IV-A contains considerations that pose a risk to pregnant women and ignore integral needs of women

Next, I will address the following issues: (i) the non-existence of the right to abortion and how much scope the state has (the margin of state configuration) with respect to the criminalization of abortion, (ii) the scope of the term forced pregnancy in international law, and (iii) the inappropriate limitation (*limitación inadecuada*) of sexual and reproductive rights derived from the approved chapter.

1.1. Non-existence of the right to abortion and the margin of state configuration with respect to the criminalization of abortion

Paragraphs 15, 49, 88, 121, 130, 150, 188, 190, 227, 363, 389, 408, 470, 490, 495, 496 and 514 of the Chapter refer to so-called obstacles or restrictions to access to abortion and advocate or welcome the decriminalization of this conduct at the national level. Paragraph 188 even mentions that the State of Colombia has made progress with CEDAW recommendations in this regard.

In view of this, first of all, I reiterate that there are no binding sources in international law -and especially in the American Convention or other treaties that make up the Inter-American System- that contemplate (i) the so-called right to abortion or (ii) alleged duties related to the decriminalization of abortion. Within this context, the States have a wide range of options (*margen de configuración*) - by virtue of the principles of subsidiarity or complementarity and representative democracy - to take measures to protect the life of the unborn child (*vida prenatal*) - which is indeed protected by the American Convention¹⁶⁶⁷- including, although it is not the only option, the use of criminal law.

Regarding the non-existence of the right to abortion, former I/A Court H.R. Judge Eduardo Vio Grossi (R.I.P.), established, in his partially dissenting opinion in the judgment in the case of *Manuela et al. v. El Salvador*, that:

"In this regard, it is indisputable that (...) **there is no** inter-American or international **legal norm** , whether conventional, international custom, or general principle of law, **that recognizes abortion as**

¹⁶⁶⁷ ACHR. Article 4.

a right. There are only resolutions of international bodies, most of which are made up of international officials and not representatives of States, decisions which, in addition to not being binding, are not interpretative of current international law but rather reflect aspirations for it to change in the direction they suggest."¹⁶⁶⁸ (Bold added).

Now, I emphasize that this range of option derived from the non-existence of a right to abortion and the convergence of competing rights (*en tensión*) is broader thanks to the fact that it is incumbent upon States to define punishable acts/conduct and their consequences, and to the automatic referral that, according to the I/A Court H.R., Article 7.2 of the American Convention makes to domestic law with respect to deprivation of liberty -the legal exception principle-.¹⁶⁶⁹

In addition, I also emphasize that the sections in which such assessments are formulated are not such as to prove unequivocally the existence, in the Inter-American System, of a clear and binding parameter that could serve as a basis for rejecting the models of criminalization of abortion as negative. The conventional parameter that does exist and that is mandatory is Article 4 of the ACHR which, as I have said on other occasions, contemplates protection of the right to life from conception and demands the existence of regulatory frameworks that do not leave pregnant women devoid of all protection.

This is relevant if one bears in mind that, based on a systematic reading of Articles 31, 76, and 77 of the American Convention, it is only through consensus -which the States express by signing and ratifying amendments or treaties- that international obligations can arise for the States, different from those already contemplated in the ACHR.

Secondly, I emphasize that most references to abortion ignore the other person whose right to life is also conventionally protected: the unborn person and ignore the necessary balance that must exist between competing rights. In this regard, it is stressed that pregnant women are also subjects of law and holders of the right to life. A pronouncement on abortion always implies a position on a practice that necessarily implies the termination of the life of a human being with dignity (*ser humano digno*) and that Article 4 of the ACHR protects, so it is necessary to expressly recognize the rights of the unborn person as part of the considerations required in any case of abortion.

In this regard, I identify with great concern paragraph 470, which refers to the implementation of: "(...) measures that challenge the protection of women and persons with gestational capacity (*capacidad de gestación*), with the publication of Law No. 31935, which recognizes the rights of the conceived." This statement completely ignores the fact that the recognition of rights to the unborn child represents a fulfillment of the mandates derived from the Convention itself¹⁶⁷⁰ -and from other international treaties- that recognize the protection of the person from the moment of gestation.

In addition, it presents a false tension between the protection of women and the recognition of the rights of the unborn child, given that it is possible to protect both through balancing exercises where their rights are taken into account concomitantly. Moreover, it is problematic to consider that recognizing the right, such as the right to life, of one human being constitutes a challenge *per se* to guaranteeing the rights of another.

1.2. Forced pregnancy? Scope of the term under international law

In paragraph 53 of the approved Chapter, reference is made to the term "forced pregnancy." In this regard, although the concept of "forced pregnancy" has been further elaborated in international criminal law, it was misapplied in the context of the report.

¹⁶⁶⁸ Partially Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-American Court of Human Rights, Case of Manuela et al. v. El Salvador: Judgment of November 2, 2021, (Preliminary Objection, Merits, Reparations, and Costs), paragraph 13.

¹⁶⁶⁹ I/A Court H.R. Case of Romero Feris v. Argentina. Merits, Reparations, and Costs. Judgment of October 15, 2019. Series C No. 391. Par. 77.

¹⁶⁷⁰ ACHR. Article 4.

Thus, in the Rome Statute, which considered it a crime against humanity and a war crime, forced pregnancy was defined as "the unlawful confinement of a woman who has been forcibly impregnated."¹⁶⁷¹ In that context, in establishing what constitutes crimes, it has been identified that this conduct takes place when (i) "the perpetrator has confined one or more women who have become pregnant by force"¹⁶⁷² and (ii) when there is intent to modify the ethnic composition of a population or to commit another serious violation of international law.¹⁶⁷³

Therefore, intention plays a determining role in the commission of the crime. Therefore, without ignoring its intrinsic seriousness, it is wrong (i) to associate a pregnancy resulting from rape -- with a forced pregnancy - the latter conduct does not necessarily occur in these scenarios- or (ii) to equate -as paragraph 53 does- an unwanted pregnancy with a forced pregnancy.

Finally, I stress the importance that the concept of forced pregnancy should not be interpreted in such a way as to classify any policy prohibiting abortion as such. As I have indicated, such an interpretation has no basis and goes beyond the actual scope of the concept. Apart from the importance of reiterating that there is no right to abortion, there is no obligation of the State to provide it and, on the contrary, the State does have the duty to protect the right to life from conception.¹⁶⁷⁴

1.3. Inappropriate limitation of sexual and reproductive rights

I call attention to the importance of not limiting so-called sexual and reproductive rights to access to abortion. This is not only because there is no law that establishes abortion as a guarantee inherent in them, but also because this vision simplifies and detracts attention from the problems faced by women in the region and, therefore, inhibits debates that promote the formulation of comprehensive and integral proposals to address the structural problems faced by women in the region.

In relation to this, paragraph 87 of the report mentions that "in the area of sexual and reproductive rights, the State withdrew from the Geneva Consensus Declaration on Women's Health and Strengthening of the Family, which sought to restrict the exercise of these rights by women."

In this regard, I consider that it is not entirely clear how the Consensus restricted the exercise of women's sexual and reproductive rights, given that, in reality, the Consensus includes measures to protect women. However, the fact that it establishes that there is no international right to abortion, not only does not affect the protections granted to women, but also recognizes a reality that I have been pointing to on multiple occasions.

2. Wrong approach to the right to conscientious objection: it is not an obstacle

In paragraphs 49, 150, and 514, the invocation of conscientious objection is taken as an obstacle to abortion. In this regard, I emphasize that in this case the legitimate exercise of a right vis-à-vis a medical procedure such as abortion, which does not constitute a right, is taken as an obstacle.¹⁶⁷⁵

Having clarified this, I point out that far from constituting an obstacle, the exercise of conscientious objection constitutes a vehicle for the protection of various rights, such as: the right to freedom of conscience and religion, the right to honor and dignity, and the right not to be subjected to forced labor. Even the IACHR itself has recognized that conscientious objection acts as a guarantee of these rights.¹⁶⁷⁶ This position has indeed been upheld by the Human Rights Committee, which has construed conscientious objection as concretization or materialization of the right to freedom of conscience.¹⁶⁷⁷

¹⁶⁷¹ICC. Elements of crimes. Article 7(1)(g)-4; Article 8(2)(b)(xxii)-4.

¹⁶⁷²Ibid.

¹⁶⁷³Ibid.

¹⁶⁷⁴ See Annex 1.1.

¹⁶⁷⁵ See Annex 1.1.

¹⁶⁷⁶ IACHR. Sahli Vera vs. Chile Alfredo Díaz Bustos v. Bolivia and Xavier Alejandro León Vega.

¹⁶⁷⁷ Human Rights Committee. General Comment No. 22.

That said, it is clear that conscientious objection, like any right, may of course clash with other fundamental guarantees. However, this should be analyzed on a case-by-case basis under criteria of proportionality in conflicts arising between the exercise of conscientious objection and other **rights**.¹⁶⁷⁸ At this point, I would like to clarify that by this I do not mean that abortion should be weighed up against conscientious objection or vice versa; this is impossible, since we are not dealing with two rights. In such a case, “weighing up” cannot be based on abortion, but on rights such as the right to health, as applicable in each specific case.

In any case, an interpretation that seeks to annul conscientious objection in a generic manner in specific contexts and without taking into account the particularities of the cases (i) would mean leaving freedom of conscience and religion without content; (ii) would imply consolidating a hierarchical vision of rights - far removed from the foundations of international human rights law; (iii) would completely depart from the logic of weighing up rights and (iv) would represent, consequently, a very serious attack on one of the most important guarantees of the inner core (*fuero interno*) of every person.

Having said all of the above, I reiterate that conscientious objection constitutes a vehicle for the protection of rights and not an obstacle. To understand it in that way implies an intense and unjustified -groundless- limitation to the exercise of freedom of conscience. I emphasize that the function of the Commission is to protect and defend human rights, not to tacitly derogate them.

3. Inadequate approach to the approval and use of contraceptive methods

Paragraph 15 of Chapter IV.A states that:

"In the area of sexual and reproductive rights, of particular note is the federalization of the National Plan for the Prevention of Unintended Pregnancy in Adolescence (ENIA Plan), already signed on to by all the provinces and the City of Buenos Aires. Appreciation is also shown for efforts to facilitate access to reproductive health goods and services, such as the Ministry of Health Resolution 1062/2023 that regulates the sale of Emergency Contraceptives in pharmacies without a prescription; the national distribution of short- and long-acting and emergency contraceptive methods; judicial decisions that protect the right to reproductive health, including access to abortion; among others."

Similarly, paragraph 417 states that "the State made progress in the area of sexual and reproductive rights with the decision of the Constitutional Court ordering the Ministry of Health to distribute the emergency oral contraceptive (EOC) free of charge nationwide." For its part, paragraph 469 indicated that "the State made progress in the area of sexual and reproductive rights with the decision of the Constitutional Court ordering the Ministry of Health to distribute the emergency oral contraceptive (EOC) free of charge nationwide."

In view of this, I criticize the fact that the majority of the Commission has chosen to promote a contraceptive method and has rejected the incorporation in the Report of a paragraph urging States to accompany such measures with education and awareness-raising initiatives on the use of these methods, information on the specific physical effects they entail, and their impact on the right to health. I emphasize that freedom in decision making is not limited to the opening of options. True freedom comes when sufficient information is provided to make decisions.

In this regard, the World Health Organization has indicated that the adoption of the method will depend on **"the person's general state of health,"** among other criteria.¹⁶⁷⁹ This is important, since it shows that **not every method is suitable for every person** and that, in this context, the supply of such methods may represent a health risk in specific cases. Thus, it is essential that people receive adequate guidance on existing contraceptive methods so that they can make an informed choice of the most appropriate option for them.

¹⁶⁷⁸ I/A Court H.R. Jurisprudence Compendium No. 26: Restriction and Suspension of Human Rights.

¹⁶⁷⁹ Family planning. Contraceptive methods. <https://www.who.int/es/news-room/fact-sheets/detail/family-planning-contraception>.

Only with proper guidance can it be guaranteed that people who use contraceptive methods give their informed consent, an essential guarantee that derives from the text of the Convention.¹⁶⁸⁰ With respect to informed consent, the Inter-American Court has stated that:

"the concept of informed consent consists in a prior decision to accept or to submit to a medical act in the broadest sense, which has been freely obtained – in other words, without threats or coercion, improper induction or incentives – and given after obtaining **adequate, complete, reliable, comprehensible and accessible information, provided that this information has really been understood, which would allow the individual to give their full consent.** Informed consent is the positive decision to submit to a medical act resulting from a decision process, or prior, free and informed choice, which constitutes a two-way mechanism of interaction in the physician-patient relationship."¹⁶⁸¹

In relation to this, in the case of *I.V v. Bolivia*, the Court criticized the fact that the victim never had the possibility of knowing and weighing up alternative contraceptive methods.¹⁶⁸² In this case, the I/A Court H.R. emphasized the importance of people having the necessary data to make an informed decision. In this framework, the Court highlighted the importance of addressing the effects or impacts of the method for free choice.¹⁶⁸³

Thus, the autonomy of individuals in the choice of contraceptive methods can only be guaranteed when they have the capacity to consent to their use or non-use with the necessary information. It is therefore particularly unfortunate that the approved Chapter has deliberately omitted these elements.

4. Gender identity: it is not a right, no obligation to adapt identity documents, and a critical view of "affirmation therapies"

In this section, I seek to point out that, in the framework of the inter-American human rights system, there is no conventional provision -binding for the States Parties to the Convention- that contemplates the so-called "right to gender identity." This has important consequences, since it implies that there are no correlative obligations for the States, in the sense of adapting their internal regulations or other actions, to recognize this so-called right. In line with the above, I would like to draw attention to some problematic aspects arising from gender affirming therapies and hormone treatments for minors.

4.1. The non-existence of a conventional right to gender identity and the consequent non-existence of correlative obligations, such as the obligation to adapt identity documents

In paragraph 321, reference was made to the adaptation of identity documents to gender identity. In this regard, I would like to refer to two comments that I have already made on other occasions. First, the American Convention does not expressly contemplate a right to gender identity, nor is there a binding instrument in the inter-American system that contemplates the obligations referred to or that provides parameters for evaluating the regulatory models analyzed.

As I have indicated, recognizing new rights that are not in the Convention through an interpretation that does not follow the procedures established in the Convention itself would undermine Articles 31, 76, and 77, ignoring the original will of the States that ratified the Convention.

¹⁶⁸⁰ I/A Court H.R. Case *I.V. v. Bolivia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 30, 2016. Series C No. 329.

¹⁶⁸¹ I/A Court H.R. Case *I.V. v. Bolivia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 30, 2016. Series C No. 329.

¹⁶⁸² *Ibid.*

¹⁶⁸³ I/A Court H.R. Case *I.V. v. Bolivia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 30, 2016. Series C No. 329.

Therefore, any pronouncement in which any of the organs of the ISHR applies a right that is not established in the binding instruments of international law that govern its activity will be an act that will violate the literal meaning of the American Convention and will exceed the scope of the competencies of the IACHR or the I/A Court H.R. as the case may be. Such an irregular constitutive act would also undermine the principles of good faith and *pacta sunt servanda*.¹⁶⁸⁴

Secondly, although I am not unaware that OC-24/17 affirmed the existence of the so-called right to gender identity in the terms indicated in this Report, I emphasize that the Advisory Opinions of the IACHR Court are not binding in international law nor do they have the capacity to contemplate rights or obligations other than those expressly contemplated by the American Convention.¹⁶⁸⁵

I point this out, first, because Article 68 of the Convention is clear in stating that the States are obliged to comply with the decisions rendered by the Court, "in any case to which they are parties." This provision is of great relevance in that (i) it is the only one that refers to the legal value of the Tribunal's pronouncements and (ii) it limits the binding nature of its decisions expressly to the States party to a case, thus limiting the addressee of the obligations -the State party to a case- and the context in which the pronouncement is issued -that is, the litigation-. This position has also been maintained by some sectors of the doctrine, also based on the principle of State consent as the basis of conventional law.¹⁶⁸⁶

Second, there is no provision establishing the extent to which the Tribunal's interpretations in the framework of the Advisory Opinions are binding. This is reinforced when Article 64 of the ACHR limits the competence of the Court to issue advisory opinions regarding the Convention or treaties of the inter-American system. Thus, if a pronouncement derived from an advisory opinion is not binding in itself, there is no way that one that addresses so-called rights or obligations not contemplated in the Convention or interpretations that are also contrary to its text is binding.

Third, to derive obligations or so-called rights not contemplated in the Convention, based exclusively on an advisory opinion, would be, as I have already said, contrary to the principle of *pacta sunt servanda* that governs international treaty law, by virtue of which States are only bound to comply with that to which they have expressed their consent.¹⁶⁸⁷

Fourth, although the I/A Court H.R. has affirmed that advisory opinions are parameters of conventionality control,¹⁶⁸⁸ I emphasize that an open and transparent inter-American dialogue is still necessary to further discuss this position, which is not expressly derived from the American Convention. I call attention to the fact that there is still no consensus on the matter, either in the States of the region or in academic circles; hence, important constitutional courts still refrain from invoking the notion of conventionality control and from incorporating advisory opinions as a parameter.¹⁶⁸⁹

Finally, I note that some authors have indicated that the extension of the effects of advisory opinions could contribute to distort the functioning of the Inter-American System and, thus, weaken it, since (i) it results in equating decisions issued in the advisory function of the Court with the text of the convention itself,¹⁶⁹⁰ and (ii) it blurs the differences between the jurisdictional and advisory functions of the Court. Some have even

¹⁶⁸⁴ Vienna Convention on the Law of Treaties.

¹⁶⁸⁵ I/A Court H.R. Gender identity, and equality and non-discrimination of same-sex couples. State obligations in relation to name change, gender identity, and rights derived from a same-sex relationship (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18, and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17, November 24, 2017. Series A, No. 24.

¹⁶⁸⁶ Systematization of the criticisms in: González Domínguez, P. (2017). The doctrine of conventionality control in light of the subsidiarity principle. *Constitutional Studies* 15(1), 55-98.

¹⁶⁸⁷ Vienna Convention on the Law of Treaties.

¹⁶⁸⁸ I/A Court H.R. Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. par. 41. 31.

¹⁶⁸⁹ Ramírez, F. G. (2023). A critical look at the control of conventionality. *Journal of Law and Social Sciences*, (28), 101-142; Palacios, D. L. (2017). Inter-American conventionality control at the national level: a notion still under construction. *Revista Direito e Práxis*, 8, 1389-1418.

¹⁶⁹⁰ Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Law and Society*, 5 (1), pp. 83-116.

indicated that these interpretations by the Court generate legal uncertainty, since there is no certainty as to the effects associated with the issuance of advisory opinions.¹⁶⁹¹

By virtue of the foregoing, given that there is no conventional right to gender identity that is binding on States, it is possible to affirm that there are no correlative obligations to recognize this right either. Indeed, a right imposes an obligation on the State: there is no right holder without a State obligation.¹⁶⁹² Hence, the non-existence of conventional law leads to one conclusion: it is not possible to require States to adapt their domestic laws, identity documents, and other items pertaining to the State's jurisdiction.

4.2. The need for more information and academic and scientific rigor regarding gender affirming therapies and hormonal treatments

Paragraph 235 states that "the IACHR warns about the presentation of bill 23.857 that proposes to "eliminate gender ideology", as well as to prohibit gender reaffirmation treatments for trans youth and to prohibit them from using bathrooms in accordance with their gender identity, and from participating in sports competitions."

In this regard, I reiterate that there is a need for the Commission to deepen these discussions with scientific arguments in order to address them comprehensively. In particular, there are studies that indicate the harm that may result from having undergone hormone treatments in adolescence.¹⁶⁹³

In addition, in the case of children and young people, it is essential that their capacity to consent to hormone treatments be taken into account and assessed. Indeed, it is necessary to have an in-depth discussion on the negative effects linked to these treatments and to ensure that statements made by the Commission are in line with that information.

Indeed, scholars argue that there are long-term studies that show - in individuals who have undergone gender affirming or hormonal treatments - an increase in morbidity and mortality and a risk of suicide after transition.¹⁶⁹⁴

These elements cannot be ignored by the Commission; especially when this body has the mandate to promote and defend human rights in the region, including the right to health.

5. Same-sex couples: marriage and recognition of parentage under the ACHR

Paragraphs 57, 322, 382, 420, 485, and 527 of the Report recommend and welcome legal recognition of same-sex unions, as well as the recognition of marriage in these contexts. Paragraph 420 even mentions that "the IACHR regretted the decision of the plenary of the Supreme Court of Justice when it declared, in a case submitted for study in 2016, **that the expressions of the family code and the code of private international law that limit civil marriage to persons of the opposite sex are not unconstitutional**. The Commission considered that this decision is contrary to inter-American standards on the matter and called on the State to recognize the rights of LGBTI persons" (Bold added). In addition, paragraph 482 mentions that "the Constitutional Court handed down a judgment recognizing the rights to nationality and to the name of a boy and a girl born through surrogacy and who are under the care of their father, who is a gay man."

With respect to these points, I wish to present the following considerations: (i) there is no conventional provision that obliges States to recognize same-sex marriages, and (ii) there are no specific rules in

¹⁶⁹¹ Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Law and Society*, 5 (1), pp. 83-116.

¹⁶⁹² Hohfeld's Analysis of Rights: An Essential Approach to a Conceptual & Practical Understanding of the Nature of Rights - [2005] MurUEJL 9." *classic.austlii.edu.au*. Retrieved 2018-06-12.

¹⁶⁹³ "Trust the Experts' Is Not Enough: U.S. Medical Groups Get the Science Wrong on Pediatric 'Gender Affirming' Care. <https://media4.manhattan-institute.org/sites/default/files/how-to-respond-to-medical-authorities-claiming-gender-affirming-care-safe.pdf>

¹⁶⁹⁴ Levine, S.B., Abbruzzese, E. Current Concerns About Gender-Affirming Therapy in Adolescents. *Curr Sex Health Rep* 15, 113-123 (2023). <https://doi-org.ez.unisabana.edu.co/10.1007/s11930-023-00358-x>.

international human rights law regarding the recognition of filiation between parents and children resulting from surrogate motherhood, and therefore, this is an area left up to the States (*hace parte del margen de configuración de los Estados*).

Regarding the first point, as I have mentioned on several occasions, the treaties that are part of the inter-American human rights system and grant jurisdiction to the Inter-American Commission to address contentious cases do not contemplate any obligation with respect to the recognition of marriage between same-sex couples. This lack of obligation derives from the literal wording of the American Convention, which clearly establishes that marriage is a right reserved for "men and women":

Section 2) provides, "**The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of nondiscrimination established in this Convention.**"¹⁶⁹⁵ (Bold added).

Therefore, in accordance with the hermeneutic principle that calls for a literal and good faith interpretation,¹⁶⁹⁶ the State is only obliged to recognize the right to marriage for the couples specifically mentioned in Article 17(2) of the American Convention.

It is essential to underline that, according to the jurisprudence of the International Court of Justice, the good faith interpretation of a treaty should not result in changes to the literal wording of the treaties or in inferring what is not expressly contained in the text. This approach implies that the interpreter must assume that the parties intended what is apparent from the ordinary meaning of the terms used in the international agreement.¹⁶⁹⁷ The approach to treaty interpretation based on the text is not only accepted in the field of international law, but is also highly recommended, as it is based on the only empirically verifiable evidence of state intentions: the text of the treaty itself.¹⁶⁹⁸

Following these rules of interpretation, the European Court of Human Rights has considered the conception of marriage as that concluded between a man and a woman - as established in the European Convention on Human Rights, in a provision similar to that of the ACHR.¹⁶⁹⁹ In this sense, the European Court supports the idea that there is no binding obligation for States to recognize marriage between same-sex couples, which leaves ample scope for the State to regulate the matter.¹⁷⁰⁰ Likewise, as the European Court of Human Rights puts it:

"The Court reiterates that, according to Article 14 in conjunction with Article 8, States are free to restrict marriage only to opposite-sex couples and have some leeway to decide the exact nature of the legal status granted by other means of legal recognition."¹⁷⁰¹

¹⁶⁹⁵ American Convention on Human Rights, Article 17.1.

¹⁶⁹⁶ Vienna Convention on the Law of Treaties. Article 31.

¹⁶⁹⁷ International Court of Justice. Case concerning rights of nationals of the United States of America in Morocco. *France v. United States of America*. ICJ Reports 1952, pp. 196-199. International Court of Justice. Interpretation of peace treaties with Bulgaria, Hungary, and Romania (Second Phase). ICJ Reports 1950, pp.229 -230.

¹⁶⁹⁸ International Court of Justice. Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (*Nicaragua v. Colombia*), Preliminary Objections, Judgment, I.C.J. Reports 2016, pp. 116-123, paras. 34-38, 46. Although the International Court of Justice did not rely exclusively on the literal criterion of interpretation, this was one of the first criteria taken into account by the Court to reject the interpretation of the Colombian party.

¹⁶⁹⁹ European Convention on Human Rights. Article 12: "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

¹⁷⁰⁰ ECHR. *Oliari et al. v. Italy*. July 21, 2015, Par. 193.

¹⁷⁰¹ ECHR. *Chapin and Charpentier vs. France*. 9 September 2016. Par. 48.

On this point, it is worth noting that this same approach is supported by the European Court in the cases *Orlandi v. Italy*¹⁷⁰² and *Fedotova et al. v. Russia*.¹⁷⁰³ Indeed, in both cases, the European Court held that, although States must provide mechanisms for the protection of same-sex unions, this protection does not necessarily derive from the recognition of same-sex marriages.

Within this framework, I fully agree that the leeway available to the States in this regard concerns both the form of recognition and the content of the protection to be granted to same-sex couples, which cannot result in an absolute absence of protection.

In relation to the second point, that is, the non-existence of specific rules regarding the recognition of filiation between parents and children resulting from surrogate motherhood, first of all, I would like to point out that there is no binding instrument of international law that regulates specific obligations regarding assisted reproduction techniques; nor is there an instrument that establishes the way in which the link between the persons who undergo the treatments and the persons born should be regulated.

The leeway derived from the absence of specific obligations regarding assisted reproduction techniques and mechanisms for the protection of family ties is reinforced by the principle of complementarity and by the democratic principle as an essential prerequisite for the guarantee of rights. In this regard, with respect to the principle of complementarity, the preamble of the American Convention on Human Rights establishes that international protection is ancillary or complementary to that offered by the "domestic law of the American States."¹⁷⁰⁴

This principle of complementarity, as pointed out by the Inter-American Court, is a cross-cutting feature of the inter-American human rights system¹⁷⁰⁵ and identifies States, in the context of human rights disputes, as the first to "resolve the matter at the domestic level."¹⁷⁰⁶

From this, it follows that the States have leeway/*scope* (*ámbito de configuración*) to define their legislation with full respect for human rights, which makes sense not just dogmatically, but also from a practical point of view. States, through their authorities, are in a privileged position to define the best ways to protect and guarantee human rights, since they face domestic issues with a degree of immediacy, knowledge of the context and even specialization -*e.g.*, through ministries or special administrative departments - infinitely greater than that which could be achieved by any body of the ISHR.

Regarding use made of the leeway, I share the position of former IACHR Court Judge Eduardo Vio Grossi (R.I.P.), in his dissenting opinion in the *Gómez Murillo et al. v. Costa Rica* case, in which he considered that, since *in vitro* fertilization was not regulated by international law, it fell within the domestic or exclusive jurisdiction of the State or what is known as its leeway (*margen de configuración*).¹⁷⁰⁷

¹⁷⁰² ECHR. *Orlandi v Italy*. "The Court reiterates that States are still free, under Article 12 of the Convention as well as under Article 14 taken in conjunction with Article 8, to restrict access to marriage to different sex. The same holds for Article 14 taken in conjunction with Article 12 (see *Oliari and Others* cited above, § 193)." (Original: El Tribunal reitera que **los Estados siguen siendo libres**, de acuerdo con el Artículo 12 de la Convención, así como con el Artículo 14 en conjunción con el Artículo 8, **de restringir el acceso al matrimonio a parejas de distinto sexo**. Lo mismo se aplica al Artículo 14 en conjunción con el Artículo 12.) Par. 192.

¹⁷⁰³ In this case, the Court analyzed -only- the possible violation of Article 8 of the ECHR, which refers to the right of individuals not to be subjected to arbitrary interference by the State in their private life. In the case of same-sex couples, the Court established that the lack of a legal framework allowing same-sex couples to have their relationship recognized and protected under national law can lead to significant disruptions in the daily lives of these couples. Without prejudice to the foregoing, it established that the State may enjoy some leeway in determining the form of registration of same-sex unions, which implies that this registration need not necessarily entail marriage.

¹⁷⁰⁴ ACHR, preamble.

¹⁷⁰⁵ Case of *Gelman v. Uruguay*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights of March 20, 2013, preambular paragraph 70; I/A Court H.R. Case of the Massacre of Santo Domingo v. Colombia. Preliminary Objections, Merits, and Reparations. Judgment of November 30, 2012. Series C No. 259. Par. 142. Case of *Acevedo Jaramillo et al. v. Peru*. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2006. Series C No. 157. Par. 66.

¹⁷⁰⁶ *Ibid.*

¹⁷⁰⁷ I/A Court H.R. Case of *Gómez Murillo et al. v. Costa Rica*. Judgment of November 29, 2016. Series C No. 326. Dissenting vote of Judge Eduardo Vio Grossi.

I highlight, in this context, the advisory opinion on the Nationality Decrees enacted in Tunisia and Morocco of the International Court of Justice, also cited by Judge Vio Grossi, in which the judicial body indicated that domestic jurisdiction covers those matters that, even when they touch on the interests of more than one State, are not regulated by international law.¹⁷⁰⁸

In this context, the IACHR itself has recognized, based on the principle of complementarity, the scope/leeway of States in matters such as the recognition of nationality¹⁷⁰⁹ or the regulation of domestic remedies,¹⁷¹⁰ recognizing them as an area up to their discretion with respect to matters that are part of their domestic jurisdiction.

Furthermore, as with the principle of subsidiarity or complementarity, the regional instruments expressly recognize the *principle of representative democracy*. Democracy is not the enemy of human rights, but an indispensable element for their realization.¹⁷¹¹ As has been reiterated by the I/A Court H.R.,¹⁷¹² the participatory nature of democracy contributes to freedom and autonomy.¹⁷¹³

Finally, I appeal for a more in depth discussion of surrogacy within the framework of the inter-American human rights system. Indeed, it is necessary to assess the potential risks of commercialization, objectification, and health and identity problems for minors and women arising from surrogacy.¹⁷¹⁴

In fact, I wish to draw attention to the fact that some bodies of the universal human rights system have evaluated and studied the phenomenon of surrogacy. Indeed, the Committee on the Rights of the Child has repeatedly expressed its concern and held that this practice could lead to trade in children.¹⁷¹⁵ As it puts it, the Committee "is concerned that the widespread commercial use of surrogacy in the State party may lead to ... to the sale of children. The Committee is particularly concerned about situations where parentage issues are decided exclusively on a contractual basis at the pre-conception or pre-birth stage."¹⁷¹⁶ In line with the above, the Special Rapporteur on the Sale of Children and Trafficking in Persons has argued that the current practice of commercial surrogacy constitutes the sale of children.¹⁷¹⁷

6. Omission of the right of parents to choose their children's education

Paragraph 235 states that "In this case it is noted that such a law would limit the teaching of the gender equality perspective and the rights of trans and gender diverse persons." In a similar vein, paragraph 449 contains the following statement: "With respect to LGBTI people, they continued to face a panorama of setbacks in the recognition of their rights and the absence of public policies, such as the advancement of a bill that "prohibits the promotion, encouragement or teaching of gender ideology in educational institutions" with the aim of criminalizing "homosexual indoctrination." The report also states that "most of these statements show a stance

¹⁷⁰⁸ I/A Court H.R. Case of Artavia Murillo et al. (In Vitro Fertilization) v. Costa Rica. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2012. Series C No. 257. Vote of former Judge Eduardo Vio Grossi.

¹⁷⁰⁹ IACHR. Report on the Situation of Human Rights in the Dominican Republic December 31, 2005. par. 205.

¹⁷¹⁰ IACHR. Report 101/11.Liakat Ali Alibux, Suriname. July 22, 2011.

¹⁷¹¹ Charter of the Organization of American States. Preamble. Inter-American Democratic Charter Article 7.

¹⁷¹² I/A Court H.R. The figure of indefinite presidential reelection in Presidential Systems in the context of the inter-American human rights system (Interpretation and scope of Articles 1, 23, 24, and 32 of the American Convention on Human Rights, XX of the American Declaration of the Rights and Duties of Man, 3.d of the Charter of the Organization of American States and the Inter-American Democratic Charter). Advisory Opinion OC-28/21, June 7, 2021. Series A, No. 28.

¹⁷¹³ Inter-American Democratic Charter Preamble (considerations).

¹⁷¹⁴ Regalado Torres, M. D. (2017). Effects, consequences, and regulation of surrogacy. *FEMERIS: Multidisciplinary Journal of Gender Studies*, 2(2), 10-34. <https://doi.org/10.20318/femeris.2017.3756>; Valero Heredia, A. (2019). Surrogacy: a matter of fundamental rights. *Constitutional Theory and Reality*, (43), 421-440. <https://doi.org/10.5944/trc.43.2019.24433>.

¹⁷¹⁵ Committee on the Rights of the Child, Concluding observations to Country. CRC/C/OPSC/USA/CO/2, par. 29; CRC/C/IND/CO/3-4, par. 57 (d); CRC/C/MEX/CO/4-5, par. 69 (b); CRC/C/OPSC/USA/CO/3-4, par. 24; and CRC/C/OPSC/ISR/CO/1, par. 28.

¹⁷¹⁶ Committee on the Rights of the Child. Concluding observations to Country. CRC/C/OPSC/USA/CO/2, par. 29; CRC/C/IND/CO/3-4, par. 57 (d); CRC/C/MEX/CO/4-5, par. 69 (b); CRC/C/OPSC/USA/CO/3-4, par. 24; and CRC/C/OPSC/ISR/CO/1, par. 28.

¹⁷¹⁷ Report on the Special Rapporteurship on the sale and sexual exploitation of children, including child prostitution, child pornography, other child sexual abuse material. A/HRC/37/60 A/HRC/37/60. par 28.

against teaching trans identities in schools."

In this regard, I draw attention to the wording of Article 12.4 of the ACHR, which states that "**[p]arents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.**" (bold added)

Within this framework, the content of Article 12.4, which guarantees parents the right to ensure that their children receive a moral education in accordance with their convictions, cannot be overlooked. Thus, parental disagreement with certain content should not be seen as a threat in itself, since it represents a materialization not only of Article 12 of the Convention, but also, for example, of the right to freedom of expression, which are fundamental elements of any democratic system.

According to the ECHR, the right of parents to choose their children's education, including sex education, is an aspect of the right to respect for private and family life protected by the ECHR.¹⁷¹⁸ Therefore, sex education, like any other type of education, must be framed within the scope of protection of conventional law, recognized by international human rights law, which grants parents the right to choose the religious and moral education of their children, in accordance with Article 12.4 of the Convention.

¹⁷¹⁸ ECHR, Kjeldsen, Busk Madsen and Pedersen, par. 53; Dojan et al, cited above, paras. 78-83.

REASONED VOTE OF COMMISSIONER CARLOS BERNAL PULIDO ON CHAPTER IV.A - EL SALVADOR OF THE 2023 ANNUAL REPORT

With the customary respect for my colleagues and in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Commission on Human Rights ("the Commission" or "the IACHR"), I submit a reasoned vote on certain points raised by the majority of the plenary of the Commission in Chapter IV.A-El Salvador ("the Chapter") of the 2023 Annual Report (the "Report" or the "Annual Report"). Notwithstanding my disagreements, I emphasize that I support the monitoring of the progress and multiple challenges faced by El Salvador in the area of human rights.

In particular, I will state that Chapter IV-A on El Salvador: (i) contains considerations that pose a risk to pregnant women and ignore the integral needs of women; (ii) makes demands regarding the adequacy of documents in light of the so-called gender identity without any basis; and (iii) makes an erroneous approach to the right to conscientious objection that places it as an obstacle and ignores its fundamental nature.

1. Chapter IV-A contains considerations that pose a risk to pregnant women and ignore the integral needs of women.

Next, I will address the following issues: (i) the non-existence of the right to abortion and the margin of state configuration regarding the criminalization of abortion; (ii) the deficit of protection of the unborn derived from the considerations of the report; and (iii) the violation of the principle of subsidiarity and the lack of protection of the unborn in relation to the considerations on obstetric emergencies.

1.1. The non-existence of the right to abortion and the margin of state configuration with respect to the criminalization of abortion

Paragraph 2 of the Chapter mentions as challenges that "the absolute criminalization of the voluntary interruption of pregnancy persists, as well as the criminal prosecution of women who suffered obstetric emergencies". In the same sense, in paragraph 17, it was indicated that "although [the IACHR] appreciates the release of two women accused of homicide after suffering out-of-hospital deliveries, the Commission regrets that the absolute criminalization of voluntary interruption of pregnancy persists".

In this regard, I reiterate that there are no binding sources in international law -and especially in the American Convention or other treaties that make up the Inter-American System- that contemplate (i) the so-called right to abortion or (ii) alleged duties related to the decriminalization of abortion. Under this framework, States have a wide margin of configuration - by virtue of the principles of subsidiarity or complementarity and representative democracy - to take measures to protect prenatal life - which is protected by the American Convention¹⁷¹⁹ - including, although it is not the only means, the use of criminal law.

Regarding the non-existence of the right to abortion, former IACHR Court Judge Eduardo Vio Grossi (R.I.C.), in his partially dissenting opinion in the *Manuela et al. v. El Salvador* ruling, stated that:

"And in this regard it is indisputable that, (...) **there is no** inter-American or international **legal norm**, whether conventional, international custom or general principle of law, **that recognizes abortion as a right**. There are only resolutions of international bodies, most of which are made up of international officials and not representatives of States, decisions which, in addition to not being binding, are not

¹⁷¹⁹ ACHR. Article 4.

interpretative of current international law but rather reflect aspirations to change it in the sense that they suggest"¹⁷²⁰ (Bolding outside the original text).

Now, I emphasize that this margin of configuration derived from the non-existence of a right to abortion and the convergence of rights in tension acquires greater amplitude thanks to the power that falls to the States to define punishable conducts and their consequences, and to the automatic referral that, according to the IACHR Court, Article 7.2 of the American Convention makes to domestic law for the area of deprivation of liberty - principle of reservation of law.⁻¹⁷²¹

In addition, I also emphasize that the sections in which these evaluations are formulated do not have sufficient support to clearly derive the existence, in the Inter-American System, of a clear and binding parameter that can serve as a basis for evaluating the models of criminalization of the conduct of abortion as negative. The conventional parameter that does exist and that is binding is Article 4 of the ACHR which, as I have said on other occasions, contemplates the protection of the right to life from conception and demands the existence of regulatory frameworks that do not leave an absolute protection deficit for pregnant women.

This is relevant if one bears in mind that, from a systematic reading of Articles 31, 76 and 77 of the American Convention, it is only through consensus -which the States express by signing and ratifying amendments or treaties- that international obligations can arise for the States, different from those already contemplated in the ACHR.

In this regard, I conclude that, given the absence of a right to abortion in the inter-American human rights system and the absence of clear rules regarding criminalization models, there is a wide margin of configuration for States in this area. I emphasize that the challenges facing the States and the concerns of the Commission should reflect a more comprehensive approach that allows for the protection of the pregnant woman and the pregnant woman. In this sense, these discussions should lead to a review of policies on sexual and reproductive education, support and protection of the pregnant woman, safety and health.

1.2. Deficit in the protection of the unborn derived from the report's considerations

I emphasize that the references to abortion in the Report on El Salvador ignore the other person whose right to life is also conventionally protected: the unborn person and ignore the necessary balancing that must exist between the rights in tension. In this regard, it is emphasized that unborn persons are also subjects of law and holders of the right to life.

A pronouncement on abortion always implies a position on a practice that necessarily implies the termination of the life of a dignified human being and that Article 4 of the ACHR protects, so it is necessary to expressly recognize the rights of the unborn person as part of the weighing required in any case of abortion.

In this regard, I emphasize that Article 1.2 of the ACHR clearly establishes that, for the purposes of the Convention, a "person" is every human being.¹⁷²² Thus, in light of the Convention, human rights are not only recognized for persons who have already been born, but all individuals must be protected from their conception, understanding them as human beings. Moreover, the IACHR Court itself, in its advisory opinion 22, indicated that, without being a matter open to interpretation, the term person is equivalent to the term human being.¹⁷²³

¹⁷²⁰ Partially Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-American Court of Human Rights, Case of Manuela et al. v. El Salvador, Judgment of November 2, 2021 (Preliminary Objections, Merits, Reparations and Costs), para. 13.

¹⁷²¹ IACHR Court. Case of Romero Feris v. Argentina. Merits, Reparations and Costs. Judgment of October 15, 2019. Series C No. 391. para. 77.

¹⁷²² ACHR. Art. 1.2 "For the purposes of this Convention, a person is every human being".

¹⁷²³ IACHR Court. OC-22/16. Ownership of rights of legal persons in the Inter-American Human Rights System. Advisory Opinion of February 26, 2016. Series A. No. 22. para. 48.

In view of this, it is clear that the person in gestation is a human being.¹⁷²⁴ Even the Universal Declaration on the Human Genome and Human Rights states that "the human genome is the basis of the fundamental unity of all members of the human family and of the recognition of their inherent dignity and diversity. In a symbolic sense, the human genome is the heritage of humankind."¹⁷²⁵

The consequence of recognizing the unborn as a person as a human being is that he/she becomes a holder of rights. Thus, the ACHR establishes in the articles that develop rights the formula "Every person (...)."¹⁷²⁶ Likewise, the instruments for the protection of human rights generally recognize the ownership of rights by members of the human species, especially the right to life.¹⁷²⁷

Furthermore, in the Artavia Murillo judgment, the Inter-American Court determined that "the protection of the right to life is not absolute, but gradual and incremental as the development of the fetus progresses". This implies that, without prejudice to the concepts of graduality and incrementality (from which I completely separate myself), the Court has already established that persons in gestation must be protected by the State in their "right to life". In a similar sense, in the judgment of the Cuscul Pivaral case,¹⁷²⁸ the IACHR Court applied the ACHR to a person in gestation and also applied Article 19 of the ACHR, thus recognizing the legal status of a child to the person in gestation.

In the same vein, I emphasize that the preamble of the Convention on the Rights of the Child states that the child needs protection and care both before and after birth. This implies that, in light of the CRC, the unborn child is a child who requires special care. This was reiterated in the preparatory work for the International Covenant on Civil and Political Rights.¹⁷²⁹

In conclusion, this Chapter completely ignores the rights of the unborn, especially their right to life, recognized not only in the ISHR but also in multiple instruments of international law.

1.3. Obstetric emergencies: violation of the principle of subsidiarity and lack of protection of the unborn child

In paragraph 17 of the Report, the IACHR indicated that "although it appreciates the release of two women accused of homicide after suffering out-of-hospital deliveries, the Commission regrets that the absolute criminalization of voluntary interruption of pregnancy persists, **as well as the criminal prosecution of women who suffered obstetric emergencies**".

In this regard, I reiterate that I fully agree that the State should not condemn women for obstetric emergencies or complications. What I disagree with is that a body such as the Commission should interfere intensely in national criminal proceedings and decisions, without sufficient factual and legal motivation.

¹⁷²⁴ Kaluger, G., and Kaluger, M., *Human Development: The Span of Life*, The C.V. Mosby Co., St. Louis, 1974, page 28-29.

¹⁷²⁵ Universal Declaration on the Human Genome and Human Rights. Article 1.

¹⁷²⁶ American Convention on Human Rights. Articles 4, 5, 7, 8, 10, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 24 and 25.

¹⁷²⁷ International Covenant on Civil and Political Rights. Preamble, inc. 3; American Convention on Human Rights, inc. 3. Preamble; African Charter on Human Rights. Preamble, inc. 6; Geneva Declaration on the Rights of the Child. Preamble, inc. 1; American Declaration of the International Rights and Duties of Man. Art. 1; Universal Declaration of Human Rights. Preamble, inc. 1; Declaration of the Rights of the Child. Preamble, inc. 2; European Convention on Human Rights. Preamble, inc. 2.

¹⁷²⁸ I/A Court H.R., *Case of Cuscul Pivaral v. Guatemala. Case of Cuscul Pivaral v. Guatemala. Judgment of August 23, 2018.* "On the other hand, the Court has pointed out that extreme poverty and the lack of adequate medical care for pregnant or post-pregnant women are causes of high maternal mortality and morbidity, so the States must provide adequate health policies that allow to offer assistance with adequately trained personnel for the care of births, policies to prevent maternal mortality through adequate pre-natal and post-partum controls, and legal and administrative instruments in health policies that allow to adequately document cases of maternal mortality. Likewise, the Court has recognized that, by virtue of Article 19 of the Convention, the State must assume a special position of guarantor with greater care and responsibility, and must take special measures guided by the principle of the best interests of the child."

¹⁷²⁹ "The main reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death penalty should not be applied to pregnant women was to save the innocent life of the unborn child." United Nations. General Assembly. Report of the Third Committee on the Draft International Covenants on Human Rights. A/3764. P. 40.

First, I am concerned about this recommendation because (i) it disregards the principle of subsidiarity, and (ii) it creates a cloak of illegitimacy with respect to all convictions imposed by the State in these cases -even when they may be duly motivated-.

Logically, the majority's rejection of the convictions imposed leads to the need to revoke those sentences. In other words, it implies a pronouncement by which the majority position seeks to replace the national authority and considers that the persons convicted in the cases did not commit the crimes provided for by domestic law, and therefore the State should not individualize or enforce any penalty against them. Therefore, the majority position far exceeded the competence limits of the Inter-American Commission by acting as a *fourth criminal instance*, without any type of motivation and in a scenario in which it is not appropriate to make such an assessment.

In this regard, the jurisprudence of the Inter-American Court of Human Rights recognizes that not even this Court, as the highest authority of the regional human rights system, can replace the national authority in the individualization of sanctions corresponding to the crimes provided for in domestic law.¹⁷³⁰

This error in the position from which I am departing not only resulted in a manifest violation of the principle of subsidiarity or complementarity, but also placed the legal right to life of newborns at extreme risk. If the convicted persons really committed crimes, then the rejection of the majority position against those convictions would constitute a harmful precedent of disprotection of human life.

2. Absence of a basis in requirements for the recognition of the adequacy of documents to gender identity.

Paragraph 2 of the Chapter indicates that the Commission "received information on obstacles to the legal recognition of the gender identity of trans persons. In a similar vein, paragraph 19 mentions that "According to the information, many of them are detained based on prejudices against their gender expression and identity and trans persons are unable to **prove their identity due to the lack of identity documents that recognize their gender identity**".

In this regard, I would like to reiterate two observations. First, the American Convention does not expressly contemplate a right to gender identity, nor is there a binding instrument in the Inter-American system that establishes an obligation to adapt identification documents to gender identity.

As I have indicated, recognizing new rights that are not in the Convention through an interpretation that does not follow the procedures established in the Convention itself would undermine Articles 31, 76 and 77, ignoring the original will of the States that ratified the Convention.

Therefore, any pronouncement in which one of the organs of the ISHR applies a right that is not established in the binding instruments of international law that govern its activity will be an act that will violate the literal meaning of the American Convention and will exceed the scope of the competences of the IACHR or the Court, as the case may be. Such an irregular constitutive act would also undermine the principles of good faith and *pacta sunt servanda*.¹⁷³¹

Secondly, although I am not unaware that OC-24/17 affirmed the existence of the so-called right to gender identity and the obligation to adapt identification documents to gender identity in the terms indicated in this Chapter, I emphasize that the Advisory Opinions of the IACHR Court are not binding in international law nor

¹⁷³⁰ I/A Court H.R., Case of Usón Ramírez v. Venezuela. Case of Usón Ramírez v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207. para. 87. I/A Court H.R., Case of García Ibarra et al. v. Ecuador. Case of García Ibarra et al. v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 17, 2015. Series C No. 306. para. 167.

¹⁷³¹ Vienna Convention on the Law of Treaties. Article 26.

do they have the capacity to contemplate rights or obligations other than those expressly contemplated by the American Convention.¹⁷³²

I point this out, first, because Article 68 of the Convention is clear in stating that the States are obliged to comply with the decisions rendered by the Court, "in any case to which they are parties". This provision is of great relevance in that (i) it is the only one that refers to the legal value of the Court's pronouncements and (ii) it limits the binding nature of its decisions expressly to the States parties to a case, thus limiting the addressee of the obligations - the State party to a case - and the context in which the pronouncement is issued - that is, the contentious one. This position has also been sustained by some sectors of the doctrine, also based on the principle of consent of the States as the basis of conventional law.¹⁷³³

Second, there is no provision that establishes a degree of binding nature of the Court's interpretations in the framework of the Advisory Opinions. This is reinforced when Article 64 of the ACHR circumscribes the competence of the Court to issue advisory opinions with respect to the Convention or treaties of the Inter-American System. Thus, if a pronouncement derived from an advisory opinion is not binding in itself, much less could it be one that addresses rights or obligations not contemplated in the Convention or interpretations that are also contrary to its text.

Third, to derive obligations or so-called rights not contemplated in the Convention, based exclusively on an advisory opinion, would be, as I have already said, contrary to the principle of *pacta sunt servanda* that governs international treaty law, by virtue of which States are only bound to comply with that to which they have expressed their consent.¹⁷³⁴

Fourth, although the Inter-American Court has affirmed that advisory opinions are parameters of conventionality control,¹⁷³⁵ I emphasize that an open and transparent inter-American dialogue is still necessary to further discuss this position, which is not expressly derived from the American Convention. I call attention to the fact that there is still no consensus on the matter, neither in the States of the region nor in the academy; hence, important constitutional courts still refrain from invoking the figure of conventionality control and from incorporating advisory opinions as a parameter.¹⁷³⁶

Finally, I note that some authors have indicated that the extension of the effects of advisory opinions could contribute to distort the functioning of the Inter-American System and, thus, weaken it, since (i) it results in equating decisions issued in the advisory function of the Court with the text of the convention itself,¹⁷³⁷ and (ii) it blurs the differences between the jurisdictional and advisory functions of the Court. Some have even indicated that these interpretations of the Court generate legal uncertainty, since there is no certainty as to the effects with which the advisory opinions are issued.¹⁷³⁸

By virtue of the foregoing, given that there is no conventional right to gender identity that is binding on the States, it is possible to affirm that there are no correlative obligations to recognize this right either. Hence, the

¹⁷³² IACHR Court. Gender identity, and equality and non-discrimination of same-sex couples. State obligations in relation to the change of name, gender identity, and rights derived from a bond between same-sex couples (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24.

¹⁷³³ Systematization of the criticisms in: González Domínguez, P. (2017). The doctrine of conventionality control in light of the principle of subsidiarity. *Estudios constitucionales*, 15(1), 55-98.

¹⁷³⁴ Vienna Convention on the Law of Treaties. Article 26.

¹⁷³⁵ IACHR Court. Rights and guarantees of children in the context of migration and/or in need of international protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21. para. 31.

¹⁷³⁶ Ramírez, F. G. (2023). A critical look at conventionality control. *Revista de Derecho y Ciencias Sociales*, (28), 101-142; Palacios, D. L. (2017). Inter-American conventionality control in national venue: a notion still under construction. *Revista Direito e Práxis*, 8, 1389-1418.

¹⁷³⁷ Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Derecho y sociedad*, 5 (1), pp. 83-116.

¹⁷³⁸ Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Derecho y Sociedad*, 5 (1), pp. 83-116.

non-existence of a conventional right leads to one conclusion: it is not possible to require States to adapt identification documents to gender identity.

Furthermore, I reiterate that international human rights law should not erase biological sexes, and therefore should not erase categories with special inter-American protection, such as women. Therefore, I insist that the criterion of self-perception or self-determination of gender identity requires further debate, and that it implies a risk of disproportionate impacts to the detriment of persons with special protection in the Inter-American System.

3. Wrong approach to the right to conscientious objection: not an obstacle

Paragraph 20 of the Chapter reiterates the existence of obstacles to the legal recognition of gender identity and mentions that:

"Similarly, it has come to our attention that despite winning a judicial process in which a family court ordered the modification of the name and registration of gender on his birth certificate and other identity documents, human rights activist Aldo Alexander Peña, **was hindered** in accessing his right. In the same sense, the activist Karla Guevara, who also obtained a court sentence ordering the change of the gender marker in her documents, has seen her request denied. **In both cases, the impossibility of executing these sentences is related to the conscientious objection of the head of the Family Status Registry of the Municipality of San Salvador, since the registrar considers that recognizing gender identity is contrary to his convictions**".

In this regard, I note that far from constituting an obstacle, the exercise of conscientious objection constitutes a vehicle for the protection of various rights, such as: the right to freedom of conscience and religion, the right to honor and dignity, and the right not to be subjected to forced labor. Even the IACHR itself has recognized that conscientious objection arises as a guarantee of these rights.¹⁷³⁹ This position, in fact, has been upheld by the Human Rights Committee, which has found in conscientious objection a concretization or materialization of the right to freedom of conscience.¹⁷⁴⁰

However, it is clear that conscientious objection, like any right, can of course come into tension with other fundamental guarantees. However, this should be analyzed on a case-by-case basis under criteria of proportionality in conflicts arising between the exercise of conscientious objection and other **rights**.¹⁷⁴¹

At this point, I clarify that with this I do not mean that between the adequacy of gender identity in identity documents and conscientious objection there should be a weighing exercise; this is impossible, given the non-existence of a right to gender identity in the ISHR. In such a case, the weighing analysis must be based on rights such as the right to juridical personality, as applicable in each specific case.

In any case, an interpretation that seeks to annul conscientious objection in a generic manner in specific contexts and without taking into account the particularities of the cases (i) would mean leaving freedom of conscience and religion without content; (ii) would imply consolidating a hierarchical vision of rights - far removed from the foundations of international human rights law; (iii) would completely depart from the logic of weighing rights and (iv) would represent, consequently, a very serious attack on one of the most important guarantees of the internal jurisdiction of every person.

Having said all of the above, I reiterate that conscientious objection constitutes a vehicle for the protection of rights and not an obstacle. To understand it in this way implies an intense and unjustified -without any motivation- limitation to the exercise of freedom of conscience. I emphasize that the function of the Commission is to protect and defend human rights, not to tacitly derogate them.

¹⁷³⁹ IACHR. *Sahli Vera v. Chile, Alfredo Díaz Bustos v. Bolivia and Xavier Alejandro León Vega*.

¹⁷⁴⁰ Human Rights Committee. General Comment No. 22.

¹⁷⁴¹ IACHR Court. Jurisprudence Booklet No. 26: Restriction and suspension of human rights.