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VOLUME II

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

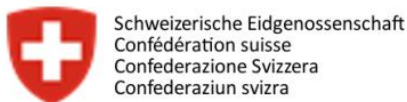
Pedro Vaca Villarreal  
Special Rapporteur for Freedom of Expression



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**ANNUAL REPORT OF THE OFFICE OF THE SPECIAL RAPORTEUR FOR FREEDOM OF EXPRESSION**

**2021**

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

## CHAPTER I: EVALUATION OF THE STATE OF FREEDOM OF EXPRESSION IN THE HEMISPHERE

### A. Creation of the Office of the Special Rapporteur for Freedom of Expression and institutional support

1. The Office of the Special Rapporteur for Freedom of Expression was created in October 1997, during the 97th Session of the Inter-American Commission on Human Rights, by unanimous decision of its members. It was established as a permanent and independent office that acts within the framework and with the support of the IACHR. With this, it sought to stimulate the hemispheric defense of the right to freedom of thought and expression, considering its fundamental role in the consolidation and development of the democratic system, as well as in the protection, guarantee and promotion of other human rights. At its 98th Period of Sessions, held in March 1998, the IACHR defined in general terms the characteristics and functions of the Special Rapporteurship and decided to create a voluntary fund for its economic assistance.

2. The IACHR's initiative to create a permanent Special Rapporteurship found full support in the OAS Member States. Indeed, during the Second Summit of the Americas, the Heads of State and Government recognized the fundamental role of the right to freedom of thought and expression, and expressed their satisfaction with the creation of the Special Rapporteurship. Since then, both the Summit of the Americas and the OAS General Assembly have expressed their support for the work of the Special Rapporteurship and have entrusted it with the follow-up or analysis of some of the rights that make up freedom of expression, as well as the monitoring and promotion of the right of access to public<sup>1</sup> information. In recent years, the OAS General Assembly has expanded the agenda of objectives of the Office of the Special Rapporteur in accordance with the situation of the right to freedom of expression in the region.

3. In the framework of the VIII Summit of the Americas, held on April 13 and 14, 2018 in Lima, Peru, the commitment to "Democratic Governance in the Face of Corruption" was adopted through which the representatives of the participating States committed to continue strengthening various anti-corruption measures such as strengthening transparency bodies and access to public information, protection for whistleblowers and journalists against threats and reprisals for investigating or reporting on acts of corruption<sup>2</sup>.

4. In 2018, the IACHR adopted Resolution 1/18, on "Corruption and Human Rights", through which it recommends States to carry out a series of measures to strengthen access to public information as a key tool in the fight against corruption, protection of journalists and the media, among others<sup>3</sup>.

5. The OAS General Assembly through resolution 2928 (XLVIII-O/18) on "Promotion and Protection of Human Rights", entrusted the Office of the Special Rapporteur, in conjunction with other bodies, to prepare "a practical guide of recommendations to guarantee freedom of expression, access to information from various

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<sup>1</sup> In the area of freedom of expression, the OAS General Assembly adopted resolutions in different years reaffirming the right to freedom of expression and recognizing the important contributions of the Office of the Special Rapporteur for Freedom of Expression, as well as calling on the States to follow the recommendations of the Office expressed in the annual reports. In 2005, it adopted resolution 2149 (XXXV-O/05); in 2006, resolution 2237 (XXXVI-O/06); in 2007, resolution 2287 (XXXVII-O/07); in 2008, resolution 2434 (XXXVIII-O/08); resolution 2523 (XXXIX-O/09); in 2011, resolution 2679 (XLI-O/11).

With respect to the right of access to public information, the OAS General Assembly has made several statements supporting the work of the Office of the Special Rapporteur and has urged the adoption of its recommendations. In 2003, it approved resolution 1932 (XXXIII-O/03); in 2004, resolution 2057 (XXXIV-O/04); in 2006, resolution 2252 (XXVI-O/06); in 2007, resolution 2288 (XXXVII-O/07); in 2008, resolution 2418 (XXXVIII-O/08); in 2009, resolution 2514 (XXXIX-O/09). In this resolution, the General Assembly instructed the Department of International Law to draft, with the cooperation of the Office of the Special Rapporteur, the Inter-American Juridical Committee, the Department of State Modernization and Good Governance, and with the cooperation of the member states and civil society, a Model Law on Access to Public Information and a Guide for its implementation, in accordance with international standards on the subject. In addition, in 2011, it approved resolution 2661 (XLI-O/11); in 2012, resolution AG/RES. 2727 (XLII-O/12); in 2013, resolution AG/RES. 2811 (XLIII-O/13); in 2014, resolution AG/RES. 2842 (XLIV-O/14); in 2016, it approved resolution AG/RES. 2885 (XLVI-O/16). In this resolution, it instructed the Office of the Special Rapporteur for Freedom of Expression to develop and disseminate the content of the inter-American legal framework on the right of access to information, including the Model Inter-American Law on Access to Public Information, by preparing reports on the scope of the right and the application of its principles. It also recommended that the Office of the Special Rapporteur assist member states and organize and participate in training programs for officials of national access to information authorities and justice operators.

<sup>2</sup> Summit of the Americas. Lima Commitment. "[Gobernabilidad Democrática frente a la Corrupción](#)". April 14, 2018.

<sup>3</sup> IACHR. Resolution 1/18. [Corrupción y Derechos Humanos](#). March 16, 2018.

sources on the internet during the development of electoral processes, without undue interference"<sup>4</sup>. In 2017, the OAS General Assembly approved resolution AG/RES. 2908 (XLVII-O/17) on the right to freedom of thought and expression and the safety of journalists and media workers in the hemisphere. The proposal was presented by the delegation of Uruguay and co-sponsored by the delegations of Argentina, Bolivia, Chile, Costa Rica, Mexico, Peru and the Dominican Republic. The Office of the Special Rapporteur joins the commitment made by the States in this resolution to implement strategies and resources to put an end to the prevailing impunity for crimes against journalists.

6. Since its inception, the Office of the Special Rapporteur has also enjoyed the support of civil society organizations, the media, journalists and, above all, of individuals who have been victims of violations of their right to freedom of thought and expression, and their families.

7. During its 163rd period of sessions, the IACHR renewed the mandate of Special Rapporteur Edison Lanza for a new three-year period, in accordance with Article 15 of its Rules of Procedure.<sup>5</sup>

8. During its 173rd period of sessions in Washington D.C., the IACHR approved the document Guidelines on the performance of the activities and functions provided for in the mandates of the Special Rapporteurships of the IACHR. For the first time, the special rapporteurships have a protocolized framework for action.

9. The IACHR announced on September 15, 2020 the selection of Pedro José Vaca Villarreal as Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, taking office as of October 6, 2020 for a period of one year, renewable for two years depending on the availability of funds, in accordance with Article 15 of its Rules of Procedure. The selection was the result of a broad, open, transparent and participatory process. The call was published on January 13, 2020 and closed on March 13, 2020. Of the 81 applications received, the Commission selected ten finalists at its Internal Session on April 29, 2020. This list was compiled taking into account the criteria established in the call, as well as gender parity and the representation of the different regions of the Americas.<sup>6</sup>

#### **A. Main activities of the Office of the Special Rapporteur**

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

11. This part of the report summarizes in a very general way the tasks accomplished in 2021:

##### **1) Individual case system**

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

13. The proper promotion of individual petitions, in addition to providing justice in the specific case, makes it possible to call attention to paradigmatic situations that affect freedom of thought and expression, and to create important jurisprudence applicable both by the inter-American system for the protection of human rights and by the courts of the countries of the region. Likewise, the system of individual cases constitutes an essential factor in the integral strategy for the promotion and defense of freedom of thought and expression in the region, a strategy that the Office of the Special Rapporteur develops through the different work mechanisms offered by the inter-American system for the protection of human rights.

14. The Office of the Special Rapporteur has also advised the IACHR in the presentation before the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of important individual cases on freedom of expression<sup>7</sup>.

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<sup>4</sup> OAS. Resolution AG/RES. 2928 (XLVIII-O/18). [Promoción y Protección de Derechos Humanos](#).

<sup>5</sup> IACHR. Periodos de sesiones. Available for consultation at: <http://www.oas.org/es/cidh/actividades/sesiones.asp>

<sup>6</sup> IACHR. Press Releases: <http://www.oas.org/es/cidh/prensa/comunicados/2020/218.asp>

<sup>7</sup> Among the cases, Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile. Judgment of February 5, 2001; Case of Ivcher Bronstein v. Peru. Judgment of February 6, 2001; Case of Herrera Ulloa v. Costa Rica. Judgment of July 2, 2004; Case of Ricardo Canese v. Paraguay. Judgment of August 31, 2004; Case of Palamara Iribarne v. Chile. Judgment of November 22, 2005; Case of Claude Reyes



15. The cases resolved in 2021 by the IACHR Court are the following:

***Bedoya Lima and another v. Colombia. Sentence of August 26, 2021.*** The Inter-American Court of Human Rights issued a sentence declaring the international responsibility of the State of Colombia for the violation of the rights to personal integrity, personal liberty, honor and dignity, freedom of thought and expression, as well as judicial guarantees, judicial protection and equality before the law, to the detriment of journalist Jineth Bedoya Lima. The Court also declared the violation of the rights to personal integrity, honor and dignity, judicial guarantees and judicial protection to the detriment of Mrs. Bedoya Lima's mother, Mrs. Luz Nelly Lima.

On May 25, 2000, Jineth Bedoya was intercepted and kidnapped at the door of the La Modelo National Prison in Bogotá, while she was conducting an investigation into violence inside the prison, in which she exposed clashes between guerrilla, paramilitary and common crime groups that resulted in dozens of deaths and injuries, as well as the actions of the security forces with respect to such events. Jineth was an investigative journalist on issues related to the internal armed conflict and what was happening in prisons at the time. Jineth Bedoya was kidnapped for more than 10 hours, during which she was severely physically and verbally assaulted, tortured and sexually abused by more than one perpetrator. The perpetrators made it clear that they wanted to punish her for her reporting and intimidate her from continuing her work. In addition, she was the victim of threats, before and after her abduction, which were not diligently investigated by the authorities. All this had a devastating impact on her life.

This is the first time that the Court specifically develops the differentiated impact of violence against women journalists, especially sexual violence, the risk they face, and highlights the importance of adopting prevention and protection measures with a gender perspective and in accordance with that risk. The Inter-American Court highlighted, from an intersectionality perspective, that Jineth was in a doubly vulnerable situation, being a woman and a journalist. The Court recognized the particular risk faced by women journalists based on their gender and their work. In this sense, it pointed out that States have the positive obligation to adopt measures to prevent the occurrence of acts of violence, and measures to protect women journalists, based precisely on these special risks, among which stands out the greater exposure to acts of gender-based violence, especially sexual violence. The Court considered that the acts of violence in this case were perpetrated in order to punish Jineth Bedoya for her work, and to achieve a chilling effect on other women, in violation of their right to freedom of expression, which, in addition, can generate a gender gap in the profession. The Court concluded that the State did not act in accordance with the aforementioned criteria, even though it knew of the real and imminent risk suffered by the journalist.

Moreover, although the deprivation of liberty, rape and torture to which Jineth was subjected were carried out by third parties, the Court concluded that these events could not have occurred without the acquiescence and collaboration of the State, or at least its tolerance. In other words, the Court determined that the Colombian State was directly responsible for Jineth Bedoya's human rights violations. The Court found that there were "serious, precise and consistent indications of state involvement.

On the other hand, the Court emphasized that investigations of violence against women journalists must be carried out with enhanced due diligence and seek to guarantee their rights, including freedom of expression, since they are not only at special risk due to their profession, but also more exposed to gender-based violence. The State did not comply with the above either. Although there are some domestic convictions of material perpetrators, 21 years after the events occurred, it has not yet been determined whether State agents acted. In view of the above, the Court considered that the State was responsible for the lack of due diligence in the

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

investigations carried out into the facts, the discriminatory nature of these investigations based on gender, and the violation of the reasonable time period.

***Palacio Urrutia et al. v. Ecuador. Sentence of November 24, 2021.*** The Inter-American Court of Human Rights issued a judgment declaring the international responsibility of the State of Ecuador for the violation of the rights to freedom of expression, the principle of legality, movement and residence, labor stability, judicial guarantees and judicial protection, and the duty to adopt provisions of domestic law, to the detriment of journalist Emilio Palacio Urrutia and the directors of the newspaper El Universo Nicolás Pérez Lapentti, César Enrique Pérez Barriga and Carlos Eduardo Pérez Barriga. The State made a partial acknowledgment of international responsibility for the violation of the rights to the principle of legality and non-retroactivity, and to judicial guarantees and judicial protection.

On February 6, 2011, Mr. Emilio Palacio Urrutia, who worked as a journalist for the newspaper El Universo, published an article entitled "NO to lies", in which he commented on events that occurred in Ecuador on September 30, 2010, and criticized some of the actions of then President Rafael Correa Delgado. As a result of the publication of this article, Mr. Palacio Urrutia and the directors of the newspaper El Universo, Mr. Nicolás Pérez Lapentti, Mr. César Enrique Pérez Barriga and Mr. Carlos Eduardo Pérez Barriga, were sentenced to three years in prison for the crime of "serious libel against the authorities" and the payment of a joint and several sum of thirty million United States dollars. El Universo, in turn, had to pay the sum of ten million US dollars.

In the judgment, the Court determined that the article "NO to lies" constituted an opinion article that referred to a matter of public interest, and therefore enjoyed special protection due to its importance in the democratic debate. Thus, the Court found that the conviction that imposed a three-year prison sentence, and the civil penalty imposed on the occasion of said sentence, to the detriment of the victims in the case, constituted a violation of the right to freedom of expression. Additionally, the Court considered that the amount of the compensation imposed in the present case, by itself, constituted a clearly disproportionate sanction in relation to the protected legal right.

In addition, it found that the criminal conviction and the sentence imposed affected the work at the newspaper El Universo, where the article had been published, and generated fear about the possibility of the closure of the media outlet, or the existence of future proceedings due to the publications made therein. Thus, the Court considered that the sanction imposed on the directors of El Universo affected their possibility of exercising their freedom of expression, as well as the employees of the newspaper. In this sense, the imposition of the sentence on the publishing company El Universo and its directors generated a chilling effect that inhibited the circulation of ideas, opinions and information by third parties, constituting a violation of the right to freedom of expression.

The Court also found that Mr. Palacio Urrutia was forced to leave the country and resign from his job due to the conviction and other events related to his work as a journalist, which included a context of confrontation and conflict with the then President, which constituted a violation of his right to movement and residence and his job stability.

In analyzing the case, the Court held that in the case of speech protected by public interest, such as those referring to the conduct of public officials in the exercise of their functions, the punitive response of the State through criminal law is not conventionally appropriate to protect the honor of the official. It also reiterated that civil sanctions must be proportional and aimed at repairing the damage suffered to the reputation of a plaintiff, and not at silencing or punishing critics of the government.

***Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Sentence of October 6, 2021.*** The Inter-American Court of Human Rights issued a judgment declaring the international responsibility of the Republic of Guatemala for the violation of the rights to freedom of expression, equality before the law and to participate in cultural life, in relation to the obligations to respect and guarantee without discrimination and the duty to adopt provisions of domestic law, to the detriment of the Maya Kaqchikel de Sumpango, Achí de San Miguel Chicaj, Mam de Cajolá and Mam de Todos Santos Cuchumatán indigenous peoples.

In Guatemala, there are approximately 424 licensed radio stations on FM frequency and 90 on AM frequency, of which one is an indigenous community radio station. On the other hand, there are several community radio stations operated by indigenous peoples that do not have a license from the State to operate, such as the stations operated by the Maya Kaqchikel indigenous peoples of Sumpango, Maya Achí of San Miguel Chicaj,

Maya Mam of Cajolá and Maya Mam of Todos Santos Cuchumatán. Indigenous community radio stations are supported by the project's operational and financial support is provided by the members of the villages they serve, who contribute to the costs of execution through contributions and volunteer work.

Radios Ixchel and Uqul Tinamit La Voz del Pueblo, operated by the Kaqchikel people of Sumpango and Achí of San Miguel Chicaj, were raided by state authorities as a result of court orders issued in the framework of criminal proceedings. Their transmission equipment was confiscated and some of their operators, members of the respective communities, were criminally prosecuted. After the raid, Radio Ixchel suspended broadcasting for seven months and community members had to raise funds to buy new equipment to be able to broadcast again. Radio Uqul Tinamit, in turn, stopped broadcasting after a second raid.

The Court noted that the regulatory framework concerning radio broadcasting in Guatemala, particularly the General Telecommunications Law (LGT) prevented, in practice, these indigenous communities from legally operating their community radio stations. The Court determined that this regulation consists of a de facto prohibition, almost absolute, to the exercise of the right to freedom of expression of indigenous peoples and in turn, prevents them from exercising their right to participate in cultural life. Likewise, the Court considered that the raids and seizures of equipment of the radio stations Ixchel and "La Voz del Pueblo" constituted illegitimate actions and restrictions to the right to freedom of expression contrary to the Convention, for which reason the Court concluded that Guatemala is responsible for the violation of this right.

The Court indicated that States are internationally obliged to establish laws and public policies that democratize access to the media and guarantee media pluralism in the different areas of communication, such as radio. He pointed out that indigenous peoples have a right to be represented in the different media, especially by virtue of their particular ways of life, their community relations and the importance that the media, especially radio, has for them. In this sense, indigenous peoples have the right to establish and use their own media.

The Court recognized that community radio, beyond enabling indigenous peoples to participate more fully in the public sphere, is an essential tool for the preservation, transmission and continued development of their cultures and languages. Access to their own community radio stations, as vehicles of indigenous peoples' freedom of expression, is an indispensable element for promoting the identity, language, culture, self-representation and collective and human rights of indigenous peoples. Therefore, States are obliged to adopt the necessary measures to allow indigenous communities access to the radio spectrum of community radio stations.

In view of the structural and historical discrimination suffered by indigenous peoples, the Court stated that Guatemala should take all necessary measures to reverse the various factors of disadvantage suffered by them and ensure their access to radio frequencies, in order to guarantee their material equality with other social segments that have the economic conditions to compete in auctions for the acquisition of radio frequencies, whose only criterion is that of the highest price.

## **2) *Precautionary measures***

16. During 2021, the Office of the Special Rapporteur collaborated in the study of 54 requests for precautionary measures, among them 23 were granted by the IACHR. Ten of them correspond to protection granted to independent journalists in Nicaragua in the context of repression and restriction of press freedom that the country has been experiencing since the protests of April 2018:

17. MC 968-20 - granted to the owner of Canal 12 Mariano Valle Peters, for the seizure of the media outlet that could lead to its closure; MC 907-20 - granted to tik toker Kevin Adrián Monzón Mora, for threats, detentions and acts of violence; MC 1606-18 - extension of precautionary measure granted to Confidential journalist Iván Olivares; MC 366-21 - granted to Radio La Costeñísima journalist Kalúa Salazar, victim of threats, harassment and surveillance; MC 311-21 and 462-21 - granted to journalists Willih Francisco Narváez González and Alberto José Miranda Herrera; MC 873-18 - extension of precautionary measure granted to journalist and presidential pre-candidate Miguel Mora, who is under arrest; MC 1061-20 - granted to journalist Georgina Roxana Vargas Clarens, victim of threats, harassment and repression; MC 206-20 - granted to journalist Jaime José Arellano Arana, who is under house arrest; MC 733-21 - granted to journalist Miguel Mendoza, who is under arrest; MC 505-21 - granted to journalist María Lilly Delgado Talavera.

18. Nine of them correspond to protection granted to independent journalists and human rights defenders in Cuba: MC 1101-20 - granted in favor of members of Movimiento San Isidro, and extended in favor of Aminta D'Árdenas Soroa and Carlos Manuel Álvarez; MC 211-20 - granted in favor of members of Comité Ciudadanos por la Integración Racial, and extended in favor of Esber Rafael Ramírez Argota and Richard Adrián Zamora Brito; MC 374-20 - granted in favor of journalist Roberto de Jesús Quiñones Haces, who was detained, threatened, harassed and intimidated; MC 552-20 - granted in favor of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez; MC 241-21 - granted in favor of Yoel Suárez Fernández; MC 705-21 and 992-21 - granted in favor of Héctor Luis Valdés Cocho and "X";

19. On the other hand, MC 207-20 (Colombia) was granted in favor of journalist Ricardo Calderón, for surveillance and threats against him; MC 512-21 (Colombia) in favor of journalists José Alberto Tejada Echeverri and Jonathan Buitrago; MC 475-21 (El Salvador) in favor of human rights defender Bertha María Deleón Gutiérrez, for threats and stigmatizing statements by public officials; and MC 845-21 (Honduras) in favor of human rights defender Ligia del Carmen Ramos Zuñiga.

20. It should be noted that the granting of precautionary measures does not constitute a prejudgment on the merits of the case. Precautionary measures arise from the need to adopt mechanisms to avoid serious, imminent and irremediable harm to any of the rights enshrined in the American Convention, or to maintain jurisdiction over the case, without the object of the case disappearing.

### 3) *Public hearings*

21. The IACHR has received several requests for hearings and working meetings on freedom of expression in recent sessions. The Office of the Special Rapporteur participates actively in the hearings on freedom of expression, preparing reports and making the corresponding interventions and follow-up.

22. The following is a summary of the hearings in which the Office of the Special Rapporteur participated in 2021.

| State / Regional | Session  | Title of the Hearing   | Date / Place   |
|------------------|--|--|----------------|
| Cuba             | 179Period of Sessions of the Inter-American Commission on Human Rights.        | New patterns of persecution of human rights defenders in Cuba  | March 18, 2021 |
| Uruguay          | 179Regular Period of Sessions of the Inter-American Commission on Human Rights | Access to truth, justice and reparation with a gender perspective in Uruguay   | March 18, 2021 |
| Mexico           | 179Period of Sessions of the Inter-American Commission on Human Rights.        | Experience of the Mexican State with the System for Follow-up and Attention to International Human Rights Recommendations (SERIDH) | March 19, 2021 |

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| <b>Regional</b>    | 179Period of Sessions of the Inter-American Commission on Human Rights.        | SRFOE Hearing: Internet Content Moderation and Freedom of Expression in the Americas                            | March 25, 2021 |
| <b>Venezuela</b>   | 179Period of Sessions of the Inter-American Commission on Human Rights.        | Criminalization of Human Rights Defenders in the Context of the COVID-19 Pandemic in Venezuela                  | March 25, 2021 |
| <b>Chile</b>       | 180Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing Situation of freedom of expression of social communicators in Chile                                     | June 25, 2021  |
| <b>Cuba</b>        | 180Regular Period of Sessions of the Inter-American Commission on Human Rights | New patterns of persecution of human rights defenders and the situation of women human rights defenders in Cuba | June 25, 2021  |
| <b>El Salvador</b> | 180Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing general situation of human rights in El Salvador  | June 30, 2021  |
| <b>Nicaragua</b>   | 180Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing on the situation of political rights in the electoral context in Nicaragua                              | June 30, 2021  |
| <b>Brazil</b>      | 180Period of Sessions of the Inter-American Commission on Human Rights.        | Situation of human rights in Brazil in the context of the COVID-19 pandemic                                     | July 1, 2021   |
| <b>Mexico</b>      | 180Period of Sessions of the Inter-American Commission on Human Rights.        | Protection of the human rights of human rights defenders and communicators in Mexico                            | July 1, 2021   |

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| <b>Cuba</b>      | 181Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing: Human Rights Situation in the Context of the Protest in Cuba                                     | October 21, 2021  |
| <b>Nicaragua</b> | 181Regular Period of Sessions of the Inter-American Commission on Human Rights | Hearing: Situation of human rights and freedom of expression in the electoral context in Nicaragua        | October 22, 2021  |
| <b>Colombia</b>  | 181Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing: Follow-up to the observations and recommendations of the working visit to Colombia               | October 26, 2021  |
| <b>Nicaragua</b> | 182Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing : MC 693-18, 1606-18, 399-19, 366-21 - Radio Darío, Confidencial, and La Costeñísima vs Nicaragua | December 14, 2021 |
| <b>Cuba</b>      | 182Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing: Case 4.196 - Oswaldo Paya Sardinas, Harold Cepero and others vs Cuba                             | December 14, 2021 |
| <b>Brasil</b>    | 182Period of Sessions of the Inter-American Commission on Human Rights.        | Hearing: Situation of cultural rights and freedom of expression in Brazil                                 | December 14, 2021 |

#### **4) Seminars and workshops with strategic stakeholders in the region**

23. Seminars, workshops and training sessions are a fundamental tool in the promotion of the Office of the Special Rapporteur on the inter-American system for the protection of human rights and the right to freedom of expression. In the last twenty-four (24) years, the Office of the Special Rapporteur has organized several seminars throughout the region with the cooperation of universities, governmental institutions and non-governmental organizations.

24. Hundreds of journalists, lawyers, university professors, judges, members of the Public Prosecutor's Office, communication and law students, among others, have attended these trainings given by staff of the Office of the Special Rapporteur, both in the capitals of the countries and in the most remote regions, where there is often no access to information on the guarantees that can be invoked to protect the right to freedom of thought and expression.

25. Meetings with stakeholders enhance the possibility that more people will use the Inter-American Human Rights System to raise their problems and present their complaints. Likewise, the seminars have expanded the network of contacts of the Office of the Special Rapporteur. Furthermore, the workshops and working meetings have allowed the Office of the Special Rapporteur to work closely with strategic actors to promote the application of international standards in domestic legal systems.

26. The following is a summary of the main seminars and workshops held by the Office of the Special Rapporteur during 2021.

| No. | Date /Country    | Event   | Organizers                                    | Observation   |
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| 1.  | January 27, 2021 | Webinar: "Deplatforming Trump: Implications for Latin America." | Inter-American Dialogue<br><br>Luminate Group | Special Rapporteur Pedro Vaca participated as a panelist in the Webinar: "Deplatforming Trump: Implications for Latin America."<br><br>The event discussed the regulation and moderation of online content and expression, its specific challenges in Latin America, and possible regulatory approaches that can ensure that digital environments uphold democratic norms and comply with international human rights standards. The webinar also featured presentations by Michael Camilleri, director of the Peter D. Bell Program on the Rule of Law in the Inter-American Dialogue, moderation by Gabriela Hadid, director of Luminate, Vanessa Rubio, professor in practice at the LSE and former senator and vice minister of Mexico, Mariana Valente, director of InternetLab, and Javier Pallero, director of global policy at Access Now. |

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| 2. | February 2, 2021  | Online event: Launching of the report "Situation of the defense of human rights and free expression in Mexico since the COVID-19 pandemic". | Espacio de Organizaciones de la Sociedad Civil para la protección de personas defensoras y periodistas (Espacio OSC) - Front Line Defenders - Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM-Defensoras) - Red Nacional de Mujeres Defensoras de Derechos Humanos en México (RNDDHM) - Centro por la Justicia y el Derecho Internacional (CEJIL) | The Special Rapporteur Pedro Vaca participated as a panelist in the event to launch the report "Situation of the defense of human rights and free expression in Mexico since the COVID-19 pandemic", during the event the Rapporteur spoke about the obligations of states in terms of protection of human rights defenders and journalists and special protection in the context of COVID-19. |
| 3. | February 11, 2021 | Webinar European Union and CPP  | Peruvian Press Council   | Special Rapporteur Pedro Vaca participated as a panelist in the European Union and CPP Webinar where topics of interest to the office were discussed, such as peaceful protest and the right to freedom of expression, motivations and consequences of attacks on journalists covering protests by law enforcement and how the media censors protest speech.                                   |



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| 4. | February 18, 2021 | Online Event: "The Role of the UN Human Rights Council in the continuing human rights crisis in Nicaragua". | Amnesty International<br>- Center for Justice and International Law (CEJIL) - Centro Nicaragüense de los Derechos Humanos (CENIDH) - Colectivo de Derechos Humanos Nicaragua Nunca Más - Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM Defensoras) - Iniciativa Nicaragüense de Defensoras de Derechos Humanos (IND) - Instituto Internacional sobre Raza, Equality (Raza e Igualdad) - Women's Autonomous Movement (MAM) - World Organization Against Torture (OMCT) - International Service for Human Rights (ISHR) - Legal Defense Unit (UDJ), and Registry Unit (UDR) | Special Rapporteur Pedro Vaca participated as a panelist in the event: "The Role of the UN Human Rights Council in the continuing human rights crisis in Nicaragua, where he was in charge of presenting the problem of forced displacement of journalists, the impact of the Foreign Agents Law on freedom of expression in Nicaragua and the relevance of a coordinated monitoring of the human rights situation in Nicaragua among protection systems. |
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| 5. | February 26, 2021 | Virtual Seminar "Situation of Freedom of Expression and Journalism in the Americas."   | Summits of the Americas Secretariat<br><br>Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights (IACHR) | The Summits Secretariat, together with the Special Rapporteurship for Freedom of Expression of the IACHR, organized the virtual seminar: "Situation of Freedom of Expression and Journalism in the Americas", which was a space to establish a direct dialogue with relevant actors such as journalism associations, investigative journalists promoting agendas at the regional level, international organizations in the field or think tanks interested in the protection of freedom of expression.   |
| 6. | March 19, 2021    | the 5th meeting of the ParlAmericas Open Parliament Network: Countering misinformation to promote responsible public debate. | ParlAmericas Open Parliament Network.  | Special Rapporteur Pedro Vaca was invited to participate in the event Countering Disinformation to Promote Responsible Public Debate organized by the ParlAmericas Open Parliament Network.<br><br>The event addressed the issue of disinformation from 5 key aspects, where the Rapporteur had the opportunity to speak about the experience of the IACHR on this issue and present the recommendations included in the Guide to Guarantee Freedom of Expression in the face of deliberate disinformation in electoral contexts.  |
| 7. | March 23, 2021    | "Virtual Table in Memory of Miroslava".  | Reporters without borders  | Special Rapporteur Pedro Vaca was invited to participate in the event "Mesa Virtual en Memoria de Miroslava", which aimed to address the relevance of the first conviction against one of the perpetrators of the crime (50 years in prison), and a criminal proceeding against a former public official. The event was also a space to address a message to the authorities of the Mexican State to comply with its duty to procure and impart full justice, that all those materially and intellectually responsible for the murder be brought before the courts of justice and that the victims be fully compensated. |

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| 8. | March 23rd     | Presentation of the 2020 annual report "Distortion: the discourse against reality". | ARTICLE 19 Office for Mexico and Central America | <p>Special Rapporteur Pedro Vaca was invited to participate as a panelist in the panel discussion for the presentation of the 2020 annual report "Distorsión: el discurso contra la realidad" (Distortion: discourse versus reality) of Article 19 Office for Mexico and Central America.</p> <p>During the event, the increased degradation of public debate and censorship mechanisms as a result of the pandemic, violations of the rights to freedom of expression and information, and the erosive role of official discourse on freedom of the press were discussed.</p>   |
| 9. | March 25, 2021 | Virtual discussion 3 years ago We're 3 years away                                   | Fundación Periodistas Sin Cadenas                | <p>Special Rapporteur Pedro Vaca was invited to participate as a panelist in the virtual conversation 3 years ago we are missing 3 organized by the foundation Periodistas sin cadenas, which aimed to evaluate the state of the investigations into the case of the kidnapping and subsequent murder, in 2018, of the El Comercio journalistic team.</p> <p>During the event, the actions taken during the three years were analyzed, as well as the outstanding debts of the governments of Lenín Moreno, in Ecuador, and Iván Duque, in Colombia.</p> <p>They also addressed the fulfillment of the responsibilities of the respective institutions in charge of promoting the investigation processes of this case, in order to guarantee the application of justice and the corresponding reparation.</p> |

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| 10. | March 30, 2021 | Event on freedom of expression and elections in Nicaragua                         | Inter-American Dialogue<br><br>Permanent Mission of Canada to the OAS - Global Affairs Canada   | The Inter-American Dialogue organized the online event "Freedom of Expression and Elections in Nicaragua" with the support of Global Affairs Canada. The panel discussed how violations of freedom of expression and restrictions on press freedom have affected journalism in the country, and how these restrictions will affect the upcoming elections on November 7 of this year. Special Rapporteur Pedro Vaca attended as a panelist and was in charge of the closing remarks of the event. |
| 11. | April 23rd     | IAPA Mid-Year Meeting   | Inter American Press Association IAPA   | Special Rapporteur Pedro Vaca participated in the mid-year meeting of the Inter American Press Association in the panel entitled "Government oppression in Nicaragua".  |
| 12. | April 30       | WPFC Session with Special Rapporteurs   | Article 19 London   | Special Rapporteur Pedro Vaca participated in the session organized for Special Rapporteurs in the framework of World Press Freedom Day organized by articulo 19 London to discuss the challenges of protecting information and the public good and the importance of information for freedom of expression and freedom of the media.   |
| 13. | April 30       | Regional Forum for Latin America and the Caribbean - World Press Freedom Day 2021 | UNESCO Regional Bureau of Science for Latin America and the Caribbean<br><br>UNDP Regional Bureau for Latin America and the Caribbean | Special Rapporteur Pedro Vaca was invited as a Panelist to the Regional Forum for Latin America and the Caribbean within the panel "Strengthening the capacities of Media and Information Literacy in times of disinformation and hate speech" where he had the opportunity to talk about media and information literacy of citizens and how it can contribute to defend and demand journalism as a fundamental part of information as a common good.   |

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| 14. | May 1       | Tenth Biennial General Assembly                               | Caribbean Association of Media Workers  | Special Rapporteur Pedro Vaca was invited to participate in the tenth general assembly of the Caribbean Media Workers Association to discuss the urgent need for effective access to information laws in the Caribbean and also ways in which the region can work with the Rapporteurship to improve the overall freedom of expression landscape in the region.                           |
| 15. | May 3       | IV Europe Latin America Journalism Meeting                    | IPYS  | Special Rapporteur Pedro Vaca was invited to participate in the IV Europe Latin America Journalism Meeting, which was a scenario for the exchange of experiences, techniques and tools between journalists from Europe and Latin America.   |
| 16. | May 3       | Launch of Report on Freedom of Expression in Guatemala        | Article 19-Mexico, as well as Article 35 and Centro Civitas, Guatemala.                                     | Special Rapporteur Pedro Vaca was invited to participate in the launching event of the report by the organizations Article 19-Mexico, as well as Article 35 and Centro Civitas, from Guatemala, on the state of freedom of expression in Guatemala, with emphasis on the problem of violence against journalists.   |
| 17. | May 4, 2021 | World Press Freedom Day 2021: Media Defence Webinar on SLAPPs | Media Defence   | Special Rapporteur Pedro Vaca was invited to participate as a speaker in the webinar organized by Media Defence to discuss the use of abusive litigation to silence journalists around the world. The webinar was held as part of UNESCO's World Press Freedom Day. The aim of the event was to raise awareness of this form of censorship and share knowledge on how best to counter it. |
| 18. | May 6, 2021 | Meeting of experts on academic freedom                        | Office of the Special Rapporteur for Freedom of Expression<br><br>Inter-American Commission on Human Rights | The Office of the Special Rapporteur for Freedom of Expression of the IACHR convened a group of experts on Academic Freedom in order to share with them a first draft of the document on principles of Inter-American standards on academic freedom and to generate a space for discussion and feedback to nurture the document.  |

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| 19. | May 26, 2021 | University of Pretoria's Advanced Program of Human Rights Courses                           | University of Pretoria  | Special Rapporteur Pedro Vaca was invited to participate as a panelist at the University of Pretoria's Advanced Human Rights program on Police Blockade: Accountability and Oversight of the Criminal Justice System in times of COVID-19. During the session the Rapporteur was able to share some practical examples of derogations to the right to freedom of assembly and freedom of expression and the impact this has had on the various protests in the region and took the opportunity to promote the work of the Office of the Rapporteur to safeguard the right to freedom of assembly and freedom of expression during the pandemic and in the context of all the derogations that have been implemented since the beginning of the pandemic. |
| 20. | May 27, 2021 | Facebook's Oversight Board Decisions: Implications for Latin America and the Global South". | Inter-American Dialogue | Special Rapporteur Pedro Vaca participated as a special guest in the activity organized by the Inter-American Dialogue on "The Decisions of Facebook's Oversight Board: Their Implications for Latin America and the Global South", which aimed to exchange information and reflections on the basic components of Facebook's Oversight Board, the rationale for its decisions and the implications for the region and the Global South, as well as to discuss and reflect on existing regulatory proposals in the region in relation to content moderation on digital platforms.  |

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| 21. | May 31, 2021  | Inaugural Lecture of the Twenty-Second Program of Advanced Studies in Human Rights and International Humanitarian Law - American University | American University's Academy of Human Rights and International Humanitarian Law | The Academy of Human Rights and International Humanitarian Law of American University invited Special Rapporteur Pedro Vaca to deliver the Inaugural Lecture of the Twenty-Second Program of Advanced Studies in Human Rights and International Humanitarian Law. The lecture addressed the challenges of freedom of expression in a region affected by the pandemic, threats to the rule of law and repression of social demands: reflections and agenda to counteract them. On this topic, the Rapporteur had the opportunity to discuss the work being carried out by the office with respect to these issues, as well as current and future challenges. |
| 22. | June 11, 2021 | Event:<br><br>Emergency Session Mexico: Digital Rights at Risk.   | RightsCon<br><br>R3D Mexico  | The Special Rapporteur Pedro Vaca was invited by the Network in Defense of Digital Rights R3D to participate as a speaker in the discussion: "Mexico's emergency session: digital rights at risk", held as part of the tenth edition of the digital rights conference RightsCon. During the event, some of the challenges facing these rights in Mexico were analyzed, such as the surveillance of human rights defenders and the situation of journalists and freedom of expression in the country.  |
| 23. | June 29, 2021 | Event: "Standards for a democratic regulation of large internet platforms".   | Observacom<br><br>Cainfo<br><br>UNDP Uruguay                                     | Special Rapporteur Pedro Vaca was invited to participate as a speaker at the event organized by Observacom and Cainfo "Standards for a democratic regulation of large Internet platforms". During the event, a series of principles compatible with human rights and recommendations for the creation of mechanisms for self-regulation, co-regulation and public regulation of large platforms were discussed and analyzed.  |

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| 24. | June 29, 2021       | How does Google news work?                     | Google   | <p>The Special Rapporteur Pedro Vaca together with Edgar Huaranga and Eva Lopez, Fellows of the Rapporteurship attended a closed event convened by Google News and aimed at Civil Society Organizations, think tanks and academia in the region, which aimed to share information on the operation of Google products and programs and generate a close space for exchange and dialogue about the news ecosystem in Latin America.</p>  |
| 25. | July 1 and 15, 2021 | Listening sessions with Venezuelan journalists | <p>Office of the Special Rapporteur for Freedom of Expression of the IACHR</p> <p>Organización Espacio Público Venezuela</p> | <p>The Office of the Special Rapporteur for Freedom of Expression and the organization Espacio Público held two virtual sessions with Venezuelan journalists during the month of July to receive information and gather input on the challenges faced by journalists in the daily exercise of their work and to listen to their examples of resilience.</p> <p>On this occasion, journalists had a space to draw attention to various problems, challenges and obstructions to their work, mentioning for example that the pandemic has exacerbated the abuse of power by the current government administration and law enforcement agencies that have used the excuse of the pandemic to further intimidate journalists, to block access to the Internet and digital portals as a form of censorship at a time when access to information is even more crucial for citizens.</p> |



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| 26. | July 2, 2021  | Webinar: Cases Mayan Community Radio vs. State of Guatemala before the Inter-American Court of Human Rights | Observacom<br><br>AMARC-ALC NETWORK                | Special Rapporteur Pedro Vaca was invited by Observacom and AMARC-ALC to participate as a panelist in the webinar organized on the occasion of the presentation of the case on Mayan community radio stations vs. the State of Guatemala before the Inter-American Court of Human Rights. The case relates to the obstacles faced by four community radio stations operated by indigenous peoples in Guatemala -Kaqchikel Maya, Achí Maya de San Miguel Chicaj, Mam Maya de Cajolá and Maya de Todos Santos de Cuchumatán- to freely exercise their freedom of expression and cultural rights due to the existence of legal obstacles to access radio frequencies.   |
| 27. | July 23, 2021 | Event: Latin America and the challenges for freedom of expression in this decade 2020/2030                  | Federal University of Rio Grande do Norte - Brazil | Special Rapporteur Pedro Vaca was invited to participate as a panelist in the virtual conversation Latin America and the challenges for freedom of expression in this decade organized by the Federal University of Rio Grande do Norte in Brazil. The purpose of the event was to discuss contemporary issues related to human rights in Latin America and to contribute to the process of confronting historical inequalities and discrimination against Latin American peoples, which have worsened in the current scenario of the Covid-19 pandemic.<br>Also participating in the panel were Olívia Bandeira - from Colectivo Brasil de Comunicação Social (Intervozes/Brazil); and Alice Andrade - Professor in the Graduate Program in Media Studies at the Federal University of Rio Grande do Norte - Brazil/UFRN. |

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| 28. | July 26, 2021   | International Course on Public Policy in Human Rights IPPDH   | IPPDH Institute for Public Policy in Human Rights<br><br>Inter-American Commission on Human Rights -CIDH                                   | Special Rapporteur Pedro Vaca was in charge of delivering the corresponding synchronous class for the IPPDH international course on public policy in human rights corresponding to the module on production of and access to information. The purpose of the class was to discuss the relevance of the right to information in its multiple dimensions for the functioning of democratic systems of government and the centrality it acquires as a cross-cutting principle in the rights-based approach to the formulation and monitoring of public policies. |
| 29. | August 9, 2021  | Virtual discussion on a fairer and non-discriminatory digital environment                           | Subsecretaría de DDHH y Pluralismo Cultural and Dialogando BA (GCBA)<br><br>Chicos Net CEJIL<br><br>Web Observatory and 360º Participation | The Special Rapporteur Pedro Vaca was invited to participate as a panelist in the discussion "a fairer digital environment without discrimination" organized by the Undersecretariat for Human Rights and Cultural Pluralism of Buenos Aires. The event aimed to generate a space for participation and articulation between the State, civil society and the private sector to share ideas, visions, questions and proposals for solutions to address the problem of discrimination and the responsible use of social networks and the Internet.             |
| 30. | August 12, 2021 | Detox Information Project   | DIP - Detox Information Project  | Special Rapporteur Pedro Vaca was invited to participate in the Detox Information Project which seeks to use behavioral science to reduce polarization, disinformation and detoxify information environments.   |
| 31. | August 17, 2021 | Webinar: Freedom of Expression Rights and obligations of journalists to reporting in conflict zones | National Press Association - ANP Bolivia   | The Special Rapporteur Pedro Vaca was invited to participate as a panelist in the event Freedom of Expression: Rights and Obligations of Journalists to inform in conflict zones organized by ANP Bolivia. During the event, the Special Rapporteur had the opportunity to speak about how the international community addresses the aggression against journalists and its impact on the development of their work.  |

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| 32. | August 23, 2021    | Internal discussion: Technology for human rights: spaces and challenges in the Americas.                  | Office of the Special Rapporteur for Freedom of Expression - IACHR/SRFOE                          | The Office of the Special Rapporteur for Freedom of Expression organized an internal conversation aimed at the different coordinating offices of the IACHR with the objective of generating a conversation on issues related to technology, human rights and the mandate of the Commission in order to generate inputs and capacities for a better understanding and inclusion of this topic within the Commission as a whole.   |
| 33. | August 24, 2021    | Expert Dialogue on Active Transparency, Access to Information and Open Data in a global health emergency. | Office of the Special Rapporteur for Freedom of Expression - IACHR/SRFOE                          | As part of the process of preparing the index document on Active Transparency and Access to Information in the Context of a Health Emergency for the Americas, the Office of the Special Rapporteur for Freedom of Expression organized a closed discussion forum on active transparency, access to information and open data in a global health emergency. The objective of the meeting was to generate a space to analyze the information gathered in the documents that will be presented to the Commission and to discuss possible recommendations, experiences and points of view of professionals from various disciplines. The discussion was attended by a group of 9 experts on the subject from both civil society and academia. |
| 34. | August 26, 2021    | Foro Ámbito Jurídico 30 years Colombian Political Constitution  | Legis<br>Legal Scope  | Special Rapporteur Pedro Vaca was invited to participate in the Legal Forum 30 years of the Colombian Constitution within the panel on the national and international context of constitutional guarantees for freedom of expression, freedom of the press and the right to information.   |
| 35. | September 14, 2021 | Event:<br>20 years of the Inter-American Democratic Charter (IDC),  | Secretariat for the Strengthening of Democracy - OAS<br>Konrad Adenauer Stiftung (KAS) Foundation | Special Rapporteur Pedro Vaca was invited to participate in the event organized on the occasion of the 20th anniversary of the Inter-American Democratic Charter (IDC) where he had the opportunity to speak about the right to public information and the effective exercise of democracy.  |

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| 36. | September 15, 2021 | Event: Tech4Rights: Human Rights in a world of hyperconnectivity and exclusion   | Office of the Special Rapporteur for Freedom of Expression - IACHR/SRFOE | The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights organized the event: Tech4Rights: Human Rights in a world between hyperconnectivity and exclusion, with the aim of generating a space for reflection on the current state of the Internet, technology and mass communication tools from a human rights perspective and standards on freedom of expression. The event was attended by experts and academics from the region. |
| 37. | September 28, 2021 | Meeting on PL 2,630/2020   | Brazilian Chamber of Deputies  | Special Rapporteur Pedro Vaca was invited by the Brazilian Chamber of Deputies to participate as a speaker, in a Public Hearing Meeting regarding the debate of the bill PL 2.630/2020, and related legislation, which aims to improve the Brazilian legislation on freedom, accountability and transparency of the Internet - GTNET in which he debated on "Law enforcement and compliance: who regulates?"  |
| 38. | September 28, 2021 | Virtual Round Table for Latin America:<br><br>"The Right of Access to Information: achievements, challenges and opportunities of its monitoring at national, regional and international levels". | UNESCO Regional Office for Latin America and the Caribbean               | Special Rapporteur Pedro Vaca was invited to participate as a speaker at the event organized on the occasion of the International Universal Access Day (IDUAI) 2021. The UNESCO Office in Montevideo convened a roundtable with experts from the region to promote an exchange on the monitoring and reporting process around the implementation of access to information legislation, oriented to the fulfillment of the Sustainable Development Goals (SDGs), especially target 16.10.2.  |

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| 39. | September 29, 2021 | Freedom on the Net 2021: The Global Drive to Control Big Tech                                     | Freedom House   | Special Rapporteur Pedro Vaca was invited to participate as a panelist at the Freedom of the Net 2021 event. During the event, the different regulations of the web at a global level and their impact on Internet freedom were discussed. Different topics were analyzed such as the rise of increasing regulations, how the laws that regulate online content differ, personal data and competition between different contexts and how they protect or undermine human rights online.   |
| 40. | September 29, 2021 | Training Course on the Inter-American Human Rights System "Héctor Fix Zamudio", 2021 edition      | Observatory of the Inter-American Human Rights System<br><br>Instituto de Investigaciones Jurídicas de la Universidad Nacional Autónoma de México - UNAM (Institute of Legal Research of the National Autonomous University of Mexico). | The National Autonomous University of Mexico invited Rapporteur Pedro Vaca to join the faculty of the "Héctor Fix Zamudio" Training Course on the Inter-American Human Rights System, 2021 edition, to teach the class Freedom of Expression and Democracy.<br><br>This Diploma Course, which has been held since 2013 in agreement with the IACHR, is a specialized training activity with a high academic level in the Inter-American Human Rights System aimed at students, members of civil society organizations and public officials. |
| 41. | October 7, 2021    | "Freedom of Expression in the Digital Age" - Panel on Regulatory Importation in the Global North. | Article 19 MX - Friedrich Naumann Stiftung,   | Participation of Eva López as Tech4Rights Fellow in the event organized by Article 19 on the effects of the importation of legislation from the global north and its effects on the public debate; approach related to the Dialogue of the Americas within the axis Deterioration of the Public Debate.   |

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| 42. | October 12, 2021 | Event:<br>"International Seminar on the challenges to exercise freedom of expression in Latin America".                 | International Commission of Jurists  | <p>Special Rapporteur Pedro Vaca was invited to give the inaugural lecture at the International Seminar on the challenges to freedom of expression in Latin America, organized by the International Commission of Jurists.</p> <p>The congress was a space for independent journalists to discuss the obstacles and challenges they face in the exercise of their work, as well as to highlight the importance of the role played by freedom of expression in strengthening democracy and the challenges for its protection from a Latin American context.</p>   |
| 43. | October 14, 2021 | Podcast Batalhas Digitais<br>Episode 17 - Freedom of expression in the Americas   | Digital Batalhas Digitais da Coalizão Direitos na Rede                               | <p>The 17th episode of the Digital Battles podcast, from the Rights on the Net Coalition, received the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, Pedro Vaca, and Bia Barbosa, member of the board of directors of the Comitê Gestor da Internet no Brasil (CGI.br) and of the Rights on the Net Coalition. The meeting (podcast) addressed the current situation of the human right to freedom of expression in the region, the challenges related to content moderation and regulation of digital platforms, as well as the electoral and democratic contexts in the region.</p> |
| 44. | October 14, 2021 | Semiannual event<br><br>Social Science Day:<br>"The power behind a hashtag: social networks and freedom of expression". | School of Social Sciences and Government, Tecnológico de Monterrey, Querétaro Campus | <p>Special Rapporteur Pedro Vaca was invited to participate in the Seminar organized by the Instituto Tecnológico de Monterrey to give a keynote lecture on social networks and freedom of expression. The conference was followed by a panel of experts who discussed freedom of expression from a multidisciplinary perspective from law, political science, international relations and communication.</p>  |

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| 45. | October 19, 2021 | Roundtable on freedom of the press and the media | Embassy of Sweden in Washington D.C. | <p>Special Rapporteur Pedro Vaca was invited by the Embassy of Sweden in Washington D.C. to give the keynote speech during the event on press and media freedom.</p> <p>This event was attended by high-level representatives of the sector such as Ms. Teresa Ribeiro, OSCE Representative on Freedom of the Media, Ms. Sharon Moshavi, President of the International Center for Journalists (ICJ) and Ms. Karin Olofsdotter, Ambassador of Sweden to the United States.</p> |
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| 46. | October 20, 2021 | Launch event of the Joint Statement on Political Leaders, Public Officials and Freedom of Expression 2021 | Office of the Special Rapporteur for Freedom of Expression of the IACHR<br><br>Article 19 London | <p>The Office of the Special Rapporteur for Freedom of Expression, in conjunction with Artículo 19 London, organized the launch event for the Joint Declaration on Political Leaders, Public Officials and Freedom of Expression.</p> <p>The joint declarations of the freedom of expression rapporteurships have been adopted annually since 1999, and cover current universal challenges to freedom of expression. The event that referred to the 22nd Joint Declaration featured interventions by Pedro Vaca, Special Rapporteur for Freedom of Expression of the Organization of American States (OAS), Irene Khan, United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Teresa Ribeiro, Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), under the moderation of Courtney Radsch of Article 19.</p> <p>The Declaration addresses concerns about the degradation of political discourse in many parts of the world and the rise of "strong actor politics," which often promotes populism, elevates isolationist attitudes and criticizes democratic institutions and limits to the exercise of power. Throughout the event, topics discussed included key concerns and challenges for the political expression and actions of political leaders and public officials online and offline, efforts needed to establish a political culture that ensures public confidence in the transparency and fairness of democratic systems and to foster a culture of public service in the public interest, and the responsibilities of states and other key actors, especially political parties, social networking companies and the media in this area.</p> |
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| 47. | October 22, 2021 | "Harassment and Stigmatization of Journalists: Situation in Uruguay and Regional Context" - Day of the Journalist and Media Workers in Uruguay                  | Archive and Access to Public Information Center (CAinfo) Uruguay.   | The event was attended by RELE's Rapporteur Pedro Vaca and Tech4Rights Fellow Eva López. The intervention covered the importance of the role of journalists and media workers in the quality of public debate, as well as the particular attention that harassment of journalists who are women or belong to particularly vulnerable populations requires.   |
| 48. | October 24, 2021 | Podcast:<br>Rights Machines   | Project:<br>Rights Machine  | Special Rapporteur Pedro Vaca participated in the fourth episode of the podcast Maquina de derechos, which explored the functions of the people in charge of directing the Inter-American Commission on Human Rights and its Special Rapporteurships in order to promote awareness of the ISHR in Brazil. The podcast also featured the intervention of Commissioner Flavia Piovesan.  |
| 49. | October 28, 2021 | CELE Legislative Discussion<br><br>Module IV: Rapporteurship on Freedom of Expression IACHR: Dialogue of the Americas on freedom of expression on the Internet. | Center for Studies on Freedom of Expression and Access to Information (CELE) at the University of Palermo | The Conversatory was aimed at legislative advisors of the 9 Congresses that make up the field of study of the <a href="#">Regional Legislative Observatory</a> . In this space, several topics were discussed related to the role of Internet companies and their impact on the exercise of fundamental rights; transparency and auditing in the platforms, the responsibility of intermediaries, surveillance, due diligence and human rights impact assessments. On this occasion, the Special Rapporteur for Freedom of Expression, Pedro Vaca, was invited to moderate Module IV on the Dialogue of the Americas. The Special Rapporteur introduced the Dialogue of the Americas, its main thematic axes (deterioration of public debate, digital literacy for the development of civic skills and moderation of content on the Internet), as well as the opportunities for participation available on the Dialogue of the Americas website. |

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| 50. | October 28, 2021 | Central American Donor Forum<br>Central America  | Seattle International Foundation | Special Rapporteur Pedro Vaca participated in CADF 2021, in the forum "Alliances to heal and rebuild", which aimed to promote a space for discussion about what paths -led by the strength of social movements and alliances- are necessary to heal and rebuild the region in the face of the effects of a pandemic, the passage of two major hurricanes and the recent challenges to democracy.   |
| 51. | November 2, 2021 | International Day to End Impunity for Crimes against Journalists<br><br>Event: Hate Speech and the Safety of Women Journalists | UNESCO New York                  | <p>In commemoration of the International Day to End Impunity for Crimes against Journalists, UNESCO New York organized an event that brought together world leaders, experts from technical agencies, media, civil society and UN Member States to discuss the impact of hate speech on the safety of journalists, especially women, and explored ways in which impunity could be addressed.</p> <p>The Special Rapporteur participated in the panel which discussed the role of political actors, the politics of digital platforms in relation to a regulatory climate in which online and offline impunity can and does develop with relative ease. The event served as a platform for the Rapporteur to present the Joint Declaration on Freedom of Expression 2021 which refers to the narratives of Political Leaders on the Press, emphasizing the concern caused by the increasing tendency of political leaders to target and stigmatize vulnerable groups, individuals and journalists, who participate in the public debate, which generates an effect of self-censorship and reduction of civic space.</p> |

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| 52. | November 2, 2021 | Virtual forum:<br><br>International Day to End Impunity for Crimes against Journalists                 | Press and Society Institute IPYS<br><br>UNESCO  | Special Rapporteur Pedro Vaca was invited by IPYS and UNESCO to participate in the virtual forum in commemoration of the International Day to End Impunity for Crimes against Journalists. During the event, the Rapporteur referred to the actions and monitoring activities being carried out by the office with reference to cases of impunity against crimes and violence against journalists.                   |
| 53. | November 3, 2021 | Launching Event:<br>The repressive machinery against human rights defenders and democracy in Nicaragua | Observatory for the Protection of Human Rights Defenders (FIDH-OMCT)<br><br>Nicaraguan Center for Human Rights CENIDH | Special Rapporteur Pedro Vaca was invited to participate in the launch event of the report "Nicaragua's New Laws of Repression - 39 New Detainees", which refers to the regulatory framework that integrates the governmental repertoire of repression of the Ortega-Murillo Regime, to restrict the democratic space for individuals and organizations defending human rights and political opponents in Nicaragua. |

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| 54. | November 4, 2021 | <p>DigiEcon LATAM 2021- The Meeting Place for the Digital Economy Latin America</p> <p>Thematic session: Building together to improve digital coexistence and public debate</p> | <p>Latin American Internet Association (ALAI) with the support of IDB, INTAL, ECLAC and eLAC.</p> | <p>DigiEcon Latam 2021 was attended by representatives of the different sectors that define the transformation and economic digital development of the region. Among them, international organizations, public policy makers from different governments, private sector of the Internet industry, technical community and representatives of civil society. The forum aimed to analyze digital development as a driver of human, social and economic development in the medium and long term, and its role as a factor of economic recovery in the current complex context of crisis. Issues related to the development of the regional digital economy, the digital divide and the opportunities for economic recovery were discussed Post COVID. On this occasion, and on the occasion of the launch of the Dialogue of the Americas on freedom of expression on the Internet, the Special Rapporteur for Freedom of Expression, Pedro Vaca, participated as moderator of session three (3) "Building together to improve digital coexistence and public debate" in which he discussed the challenges of coexistence in the digital environment, the polarization of public debate and how tools such as digital education and content moderation should be used to improve this coexistence in a manner consistent with human rights.</p> |
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| 55. | November 8, 2021  | Thematic event on the deterioration of public debate "How to strengthen our democracies: the role of our public leadership". | <p>Office of the Special Rapporteur for Freedom of Expression of the IACHR and the Center for Studies on Freedom of Expression and Access to Information (CELE)</p> <p>With the support of the Inter-American Institute of Human Rights (IIDH)</p> | <p>In order to open the discussion and offer recommendations from the Inter-American Human Rights System, RELE convened a variety of actors to participate in a multi-sectoral dialogue - the Dialogue of the Americas on freedom of expression on the Internet. This first event was attended by the Center for Studies on Freedom of Expression and Access to Information (CELE) and the Inter-American Institute of Human Rights (IIDH), and representatives of civil society organizations. The purpose of this space was to discuss the role of our public leaders and their duty of care in the scenarios of political participation and deliberation, as well as the special responsibilities of public officials regarding their discourse, based on the most recent study: The Lies of Public Officials, Does It Have Short Legs or Long Effects?</p> |
| 56. | November 11, 2021 | DEMOCRACY AND ELECTIONS event: socially responsible coverage   | Public Space Venezuela   | <p>The Special Rapporteur Pedro Vaca was invited to participate in the Elections and Democracy forum organized by Espacio Público to discuss new forms of journalistic practice in restrictive environments and the challenges to develop quality journalism in the Venezuelan context. The Rapporteur was called to speak about the guarantees for freedom of expression in the face of deliberate disinformation in electoral contexts under the Venezuelan scenario.</p>  |

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| 57. | November 11, 2021 | Eighth Colombian Internet Governance Forum   | Colombian Internet Governance Board   | The Colombian Internet Governance Roundtable organized the eighth version of the Colombian Internet Governance Forum, which brought together national and international experts, representatives of civil society organizations, the private sector, academia and government to discuss issues such as freedom of expression, responsibility of intermediaries, access and inclusion, and cybersecurity. Special Rapporteur Pedro Vaca was invited to participate as a speaker to talk about the work being done through the Dialogue of the Americas on Freedom of Expression on the Internet and its importance for Internet governance. |
| 58. | November 12, 2021 | III International Congress on Human Rights and International Humanitarian Law "Public Powers and Social Manifestations".   | University of Magdalena<br>ICRC<br>Technological University Institution of Antioquia<br>Magdalena Newspaper | Special Rapporteur Pedro Vaca was invited to give the closing lecture of the III International Congress on Human Rights and International Humanitarian Law, where he explained the relationship between human rights and social demonstrations, focusing on the problems of violations of freedom of expression and the challenges for the application of human rights in these contexts.  |
| 59. | November 16, 2021 | Training for Journalists "Monitoring and Indicators of Threats to Freedom of Expression and Access to Public Information". | CAINFO  | Eva López, Tech4Rights Fellow, participated as a guest speaker to address how threats to freedom of expression are manifested in the digital environment, with a gender focus.   |
| 60. | November 16, 2021 | Twitter Content Moderation Space "What Does What We Don't See Say? Inequality and Exclusion in Virtual Civic Space."       | RELE - Article 19 MX CA   | Twitter Space co-organized with Article 19 offices in Mexico and Central America, based on Article 19's study "Removal of Content: Inequality and Exclusion in the Virtual Civic Space". This event addressed the thematic axis of content moderation and was attended by representatives of OBSERVACOM, SOCIALTIC, MOZILLA and TWITTER. Article 19 moderated the event.   |

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| 61. | November 18, 2021 | <p>Launching of the report: "Right to Information and National Security".</p>   | <p>Office of the Special Rapporteur for Freedom of Expression – SRFOE IACHR.</p> <p>With the support of Open Society Foundations (OSF)</p> | <p>On the occasion of International Access to Public Information Day 2020, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights published its thematic report "Right to Information and National Security". The Special Rapporteur for Freedom of Expression, Pedro Vaca, was in charge of moderating the panel, made up of several experts from the region who contributed with their experience during the preparation of the report. In this space, they discussed the challenges arising from the legal system and its implementation on public interest information related to national security, as well as state surveillance activities, information classification processes, transparency and accountability mechanisms.</p> |
| 62. | November 23, 2021 | <p>LAC IGF 2021</p> <p>Session: "The role of technology in situations of tension in democratic regimes: How internet governance can contribute to a fundamental rights-based deployment of technology".</p> | LACIGF14 Program Committee   | <p>The Special Rapporteur for Freedom of Expression, Pedro Vaca, was invited to participate in the first session of the LAC IGF 2021 together with some civil society organizations from the region. The purpose of the session was to contribute to the understanding of the current challenges from a fundamental rights approach in the deployment of technologies in the contexts of pandemics, political disruption, social demands and instability. Likewise, this event discussed issues related to Internet governance and mechanisms of transparency and accountability in digital environments.</p>   |

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| 63. | November 25, 2021                    | Day of Reflection: Freedom of expression, press and access to public information in El Salvador | Institute of Human Rights of the Central American University "José Simeón Cañas" (IDHUCA) | The Special Rapporteur Pedro Vaca was invited to participate in the day of reflection on the state of freedom of expression, press and access to public information in El Salvador, which aimed to provide a space for discussion and analysis on the current state of human rights in relation to the limited access to information and freedom of the press in the country, to enable changes or improvements in the response of civil society to the current situation. During the event, the Rapporteur had the opportunity to present the recommendations on freedom of expression compiled in the most recent report of the IACHR on the Situation of Human Rights in El Salvador published in October 2021. |
| 64. | November 30, 2021, Canelones Uruguay | Latin American meeting for the protection of journalists  | IPYS  | Special Rapporteur Pedro Vaca was invited to participate in the Latin American meeting for the protection of journalists to present during the closing session the conclusions and agreements generated from the different sessions, meetings and workshops held during the days of the event.   |
| 65. | December 1, 2021, Canelones Uruguay  | Colpin Forum 2021   | COLPIN 2021   | Special Rapporteur Pedro Vaca was invited to participate in the COLPIN 2021 forum to participate in the working group "10 years after the UN Declaration on the Safety of Journalists".  |
| 66. | December 2, 2021, Bogotá Colombia    | 25th Anniversary of the Foundation for Press Freedom FLIP                                       | Foundation for Press Freedom FLIP   | Special Rapporteur Pedro Vaca was invited to participate in a tribute to journalist Jineth Bedoya as part of the 25th anniversary of the Foundation for Press Freedom FLIP.  |



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| 67. | December 3, 2021 | Event: Connected Citizenship: Digital Literacy and the Role of the State | Office of the Special Rapporteur for Freedom of Expression (SRFOE) | <p>The Office of the Special Rapporteur for Freedom of Expression organized the event "Connected Citizenship: Digital Literacy and the Role of States" as part of the Dialogue of the Americas on freedom of expression on the Internet. The event was a scenario to reflect on the role and responsibility of governments in digital education; challenges of a political and legal nature, including the influence of States and private institutions in decisions regarding budget distribution or public procurement; and challenges of a social nature such as the digital divide, inclusive access to the Internet, adequate infrastructure and technical capabilities. Among other factors that hinder digital inclusion and the building of skills for coexistence and citizen participation. The event was a participatory and dynamic space, with a panel composed of representatives of some Member States of the Organization of American States (OAS) and multiple sectors, who were invited to share their perspectives and concerns on the subject, current challenges, and possible responses from the different actors of the democratic ecosystem in Latin America.</p> |
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| 68. | December 6, 2021 | Event: The Challenges of Content Moderation for Freedom of Expression: The Perspective of the Affected. | Office of the Special Rapporteur for Freedom of Expression (SRFOE) | The Office of the Special Rapporteur for Freedom of Expression organized the event The Challenges of Content Moderation for Freedom of Expression: The Perspective of Those Affected within the framework of the Dialogue of the Americas on freedom of expression on the Internet. The event was a scenario to reflect on content moderation practices, their impacts and alternatives to make these practices compatible with international human rights norms and standards. The objective is to provide knowledge and suggestions for action for the design of moderation mechanisms that promote the construction of safe spaces for individual and collective freedom of expression. The event addressed topics such as content moderation processes and compatibility with international human rights standards, electoral contexts, movements in the region and groups in vulnerable situations, the COVID-19 pandemic and regulatory proposals, among others. |
| 69. | December 9, 2021 | IGF Virtual Side Event: Roundtable "Global Challenges and Best Practices in Content Moderation".        | Facebook<br>Internet Governance Forum                              | The Office of the Special Rapporteur for Freedom of Expression of the IACHR organized together with Facebook the event "Global Challenges and Best Practices in Content Moderation" within the framework of the Internet Governance Forum 2021. The event was held in a closed-door roundtable format where the principles and best practices regarding content moderation on the Internet were discussed.   |

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| 70. | December 9, 2021  | Launching Event of the Declaration of Principles on Academic Freedom and University Autonomy of the IACHR. | IACHR<br>SRFOE<br>REDESCA   | The Inter-American Commission on Human Rights, together with the Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights (REDESCA) and the Office of the Special Rapporteur for Freedom of Expression (RELE), presented in a virtual event the Inter-American Principles on Academic Freedom and University Autonomy. These new principles aim to become a tool to defend the right to academic freedom, to protect university students and to promote and recommend good practices to the States of the region to guarantee the right to quality education, the production of scientific knowledge and freedom of expression. |
| 71. | December 14, 2021 |  | Commission on Challenges of the Future, Science, Technology and Innovation of Chile | The Special Rapporteur Pedro Vaca was invited by the President of the Commission on Challenges of the Future, Science, Technology and Innovation, to participate in the telematic session of the Commission, to discuss the bill that regulates digital platforms in Chile.   |

### 5) *Official and working visits*

27. The following is a summary of the official and working visits carried out by the Office of the Special Rapporteur during 2021.

|    | Country                    | Date/ Place        | Institution                      | Description   |
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| 1. | Colombia<br>Bogotá<br>Cali | June 8 to 10, 2021 | IACHR working visit to Colombia. | <p>The working visit to Colombia took place from June 8 to 10, 2021, with the objective of contributing to the consolidation of dialogue as a mechanism for overcoming the social conflict that occurred in the context of the protests due to the national strike in that country.</p> <p>The IACHR working visit delegation was made up of its Chair, Commissioner Antonia Urrejola, Commissioners Joel Hernández and Stuardo Ralón, the Executive Secretary, Tania Reneaum Panszi, the Assistant Secretary for Monitoring, Promotion and Technical Cooperation, María Claudia Pulido, the Special Rapporteur for Freedom of Expression, Pedro Vaca, and members of the technical team of the Executive Secretariat and the Rapporteurship on Economic, Social, Cultural and Environmental Rights, María Claudia Pulido, the Special Rapporteur for Freedom of Expression, Pedro Vaca, and members of the technical team of the Executive Secretariat and the Rapporteurship on Economic, Social, Cultural and Environmental Rights, who visited the cities of Bogotá, Cali, Tuluá, Buga and Popayán.</p> <p>During the three-day visit, Special Rapporteur Pedro Vaca held meetings and collected testimonies from victims, received information from journalists, demonstrators and authorities about the events that took place in the context of the protests and toured with several of them the sites of the events in Bogota and Cali.</p> <p>The Inter-American Commission also attended meetings with authorities from the different branches of government and oversight bodies at the national, departmental, district and municipal levels.</p> |

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| 2. | San José de Costa Rica, Costa Rica | October 4 to 6, 2021 | <p>Visit to Costa Rica: Meeting of Human Rights Organizations with Observers on the Human Rights and Freedom of Expression Situation in Central America</p> | <p>Between October 4 and 6, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR/RELE), together with the Offices of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras, Guatemala and Central America-Panama, held a series of working meetings to analyze and coordinate a strategic agenda on the situation of freedom of expression in Central America.</p> <p>During day one, the Office of the Special Rapporteur and the UN Offices dialogued with international cooperation and monitoring actors in the region on challenges, priorities, work agendas and joint lines of action. Some of the topics addressed were: journalism and democracy, democratic institutions, the rule of law and freedom of expression, freedom of expression on the Internet and the fight against discrimination and exclusion from public debates. On the second day, the Office of the Special Rapporteur and the OHCHR offices held four different sessions with journalists from Nicaragua, Guatemala, El Salvador and Honduras, on topics related to the increase in attacks, threats and intimidation against the press, censorship, judicial abuses, restrictions to the right of access to public information, closure of civic space, among other limitations to the right to freedom of expression.</p> <p>The Nicaraguan journalists gave their testimony on the criminalization of the independent press to which they are being subjected, the growing fear and self-censorship that not only affects the press but the entire population. In Guatemala, the journalists highlighted the violence suffered by women journalists, many of which take place through social networks. On the other hand, journalists in El Salvador stated that those who are not aligned with the government are attacked in the exercise of their freedom of expression.</p> <p>Honduran journalists denounced that the country continues to receive little international attention regarding the situation of serious democratic deterioration it is going through. They pointed out that there is imminent danger for those who speak out against the government's discourse. Finally, during his visit to Costa Rica, Special Rapporteur Pedro Vaca met with various government officials and ministers to discuss the current situation of freedom of expression in Central America.</p> |
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## Work meetings

| Date/Place                  | Meeting   | Description   |
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| January 12, 2021            | Office of the Human Rights Ombudsman of Guatemala | Special Rapporteur Pedro Vaca met with officials from the Human Rights Ombudsman's Office of Guatemala to discuss the situation of freedom of expression in Guatemala and the resulting increase in threats, harassment, criminalization and violence against journalists and communicators during 2020 in Guatemala.   |
| January 13, 14 and 15, 2021 | Twitter<br>Facebook<br>CELE                       | <p>On January 13, 14 and 15, the Office of the Special Rapporteur for Freedom of Expression held three closed meetings with representatives of Twitter, Facebook and the CELE study center, respectively, which were also attended by members of the OAS Department of Electoral Cooperation and Observation.</p> <p>The meetings were held with the intention of gathering information from the company's perspective regarding what and how would be the bases and protocols of action when making drastic decisions such as the one that occurred in early January and that concluded with the closure and blocking by Twitter of the account of former President Donald Trump.</p>  |
| January 27, 2021            | SRFOE<br>Journalists and activists<br>Nicaraguans | The Office of the Special Rapporteur for Freedom of Expression held a meeting with Nicaraguan journalists, organized by Race & Equality. The meeting was attended by Aníbal Toruño, from Radio Darío, Lucía Pineda, from 100% Noticias, Carlos Fernando Chamorro, from Confidencial, and Kimberly León, from La Costeñísima. The independent journalists discussed the challenges of independent journalism in Nicaragua, and highlighted the need to take action in the first months of the year, taking into account that this is an election year. On the other hand, we talked about the precautionary measures and petitions that are being processed before the Inter-American system, and about possible future actions. |

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| <p><b>February 22, 2021</b></p> | <p>SRFOE<br/><br/>United Nations</p>                                    | <p>The Office of the Special Rapporteur for Freedom of Expression met with different representatives of the United Nations to discuss projects and plans related to the issues of freedom of expression on the Internet and content regulation, in order to identify possible areas of collaboration. During the meeting, we discussed the press release issued by the IACHR and its RELE on February 5 in which we warned of a turning point in freedom of expression on the Internet and the plans of the Rapporteurship to chart a path for inter-American dialogue, including the holding of a hearing at the next session. The UN representatives considered that both the hearing and the inter-American dialogue route that is opening will be an interesting multistakeholder space and were interested in participating and collaborating in these spaces.</p> |
| <p><b>March 31, 2021</b></p>    | <p>Meeting on freedom of expression in Nicaragua</p>                    | <p>The Special Rapporteur and his team held a meeting with a group of civil society organizations working to promote and defend freedom of expression in Nicaragua. During the meeting, RELE had the opportunity to listen to the concerns expressed by the organizations and the testimonies of Nicaraguan journalists Kalúa Salazar and David Quintana, who have been victims of various forms of harassment, such as judicial proceedings, for the exercise of their journalistic work.</p>  |
| <p><b>April 29th</b></p>        | <p>Meeting with Chilean journalists and civil society organizations</p> | <p>The Office of the Special Rapporteur for Freedom of Expression convened a meeting with journalists, jurists and civil society organizations on freedom of expression to address the various issues that have arisen in recent months in Chile and that represent threats and possible setbacks in the guarantees of journalistic practice and freedom of expression in that country.</p>   |
| <p><b>April 14, 2021</b></p>    | <p>Meeting on freedom of expression in Nicaragua</p>                    | <p>The Special Rapporteur, Commissioner Urrejola and the Meseni team held a meeting with a group of civil society organizations working to promote and defend freedom of expression in Nicaragua. During the meeting, RELE had the opportunity to listen to the concerns expressed by the organizations and the testimonies of Nicaraguan journalist Marcos Medina, who is part of Canal 12, a media outlet that was prosecuted through judicial tax proceedings.</p>   |

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| <p><b>May 5, 2021</b></p>  | <p>Meeting with the Association of Journalists of El Salvador (APES)</p>        | <p>The Office of the Special Rapporteur for Freedom of Expression and specialists of the Commission met with the Association of Journalists of El Salvador (APES) who brought together nearly 30 journalists and civil society organizations to discuss the serious situation and threats to Freedom of Expression and the practice of journalism faced by the media and press workers in El Salvador.</p> |
| <p><b>May 11, 2021</b></p> | <p>Vuka! Rapid Response Team<br/>Dejusticia</p>                                 | <p>Special Rapporteur Pedro Vaca participated in the meeting organized by the Vuka! In coordination with different civil society organizations and civil society coordination which aimed to discuss the deterioration of civic space in Colombia and how Vuka! Aliados can support civil society and help protect and promote freedom of assembly and civic space in Colombia.</p>                        |
| <p><b>May 25, 2021</b></p> | <p>Meeting on the Situation of Freedom of Expression in El Salvador</p>         | <p>The Office of the Special Rapporteur for Freedom of Expression attended a meeting requested by the Association of Journalists of El Salvador to receive input on the current situation and context of threats to freedom of expression in the country.</p>  |
| <p><b>May 27, 2021</b></p> | <p>Meeting with Nicaraguan journalists - IACHR, RELE, OHCHR Central America</p> | <p>The Special Rapporteur, Chairperson Antonia Urrejola and Alberto Brunori (OHCHR) held a meeting with Nicaraguan journalists who were summoned to testify in the context of the money laundering investigation against the Violeta Barrios de Chamorro Foundation. During the meeting, the journalists shared their testimony about the interrogations and the situation in general.</p>                 |



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| <p><b>May 27, 2021</b></p>  | <p>Virtual meeting between IFEX-ALC network and Special Rapporteur for Freedom of Expression (RELE)</p>   | <p>The Office of the Special Rapporteur and IFEX LAC held a meeting to strengthen the institutional relationship between RELE and the 24 member organizations of the IFEX-LAC Network.</p> <p>This meeting was an opportunity for the Network to learn more about RELE's priorities for the next two and a half years, discuss progress and reports on the development of its work plan, ensure that the members of the IFEX-LAC network know how to relate to the Rapporteurship and have a better understanding of what the organizations/network consider to be the most pressing issues or hotspots in terms of freedom of expression in the region.</p>   |
| <p><b>July 20, 2021</b></p> | <p>Monitoring and follow-up session with Cuban journalists, local media and civil society organizations with the presence of the UN Special Procedures.</p> | <p>In the context of the protests that have been taking place in Cuba since July 11, generating limitations on the exercise of the rights to freedom of expression and peaceful assembly, the IACHR's Office of the Special Rapporteur for Freedom of Expression, with the support of IWPR, convened a group of Cuban civil society organizations and media to listen and gather first-hand information about what was happening on the ground. The meeting was attended by Irene Khan, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Clément Voule, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association; Pedro Vaca, IACHR Special Rapporteur on freedom of expression; and a group of more than 20 journalists, local media and civil society organizations.</p> |
| <p><b>July 29, 2021</b></p> | <p>Meeting with Caribbean Civil Society Organizations on Freedom of Expression</p>  | <p>The Special Rapporteur Pedro Vaca and the monitoring team of the Rapporteurship organized a meeting with different organizations of the society from different Caribbean countries in order to exchange information and receive inputs regarding violations and challenges to freedom of expression and the exercise of journalism in their respective countries.</p>   |

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| July 30, 2021     | Monitoring and follow-up session with Cuban journalists.  | The Office of the Special Rapporteur for Freedom of Expression of the IACHR organized a monitoring and follow-up meeting with women journalists in Cuba with the objective of listening to their testimonies and the particular obstacles and challenges they face in the practice of journalism in Cuba. The meeting was attended by some 17 women journalists from different media outlets on the island.   |
| August 2, 2021    | Meeting with the President of the Council for Regulation, Development and Promotion of Information of Ecuador | The Office of the Special Rapporteur for Freedom of Expression held a meeting to respond to a call from the Council for Regulation, Development and Promotion of Information of Ecuador, which requested the technical assistance of the Office to analyze the draft Organic Law on Communication of that country.  |
| August 2, 2021    | Meeting with Fundamedios Ecuador  | The Office of the Special Rapporteur for Freedom of Expression held a meeting with Fundamedios Ecuador to jointly analyze the scope of Ecuador's draft Organic Law on Communication.  |
| October 19, 2021  | UNESCO - initial coordination meeting   | At this meeting, UNESCO presented its most recent initiatives on Internet governance and principles for content moderation from a private approach, associated with the thematic area of content moderation. It was agreed to hold a follow-up meeting to share the results of their initiative, as well as to coordinate a joint event within the framework of the Dialogue of the Americas in 2022.   |
| November 19, 2021 | Special Rapporteurship for Freedom of Expression of the IACHR<br><br>IFEX-ALC                                 | The IACHR Office of the Special Rapporteur for Freedom of Expression and IFEX-ALC coordinated a private session in which 19 IFEX-ALC member organizations from the Latin American and Caribbean region participated, with the aim of providing network members with the opportunity to share their ideas and perspectives on the themes of the Dialogue of the Americas, namely the deterioration of public debate, digital literacy for the development of civic skills, and moderation of content on the Internet. It was agreed that they will share a systematization of the main agreements and disagreements of the participating organizations; this may be published in the Knowledge Center. |

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| November 19, 2021 | SRFOE<br>Freedom House<br><br>Twitter Space initial coordination meeting, deterioration of public debate. | Initial meeting with the LATAM coordinator of Freedom House to propose an event in the framework of the Dialogue of the Americas in a Twitter Space format. The thematic focus will be Deteriorating Public Debate and will be based on their "Freedom of the Net 2021" report; it will be held on January 11, 2022 from 6:00 pm - 7:15 pm EST. |
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## 6) Annual report and production of expert knowledge

28. One of the main tasks of the Office of the Special Rapporteur is to prepare a report on the state of freedom of expression in the hemisphere. Each year, this report analyzes the situation of this right in the region, including the main threats to its exercise and the progress that has been made in this area.

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

30. In September 2021, the Office of the Special Rapporteur for Freedom of Expression of the IACHR published the report [Childhood, freedom of expression, and the media in the Americas](#), which analyzes the right to freedom of expression of children and adolescents in the context of traditional media and the challenges of the new paradigm that the Internet represents for guaranteeing human rights. The document aims to contribute to a better understanding of the right to freedom of expression of children and adolescents, recognizing that this should be interpreted in the broadest and most effective way possible, and that it is necessary to see and treat children and adolescents as subjects of rights according to the principle of progressive autonomy.

31. In September 2021, the Office of the Special Rapporteur for Freedom of Expression of the IACHR published the [Guide for access to environmental information in the context of extractive industries and mining and hydrocarbons](#), which aims to contribute to strengthening the capacities of States and civil society in the effective and adequate implementation of the right to information in these contexts.

## 7) Special statements

32. Through daily monitoring of the state of freedom of expression in the region, which is carried out through a wide network of contacts and sources, the Office of the Special Rapporteur issues statements such as press releases, reports and opinions on specific cases or situations that are relevant to the exercise of this fundamental freedom. The Special Rapporteurship's press releases are widely disseminated and constitute one of its most important working mechanisms.

33. The Office of the Special Rapporteur receives a large number of e-mails, most of which refer to alerts, press releases, requests for information and queries on freedom of expression in the region; a small group of e-mails also refers to formal requests to the IACHR's individual case system; and another group refers to issues that do not fall within its competence. The Office of the Special Rapporteur reviews, purges and classifies the information received in order to determine the course of action to be taken.

34. Moreover, since its creation, the Rapporteur's Office has participated in the elaboration of declarations with the other UN procedures and Special Rapporteurs for freedom of expression. Joint statements are usually signed by the Rapporteurs of the UN, the Organization for Security and Cooperation in Europe (OSCE), the OAS and the African Commission on Human and Peoples' Rights. When regional issues are involved, statements are signed by regional experts and the UN and OAS rapporteurs.

35. Joint statements are a fundamental working tool for the Office of the Special Rapporteur. In previous years, these statements have dealt with various topics related to freedom of expression depending on the context and time<sup>8</sup>.

36. On October 20, 2021, UN, OSCE, ACHPR and OAS Freedom of Expression Experts signed [the Joint Declaration of the UN and Regional Special Rapporteurs on Freedom of Expression 2021](#) on Political Leaders, Public Officials and Freedom of Expression. The document addresses concerns about the degradation of political discourse in many parts of the world and the rise of "strong-actor politics," which often promotes populism, elevates isolationist attitudes, and criticizes democratic institutions and limits on the exercise of power. The Declaration was signed by Irene Khan, UN Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, Teresa Ribeiro, OSCE Representative on Freedom of the Media, Pedro Vaca Villarreal, OAS Special Rapporteur on Freedom of Expression and Jamesina King, ACHPR Special Rapporteur on Freedom of Expression and Access to Information.

37. On December 10, 2021, the Office of the Special Rapporteur for Freedom of Expression, together with the United Nations Special Rapporteur on Freedom of Peaceful Assembly and Association and experts from the region, presented a [joint statement](#) calling on States to strengthen international efforts to support and protect civil society actors, who are increasingly targeted by repression and threats. In the statement, the experts call on states to fulfill their international obligations and facilitate access to international protection for civil society actors fleeing violence, including recognition of refugee status and other forms of protection, such as expedited emergency visas. The statement also offers recommendations and guidelines to states to improve coordination of diplomatic efforts to advocate for open civic space and support civil society actors under threat.

38. Continuing the joint work with the United Nations Special Procedures, the Office of the Special Rapporteur also published during 2021 a press release on state repression in the context of protests in Colombia together with experts from the region and UN Special Rapporteurs and a press release on the disturbing new findings on the use of *Pegasus* software to spy on journalists and human rights defenders in Mexico published jointly with the IACHR and the Office in Mexico of the United Nations High Commissioner for Human Rights (UNHCHR).

39. During 2021, the Office of the Special Rapporteur issued several press releases to draw attention to facts related to freedom of thought and expression. These statements highlight facts of particular concern and local best practices, and explain the respective regional standards. The press releases issued during 2021 can be consulted on the *website* of the IACHR<sup>9</sup> Office of the Special Rapporteur for Freedom of Expression.

**Press releases 2021:**

| Country | Topics                       | Number | Title  | Place / Date                       |
|---------|------------------------------|--------|--|------------------------------------|
| Ecuador | Violence against journalists | R20/21 | Given the increase in reports of attacks against the press in Ecuador, the Office of the Special Rapporteur urges the State to redouble its efforts to protect journalists.          | Washington, D.C., February 2, 2021 |
| Cuba    | Violence against journalists | R28/21 | The Office of the Special Rapporteur is concerned about the persistent harassment of journalists, artists and human rights defenders exercising their freedom of expression in Cuba. | Washington, D.C., February 5, 2021 |

<sup>8</sup> Available at: <http://www.cidh.oas.org/relatoria/docListCat.asp?catID=16&lID=2>

<sup>9</sup> Available at: <http://www.oas.org/es/cidh/expresion/artListCat.asp?catID=1&lID=2>

|                     |                              |         |  |                                     |
|---------------------|------------------------------|---------|--|-------------------------------------|
| <b>Announcement</b> | Promotion                    | N/A     | Call for the first edition of the "TECH4RIGHTS" grant for 2021.  | Washington, D.C., February 10, 2021 |
| <b>Nicaragua</b>    | Joint Statements             | R47/21  | Joint statement OHCHR Central America and RELE IACHR on the day of the journalist in Nicaragua.  | Washington D.C., March 2, 2021      |
| <b>Regional</b>     | Reports                      | R112/21 | On World Press Freedom Day, the Office of the Special Rapporteur presents its 2020 Annual Report and reaffirms its commitment to support journalism in the hemisphere.   | Washington D.C., May 3, 2021        |
| <b>Colombia</b>     | Protests/repression          | R124/21 | Colombia: UN and OAS experts condemn repression of peaceful protests and call for thorough and impartial investigations  | Washington D.C., May 14, 2021       |
| <b>Perú</b>         | Freedom of Speech            | 126/21  | The Office of the Special Rapporteur for Freedom of Expression calls on those who hold or aspire to hold elected office in Peru to contribute with their speech to the protection of human rights.                               | Washington D.C., May 17, 2021       |
| <b>Mexico</b>       | Violence against journalists | R131/21 | The Office of the Special Rapporteur condemns the murder of journalist Benjamín Morales Hernández and calls on the Mexican State to investigate the facts fully and impartially and to strengthen measures to protect the press. | Washington D.C., May 20, 2021       |
| <b>Brasil</b>       | Academic freedom             | 139/21  | Offices of Special Rapporteurs express concern about the use of criminal mechanisms for defamation against a university professor in Brazil and call on the State to respect academic freedom                                    | Washington D.C. May 28, 2021        |
| <b>Mexico</b>       | Violence against Journalists | R157/21 | The Special Rapporteur condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the facts and strengthen measures to protect the press.        | Washington D.C. June 24, 2021       |
| <b>Guatemala</b>    | Restrictions                 | R162/21 | Guatemala: UN and OAS experts raise alarm over "suffocating" NGO law   | Washington D.C. July 1, 2021        |

|                  |                                       |         |   |  |
|------------------|---------------------------------------|---------|---|--|
| <b>Guatemala</b> | Violence against journalists          | R182/21 | The Office of the Special Rapporteur condemns the murder of activist and communicator Frank Stalyn Ramazzini and urges the State of Guatemala to investigate the facts fully and impartially.                                       | Washington, D.C.<br>July 16, 2021      |
| <b>Cuba</b>      | Protests                              | R189/21 | The Office of the Special Rapporteur is concerned about reports of serious human rights violations in the context of the protests in Cuba.  | Washington, D.C.<br>July 23, 2021      |
| <b>Mexico</b>    | Violence against journalists          | R196/21 | The Office of the Special Rapporteur condemns the murder of journalists Abraham Mendoza and Ricardo López in Mexico and urges the State to investigate the facts and to increase its efforts to prevent violence against the press. | Washington, D.C.<br>July 27, 2021      |
| <b>Mexico</b>    | Surveillance                          | R205/21 | The IACHR, its RELE and UN-HRM Mexico express concern new findings on the use of the Pegasus software   | Washington, D.C.<br>August 6, 2021     |
| <b>Mexico</b>    | Violence against journalists          | R223/21 | The Special Rapporteur condemns the murder of journalist Jacinto Romero Flores and notes with concern the continuing violence against the press in Mexico.  | Washington, D.C.<br>August 27, 2021    |
| <b>Regional</b>  | Reports                               | R228/21 | The Office of the Special Rapporteur for Freedom of Expression publishes new thematic report: Children, Freedom of Expression and the Media.  | Washington D.C.,<br>August 31, 2021    |
| <b>Brazil</b>    | State reforms                         | R237/21 | The Rapporteur's Office warns about the risks to the right to freedom of expression on the Internet in Brazil in the face of the reform of the Civil Internet Framework.  | Washington, D.C.,<br>September 9, 2021 |
| <b>Regional</b>  | Freedom of expression on the Internet | R244/21 | The Office of the Special Rapporteur announces the official launch of the Dialogue of the Americas on freedom of expression on the Internet, and invites all interested parties to accompany and participate in the process.        | Washington D.C.,<br>September 20, 2021 |
| <b>Regional</b>  | Reports                               | R261/21 | On the International Day for Universal Access to Information, the Office of the Special Rapporteur presents the Guide for access to environmental information in the context of extractive industries and mining and hydrocarbons.  | Washington D.C.<br>September 28, 2021  |
| <b>Colombia</b>  | Violence against journalists          | R275/21 | The Office of the Special Rapporteur condemns the murder of journalist Marcos Efraín Montalvo in Colombia and calls on the State to investigate the facts.  | Washington D.C.<br>October 15, 2021    |

|                  |   |         |  |                                    |
|------------------|---|---------|--|------------------------------------|
| <b>Regional</b>  | Statements                                  | R280/21 | Joint Statement of Special Rapporteurs 2021 on political leaders, public officials, and freedom of expression.   | Washington D.C., October 20, 2021  |
| <b>Guatemala</b> | Violence against journalists                | R286/21 | The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards.   | Washington, D.C., October 29, 2021 |
| <b>Mexico</b>    | Violence against journalists                | R290/21 | The Office of the Special Rapporteur condemns the murder of journalists Manuel González Reyes and Freddy López Arévalo in Mexico and urges the State to strengthen the mechanisms for the protection of journalists and the administration of justice. | Washington, D.C., November 3, 2021 |
| <b>Mexico</b>    | Surveillance                                | R303/21 | The Rapporteurship recognizes the progress made in the investigation of the Pegasus case and calls on the Mexican authorities to ensure the integrity of the persons involved in the process.  | Washington D.C. November 16, 2021  |
| <b>Regional</b>  | Women journalists and freedom of expression | N/A     | Consultation for the preparation of a RELE reference document on progress, challenges and recommendations for the prevention of violence and the fight against discrimination against women journalists.   | Washington D.C. November 2021      |
| <b>Regional</b>  | Joint declarations                          | R334/21 | Human Rights Experts Urge States to Protect Civil Society Actors at Risk   | Washington D.C. December 10, 2021  |
| <b>Colombia</b>  | State Regulations                           | R343/21 | The Office of the Special Rapporteur considers incompatible with inter-American standards the law approved by the Colombian Congress that punishes slander and libel against public officials.   | Washington D.C. December 10, 2021  |

## B. Financing

40. The Office of the Special Rapporteur wishes to express its special appreciation for the contributions of the OAS member states, observer countries and international cooperation agencies. In 2021 The Special Rapporteur's Office highlights the projects successfully executed thanks to contributions from the States of Costa Rica, the United States of America, Chile, the Kingdom of the Netherlands, as well as the Swedish International Development Cooperation Agency (SIDA), the Swiss Confederation, the Open Society Foundations, the National Endowment for Democracy (NED), the Ford Foundation, and Google Inc. This funding has allowed the Special Rapporteur's office to fulfill its mandate and continue its work of promoting and defending the right to freedom of expression. Once the official OAS figures on the resources received and executed by this office have been issued, they will be published in the audited financial statements available on the organization's web page<sup>10</sup>.

<sup>10</sup> All financial information is available for consultation on the OAS website in section [Informes de Auditoria Externa](#) OAS Board of External Auditors. Report to the Permanent Council 2013. Annual Audit of accounts and Financial Statements for the years ended December 31, 2013 and 2012. Section II. Specific Funds. Pp 62-64; OAS Board of External Auditors. Report to the Permanent Council 2012. Annual Audit

### C. Teamwork

41. The Special Rapporteur's Office has operated under the coordination of the Special Rapporteur, with a team of two or three lawyers with expertise in freedom of expression issues and one person who assists with projects and administrative tasks. Since July 2009, the Rapporteur's office has had a person in charge of project management and resource mobilization. The additional resources obtained have served to provide greater stability and better working conditions for the members of this team. In 2021 the Rapporteur's Office has also benefited from the presence of interns who have been a fundamental part of the work team; Giovanny Padovam Ferreira (Brazil), Alessandra Prezepiorski Lemos (Brazil), Brenda Alejandra Flores (Honduras), Tomás Novoa (Chile) and Andrea Carolina Ponguta (Colombia) contributed with their work and enthusiasm to the Special Rapporteur's Office as interns at different times during 2021. The Office of the Special Rapporteur also received support during 2021 from fellows Giovanny Padovam Ferreira (Brazil) (Orlando Sierra Fellowship, 2021), Eva María Lopez (El Salvador) (Tech4Rights 2021 Fellowship) and Edgar Huaranga Junco (Peru) (Tech4Rights 2021 Fellowship).

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of Accounts and Financial Statements for the years ended December 31, 2012 and 2011. Section II. Specific Funds. Pp 75-77; OAS Board of External Auditors. Report to the Permanent Council 2011. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2011 and 2010. Section II. Specific Funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2010. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2010 and 2009. Section II. Specific Funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2009. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2009 and 2008. Section II. Specific Funds. Pp 71-73; OAS Board of External Auditors. Report to the Permanent Council 2008. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2008 and 2007. Section II. Specific Funds. Pp 73-74; OAS Board of External Auditors. Report to the Permanent Council 2007. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2007 and 2006. Section II. Specific Funds. Pp 85-86; OAS Board of External Auditors. Report to the Permanent Council 2006. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2006 and 2005. Section II. Specific Funds. Pp 73; OAS Board of External Auditors. Report to the Permanent Council 2005. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2005 and 2004. Section II. Specific Funds. Pp 63-64; OAS Board of External Auditors. Report to the Permanent Council 2004. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2004 and 2003. Section II. Specific Funds. Pp 41-42; Board of External Auditors. OAS General Secretariat. Report to the Permanent Council 2003. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2003 and 2002. Section II. Specific Funds. Pp 41-42; OAS Board of External Auditors. Report to the Permanent Council 2002. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2002 and 2001. Section II. Specific Funds. Pp 53; OAS Board of External Auditors. Report to the Permanent Council 2001. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2001 and 2000. Section II. Specific Funds. Pp 52; OAS Board of External Auditors. Report to the Permanent Council 2000. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2000 and 1999. Section II. Specific Funds. Annex 4. Page 4.



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

1. This chapter describes some of the most important aspects of the situation of freedom of expression in the hemisphere during 2021. Its objective is to foster a constructive dialogue with the Member States of the OAS, calling attention to the reported advances as well as the problems and challenges that have required action during this year. The Office of the Special Rapporteur has confidence in the will of the OAS Member States to promote resolutely the right to freedom of expression and, to that end, publicizes their best practices, reports some serious problems observed, and offers viable and practical recommendations rooted in the Declaration of Principles.

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

3. The information in this report is presented in an orderly and systematic manner that takes note of the advances, setbacks, and challenges regarding various aspects of the exercise of the right to freedom of expression. Since 2021, the Office of the Special Rapporteur has organized its monitoring and systematization of information into four thematic sections, in order to provide a holistic analysis of the situation of freedom of expression, which also has unified criteria in all the countries observed. The four thematic sections correspond to: (i) Journalism and Democracy, which addresses information related to different forms of violence against the press; the use of criminal mechanisms and imprisonment of journalists who report on matters of public interest; cases of censorship of journalistic material; undue state control and closure of media outlets; stigmatizing statements against journalists and media; protection mechanisms for journalists at risk; confidentiality of sources; surveillance of communications, cyber-patrolling and profiling of journalists; attacks on community radio and media; indirect restrictions on freedom of expression through official advertising; and media concentration; (ii) Freedom of Expression, Rule of Law and Democratic Institutions, which aims to address issues related to social protest; guarantees of freedom of expression in electoral contexts; access to public information; and stigmatizing statements against public leaders; (iii) Freedom of Expression and the Fight against Discrimination and Exclusion, which will examine the obstacles faced by different groups in situations of vulnerability in exercising their freedom of expression and for their realities to be included in the public debate; and (iv) freedom of expression and the Internet, which will discuss legislative initiatives and/or public policies aimed at regulating the operation of the Internet that have an impact on freedom of expression, as well as issues related to state or private measures on moderation of Internet content; blocking or deliberate interference with Internet access; governance of the digital space, universal access and digital literacy.

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

5. In preparing this chapter of its 2021 Annual Report, the Office of the Special Rapporteur generally took into account information received until December 20, 2021, and, to the extent relevant, considered information received before 2021. Information regarding incidents that occurred after the date the 2021 Annual Report went to press is available in the press release section of the websites of the Office of the Special Rapporteur for Freedom of Expression (<http://www.oas.org/en/iachr/expression/index.asp>) and the IACHR (<http://www.oas.org/en/iachr/expression/index.asp>).

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

## ANTIGUA AND BARBUDA

7. Although the criminal offense of criminal defamation was abolished in 2015, seditious libel remains an offense in Antigua and Barbuda, with a maximum prison term of two years, with or without hard labor, and a maximum fine of US\$5,000 under the Sedition and Undesirable Publications Act. This rule would also penalize the possession of publications considered seditious, when it was the first offense committed by the person, with a prison sentence of up to one year or a fine of up to US\$3,000. In this context, investigative journalists face risks of criminalization when exercising their profession. Antigua and Barbuda also has an Access to Public Information Law, but this Office has received information about alleged obstacles in its execution, especially since the COVID-19 pandemic. The health crisis has also affected the right to social protest and association, according to the information received by this Office.

### A. Journalism and Democracy

8. The Office of the Special Rapporteur received information about various attacks to which the media and journalists most critical of the government would be exposed. According to the information received, public officials take advantage of radio or television programs to remind the media of the “debts” they owe to the government or to statutory bodies.<sup>11</sup>

9. Likewise, according to the information reported to this Office, the country has only one state media which would be used to promote the government’s agenda. The information published there that corresponds to other political parties or civil society runs the risk of being censored, according to the information received by the Office of the Rapporteur.<sup>12</sup>

10. As the Office of the Rapporteur has pointed out on previous occasions, journalism is the primary and main manifestation of freedom of expression and the States have a positive obligation to promote a safe working environment for the press. In this sense, in addition, the Inter-American Court has held that “it is essential that journalists [...] enjoy the protection and independence necessary to fully carry out their functions, since they are the ones who keep society informed, a requirement essential for it to enjoy full freedom”.

11. Principle 5 of the IACHR's Declaration of Principles on Freedom of Expression states that "prior censorship, direct, or indirect interference in or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression."

12. Likewise, the Office of the Rapporteur has indicated on previous occasions that the fear of criminal sanctions necessarily discourages and inhibits citizens from expressing themselves on matters of public interest. As the IACHR has maintained, “[t]he type of political debate to which the right to freedom of expression gives rise will inevitably generate certain critical or even offensive speeches for those who hold public office or are intimately linked to the formulation of public policies”. Article 13 of the American Convention provides for the possibility of establishing restrictions on freedom of thought and expression through the application of subsequent liability for the abusive exercise of this right. However, it requires that any measure that seeks to limit the exercise of the right to freedom of expression be precisely and clearly defined by law, be oriented towards a legitimate objective, and be necessary and strictly proportionate to the purpose sought.

### A. Freedom of Expression, Rule of Law, and Democratic Institutions

13. In the framework of the COVID-19 pandemic, the government of Antigua and Barbuda established a "state of emergency" since December 2020. The Minister of Information declared in November 2021 that it would be lifted before December 27 of that year.<sup>13</sup> The state of emergency in force in the country for more than a year, as well as other health provisions such as The Public Health Act, would have caused restrictions on the

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<sup>11</sup> Archive of the Office of the Special Rapporteur. November 25, 2021. Information provided by civil society organizations.

<sup>12</sup> Archive of the Office of the Special Rapporteur. November 25, 2021. Information provided by civil society organizations.

<sup>13</sup> Caribbean News. November 25, 2021. [Antigua and Barbuda to remove COVID-19 SoE early](#); Observer. November 19, 2021. [UPP welcomes removal of state of emergency, but accuses gov't of playing politics](#).

right to protest, according to information received by SRFOE. One of these cases took place at the August 8 demonstration organized by the group called 'Freedom Fighters for Antigua and Barbuda'. According to the information received, on July 21 the group requested permission to hold a demonstration on August 8 against the decisions made by the government to obtain the COVID-19 vaccine for all frontline workers. However, on August 5 –17 days after the application was submitted– the police informed them that the permit had been denied, which, according to what was pointed out, was an alleged “deliberate act” of the police commissioner, since although the decision could be appealed, the late response made the appeal process impossible. However, that day the group 'Freedom Fighters' would have met, as they pointed out, "with the intention of carrying out a peaceful protest, similar to all the other protests that we have carried out previously." According to the information reported, the demonstration was dispersed by the police in riot gear, who fired tear gas and several people were arrested.<sup>14</sup> On August 10, two women who reportedly were in charge of requesting the permit were arrested and their houses were raided.<sup>15</sup>

14. This Office recalls that social protest, which includes the rights of peaceful and unarmed assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights and therefore it is the duty of the State to guarantee its free exercise. In its report "Protest and Human Rights," the IACHR highlighted that holding meetings, demonstrations, and protests is a central activity of many associations and organizations and, in this regard, the States have the duty to provide the necessary means for them to freely carry out their activities and to refrain from imposing obstacles that hinder the performance of their work. Likewise, the IACHR has considered that the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry out. Legal requirements that provide a basis for an assembly or demonstration to be prohibited or limited, for example through the requirement of prior permission, are not compatible with the right of assembly or the exercise of freedom of expression in the Inter-American System.

15. Finally, the Office of the Rapporteur reiterates that the actions of the security forces must be in strict accordance with international human rights standards. The IACHR has understood that the use of force constitutes a last resort that, limited qualitatively and quantitatively, seeks to prevent an act of greater gravity than the one provoked by the state reaction. Within this framework characterized by exceptionality, both the Commission and the Inter-American Court have agreed that, for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be satisfied.

16. On the other hand, although Antigua and Barbuda has had a Freedom of Information Law since 2004 –which aims to promote the maximum disclosure of information of public interest– this Office received information about the little effectiveness that the law would have in practice.<sup>16</sup>

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

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<sup>14</sup> News 784. August 8, 2021. [Antigua: Civilians arrested, tear gassed at vaccine protest +Video](#); Barbados Today. August 8, 2021. [REGION – Antigua police use teargas to disperse protest](#); Antigua News Room. August 18, 2021. [Freedom Fighters of Antigua & Barbuda clarify protest misconceptions](#).

<sup>15</sup> Antigua Observer. August 10, 2021. [Two people linked to Sunday protest arrested](#).

<sup>16</sup> Archive of the Office of the Special Rapporteur. November 25, 2021. Information provided by civil society organizations.

## ARGENTINA

18. The Office of the Special Rapporteur has observed the persistence of stigmatizing accusations against journalists by public officials in Argentina, as well as the use of judicial mechanisms with an alleged intent of intimidating reporters investigating matters of high public interest. This Office is particularly concerned about the reports received on the deterioration of the guarantees for the exercise of the right to freedom of expression and the weakening of the rule of law in the province of Formosa where, on 5 March 2021, the IACHR and its Office of the Special Rapporteur were informed about the disproportionate actions of public forces to disperse protests demanding governmental measures in the context of the COVID-19 pandemic. According to information received, police officers reportedly used rubber bullets, tear gas and beatings against demonstrators and journalists, resulting in at least 30 people being detained and several injured.

### A. Journalism and Democracy

19. In 2021, the Rapporteurship recorded with concern a number of attacks against journalists and media outlets in Argentina. Among other reported incidents, on November 3 former President Mauricio Macri reportedly violently grabbed, threw to the ground and damaged the microphone of Nicolás Munafó, a reporter for *C5N*, who was covering Macri's arrival at a court in the city of Dolores, province of Buenos Aires, to testify in a court case investigating alleged acts of espionage during his administration.<sup>17</sup> According to information known to this Office, the former president apologized publicly through his social networks, and warned that it was "a reflex when he saw that the microphones were pointed at him".<sup>18</sup>

20. Also, on March 23, a group of militants from the *Central de Trabajadores de Argentina* (CTA Autónoma) reportedly violently entered the editorial office of the newspaper *Río Negro*, where according to available information they beat up staff members and journalists and destroyed materials. According to information received by this office, the incident occurred after the courts decided to bring charges of sexual abuse against Miguel Báez, leader of the *Organización de Desocupados en Lucha* (ODEL), an issue that had been extensively covered by the *Río Negro* newspaper.<sup>19</sup> They also allegedly threatened to kill journalist Luis Leiva, one of the reporters who had covered the case against Miguel Báez. As far as the Office was able to learn, the CTA Autónoma issued a statement disassociating itself from the incident.<sup>20</sup> Governor Arabela Carreras expressed her solidarity and promised to open an investigation into the police delay in arriving at the scene.<sup>21</sup>

21. Also, on November 22, a group of at least nine individuals reportedly attacked the Grupo Clarín facilities with explosives, causing a fire to break out. According to the information available, in the days that followed, the police reportedly arrested a suspect identified through security camera footage.<sup>22</sup> Less than a week after the events mentioned above, on November 27, the news channel *Chacra TV* reported "acts of vandalism" against its facilities in Vicente López, province of Buenos Aires, where unknown individuals allegedly cut the electricity cables. The station described the incident as "a new act of intimidation against freedom of expression in Argentina" aimed at "silencing" the press.<sup>23</sup> In addition, on December 20, a group of people allegedly set fire to the facilities of the newspaper *El Chubut*, in the city of Trelew, in the context of protests against the approval in the provincial legislature of a Zoning Law for the area of the Meseta, which

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<sup>17</sup> Perfil. 3 November 2021. [Mauricio Macri tiró al piso el micrófono de un periodista de C5N y fue repudiado](#); A24. 3 November 2021. [Mauricio Macri tiró al piso el micrófono de un periodista de C5N y fue repudiado](#); A24. 3 November 2021. [Denuncian que Macri le sacó el micrófono a C5N, lo tiró al piso y generó repudio entre legisladores y organismos](#); Ámbito. 3 November 2021. [Mauricio Macri atacó a un cronista de C5N y rompió un micrófono](#).

<sup>18</sup> Clarín. 3 November 2021. [Mauricio Macri pidió disculpas por el incidente con el micrófono de C5N: "Fue un acto reflejo"](#); Cronista. 3 November 2021. [Macri pidió perdón por tirar un micrófono de C5N: ¿qué dijo?](#).

<sup>19</sup> Diario Río Negro. 23 March 2021. [Videos: violenta intimidación a Diario RÍO NEGRO](#); La Nación. 24 March 2021. [Río Negro: violento ataque de la CTA a la sede de un diario; Clarín. 23 March 2021. Militantes de la CTA destrozaron la redacción del diario Río Negro y amenazaron de muerte a un periodista](#); Infobae. 23 March 2021. [Sindicalistas atacaron la sede del diario Río Negro: destrozos y agresiones por la cobertura de una denuncia por abuso sexual](#).

<sup>20</sup> Diario Río Negro. 23 March 2021. [La CTA Autónoma se despegó de la agresión a RÍO NEGRO](#).

<sup>21</sup> Twitter account of Arabela Carreras (@ArabelaCarreras). [23 March 2021](#).

<sup>22</sup> CPJ. 1 December 2021. [Atacan con cocteles molotov la sede de Grupo Clarín en Argentina](#); Infobae. 23 November 2021. [Encapuchados atacaron el edificio del diario Clarín con bombas molotov](#); La Nación. 26 November 2021. [Ataque a Clarín: el sospechoso se negó a declarar y quedó detenido](#).

<sup>23</sup> AgroLatam. 28 November 2021. [Desconocidos cortaron los cables de electricidad de Chacra TV](#); La Nación. 28 November 2021. [Atacaron a un canal de TV agropecuario](#); Perfil. 29 November 2021. ["Acto intimidatorio": repudio al ataque al canal de televisión agropecuario Chacra TV](#).

would allow mining activity in certain provincial areas. According to the information available, the demonstrators allegedly threw stones and explosive devices at the media building, supposedly while journalists and executives were still inside.<sup>24</sup>

22. On the other hand, press workers in the Formosa province have reported an increase in acts of harassment by public officials and leaders. Local media have also denounced the deliberate obstruction of access to public information, attacks and disqualifications by high-ranking officials and the use of daily press conferences as a platform to reinforce the government's political discourse<sup>25</sup>. According to press reports, the government is reportedly keeping journalists "imprisoned, blocked and censored".<sup>26</sup> Among other incidents recorded with concern by this office, Julieta González and Leonardo Fernández Acosta, reporters for *Radio Parque*, *Radio Uno* and the newspaper *El Comercial*, were accused by the Formosa Ombudsman of allegedly having committed a crime of public intimidation. According to the information available, the accusation was related to a series of comments made by the journalists on their radio program in which they allegedly questioned the restrictive measures ordered by the governor of the Formosa province because of the pandemic, which, in the opinion of the Ombudsman, implied public intimidation and even incitement to "collective violence". In this context, the journalists reportedly asked to be released from prison and were forced to remain in their homes for several days for fear of being arrested, which they considered "an open attack on freedom of expression".<sup>27</sup>

23. This Office was informed of alleged stigmatizing remarks by the provincial minister of government, Jorge González, against journalist Leonardo Fernández Acosta, editor in chief of the newspaper *El Comercial* of Formosa, during a press conference of the *Consejo de Atención Integral de la Emergencia COVID-19*. According to available information, the official allegedly called the reporter a "liar", accusing him of taking information out of context, of making "a fallacious interpretation" of certain facts, and of "inventing things" to attack the government.<sup>28</sup> Likewise, according to publicly available information, in February 2021 the councillors of the town of Palo Santo reportedly declared "persona non grata" the television channel *Todo Noticias (TN)*, which was covering the town, after reports of alleged human rights violations were made public<sup>29</sup>. Furthermore, according to information received by this Office, on 28 February an audio message was broadcasted, allegedly from the provincial deputy of the *Partido Justicialista*, Roberto Vizcaíno, in which he allegedly incited the Wichí communities to intimidate the *TN* team, whom he described as "the enemy".<sup>30</sup>

24. In this context, the Rapporteurship learned that in February journalist Inés Beato Vassolo of the newspaper *La Nación*, who had been sent by the newspaper to report on the alleged crisis and human rights violations surrounding COVID-19, was denied access to the province. According to the official explanation of the provincial government minister, journalists who wanted to report on what was happening in the area had to "send their questions by e-mail".<sup>31</sup> The case of journalist Inés Beato Vassolo was brought before the Supreme Court of Justice through an injunction which, on 20 May 2021, was ruled in her favour. In its decision, the Court understood that "without prejudice to recognizing the purposes of protecting public health (...) the restrictions

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<sup>24</sup> La Nación. February 3, 2021. [El periodismo bajo el gobierno de Gildo Insfrán: maltratado, evitado y sin acceso a la información](#); ADEPA. March 5, 2021. [Grave deterioro de la libertad de expresión en Formosa](#).

<sup>25</sup> La Nación. 3 February 2021. [El periodismo bajo el gobierno de Gildo Insfrán: maltratado, evitado y sin acceso a la información](#); ADEPA. 5 March 2021. [Grave deterioro de la libertad de expresión en Formosa](#).

<sup>26</sup> Cristina Pérez / Radio Mitre. 11 March 2021. [Julieta González, la periodista detenida en Formosa: "Gildo Insfrán nos tiene presos, bloqueados, censurados y nos persigue"](#).

<sup>27</sup> Periodismo Profesional. 20 August 2021. [Denunciaron a los periodistas Leonardo Fernández Acosta y Julieta González por intimidación pública](#); Diario El Comercial. 23 August 2021. [Leonardo Fernández Acosta: "Estamos a la buena de Dios, si nos quieren detener lo pueden hacer"](#); Infobae. August 2021. ["Si salimos a la calle nos meten presos": dos periodistas denuncian censura y persecución por criticar la política sanitaria de Formosa](#); Voces del Sur Unidas. 23 August 2021. [Nos solidarizamos con los periodistas formoseños Julieta González y Leonardo Fernández Acosta](#).

<sup>28</sup> Prensa Libre Formosa. Undated. [González agredió al periodista Leo Fernández Acosta, sin responder como piensan evitar el quiebre de las Pymes \(VER VIDEO\)](#); FOPEA. 19 January 2021. [FOPEA se solidariza con el periodista formoseño Leonardo Fernández Acosta](#).

<sup>29</sup> TN. 27 February 2021. [Concejales de Formosa declararon "persona no grata" a TN tras la cobertura en la ciudad más restringida del país](#).

<sup>30</sup> Noticias Formosa. 28 February 2021. [El diputado Vizcaíno les indica a las comunidades cómo actuar ante TN](#); TN. 28 February 2021. ["Tenemos que actuar igual que cuando vino Lanata": un diputado formoseño incitó a las comunidades wichis a amedrentar al equipo de TN](#).

<sup>31</sup> La Nación. 7 February 2021. [Prohibido informar desde Formosa, donde las leyes no rigen](#); Infobae. 8 February 2021. [Fuerte repudio a la decisión del gobierno de Formosa de impedir el ingreso de una periodista de La Nación](#).



established by the local authorities do not pass the test of reasonableness (...) by suppressing individual freedoms beyond what is tolerable”.<sup>32</sup>

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

26. On the other hand, the Rapporteurship continues to observe the use of judicial mechanisms to limit journalistic work on matters of high public interest. This Office has followed with particular concern the ongoing judicial proceedings against the investigative journalist of the newspaper *Página/12*, Santiago O’Donnell, in connection with the publication of his book *“Hermano. La confesión de Mariano Macri sobre la trama de poder, política, negocios y familia de su hermano Mauricio”*. According to information received, the reporter has been ordered by the courts to hand over the recordings of the interviews he conducted for his book on Mauricio Macri, which contravenes national and international standards on the protection of the secrecy of news sources and could pose a risk to his personal integrity.<sup>33</sup>

27. Also on January 13, the municipality of Quilmes, province of Buenos Aires, filed a criminal complaint with the federal court against journalist Roberto Carrigall, a reporter for radio station *Del Bosque*, for allegedly committing the crime of spreading the epidemic and public intimidation. The complaint is allegedly linked to his coverage of the alleged loss, for lack of refrigeration, of 40 vaccines against the coronavirus by the municipal government. This Office was informed that the journalist had tried to contact the Quilmes municipal health department to obtain a statement before publishing the information in question, but had not received a reply.<sup>34</sup>

28. The Rapporteurship was also made aware of the decision of the Superior Court of Justice of the province of San Luis that confirmed the conviction of journalist Diego Masci, for the publication of an electronic communication, as the main perpetrator of the crime of violation of privacy against the then provincial Minister of Education (and current provincial Minister of Environment), Natalia Spinuzza. As reported in the last annual report of this Office, in 2018, the journalist had published a video of Spinuzza in which she was in Amsterdam and mentioned having consumed drugs and alcohol with her friends and her partner. According to the information available, the High Court ruling considered that the information contained in the video lacked public interest and explained that, for it to be protected speech, it is necessary for there to be “a concrete public interest, that is to say that the information is of public relevance (...) if there is a genuine interest of society in knowing that information, if it is useful for a debate that serves us all, that interests us all”.<sup>35</sup>

29. The Office welcomes the decision of Chamber I of the Federal Criminal and Correctional Chamber of the city of Buenos Aires that rejected the appeals of businessmen Gerardo Ferreyra and Néstor Otero, who requested that *La Nación* journalist Diego Cabot identify the sources consulted for his investigation into the case known as the “*Cuadernos de las coimas*”, a case involving alleged acts of corruption allegedly involving Vice President Cristina Fernández. According to available information, the judges understood that the proposed evidence was aimed at obtaining information that the journalist had decided to protect under the secrecy of

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<sup>32</sup> La Nación. 21 May 2021. [La Corte Suprema ratificó el derecho de LA NACION a informar desde Formosa](#).

<sup>33</sup> Revista Noticias. 13 February 2021. [Insólita embestida judicial contra Santiago O’Donnell por el libro de los Macri](#); Tiempo Argentino. 8 February 2021. [Polémica por el pedido de una jueza para que O’Donnell entregue las entrevistas al hermano de Macri](#); Infobae. 7 February 2021. [O’Donnell entregue los audios que utilizó para su libro sobre Mauricio Macri](#); El Diario Ar. 10 May 2021. [La Justicia insiste con que el periodista O’Donnell entregue las grabaciones con Mariano Macri](#).

<sup>34</sup> Quilmes a diario. 13 January 2021. [El Municipio de Quilmes denuncia penalmente al periodista Roberto Carrigall por “su conducta y falsa información”](#); CPJ. 21 January 2021. [Gobierno de municipio argentino presenta denuncia penal por las informaciones de un periodista sobre la vacuna contra la COVID-19](#); FOPEA. 15 January 2021. [FOPEA repudia y rechaza la denuncia penal radicada por el Municipio de Quilmes contra el periodista Roberto Carrigall](#).

<sup>35</sup> Vía País. 26 November 2021. [Polémica por la confirmación de la condena a un periodista de San Luis](#); Huarpe. 30 November 2021. [Un nuevo fallo en San Luis impacta sobre la libertad de expresión](#); ADEPA. 9 December 2021. [El interés público de una noticia: Comentarios críticos a un pronunciamiento de la justicia puntana](#).

the sources of information and that this implies a violation of the right to freedom of expression, “one of the pillars on which the rule of law is based”.<sup>36</sup>

30. This Office was also pleased by the decision of the Federal Chamber of the City of Buenos Aires that upheld the acquittal of journalist Daniel Santoro, who was charged with alleged participation in the crime of attempted extortion against businessman Gabriel Traficante, in a case involving Marcelo D’Alessio, allegedly responsible for leading an illegal gang that extorted and threatened businessmen. According to available information, the judges understood that Daniel Santoro only overly relied on the veracity of the information provided by Marcelo D’Alessio as a “source”, but that he did not participate in his illegal actions.<sup>37</sup> The SRFOE has followed this case with particular attention, and notes that beyond the aforementioned advances, there is an erosion and exposure of the journalist that can be interpreted in a criminalizing way and modulate the public perception of the press in that sense.

31. On the other hand, the Office of the Special Rapporteur for Freedom of Expression has continued to record statements by high-level authorities that disqualify the work of journalists who report on government wrongdoings and of media outlets whose editorial lines are critical of the government. Also, according to the information reported, government officials have tried to hold the press responsible for its publications on alleged acts of corruption in the management of supplies and the COVID-19 vaccination campaign. On 23 February 2021, at a press conference held during an official visit to Mexico, the President allegedly singled out journalists, opposition political leaders and members of the judiciary as being responsible for a “ruthless campaign” against the government in connection with their coverage of the alleged “VIP vaccination centre” that had been operating within the Ministry of Health, which led to the resignation of the then Minister of Health<sup>38</sup>. As this Office was able to learn, on 23 February 2021, when consulted by journalist Luis Novaresio on *La Red* radio, the head of the national Cabinet referred to the matter and affirmed that it was “an invention” of the press.<sup>39</sup>

32. In October, the Minister of Security of the Nation reportedly published on his social networks an intimidating message against the cartoonist Cristian Dzwonik, popularly known by his nickname Nik, which included private information about the educational institution attended by his daughters. The official's message was in response to a critical reflection of the cartoonist on the subsidies and social plans promoted by the national government.<sup>40</sup> According to publicly available information, in the days following this event, Cristian Dzwonik reported an increase in threats against him on social networks, and publicly blamed the official for it, pointing to the minister’s attitude as a way to “provoke” and “incite” violence “from the top to bottom towards citizens”, and an attack on freedom of expression<sup>41</sup>. Faced with the reactions, the Minister of Security reportedly warned later that “there is no offense, there is no insult to anyone in particular” and that “it was not a personal matter against him”, and apologized “if anyone had understood this as a threat”.<sup>42</sup>

33. According to reports received by this Office, the concept of “lawfare” is often used to discredit members of the political opposition who express opinions critical of the government or journalists who investigate issues of public interest that link officials to alleged acts of corruption. On March 1, during the inaugural speech of the ordinary sessions of the National Congress, the president reportedly criticized the work of some media outlets

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<sup>36</sup> Perfil. 30 June 2021. [Notable fallo de la Justicia que protege las fuentes periodísticas](#); ADEPA. 30 June 2021. [Relevante fallo que protege las fuentes informativas y la libertad de expresión](#); Clarín. 30 June 2021. [La Cámara Federal avaló el secreto profesional periodístico en la causa de los Cuadernos de las Coimas](#).

<sup>37</sup> Perfil. 14 October 2021. [Caso D’Alessio: confirman el sobreseimiento de Daniel Santoro](#); La Nación. 14 October 2021. [Confirman el sobreseimiento del periodista Daniel Santoro](#).

<sup>38</sup> El Mundo. February 23, 2021. [Alberto Fernández ataca a la oposición, la justicia y los medios ante el escándalo de la 'vacunación VIP' en Argentina](#); Clarín. February 23, 2021. [El Presidente culpó a los medios por el escándalo del vacunatorio VIP, video](#); La Gaceta. February 23, 2021. ["Algunos protocolos se saltaron", admitió Alberto Fernández](#).

<sup>39</sup> TN. February 23, 2021. [Santiago Cafiero: "El vacunatorio VIP es un invento de los periodistas"](#); Infobae. February 23, 2021. [Santiago Cafiero: "El Vacunatorio Vip es un invento de los periodistas"](#).

<sup>40</sup> Clarín. October 11, 2021. [El tuit amenazante de Aníbal Fernández contra Nik y su respuesta: "Tengo miedo"](#); ADEPA. October 11, 2021. [Expresiones intimidatorias del ministro de Seguridad contra Nik](#).

<sup>41</sup> The Nation. October 19, 2021. [Nik responsabilizó a Aníbal Fernández por las amenazas que recibe en las redes sociales: "Lo peligroso que es incitar la violencia desde lo alto del poder hacia abajo"](#); Ámbito Financiero. October 12, 2021. [Sigue la escalada: ahora Nik responsabilizó a Aníbal Fernández por las amenazas recibidas](#).

<sup>42</sup> Perfil. October 12, 2021. [Aníbal Fernández minimizó la amenaza contra Nik: "No me arrepiento"](#); A24. October 12, 2021. [Aníbal Fernández volvió a hablar sobre la pelea con Nik: "No me arrepiento"](#).



that, in his opinion, “preserve the interests of concentrated economic powers behind the guise of objectivity”, urging them to “see the damage they are doing” to society. On that occasion, he also warned about “a perverse system in which judges, prosecutors, alleged spies and renowned journalists intermingle to illegally monitor people in custody to conduct judicial extortion”, alluding to the debate that has begun in Argentina regarding lawfare (or “legal warfare”) and its use to delegitimize certain politicians. Several civil society organizations reacted to this discourse. The *Asociación de Entidades Periodísticas de Argentina* (Adepa) warned that the lawfare theory seems to be an attempt to discredit journalistic investigations; and the *Foro de Periodismo Argentino* (FOPEA) considered that “in addition to being intimidating, [the criticism] represents a clear danger for journalists and a step backwards in the construction of democracy”.<sup>43</sup>

34. The State of Argentina has recognized that “the media carry out an activity of public interest and of great social relevance, and have among their primary objectives the promotion and guarantee of freedom of expression, research, search and dissemination of information within the framework of the rule of law”. In this context, they reported that on 5 April 2021, the Secretariat for Human Rights and the Office of the Public Defender of Audiovisual Communication Services signed an agreement that establishes an institutional framework to implement actions, projects and programs that promote human rights, particularly from media perspective. According to them, these entities have also prepared a document with recommendations “for the responsible media treatment of the civil-military dictatorship and the process of memory, truth and justice”, understanding that “the adequate coverage of the facts related to the last Argentine civil-military dictatorship and the process of memory, truth and justice require the incorporation of a perspective respectful of human rights, to avoid the reproduction of discourses that may violate rights”.<sup>44</sup>

35. In addition, the state authorities reported that, in the context of the election year, the Office of the Ombudsman for Audiovisual Communication Services signed the Ethical Pact against Disinformation promoted by the Argentine Federation of Press Workers (FATPREN) and by communication universities, journalism institutes and organizations, supposedly for the purpose of promoting information transparency in the context of the mid-term elections.<sup>45</sup> The Rapporteurship also welcomes the information provided by the State regarding the approval of the first Code of Ethics of Public Television –as mandated by the Law on Audiovisual Communication Services— which, according to the State, was the result of a broad and pluralistic debate in which specialists from the academic, human rights, professional, cultural, trade union, national and international organizations, as well as social organizations participated. According to the information received, the approved Code of Ethics has followed good practices on ethics and responsible treatment of news and fiction on historically vulnerable groups, women, LGTTBIQ+ groups, migrants, afro-descendants, elderly people, children and adolescents, on issues such as institutional violence, genocides, problematic consumption, addictions and abuses.<sup>46</sup>

36. The IACHR and its Rapporteurship have pointed out that journalism is one of the most important manifestations of freedom of expression in democratic societies, as it fosters more robust, pluralistic, and informed public debates. States must ensure full respect for freedom of the press, which is also a fundamental element for the exercise of other fundamental freedoms.

37. In democratic systems, the State submits itself to social scrutiny and, at the same time, has the duty to guarantee the freedom of expression of all persons who participate in the public debate. In this sense, the IACHR and its Rapporteurship have pointed out that those who hold positions of public leadership must ensure that their statements do not harm the rights of those who contribute to the debate through the expression and dissemination of their thoughts, such as journalists and the media. According to the Inter-American Court of Human Rights, such statements by public officials could constitute an indirect restriction on the right to freedom of expression. While the exchange of arguments and public exposure of disagreements enrich the

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<sup>43</sup> ADEPA Twitter account (@Adepargentina). [1 March 2021](#); Perfil. 1 March 2021. [Adepa criticó a Fernández por vincular la tarea periodística con “intereses poderosos y conspirativos”](#).

<sup>44</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>45</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>46</sup> Information sent by the State for the Annual Report of the Office of the Special Rapporteur. October 19, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression; Government of Argentina. December 9, 2021. [Se presentó hoy el primer Código de Ética de la Televisión Pública](#).

debate, speeches that encourage the stigmatization of the press erode the democratic system and contribute to a climate of self-censorship.

38. As the IACHR and the Inter-American Court have repeatedly held, public officials or candidates for public office are exposed to a greater degree of public criticism due to the public interest nature of the activities they perform and because they have voluntarily exposed themselves to more demanding scrutiny. This does not imply, the Court noted, that they cannot be judicially protected from slander; however, they must be protected in a manner consistent with the principles of democratic pluralism and weighing the interest of such protection against the interests of open and uninhibited debate on public affairs. In this regard, the Commission and the Court have insisted that the use of criminal mechanisms to punish speech on matters of public interest, especially in relation to public officials, is incompatible with inter-American standards.

39. The Rapporteurship calls on the Argentine State to strengthen guarantees for the press throughout the country, and particularly in those provincial territories that face particular obstacles, as shown by the cases mentioned in this report. The Office also notes that a considerable part of the respect for and guarantee of the exercise of freedom of expression and press freedom in Argentina is deposited in the courts, and therefore recommends that the State take into account the standards of the inter-American human rights system.

## **B. Freedom of expression, rule of law and democratic institutions**

40. In 2021, the Office of the Special Rapporteur received reports on the allegedly violent actions of public forces in various operations. In particular, this Office followed with concern the situation of alleged deterioration of the protections of the right to freedom of expression and the weakening of the rule of law in the province of Formosa. On 5 March 2021, the IACHR and its Rapporteurship received information on excessive use of police force during public demonstrations in Formosa, following the decision to return to Phase 1 in the provincial capital in light of the increase in COVID-19 cases. According to information received, police officers reportedly used rubber bullets, tear gas and beatings against demonstrators and journalists, resulting in the arrest of at least 30 people and several injuries<sup>47</sup>. On this occasion, councilwoman Gabriela Neme reportedly suffered a broken arm, due to the actions of the police, and her son was shot in the neck, where he had undergone high-risk surgery.<sup>48</sup>

41. In this context, the Rapporteurship also received information about the allegedly violent detention of councillors Gabriela Neme and Celeste Ruiz Díaz on 21 January by the Formosa police when they were leading a protest, days after one of them denounced the alleged “inhuman conditions” in the isolation centers for patients with COVID-19 run by the provincial government. The municipal legislators were held for several hours in a police station until they were released, according to this Office.<sup>49</sup>

42. The Rapporteurship was also informed about alleged acts of police repression in the context of protests related to the environment. For example, according to the information available, in April, activists from the El Algarrobo Assembly denounced alleged searches and detentions by the police of a group of citizens who were mobilizing in opposition to a mining project in the city of Andalgalá, in the province of Catamarca.<sup>50</sup> Likewise, on March 22, the police reportedly detained environmentalists and members of social organizations who were demonstrating in the city of Paraná, province of Entre Ríos, against a logging project.<sup>51</sup> In the following weeks, human rights organizations and academic institutions signed a petition addressed to the mayor of the city of Paraná asking him to drop the lawsuit against the demonstrators. “We understand that social protest is an

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<sup>47</sup> Perfil. 5 March 2021. [Formosa / Represión y balas de goma en las protestas por el regreso a Fase 1 de la cuarentena](#); Mendoza Post. 5 February 2021. [Balas de goma y represión en Formosa porque no quieren volver a Fase 1](#); Infobae. 5 March 2021. [Graves incidentes y heridos en Formosa en una protesta contra la vuelta a la Fase 1 de cuarentena](#); Luis Gasulla's Twitter account (@LuisGasulla). [5 March 2021](#); Twitter account of the Association of Journalistic Entities of Argentina ADEPA (@Adepargentina). [5 March 2021](#); Infobae. 5 March 2020. [Palazos y balas de goma en Formosa por una protesta contra la vuelta a la Fase 1 de la cuarentena](#).

<sup>48</sup> Gabriela Neme's Twitter account (@gabrielaneme). [5 March 2021](#).

<sup>49</sup> Clarín. 21 January 2021. [Detuvieron durante varias horas a dos concejalas opositoras en Formosa que denunciaron al gobernador Gildo Insfrán](#); Infobae. 21 January 2021. [Detuvieron en Formosa a las concejalas que habían denunciado a Gildo Insfrán por las condiciones inhumanas en los centros de aislamiento](#).

<sup>50</sup> Página 12. 14 April 2021. [Andalgalá: los asambleístas denunciaron persecuciones y "allanamientos arbitrarios y violentos"](#); Diario Crónica. 15 April 2021. [Pedirán la liberación de asambleístas detenidos en Catamarca](#); Twitter account of CELS (@CELS\_Argentina). [15 April 2021](#).

<sup>51</sup> El Once. 22 March 2021. [Protestas en calle Racodo: hubo detenidos por intentar impedir la obra](#); Radio Nacional. 22 March 2021. [Tala de árboles en Racodo: detuvieron a vecinos que protestaban](#); Enrique Viale's Twitter account (@EnriqueViale). [22 March 2021](#).

essential element for the existence and consolidation of democratic societies and is protected by a wide range of constitutional and conventional rights and freedoms”, the petition states.<sup>52</sup>

43. Despite the aforementioned reports, the Special Rapporteur welcomes the decision of the Second Chamber of the Supreme Court of Mendoza that acquitted Roberto Macho and Raquel Blas, two union representatives of the State Workers Association (ATE) of Mendoza, in a case brought against them for having cut off a street in front of Government House in the city of Mendoza, in 2016, as part of a demonstration organized by workers’ unions. Both union members had been convicted in 2019 by the Second Collegiate Criminal Court of the First Judicial District, for preventing the “normal operation of ground transportation” because of the demonstrations<sup>53</sup>. In reversing the conviction and ruling in their favor, the sentence of the Supreme Court of Justice of Mendoza highlighted that “the exercise of the punitive powers of the State in a case of these characteristics must be analyzed in light of the expansive and indoctrination effects that the criminalization of social protest implies”, citing also Inter-American standards that protect the right to protest and the freedom of assembly and association. The ruling also highlighted the “chilling effect” that the use of criminal mechanisms against those who demonstrate legitimately can have on societies.<sup>54</sup>

44. The State of Argentina has indicated to this Office that one of the priority areas of work of the national government has been “to promote a cultural change to eradicate all types of human rights violations committed by law enforcement officials, including the violation of the right to social protest, an essential element of any democracy”. In this sense, the State emphasizes that the Secretariat of Human Rights has filed complaints at the request of victims of institutional violence, and has maintained “a firm position” in the framework of these cases. The State also reported that the Ministry of Security of the Nation has promoted “the peaceful resolution and dialogue” of various social conflicts, and promoted “instances of dialogue and negotiation between ministerial authorities and representatives of various claimant groups, with the aim of strengthening the mechanism of resolution of various social problems, and respect the right to protest and freedom of expression”.<sup>55</sup>

45. In addition, the State reported that a sector of the ruling party’s parliamentary bloc submitted to the Chamber of Deputies a draft Comprehensive Law against Institutional Violence that would seek to generate tools to help prevent and eradicate cases of institutional violence throughout the country. According to them, the bill includes a specific chapter on “minimum rules for the intervention of police and security forces in public demonstrations”, which incorporates some of the Inter-American standards developed in the IACHR report “Protest and Human Rights”.<sup>56</sup>

46. Social protest, which includes the rights to peaceful assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and it is the duty of the State to guarantee the exercise of these rights. In its report on Protest and Human Rights, the IACHR noted that criminalization in contexts of social protests has a chilling effect on society as a whole, and can prevent or inhibit this type of expression. In addition, the IACHR and the Inter-American Court have understood that the use of force constitutes a last resort that, limited qualitatively and quantitatively, seeks to prevent an act of greater gravity than that which provokes the State’s reaction. Within this framework characterized by exceptionality, in order for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be satisfied. States must also bear in mind that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

### **C. Freedom of expression and the fight against discrimination and exclusion**

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<sup>52</sup> Página Política. 27 April 2021. [Madres, Correpi y el CELS le piden a Bahl que no criminalice el reclamo ambientalista.](#)

<sup>53</sup> Los Andes. 18 March 2021. [La Corte dio vuelta un fallo y salvó a Macho y a Blas de una condena a prisión;](#) Via País. 18 March 2021. [Absolvieron a Raquel Blas y Roberto Macho por un corte de calle en 2016.](#)

<sup>54</sup> Supreme Court of Justice of Mendoza. Second Chamber. F. v. BLAS BAZÁN, RAQUEL MARÍA; MACHO, ROBERTO ANTONIO P/ ENTORPECIMIENTO DE SERVICIOS PÚBLICOS S/ CASACIÓN. March 17, 2021. Available at: <https://www.slideshare.net/edugajardo/blas-244657452>.

<sup>55</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>56</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

47. The Rapporteurship was informed about alleged acts of harassment against a group of women journalists after the publication of an investigation entitled “The conservative reaction”, in which they exposed public personalities and political circles that would have positions against sexual and reproductive rights in Argentina. According to received information, on July 13, after launching the website with the investigation, which was also rebroadcasted by several national media, the authors were the target of telephone threats and harassment campaigns on social networks that included disparagement, misogynistic insults, and doxing; in addition to an alleged denial of service (DoS) attack on the website, leaving it inaccessible. Also, as reported to this Office, some deputies and senators from opposition parties have reportedly submitted bills repudiating the investigation. The harassment campaigns reportedly placed special emphasis on the feminist activism of the authors as a negative element, in order to disqualify their work in defense of women’s rights.<sup>57</sup>

48. This Office also recorded with concern the complaint of journalist Carolina Ponce de León, of *Radio Universidad de Tucumán*, who said she had been the victim of sexual abuse by three political activists during coverage at the local Government House, in the context of the November 14 legislative elections. According to the reporter, the person who was guarding the place “not only did not intervene but asked her to keep quiet”. The complaint was filed in court, where the Special Prosecutor’s Unit for Crimes against Sexual Integrity III will intervene.<sup>58</sup> Mariana Romero, a journalist with *Los Primeros TV* de Tucumán, later reported that she had been subjected to a similar situation in the previous months, when she was covering the speech of the then provincial governor, Juan Manzur, during the primary elections held on September 12.<sup>59</sup>

49. On 11 June 2021, the Congress of the Nation approved Law No. 27.635 on Gender Equity in the Representation of Genders in the Communication Services of the Argentine Republic.<sup>60</sup> As reported by the Argentine State, the law promotes gender parity from a sexual diversity perspective in communication services, regardless of the platform used, establishing a mandatory regime for communication services operated by state-run providers and a promotional regime for communication services operated by private for-profit and non-profit providers. According to the information provided, media services operated by privately managed providers that are granted the “gender equity certificate” will be given preference in the allocation of official advertising.<sup>61</sup>

50. The report “Women Journalists and Freedom of Expression” argues that, in addition to the risks of threats and violence faced by all human rights defenders and journalists in the region, women belonging to these groups are exposed to additional or specific risks. By challenging chauvinistic stereotypes that condemn their participation in public life, they face violence and discrimination, as well as differentiated forms of violence by state and non-state actors. The report also mentions that women journalists are one of the groups of women particularly affected by online violence, which leads to self-censorship and is a direct attack against women’s visibility and full participation in public life. In this regard, the IACHR and its Rapporteurship have called on the States of the Americas to strengthen and implement legal measures, public policies and other measures that promote and protect women’s leadership in society and their equal participation in public debate, including in the exercise of journalism and media management.

#### **D. Freedom of Expression and the Internet**

51. According to the information received, on 4 June 2021, Chamber II of the Federal Chamber of La Plata reversed the first instance sentence and acquitted an individual who was charged with the crime of public intimidation for publishing a message on Twitter in which he criticized former President Mauricio Macri and

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<sup>57</sup> Página 12. 16 June 2021. [Periodistas de todo el país y la región se solidarizan con colegas que investigaron “La reacción conservadora”](#); Twitter account of Cosecha Roja (@cosecharoja). [15 June 2021](#).

<sup>58</sup> Perfil. 16 November 2021. [Periodista denunció que fue “manoseada” en la Casa de Gobierno de Tucumán](#); La Gaceta. 17 November 2021. [La periodista Carolina Ponce de León denunció abuso sexual en la Casa de Gobierno](#).

<sup>59</sup> Mariana Romero’s Twitter account (@MarianaR31). [16 November 2021](#); El Tucumano. 16 November 2021. [“Fui encerrada entre tres”: denuncia de abuso sexual en Casa de Gobierno](#); AM 750. 17 November 2021. [“Manoseada” y “encerrada entre tres”: dos periodistas denunciaron abuso sexual mientras cubrían las elecciones](#); A24. 17 November 2021. [Dos periodistas denunciaron que fueron abusadas en la Casa de Gobierno de Tucumán](#).

<sup>60</sup> Official Gazette of the Argentine Republic. 8 July 2021. [Law 27635 on Gender Equity in the Representation of Genders in the Communication Services of the Argentine Republic](#); IFJ. 14 June 2021. [Argentina: se aprobó la Ley de Equidad de Género en los medios de comunicación](#).

<sup>61</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

threatened to “put a bomb in the Casa Rosada”. The ruling considered that the tweet could not be considered “even remotely” as an action constituting the crime of public intimidation, since the criminal figure requires that the action is intended to instill public fear or cause tumult or disorder and raise alarm or threaten the commission of a crime. The court’s ruling takes up inter-American human rights standards and points out, among other things, that there was a lack of precision with respect to the conduct attributed that would have given rise to the configuration of the criminal offense. In this sense, the judgment highlights that stating that the tweet publication constitutes the crime of public intimidation “is not compatible with the dynamics that social networks have currently taken (...) Although, logically we are talking about expressions that may well be classified as offensive (...) it is not the criminal law that is called upon to resolve these issues. In any event, there are other ways to discourage actions of this type, which do not require the initiation of criminal proceedings”.<sup>62</sup>

52. This Office was informed that on May 15, the Secretariat of Domestic Trade issued an injunction for Facebook to suspend the implementation of WhatsApp’s new Terms of Service and Privacy Policies, considering that it could constitute a situation of abuse of dominant position. The decision of the entity was taken based on the opinion of the National Commission for the Defense of Competition (CNDC), which considered that “the new WhatsApp Privacy Policies could harm competition and the general economic interest, thus violating the Law of Defense of Competition, more precisely an infringement of art. 1 of Law 27,442”. According to official information, while the injunction lasts, “the National Commission will investigate the use that Facebook will give to the data obtained from WhatsApp users which, supposedly, could be used for commercial purposes”.<sup>63</sup>

53. Also, according to information received by the Office of the Rapporteur, in March the Supreme Court of Justice rejected Google’s claim and ruled in favour of Vice-President Cristina Fernández in her lawsuit against the company for associating her name with the description “thief of the Argentine Nation”. The vice-president had filed a lawsuit to request an urgent computer expertise as an advance test, which was objected by Google on the grounds that it implied a violation of trade secrets. According to the ruling of the Supreme Court, the justice department could access Google’s servers “to ensure that no information that ‘has been prepared for the sole purpose of damaging her’, is altered”.<sup>64</sup>

54. This Office was also informed that, through a public bidding process carried out by the Secretariat of Communication and Press, the Government would have sought to hire a service of “tracking and monitoring of social networks (Facebook, Twitter, Instagram, TikTok, YouTube, Pinterest, Twitch, Reddit), discussion forums (Taringa, Reddit, Quora, Blogspot, Medium, blogs in general, etc.); comments on news portals and any other source of content and/or digital platform that is of interest to the National Press Office”. The objective, as detailed in the publicly available information, would be to “follow up and monitor terms, topics of interest and/or themes at the request” of the Government Press area, as well as to enable “advanced searches” and “filters”, in addition to setting up “alerts” on topics of interest to the sector in charge of Presidential Communication.<sup>65</sup> The tender is said to have been pre-awarded to the firm Catapulta Digital SRL but, to this Office’s knowledge, later rejected “for being technically inconvenient” resulting in the initiative being dismissed and the “file closed”.<sup>66</sup>

55. According to information provided by the State, during 2021 the Human Rights Secretariat detected fake Twitter accounts that, according to information provided, contained profiles created with names and photos of people who disappeared during the civil-military dictatorship, as well as allegedly offensive images and insulting biographies. The accounts were reportedly denounced and subsequently suspended by the social

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<sup>62</sup> Federal Chamber of La Plata. 4 June 2021. [CFP 9137/2017. "NN s/IntimidaciónPública"](#).

Diario Constitucional. 28 July 2021. [Tribunal de Argentina revoca sentencia que condenó a un individuo que publicó en Twitter que pondría una bomba en la Casa Rosada](#); Diario Judicial. 22 July 2021. [Tuittear en broma no es delito](#).

<sup>63</sup> Gobierno de Argentina. 17 May 2021. [Nuevas Condiciones del Servicio y Políticas de Privacidad de WhatsApp](#); Official Bulletin of the Argentine Republic. 14 May 2021. [Resolution 492/2021](#); Perfil. 15 May 2021. [Dictan cautelar contra Facebook para evitar que WhatsApp acceda a información privada de usuarios](#); Página 12. 15 May 2021. [El Gobierno dictó una medida cautelar contra Facebook para evitar que WhatsApp acceda a información privada de los usuarios](#).

<sup>64</sup> Perfil. 19 March 2021. [La Corte Suprema falló a favor de Cristina Kirchner en su demanda contra Google](#); La Nación. 19 March 2021. [La Corte Suprema falló a favor de Cristina Kirchner en la demanda contra Google](#).

<sup>65</sup> Perfil. 13 May 2021. [El Gobierno quiere monitorear las redes sociales](#); iProfesional. 13 May 2021. [El Gobierno quiere hacer un "monitoreo" de redes sociales, blogs y foros de portales de noticias](#).

<sup>66</sup> La Nación. 13 May 2021. [Oficial: el Gobierno buscó monitorear redes sociales, pero se presentó una sola empresa y dio marcha atrás](#).



network, according to the information reported. In this context, the Secretariat for Human Rights said that they have made themselves available to the company “to jointly analyze measures to prevent that this type of unfortunate events are repeated and to provide a better response to those affected”.<sup>67</sup> Likewise, in connection with this event, the State has indicated that in May 2021 a virtual meeting was held between authorities of the Secretariat for Human Rights and representatives of Twitter, in which the government authorities asked them to “become proactively involved in the process of memory, truth and justice and in the search for the grandchildren who still do not know their true identity, as well as to establish clear rules on the social network to condemn the negationist discourse regarding State terrorism in Argentina”.<sup>68</sup>

56. The Argentine State has also highlighted that in June 2021 it adhered to the United Nations Pact for Information and Democracy, which commits signatory countries to favor online access to free, independent, pluralistic and reliable information; establishes democratic principles such as political, ideological and religious neutrality for algorithms; and emphasizes the responsibility of digital service providers to promote reliable content and pluralism in indexing.<sup>69</sup>

57. Freedom of expression applies to the internet in the same way that it applies to all media. The IACHR and its Office of the Special Rapporteur have previously stated that human rights and, in particular, the right to freedom of expression, find in the internet a unique instrument to deploy its enormous potential in broad sectors of the population, and that its relevance as a platform for the enjoyment and exercise of human rights is directly linked to the architecture of the network and the principles that govern it, including the principle of openness, decentralization, and neutrality. In this framework, the Rapporteurship reiterates that any measures that have a restrictive impact on the exercise of the right to freedom of expression of individuals in the digital space are only acceptable when they comply with international standards that provide, among other things, that they must be provided for by law, pursue a legitimate aim recognized by international law, and be necessary and proportionate to that aim.

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<sup>67</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>68</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>69</sup> Permanent Mission of the Argentine Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

## BAHAMAS

58. During 2021, the Office of the Special Rapporteur continued to view with concern the lack of implementation of the Freedom of Information Act - FOIA, sanctioned in 2017, despite some events considered progress. Defamation remains a criminal offense punishable by up to two years in prison. This Office has also been concerned about the establishment of criminal offenses to sanction the dissemination of false information within the framework of the emergency regulations due to the pandemic.

### A. Freedom of Expression, Rule of Law, and Democratic Institutions

59. As indicated in its last annual report, this Office of the Special Rapporteur reported the lack of progress regarding the implementation of the Freedom of Information Act - FOIA, which was sanctioned in 2017. This Office salutes the that in the framework of the celebration of World Press Freedom Day, the attorney general of the Bahamas appointed the first Freedom of Information Commissioner and the first Deputy Freedom of Information Commissioner<sup>70</sup>. Although the election was considered by some as a clearer approach to a law that guarantees citizens access to public information<sup>71</sup>, the Office of the Special Rapporteur views with concern the information that the office would not be operational immediately but focused on “other important issues”.<sup>72</sup> According to the information received, in November, the government’s press secretary announced that he had already identified several agencies to help launch the Freedom of Information pilot program. However, he would not have given dates for when he would start the program whose initiatives would include finding a “suitable location” for the headquarters of the program’s offices.<sup>73</sup>

60. The Freedom of Information Act was part of an “Anti-Corruption Plan” of the Free National Movement (FNM) that Prime Minister Hubert Minnis launched on August 3, 2016, and which included, among other things, the enactment of a law to protect whistleblowers and a Transparency in Government Act, a reinforcement of the Prevention of Corruption and Bribery Act; the limitation of the mandates of prime ministers; and a system of removal of congress representatives with poor performance<sup>74</sup>. In this sense, this Office has been informed about the lack of progress in this matter.

61. The Office of the Special Rapporteur recalls that the transparency and accountability of public powers strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Likewise, as has been pointed out, this right is even more important because it is closely related to the principle of transparency of the administration and publicity of government acts. The State “is constituted as a means to achieve the common good. Within this context, the owner of the information is the individual who delegated the handling of public affairs to the representatives”.

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<sup>70</sup> Eyewitness News. 3 May 3, 2021. [FOIA: Information Commissioner and Deputy Commissioner appointed](#); The Gleaner. May 4, 2021. [Bahamas appoints freedom of information commissioner](#); The Tribune. May 3, 2021. [Thompson Named As First In Freedom Of Information Role](#).

<sup>71</sup> Eyewitness. May 4, 2021. [Bahamas Press Club applauds appointment of freedom of information commissioner](#).

<sup>72</sup> The Tribune. May 3, 2021. [Thompson Named As First In Freedom Of Information Role](#).

<sup>73</sup> The Tribune. November 26, 2021. [‘Pilot’ Plan For Freedom Of Information](#).

<sup>74</sup> Free National Movement. Press Release. Dr. Minnis’ Releases the FNM’s Anti-Corruption Plan. August 3, 2016.

## BARBADOS

62. The Office of the Special Rapporteur continues to observe challenges to freedom of expression with regard to working conditions for journalists in Barbados. Some of them speak of little training and low wages that end up leading them to leave the profession. Likewise, the right to protest was restricted in the country, at times for health reasons and at other times for alleged political reasons.

### A. Journalism and Democracy

63. In the context of concerns expressed by media workers about the employment contracts they received, the country's Labor Department offered assistance to these workers by raising awareness about their labor rights. The head of that department reported that some of the complaints received had to do with vacations, other leave, and health and safety issues, among other things.<sup>75</sup>

### B. Freedom of Expression, Rule of Law and Democratic Institutions

64. The country experienced some protests against making the COVID-19 vaccine mandatory. One of the largest took place on August 6, in which some 2,000 people gathered. The demonstration was broken up without using violence, according to reports.<sup>76</sup>

65. In the framework of Barbados' process to officially become an independent republic by severing its relationship with the British monarchy,<sup>77</sup> there were some restrictions on demonstrations. Thus, for example, the organizers of a protest in Barbados against Prince Charles demanding reparations for slavery reported that the government had forced them to cancel it. The event was scheduled to take place on November 29 in the capital, Bridgetown, hours before the prince made a speech on the country's conversion to a republic. The organizers said that while the government did not give them permission, it did allow a series of officially organized meetings. Likewise, a group that expressed concern about this transition to a republic was blocked. Police officers stopped the march and the participants had to stay in a park.<sup>78</sup>

66. This Office recalls that social protest, which includes the rights to peaceful, unarmed assembly, association, and freedom of expression, is a fundamental tool for the defense of democracy and human rights. The State therefore has a duty to guarantee its free exercise. In its report "Protest and Human Rights", the IACHR highlighted that holding meetings, demonstrations, and protests is a central activity of many associations and organizations and, in this regard, States have a duty to provide the necessary means for them to freely carry out their activities and to refrain from imposing obstacles that hinder the performance of their work. Additionally, the IACHR has found that the exercise of the right of assembly through social protest must not be subject to the requirement of obtaining authorization from authorities or excessive requirements that make them difficult to carry out. Legal requirements that enable the banning or limiting of an assembly or demonstration by, for example, requiring a permit are not compatible with the exercise of the right to assembly or with freedom of expression in the Inter-American system.

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<sup>75</sup> Barbados Today. May 28, 2021. [Media workers to get input from labour office.](#)

<sup>76</sup> Barbados Today. August 6, 2021. [Hundreds march against mandatory COVID-19 vaccine in Barbados](#); Amsterdam News. August 12, 2021. [Governments get pushback for vaccine mandates.](#)

<sup>77</sup> BBC Mundo. November 30, 2021. [Fin de la monarquía en Barbados: "Nos quitamos el yugo colonial, pero mantenemos la amistad con Reino Unido".](#)

<sup>78</sup> News Concerns. November 30, 2021. [Barbados Slavery Protest Against Prince Charles Cancelled By Government, Organisers Say](#); Independent. November 3, 2021. [Barbados slavery protest against Prince Charles cancelled by government, organisers say.](#)



## **BELIZE**

67. The Office of the Special Rapporteur received information about allegedly polarized coverage of political issues or criminal cases in Belize that would lead to their being considered controversial. In this sense, the coverage would end up in legal proceedings that are usually costly and lengthy for the media, according to information from Reporters Without Borders. Internet access in Belize remains expensive and slow.

### **A. Journalism and Democracy**

68. The Office of the Special Rapporteur is concerned about the allegedly polarized coverage of political issues or criminal cases that would lead to controversy in Belize. For this reason, the media are usually immersed in long and costly legal proceedings, according to Reporters Without Borders.<sup>79</sup>

69. According to publicly available information, the PUP (People's United Party) government was allegedly linked to an advertising campaign of attacks against independent journalists, digital media, and unions in the midst of a wave of anti-corruption protests in the country.<sup>80</sup>

70. Likewise, according to the reports received by this Office, the press would not have easy access to the prime minister or other ministers, nor would press conferences be held regularly<sup>81</sup>. At the end of the year, the prime minister met with some representatives of the press, whom he would have "thanked" for their work, which would have "contributed to making the government's work and its impact known," although he also warned that despite this there are those who "have not been fair to their administration." Media workers called for press conferences to be regularized, as well as greater access to the prime minister and other public officials.<sup>82</sup>

71. As the Office of the Rapporteur has pointed out on previous occasions, journalism is the primary and main manifestation of freedom of expression and the States have a positive obligation to promote a safe working environment for the press. In this sense, in addition, the Inter-American Court has held that "it is essential that journalists [...] enjoy the protection and independence necessary to fully carry out their functions, since they are the ones who keep society informed, a requirement essential for it to enjoy full freedom".

72. The IACHR has also highlighted on multiple occasions the importance of access to information in democratic societies, especially in the context of a pandemic, and the crucial role that journalists play in reporting on critical points and monitoring government actions. In this regard, the Office of the Rapporteur recalls that the States have the obligation to allow all media access to official press conferences, without discrimination based on editorial line. As has already been pointed out by the Commission, the democratic control of public management, through public opinion, fosters transparency in the activities of the State and the responsibility of public officials for their actions, and is a means to achieve highest level of citizen participation.

### **B. Freedom of Expression, Rule of Law, and Democratic Institutions**

73. According to reported information, access to information related to COVID-19 figures would have worsened with the arrival of the new government, according to available information. In this sense, it has been reported that detailed figures by towns and districts would apparently no longer be available as a strategy to reduce the severity of the pandemic in the country.<sup>83</sup>

74. The Office of the Special Rapporteur recalls that the transparency and accountability of public powers strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that "[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." Likewise, as has been pointed out, this right is even more important because it is closely

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<sup>79</sup> Reporters Without Borders. World press freedom ranking 2021. [Belize](#).

<sup>80</sup> Belizean. May 4, 2021. [Belize Falls To Rank 53 In 2021 World Press Freedom Index](#).

<sup>81</sup> Love News. March 16, 2021. [Prime Minister Evades the Press after Cabinet Meeting](#).

<sup>82</sup> Breaking Belize News. December 13, 2021. [Prime Minister meets the press](#).

<sup>83</sup> Belizean. May 4, 2021. [Belize Falls To Rank 53 In 2021 World Press Freedom Index](#).

related to the principle of transparency of the administration and publicity of government acts. The State “is constituted as a means to achieve the common good. Within this context, the owner of the information is the individual who delegated the handling of public affairs to the representatives”.

75. During 2021, the Office of the Special Rapporteur became aware of alleged restrictions on protests and even obstacles to their coverage. On May 7, the journalist Vejea Alvarez, from *Love News*, would have been prevented from covering a protest by nurses at the Northern Regional Hospital. According to the information received, Alvarez was not only prevented from covering the event, but he was also arrested by the police on allegations of assault on a member of the police. The journalist reported that he had been beaten on the way to the station. The journalist was released without charge, as SRFOE learned<sup>84</sup>. Three policemen who would have been involved in the event were prosecuted on disciplinary charges for prejudice of good order and discipline.<sup>85</sup>

76. Likewise, according to the information available, on May 17 four teachers were detained in Benque Viejo for protesting against salary cuts. The arrests would have been made for violating the restrictions and sanitary measures to combat the COVID-19 pandemic.<sup>86</sup> The protests would have been repeated for a few days.<sup>87</sup>

77. This Office recalls that social protest, which includes the rights of peaceful and unarmed assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights and therefore it is the duty of the State to guarantee its Free exercise. In its report "Protest and Human Rights," the IACHR highlighted that holding meetings, demonstrations, and protests is a central activity of many associations and organizations and, in this regard, the States have the duty to provide the necessary means for them to freely carry out their activities and to refrain from imposing obstacles that hinder the performance of their work. Likewise, they must refrain from incurring in practices of irregular, collective, or indiscriminate arrests in public demonstrations; In addition, they have the duty to investigate the violations that have been committed within their jurisdiction in order to identify those responsible, and if necessary, punish them.

78. Freedom of expression protects the right to record and disseminate any incident, so States must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

79. On the other hand, the Office of the Special Rapporteur highlights that academic freedom fulfills an enabling and social function to consolidate democracy and pluralism of ideas. Obstacles to this right delay the advancement of knowledge, undermine public debate, and reduce democratic spaces. As the Inter-American Principles on Academic Freedom and University Autonomy of the IACHR point out, “academic freedom is protected equally inside and outside educational centers (...) The academic community is a space for reflection and informed deliberation on aspects that concern society, mainly its conflicts and externalities that arise from the growing interdependence between peoples and social groups. For this reason, academic freedom is protected both in formal and non-formal education settings, and also includes the right to express oneself, to meet and demonstrate peacefully in relation to the issues that are investigated or debated within said community in any space”.

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<sup>84</sup> Love News. May 7, 2021. [Love News Reporter Arrested and Jailed](#); 7 News Belize. May 7, 2021. [Journalist Arrested In the Line of Duty](#).

<sup>85</sup> Love News. May 19, 2021. [Police Officers Involved in Assault of Love News Reporter Arraigned on Disciplinary Charges before a Tribunal](#).

<sup>86</sup> Breaking Belize News. May 17, 2021. [Police Commissioner to Teachers: You are frustrating the public](#).

<sup>87</sup> Monitor. June 17, 2021. [BELIZE: POLICE OFFICERS PREVENT LOVE NEWS FROM COVERING A PROTEST AND ARREST REPORTER](#).

## BOLIVIA

80. In 2021, this Office received reports of attacks on the press both by private individuals and police officers and complaints about illegitimate detentions of journalists during coverage. Likewise, the Rapporteurship was also informed about harassment, threats and obstruction of the work of journalists, online smear campaigns and threats to the confidentiality of sources. The Rapporteurship also learned of alleged clashes between demonstrators, citizens and police forces. The IACHR has pointed out that the country is going through a transcendental moment for the construction of dialogues, in which stigmatizing speeches against the press or people considered opponents could have a negative effect on the exercise of the right to freedom of expression and the consolidation of the rule of law.

### A. Journalism and Democracy

81. The Office of the Special Rapporteur has received information on an alleged context of violence against the press in Bolivia, which, according to the available information, there has been acts of harassment, verbal and physical attacks and threats against journalists in the course of their work, particularly in the context of coverage of protests and social conflicts.<sup>88</sup> For example, this Office received information that journalists were prevented from covering official public events repeatedly.<sup>89</sup> The Office also received information that cartoonist Abel Bellido Córdova (Abecor), of *Página Siete*, continued to receive threats, including threats against his life, throughout the year, especially after publishing cartoons of government officials.<sup>90</sup>

82. In September, the Office of the Special Rapporteur received information that warned about an escalation of violence against the press. On 17 September 2021, a photographer for *El Deber* was reportedly attacked by presidential security forces while trying to take pictures of the president in a public place.<sup>91</sup> On 20 September 2021, journalist Miguel Rojas Fernández of *Opinión* was reportedly attacked by demonstrators while trying to film a vigil in support of the mayor of Cochabamba. In the incident, one person reportedly took the journalist's telephone.<sup>92</sup> On September 24, César Javier Reyes Berríos, a cameraman for state-run *Bolivia TV*, was reportedly pushed by an unidentified woman while he was covering a commemorative event in Santa Cruz, which reportedly damaged and put his camera completely out-of-service.<sup>93</sup>

83. On 28 October 2021, journalists, citizens and police officers were reportedly beaten and held against their will by a group of hooded and armed individuals while news crews were trying to cover a land conflict in Guarayos. According to the information received, at least six journalists were reportedly detained. There were also verbal threats and shots fired at the equipment and cars carrying the journalists. The alleged kidnapping lasted at least seven hours, according to reports received, and the released occurred after police negotiation with those responsible, and under ultimatums and threats to the press of possible reprisals if they returned to

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<sup>88</sup> Facebook account of ATB. [20 March 2021](#); ANPB. 9 April 2021. [Amenazan a periodista de Tv y lanzan huevos a su unidad móvil](#); Los Tiempos. 28 July 2021; EL Deber. 31 July 2021. [Amenazan a un periodista de EL DEBER que cubre investigaciones sobre la crisis de 2019; Loteadores emboscan, golpean y amenazan a equipo de prensa de Los Tiempos](#); Pagina Siete. 26 August 2021. [Una periodista de Página Siete es agredida en inmediaciones de la cárcel de Miraflores](#); ANPB. 4 July 2021. [Cultivadores de coca del partido oficialista golpearon a reportero en medio de conflicto](#); ANPB. 3 October 2021. [Periodista boliviana agredida en cobertura a una marcha indígena](#); El Deber. 12 November 2021. [Mario Pérez a periodista de EL DEBER: "No venqas con tus huevadas"](#).

<sup>89</sup> Opinión. 4 June 2021. [Seguridad impide acceso de periodistas al acto de posesión de 25 jueces](#); El Diario. 10 September 2021. [Prohíben acceso de periodistas al edificio de la Asamblea Legislativa](#); ANPB. 26 November 2021. [Mineros cooperativistas vulneran libertad de prensa](#).

<sup>90</sup> Correo del Sur. 20 October 2021. [Caricaturista Abecor recibe amenazas; periodistas le expresan su apoyo](#); ANF. 21 October 2021. [Advierten que amenazas a Abecor reflejan la situación negativa de la libertad de prensa](#).

<sup>91</sup> El Deber. 19 September 2021. [Seguridad de Arce agrede a fotógrafo de EL DEBER](#); Defensoría del Pueblo de Bolivia. 21 September 2021. [Defensoría del Pueblo observa obstaculización al trabajo de los periodistas](#).

<sup>92</sup> Opinión. 20 September 2021. [Golpean a periodista de OPINIÓN en vigilia a favor de Manfred; piden garantías](#); Correo del Sur. 21 September 2021. [Grupo en vigilia golpea a periodista de Opinión por filmar desalojo y la ANP rechaza la agresión](#).

<sup>93</sup> ANPB. 24 September 2021. [Camarógrafo de estatal BoliviaTv fue agredido en la ciudad de Santa Cruz](#); Facebook account of BoliviaTV. [24 September 2021](#).

the scene<sup>94</sup>. As part of the investigations into the events, a person allegedly involved in the events was arrested on November 24<sup>95</sup>.

84. In the context of conflicts involving coca leaf production, the Office of the Special Rapporteur was also informed of alleged attacks with explosives and through the throwing of bottles against press teams of TV stations covering clashes between various groups in the Yungas region on 7 January 2021<sup>96</sup>. On 30 March 2021, journalist Franklin Guzmán Zambrana was reportedly tied up, held for at least seven hours and stripped of his equipment and other materials when he was reporting on a roadblock, allegedly carried out by truck drivers who accused him of being an informant, despite having identified himself with his press credentials<sup>97</sup>. This Office also learned that journalist Cristian David Canacana Maita was reportedly injured in the face by a tear gas projectile while covering a protest by coca growers and alleged clashes with police officers in the Chuquiaguillo area on 20 March 2021<sup>98</sup>. The Rapporteurship is also concerned about reports of the use of public force and detentions against press workers covering the conflicts in the Yungas area of La Paz on September 21. According to available information, journalist Carlos Quisbert was reportedly attacked and detained by the police, and correspondents Santiago Limachi and Sergio Limachi were reportedly injured by tear gas<sup>99</sup>. On September 22, the departmental police chief acknowledged that there had been excessive use of police force and that the situation required “reflection and reforms so that it does not happen again”, and asked the press to adopt a similar attitude<sup>100</sup>.

85. The Office of the Special Rapporteur noted with concern reports of an escalation of violence against the press on November 8 and 9, 2021, in the context of demonstrations allegedly motivated by disagreements of some social sectors with the law on the “National Strategy to Combat the Legitimization of Illicit Profits and the Financing of Terrorism”, later repealed by Law 1409. According to the Ombudsman’s Office, between November 8 and 9 “at least 16 press workers were known to have been affected while carrying out their journalistic work.”<sup>101</sup> The Office documented, for example, that on November 8, unknown persons allegedly threw fireworks at a group of journalists, injuring journalist Dilver Soria of *Radio Pio XII*<sup>102</sup>. On November 9, reporter Lucio Trujillo of *Erbol* was reportedly the target of intimidation while covering a roadblock on the highway linking the departments of Cochabamba and Oruro<sup>103</sup>. On the same day, a projectile of tear gas fired by a police officer hit the right leg of *Unitel* reporter Ángel Daniel Justiniano Saucedo, who was covering the protests in Santa Cruz<sup>104</sup>. Also, according to reports received, on November 9, riot police officers violently repressed a peaceful demonstration by journalists in Oruro, who were demanding better guarantees for the

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<sup>94</sup> CPJ. 4 November 2021. [Bolivian journalists abducted, assaulted by armed men while covering land dispute](#); Defensoría del Pueblo. 29 October 2021. [Defensoría del Pueblo exige procesos penales en contra de los responsables de las lesiones y retención en contra de la voluntad de trabajadores de la prensa en Guarayos](#); ANPB. 29 October 2021. [Periodistas sufrieron tortura e intento de linchamiento por siete horas](#); ANPB. 7 November 2021. [Jorge Gutiérrez, secuestrado en Guarayos: "Pensé que nos mataban"](#).

<sup>95</sup> EFE. 24 November 2021. [Un detenido por el secuestro de siete periodistas bolivianos durante una cobertura](#); Opinión. 25 November 2021. [Cae primer acusado de secuestro a periodistas tras reacción violenta](#).

<sup>96</sup> Los Tiempos. 8 January 2021. [En medio de disputa por sede sindical, cocaleros atacan a equipos de prensa con dinamita](#); ANPB. Sin fecha. [Conflicto de cultivadores de coca: Atacan a equipos de prensa con dinamita](#).

<sup>97</sup> El Deber. 1 April 2021. [Periodista denuncia que fue amarrado por transportistas cerca de cuatro horas y despojado de sus pertenencias en Yungas](#); CPJ. 6 April 2021. [Agriden al periodista radial boliviano Franklin Guzmán Zambrana y le roban cuando cubría una protesta](#).

<sup>98</sup> El Deber. 7 April 2021. [Periodista: "Un policía me disparó un proyectil de gas lacrimógeno al rostro"](#); ANPB. 7 April 2021. [Periodista: Un policía me disparó un proyectil de gas lacrimógeno al rostro](#).

<sup>99</sup> Deutsche Welle (DW). 22 September 2021. [Bolivia: operativo deja un periodista arrestado y dos heridos](#); Página Siete. 21 September 2021. [Fiscalía desestima la denuncia de un policía contra periodista de Página Siete](#); Página Siete. 21 September 2021. [Policías atropellan a un periodista de Página Siete y luego lo detienen \(VIDEO\)](#); Infobae. 22 September 2021. [La Policía boliviana detuvo a un periodista dos veces tras golpearlo brutalmente y reprimió con gases una protesta de cocaleros](#).

<sup>100</sup> *Erbol*. 22 September 2021. [Policía reconoce que hubo 'exceso' y compromete reflexión, pero también pide la misma actitud a la prensa](#); La Razón. 22 September 2021. [Comandante de la Policía en La Paz Augusto Russo reconoce 'excesos' en operativos y compromete reflexión](#).

<sup>101</sup> Defensoría del Pueblo. 9 November 2021. [Defensoría del Pueblo condena afectación a trabajadores de la prensa y demanda al Estado protección y garantías para su labor periodística](#).

<sup>102</sup> Opinión. 9 November 2021. [Periodistas golpeados por policías y atacados con juegos de pirotecnia](#); ANPB. 9 November 2021. [Periodistas golpeados por policías y atacados con juegos de pirotecnia](#).

<sup>103</sup> ANPB. 10 November 2021. [Manifestantes cercan y hostigan a un periodista de la red Erbol](#).

<sup>104</sup> El Deber. 10 November 2021. [ANP denuncia agresiones a periodistas en enfrentamientos por las protestas](#); Voces del Sur Unidas. 10 November 2021. [En Bolivia camarógrafo fue herido por proyectil de gas lacrimógeno](#).

practice of journalistic work<sup>105</sup>. According to available information, a change in the departmental police chief in Oruro, Tarija, Potosí and Chuquisaca was reportedly ordered on November 10<sup>106</sup>.

86. Attacks and aggressions committed against journalists violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society. The Rapporteurship recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation”. Freedom of expression protects the right to record and disseminate any incident in the context of social demonstrations, so States must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

87. This Office has also been informed of stigmatizing accusations against journalists and media outlets by public leaders or persons who hold public offices<sup>107</sup>. According to reports received by the Office of the Special Rapporteur, former President Evo Morales has accused *Página Siete* of “engaging in harmful and mean-spirited journalism” indicating that “instead of disseminating the truth, it acts guided by morbidity and malice”.<sup>108</sup> On another occasion, he had publicly stated that “he was running out of patience” with certain media outlets that in his opinion spread “lies, intrigues, even speculations”, and he warned them to “be careful”.<sup>109</sup> According to information received by this Office, the Minister of Education reportedly accused a journalist from *Página Siete* of lying during a press conference<sup>110</sup>. The Minister of Justice reportedly used an excerpt from a message issued by Pope Francis to discredit the work of the media *Página Siete*, *El Deber*, *Los Tiempos*, *Correo del Sur*, the *Fides News Agency* (ANF) and the *Erbol* network, whom he asked to “put an end to the logic of post-truth, disinformation, defamation, slander and that unhealthy fascination with scandal and filth; and to seek to contribute to human fraternity”<sup>111</sup>. The Minister of the Presidency reportedly said that some media seek to “install lies as truth” and “generate a climate of confusion” during an interview<sup>112</sup>. Further, an opposition congressman reportedly accused journalist Iván Maldonado of *BoliviaTV* of promoting “communications terrorism”.<sup>113</sup> The departmental leadership of the Movement Toward Socialism in La Paz reportedly named journalist Amalia Pando on a list of 34 people that the party considers “coup plotters” and who should be prosecuted and arrested<sup>114</sup>. In addition, according to information obtained by this Office, the attorney general reportedly shared a graphic message on his Twitter account in which he described the independent media as “trash media” and accuses them of “manipulating and lying”.<sup>115</sup>

88. This Office also learned that the Vice Minister of Communication had called a meeting in the context of the protests over the Law on Illicit Profits in order to analyze “the problem of disinformation” and “the contents

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<sup>105</sup> Infobae. 9 November 2021. [Bolivia: fuerte represión a las protestas contra el Gobierno en el segundo día de paro nacional](#); Unitel. 9 November 2021. [Oruro: agreden a médicos que bloqueaban ya periodistas que pedían libertad de expresión](#).

<sup>106</sup> ANF. 10 November 2021. [Tras las agresiones a periodistas cambian al comandante de la Policía en Oruro](#); Los Tiempos. 10 November 2021. [Cambian a jefes policiales de 4 departamentos en medio del conflicto por la Ley 1386](#).

<sup>107</sup> *Página Siete*. 30 August 2021. [Lima apunta a tres medios y les pide cumplir su trabajo con «responsabilidad»](#); *El Deber*. 31 August 2021. [Evo dice que algunos medios tergiversan; Mesa y Tuto ven que el MAS ataca a la prensa para que calle sobre el fraude](#).

<sup>108</sup> Twitter account of Evo Morales Ayma (@evoespueblo). 12 January 2021.

<sup>109</sup> *Página Siete*. 26 November 2021. [\(VIDEO\) Evo advierte a la prensa: Cuidado que se acabe la paciencia para algunos medios](#); Deutsche Welle (DW). 26 November 2021. [Periodistas responsabilizan a Evo Morales por posibles agresiones](#).

<sup>110</sup> *Página Siete*. 23 July 2021. [Allegados a Quelca agreden a periodista de Página Siete](#); ANPB. 28 July 2021. [Ministro y funcionarios increparon a periodista en conferencia de prensa](#).

<sup>111</sup> *El Deber*. 17 October 2021. [Ministro Lima ataca a seis medios con mensaje del Papa](#); *Página Siete*. 16 October 2021. [El Gobierno usa un mensaje genérico del Papa para acusar a seis medios de Bolivia](#).

<sup>112</sup> ANPB. 16 November 2021. [Ministra afirma que los medios pueden generar clima de confusión](#); *Página Siete*. 14 November 2021. [Prada afirma que muchos medios perdieron credibilidad y tienen resistencia del «pueblo»](#).

<sup>113</sup> Twitter account of José Carlos Gutiérrez (@jcpolitic). 6 October 2021; Twitter account of Bolivia Tv Oficial (@Canal\_BoliviaTV). 6 October 2021.

<sup>114</sup> *Erbol*. 17 September 2021. [MAS-La Paz presenta lista de ‘golpistas’ para detener; oposición lo tilda de fascista](#); Voces del Sur Unidas. 19 September 2021. [Periodista Amalia Pando fue incluida en una lista de «golpistas» por el partido gobernante](#).

<sup>115</sup> Voces del Sur Unidas. 30 September 2021. [Procurador del Estado boliviano retuitea gráfico con ataque a medios independientes](#); *Página Siete*. 1 October 2021. [ANP rechaza que procurador reproduzca mensajes contra la prensa](#).



of the regulations”.<sup>116</sup> As far as the Office of the Special Rapporteur was able to learn, the media that make up the National Press Association (ANP) reportedly declined to attend the meeting and asked for it to be rescheduled in order to guarantee the presence of all the media that are part of the organization<sup>117</sup>.

89. This Office recalls that public authorities are called upon to maintain a discourse supportive of public deliberation and freedom of expression. In this regard, international human rights standards establish that political leaders and persons exercising public functions must refrain from making statements that could jeopardize or harm the rights of press workers and persons whose work contributes to the strengthening of democracy. The Inter-American Court of Human Rights has considered that stigmatizing statements by public officials could constitute an indirect restriction on the right to freedom of expression.

90. Finally, the Rapporteurship also learned of the first expert examination, carried out by the Public Prosecutor’s Office in coordination with the Bolivian Police, of the home of Argentine journalist Sebastián Moro, who was murdered in the context of the social crisis of 2019<sup>118</sup>. This Office urges the State to continue investigating the case with the utmost diligence and stresses that justice will not be fully served until all those responsible for the human rights violations committed are effectively punished.

## **B. Freedom of expression, Rule of Law and Democratic Institutions**

91. This Office received complaints about the alleged escalation of tension and violence in the context of mobilizations and social conflicts, particularly during September 2021, due to the dispute between various groups in La Paz. On September 23, at least five civilians and one police officer were injured and 33 people were detained in a mobilization that later escalated into a conflict in Villa El Carmen and Villa Fatima over control of a social organization<sup>119</sup>. The Ombudsman’s Office regretted that the confrontations between September 27 and 28 “have left civilians and police wounded, that tear gas has affected children and elderly people, that one floor of a building has burned in Villa Fatima and that there has also been other damage to private property due to the throwing of stones, gas and dynamite”<sup>120</sup>. On September 30, after 11 days of clashes, the Ombudsman’s Office reported that 25 civilians were injured, 7 police officers and 69 people were detained<sup>121</sup>. The institution also reported that it had reached out on several actions to the parties and had called on five occasions to set up a dialogue forum to resolve the conflict in a peaceful manner, without success. On October 4, after a new outbreak of clashes, at least 11 civilians and 8 police officers were injured, according to reports from the Ombudsman’s Office<sup>122</sup>.

92. The Rapporteurship also followed with concern the reactions to the strike which took place over the days of November 8 and 9, 2021, against the law on “National Strategy to Combat the Legitimization of Illicit Gains and the Financing of Terrorism”. In addition to the aforementioned reports of alleged acts of violence against journalists, the IACHR and its Rapporteurship regretted the death of a person in Potosí during a demonstration, an incident that is reportedly under investigation by the Departmental Attorney General’s Office<sup>123</sup>. The Ombudsman’s Office reported that 63 people were injured on November 9 alone in Santa Cruz<sup>124</sup>. In the context of the days, the IACHR also received information about confrontations between citizens, threats

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<sup>116</sup> El Deber. 12 November 2021. [Viceministra acusa a medios de desinformar y convoca a directores a reunión en su oficina](#); Correo Del Sur. 12 November 2021. [Viceministra convoca a directores de medios de comunicación para hablar sobre “desinformación”](#).

<sup>117</sup> Noticias Fides. 15 November 2021. [La ANP pide al Gobierno reprogramar cita para tratar el tema de la desinformación](#); Opinión. 16 November 2021. [Desinformación y acceso a la información, pilares de trabajo entre Gobierno y medio](#).

<sup>118</sup> ATB Digital. 16 November 2021. [Fiscalía realiza peritaje a dos años del asesinato del periodista argentino Sebastián Moro](#); Facebook account Bolivia TV. [16 November 2021](#).

<sup>119</sup> Office of the Ombudsman. 24 September 2021. [Ombudsman’s Office condemns violence and vandalism in protest around the ADEPCOCA](#). La Razón. 23 September 2021. [Choques entre policías y cocaleros deja 6 heridos y 33 detenidos](#).

<sup>120</sup> Office of the Ombudsman. 28 September 2021. [Ombudsman’s Office calls for an immediate end to the violence arising from the conflict for control of Adepcoca](#).

<sup>121</sup> Office of the Ombudsman. 30 September 2021. [Ombudsman’s Office urges ADEPCOCA to seek a single space of unity and to put antagonistic interests aside](#).

<sup>122</sup> Office of the Ombudsman. 4 October 2021. [Ombudsman’s Office regrets violence registered in the vicinity of ADEPCOCA and verifies 19 injured](#).

<sup>123</sup> Office of the Ombudsman. 10 November 2021. [Ombudsman’s Office attends the medical-legal autopsy of Basilio TitiTipolo, who died in the conflict in Potosí](#).

<sup>124</sup> ANF. 10 November 2021. [Defensoría confirma que víctima en Potosí murió por broncoaspiración y registró 63 heridos](#); Office of the Ombudsman. 10 November 2021. [Ombudsman’s Office attends the medical-legal autopsy of Basilio TitiTipolo, who died in the conflict in Potosí](#).

to people with public functions, and acts of harassment affecting the Casa de la Mujer (Women's House) in Santa Cruz<sup>125</sup>. According to the Vice-Minister of the Interior, 125 people were reportedly detained on 8 November alone<sup>126</sup>. By means of Law 1409, published in the Official Gazette on 17 November 2021, the national government repealed the contested law.

93. Social protest, which includes the rights to peaceful assembly, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and it is the duty of the State to guarantee the exercise of these rights. The Rapporteurship recognizes that States are called upon to adopt the necessary measures to prevent acts of violence and guarantee the safety of persons in the context of social protests, but recalls that these must be carried out in accordance with international human rights principles and standards, particularly in the current Bolivian context of necessary democratic and institutional strengthening. In its report "Protest and Human Rights", the IACHR noted that criminalization in contexts of social protest has a chilling effect on society as a whole, and can impede or inhibit this type of expression. Likewise, States must especially bear in mind that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

94. In 2021, this Office also received information about various bills under discussion that, if passed, could jeopardize the confidentiality of sources and professional secrecy. It also continues to observe with concern reports from civil society organizations and the media on alleged limitations on access to public information. The clashes and social conflicts that took place in September and November allegedly resulted in the excessive use of public force, arrests, injuries and at least one death.

95. The Office of the Special Rapporteur received various reports warning of the risks that Bill No. 218/2020-2021 "Against the Legitimization of Illicit Gains, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction or Non-Conventional Weapons", currently before the Senate, could pose to freedom of the press. According to Article 11 of the bill, "professional secrecy, reserve or confidentiality may not be invoked in financial, securities, insurance, pension, commercial, tax, economic, notarial, civil registry, real rights, professional or other matters when the Financial Investigations Unit (UIF) requires information within the framework of its powers".<sup>127</sup> The National Association of Journalists of Bolivia, the Association of Journalists of La Paz and the Association of Journalists of Oruro published a press release warning about the possible violation of professional secrecy and the confidentiality of journalistic sources that its approval could mean<sup>128</sup>. According to the ANPB, an explicit exception and a reform of the wording of the law would be welcome in order to protect journalistic practice<sup>129</sup>. As reported on September 20 by the Deputy Minister of Pensions and Financial Services, the media and journalists would not be excluded of the scope of the aforementioned law when it comes to revealing sources of information, which is why she pointed out that "the law guarantees freedom of expression as established in Article 107 of the Constitution".<sup>130</sup> As far as this Office was able to learn, on 14 October 2021 the government announced that it had decided to withdraw the legislative initiative<sup>131</sup>.

96. The Rapporteurship also learned that, in the context of an investigation into the death of a police officer on 3 July 2021, in a confrontation in the Coripata region, Sud Yungas province of La Paz, the Attorney General's Office reportedly requested that journalists from *FM Bolivia* and *Yungas* radio stations provide lists of interviews and copies of notes of their journalistic coverage between July 3 and 6 in the region where the conflict reportedly broke out<sup>132</sup>. Also, on 12 July 2021, Eliana Ayaviri, director of *Radio Yungas*, and Galo

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<sup>125</sup> IACHR. 19 November 2021. Press Release 311/11. [IACHR Calls for Stronger Consensus-Building Dialogue in Bolivia](#).

<sup>126</sup> BBC. 10 November 2021. [Los enfrentamientos marcan el segundo día de paro parcial de la oposición por la polémica "ley madre" en Bolivia](#); Infobae. 9 November 2021. [Al menos 125 detenidos en el primer día del paro convocado por la oposición en Bolivia](#).

<sup>127</sup> Chamber of Deputies of the Plurinational State of Bolivia. [PLA N° 218/2020-2021](#).

<sup>128</sup> Jornada. 18 September 2021. [Gremios periodísticos rechazan proyecto de ley que elimina el secreto profesional - JORNADA](#); Página Siete. 18 September 2021. [La ANPB y la APLP se declaran en emergencia ante el proyecto de Ley Contra la Legitimación de Ganancias Ilícitas](#); La Patria. 22 September 2021. [APO rechaza vulneración de la libertad de expresión - Periódico La Patria](#).

<sup>129</sup> ANPB. 19 September 2021. [La ANP propone protección a secreto de prensa en Ley de ganancias ilícitas](#).

<sup>130</sup> Ministry of Economy and Public Finance. 20 September 2021. [The draft law does not include journalists as subjects obliged to lift the confidentiality of sources of information](#).

<sup>131</sup> Bolivia. 14 October 2021. [Government withdraws bill against legitimization of illicit profits to avoid confrontation between Bolivians](#).

<sup>132</sup> Opinión. 11 July 2021. [Fiscalía pide lista de entrevistados a dos radios que cubrieron conflicto en Los Yungas](#); Twitter account of OHCHR Bolivia (@oacnudh\_BO). [14 July 2021](#).

Hubner, director of *Radio FM Bolivia*, were reportedly summoned by the Attorney General's Office to testify as witnesses in the investigation, an order that was rescinded by the Attorney General's Office on July 13 after a series of questions and concerns expressed by civil society organizations<sup>133</sup>. In addition, in the context of a case brought against various media outlets for alleged defamation, the judge in the case reportedly asked thirteen media outlets to provide the names of their journalists who followed and reported on the case of an attorney who is being investigated by the Bolivian justice system for alleged crimes of torture and kidnapping<sup>134</sup>.

97. On November 30, the newspaper *El Deber* reported that the Attorney General's Office had subpoenaed its journalist Guider Arancibia Guillén to appear as a witness in the judicial process investigating the alleged use of trucks seized by drug traffickers to unblock the streets during the multisectoral strike in Santa Cruz, events which the journalist had covered. According to information received by the Office of the Special Rapporteur, the following day the Attorney General highlighted "the praiseworthy work of the press" and acknowledged that the subpoena had been an error and that it violated the Bolivian Printing Press Law, so the subpoena was annulled<sup>135</sup>.

98. The Rapporteurship recalls that according to Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR, "every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential". Any measure tending to seize journalistic material that requires the disclosure of sources or the summoning of journalists as witnesses has a restrictive effect on freedom of expression.

99. On the other hand, the Rapporteurship also learned of the announcement by the Minister of Justice regarding the ongoing work on a draft Access to Information Law, which had been sent for analysis to the National Council for the Fight against Corruption<sup>136</sup>. Likewise, according to the information available, since 2012, the analysis of a draft Access to Information Law already approved by the Chamber of Deputies has been pending in the Senate<sup>137</sup>. As noted in the 2020 Annual Report of this Office, the development of a specific legal framework for access to information is a constant demand of civil society and journalists in Bolivia, who claim that, although the country has formally guaranteed this right in its Constitution and in various international treaties that are part of the constitutional block, this is not enough given the multiple and varied obstacles facing this right<sup>138</sup>. In November 2021, during a discussion on "Transparency, access to information and accountability", the National Union of Institutions for Social Action Work (UNITAS) pointed out again that in Bolivia "there is a regulatory framework that guarantees access to information, however there is no law that defines the mechanisms of how to exercise this right". In this event, the head of Management and Transformation of the Agency of Electronic Government and Information and Communication Technologies of Bolivia emphasized that the State was working to advance in digitalization and technology initiatives that could promote access to information of quality and in a reliable and timely manner<sup>139</sup>. This Office recalls the importance that the regulatory frameworks on access to public information be aligned with international human rights standards, and recalls that these initiatives must be simultaneous with the promotion of institutional practices of active transparency.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

100. This Office also received information about alleged acts encouraging discrimination and polarization in Bolivia in relation to the Wiphala flag, constitutionally recognized as a patriotic symbol of Bolivia's Andean

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<sup>133</sup> ANPB. 12 July 2021. [La ANP reclama el cumplimiento de las garantías constitucionales para la prensa](#); ANPB. 11 July 2021. [Tras pedido de la ANP, fiscal suspende la declaración de cuatro periodistas](#).

<sup>134</sup> Deutsche Welle (DW). 27 April 2021. [Bolivia: prensa rechaza proceso iniciado por Jhasmani Torrico](#); Twitter account of OHCHR Bolivia (@oacnudh\_BO). [25 April 2021](#).

<sup>135</sup> El Deber. 1 December 2021. [Fiscal general dice que fue un "error" citar a periodista y reconoce la vigencia de la Ley de Imprenta](#); El Deber. 1 December 2021. [Fiscalía cita a periodista ya víctima de agresores, no a los responsables de Dircabi | EL DEBER](#).

<sup>136</sup> ANPB. 3 February 2021. [Ministro de Justicia anuncia proyecto de ley de acceso a la información](#); Los tiempos. 7 February 2021. [Lima anuncia abrir debate nacional sobre proyecto de Ley de Acceso a la Información Pública](#).

<sup>137</sup> Unitas. 1 December 2021. [Conversatorio: Urge hacer realidad el derecho al acceso a la información a través de una ley – Red UNITAS - Bolivia](#).

<sup>138</sup> IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. Para. 147.

<sup>139</sup> Unitas. 1 December 2021. [Conversatorio: Urge hacer realidad el derecho al acceso a la información a través de una ley – Red UNITAS - Bolivia](#).



cultures<sup>140</sup>. On September 24, at the end of a ceremony to commemorate the anniversary of Santa Cruz, opposition assembly members allegedly lowered the Wiphala flag that Vice President David Choquehuanca had raised shortly before. In addition, according to the Ombudsman's Office, the governor of Santa Cruz reportedly gave a speech with a "strong religious message" that "calls for confrontation and incites racial discrimination and intolerance towards indigenous sectors"<sup>141</sup>. Given the controversy over the events surrounding the Wiphala flag, the Bolivian Attorney General's Office has reportedly admitted a complaint for "racism and discrimination, and outrage against patriotic symbols" against the governor of Santa Cruz; the leader of the *Comité Cívico pro Santa Cruz*, Rómulo Calvo; Congressman José Carlos Gutiérrez; and departmental assemblywomen Keyla García and Lisseth Durán<sup>142</sup>. According to the information received, the penalties for the crimes range from one to seven years in prison.

101. On 12 October 2021, the Ombudsman's Office stated that it "is concerned that public opinion and political and civic actors attribute the use of the Whipala as a party flag, questioning its origin, ancestry and symbolism, in order to assume a discriminatory and racist discourse"<sup>143</sup>. In turn, on 3 August 2021, the president of the Chamber of Deputies reportedly threatened to issue an instruction to prevent the use of the floor to all legislators who would not salute in a native language.

102. This Office reiterates that the use of criminal mechanisms to punish speech on matters of public interest is incompatible with inter-American standards and inhibits the possibility of open, plural, and robust debates on matters that involve all citizens. The Rapporteurship has held that "it is true that ideas of all kinds and, especially, religious convictions, as well as national symbols, are particularly valuable to significant sectors of the population and that offenses against them could affect very deep feelings and convictions that are worthy of respect. Nevertheless, the exercise of full individual and collective autonomy depends, to a large extent, on the existence of an open debate on all social ideas and phenomena. As such, the right of all persons to express, in practice and by any means, their ideas on culture, religion, national symbols or any other belief or institution must be respected", with the exception of unprotected hate or discriminatory speech, or speech directed at generating acts of violence in the terms established by article 13.5 of the Convention.

103. Likewise, the 2008 Joint Declaration of Special Rapporteurs noted that the concept of "defamation of religions", among other criminal offenses related to the insult or defamation of patriotic symbols or any other idea or institution, are incompatible with international standards on freedom of expression. In this regard, the 2008 Joint Declaration recalls that international standards relating to the protection of reputation are addressed to individuals and not to religions "which, like all beliefs, cannot be said to have a reputation of their own".

104. Furthermore, according to publicly available information, on September 28, in the framework of the Global Day of Action for Legal, Safe and Free Abortion, women who were publicly demonstrating for the legalization of abortion in Bolivia were reportedly assaulted in La Paz and Santa Cruz de la Sierra. The Ombudsman's Office expressed concern about the excessive use of police force and limitations on freedom of expression in this context. According to official information, police officers reportedly used tear gas to disperse a women's protest that was marching in the Plaza del Estudiante in La Paz. Likewise, women in Santa Cruz were reportedly physically and verbally assaulted by alleged members of the *Unión Juvenil Cruceñista* and the *Comité Cívico pro Santa Cruz*<sup>144</sup>.

105. The Rapporteurship underscores the State's duty to respect, protect and guarantee the right to protest. It also reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women. The inter-American system grants reinforced protection to speech that expresses elements that are constitutive of

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<sup>140</sup> Plurinational State of Bolivia. Ministry of Defense. [Símbolos patrios: Whiphala](#).

<sup>141</sup> Office of the Ombudsman. 26 September 2021. [Ombudsman's Office regrets new affront to Whiphala and hate speeches that encourage division and polarization of the country](#).

<sup>142</sup> EuropaPress. 30 September 2021. [La Fiscalía de Bolivia admite la denuncia contra el gobernador de Santa Cruz por "ultraje" a la wiphala](#); El Deber. 29 September 2021. [Fiscalía admite denuncia por "racismo y ultraje a símbolos patrios" contra Camacho y otras cuatro personas](#).

<sup>143</sup> Office of the Ombudsman. 12 October 2021. [Ombudsman's Office rejects racist and discriminatory positions against the whiphala](#); [disqualify it and create contradiction and socio-cultural tension](#).

<sup>144</sup> EJU TV. 29 September 2021. [Defensoría repudia uso excesivo de la fuerza policial contra mujeres que abogaban por el aborto legal](#); Ombudsmans Office. 29 September 2021. [Ombudsman's Office expresses its concern over the excessive use of police force against women](#).

the personal identity or dignity of the person expressing it. In this regard, for this Office, the speech of women who denounce violence because of their status as women and the expressions of indigenous communities that demand respect for their rights are speeches that have historically been silenced and must be especially protected today. The Rapporteurship invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to align institutional practices with the enhanced protection of this type of speech.

106. The Rapporteurship also recalls the importance of political leaders and public officials refraining from making statements that could promote intolerance or discrimination. Instead, they are called upon to counteract social harm and promote intercultural understanding and respect for diversity.

#### **D. Freedom of Expression and the Internet**

107. The Rapporteurship received information about the alleged use of social media platforms for smear campaigns against independent journalists and media outlets<sup>145</sup>.

108. Likewise, according to publicly available information, an investigation by the independent media *Verdad con Tinta* and *Connectas* revealed the alleged financing of disinformation campaigns by the Departmental Government of Tarija, during the previous government administration and the last electoral period, with the alleged aim of “disseminating content that discredited political rivals” or “extolled” its administration. According to the report, they had “impersonated media outlets, used fake accounts managed by government employees and spread false news, financed with public money”. According to a report requested by the Tarija Legislative Assembly to the Governor’s Office, there have been irregular contracts of public employees dedicated to this network, media and Facebook pages that shared misleading or distorted information<sup>146</sup>.

109. The Rapporteurship recalls that the Internet is a platform and a means for the exercise of human rights such as freedom of expression, political participation, the rights of association and assembly, economic, social and cultural rights, so that States are called upon to ensure the necessary conditions for the enjoyment and exercise of these rights.

110. In February 2021, the IACHR and its Special Rapporteurship have recognized the existence of a turning point for freedom of expression on the internet, characterized among other aspects by the generalized deterioration of public debate and attempts to capture public debate enhanced by the phenomenon of disinformation. As stated in the Joint Declaration of the Rapporteurs on Freedom of Expression of 2017, disinformation, violence, and social polarization threaten the integrity of democracy and the enforcement of human rights, mainly affecting people in vulnerable situations. On that occasion, the rapporteurs stressed that “State actors should not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda)”, in line with their national and international legal obligations and public duties.

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<sup>145</sup> ANPB. 1 April 2021. [Periodistas atacados por campaña de descrédito desmienten acusaciones](#); El País. 3 April 2021. [Periodistas exigen frenar campaña de desprestigio](#).

<sup>146</sup> Connectas. September 2021. [Bolivia: La fábrica de desinformación que usó dinero de la Gobernación de Tarija](#).

## BRAZIL

111. In 2021, the Office of the Special Rapporteur has observed the continuity of a context of hostility towards the exercise of journalism and the free operation of the media, especially against women journalists and media outlets that report on political matters and matters of public interest or that question the government's administration. Likewise, the use of the national security law for investigations and judicial processes against journalists and people who exercised critical expressions increased. Although RELE recognizes that in Brazil democratic institutions and the system of checks and balances continue to function, with an outstanding role of the Judiciary in the defense of democratic institutions, this Office has received reports that points to a scenario of great challenges for democratic institutions. These challenges include the spread of disinformation and the deterioration of dialogues between public powers, in a year marked by an increase in regulatory initiatives for digital platforms and the activation of judicial investigations against those who reportedly shared disinformation on different issues, as well as threats to public institutions and the Rule of Law.

### A. Periodismo y democracia

112. The continuity of stigmatizing statements against the press by high-ranking public officials, especially by high-ranking public officials of the Executive Branch, including the President of the Republic, and parliamentary authorities, generates an environment of deterioration of public debate and freedom of the press in Brazil. In this context, the Office of the Special Rapporteur also recorded various acts of obstruction of journalistic coverage, physical and verbal attacks, online harassment, and threats and attacks against the press, especially due to alleged retaliation of editorial lines critical of the federal government and the federal management of the pandemic.

113. At the same time, the continued use of criminal proceedings against journalists was reported, with at least one arrest for crimes against honor, and the civil sanction of a journalist who published a book that criticized the judicial actions of a judge of the Federal Supreme Court. The Judiciary was also activated to promote prior censorship based on, for example, the protection of honor or the secrecy of judicial proceedings. On the other hand, the Office of the Special Rapporteur recorded important decisions of the Judiciary for the protection of freedom of the press and access to information by citizens at different levels, including the secrecy of sources, State responsibility for attacks by police officers against journalists who cover protests, and the unconstitutionality of the right to be forgotten.

114. On July 27, 2021, the NGO Reporters Without Borders (RSF) reported that in the first half of the year alone they registered 331 attacks against the press, especially by high-ranking authorities<sup>147</sup>. In this regard, although stigmatizing statements were reported by various public officials<sup>148</sup>, this Office is especially concerned about those made by the President of the Republic against the press<sup>149</sup>, who, among other things, stated that the criticism of his administration is a reaction of the big media to investment cuts in government advertising<sup>150</sup>. According to an analysis by the Lupa Agency, the head of state would have made attacks against the press in 17 of the 21 live broadcasts on social networks that he made up to June 21, 2021<sup>151</sup>. The president would also have used stigmatizing language against the press during public events and rounds of interviews, calling it, for example, "the worst problem in the country"<sup>152</sup>, "fake news factory"<sup>153</sup> and "shameless"<sup>154</sup>. These statements would be framed together with allegations that public officials, including advisors of the President

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<sup>147</sup> RSF. July 27, 2021. [Imprensa brasileira, verdadeiro saco de pancadas da família Bolsonaro: uma tendência que se intensifica em 2021](#)

<sup>148</sup> RSF. July 27, 2021. [Imprensa brasileira, verdadeiro saco de pancadas da família Bolsonaro: uma tendência que se intensifica em 2021](#) ; Radio Amazonas1. October 7, 2021. [Descontrole: sem provas, David Almeida acusa Portal Amazonas1 de extorsão](#) ; ABRAJI. May 11, 2021. [Prefeito de Taboão da Serra \(SP\) xinga repórter](#); UOL. May 25, 2021. [CPI: Após dizer que jornalista hackeou, Mayra nega invasão ao TrateCov](#)

<sup>149</sup> RSF. July 5, 2021. [RSF apresenta la lista de "depredadores de la libertad de prensa" 2021](#); Folha de São Paulo. January 28, 2021. [Bolsonaro volta a dizer que leite condensado é para 'o rabo' da imprensa](#); ABRAJI. [Em três dias, Bolsonaro fez cinco ataques à imprensa](#).

<sup>150</sup> Estado de Minas. April 6, 2021. [Bolsonaro ataca imprensa e diz que 'resolve problema do vírus em minutos'](#). UOL. April 6, 2021. [Em dia de recorde de mortes, Bolsonaro diz que resolve "problema do vírus" se pagar imprensa](#).

<sup>151</sup> Lupa. June 1, 2021. [Dia da Imprensa: Bolsonaro atacou veículos e jornalistas em 17 das suas 21 lives em 2021](#)

<sup>152</sup> Reuters. June 1, 2021. [Imprensa é o maior problema do Brasil, diz Bolsonaro a apoiadores](#).

<sup>153</sup> Folha de São Paulo. February 15, 2021. [Bolsonaro critica Facebook, fala em tributar redes sociais e diz que 'o certo' é tirar jornais de circulação](#); Estadão. February 15, 2021. [Bolsonaro critica Facebook e diz que o 'certo seria tirar jornais de circulação](#).

<sup>154</sup> Estadão. May 11, 2021. [Bolsonaro ataca o 'Estadão', diz que 'tratoração' é invenção e chama jornalistas de 'canalhas'](#). Estado de Minas. [Bolsonaro chama jornalistas de canalhas: 'Orçamento secreto é invenção'](#).

of the Republic and personnel of ministries and parliamentary authorities, would have articulated, among others, discredit campaigns against people identified as critics and opponents of the President<sup>155</sup>. Such action would even be under investigation by the Joint Parliamentary Commission of Inquiry on Fake News, which would have the purpose of investigating, among others, alleged "cyber attacks that undermine democracy and public debate; the use of false profiles to influence the results of the 2018 elections; the practice of cyber harassment on the most vulnerable users of the computer network, as well as on public agents (...)"<sup>156</sup>.

115. The Inter-American Court of Human Rights has reiterated that people who exercise public function have a position of guarantor of fundamental rights. Consequently, their statements cannot "constitute forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute to public deliberation by expressing and disseminating their thoughts"<sup>157</sup>.

116. In this context, the Office of the Special Rapporteur is also concerned about the alleged escalation of violence and physical attacks against journalists in the course of their work, including by public officials<sup>158</sup>. For example, on January 13, 2021, police agents seized and destroyed the cell phone of community journalist Renato Moura, from the *Voz das Comunidades* portal, according to available information. The journalist was filming a police operation carried out in Morro do Alemão, Rio de Janeiro. According to the Military Police of the State of Rio de Janeiro, an argument would have started with the journalists (...) "who exposed the faces of the policemen who acted in the incident. This represented a threat to the agents, who seized the cell phone that was recording the images." Likewise, the institution stated that the competent authority would investigate the case<sup>159</sup>.

117. Likewise, the Office of the Special Rapporteur learned that demonstrations of support for the President of the Republic would have been particularly hostile environments for journalistic coverage in 2021<sup>160</sup>. For example, on March 15, 2021, during a demonstration in Belo Horizonte, Minas Gerais, a photojournalist from the State of Minas was beaten with a motorcycle helmet by demonstrators near an army barracks<sup>161</sup>. On May 23, the Military Police of Rio de Janeiro had to escort a team of CNN journalists to the channel's vehicle after the escalation of acts of harassment and verbal attacks against them while covering a demonstration<sup>162</sup>. During the citizen demonstrations of September 7, the Brazilian Association of Investigative Journalism would have identified at least 6 attacks against the press perpetrated by demonstrators<sup>163</sup>.

118. The Office of the Special Rapporteur is also concerned about the complaints received about attacks against media outlets in retaliation for journalistic coverage, especially in the face of criticism of the federal government's management of the pandemic. This would include, among other documented events, a case of

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<sup>155</sup> UOL. January 18, 2021. [Bolsonaro resgata gabinete do ódio para reagir a críticas e cerco nas redes](#); O Globo. May 6, 2021. [Bolsonaro defende integrantes do 'gabinete do ódio' e diz que grupo é 'gabinete da liberdade'](#); UOL. June 13, 2021. [PF aponta como o 'gabinete do ódio' se expandiu além do Palácio do Planalto](#).

<sup>156</sup> Senado. [Comissão Parlamentar Mista de Inquérito - Fake News](#); Senado Notícias. December 27, 2021. [CPI das Fake News buscará parceria com Polícia Federal, TSE e Ministério Público](#).

<sup>157</sup> I/A Court. *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194. Para. 139.

<sup>158</sup> FENAJ. September 28, 2021. [Sindicatos e FENAJ repudiam agressão a repórter cinematográfico da RIC Record TV Londrina](#); ABRAJI. [Fotojornalista é agredido durante cobertura de assassinato no Pará](#); ABRAJI. September 13, 2021. [Jornalistas são apedrejados em cobertura da seleção no Recife](#); Globo Esporte. May 6, 2021. [Agressão contra jornalista viraliza e causa comoção: "Cena criminosa e absurda"](#); G1. July 8, 2021. [Repórter da Rede Amazônica é agredido por ex-prefeito de Humaitá](#); G1. June 24, 2021. [Repórter da Rede Amazônica é agredido em Itacoatiara](#); FENAJ. November 18, 2021. [Sinjope e FENAJ repudiam tentativa de intimidação de policiais à jornalista Suelen Brainer](#).

<sup>159</sup> Twitter account of the Rio de Janeiro State Military Police (@PMERJ). [January 13, 2021](#). Ponte. January 13, 2021. [PM do Rio defende o direito de apreender celulares de jornalistas](#)

<sup>160</sup> Correio. March 14, 2021. [Fotojornalista do CORREIO é agredida verbalmente em manifestação bolsonarista](#); O Globo. March 16, 2021. [Repórter é agredido por manifestante durante protesto em rodovia de Goiânia](#); Sindicato de los Periodistas Profesionales de São Paulo. August 3, 2021. [SISP lamenta, se solidariza e age em prol de jornalista agredido](#).

<sup>161</sup> Estado de Minas. March 15, 2021. [Fotógrafo do Estado de Minas é agredido e hostilizado por bolsonaristas](#); Folha de São Paulo. March 16, 2021. ["Eu me identificava como jornalista e ninguém ouvia", diz fotógrafo agredido em ato bolsonarista em BH](#).

<sup>162</sup> Poder 360. May 23, 2021. [Jornalista da CNN Brasil é hostilizado em ato pró-Bolsonaro no Rio](#); CNN. May 24, 2021. [Equipe da CNN é hostilizada durante manifestação no Rio de Janeiro](#).

<sup>163</sup> ABRAJI. September 9, 2021. [Manifestantes atacam ao menos seis equipes de imprensa no 7 de setembro ABRAJI recebe denúncias de agressões de apoiadores do presidente a profissionais que cobriam manifestações](#)

arson<sup>164</sup>; the invasion of a local radio station while its programming was on the air<sup>165</sup>; and paintings with offensive sayings in the editorial headquarters of a large circulation magazine<sup>166</sup>.

119. In turn, episodes of attacks against journalists by the presidential security team were reported, which led to the presentation of a constitutional action before the Supreme Federal Court by the Sustainability Network party for the protection of press freedom<sup>167</sup>. During the G20 summit, in Rome, Italy, members of the presidential security team reportedly pushed and beat a journalist who was trying to interview the president outside the Brazilian embassy, in addition to allegedly throwing the phone of another who was filming the event<sup>168</sup>. As a result of the events, Bolsonaro would have affirmed that there were no attacks against the press and that the recorded events occurred in the framework of the presidential security work carried out by the Italian police<sup>169</sup>. For its part, on December 12, 2021, during a visit by the president to Itamaraju, Bahia, the president's security team reportedly prevented journalists from approaching the president, even physically assaulting at least 3 reporters and threatening to hit others. In this context, the Itamaraju Works Secretary would have damaged a microphone, according to available information<sup>170</sup>.

120. This Office also became aware of alleged threats against journalists<sup>171</sup><sup>172</sup>. For example, the presenter Diego Santos of *TV Norte/SBT* would have received ammunition cartridges with the message "the exact measure to silence any complaint"<sup>173</sup>. The photojournalist Edmar Barros would have received death threats, allegedly linked to the disclosure of photos of possibly criminal fires in the Amazon<sup>174</sup>. At the same time, during a religious festival, in Aparecida, São Paulo, a man reportedly attacked a journalist from *TV Tribuna / Globo*, and pointed out that "if he could, he would kill them"<sup>175</sup>.

121. The Office also received with concern reports that on July 9, journalist Jackson Silva, director of the local news portal *Moju News*, in Moju, Pará, was shot multiple times by two unknown individuals in an alleged homicide attempt. The journalist was taken to a hospital in the capital of the State of Pará. In the previous months, Jackson Silva would have denounced to the police threats that he received against his life<sup>176</sup>. According to the Civil Police, the case would be under investigation<sup>177</sup>.

122. The digital environment also became even more hostile to Brazilian journalists in 2021, according to reports received by SRFOE. According to the Brazilian Association of Investigative Journalism, between January and August 2021, 137 cases of attacks against journalists in the digital environment were reported, which would show an increase of 104% in relation to the same period in 2020, particularly due to the escalation of

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<sup>164</sup> G1. April 1, 2021. [Bombeiro municipal diz à polícia que colocou fogo em sede de jornal por não aceitar medidas contra Covid-19](#); Folha de São Paulo. March 17, 2021. [Prédio de jornal em Olímpia tem incêndio após ser atacado; dono relata ameaças](#).

<sup>165</sup> Estado de Minas. April 7, 2021. [Homens invadem rádio após locutor criticar Bolsonaro; veja vídeo](#). Isto É. April 7, 2021. [Assista: Homens invadem rádio e ameaçam locutor que criticou Jair Bolsonaro](#).

<sup>166</sup> Yahoo News. October 22, 2021. [Sede da IstoÉ sofre ataque após capa com Bolsonaro associado a Hitler](#); ABI. October 21, 2021. [Ataque contra a Isto É atinge a liberdade de imprensa](#).

<sup>167</sup> Supreme Federal Court. [ADPF 897](#).

<sup>168</sup> UOL. October 31, 2021. [Jornalistas são agredidos por seguranças do presidente Jair Bolsonaro em Roma](#); CNN Brasil. October 31, 2021. [Jornalistas relatam agressões em ato pró-Bolsonaro após encontro do G20 em Roma](#); G1. October 31, 2021. [Bolsonaro hostiliza jornalistas em Roma, e segurança agride repórteres](#).

<sup>169</sup> Folha de São Paulo. November 8, 2021. [Bolsonaro mente e nega que tenha havido agressão a jornalistas em Roma](#); UOL. November 25, 2021. [Governo nega ao STF agressão a jornalistas em Roma](#)

<sup>170</sup> Government of the State of Bahia. [Governador repudia violência contra equipe da Rede Globo no Extremo Sul](#); G1. December 12, 2021. [Equipe da TV Bahia, afiliada da Globo, é agredida por seguranças e apoiadores de Bolsonaro](#).

<sup>171</sup> UOL. September 11, 2021. [MT: jornalista vai à PF contra ameaças que atribuiu a governador](#); ABRAJI. October 25, 2021. [Jornalista denuncia ameaça ao produzir documentário](#); FENAJ. December 9, 2021. [Sindjor Goiás e FENAJ repudiam intimidação feita por vereador a jornalista de Anápolis - FENAJ](#)

<sup>172</sup> Artigo 19. October 8, 2021. [Nota de apoio ao radialista Jerry de Oliveira e Rádio Noroeste, vítimas de ameaça de morte e desinformações](#); G1. October 8, 2021. [Polícia Civil investiga ameaças contra radialista de Campinas](#).

<sup>173</sup> SBT. April 5, 2021. [Roraima: Apresentador da TV Norte/SBT sofre ameaça de morte](#); Jovem Pan. April 7, 2021. [Jornalista recebe carta com balas de revólver como ameaça em Roraima](#);

<sup>174</sup> FENAJ. August 26, 2021. [Sindicato dos Jornalistas do AM e FENAJ repudiam ameaça a repórter-fotográfico](#); UOL. August 25, 2021. [AM: Repórter fotográfico é ameaçado de morte após registrar queimadas](#)

<sup>175</sup> G1. October 13, 2021. [Repórter cinematográfico da Globo é agredido por apoiador de Bolsonaro em Aparecida](#); Correio Braziliense. October 12, 2021. ["Se eu pudesse mataria vocês": bolsonarista agride cinegrafista em Aparecida](#)

<sup>176</sup> G1. July 9, 2021. [Jornalista é alvo de atentado a tiros em Moju, nordeste do Pará](#); CPJ. July 20, 2021. [Jornalista brasileiro Jackson Silva sobrevive a disparos de armas de fogo](#)

<sup>177</sup> G1. July 22, 2021. [Suspeito de envolvimento em ataque a tiros contra jornalista é morto em ação da PM no Pará](#); TV Guajara. July 22, 2021. [Acusado de tentar matar jornalista do Moju News, morre em troca de tiros com a PM](#).



stigmatizing speeches, threats, and doxing practices<sup>178</sup>. Among these attacks, this Office emphasizes that a special adviser to the Minister of Health, in January 2021, would have disclosed data on the journalist André Spigariol, from *Crusoe* magazine, with alleged intimidating purposes<sup>179</sup>. The Office of the Special Rapporteur also highlights the existence of campaigns on the Internet, especially on Twitter, through hashtags that stigmatize the press. According to research by the Institute of Technology and Society of Rio de Janeiro and Reporters Without Borders, between March and June 2021 "there were 498,693 records that mention at least one of the hashtags monitored" by the institutions and at least 20% of these tweets would have been produced by accounts with a high probability of automated behavior<sup>180</sup>.

123. The Office of the Special Rapporteur recalls that principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states that, among others, "kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation". States are called upon to provide press officials with the highest level of protection, since the journalists, camerapeople, photojournalists, and communicators who cover the protests play a fundamental role in collecting and disseminating information.

124. On the other hand, this Office recorded the alleged blocking of journalists on social networks by high-ranking public authorities. According to data from 2021, considering a list of 35 authorities selected by the Brazilian Association of Investigative Journalism and by Congress in Focus, 297 cases of Twitter blocking of journalists or media outlets would have been identified. The President of the Republic would answer for 79 of these cases and, among them, are the accounts of the newspapers *Diário do Centro do Mundo*, *The Intercept*, *Congresso em Foco*, and the Aos Fatos agency<sup>181</sup>. Likewise, in August, Human Rights Watch identified at least 176 blocks by the president on social networks, "among which there were accounts of journalists, congresspeople, influencers with more than a million followers and ordinary citizens with just a few"<sup>182</sup>. In this sense, the Office of the Special Rapporteur is concerned about the possible obstruction of access to information of public interest for citizens that this type of blockade may generate. The Office of the Special Rapporteur emphasizes that, according to the "Principles on the Right of Access to Information" of the Inter-American Juridical Committee, this right "refers to all significant information, whose definition must be broad, including all that is controlled and filed in any format or medium.

125. This Office was also informed about alleged editorial pressures that could be present in the Brazilian Communication Company (ECB) [*Empresa Brasil de Comunicação*], responsible for *TV Brasil*, *Rádios Nacional*, and *MEC*, and for Agência Brasil. According to a report prepared by the Union of Journalists of the Federal District, based on anonymous surveys with ECB staff, 161 qualified cases of censorship are reported between July 2020 and July 2021. In addition, between January and July 2021, the normal programming of *TV Brasil* would have been interrupted for a total of 78 hours for the transmission of official government events<sup>183</sup>. In addition, the Rapporteurship notes a history of tensions between the Executive Branch and the EBC during the administration of the current president<sup>184</sup>.

126. On the other hand, this Office continued to monitor the existence of different first instance judicial decisions that prohibited the maintenance of journalistic content on the air, which had an impact on the dissemination of news stories. For example, a judge of first instance ordered in liminal order the removal from the air of parts of a report by *Repórter Brasil* in collaboration with *Amazônia Real* in which the illegal sale of gold extracted from Yanomani indigenous territories was denounced<sup>185</sup>. Likewise, the Office of the Special

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<sup>178</sup> ABRAJI. September 3, 2021. [137 ameaças contra jornalistas, vazamento de dados e outros ataques na internet](#)

<sup>179</sup> Crusoe. January 31, 2021. [Após reportagem, 'marqueteiro' de Pazuello ameaça repórter de Crusoe](#); ABRAJ. January 29, 2021. [Assessor especial de Pazuello expõe dados de repórter da Crusoe para intimidá-lo O publicitário "Markinhos Show" foi autor de posts contra André Spigariol](#)

<sup>180</sup> ITS. RSF. 2021. [Report Ataques ao jornalismo se alastram nas redes](#).

<sup>181</sup> ABRAJI. January 27, 2021. [Mais de 98% dos tweets do presidente são de interesse público](#)

<sup>182</sup> HRW. August 19, 2021. [Brazil: Bolsonaro Blocks Critics on Social Media](#)

<sup>183</sup> EBC Employees Commission. [Dossiê da Censura na EBC](#). October 2021.

<sup>184</sup> Folha de São Paulo. 22 de febrero de 2019. [Bolsonaro demite presidente da estatal de comunicação EBC após desentendimento](#).

<sup>185</sup> Repórter Brasil. July 19, 2021. [Justiça censura reportagem sobre comércio ilegal de ouro publicada na Repórter Brasil](#); Folha de São Paulo. July 19, 2021. [Justiça de Roraima censura reportagem sobre comércio ilegal de ouro extraído da Terra Indígena Yanomami](#).

Rapporteur noted that judicial decisions determined that news verification agencies should stop classifying as “misleading” or “false” notes checked by their verifiers<sup>186</sup>.

127. The Office of the Special Rapporteur notes its particular concern over judicial decisions that would impose prior censorship on the publication of articles of public interest. For example, according to the information available, *RBS TV* would have been prohibited from carrying out any journalistic broadcast on the award-winning collaboration provided by a businessman to the Public Ministry of Rio Grande do Sul in a well-known corruption case<sup>187</sup>. Also, after a request for a precautionary measure presented by a Brazilian humorist, the *Piauí* magazine was prohibited from publishing, as long as the investigations were ongoing, any news about a case of alleged sexual abuse perpetrated by the plaintiff<sup>188</sup>. At the same time, a court order prohibited the newspaper *O Globo* from disclosing information on the financial flow of a company investigated by the Covid-19 Parliamentary Investigation Commission, on the grounds that the information published by the newspaper would harm judicial secrecy<sup>189</sup>.

128. The inter-American human rights system explicitly prohibits prior censorship. Likewise, indirect censorship -for example through pressure or interference- also “restricts the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the creation of obstacles to the free flow of information, violate the right to freedom expression”<sup>190</sup>.

129. Additionally, in 2021, the Office of the Special Rapporteur continued to record the use of criminal mechanisms in order to limit the exercise of journalism, in some cases in relation to issues of public interest<sup>191</sup>. For example, the Civil Police of Rio de Janeiro would have initiated an investigation against the journalist Leandro Demori, from *The Intercept Brasil*, due to a journalistic investigation in which it was questioned whether “the Civil Police of Rio was maintaining a group of murderers”<sup>192</sup>. In particular, the Office of the Special Rapporteur expresses its concern regarding the arrest of journalist and blogger Paulo Cezar de Andrade Prado, who covers political and sports issues, on September 28, 2021. The journalist had been sentenced months before to 5 months in prison in a lawsuit for defamation after the publication of a note in which he denounced irregularities in the management of the vice president of a football club<sup>193</sup>.

130. In May, the Supreme Federal Court, did not admit an extraordinary appeal against the civil conviction of journalist Rubens Valente for compensation of R\$100,000.00 in favor of judge Gilmar Mendes, also of the Supreme Federal Court, for alleged abuse in the exercise of freedom of expression in the publication of a book where, among other things, the actions of the judge in a well-known investigation on money laundering in the country were criticized. The conviction decision also determined that, in future editions of the book, the publisher should publish the entirety of said conviction, in addition to the initial petition filed by Minister Gilmar Mendes. According to the journalist, this would prevent new editions<sup>194</sup>.

131. The Office of the Special Rapporteur recalls that any sanction for the alleged abusive exercise of freedom of expression must be based on a formal and substantive law, pursue a legitimate purpose recognized

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<sup>186</sup> ABRAJI. March 30, 2021. [STF suspende decisão para retirada de conteúdo e retratação da Folha](#) ; Aos Fatos. April 28, 2021. [Juiz decide que Aos Fatos não pode mencionar que Revista Oeste publicou desinformação](#); JOTA. May 4, 2021. [Aos Fatos: para especialistas, decisão que mandou editar checagens é censura](#); Conjur. 31 de agosto de 2021. [TJ-SP não vê ilícito em selo de fake news atribuído por agência de checagem](#).

<sup>187</sup> GZH. January 11, 2021. [Reportagem da RBS TV está sob censura prévia](#); ABERT. August 26, 2021. [NOTA DE REPÚDIO](#)

<sup>188</sup> Poder 360. August 25, 2021. [Justiça proíbe revista piauí de publicar nova reportagem sobre Marcius Melhem](#); Piauí. August 25, 2021. [Marcius Melhem e censura à piauí](#).

<sup>189</sup> ABRAJI. August 27, 2021. [ABRAJI repudia censura ao jornal O Globo](#); O Globo. August 25, 2021. [Desembargadora censura reportagem do GLOBO sobre empresa investigada pela CPI da Covid](#).

<sup>190</sup> [Declaration on Freedom of Expression](#). Principle 8

<sup>191</sup> FENAJ. December 8, 2021. [Em tentativa de intimidação, assessor de Carlos Bolsonaro abre notícia-crime contra repórter da Veja](#); ABRAJI. July 15, 2021. [Promotor de Justiça do Piauí processa 5 portais de notícias](#); ABRAJI. June 23, 2021; [Dono da Havan moveu 37 ações contra jornalistas, veículos e críticos, mostra levantamento Luciano Hang, aliado de Bolsonaro, pede indenização milionária contra imprensa](#); Folha de Londrina. November 12, 2021. [Jornalista é indiciado por postar foto de juíza que participou de ato antidemocrático](#); Carta Capital. November 10, 2021. [Polícia indícia jornalista que compartilhou fotos de juíza em protestos antidemocráticos](#).

<sup>192</sup> The Intercept Brasil. June 8, 2021. [A Polícia Civil decidiu nos investigar por causa deste texto](#); El País. June 10, 2021. [Inquérito policial contra jornalista do 'The Intercept' se soma à ofensiva para intimidar a imprensa](#).

<sup>193</sup> ABRAJI. October 1, 2021. [Polícia civil de SP prende jornalista esportivo por difamação](#); CPJ. March 11, 2021. [Blogueiro esportivo brasileiro enfrenta 5 meses de prisão em caso de difamação de 2016](#); CONJUR. September 28, 2021. [ABI repudia prisão de jornalista do Blog do Paulinho](#).

<sup>194</sup> CNN. May 14, 2021. [Moraes determina que jornalista publique condenação em nova edição de livro](#); O antagonista. May 14, 2021. [Moraes manda jornalista publicar condenação em nova edição de livro](#).

by international law, and be necessary and proportionate to achieve said purpose in a democratic society. The IACHR and its Office of the Special Rapporteur have indicated that, in the analysis of the “tripartite test”, it should be considered that public officials are subject to greater scrutiny by society. The Inter-American Court has indicated that expressions on matters of public interest are specially protected, and that the use of criminal law in these cases is incompatible with the American Convention<sup>195</sup>. Likewise, the Office of the Special Rapporteur has indicated that even civil sanctions, if disproportionate, are as or more intimidating than a criminal sanction<sup>196</sup>.

132. The Office of the Special Rapporteur also received information about different cases of journalists who were called to give statements before the Prosecutor's Office or the Police, in relation to the publication of articles that denounced alleged illegal acts carried out by public officials. Despite the fact that the opening of investigations proves the importance of journalism for accountability in a democratic society, the Office of the Special Rapporteur learned that the statements would represent a risk to the confidentiality of journalistic sources.<sup>197</sup> This Office recalls that, according to Principle 8 of the IACHR's Declaration of Principles on Freedom of Expression, “every social communicator has the right to keep their source of information, notes, personal and professional archives confidential.”

133. However, in contrast to these actions of the Police and the Public Prosecutor's Office, the Office of the Special Rapporteur observed the existence of judicial decisions that contributed to the guarantee of the exercise of freedom of expression by journalists, progress in the processing of bills that seek to combat censorship and protection of the use of anonymity in literary works<sup>198</sup>. In this framework, the Office welcomes various decisions of the Supreme Federal Court in 2021 that suspended or archived investigations that the Attorney General's Office had opened against journalists who refused to reveal their sources after publishing articles about allegations of corruption cases<sup>199</sup>.

134. Likewise, regarding the prosecution of crimes against journalists, the Office of the Special Rapporteur was informed that the Court of Justice of the State of São Paulo had decided to archive the investigation into responsibility for injuries suffered by journalist Daniel Arroyo in 2019 as a result of having received the impact of a rubber bullet while covering a protest, when the authorities present would did not provide him with medical assistance either<sup>200</sup>. On the other hand, the Office of the Special Rapporteur welcomes the decision of June 10, 2021, in which the Supreme Federal Court decided that the state of São Paulo must compensate photojournalist Alex Silveira, who lost 90% of his vision after being hit by a rubber bullet fired by a police officer while covering a protest in Sao Paulo on May 18, 2000. The legal precedent is mandatory in Brazil. The Supreme Federal Court reasoned that the responsibility of the State is objective for damages against journalists who cover protests and that only “responsibility for the exclusive fault of the victim is excluded, in cases in which the press professional fails to comply with an obvious and clear warning about access to delimited areas, in which there is a serious risk to their physical integrity”<sup>201</sup>. However, the Office of the Special Rapporteur considers possible risks to the right to reparation in cases of abuse due to the lack of precision of what will be considered an “obvious” and “clear” warning.

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<sup>195</sup> I/A Court. *Case of Álvarez Ramos v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2019. Series C No. 380, para. 124.

<sup>196</sup> I/A Court. *Case of Tristán Donoso v. Panama*. Preliminary Objection, Merits, Reparations and Costs. Judgment of January 27, 2009. para. 129.

<sup>197</sup> ABRAJI. December 2, 2021. [ABRAJI repudia tentativa de quebrar sigilo de fonte](#); FENAJ. December 3, 2021. [Nota de Repúdio do Sindjor MS e FENAJ](#); ABRAJI. January 18, 2021. [ABRAJI repudia ofício da PGR em intimidação ao jornalista Guilherme Amado Colunista da Revista Época foi notificado para apresentar documentos citados em reportagem sobre Abin](#).

<sup>198</sup> Jota. October 8, 2021. [TJSP: Cidadãos não devem indenizar prefeitura por críticas em redes sociais](#); UOL. September 17, 2021. [Irmã de Aécio Neves perde ação por danos morais contra revista “Veja”](#); ConJur. September 23, 2021. [TJ-SP confirma decisão que negou queixa-crime contra jornalista](#); Folha de São Paulo. August 3, 2021. [Eduardo Cunha perde processo contra o autor de seu falso diário na cadeia](#); Poder 260. October 7, 2021. [Justiça derruba pedido de censura feito por Bia Kicis](#); FENAJ. November 4, 2021. [Justiça condena EBC por perseguição e assédio contra diretor do Sindicato dos Jornalistas do DF e da FENAJ](#).

<sup>199</sup> Supreme Federal Court. AgReg. Recl 19464. October 10, 2021. [Decision](#). Supreme Federal Court. June 22, 2021. [“Nenhum jornalista pode ser constrangido a revelar a fonte”, afirma Toffoli](#); ABRAJI. February 8, 2021. [STF encerra processo contra repórter que não revelou fonte](#);

<sup>200</sup> ABRAJI. October 14, 2021. [Justiça de SP arquiva caso de Daniel Arroyo, atingido por bala de borracha em protesto Atores estatais são os principais responsáveis por ataques à liberdade de imprensa no Brasil, mostra levantamento da ABRAJI](#); Ponte. October 7, 2021. [Polícia e Justiça falham em responsabilizar PM que baleou repórter da Ponte](#).

<sup>201</sup> Supreme Federal Court. [Tema 1055](#); G1. December 2, 2021. [Fotógrafo que perdeu a visão em cobertura de protesto em SP será indenizado após 21 anos](#).



135. This Office also received information on the progress of the investigations related to the kidnapping of the journalist Romano dos Anjos, reported in the 2020 annual report of the Office of the Special Rapporteur. According to information received, the state representative Jalser Renier, currently in appeals before the Legislative Assembly of Rondônia as a result of the events, is suspected of being the intellectual author of these events, which would also have had the participation of Roraima Military Police agents, including high-ranking officers, according to available information<sup>202</sup>.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

136. The first half of 2021 was marked by the continuation of complaints about the use of the National Security Law, revoked in September, against people who question the government's administration or criticize public authorities. At the same time, the SRFOE was informed of an escalation of tension between the executive power and the other powers of the State, particularly the Judicial Power, with speeches that question the legitimacy of the electronic voting system in Brazil and the role played by the Supreme Federal Court. Said Court, in addition to the Superior Electoral Court, are currently carrying out investigations with the alleged purpose of counteracting misinformation and the incidence of anti-democratic acts, in the context of which various public figures have been detained and their social networks restricted.

137. Among the cases of activation of the National Security Law against citizens<sup>203</sup>, based on the possible threat against the president, a student was arrested in *flagrante delicto* as a result of a post on Twitter that read "Guys, Bolsonaro in [Uberlândia] tomorrow ... Is anyone close to becoming a national hero?"<sup>204</sup>. In turn, five people were arrested in the Plaza de los 3 Poderes in Brasília, after they carried a flag in protest that designated the president as "genocidal"<sup>205</sup>. Likewise, in March, the Police would have summoned the youtuber Felipe Neto to testify in a criminal investigation allegedly for having branded the president a "genocidal" on social networks<sup>206</sup>. In addition, also justified in the application of the National Security Law, the National Congress asked the Supreme Federal Court to dictate the imprisonment of the comedian Danilo Gentili after he published on his social networks that someone should hit all the representatives who were in favor of increasing parliamentary immunities<sup>207</sup>.

138. The National Security Law contained, among others, criminal offenses that established subsequent liabilities for speeches that promote attacks against the territorial integrity and Brazilian sovereignty, against the democratic and representative regime of the Rule of Law, and against the heads of the powers of the Union. The regulations had been issued during the Brazilian dictatorial regime and recently various actions of unconstitutionality were filed against it. On September 2, 2021, the presidential sanction to Law 14,197 was published, which revoked the National Security Law<sup>208</sup>. However, this Office observes that the revocation law, on the other hand, established an increase of one third of the penalty for crimes of libel, slander, or defamation of the Brazilian Criminal Code when the crime is committed against a public official due to the exercise of their duties, or against presidents of the Federal Senate, the Chamber of Representatives, or the Supreme Federal Court. This maintains a wide space for criminal sanctions for the exercise of freedom of expression with justification in the protection of the honor of public authorities. In this context, the Office of the Special Rapporteur learned that a woman had been temporarily detained for allegedly insulting the head of state during a presidential visit to the city of Resende, Rio de Janeiro<sup>209</sup>.

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<sup>202</sup> Cultura. September 17, 2021. [Policiais militares envolvidos em sequestro de jornalista da TV Record são presos em Roraima](#); Folha de Boa Vista. November 11, 2021. [Deputado Jalser Renier tem novo pedido de cassação - Folha de Boa Vista](#)

<sup>203</sup> National Council for Human Rights. March 31, 2021. [Nota Pública do Conselho Nacional dos Direitos Humanos em repúdio a ataques à liberdade de expressão por meio da indevida aplicação da Lei de Segurança Nacional](#).

<sup>204</sup> Poder 360. March 19, 2021. [Por mensagem contra Bolsonaro, 25 pessoas são intimadas pela PF em Uberlândia](#); UOL. March 4, 2021. [Jovem é preso em Uberlândia após publicação contra Bolsonaro no Twitter](#).

<sup>205</sup> G1. March 18, 2021. [Grupo é preso por estender faixa de protesto contra Bolsonaro em Brasília](#); Correio Braziliense. March 18, 2021. [PM prende cinco manifestantes em ato contra Bolsonaro na Esplanada](#).

<sup>206</sup> UOL. March 15, 2021. [Felipe Neto é intimado pela polícia após chamar Bolsonaro de 'genocida'](#); El País. March 15, 2021. [Felipe Neto é intimado a depor com base em Lei de Segurança Nacional, herança da ditadura](#).

<sup>207</sup> Poder 360. March 2, 2021. [Gentili fala em socar deputados e Câmara pede ao STF prisão do apresentador](#); Gazeta do Povo. March 2, 2021. [Procuradoria da Câmara pede ao STF prisão de Danilo Gentili](#)

<sup>208</sup> Official Gazette of the Union. Edition 167. Section 1. [September 2, 2021](#). p. 4.

<sup>209</sup> Correio Braziliense. November 18, 2021. [Mulher é detida após xingar Jair Bolsonaro no Rio de Janeiro](#); Estadão. November 28, 2021. [Mulher é detida após xingar Bolsonaro em Resende, no Rio - Política - Estadão](#)

139. The Inter-American Court has held that freedom of expression protects those expressions that offend, are shocking or disturbing, and that in democratic societies officials or public figures are subject to greater scrutiny by society and must have greater tolerance to criticism<sup>210</sup>. Likewise, public authorities have a privileged discursive space, in which they can counteract criticism that they consider unfair.

140. On the other hand, this Office has received reports indicating possible effects on freedom of expression from Investigation 4,781, 4,828, 4,874, 4,879<sup>211</sup>, which is being carried out by the Supreme Federal Court (STF). According to the information received, in these legal cases there would have been actions both *ex officio* by the STF and assigned to the STF by order of other authorities, such as the police and the Attorney General's Office. The people investigated would include the president himself, political authorities, parliamentarians, journalists and other public leaders and figures of public notoriety in Brazil.

141. The Office of the Special Rapporteur was informed that, in the framework of these investigations, at least four people had been held in pre-trial detention for at least two months<sup>212</sup>. Likewise, requests for extradition and inclusion of red alerts in Interpol would have been issued<sup>213</sup>. The justification for the prison orders included the abusive exercise of the right to freedom of expression for crimes against honor (injury, slander, and defamation), apology or instigation of crime, crimes provided for in the extinct National Security Law, among others. Also crimes provided for in Law 12,850 (Criminal Organization Law), Law 9,613 (Money Laundering Law) and Law 7,716 (Law on Racism) were also reported. The speeches indicated would include speeches on political issues and criticism of the actions of public authorities, especially the Supreme Federal Court itself. However, the Office of the Special Rapporteur also received information that the speeches that gave rise to these processes could imply an attempt to delegitimize the established powers through deliberate disinformation, instigation of violence, or that could border on hate speech<sup>214</sup>.

142. In turn, according to the information received, in the framework of said investigations, intermediate or precautionary measures would have been ordered that would have an impact on the exercise of freedom of expression. Said measures would have included, among others, (i) the suspension of different social network accounts, even globally, of people under investigation; (ii) the prohibition of access to social networks by the person under investigation; (iii) the prohibition to give interviews; (iv) the demonetization of accounts; (v) the prohibition of communication with other investigated persons; (vi) and the prohibition of communication with the "outside world"<sup>215</sup>.

143. This Office also recorded that in August 2021 Law 14.192/2021 was enacted, which establishes as an electoral crime, punishable by imprisonment for up to one year or the payment of up to 150 days of fine, disclosure, in electoral advertising or during the electoral campaign period, of facts that are known to be false in relation to parties or candidates, and that may influence the electorate; or the production, offering, or sale of video with untrue content of parties or candidates<sup>216</sup>. On October 28, the Superior Electoral Court decided to annul the mandate of federal representative Fernando Destito Francischini due to serious impact on the 2018 electoral process as a result of live broadcasts, on election day, in which Fernando Francischini stated that the

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<sup>210</sup> I/A Court. *Case of Ivcher Bronstein v. Peru*. Fund, Reparations and Costs. Judgment of February 6, 2001. Series C No. 74.

<sup>211</sup> Supreme Federal Court. [Portaria GP Nº 69, de 14 de março de 2019](#); Supreme Federal Court. Judge Alexandre de Moraes. Investigation 4.828. [Decision](#). July 1, 2021. Supreme Federal Court. [Investigacion 4.874](#); Supreme Federal Court. Judge Alexandre de Moraes. Investigation 4.879. [Decision](#). August 18, 2021.

<sup>212</sup> Chamber of Representatives. February 17, 2021. [Deputado Daniel Silveira é preso por ordem do ministro Alexandre de Moraes](#); G1. [Moraes revoga prisão de Daniel Silveira e proíbe deputado de acessar redes sociais](#); ConJur. June 26, 2020. [Por ordem de Alexandre, PF encontra e prende bloqueiro bolsonarista](#); Poder 360. January 26, 2021. [Moraes manda Oswaldo Eustáquio para prisão domiciliar e exige tornozeleira](#); UOL. October 26, 2021. [Zé Trovão se Entrega à Polícia Federal em SC](#); CNN. December 17, 2021. [Alexandre de Moraes, do STF, concede prisão domiciliar a Zé Trovão](#); ConJur. August 12, 2021. [Roberto Jefferson, aliado de Bolsonaro, é preso por ordem do ministro Alexandre, do STF](#); CNN. January 24, 2022. [Alexandre de Moraes determina que Roberto Jefferson cumpra prisão domiciliar](#).

<sup>213</sup> ConJur. October 21, 2021. [Alexandre de Moraes determina a prisão preventiva de Allan dos Santos](#); Extra. September 10, 2021. [Após inclusão na lista de procurados da Interpol, prisão de Zé Trovão agora depende da polícia mexicana](#)

<sup>214</sup> For example: Supreme Federal Court. Judge Alexandre de Moraes. Pet. 9.844. [Decision](#). August 12, 2021; Supreme Federal Court. Judge Alexandre de Moraes. Pet. 9.935. [Decision](#). October 5, 2021; Supreme Federal Court. Judge Alexandre de Moraes. Investigation 4.781. [Decision](#). February 16, 2021.

<sup>215</sup> For example, Supreme Federal Court. Judge Alexandre de Moraes. Investigation 4.781. Decision of [May 26, 2020](#) and [July 31, 2020](#); Supreme Federal Court. Judge Alexandre de Moraes. Pet. 9.935. [Decision](#). October 5, 2021; ConJur. November 15, 2021. [Alexandre proíbe Daniel Silveira de dar entrevistas e o ameaça com nova prisão](#); Supreme Federal Court. Judge Alexandre de Moraes. Investigation 4.879. [Decision](#). December 17, 2021.

<sup>216</sup> Official Gazette of the Union. Issue 147, Section 1. [August 5, 2021](#), p. 1.

electronic ballot boxes were not correctly calculating the votes for the presidency of the Republic<sup>217</sup>. The Court also established the thesis that "the use of digital instant messaging applications to promote mass shootings that contain disinformation and falsehoods to the detriment of the opponents and to the benefit of the candidate" could constitute an electoral crime of abuse of economic power<sup>218</sup>.

144. This Office recalls that, despite the fact that political speech and matters of public interest are specially protected within the framework of the American Convention on Human Rights, article 13.5 of the instrument prohibits hate speech. In addition, public leaders must monitor their speech with increased diligence, considering the prominent role they play in democracies, in order to maintain a civic environment for quality and informed debate on issues of public interest. Any sanction for the abusive exercise of freedom of expression must respect the tripartite test, within which the imputation of the criminal sanction is a measure of last resort. Likewise, the sanction must always be preceded by due legal process, with due guarantees to those investigated and accused, including the impartiality and independence of the judging body and the proportionality of the intermediate measures ordered, taking into account the impact on the rights of the parts. At the same time, the Office of the Special Rapporteur calls on the authorities of the States to always promote a contextual test -and not semantic- of the speeches that allegedly instigate violence so that their seriousness and risk can be identified, as the threshold test of the Plan of Action Rabat in cases of hate speech<sup>219</sup>.

145. This Office of the Special Rapporteur became aware of the escalation of tension between the executive branch and other powers of the Republic, especially the Judicial Branch, in the debates about the electronic voting system in Brazil<sup>220</sup>. On different occasions, the president would have said that "only God pulls on his hip"<sup>221</sup>. Likewise, the president would have affirmed that he would have evidence of fraud in the current system and that he would not accept the results of elections unless they were carried out with the printed vote<sup>222</sup>, even pointing out that "if there is no printed vote, there will be no elections" in 2022. In this context, on August 4, 2021, judge Alexandre de Moraes, of the Federal Supreme Court, determined, after analyzing a petition filed by the Superior Electoral Court, the opening of a criminal investigation against the president for his statements that the electoral system Brazilian would be vulnerable to fraud<sup>223</sup>. The president's reactions to said decision included declarations that judges Alexandre de Moraes and Luis Roberto Barroso, member of the Supreme Federal Court and president of the Superior Electoral Court respectively, exacerbated the constitutional limits and that the antidote against the opening of the investigation was not "within the four lines of the Constitution"<sup>224</sup>. At the same time, on August 10, 2021, the Chamber of Representatives did not approve a proposal to amend the Federal Constitution to make the printing of the vote mandatory in the 2022 elections<sup>225</sup>. Likewise, the president of the National Congress summarily rejected a request for impeachment against judge Alexandre de Moraes presented by President Bolsonaro<sup>226</sup>.

146. In this context, the Office of the Special Rapporteur noted with concern that, in the context of the call for citizen protests on September 7, 2021, proposals aimed at trust in democratic institutions and their representatives had been registered<sup>227</sup>. The president gave a speech in São Paulo in which he questioned the validity of the elections and the legitimacy of the Federal Supreme Court. Likewise, he stated that he would only

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<sup>217</sup> Superior Electoral Court. October 28, 2021. [Deputado Francischini é cassado por propagar desinformação contra a urna eletrônica](#).

<sup>218</sup> Superior Electoral Court. [TSE julga improcedentes ações contra Jair Bolsonaro e Hamilton Mourão](#).

<sup>219</sup> OHCHR. No date. [Freedom of expression vs incitement to hatred: OHCHR and the Rabat Plan of Action](#)

<sup>220</sup> Poder 360. December 25, 2021. [Bolsonaro criticou sistema eleitoral mais de 20 vezes em 2021](#)

<sup>221</sup> CNN Brasil. April 15, 2021. ['Só Deus me tira da cadeira presidencial', diz Bolsonaro sobre impeachment](#); Poder 360. May 12, 2021. ["Só Deus me tira daqui", diz Bolsonaro ao falar de voto impresso](#); Estado de Minas. August 6, 2021. [Bolsonaro: 'Só Deus me tira da presidência'](#).

<sup>222</sup> CNN Brasil. August 5, 2021. [Linha do tempo: a escalada da tensão entre STF e Bolsonaro em um mês](#); A Tarde. July 5, 2021. [Bolsonaro volta a atacar Barroso e diz que sem voto impresso, ministro "terá problemas"](#); Correio Braziliense. July 28, 2021. [Bolsonaro diz que o "povo vai reagir" se não tiver voto impresso em 2022](#); Poder 360. May 6, 2021. [Sem voto impresso não haverá eleição, diz Bolsonaro](#); CNN Brasil. August 1, 2021. ['Sem eleição limpa, não haverá eleição', diz Bolsonaro em nova ameaça sobre 2022](#).

<sup>223</sup> ConJur. August 4, 2021. [STF acolhe pedido do TSE e vai investigar Bolsonaro por fake news](#); Folha de São Paulo. August 12, 2021. [Moraes acolhe notícia-crime do TSE e manda investigar Bolsonaro por vazamento de inquérito sigiloso](#).

<sup>224</sup> Estado de Minas. August 4, 2021. [Bolsonaro ameaça reagir a inquérito fora das '4 linhas' da Constituição](#); Metrópoles. August 4, 2021. [Bolsonaro sobre inquérito do STF: "Antídoto não está dentro das quatro linhas da Constituição"](#).

<sup>225</sup> Câmara de los Diputados. August 10, 2021. [Câmara rejeita proposta que tornava obrigatório o voto impresso](#).

<sup>226</sup> Senado Notícias. August 15, 2021. [Pacheco rejeita pedido de Bolsonaro por impeachment de Moraes](#)

<sup>227</sup> Isto É. September 3, 2021. [Bolsonaro diz que 7 de setembro será ultimato aos que acusa de descumprir Constituição - ISTOÉ Independente](#); Folha de São Paulo. September 3, 2021. [Bolsonaro repete ameaça golpista e diz que 7 de Setembro será ultimato a ministros do STF](#).

leave power “imprisoned, dead, or victorious”<sup>228</sup>. After the other powers of the nation rejected the facts<sup>229</sup>, on September 9 the president declared that he never had the intention of attacking the powers of the Republic<sup>230</sup>.

147. In the context of the escalation of COVID-19 cases and deaths in Brazil and due to a decision by the Supreme Federal Court, the Brazilian Senate created a Parliamentary Investigation Commission to, among others, analyze actions and omissions of the Federal Government and in the conduct of public health policies since March 2020, including responsibilities for alleged dissemination of erroneous information, disinformation, or fake news<sup>231</sup>. Said commission found that it would have had a large volume of content that misinformed the Brazilian population in the process of confronting COVID-19. It also concluded that high-ranking authorities of the federal government had acted in disseminating this news, including the President of the Republic<sup>232</sup>. In October 2021, after analyzing a request presented by the Commission, a Minister of the Federal Supreme Court authorized the opening of an investigation against the president by the Senate for alleged common crimes, crimes of responsibility, and crimes against humanity for the management, speeches, and statements of the president on health measures in the pandemic<sup>233</sup>.

148. At the same time, during the 182<sup>o</sup> period of sessions of the IACHR, civil society organizations presented information on violations of freedom of artistic and cultural expression since 2019. At least 30% of the 134 reported cases would be linked to cultural productions that involve the LGBTQIA+ theme, race, gender, or religious criticism. The main violations would occur due to prior administrative censorship and restrictive institutional measures from the Executive Power. Thus, for example, in February, the financing of a play critical of the Brazilian dictatorship was summarily rejected despite the fact that, according to the applicants, the play met the requirements<sup>234</sup>. Likewise, in June 2021, a self-declared “anti-fascist” jazz festival received an unfavorable opinion for public financing on the grounds that the festival would be a political and not an artistic activity<sup>235</sup>. Ronaldo Gomes, technical adviser who signed that document, would have been fired from his position a week later and the court decided to reevaluate the decision<sup>236</sup>. At the same time, the Palmares Foundation, a public institution dedicated to promoting cultural diversity, decided to remove more than half of the collection from its library because it considered it “committed to the struggles of the left and completely alien to the Brazilian reality”<sup>237</sup>.

149. At the aforementioned hearing, the Office of the Special Rapporteur recalled that freedom of artistic expression is specially protected in the inter-American legal framework, both because of its form and, in different cases, because of its content. Likewise, as the UN has maintained, “artistic and cultural expressions inevitably transmit multiple meanings and invite multiple interpretations of themselves, nurture the ability to tolerate ambiguity and admit paradox, and it has the ability to imagine innovative solutions to problems and the willingness to tune in to the perceptive sensibilities of others”<sup>238</sup>.

150. The Office of the Special Rapporteur was also informed about various threats to academic freedom in Brazil, including the suspension of a teacher who criticized the federal government<sup>239</sup> and the dismissal of a teacher from the municipal education network who broadcasted, in an arts class, a video on violence against

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<sup>228</sup> BBC. September 7, 2021. [As ameaças de Bolsonaro em discursos no 7 de Setembro](#); Poder 360. September 7, 2021. [Leia a íntegra do discurso de Bolsonaro no ato de 7 de Setembro em São Paulo](#)

<sup>229</sup> Senado Notícias. September 7, 2021. [Senadores repercutem discursos de Bolsonaro no Dia da Independência em Brasília e em São Paulo](#); CBN. September 8, 2021. [CBN - A rádio que toca notícia - Fux rebate atos do 7 de setembro e chama ameaças de Bolsonaro de 'atentados à democracia'](#)

<sup>230</sup> Federal government. September 9, 2021. [Nota Oficial - Presidente Jair Bolsonaro](#).

<sup>231</sup> Senado Notícias. April 14, 2021. [STF confirma liminar que mandou instalar CPI da Covid](#). G1. April 30, 2021. [CPI da Covid quer investigar contratos e ações de publicidade do governo durante a pandemia](#); Folha de São Paulo. April 27, 2021. [Vacinas, testes, 'covidário', fake news: entenda 23 acusações previstas pelo governo na CPI](#).

<sup>232</sup> Federal Senate. [Relatório Final CPI da Pandemia](#). October 26, 2021

<sup>233</sup> Supreme Federal Court. Judge Alexandre de Moraes. Pet. 10.007. [Decision](#). December 3, 2021.

<sup>234</sup> Mobile. No Date. [Mapa de la Censura](#).

<sup>235</sup> Ministério de la Ciudadanía. FUNARTE. Pronac 204126. Parecer técnico. [June 25, 2021](#).

<sup>236</sup> O Globo. October 14, 2021. [Ex-assessor da Funarte que vetou festival antifascista na Lei Rouanet vai cumprir 140 horas de serviço comunitário](#); Poder 360. August 18, 2021. [Justiça manda Funarte reavaliar pedido de festival sobre Lei Rouanet](#).

<sup>237</sup> Fundación Palmares. June 10, 2021. [Relatório Público do Acervo da Fundação Cultural Palmares](#).

<sup>238</sup> UN. Report of the Special Rapporteur on cultural rights. The contribution of cultural initiatives to the creation and development of societies that respect human rights. [A/HRC/37/55](#). January 4, 2018. para. 27.

<sup>239</sup> G1. September 1, 2021. [Professora é suspensa por três dias por criticar Bolsonaro e os apoiadores dele em sala de aula em Cuiabá](#). Metrópoles. September 1, 2021. [Professora é suspensa por três dias após criticar Bolsonaro em sala](#).



the LGBTQIA+ population<sup>240</sup>. In March, Professor Pedro Rodrigues Curi Hallal and the Pro-Rector for Extension and Culture of the Federal University of Pelotas, Eraldo dos Santos Pinheiro, had to formally commit not to criticize the government at the university for two years as a condition for the closure of a process where their resignations were required, according to the information received<sup>241</sup>. In May, the Attorney General of the Republic of Brazil, Antônio Augusto Brandão de Aras, filed a criminal complaint for slander, libel, and defamation against Conrado Hübner Mendes, a professor at USP's Law School and a columnist for the newspaper *Folha de São Paulo*, for the criticism made by the professor on his social networks and in the newspaper<sup>242</sup>. In August, the 12th Federal Criminal Court of the Federal District rejected the criminal complaint filed by the Attorney General of the Republic, but the decision may be reviewed by the Court of Justice of São Paulo in appeal. In turn, the judge Nunes Marques, of the Supreme Federal Court, would also have filed a complaint against Professor Hubner Mendes for crimes against honor before the Office of the Attorney General of the Republic<sup>243</sup>.

151. However, this Office welcomes the decision of the Court of Justice of Santa Catarina that declared the unconstitutionality of a municipal law that prohibited the disclosure of any material considered "improper to the psychological development" of children and adolescents in local schools. The decision concluded, *inter alia*, that the imprecise legal wording unduly restricted academic freedom, which would have an intrinsic relationship with freedom of expression and with the democratic principle<sup>244</sup>.

152. In the Inter-American Principles on Academic Freedom and University Autonomy, the IACHR and its Offices of Special Rapporteurs underlined that "the imposition of state restrictions on research, discussion, or publication of certain topics, as well as the imposition of restrictions on access to publications, libraries, or physical or online databases, constitute prior censorship, expressly prohibited in article 13.2 of the American Convention on Human Rights and contrary to the right to education in the terms of article 13 of the Protocol of San Salvador"<sup>245</sup>.

### C. Freedom of Expression and Fight against Discrimination and Exclusion

153. This Office has carefully monitored the continuity of the situation of violence against women journalists in Brazil. According to data presented by ABRAJI, as of the closing date of this report, 82 attacks against women journalists were registered in 2021 and state actors were responsible for 40% of the cases. Likewise, 41.5% of the cases would be gender-based attacks. In most cases, the victims are journalists who cover political issues<sup>246</sup>. Likewise, a study presented by the Institute of Technology and Society of Rio de Janeiro and Reporters Without Borders in the framework of campaigns against journalists on Twitter between March and June 2021, identified that female journalists were mentioned 13 times more in publications than men and that they were 50% more likely to be attacked with pejorative terms and disqualifications<sup>247</sup>.

154. At the same time, women journalists would have been particularly targeted by stigmatizing statements by the president, who would have called Driela Veiga, from *TV Aratu*, an "idiot"<sup>248</sup>; and Daniela Lima, from *CNN Brazil* "a quadruped"<sup>249</sup>. He would also have asked Laurene Santos of *TV Globo* "to shut up"<sup>250</sup>; and he would have pointed out that Victoria Abel, of *Radio CBN* "should be born again and go back to school"<sup>251</sup>.

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<sup>240</sup> Folha de São Paulo. August 26, 2021. [Prefeito de Criciúma diz não tolerar 'viadagem' e demite professor gay que exibiu clipe de Criolo](#). G1. August 26, 2021. [Prefeito de Criciúma demite professor por exibir clipe de música de Criolo com temática LGBTQIA+ em aula de artes](#).

<sup>241</sup> Official Gazette of the Union. Edition 40, Section 3. [March 2, 2021](#). p. 17

<sup>242</sup> SRFOE. SRESCER. R139/21. May 28, 2021. [Offices of Special Rapporteurs express concern about the use of criminal mechanisms for defamation against a university professor in Brazil and call on the State to respect academic freedom](#).

<sup>243</sup> Revista Fórum. July 23, 2021. [Nunes Marques reforça perseguição de Aras e aciona PGR contra Conrado Hübner](#); Poder 360. July 7, 2021. [Nunes Marques aciona PGR contra professor e colunista Conrado Hübner](#)

<sup>244</sup> Court of Justice of Santa Catarina. Action of Unconstitutionality 5017287-47.2020.8.24.0000. July 7, 2021. [Decision](#).

<sup>245</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Special Rapporteur for Economic, Social, Cultural and Environmental Rights. [Inter-American Principles on Academic Freedom and University Autonomy](#). 2021. p. fifteen.

<sup>246</sup> ABRAJI. No Date. [Violencia de Género contra Periodistas](#).

<sup>247</sup> ITS. RSF. 2021. [Report Ataques ao jornalismo se alastram nas redes](#).

<sup>248</sup> G1. April 26, 2021. [Bolsonaro chama jornalista de 'idiota' durante visita à Bahia](#).

<sup>249</sup> Folha de São Paulo. June 1, 2021. [Em novo ataque à imprensa, Bolsonaro insulta apresentadora da CNN Brasil](#).

<sup>250</sup> DW. June 21, 2021. [Em ataque à imprensa, Bolsonaro insulta repórter e a manda "calar a boca"](#).

<sup>251</sup> O Globo. June 25, 2021. [Bolsonaro volta a atacar jornalistas ao ser questionado sobre Covaxin](#).

155. In this framework, this Office highlights the case of Patrícia Campos Mello who, as recorded in the SRFOE 2020 Annual Report, was the target of stigmatizing statements by Representative Eduardo Bolsonaro and by the president. This, after Hans River do Nascimento, a former employee of one of the digital marketing companies that would have been involved in the 2018 presidential campaign, testified before the Mixed Parliamentary Commission for the Investigation of Fake News and made sexual accusations regarding the journalist, which were denied by her. The statements against the journalist also gained voice among the followers of the head of state, including parliamentarians, as this Office learned. In 2021, the Office registered different judicial decisions of the State of São Paulo that, after the filing of civil lawsuits by the journalist, there were convictions against President Jair Bolsonaro<sup>252</sup>, Representative Eduardo Bolsonaro<sup>253</sup>, Representative André Fernandes,<sup>254</sup> and Hans River<sup>255</sup> to compensate the journalist in concept of moral damages. At the closing date of writing this report, the decisions were still pending remedies.

156. For its part, the Federal Union was sentenced in the first instance to pay 5 million reais in compensation for collective moral damages and to invest another 10 million reais in official advertising campaigns to combat domestic violence and sexual harassment. The Federal Prosecutor's Office filed a public civil action for the different times in which high-ranking federal public authorities, especially the president and his cabinet of ministers, made offensive statements against women. According to the decision, which is still pending an appeal, it would not be possible for government leaders to use their positions to make statements against a historically vulnerable segment of the population<sup>256</sup>.

157. As the 2021 Joint Declaration of Rapporteurs on Freedom of Expression maintains, "Political leaders and people in public office should not make statements that could promote intolerance, discrimination (...) and, instead, should take advantage of their leadership positions to counteract these social harms and promote intercultural understanding and respect for diversity"<sup>257</sup>.

#### **D. Freedom of Expression and the Internet**

158. 2021 was marked by progress in debates and attempts to regulate freedom of expression on the internet, especially from the regulation of platforms. In September, the Office of the Special Rapporteur expressed its concern regarding the approval of Provisional Measure No. 1068, issued on September 6, 2021 by the Executive Power of Brazil. Said regulation established a strict series of causes by which companies could suspend accounts or eliminate content from their platforms. In this way, it would be forced to keep online all that content that the norm does not consider capable of being withdrawn without a court order for "just cause". As has been reported to this Office, the grounds proposed by the Executive do not fully cover the multiplicity of acts that could violate the rights of Internet users, and could leave out situations whose response by the platforms may turn out to be crucial on many occasions<sup>258</sup>. However, on September 14, the president of the Senate summarily rejected the Provisional Measure for unconstitutionality, considering that this type of legislation could deal with the issue.<sup>259</sup> On September 20, 2021, the Presidency of the Republic presented to the Chamber of Representatives the Draft Ordinary Law 3227/2021, with wording similar to the rejected Provisional Measure<sup>260</sup>.

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<sup>252</sup> ConJur. March 27, 2021. [Bolsonaro é condenado a indenizar jornalista em R\\$ 20 mil](#); G1 March 27, 2021. [Justiça de SP condena Bolsonaro a indenizar jornalista em R\\$ 20 mil por danos morais](#).

<sup>253</sup> Jota. September 23, 2021. [Eduardo Bolsonaro deve indenizar jornalista Patrícia Campos Mello, decide TJSP](#); Folha. September 22, 2021. [Justiça mantém condenação de Eduardo Bolsonaro por ofender repórter da Folha](#).

<sup>254</sup> ConJur. July 20, 2021. [Deputado do Ceará deve indenizar jornalista Patrícia Campos Mello](#); Jota. July 20, 2021. [André Fernandes é condenado a indenizar Patrícia Campos Mello](#)

<sup>255</sup> Cultura. April 16, 2021. [Justiça condena Hans River por danos morais à jornalista Patrícia Campos Mello](#) ConJur. April 16, 2021. [Informante deve indenizar jornalista por ofensas de cunho sexual](#).

<sup>256</sup> Folha de São Paulo. June 24, 2021. [Justiça condena governo Bolsonaro a pagar multa e fazer campanha após ofensas de presidente a mulheres](#); Cojur. June 54, 2021. [Governo federal é condenado em R\\$ 15 mi por falas de Bolsonaro contra mulheres](#).

<sup>257</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression](#).

<sup>258</sup> SRFOE. Press Release 237/21. September 9, 2021. [The SRFOE warns about the risks for the right to freedom of expression on the internet in Brazil in the face of the reform of the Internet Civil Framework](#).

<sup>259</sup> Agência Senado. September 14, 2021. [Pacheco devolve MP que dificultava retirada de conteúdo da internet](#).

<sup>260</sup> Chamber of Representatives. [PL 3227/2021](#).

159. The Office of the Special Rapporteur recalls that, although in recent decades international human rights law has provided guidelines regarding the importance of adopting clear, transparent, and pre-established policies by Internet companies, in no case has the prohibition of content moderation as an adequate alternative to the protection of rights.

160. These events happened simultaneously with the progress of the discussions of Bill 2630/2020 -the Fake News Bill- in the Chamber of Representatives, which was approved in the Brazilian Senate in June 2020 in a process criticized, among other things, because of its speed. In 2021, responding to calls from different actors, the Chamber of Representatives convened public hearings on the proposal, especially within the Working Group for the Improvement of Brazilian Internet Legislation – GTNET. In his participation in said hearings on September 28, 2021, the Rapporteur highlighted the specific challenges imposed by governance on the network and the concerns of the Office of the Special Rapporteur regarding the bill, as highlighted in previous communications, including in the Annual Report 2020. He also reinforced that Brazil was called to actively participate in international debates and that it could also wait for the construction of consensus on the subject before moving forward with the project<sup>261</sup>.

161. On December 8, 2021, the GTNET presented reconsiderations to the text of the debated bill and offered a substitute bill<sup>262</sup>. The proposal addresses different risks discussed in the cycle of public hearings, although there are still points of attention and possible improvement. In particular, the inclusion of regulations regarding remuneration for the use of journalistic content by internet providers draws the attention of this office<sup>263</sup>, which, according to the Coalition of Rights on the Network, would not be sufficiently detailed<sup>264</sup>.

162. In turn, the Office of the Special Rapporteur learned that, in the framework of an administrative investigation opened by the Superior Electoral Tribunal to combat misinformation about the Brazilian electronic voting system, since August 16 the Inspector General of the Tribunal prohibited different profiles of popular digital platforms in Brazil from receiving resources from donations of subscribers through the platform, monetization, advertising and the registration of followers. The Inspector General concluded that said profiles would have the incentive to obtain financial advantages through known and repeated unfounded attacks on the electoral system and democratic institutions. According to the precautionary decision, "the right to criticize, protest, dissent and the free circulation of ideas, although inseparable from the democratic regime, is limited, for example, in the dissemination of biased or false information and data, or even in what conventionally called disinformation"<sup>265</sup>.

163. In 2021, the Office of the Special Rapporteur also registered the removal of contents from accounts of President Jair Bolsonaro on social media platforms. For example, in July, YouTube announced the removal of 15 videos from the president's channel "for violating the policies of incorrect medical information regarding COVID-19"<sup>266</sup>. In addition, Facebook, Instagram, and YouTube removed from the air the video of a live broadcast on October 25, 2021, in which the president stated that "official reports from the government of the United Kingdom suggest that they are fully vaccinated, in those 15 days after the second dose, are developing much faster than expected the Acquired Immunodeficiency Syndrome (AIDS)". In the case of YouTube, the account of the president was suspended for a week<sup>267</sup>.

164. This Office recalls that freedom of expression applies to the Internet in the same way as to all communication media. Therefore, any measure that has an impact on the exercise of freedom of expression on the Internet must comply with the tripartite test that requires that the measures be legal, necessary, and

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<sup>261</sup> Chamber of Representatives. September 28, 2021. [Audiência Pública Extraordinária de 28 de setembro de 2021 del GTNET.](#)

<sup>262</sup> Chamber of Representatives of the Federative Republic of Brazil. [Pareceres y Informes del GTNET.](#)

<sup>263</sup> Direitos na Rede. November 19, 2021. [Coalizão Direitos na Rede promove mobilização para que Câmara dos Deputados vote o PL 2630/2020 ainda em 2021](#); ABAP. December 8, 2021. [Parecer de projeto que combate "fake news" irá ao Plenário - ABAP](#)

<sup>264</sup> Direitos na Rede. November 5, 2021. [PL das Fake News: Sustentabilidade do jornalismo é importante e requer debate sério e aprofundado - Coalizão Direitos na Rede.](#)

<sup>265</sup> Superior Electoral Court. Investigation 0600371-71.2021.6.00.0000. August 16, 2021. [Decisión.](#)

<sup>266</sup> Poder 360. July 21, 2021. [YouTube remove vídeos de Bolsonaro por "informações incorretas" sobre covid](#); Reuters. July 22, 2021. [YouTube says it pulled Bolsonaro videos for COVID-19 misinformation.](#)

<sup>267</sup> Valor. October 24, 2021. [Facebook e Instagram derrubam live em que Bolsonaro associou Aids a vacina anticovid](#); Nexo. October 25, 2021. [Redes sociais derrubam live em que Bolsonaro associa aids a vacina.](#)

proportionate<sup>268</sup>. In this sense, the Office of the Special Rapporteur reiterates the importance of initiatives that seek to regulate the Internet to avoid vague and general definitions, which disproportionately affect the free circulation of information and web pages<sup>269</sup>.

165. Finally, the Office of the Special Rapporteur welcomes the decision of the Supreme Federal Court which, in establishing a precedent of obligatory observance, defined that the idea of right to be forgotten is incompatible with freedom of expression, “understood as the power to prevent, due to time passage, the dissemination of legally obtained facts or truthful data that was published in the media or analogue or digital social networks”<sup>270</sup>.

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<sup>268</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. Joint declaration on freedom of expression and the internet. June 1, 2011.

<sup>269</sup> United Nations (UN) Special Rapporteur for Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the OAS Human Rights Commission. January 20, 2012. Joint Declaration.

<sup>270</sup> Supreme Federal Court. [Tema 786](#); Supreme Federal Court. February 11, 2021. [STF conclui que direito ao esquecimento é incompatível com a Constituição Federal](#).



## CANADA

166. In its previous annual reports, the Office of the Special Rapporteur has noted that the right to freedom of expression and freedom of the press is broadly guaranteed in Canada. However, in 2021, the Office of the Special Rapporteur was informed of several impediments to the exercise of this right, including alleged threats, harassment and stigmatizing speech, and the blocking of news coverage at events of public relevance. The Office of the Special Rapporteur also took note of the arrest of two journalists covering protests in an Indigenous territory. The Office continued to document reports on alleged limitations to academic freedom. We also received information about alleged restrictions on protests in Fairy Creek, British Columbia. Regarding freedom of expression on the internet, although the Office of the Special Rapporteur welcomes Canada's active stance to promote debates on digital governance, encourage digital literacy, and contribute to universal access, the Office received information on legislative proposals in the pipeline that would regulate issues such as hate speech, harmful content, and internet broadcasting and that could contain provisions jeopardizing the exercise of freedom of expression online.

### A. Journalism and democracy

167. In 2021, the Office of the Special Rapporteur noted various reports of journalists being arrested for carrying out their work, impediments to coverage, and the obstruction of journalistic work by police officers. The Office of the Special Rapporteur is concerned that several of these cases allegedly targeted journalists covering environmental protection issues. The Office also learned of alleged attacks against the press on social media during the federal elections, including a report of alleged doxing by a party leader.

168. On November 19, police reportedly arrested photojournalist Amber Bracken and documentary filmmaker Michael Toledano while they were covering a roadblock protesting the construction of a gas pipeline on Wet'suwet'en Indigenous territory in northern British Columbia.<sup>271</sup> According to the available information, police reportedly detained 13 other people participating in the protests.<sup>272</sup> The journalists were released on November 23 under court order, on the condition that they respect the peace and comply with the terms of an injunction granted to the gas company affected by the blockade.<sup>273</sup>

169. The Office of the Special Rapporteur received additional information that on June 22, 2021, police detained photojournalist Ian Willms, who was attempting to photograph the events surrounding the eviction of a homeless encampment in Trinity Bellwoods Park. The photojournalist reportedly asked police officers for permission to enter a fenced area of the camp, which he said was denied without cause. Willms was later reportedly detained when he tried to cross the fenced area to cover the evictions, and taken to Toronto's Police 11 Division office, where he was ordered not to return to the park that day. As far as this Office was able to determine, at least five other journalists reported that they had been blocked from covering events at Trinity Bellwoods Park on June 22.<sup>274</sup>

170. The Office of the Special Rapporteur recalls that freedom of expression protects the right to record and disseminate any incident during protests and that press workers covering these events must be afforded the highest degree of protection to work freely and safely.<sup>275</sup>

171. Amid an alleged escalation of online violence against journalists, especially during the Canadian federal elections,<sup>276</sup> this Office also received information that in September, the leader of the People's Party of Canada

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<sup>271</sup> RWB. November 22, 2021. [Canadian Police Arrest Journalists Covering Pipeline Construction in British Columbia](#); CBC News. November 27, 2021. [Court injunction in Coastal GasLink conflict sidesteps deeper legal issues, critics say](#).

<sup>272</sup> CP 24. November 20, 2021. [Two journalists among 15 people arrested by RCMP near B.C. pipeline worksite](#); Vancouver Sun. November 20, 2021. [Two journalists among 15 people arrested by RCMP near BC pipeline worksite](#).

<sup>273</sup> CBC News. November 22, 2021. [Coastal GasLink drops charges against journalists arrested by RCMP during enforcement of pipeline injunction](#); Canadian Association of Journalists. November 22, 2021. [Arrested Canadian journalists: CAJ letter to Canada's public safety minister](#); Saanich News. [Arrested journalists released with conditions as northwest BC pipeline dispute plays out in court – Saanich News](#).

<sup>274</sup> Canadian Association of Journalists. June 22, 2021. [CAJ condemns Toronto Police's attempts to stop journalists from scrutinizing their activity at Trinity Bellwoods park](#); CPJ. June 24, 2021. [Photojournalist Ian Willms detained while covering police in Toronto - Committee to Protect Journalists](#).

<sup>275</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019, para. 355.

<sup>276</sup> La Tribune. May 16, 2021. [Voies de fait sur un caméraman de Radio-Canada](#) [Assault on Radio-Canada cameraman]; Canadian Association of Journalists. September 29, 2021. [CAJ urges government, law enforcement to address targeted harassment of reporters](#); Canadian

reportedly shared the email addresses of three Canadian journalists particularly critical of the party and called them “idiots” who were responsible for “disgusting smear jobs.” According to publicly available information, he also allegedly stated that if journalists could “play dirty,” they would do it too. As a result of these events, the journalists were allegedly threatened and harassed on social media and by email. The Office of the Special Rapporteur learned that Twitter had removed the post for violating its privacy policies and restricted the account of the leader of the People’s Party of Canada for 12 hours.<sup>277</sup>

172. This Office recalls that public servants are called upon to maintain a discourse respectful of the right to freedom of expression and public debate, and to avoid messages that encourage intolerance, discrimination, or hostility against certain individuals or groups.<sup>278</sup> According to the Inter-American Court of Human Rights, stigmatizing statements by public officials may constitute an indirect restriction on the right to freedom of expression.<sup>279</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

173. In 2021, the Office of the Special Rapporteur received with concern reports of alleged restrictions on social protests in British Columbia, where protestors blocked roads to express their opposition to logging. Following up on its last annual report, the Office of the Special Rapporteur also continued to monitor possible restrictions on academic freedom in Canada. It also received information on the possible impact on the right of access to information in British Columbia following the introduction of a new bill.

174. This Office was informed about the alleged tense and conflictive scene surrounding roadblocks in Fairy Creek, British Columbia, as part of a movement led by Indigenous peoples’ representatives and environmental activists to prevent the logging of old-growth forests in Vancouver.<sup>280</sup> In April, a court order issued by the Supreme Court of British Columbia at the request of the lumber company Teal Cedar Products, Ltd. reportedly ordered the Royal Canadian Mounted Police to remove the blockades. In May, police began to enforce the order, under which over 1,100 people were reportedly detained in 2021.<sup>281</sup> However, the Office of the Special Rapporteur learned that, in September, the Supreme Court of British Columbia declined to extend the eviction order, especially considering reports of alleged violence and the infringement of freedom of expression.<sup>282</sup> The Office of the Special Rapporteur received information that in October it was determined that the eviction along the route would continue following an appeal filed by Teal Cedar Products and granted by the provincial Court of Appeal.<sup>283</sup>

175. Amid the ongoing police eviction operation, the Office of the Special Rapporteur received reports that the police had prevented various media professionals from entering the area, or had imposed conditions that would, in practice, hinder media coverage.<sup>284</sup> According to available information, the police stated that the

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Association of Journalists. October 5, 2021. [Canadian Media Stand United in Support of All Journalists Against Online Hate, Threats and Harassment](#).

<sup>277</sup> Canadian Association of Journalists. September 29, 2021. [CAJ urges government, law enforcement to address targeted harassment of reporters](#); RCI Radio. September 23, 2021. [Twitter restricted Bernier’s account for 12hrs after he urged followers to ‘play dirty’ with journalists](#); La Presse. September 23, 2021. [Twitter supprime une publication de Maxime Bernier](#) [Twitter requires removal of post by Maxime Bernier].

<sup>278</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression](#).

<sup>279</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139.

<sup>280</sup> CBC News. May 21, 2021. [What you need to know about the old-growth logging demonstrations on Vancouver Island](#); Democracy Now. September 14, 2021. [Fairy Creek: Indigenous-Led Blockade of Old-Growth Logging Is Now Canada’s Largest Civil Disobedience](#).

<sup>281</sup> CTV News. April 1, 2021. [BC Supreme Court grants injunction to remove Fairy Creek logging blockades](#); Global News. December 20, 2021. [RCMP has spent \\$6.8M so far enforcing Fairy Creek injunction, docs show](#).

<sup>282</sup> CBC. September 28, 2021. [Judge ends injunction against Fairy Creek protests, citing ‘substantial infringement of civil liberties’](#); The Globe and Mail. September 28, 2021. [BC Supreme Court ends Fairy Creek injunction](#).

<sup>283</sup> CTV News. October 8, 2021. [BC court reinstates Fairy Creek injunction while forestry company appeal is pending](#); CTV News. November 17, 2021. [Fairy Creek logging protests: Court reserves injunction decision on old-growth logging blockades](#).

<sup>284</sup> CPJ. May 26, 2021. [Canadian police bar journalists from covering anti-logging protests](#); CPJ. June 28, 2021. [‘Like an open-air cage’: Police restrict reporters’ access to Canadian anti-logging protest](#); Canadian Association of Journalists. July 20, 2021. [CAJ and press freedom coalition win court challenge against RCMP media restrictions at Fairy Creek](#).

restrictions on press access were needed, among other reasons, to ensure that no demonstrators could enter the area on the pretext of being journalists. In July, after considering a petition filed by the Canadian Association of Journalists, the Supreme Court of British Columbia ruled that press access to the region should be guaranteed unless it was necessary to bar their entry for security or operational reasons.<sup>285</sup> However, according to the information received, the police continued to create an unfavorable environment for the free exercise of journalism, including by allegedly blocking access and detaining journalists to check their credentials.<sup>286</sup>

176. The Office of the Special Rapporteur emphasizes that States must protect the legitimate exercise of social protest and prevent the application of disproportionate restrictions that could inhibit or repress critical or dissident speech. Under international human rights standards, demonstrators are free to choose the mode, form, place, and message for peaceful protest. The IACHR report on protest and human rights points out that the State must avoid taking sweeping and prohibitive approaches to the various forms of demonstrating in the exercise of the right to protest, since some of them are forms of protest that amplify voices that would otherwise have difficulty being heard in the public square.<sup>287</sup> The Office of the Special Rapporteur recalls that any measure that may affect the right to social protest must comply with the requirements of legality, necessity, and proportionality. Likewise, protecting the right to freedom of expression requires that the authorities ensure the necessary conditions for journalists to cover events of clear public interest, such as those related to social protests.

177. In 2021, the Office of the Special Rapporteur received reports of the alleged restriction of academic freedom in Canada when Verushka Lieutenant-Duval, a professor in the Faculty of Arts at the University of Ottawa, was suspended after using a term considered racist while teaching a virtual class on art and sexual identities. This Office also noted draft laws that could lead to setbacks in the right of access to information.

178. The Office of the Special Rapporteur learned that there has been an increase in self-censorship among educators, and that there are fears about using literary works from past centuries in their classes that may contain expressions now considered discriminatory.<sup>288</sup> In this context, the Office of the Special Rapporteur also received information that a teacher was suspended from her job after presenting Jacques Prévert's poem "*Pour Toi, Mon Amour*" to a class of teenagers, which was reported to be "culturally insensitive" because of the verses referring to slavery. In addition, the Toronto school district has reportedly banned the use of the poem in the classroom.<sup>289</sup>

179. In September 2021, the Office of the Special Rapporteur received information that the *Conseil scolaire catholique Providence* [Providence Catholic School Board], responsible for managing 30 schools in Ontario, allegedly pushed for the removal of some 5,000 books from schools in 2019 that it believed to be biased against Indigenous peoples. Among the works burned were Tintin, Asterix, and Lucky Luke comics, old encyclopedias, and biographies of the French explorers Jacques Cartier and Étienne Brûlé. Around 30 books were allegedly burned in a "purification" ceremony at one of the schools. The Board spokeswoman reported that it was meant to be "a gesture of reconciliation with the First Nations and a gesture of openness towards other groups represented in the school district and in society." In the wake of these events, the prime minister stated that while he considered reconciliation policies to be positive, he would never be for book burning.<sup>290</sup>

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<sup>285</sup> Canadian Association of Journalists. July 20, 2021. [CAJ and press freedom coalition win court challenge against RCMP media restrictions at Fairy Creek](#); CBC News. July 21, 2021. [Judge rules in favour of journalists' access to Fairy Creek blockade | CBC News](#)

<sup>286</sup> The Maple. September 12, 2021. [The Silencing Of Fairy Creek Journalists: RCMP Threaten and Obstruct Free Press](#); Canadian Association of Journalists. August 13, 2021. [CAJ urges RCMP to follow court order to respect media rights after journalist arrested at Fairy Creek](#).

<sup>287</sup> IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, paras. 10-13.

<sup>288</sup> Lé Délit. January 26, 2021. [L'enseignement d'œuvres jugées offensantes crée la controverse au département de littérature francophone de McGill](#) [Teaching works deemed offensive creates controversy in McGill's French literature department].

<sup>289</sup> City News. February 25, 2021. [TDSB student raises concerns over 'racially insensitive' poem assigned to French class - CityNews Toronto](#); The Times. June 18, 2021. [Revered Jacques Prévert love poem banned in Toronto for line about slave market](#).

<sup>290</sup> Deutsche Welle (DW). September 14, 2021. [Canada: polémica por la quema de libros de Astérix y Tintín en favor de la reconciliación indígena](#) [Canada: controversy over the burning of Asterix and Tintin books in support of Indigenous reconciliation]; Radio Canada. September 7, 2021. [Des écoles détruisent 5000 livres jugés néfastes aux Autochtones, dont Tintin et Astérix](#) [Schools destroy 5000 books deemed harmful to First Nations, including Tintin and Asterix]; Fox News. September 10, 2021. [Trudeau pans Canadian school's 2019 book-burning 'reconciliation' for Indigenous people](#); National Post. September 7, 2021. [Book burning at Ontario francophone schools as 'gesture of reconciliation' denounced](#).

180. The Office of the Special Rapporteur considers book burning to be a restriction on the free flow of information and ideas, and is of particular concern in democratic societies. In the Inter-American Principles on Academic Freedom and University Autonomy, the IACHR and its Special Rapporteurs emphasized that “the imposition of government restrictions on the research, discussion, or publication of certain topics, as well as the imposition of restrictions on access to publications, libraries, or physical or online databases, constitute prior censorship, which is prohibited by Article 13.2 of the American Convention on Human Rights and contrary to the right to education under Article 13 of the Protocol of San Salvador.”<sup>291</sup> While academic freedom does not allow for the advocacy of hatred against any person or group of persons for any reason, restrictions on freedom of expression require an analysis of the “(1) the social and political context, (2) status of the speaker, (3) intent to incite the audience against a target group, (4) content and form of the speech, (5) extent of its dissemination and (6) likelihood of harm, including imminence”<sup>292</sup> according to the threshold test in the United Nations Rabat Plan of Action.<sup>293</sup>

181. This Office also learned that, in Bill 22, the Government of British Columbia proposed to amend the Freedom of Information and Protection of Privacy Act by establishing a fee and various processing costs to file a request for access to public information. According to the information received, limited exemptions to payment are provided for in cases of requests for information considered to be in the public interest, or based on the financial circumstances of the applicant. Besides criticizing these provisions, the Canadian Association of Journalists pointed out that the new law could create loopholes that would allow departments or agencies to escape liability for failing to comply with access to information requests.<sup>294</sup>

182. The Office of the Special Rapporteur recalls that the transparency and accountability of public authorities strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

### **C. Freedom of expression and efforts to combat discrimination and exclusion**

183. In 2021, this Rapporteurship received information that a teacher was transferred from a public school in Chelsea, Quebec, for wearing a hijab while teaching. The decision to transfer the teacher to out-of-class duties, specifically by relocating her to a literary project, was allegedly made because she refused to stop wearing her hijab, in violation of the provincial law on the secularism of the State passed in Quebec in 2019. The law prohibits any person performing public duties in a position of State authority from wearing religious symbols.<sup>295</sup>

### **D. Freedom of expression and the Internet**

184. According to information provided by the State, Canada acknowledges the clear shortcomings of *laissez faire* governance of the digital environment. Therefore, it actively seeks to propose regulations, from an inclusive perspective, that balance competing interests such as economic growth, online safety, and respect for human rights. In 2021, the Office of the Special Rapporteur learned that the Government of Canada introduced Bill C-36 to amend the Criminal Code and the Canadian Human Rights Act, strengthening provisions against online hate speech.<sup>296</sup> According to the Inter American Press Association, there are concerns because the bill

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<sup>291</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Office of the Special Rapporteur for Economic, Social, Cultural, and Environmental Rights. [Principios Interamericanos sobre Libertad Académica y Autonomía Universitaria](#) [Declaration of Inter-American Principles on Academic Freedom and University Autonomy], 2021, p. 15.

<sup>292</sup> OHCHR, n.d. [Freedom of expression vs incitement to hatred: OHCHR and the Rabat Plan of Action](#).

<sup>293</sup> OHCHR. [Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred](#). A/HRC/22/17/Add.4. 11 January 2013.

<sup>294</sup> Legislative Assembly of British Columbia. [Bill 22 – 2021: Freedom of Information and Protection of Privacy Amendment Act, 2021](#); Canadian Association of Journalists. October 28, 2021. [“A thumb in the eye of transparency”: CAJ denounces BC’s proposed FOI amendments](#).

<sup>295</sup> NPR. December 11, 2021. [Canadian teacher reassigned under a controversial Quebec law for wearing a hijab](#); The Guardian. December 13, 2021. [Outrage as Quebec teacher removed from classroom for wearing hijab](#).

<sup>296</sup> Parliament of Canada. [C-36 \(43-2\) - An Act to amend the Criminal Code and the Canadian Human Rights Act and to make related amendments to another Act \(hate propaganda, hate crimes and hate speech\)](#).



“provides for the creation of government ‘digital security’ overseers to monitor ‘online service providers.’”<sup>297</sup> The Office of the Special Rapporteur is closely monitoring the progress of Bill C-10, one of the focal points of the debate on online governance in Canada during 2021.

185. On June 22, 2021, the Lower House passed Bill C-10 amending the Broadcasting Act to include the activities of online platforms under the jurisdiction of the Canadian Radio-television and Telecommunications Commission.<sup>298</sup> According to information received by this Office, the current wording of the bill could make content posted by users of digital platforms also subject to the policies of the Canadian Radio-television and Telecommunications Commission—especially after the Lower House removed provisions stating explicitly that content produced by social media users would not be covered by the law.<sup>299</sup> According to critics of the bill,<sup>300</sup> this could require platforms to moderate user-produced content, prioritizing or downgrading it according to criteria defined by the Commission, affecting how the online audience receives content and, therefore, affecting the right to freedom of expression online. However, the Department of Justice concluded that the bill did not pose a risk to the right to freedom of expression.<sup>301</sup>

186. The Office of the Special Rapporteur also noted that on July 29, 2021, the Canadian government put out a technical paper and opened a consultation process to debate proposed legislation to counter online content that disseminates child sexual exploitation, terrorism, incitement to violence, hate speech, or the sharing of intimate images—all defined as harmful online content. The main targets of the legislation would be online communication services and their providers operating in Canada, who, under the proposed legislation, would have to take proactive surveillance measures, including through automated systems, to identify these types of online content and make them inaccessible to people in the country. The paper also suggested that such platforms should be required to create mechanisms that allow any person in Canada to flag content as harmful and obtain an expedited review of the claim, followed by remedies available to affected users. It also suggested creating government bodies to oversee the enforcement of the regulations.<sup>302</sup>

187. In 2021, the Office of the Special Rapporteur also learned that the Federal Court of Appeal upheld the Federal Court’s decision to block a series of domains associated with Gold TV, in connection with allegations of piracy. In its 2020 Annual Report, the Office of the Special Rapporteur noted that, at the request of media organizations Bell, Rogers, and Groupe TVA, Canada’s Federal Court had issued the first nationwide “pirate” site blocking order in November 2019, directing the country’s leading ISPs to block several domains whose content allegedly violated copyright regulations. Throughout 2020, court orders were issued to ban 11 additional domains and subdomains related to the site. Internet provider TekSavvy Solutions Inc. appealed to the Federal Court of Appeal, which, in May 2021, upheld the lower court’s decision. In its ruling, the Court noted that although the appellant had argued that the order posed a risk to freedom of expression, the internet provider was not entitled to the right protected by section 2(b) of the Canadian Charter of Rights and Freedoms. It also held that, even considering the right to freedom of expression of the provider’s users, blocking these domains was a fair and equitable measure, and that neither freedom of expression nor net neutrality was sufficient to overcome the proportionality test, given the seriousness of the copyright violations committed by this site.<sup>303</sup>

188. As the Office of the Special Rapporteur has emphasized in previous years, freedom of expression applies to the internet in the same way as it does to all media. We reiterate that restrictions on freedom of expression on the internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest recognized under

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<sup>297</sup> Inter American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Canada](#).

<sup>298</sup> Parliament of Canada. [C-10. An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts](#).

<sup>299</sup> CARTT. April 26, 2021. [Bill C-10: Amendment removes social media exemption, but users and their content remain exempted](#); National Post. April 30, 2021. [Liberals shut down debate on Bill C-10 amendment allowing regulation of social media content](#); Government of Canada, n.d. [Why did the Government propose to remove section 4.1?](#)

<sup>300</sup> Michael Geist. May 27, 2021. [Why Bill C-10 Undermines the Government’s Commitment to the Principle of Net Neutrality](#); Centre for International Governance Innovation. June 2, 2021. [Bill C-10 and the Future of Internet Regulation in Canada - Centre for International Governance Innovation](#); Open Media. December 11, 2020. [What’s wrong with Bill C-10? An FAQ](#).

<sup>301</sup> CTV News. May 13, 2021. [Rights of social media users upheld in Bill C-10: Department of Justice | CTV News](#) Global News. May 18, 2021. [Justice minister defends finding that Bill C-10 doesn’t pose free speech concern](#); Michael Geist. May 14, 2021. [Failing Analysis: Why the Department of Justice “Updated” Charter Statement Doesn’t Address Bill C-10’s Free Speech Risks](#).

<sup>302</sup> Government of Canada. July 2021. [Technical paper - The Government’s proposed approach to address harmful content online](#).

<sup>303</sup> Federal Court of Appeal. [Teksavvy Solutions Inc. v. Bell Media Inc.](#) 2021 FCA 100. May 26, 2021.

international law (the “three-part” test).<sup>304</sup> The Office of the Special Rapporteur also urges Canada to continue to foster a broad debate on legislation affecting the exercise of freedom of expression online, as any regulation that affects the functioning of the internet must result from a robust and participatory dialogue and must consider the open, pluralistic, decentralized nature and democratizing potential of the internet.

189. The Office of the Special Rapporteur appreciates the information sent by the State regarding freedom of expression on the internet. The State reported on its initiatives for universal access to the internet and guarantees for the exercise of freedom of expression in the digital sphere. The Office of the Special Rapporteur commends the State for promoting the “Connect to Innovate” program, under which it plans to invest CAD\$585 million by 2023 “to bring high-speed internet to 975 rural and remote communities, including 190 Indigenous communities,” as well as the Universal Broadband Fund, which “supports high-speed internet projects throughout Canada.”<sup>305</sup>

190. The State also highlighted other programs that would contribute to digital literacy and guarantee freedom of expression online, access to information, informed debate, and civic engagement. The State pointed to the “Digital Citizen Initiative,” which offers tools to build citizens’ “resistance (...) to online disinformation”; the “Diversity of Content Online Initiative,” which “makes reliable information and content available to citizens from a wide range of viewpoints and perspectives” on matters of public interest; the “Playbook for Gender Equality in the Digital Age,” designed to disseminate “best practices for supporting gender equality in digital contexts” nationally and internationally; and the “Guidelines on Supporting Human Rights Defenders,” which, among other things, will help build an enabling digital environment for citizens. The Office of the Special Rapporteur recognizes that these initiatives are in line with Canada’s broad international participation in promoting multilateral spaces to discuss digital governance, such as the Freedom Online Coalition (FOC), the G7 Rapid Response Mechanism, and the UN High Level Panel for Digital Cooperation.<sup>306</sup> The Office of the Special Rapporteur encourages the State to continue promoting this debate and to be attentive to the recommendations of the actors and different stakeholders, as well as to consensus building in these spaces.

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<sup>304</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

<sup>305</sup> Permanent Mission of the Republic of Canada to the OAS. Information submitted by the State for the Annual Report of the Office of the Special Rapporteur. October 2021. Archives of the Office of the Special Rapporteur for Freedom of Expression.

<sup>306</sup> Permanent Mission of the Republic of Canada to the OAS. Information submitted by the State for the Annual Report of the Office of the Special Rapporteur. October 2021. Archives of the Office of the Special Rapporteur for Freedom of Expression.

## CHILE

191. In 2021, the Office of the Special Rapporteur received reports from different civil society actors about alleged attacks on press workers by police agents in the context of protests; alleged interventions to journalists' communications; acts of intimidation and criminalization of women who exercise their right to freedom of expression; and complaints about alleged pressures from government spheres on the media's editorial line. The Office of the Special Rapporteur received with concern reports on the excessive use of force in the context of social demonstrations. Among other events, the Office of the Rapporteur was informed about the indiscriminate use of tear gas, the launching of pressurized water jets, and alleged mass arrests of demonstrators. The SRFOE welcomes the progress reported by the State regarding the training of police officials to harmonize the actions of law enforcement agencies with human rights standards; legal reforms on the use of anti-riot shotguns; the implementation of the gender and human rights approach in the police function, with special attention to the protection of the rights of women and the LGBTIQ+ population; among others. This Office also received information on public policies aimed at providing information and communication technology (ICT) tools to students in public educational establishments, which is in line with the Office of the Special Rapporteur's repeated call for States to take prompt action to promote, progressively, universal access to internet infrastructure and the technology necessary for its use and affordability.

### A. Journalism and Democracy

192. As reported by civil society organizations, attacks on the press in contexts of social protest have worsened in 2021. In this sense, arrests and attacks have been documented, mainly the launch of pressurized water, which in addition to causing impacts and violent blows would have caused burns in press communicators. According to the information received, from 2019 to the present there have been at least 300 cases of violations to the freedom of expression of journalists who cover demonstrations, a figure that in any case, in their opinion, does not reflect the full dimension of what happened because many of the cases have not been reported. In this sense, civil society organizations warn of the existence of underreporting of attacks on the press in Chile, since there are no detailed reports or statistics that have been published by official bodies. They also add that the difficulties of registering and compiling cases are even greater in regions far from Santiago or in which the organizations that bring together journalists do not have support and contacts on the ground. According to the information reported to the Office of the Special Rapporteur, the alleged context of attacks on the press is exacerbated by the lack of progress in the judicial investigations into the disproportionate use of force in protests. On this point, civil society organizations have denounced widespread non-compliance by the justice system in terms of the principles of *ex officio*, timeliness, and exhaustiveness in the investigations of serious human rights violations<sup>307</sup>.

193. In this context, this Office observed with particular concern the arrest by the police of the *ElObservatorio.cl* journalist, Paulina Acevedo, when she was carrying out her work in Plaza Baquedano on March 11, 2021. The reporter was reportedly accused of violating the Chilean criminal code, in particular articles 216 on danger to public health and 318 on attack against authority. The journalist, who was in the company of her son (also detained, but later released), had a permit to carry out press work and her journalistic credentials, as the Office of the Special Rapporteur learned. On March 12, Observatorio Ciudadano reported that the charges against Paulina Acevedo had been dismissed in court and she had been released after more than 14 hours in detention<sup>308</sup>.

194. This Office also observed with concern the public complaint of journalist Claudia Aranda, who stated that she had been unlawfully detained on March 19 when she was carrying out her work in the context of a protest in the surroundings of Plaza Baquedano. In her account, the communicator said that after being detained, and due to the verbal and physical attacks, she lost consciousness and became nauseous, even begging them to release her, to which the agents' response would have been to turn up the music of the vehicle in which they were transporting her. In addition, she added that, although they told her that they would take her to check

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<sup>307</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by civil society organizations for the 180 Period of Sessions of the IACHR. June 2021.

<sup>308</sup> Citizen Observatory Twitter account (@ObservatorioC). [March 12, 2021](#); Resumen Latinoamericano. March 12, 2021. [Chile. La periodista Paulina Acevedo es detenida en Santiago por la policía militarizada](#); TeleSUR. March 13, 2021. [Liberan en Chile a Paulina Acevedo, detenida por Carabineros](#); Diario U Chile. March 12, 2021. [Periodista Paulina Acevedo fue sobresaída luego de casi 24 horas en detención](#).

her injuries at the Central Post, when they were heading there, the vehicle deviated, taking her to the First Police Station, where she was threatened and handcuffed again, in addition to suffering humiliating acts<sup>309</sup>. The IACHR and its Office of the Special Rapporteur expressed concern about the detention and the alleged acts of torture reported, and called on the State to investigate, prosecute, and punish the facts; and to grant full reparation to the victims. Likewise, they urged the State to prevent cruel, inhuman, or degrading treatment during demonstrations, incorporating a gender perspective<sup>310</sup>.

195. In addition, this Office received information about alleged attacks against reporters Felipe García, from the Association of Independent Reporters, and Vicente Rojas, from the Panoptik Agency, who were reportedly shot with rubber bullets by agents of the Investigative Police (PDI) while carrying out a news coverage of the funeral procession of an activist, on July 7. According to the information available, the journalists were reportedly identified as members of the press and were holding cameras when they were shot. The journalist Felipe García would have been transferred to a hospital due to the rubber bullet wound in his cheek, and discharged the same day, while Vicente Rojas would have been shot in the leg and there is no evidence that the injury required medical care<sup>311</sup>.

196. Physical attacks against journalists have also been recorded in other contexts. The Office of the Special Rapporteur observed with special concern the armed attack carried out on March 27 by unknown individuals against the journalistic team of *Televisión Nacional*, in the province of Arauco, Biobío region, when they were traveling to the area of the Mapuche conflict to carry out a series of interviews with Mapuche leaders. According to the information received, reporter Iván Núñez sustained minor injuries to his forearm; and cameraman Esteban Sánchez was shot in the arm, chest, and head and had to be hospitalized due to his serious condition. Medical reports would indicate loss of vision in his right eye, due to an eye burst<sup>312</sup>.

197. The IACHR and its Office of the Special Rapporteur have indicated that journalism represents one of the most important manifestations of freedom of expression in democratic societies. An independent and critical press is a fundamental element for the validity of the other freedoms that make up the democratic system. In this sense, the journalists, camerapeople, photojournalists, and communicators who cover the protests play a crucial role by collecting and disseminating information on what happens in demonstrations and social protests, including the actions of the security forces. The press plays a role of guarantor since its lenses and reporters observe *in situ* the compliance -or not- of the protocols of use of force and the peaceful nature -or not- of the protest or parts of it.

198. This Office of the Special Rapporteur recognizes the importance of the development of protocols for the maintenance of public order by Chilean police, which, according to information provided by the Chilean State, is intended to ensure "the right of human rights defenders, journalists, and leaders to exercise their work in the context of the demonstrations"<sup>313</sup>. The State also reported that in recent years "the OHCHR Guidelines for the Observation of Demonstrations and Social Protests for human rights observers have been disseminated and studied"<sup>314</sup>. Likewise, the Office of the Special Rapporteur records that between January 2020 and March 2021, according to State information, 19,988 police officials participated in at least one human rights training

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<sup>309</sup> El Diario de Antofagasta. March 21, 2021. ["Les supliqué muchísimo": Periodista denunció haber sido torturada por personal policial](#); Twitter account of Florencia Lagos Neumann (@FlorenciaLagosN). [March 20, 2021](#).

<sup>310</sup> Official Twitter account of the IACHR (@CIDH). [March 23, 2021](#).

<sup>311</sup> CPJ. July 14, 2021. [Agentes de la Policía chilena disparan balas de goma contra dos periodistas durante el cortejo fúnebre de una activista](#); Twitter account of Piensa Prensa (@PiensaPrensa). <https://twitter.com/PiensaPrensa/status/1412957719829549060?s=20> July 7, 2021.

<sup>312</sup> Twitter account of the Office of the Special Rapporteur for Freedom of Expression of the IACHR (@RELE\_CIDH). [March 29, 2021](#); Bio Bio Chile. March 27, 2021. [Atacan a Iván Núñez y equipo de TVN a disparos en Arauco: periodista está herido y camarógrafo grave](#); Duplos. June 13, 2021. [Iván Núñez y Esteban Sánchez vuelven al Bio Bio tras ataque](#); Cooperativa. March 27, 2021. [Equipo de TVN fue atacado por desconocidos armados en Tirúa](#); CPJ. March 30, 2021. [Disparan y hieren a reportero y a camarógrafo de Televisión Nacional de Chile](#).

<sup>313</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. P. 16. SRFOE Archives; Diario Oficial de la República de Chile. September 20, 2021. No. 43057. [Protocolos para el Mantenimiento y Restablecimiento del Orden Público: Actualiza Protocolos que Indica](#).

<sup>314</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. P. 16. SRFOE Archives.



event<sup>315</sup>. However, given the information received throughout 2021 and compiled in this report, the Office urges the State to continue training its security agents in accordance with international human rights standards on the use of public force. Likewise, this Office urges the State to continue investigating the complaints about the excessive use of public force against journalists in the context of social demonstrations.

199. The Office of the Special Rapporteur has followed up on the criminal investigation related to the alleged interceptions by the Army of the communications of the journalist Mauricio Weibel, who in 2015 published a series of reports in the newspaper *The Clinic* that disclosed the alleged misappropriation of funds to the inside the Army. The reports received indicate that the Chilean Army would have monitored and intercepted Mauricio Weibel's phone calls. During the investigation by the Prosecutor's Office, it could be proven that officials from the Army Intelligence Directorate (DINE) requested the Civil Registry records of Mauricio Weibel, as well as journalists Javier Rebolledo, Juan Cristóbal Peña, Pascale Bonnefoy, Santiago Pavlovic, and Danae Fuster, who at that time were investigating cases related to military corruption or human rights violations committed during the dictatorship. Various journalistic investigations would have shown that the authorization requested by the DINE from the judge of the Court of Appeals for the telephone intervention of Mauricio Weibel in 2017 was reportedly approved by fraudulent means, without knowing that it was about the journalist and his family<sup>316</sup>. The Office of the Special Rapporteur also learned that the judge denied having been deceived by the DINE, stating that at the time of the events he knew that the telephone number intercepted belonged to the journalist Mauricio Weibel<sup>317</sup>.

200. In a hearing during the 180 Period of Sessions of the IACHR, the State stated that in this case all the safeguards provided for carrying out intelligence actions were fully operational: the telephone intervention was authorized by a judge of the Court of Appeals, for a determined period, there was political control through sessions of the Special Commission for Control of the Intelligence System of the Chamber of Deputies in the years 2019 and 2021, and there are two ongoing court cases regarding these events. Additionally, they reported that in March of this year the Minister of National Defense instructed the Army to conduct an internal investigation to determine whether or not the procedures used in this case were in accordance with current legislation, which is underway<sup>318</sup>.

201. On the other hand, the Office of the Special Rapporteur has also received complaints about alleged pressures from the Presidency to hinder the free exercise of journalism. According to the information received, the chief of staff of the head of state reportedly contacted by telephone the owner of the Albavisión holding company—to which the television station *La Red* belongs—to express her annoyance with certain coverage of the channel, requiring him to modify his "leftist" editorial line and that it no longer broadcast news that "divides the country" and "damages democracy." As this Office was able to learn, these events would be linked, on the one hand, to an interview with Mauricio Hernández Norambuena, former member of the Manuel Rodríguez Patriotic Front (FPMR) and detained in the High Security Prison of Santiago, convicted of the murder of a senator. On the other hand, the call would also be linked to an investigation by the journalist Alejandra Matus—on which the "Mentiras Verdaderas" program would have delved into—about the president's alleged economic interests in the Enjoy casinos and alleged government measures to favor the company<sup>319</sup>.

202. Additionally, this Office was reported about the Army's questioning of the "Políticamente Incorrecto" program of *La Red* for a political parody that simulated an interview with a supposed Army high command. The institution released a letter rejecting the content broadcasted by the media, which in its opinion insulted and

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<sup>315</sup> Ministry of Justice and Human Rights, Undersecretariat for Human Rights, Interministerial Committee on Human Rights of the Republic of Chile. March 2021. State of progress on the measures adopted in relation to the recommendations received from national and international human rights organizations in the context of the social protests of 2019. pp. 5-6. SRFOE Archives.

<sup>316</sup> CIPER. March 29, 2021. [El documento que muestra cómo el Ejército engañó a la Corte de Apelaciones para espionar al periodista Mauricio Weibel](#); CIPER. April 9, 2021. [Espionaje del Ejército a Mauricio Weibel: Fiscalía indaga monitoreo militar a otros cinco periodistas](#); CNN Chile. April 5, 2021. [Weibel y espionaje del Ejército: "Espina tiene que haber visto que el documento era falso"](#); CPJ. April 15, 2021. [Informe: El Ejército chileno presuntamente monitoreó a periodistas de investigación](#).

<sup>317</sup> Cooperativa. April 21, 2021. [Juez negó haber sido engañado por el Ejército para espionar al periodista Mauricio Weibel](#).

<sup>318</sup> IACHR. [Public Hearing on the situation of freedom of expression of social communicators in Chile](#). 180 Period of Sessions. June 25, 2021.

<sup>319</sup> Interferencia. March 28, 2021. [Exclusivo: los entretelones de la polémica llamada de La Moneda al dueño de La Red](#); Infobae. April 15, 2021. [Denunciarán a Sebastián Piñera ante la CIDH: lo acusan de presionar a medios de comunicación chilenos](#); Twitter account of the journalist Mirko Macari (@mirkomacari). [March 19, 2021](#).

reviled the Army and its members with "the intention of delegitimizing and degrading it"<sup>320</sup>. This position would have been supported by the government through a press release from the Defense Minister, who described the channel's journalistic work as "regrettable."<sup>321</sup>

203. The Office of the Special Rapporteur welcomes the information provided by the Chilean State on the actions carried out to strengthen independent media, especially after public financing. The State reported that, through the Social Communication Media Fund of the Ministry General Secretariat of Government, it allocated significant amounts to Chilean social communication media of a regional, provincial, and communal nature through consultative and decision-making processes with Regional Councilors elected by Universal suffrage<sup>322</sup>. Likewise, it reported that the Fund for the Promotion of Quality of the National Television Council continued to work to "promote, finance or subsidize the production, transmission, or dissemination of programs of high cultural level or of national or regional interest", being "the most important subsidy to national television production". However, the Office of the Special Rapporteur recalls that any allocation of public resources must be in line with human rights standards so as not to involve methods of indirect censorship. As this Office has pointed out on other occasions, direct or indirect pressure aimed at silencing the informative work of social communicators is incompatible with freedom of expression<sup>323</sup>.

## **B. Freedom of Expression, Rule of Law, and Democratic Institutions**

204. The Office of the Special Rapporteur received with concern reports on the excessive use of force in the context of social demonstrations. Among other facts, the Office of the Rapporteur was informed about the indiscriminate use of tear gas, the launching of pressurized water jets, and alleged mass arrests of demonstrators<sup>324</sup>.

205. In this context, the Office of the Special Rapporteur recorded with concern the death of the member of the Popular Defender's Office, Denisse Cortés, allegedly after being hit by a projectile of unknown origin during the October 10 demonstrations in Santiago, according to public sources. According to publicly available information, Denisse Cortés was at the demonstration as a human rights observer, in order to record the actions of the law enforcement agencies<sup>325</sup>.

206. On March 19, the Office of the Special Rapporteur learned of various citizen complaints about the alleged disproportionate action by the police to disperse a protest organized around Plaza Italia in Santiago de Chile to demand the release of those detained since the beginning of the social outbreak of 2019, as well as to demand justice for police abuse<sup>326</sup>. According to the information received, the police agents reportedly used pepper spray and water cannons. According to police reports, at least eight people were detained during the demonstration against the Government<sup>327</sup>. According to the alternative media outlet *Piensa Prensa*, a photographer and several observers from the National Institute of Human Rights (INDH Chile) would have been attacked by the agents<sup>328</sup>.

207. According to the information available, on July 4, the first session of the Constitutional Convention would have been postponed for a few hours after alleged acts of abuse by the police force when trying to disperse the citizen protests in the surroundings of the enclosure, were recorded, which in turn led to discussions of constituents inside the compound, some of whom demonstrated with messages such as "free the

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<sup>320</sup> CNN. April 18, 2021. [Ejército envía carta a La Red denunciando injurias en sketch sobre "un militar de verdad"](#); La Tercera. April 20, 2021. [Parodia en La Red: la declaración de las FF.AA. que incomodó otra vez a La Moneda](#);

<sup>321</sup> CNN. April 18, 2021. [Gobierno apoya carta del Ejército enviada a La Red: "No es aceptable recurrir a la parodia para enlodar instituciones"](#); Diario U Chile. April 18, 2021. [Gobierno y Ejército recriminan al canal La Red por parodiar a un militar](#).

<sup>322</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. P. 2. SRFOE Archives.

<sup>323</sup> IACHR. [Annual Report 2020](#). Report of the Office of The Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 28. March 30, 2021.

<sup>324</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. P. 7. SRFOE Archives.

<sup>325</sup> Interferencia. October 11, 2021. [Conmoción causa muerte de activista de DDHH en protesta por derechos indígenas](#); Federación Internacional por los Derechos Humanos. October 11, 2021. [Chile: Muerte de Denisse Cortés en contexto de protesta social](#).

<sup>326</sup> Tele Sur TV. March 19, 2021. [Carabineros chilenos reprimen a manifestantes](#); RT. [Al menos 8 detenidos en Chile durante la represión de una nueva protesta contra el Gobierno](#). March 20, 2021.

<sup>327</sup> Twitter account of the Police - Prefectura Oriente (@carabproriente). [March 19, 2021](#).

<sup>328</sup> Twitter account of Piensa Prensa (@piensaprensa). [March 19, 2021](#).

prisoners for fighting", "no to repression", "if the repression does not stop, we will leave"<sup>329</sup>. In this context, the Office of the Special Rapporteur became aware of reports on alleged confrontations between the police and demonstrators outside the compound, including with water spray cars<sup>330</sup>. The police reported that at least 20 people were detained, and 30 police officers had been injured, while the INDH reported "51 people detained, in police stations 19th, 1<sup>st</sup>, and 48th" and that "no rights violations were reported"<sup>331</sup>. The Office of the Special Rapporteur was informed about the detention of journalists Daniela Parraguez and Catalina Carvallo<sup>332</sup>. The session was resumed hours later<sup>333</sup>.

208. The Office also learned that on July 15, police agents had acted disproportionately, and according to available information they had attacked and detained demonstrators who demanded the advancement of the pardon bill in favor of the people detained during the outbreak of 2019. Among the people arrested that day were constituents of Lista del Pueblo, who were taken to the 3rd Police Station in Santiago, according to reported information. As a result of the events, the board of directors of the Convention appeared at the police station to demand the release of the detained persons and the session of the Constitutional Convention was suspended. The constituents were released on the same day, according to available information<sup>334</sup>.

209. In October, the Office for South America of the United Nations High Commissioner for Human Rights (OHCHR) expressed concern about the state of constitutional exception imposed in the provinces of Arauco, Biobío, Malleco, and Cautín, which makes it possible to use the Armed Forces in public security tasks, in reference to the measure adopted by the executive power on October 12 and then successively extended by decree on at least three occasions at the close of this report. The government's decision, as the Office of the Special Rapporteur learned, is based on the alleged "serious disturbance of public order," with a "worrying increase and concentration of acts of violence," linked to "drug trafficking, terrorism, and organized crime." In this context, this Office stressed that "States must limit the use of the armed forces to the control of public order as much as possible, given that the training they receive is not aimed at the protection and control of civilians, or the management of manifestations." In addition, it indicated its concern regarding the alleged justification for the use of force by the authorities to establish "public order" as well as the references to "terrorist acts" and the alleged attempts to criminalize the persons injured as a result of this use of force<sup>335</sup>.

210. On the other hand, this Office views with concern various accusations by public officials that have the potential to increase the risk of demonstrators and increase the escalation of violence. According to the information received, the head of the Santiago Metropolitan Area would have indicated that "what we see on Fridays in Plaza Italia and in the center of Santiago are not protests: it is vandalism, it is delinquency"<sup>336</sup>.

211. This Office of the Special Rapporteur recalls that although States are called to adopt the necessary measures to prevent acts of violence and guarantee the safety of persons and public order in the context of social protests, these must be taken in strict accordance with international human rights standards, fulfilling

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<sup>329</sup> La Tercera. July 4, 2021. [Inicio de primera sesión de la Convención Constitucional debió ser suspendida debido a incidentes al interior y exterior del exCongreso](#); El Mostrador. July 4, 2021. [Constituyentes repudian actuar de Carabineros tras suspensión de sesión inaugural de la Convención Constitucional](#).

<sup>330</sup> Bio Bio. July 4, 2021. [Manifestantes se enfrentaron con Carabineros en el centro de Santiago en paralelo a sesión de la CC](#); Radio Universidad Chile. July 4, 2021. [Carabineros detiene a convencionales en manifestación por la libertad de presos políticos «Diario y Radio Universidad Chile](#)

<sup>331</sup> Bio Bio. July 4, 2021. [30 carabineros heridos y 20 manifestantes detenidos en primera jornada de Convención Constitucional](#); Twitter account of INDH Chile (@inddhh). [July 4, 2021](#).

<sup>332</sup> El Mundo. July 4, 2021. [Chile: Carabineros detienen dos periodistas del equipo de una delegada constituyente](#); Facebook account of Constituent María Rivera. July 4, 2021.

<sup>333</sup> Pauta. July 4, 2021. [Cronología de la inauguración de la Convención Constitucional](#); El Mostrador. July 4, 2021. ["Comenzó la fiesta democrática": Convención Constitucional quedó instalada y comienza la votación de la Mesa Directiva](#).

<sup>334</sup> Twitter account of Lista del Pueblo (@lalistapueblo). [July 15, 2021](#); Twitter account of Lista del Pueblo (@lalistapueblo). [July 15, 2021 \(it\)](#); CNN Chile. July 15, 2021. [Convencionales de la Lista del Pueblo son liberados de comisaría tras su detención en manifestación](#); El Mostrador. July 15, 2021. [Los constituyentes Alejandra Pérez y Manuel Woldarsky fueron detenidos mientras acompañaban a manifestantes en favor de los detenidos en el estallido social - El Mostrador](#).

<sup>335</sup> OHCHR South America. November 5, 2021. [Chile: ONU Derechos Humanos lamenta la muerte de comunero mapuche y manifiesta preocupación por la militarización en el sur y la escalada de violencia](#).

<sup>336</sup> La Tercera. February 19, 2021. [Marcelo Araya, general jefe de la Zona Metropolitana de Carabineros: "Lo que vemos los viernes en Plaza Italia no son protestas, es vandalismo"](#). Notiamérica. February 20, 2021. [Chile.- Al menos 19 detenidos y cinco carabineros heridos en una nueva jornada de protestas sociales en Chile](#).

the requirements of legality, exceptionality, proportionality, and absolute necessity in the use of force<sup>337</sup>. Likewise, they must promptly and exhaustively investigate and punish any agent responsible for the abuse of force during social demonstrations. In this framework, this Office urges the State of Chile to continue making progress in this matter, as registered in 2021. The Office of the Special Rapporteur received information regarding the progress made by the State regarding the recommendations received from national and international human rights organizations after of the social protests of 2019. The State reported progress, among other matters, regarding the training of police officials to harmonize the actions of law enforcement agencies with human rights standards; positive legal reforms regarding the use of anti-riot shotguns and regarding the structure of the police; progress related to the implementation of the gender and human rights approach in the police function, with special attention to the protection of the rights of women and the LGBTIQ+ population; among others<sup>338</sup>.

212. Additionally, the State stated that the Ministry of Justice and Human Rights is developing a pre-legislative process with for a bill on the right to peaceful assembly. This process included public debate discussions with civil society, academics, State agents, and other stakeholders throughout 2020. Likewise, the State reported on a digital citizen consultation on the right to peaceful assembly carried out on March 16 and April 30, 2021. According to the information sent, the police would have reiterated to its personnel the attributions related to human rights that certain groups such as human rights defenders, journalists, and leaders who carry out their work in the context of demonstrations have. Regarding statements that may incite violence, the Ministry of the Interior and Public Security noted that the authorities have issued statements that distinguish between peaceful demonstrations and acts of violence<sup>339</sup>.

213. Likewise, as the Office of the Special Rapporteur learned, on February 22, 2021, the Supreme Court resolved 16 protection appeals against the Ministry of the Interior and Police for the events that occurred after the social outbreak in 2019 in Valparaíso. The Court had to determine if they incurred in arbitrary and illegal acts in relation to the breach of their functions intended, on the one hand, to protect and restore public order (that is, about the actions of the police in adopting effective measures to repel attacks, acts of vandalism, looting, and damage caused by demonstrators) and, on the other hand, due protection of the rights of demonstrators (the relevance of the use of certain firearms, the proportional use of force, the use of certain implements to contain social demonstrations, and the possible harm to the right of assembly). In its ruling, the Supreme Court pointed out, regarding the proportionality in the use of force, that the protection remedy is not the ideal means to evaluate the legality of the police's actions when carrying out containment maneuvers in the demonstrations and compliance with the protocols, for which it revoked the judgment of the Court of Valparaíso. In relation to the protection of people and private property from fires and looting, the High Court upheld the appeal for protection and stated that police incurred in illegal omissions by not adequately preventing disturbances to public order, which have resulted in violations of the right to the property. Therefore, confirmed the sentence in this regard<sup>340</sup>.

214. Regarding access to public information, the Office of the Special Rapporteur received with satisfaction the decision of May 18 of the Council for Transparency, which obligates the Administrative Directorate of the Presidency of the Republic to "deliver to the claimant the information regarding the number and date of the meetings of the President of the Republic with representatives of the Media Federation, the National Press Association, the Association of Radio Broadcasters of Chile, and the National Television Association during the

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<sup>337</sup> I/A Court. *Case of Women Victims of Sexual Torture in Atenco v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 371. Para. 162.

<sup>338</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. SRFOE Archives.; Ministry of Justice and Human Rights, Undersecretariat for Human Rights, Interministerial Committee on Human Rights of the Republic of Chile. March 2021. State of progress on the measures adopted in relation to the recommendations received from national and international human rights organizations in the context of the social protests of 2019. pp. 5-6. SRFOE Archives.

<sup>339</sup> State of Chile. October 27, 2021. Official Letter 158/21 of the Permanent Mission of Chile to the OAS. Ref. Annual Report 2021 of the Office of the Special Rapporteur for Freedom of Expression. SRFOE Archives.; Ministry of Justice and Human Rights, Undersecretariat for Human Rights, Interministerial Committee on Human Rights of the Republic of Chile. March 2021. State of progress on the measures adopted in relation to the recommendations received from national and international human rights organizations in the context of the social protests of 2019. pp. 5-6. SRFOE Archives.

<sup>340</sup> Diario Constitucional. February 23, 2021. [CS revoca sentencia y desestima recurso de protección contra Carabineros de Chile por utilizar escopetas antidisturbios en diversas manifestaciones de la Región de Valparaíso](#); El Mostrador. February 24, 2021. [Corte Suprema revocó fallo que impedia a Carabineros el uso de escopetas antidisturbios en Valparaíso](#).



year 2020". Given this decision, the State Defense Council filed a claim of illegality against the Council for Transparency, alleging that provisions of the Lobby Law had been violated, which excludes the President of the Republic from keeping a record of hearings or meetings and to publish them through the lobby platform, and that the Transparency Law would have been used as an indirect way to circumvent said regulations. This claim was rejected by the Seventh Chamber of the Court of Appeals of Santiago on October 1<sup>341</sup>. Likewise, in December, the Board of Directors of the Council for Transparency accepted an injunction to order "the delivery of the information corresponding to the number of meetings of the President of the Republic with executives and representatives of the main media since December 1 October 2019"<sup>342</sup>.

215. The Office of the Special Rapporteur also learned that on September 30, the plenary session of the Chilean Constitutional Convention approved denialism and misinformation as infractions of its ethical principles. In its Ethics and Coexistence Regulations, the Convention establishes that disinformation is "the expression, through any physical or digital means, of a fact that is presented as real, knowing or should know that it is false"; and denialism "any action or omission that justifies, denies or minimizes, defends or glorifies the crimes against humanity that occurred in Chile between September 11, 1973 and March 10, 1990, and the human rights violations that occurred in the context of the social outbreak of October 2019 and after it" (art. 23). The concept of denialism also includes "any action or omission that justifies, denies or minimizes the atrocities and cultural genocide of which the original peoples and the Afro-descendant tribal people have been victims throughout history, during European colonization and from the constitution of the State of Chile"<sup>343</sup>. The Office of the Special Rapporteur was made aware of various civil society actors who expressed their concern over the approval of said legislation<sup>344</sup>. For example, Human Rights Watch noted that the approved definition of denialism was "vague and ambiguous and, therefore, inconsistent with international standards on freedom of expression"<sup>345</sup>.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

216. This Office welcomed the decision of the Valparaíso Guarantee Court on January 4, which definitively dismissed the members of the feminist collective LasTesis for the crimes of threats, attack against authority, and incitement to violence against the police as a result of a criminal complaint filed by the police. The complaint questioned a series of songs and audiovisual performances made by this artistic group, which were spread on social networks. However, the Office of the Special Rapporteur received information about a new complaint against LasTesis, promoted by the Chief Prosecutor of Valparaíso, for allegedly violating article 318 of the Chilean Penal Code by endangering public health. According to the information received, the complaint would be related to an artistic intervention carried out by the group of women on October 14, 2020, at the Prat Pier in Valparaíso, 100 kilometers from Santiago, within the framework of the campaign for the national plebiscite that took place in Chile for a constitutional reform. According to the prosecutor's complaint, in this context, LasTesis would have led a demonstration that called around 200 people, without having authorization to do so, violating the isolation measures ordered by the health authority. On January 19, 2021, the Valparaíso Court of Guarantees, through a payment order procedure --that is, without a timely opposition stage--, sanctioned LasTesis based on information that was not provided by the prosecution. The artistic group was sanctioned with a fine, allegedly imposed without evidence, which was suspended for six months with the mandatory requirement that they not repeat the crime they were charged with. According to the information received, due to the constitutional state of exception in which Chile finds itself and given the government

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<sup>341</sup> Consejo para la Transparencia. June 15, 2021. [Consejo de Defensa del Estado busca dejar sin efecto decisión del CPLT que ordenó a Presidencia entregar información sobre agenda del mandatario](#); Interferencia. June 12, 2021. [Consejo de Defensa del Estado se enfrenta a CPLT por amparo que exige transparentar la agenda de Piñera con medios de comunicación](#); Council for Transparency. Decisions. [Consejo de Defensa del Estado con Consejo para la Transparencia. Rol 318-2021](#). Decision of the Seventh Chamber of the Court of Appeals of Santiago. October 1, 2021.

<sup>342</sup> Twitter account of the Observatory of the Right to Communication of Chile (@OdcChile). December 9, 2021.

<sup>343</sup> Convención Constitucional. [Reglamento de Ética y Convivencia: prevención y sanción de la violencia política y de género, discursos de odio, negacionismo y distintos tipos de discriminación; y de probidad y transparencia en el ejercicio del cargo](#). Approved in September 2021, with modifications in December 2021; El Mostrador. September 30, 2021. [Pleno de la Convención aprueba definición de negacionismo entre reclamos de la derecha e incluye indicación sobre "desinformación"](#).

<sup>344</sup> Pauta. October 2, 2021. [Abogados: norma aprobada sobre el negacionismo vulnera la libertad de expresión](#); Radio Universidad Chile. October 1, 2021. [¿Censura en la Convención?: Reglamento de Ética abre debate sobre límites a la libertad de expresión](#).

<sup>345</sup> Twitter account of Human Rights Watch in Spanish (@hrw\_espanol). [October 1, 2021](#).

measures that severely reduce the right of movement, this sanction would disproportionately limit their right to freedom of expression<sup>346</sup>.

217. On the other hand, according to public information, the National Monuments Council would have declared publicly that the mural made by the singer Mon Laferte was not duly authorized, inviting her to “regularize” her work, located in the Cerro Alegre sector of Valparaíso. Previously, as the Office learned, the artist’s work had been questioned by the Regional Ministerial Secretariat of Cultures, Arts and Heritage of the Valparaíso region, who in statements to a radio station commented that the work seemed “selfish and individualistic” and questioned whether she had the corresponding permits<sup>347</sup>.

218. The IACHR has indicated that the right to free demonstration and peaceful protest are essential elements of the operation and the very existence of the democratic system, as well as a channel that allows people and different groups in society to express their demands, disagreements, and complaints regarding the government, their particular situation, intolerance and discrimination, as well as access to and compliance with political rights and economic, social, cultural and environmental rights. It is the duty of States to ensure the enjoyment of this right by all persons and groups without the need for authorization, and in particular to adopt positive measures in relation to groups historically excluded from public debate, such as women. In its report Protest and Human Rights, the Commission recommended that the States of the region establish by law, clearly and explicitly, the presumption in favor of the legality of demonstrations and peaceful protest, which implies that the security forces must not act under the assumption that they constitute a threat to public order. For this office, the speech of women who denounce violence due to their status as women is a historically silenced speech and, therefore, especially protected in our time. In this sense, we invite the State to identify possible obstacles or limitations to the freedom of expression of women who denounce violence against them and tune institutional practices to the reinforced protection of this type of speeches.

#### **D. Freedom of Expression and the Internet**

219. The Office of the Special Rapporteur was informed about the presentation of a new bill in the Chilean Congress that would seek to regulate digital platforms<sup>348</sup>. On November 24, a group of civil society organizations published a statement in which they expressed their concern about the dangers for the exercise of rights that the project would imply. In particular, they point out that it contains broad and vague concepts, and that it seeks to transfer the rules that govern the offline world to platforms in a way that hinders online operation and generates incentives for the removal of content. In addition, they question the concepts of “freedom of digital expression” and “digital consumer”. Likewise, they maintain that the project addresses the phenomenon of disinformation in a way that is disconnected from international experience in the matter, damaging the guarantees of freedom of expression and information without prior censorship, and contains provisions, such as the establishment of objective responsibility of the platforms, that directly contravene the recommendations of human rights organizations to ensure and promote a free and open internet, and guarantee freedom of expression<sup>349</sup>. Given this situation, the Special Rapporteur offered his availability to provide technical support, due to the importance of the debate in the exercise of freedom of expression on the Internet<sup>350</sup>. The Office of the Special Rapporteur welcomes the openness and availability of the State of Chile to discuss the problems and challenges that the Internet presents for the exercise of human rights.

220. The Office of the Special Rapporteur recalls that freedom of expression applies to the Internet in the same way as to all media. This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they

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<sup>346</sup> El Desconcierto. January 4, 2021. [Sobreseídas integrantes de LasTesis por delitos de atentado contra la autoridad y amenazas contra Carabineros](#).

<sup>347</sup> La Tercera. February 10, 2021. [Consejo de Monumentos Nacionales dice que mural de Mon Laferte no está autorizado y la “invita” a regularizarlo](#); Bio Bio. February 10, 2021. [Consejo de Monumentos Nacionales no autorizó el mural de Mon Laferte en Valparaíso](#).

<sup>348</sup> Cámara de Diputadas y Diputados. [Proyecto de ley: Regula las plataformas digitales](#). September 1, 2021.

<sup>349</sup> IFEX. November 24, 2021. [Sociedad civil internacional alerta sobre los peligros para el ejercicio de derechos de proyecto de ley de regulación de plataformas digitales presentado en Chile](#); Derechos Digitales. September 24, 2021. [El proyecto de ley para la regulación de las plataformas digitales atenta contra los derechos humanos](#); El Mostrador. October 1, 2021. [Agrupaciones manifiestan reparos a proyecto que regula las plataformas digitales y recomiendan no seguir con su tramitación en el Congreso](#); Global Network Initiative. October 27, 2021. [GNI Letter and Analysis: Draft Digital Platform Regulation in Chile](#).

<sup>350</sup> Official Twitter account of Pedro Vaca (@PVacaV). [November 25, 2021](#).

must be provided for by law and pursue a legitimate purpose recognized by international law, be necessary and proportionate to achieve said purpose. In this sense, the Office of the Special Rapporteur reiterates the importance that any legislation that regulates the Internet does not contain vague and general definitions or disproportionately affect the free flow of information.

221. Likewise, the State reported that in 2021, 150,000 students from publicly funded establishments were provided with information and communication technology tools (ICT), such as hardware, software, digitized content, and connectivity, that are suitable for study<sup>351</sup>. In this regard, the Office of the Special Rapporteur welcomes these measures, which are in line with the Office's call for States to take prompt action to progressively promote universal access to Internet infrastructure and the technology necessary for its use and affordability<sup>352</sup>. As the IACHR and its Office of the Special Rapporteur have pointed out on multiple occasions, access to the Internet is currently a sine qua non condition for the full enjoyment of human rights. The Office of the Rapporteur encourages the State to continue working on the development of positive measures to reduce the digital divide faced by vulnerable groups, and which on many occasions can reinforce the pre-existing inequalities to which they are exposed<sup>353</sup>.

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<sup>351</sup> Estado de Chile. 27 de octubre de 2021. Oficio 158/21 de la Misión Permanente de Chile ante la OEA. Ref. Informe Anual 2021 de la Relatoría Especial para la Libertad de Expresión. Pp 16. Archivos de la RELE

<sup>352</sup> CIDH Relatoría Especial para la Libertad de Expresión. Libertad de Expresión e Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 diciembre 2013. Párr. 15

<sup>353</sup> CIDH. Relatoría Especial para la Libertad de Expresión. Guía para garantizar la libertad de expresión frente a la desinformación deliberada en contextos electorales. OEA/Ser.G CP/CAJP/INF.652/19. 2019. P. 39

## COLOMBIA

222. Journalism continues to be a profession facing risks in Colombia. In 2021, the Office of the Special Rapporteur followed up on various reports on attacks, threats, and intimidation of communicators who report on matters of public interest, especially related to corruption, gender violence, armed confrontations, and criminal groups. On the other hand, this Office observed with concern the complaints about excessive use of force against protesters in the framework of the protests that began on April 28 in Colombia, as well as reports of threats and intimidation, arbitrary detentions, and forced disappearances. The reports received also show possible uses of technology aimed at inhibiting or restricting the internet signal, such as blocking page addresses (URLs) that contained information related to the protests. During their working visit, the Commission and the Office of the Special Rapporteur observed that the digital conversation had a significant relevance in the discussions on the human rights situation in Colombia. The testimonies show that the internet is a transcendent platform for public deliberation, at the same time, they expressed fears that some speeches may encourage violence or reduce the voice of those who want to express themselves on matters of public interest.

### A. Journalism and Democracy

223. The exercise of journalistic work continues to present risks and difficulties in Colombia. In 2021, the Office of the Special Rapporteur documented attacks, threats, and intimidation against journalists for the exercise of their profession, especially against those who cover highly sensitive issues in different regions of the country, such as drug trafficking and violence by armed groups, a factor that in many cases increases the risk situation of the press. The IACHR and its Office of the Special Rapporteur learned that the development of the social protests that took place in Colombia as of April 28 were accompanied from the beginning by an important display of press coverage. During the working visit that took place between June 8 and 10, 2021, the Commission and the Office of the Special Rapporteur received reports from journalists who were victims of attacks and obstructions to their informational work in the context of social demonstrations.

224. Violence against the press still constitutes one of the main challenges for the exercise of the right to freedom of expression in Colombia. In 2021, this Office registered the murder of journalist Marcos Efraín Montalvo on September 19, in the municipality of Tuluá, department of Valle del Cauca. According to the information available, the reporter was shot by an unknown individual when he was in a commercial establishment in the La Esperanza neighborhood.<sup>354</sup> Marcos Montalvo had a long journalistic career in local radio stations and newspapers such as *El Tabloide* and *El Mercurio* of Tuluá, as well as in the newspaper *El País* of Cali. As reported to the Office of the Special Rapporteur, in recent years, the journalist had reported mainly through his social networks on matters related to corruption and government irregularities in Tuluá, and on organized crime. According to the reports received, in 2019 the reporter would have been subjected to physical and intimidating attacks, and in recent months he would have received threats through his social media channels. The Office of the Ombudsman of Colombia insisted on the importance of obtaining "quick results in the investigations carried out by the authorities, to clarify the events that occurred and find those responsible." Likewise, the State reported that it is actively working on the investigation of the facts of the case.<sup>355</sup>

225. The Office of the Special Rapporteur recalls that the murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press. The States must fully, effectively, and impartially investigate the facts, clarify its motives, and judicially determine the relationship it may have to journalistic activity and freedom of expression.

226. On the other hand, the Office of the Special Rapporteur was informed of the death of the indigenous communicator Beatriz Elena Cano, after being attacked on June 4 in the municipality of Santander de Quilichao, department of Cauca. The communicator reportedly received three bullet wounds in the framework of a violent attack allegedly attributed to armed groups.<sup>356</sup> Beatriz Cano worked as an announcer for the community radio

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<sup>354</sup> Deutsche Welle (DW). September 21, 2021. [Colombia: journalist Marcos Montalvo shot to death](#); CPJ. September 28, 2021. [Colombian journalist Marcos Efraín Montalvo is shot to death](#).

<sup>355</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression. October 15, 2021. Press release R275/21. [The Office of the Special Rapporteur condemns the murder of journalist Marcos Efraín Montalvo in Colombia and calls on the State to investigate the facts](#).

<sup>356</sup> Tiempo. June 8, 2021. [Journalist Radio Payumat, Beatriz Cano, died](#); Revista Semana. June 7, 2021. [Indigenous communicator Beatriz Cano died after an attack in Santander de Quilichao, Cauca](#).



station *Radio Payumat*, and she was part of the team of community communicators of the Cerro Tijeras César Galarza reservation and the Tejido de Comunicación para la Verdad y la Vida.<sup>357</sup>

227. Among other events documented in 2021 regarding attacks and intimidation of the press<sup>358</sup>, the Office of the Special Rapporteur was informed about alleged attacks against the independent journalist and *CM&* correspondent in the Cauca region, Camilo Fajardo, by members of the Mobile Anti-Riot Squad (*Esmad*) when he was covering a student protest and alleged clashes with the police, on February 15 in the city of Popayán.<sup>359</sup> Likewise, the Office of the Special Rapporteur received with concern the reports on the attack on the life of photojournalist Luis Carlos Ayala, on April 20 in Cali, and that could be linked to his profession. According to the information available, the journalist was outside the home of an acquaintance, when an unidentified individual who was traveling on a motorcycle called him by name and, when the journalist tried to flee, he shot him twice, leaving him wounded in the face and right arm.<sup>360</sup> On the other hand, on June 8, eight unidentified individuals who were traveling on motorcycles shot at the residence of journalist Pincen Mora, director of the independent digital media *Extrema Noticias*, in Medellín. According to the information received, the journalist had already received threats in the previous weeks, which would be linked to his publications about alleged scams in the sale of lots in his neighborhood by a local gang.<sup>361</sup> This Office also learned of the death threats reported by the independent journalist Katia Ospino, which, according to the information received, are linked to her investigations into alleged cases of gender-based violence and corruption.<sup>362</sup>

228. Likewise, according to the information reported to this Office, there is a climate of silencing among journalists who have covered the conflict of forced displacement in the municipality of Ituango, Antioquia, due to threats and intimidation from illegal groups. In addition to the fear of reporting, the press has pointed out the lack of access to information, obstructions to their informative work and hostile treatment by public officials, according to information from a public source.<sup>363</sup>

229. The Office of the Special Rapporteur reiterates that, in accordance with Principle 9 of the IACHR Declaration of Principles on Freedom of Expression, “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation”. As has been pointed out on other occasions, the lack of sanctions for the material and intellectual perpetrators of the attacks related to the exercise of journalistic activity encourages the occurrence of new crimes and generates a notorious effect of self-censorship.

230. In the aforementioned context, in 2021 the IACHR granted precautionary measures to communicators who face imminent risks to their lives and integrity when carrying out informational work. On January 14, 2021, the Commission granted precautionary measures in favor of the reporter Ricardo Calderón Villegas, understanding that he was in a situation of risk as a result of the exercise of his journalistic work, and due to threats, surveillance and monitoring, by of those who identify as agents of the State or third parties linked to them, as a result of his investigations as a journalist.<sup>364</sup> According to the Commission, through journalistic

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<sup>357</sup> El País Colombia. June 8, 2021. [Indigenous communicator, another victim of an armed attack against the Police in Santander de Quilichao](#); Noticias Caracol. June 8, 2021. [Grief over the death of Beatriz Cano, communicator victim of the attack in Cauca](#).

<sup>358</sup> Coalition for Women in Journalism. [Colombia: CFWIJ Demands an Investigation into the Assassination Attempt on Rebecca Linda Marlene Spöressor](#); RCN. September 10, 2021. [Dissidents plagiarized and forced a journalist to record evidence of the survival of kidnapped colonel: Flip](#); CPJ. July 2, 2021. [Colombian riot police officers beat two RCN Radio journalists who were documenting police violence](#); Informativo del Guaico. September 15, 2021. [Communicators from a community station in Puerres are threatened](#).

<sup>359</sup> El Tiempo. February 15, 2021. [Journalist, attacked after clash between students and Esmad, on the march](#); Pulzo. February 16, 2021. [\[Video\] Journalist denounces attack by Esmad agent in student protests](#).

<sup>360</sup> CPJ. April 27, 2021. [Colombian journalist Luis Carlos Ayala survives attack](#); El Tiempo. April 22, 2021. [Before being shot, a photojournalist was called by his name](#).

<sup>361</sup> CPJ. June 17, 2021. [Colombian journalist Pincen Mora escapes from an attack in Medellín unharmed](#); Blu Radio. June 10, 2021. [The house of an independent journalist and his family were shot at in Medellín](#).

<sup>362</sup> Diario del Norte. July 27, 2021. [Gaitanista Self-Defense Forces of Colombia threaten with death journalist Katia Ospino](#); Semanario La Calle. July 28, 2021. [A well-known journalist from Valledupar is threatened with death](#); FLIP. October 8, 2021. [We reject threats against journalist Katia Ospino](#).

<sup>363</sup> FLIP. August 4, 2021. [Indirect censorship of journalistic coverage in Ituango](#); Movimientos Ríos Vivos. July 25, 2021. [The usual exiles. They vacate the field in Ituango Antioqui](#); Colombia Informa. July 27, 2021. [Humanitarian crisis in Ituango due to forced displacement](#).

<sup>364</sup> IACHR. January 19, 2021. Press release 011/21. [The IACHR grants precautionary measures in favor of journalist Ricardo Calderón Villegas in Colombia](#); CPJ. January 20, 2021. [The Inter-American Commission on Human Rights requests the Government of Colombia to protect the](#)

activity on issues related to the National Army, his visibility and risk situation is significant. Although at the time of making the decision he was no longer working for the magazine *Semana*, the Commission considered that to the extent that he makes his investigations public, either in a personal capacity or through a media that supports him, the situation he has faced is liable to continue in time.<sup>365</sup>

231. Likewise, on August 28, the IACHR granted precautionary measures in favor of journalists José Alberto Tejada Echeverri and Jhonatan Buitrago, journalist and cameraman, respectively, of *Canal 2* of Cali, who were allegedly harassed and threatened on the grounds of their coverage of the protests and acts of violence that have taken place in Colombia since April 28, 2021<sup>366</sup>. Among other events reported to the IACHR and its Office of the Special Rapporteur, on June 4, 2021, in the context of the demonstrations, ESMAD agents fired firearms at the reporters, even when they identified themselves as members of the press.<sup>367</sup> Likewise, they were subject to surveillance, photographic records of the station's headquarters, and threatening messages from people allegedly linked to the Police, which among other reasons would have led to the forced displacement of Jhonatan Buitrago and his family<sup>368</sup>. The journalists also denounced an alleged murder plan by which 30 million pesos were raised for an attack against the life of journalist Alberto Tejada.<sup>369</sup> In the framework of the process of requesting precautionary measures before the IACHR, the State indicated that the use of non-lethal weapons by the security forces in the framework of demonstrations complies with the obligations indicated in the instruments adopted by the international community, that such use seeks to guarantee the rights and freedoms of the individual in society and not cause harm to those who are in the free exercise of the right to public and peaceful demonstration. Likewise, it indicated that each member of the National Police has full identification and that each of the procedures and interventions carried out within the framework of the demonstrations was adjusted to the normative framework, both international and national. Additionally, it pointed out that the Office of the Attorney General of the Nation has "different files as victims of the crime of threats" in relation to the reporters, an investigation that would be active and in the investigation stage.<sup>370</sup>

232. This Office was also informed about alleged actions to monitor and collect personal and sensitive data without due authorization from the National Protection Unit (UNP) to the detriment of the journalist Claudia Julieta Duque, who since 2009 has been a beneficiary of precautionary measures before the IACHR.<sup>371</sup> According to information from a public source, more than 25,000 records collected by the UNP were revealed, taken between February and August 2021, through the GPS device installed in the protection car assigned to the journalist.<sup>372</sup> The Office of the Special Rapporteur has warned on previous occasions about the situation of threats and harassment of which Claudia Julieta Duque has been the target. In August 2020, the Administrative Court of Cundinamarca determined that the Administrative Department of Security (DAS), the Public Prosecutor's Office and the Ministry of the Interior were responsible for the damage caused to the journalist and her relatives as a result of the kidnapping, threats, and psychological torture of which she was a victim since August 1999 for her informative work on the murder of comedian Jaime Garzón.<sup>373</sup>

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[physical integrity of journalist Ricardo Calderón](#); Revista Semana. January 20, 2021. [Due to threats from State agents, IACHR grants precautionary measures to journalist Ricardo Calderón](#).

<sup>365</sup> IACHR. January 14, 2021. Resolution 6/2021. [Precautionary measures No. 207-20](#). Ricardo Calderón Villegas regarding Colombia.

<sup>366</sup> IACHR. August 31, 2021. Press Release 227/21. [The IACHR issued precautionary measures in favor of two journalists from Canal 2 of Cali, in Colombia](#).

<sup>367</sup> IACHR. August 28, 2021. Resolution 69/2021. [Precautionary Measure No. 512-21](#). José Alberto Tejada Echeverri and Jhonatan Buitrago regarding Colombia ("Journalists from *Canal 2* of Cali"); FLIP. June 4, 2021. [FLIP warns of risk against Canal 2 journalists](#).

<sup>368</sup> IACHR. August 28, 2021. Resolution 69/2021. [Precautionary Measure No. 512-21](#). José Alberto Tejada Echeverri and Jhonatan Buitrago regarding Colombia ("Journalists from *Canal 2* of Cali"); Interchurch Commission for Justice and Peace. June 11, 2021. [Death threats to the Canal 2 Cali team](#); Pulzo. June 5, 2021. [A journalist from Canal 2 in Cali says that the police threatened him with death](#).

<sup>369</sup> Infobae. July 8, 2021. [Report of collection of \\$ 30 million to assassinate journalist José Alberto Tejada in Cali](#); Contagio Radio. July 8, 2021. [Revealed attack plan against Alberto Tejada of Canal 2](#).

<sup>370</sup> <sup>370</sup> IACHR. August 28, 2021. Resolution 69/2021. [Precautionary Measure No. 512-21](#). José Alberto Tejada Echeverri and Jhonatan Buitrago regarding Colombia ("Journalists from *Canal 2* of Cali"). Paras. 15-17.

<sup>371</sup> El Tiempo. October 6, 2021. [It is denounced that UNP is collecting sensitive data from journalists](#); Latam Journalism Review. October 27, 2021. [Colombian press freedom organization warns about collection of sensitive data belonging to at-risk journalist](#); Infobae. October 27, 2021. [The UN makes statement on the alleged UNP persecution of journalist Claudia Duque](#).

<sup>372</sup> FLIP. October 25, 2021. [Letter to the UNP: Massive and unauthorized collection of highly sensitive data from journalist Claudia Julieta Duque](#).

<sup>373</sup> El Espectador. August 8, 2020. [The State is responsible for the psychological torture of Claudia Julieta Duque: Court](#); El Tiempo. August 10, 2020. [The Nation is condemned for the case of journalist Claudia Julieta Duque](#).

233. In 2021, this Office followed with concern the reports of violence against journalists in the framework of the social protests that began on April 28 in response to a tax reform proposal presented by the Government. Different testimonies received by the Commission and its Office of the Special Rapporteur during the working visit agreed that the guarantees for news coverage had deteriorated in this context. According to the information registered by the IACHR in its observations and recommendations published on July 7, 2021, at least 236 attacks have been registered since the beginning of the demonstrations, which would include physical attacks, threats related to their work in coverage, theft and elimination of documentary material, harassment, obstructions to journalistic work, illegal detentions, attacks on the media, among others.<sup>374</sup> Likewise, the IACHR and its Office of the Special Rapporteur received information about the fear among women journalists of sexual violence at the time of reporting. In this regard, the Commission was informed about a case of sexual violence against a journalist in the city of Cali.<sup>375</sup> According to the Antonio Nariño Project, which groups together various organizations and unions linked to journalism in Colombia, the period of protests has represented the most violent against the press in recent decades.<sup>376</sup> According to the Foundation for Press Freedom, 54.1% of the 236 attacks could be attributed to the public force, 31.6% to individuals, 4% to public officials and the remaining 10.8% is unknown.<sup>377</sup>

234. According to the testimonies received from more than 40 reporters from Bogotá, Cali, and Popayán, the harassment of the press has come from both security agents and armed protesters and civilians. Although the State has reported on the opening of at least 8 disciplinary investigations for attacks against journalists, complaints were also received that most of these attacks were not dealt with diligently by the authorities.<sup>378</sup>

235. The acts of violence against the press, coupled with the lack of institutional response to these events, have generated, according to the testimonies received, a generalized climate of silence and "no-go areas" for practicing journalism, for fear of reprisals, aggressions, or stigmatization.<sup>379</sup> This has caused, as indicated by several journalists who met with the Commission, that communicators decide not to go out to report or, in some cases, choose not to visibly wear their press identification or badges of the media outlet to which they belong. Additionally, according to the information received, as a result of the escalation of violence against the press in the streets, part of the coverage of the protests began to be made from images and videos taken from the Internet.<sup>380</sup>

236. The Office of the Special Rapporteur also recorded attacks against media facilities by some protesters. Thus, for example, the facilities of the *RCN* channel and *Semana* magazine were reportedly the target of attacks on April 28, putting at risk the physical integrity of journalists and the development of the news service.<sup>381</sup> On June 23, protesters once again attacked *RCN Radio's* facilities in Bogotá, leaving graffiti on its walls with messages such as "Disinformation" and "Media belong to the rich and the murderous state".<sup>382</sup> According to testimonies received, these attacks occur in a context in which authorities and political or social leaders incur

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<sup>374</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 87; CPJ. May 7, 2021. *CPI and partner organizations urge Colombian authorities to address press freedom violations in response to protests*; FLIP. May 28, 2021. *After 28 days of unemployment, the violence against the press does not stop*; RT. May 8, 2021. *"We are the press, why did they shoot us?": 3 Colombian journalists record how Esmad shoots them with pellets while covering protests*.

<sup>375</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 88.

<sup>376</sup> Gabo Foundation. June 11, 2021. *Urgent requests for a press free of violence in Colombia*.

<sup>377</sup> See information at [www.flip.org.co](http://www.flip.org.co).

<sup>378</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Testimonies and information received in the framework of the IACHR's working visit; IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 89; Voices from the South. June 9, 2021. *Colombian Prosecutor's Office orders the archive of the investigation of the ESMAD attack on journalists*.

<sup>379</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 90; Reporters Without Borders. May 4, 2021. *Colombia - Frontal attack on press freedom in social protests*; Voices from the South. June 4, 2021. *Colombian press self-censors as a self-protection mechanism*.

<sup>380</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Testimonies and information received in the framework of the IACHR's working visit; IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 90.

<sup>381</sup> Noticias RCN. April 28, 2021. *RCN and NTN24 News Press Release on attack on RCN Channel facilities*; Revista Semana. April 29, 2021. *National Strike | Vandals attacked SEMANA and RCN Televisión facilities*; El Espectador. June 11, 2021. *National Strike: On the 44th day of protests, vandalism was reported in the north of Bogotá*;

<sup>382</sup> Infobae. June 23, 2021. *Video | Protesters vandalized the RCN Radio building in Bogotá*; El Espectador. June 23, 2021. *A new attack is registered at the RCN Radio facilities in Bogotá*; Yolanda Ruiz Ceballos (@YolandaRuizCe) Twitter account. [June 23, 2021](https://twitter.com/YolandaRuizCe/status/1406000000000000000).

stigmatizing accusations that encourage citizen rejection of the press that has editorial lines other than those of their preference.<sup>383</sup>

237. In this context, the IACHR and its Office of the Special Rapporteur have positively valued the adoption of Directive 011 of 2021 of the Office of the Attorney General of the Nation, which urges members of the national government, mayors, governorships, public forces and, in general, all State servants, to be guarantors of the rights to freedom of expression and information.

238. As has been stated on multiple occasions by the IACHR and its Office of the Special Rapporteur, freedom of expression protects the right to record and disseminate any incident in the context of social protests, for which the States must offer journalists the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest. In this framework, it is especially relevant that people who exercise public functions maintain a discourse favorable to freedom of expression, ensuring that their pronouncements are not infringing on the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts, such as journalists, the media, and organizations that defend human rights and must pay attention to the context in which they express themselves. According to the Inter-American Court of Human Rights, this type of statements from public officials could constitute an indirect restriction on the right to freedom of expression.

239. On the other hand, the Office of the Special Rapporteur has also continued to monitor the use of criminal figures against journalists who report on matters of public interest in Colombia. On March 24, the Labor Chamber of the Supreme Court ratified the ruling of the Superior Court of Bogotá, issued on October 15, 2020 -and reported by this Office in its 2020 annual report- which convicted journalist Vicky Dávila and Radio Cadena Nacional SAS (La FM) to the payment of compensation over USD\$43,000 in favor of former Police Commander Jorge Hilario Estupiñán and his family in damages<sup>384</sup>. According to the information received, the former commander had been removed from his post after the journalist reported on allegations of corruption against him. In its ruling, the Labor Chamber of the Supreme Court warned that, within the framework of its work, the press must act with "social and ethical responsibility, avoiding directing or influencing the results of investigations that by competence are assumed by the bodies in charge for this" since "issuing value judgments and incriminations that conflict with impartiality, can contribute to unleashing conflicts or violations of fundamental rights".<sup>385</sup> The decision will be reviewed by the Constitutional Court, based on publicly available information.<sup>386</sup>

240. The State of Colombia has informed of its commitment "to do absolutely everything necessary to protect freedom of the press, freedom of expression and to ensure that no aggression against those whose duty it is to defend the truth and the freedoms of a society remains unpunished". In this sense, they point out that the investigation of homicides and threats against journalists and human rights defenders is a commitment of the current administration and in this sense it has undertaken the work of visualizing within the Prosecutor's Office the importance of advancing with concrete results in this matter. The lines of work would be oriented to the recognition of the importance of the work carried out by people dedicated to the promotion and defense of human rights and due diligence in the exercise of criminal action<sup>387</sup>.

241. In addition, the State reported that for some years now, the Attorney General's Office has promoted working alliances with civil society organizations to improve its investigative work, training and monitoring of cases related to freedom of expression of journalists and communicators<sup>388</sup>.

242. The Special Rapporteurship recalls that, under Article 13 of the American Convention, speeches on matters of public interest have reinforced protection, so the use of criminal mechanisms to punish this type of expression is incompatible with inter-American standards. The Office of the Special Rapporteur recalls that

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<sup>383</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 92.

<sup>384</sup> Court of Justice, Republic of Colombia. March 24, 2021. [STL3274-2021](#); CPJ. April 8, 2021. [The Colombian Supreme Court confirms the defamation conviction against journalist Vicky Dávila and RCN](#).

<sup>385</sup> Supreme Court of Justice, Republic of Colombia. Labor Cassation Chamber. March 24, 2021. [STL3274-2021](#). P. 29.

<sup>386</sup> El Tiempo. June 30, 2021. [Court will review guardianship that seeks to overturn Vicky Dávila's civil sentence](#).

<sup>387</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>388</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.



"[t]he type of political debate to which the right to freedom of expression gives rise will inevitably generate certain critical or even offensive speeches for those who hold public office or are intimately linked to the formulation of public policy."

243. This Office was also informed about the decision of the Superior Court of Villavencio of October 29, 2021 that annulled the judgment of first instance that denied the protection actions filed by three priests to suspend the reproduction, commercialization, and sale of the book " This is the lamb of God", by journalist Juan Pablo Barrientos. The book tells the story of a victim of alleged sexual abuse committed by 38 priests of the Archdiocese of Villavencio during his childhood<sup>389</sup>. In this way, the file was returned to the Second Civil Court of the Villavencio Circuit, which after complying with the order of the Superior Court will have to issue a new sentence<sup>390</sup>.

244. On this point, the Office of the Special Rapporteur recalls that, in accordance with Principle 5 of the Declaration of Principles on Freedom of Expression of the IACHR, "[p]rior censorship, direct, or indirect interference in or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression".

245. The Office of the Special Rapporteur welcomes some progress reported in Colombia in the framework of judicial investigations into attacks on journalists in the exercise of their work. According to the information received by this Office, the 19th Criminal Court of the Bogotá Circuit convicted Ariel Ortega Martínez as the author of the crime of threats against journalists Julio César González Quiceno (known as Matador), Daniel Samper Ospina, and María Antonia García de la Torre. The court decision considered that the messages sent by Ariel Ortega through social networks between 2017 and 2018 affected the journalistic union and public opinion, as they were used as a tool to intimidate the press<sup>391</sup>. Likewise, the Office of the Special Rapporteur learned of the conviction of the person responsible for threatening Luis Carlos Vélez, news director of *RCN Radio*, on social networks in July 2018<sup>392</sup>. As this Office learned, the journalist has been the target of intimidation and death threats on various occasions<sup>393</sup>.

246. This Office also welcomes the decision of the Plenary Chamber of the Constitutional Court that overturned article 55 of Law 29 of 1944, which established a special regime of civil liability to journalists and the media for damages to third parties as a result of their publications<sup>394</sup>. The article in question stated that "anyone who by any effective means to disseminate the thought, by means of the printing press, radio broadcasting, or cinematograph, causes harm to another will be obligated to compensate them, unless they can demonstrate they were not guilty". In the framework of this process, in 2020 the Office of the Special Rapporteur sent a concept note to the Constitutional Court, in which it recommended adapting the legislation to the current parameters of protection of freedom of expression and the press, and taking into particular consideration the regional context of persecution of journalists through subsequent excessive sanctions. In its ruling, the court declared the norm unconstitutional on the understanding that it implied a disproportionate impact on journalists on their right to report and that it jeopardized the constitutional right of reporters to maintain the confidentiality of their sources by having to demonstrate that there was no intention of harm to third parties. In this sense, the Court considered that "the norm is based on prohibited means as an instrument

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<sup>389</sup> France 24. November 5, 2021. [Juan Pablo Barrientos: "These 38 priests sexually abused a minor and prostituted him."](#)

<sup>390</sup> El Espectador. November 4, 2021. [New judicial setback in the publication of books by Juan Pablo Barrientos](#); 070. November 7, 2021. [The book that the Catholic Church does not want to be read.](#)

<sup>391</sup> Office of the Attorney General of the Nation. October 15, 2021. [Convicted lawyer who threatened three journalists with death through social networks](#); Infobae. October 14, 2021. [Twitter user who threatened Matador, Daniel Samper and María Antonia García, sentenced to 76 months in prison](#); Semana. October 15, 2021. [Lawyer Ariel Ortega was sentenced for threatening cartoonist Matador and other journalists on social networks.](#)

<sup>392</sup> La FM. September 2, 2021. [Man who threatened Luis Carlos Vélez on social networks is sentenced to 2 years in prison](#); El Tiempo. September 3, 2021. [Man who threatened journalist Luis Carlos Vélez through networks condemned.](#)

<sup>393</sup> Las 2 Orillas. August 4, 2021. [The danger faced by Luis Carlos Vélez](#); Infobae. August 5, 2021. [Flip expressed concern about the threats against journalist Luis Carlos Vélez for his work.](#)

<sup>394</sup> El Tiempo. May 13, 2021. [The ruling of the Court on journalism and compensation for damages](#); Semana. May 14, 2021. [The Constitutional Court overturned the special regime that held journalists responsible for damage to third parties in their publications](#); El Veinte's Twitter account (@ElVeinteOrg). [May 14, 2021.](#)

to obtain the intended purpose” and that “it constitutes a self-censorship mechanism that causes a paralyzing effect on the information flow”, in collision with constitutional norms<sup>395</sup>.

247. Moreover, the Office of the Special Rapporteur received with gratification the judgment of the Constitutional Court of May 14, 2021, which, in a judgment considered historic, recognized the rights of women journalists to enjoy a work environment free of violence, material equality, and non-discrimination for reasons of genre<sup>396</sup>. The judicial decision is the result of an *amparo* action filed by the journalist Claudia Vanessa Restrepo against the newspaper *El Colombiano*, for their insufficient and revictimizing response after denouncing alleged sexual violence by a fellow editor. Citing standards and reports from the IACHR and its Office of the Special Rapporteur for Freedom of Expression, the Constitutional Court understood that both the State and individuals have clear obligations to prevent, investigate, prosecute, and punish violence and/or discrimination based on gender, particularly, in the field of journalism and the media and within the framework of subordination or dependency links that can give rise to the reproduction of power asymmetries<sup>397</sup>.

248. Finally, the Office of the Special Rapporteur welcomes the historic ruling of the Inter-American Court of Human Rights of August 26, 2021 in the case of the journalist Jineth Bedoya Lima against Colombia, where the use of sexual violence as a form of silencing and control against a female journalist in the context of the Colombian armed conflict is analyzed for the first time. The inter-American court concluded that the Colombian State is internationally responsible for the violation of the rights to personal integrity, personal liberty, honor, dignity, and freedom of expression of the journalist, as a result of the events that occurred on May 25, 2000, when she was intercepted kidnapped and subjected to numerous physical, sexual, and verbal attacks while she was carrying out journalistic investigation work on human rights violations in the La Modelo prison in Bogotá. In this context, the Court warned about “serious, precise, and consistent indications of state participation” in such acts<sup>398</sup>. After the notification of the decision, the journalist pointed out that the Court’s ruling “goes down in history as the day when a fight, which began for an individual crime, led to the vindication of the rights of thousands of women victims and survivors of sexual violence and women journalists who leave part of their lives in their profession”<sup>399</sup>.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

249. In the context of the social protests that began on April 28, 2021 and extended over the following months, the IACHR and its Office of the Special Rapporteur received information on violations of the exercise of the rights to peaceful assembly, including disproportionate use of force by police officers and groups outside the protest, complaints about the disappearance of people, sexual violence against women, irregular detentions, ethnic-racial profiling, and stigmatization of protesters<sup>400</sup>. Likewise, and as previously described, the IACHR and the Office of the Special Rapporteur received information on the deterioration of the guarantees to practice journalism in this context.

250. As the Commission was able to observe during its working visit, the numbers of cases of police violence registered by the State vary significantly with respect to those documented by civil society organizations, mainly those of fatal victims and missing persons in the framework of the protests<sup>401</sup>. In this regard, in its observations and recommendations following the visit, the Commission emphasized to the State of Colombia its obligation to preserve and facilitate access to state files related to human rights violations, not only to preserve the investigations but also to ensure that furthermore, these violations will not be repeated. It also

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<sup>395</sup> Constitutional Court of the Republic of Colombia. May 13, 2021. [Constitutionality Ruling C-135/21](#).

<sup>396</sup> Dejusticia. June 10, 2021. [In a historic ruling, the Constitutional Court condemns gender violence in workplaces](#).

<sup>397</sup> Constitutional Court of the Republic of Colombia. May 14, 2021. [Constitutionality Ruling T-140/21](#); Constitutional Court of the Republic of Colombia. June 9, 2021. [Bulletin No. 54. Constitutional Court protects journalists' rights to work in an environment free of violence and gender discrimination and urges the Government to ratify the ILO Convention on workplace harassment](#).

<sup>398</sup> I/A Court HR. *Case of Bedoya Lima et al. V. Colombia. Merits, Reparations and Costs*. Judgment of August 26, 2021.

<sup>399</sup> CEJIL. October 18, 2021. [“Physical, sexual, and psychological torture against Jineth could not be carried out without the collaboration of the State”: judgment of the Inter-American Court](#).

<sup>400</sup> The Guardian. May 7, 2021. [“They can’t take it any more’: pandemic and poverty brew violent storm in Colombia](#); Human Rights Watch. June 9, 2021. [Colombia: Police brutality against protesters](#); Amnesty International. July 30, 2021. [Colombia: Violent repression, urban paramilitarism, illegal detentions, and torture against peaceful protesters in Cali](#); Karisma Foundation. [Guns against cell phones](#). September 2021. Pages. 19-21.

<sup>401</sup> IACHR. [Observations and recommendations. Work visit to Colombia](#). July 7, 2021. Para. 38.

recalled that the right of access to public information imposes on the States, among others, the duty to provide reliable and disaggregated information<sup>402</sup>.

251. In relation to the generic characterization of the protesters through terms such as "criminals", "terrorists", "vandals" or "criminals"<sup>403</sup>, the Commission pointed out that this type of stigmatizing speeches activates an environment hostile to the exercise of protest and to freedom of expression<sup>404</sup>.

252. On May 14, 2021, the Special Rapporteur together with human rights experts from the United Nations condemned the repression of peaceful protests in Colombia and called on the Government to carry out a comprehensive and independent investigation into reported deaths, sexual violence, allegations of torture, cases of alleged arbitrary detentions, and forced disappearance. They also urged the authorities to respect the right to peaceful assembly in future protests, to ensure that the use of force is used respecting the principles of precaution, necessity, and proportionality<sup>405</sup>.

253. According to information provided by the State during the hearing on follow-up to the observations and recommendations of the working visit to Colombia in the 181st Regular Period of Sessions of the IACHR, between April 28, 2021 and July 30, 2021, 231 disciplinary investigations were reportedly initiated at the national level with respect to officials of the National Police, for events that occurred during the protests<sup>406</sup>.

254. The Inter-American Commission and its Office of the Special Rapporteur emphasize that the actions of State security agents must be in strict adherence to international human rights standards, which establish the use of force under the principles of exceptionality, proportionality, and absolute necessity. In this sense, security operations must be planned under clear action protocols that guarantee the adequate, progressive, and proportional use of less lethal weapons and favor dialogue. In this vein, they encourage the corresponding authorities to take the necessary measures to immediately cease the disproportionate use of force by the State security forces.

255. The State has informed this Office that the guarantee of the right to peaceful social protest, with regard to the work of the Attorney General's Office, is framed in the investigative and judicial work that seeks to guarantee the citizenry access to criminal justice in the face of violence that may arise in the development of the social protest and affect the right itself by violating the life and integrity of demonstrators. They also emphasize that it is the function of the Prosecutor's Office to guarantee access to justice for citizens in contexts of social protest<sup>407</sup>.

256. According to the information provided, as a result of the protests that have occurred in recent years, in 2020 the Prosecutor's Office began the implementation of a methodology to address the investigation of crimes occurring in the context of social protests. According to the State, the Prosecutor's Office has set up a team made up of outstanding prosecutors, with presence throughout the national territory, accompanied by investigators from multiple disciplines, in charge of attending the process with timeliness and diligence, with special emphasis on the attention of urgent acts and in the development of the investigative work required in compliance with the duty of due diligence. In addition to the above, they indicate that technical and scientific resources have been made available in order to obtain the material evidence and physical evidence in the shortest possible time, with the participation of the victims, who have the relevant information to achieve a prompt clarification<sup>408</sup>.

### **C. Freedom of Expression and the Fight against Discrimination and Exclusion**

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<sup>402</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 40.

<sup>403</sup> El Tiempo. April 28, 2021. *Duque said that today "criminal vandalism" was seen in some places*; Infobae. May 3, 2021. *Duque once again branded the violent acts recorded during the protests as "criminal vandalism"*; France 24. May 3, 2021. *1,181 cases of police abuse and 26 fatalities reported during protests in Colombia*.

<sup>404</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 180.

<sup>405</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 14, 2021. *Colombia: UN and OAS experts condemn crackdown on peaceful protests, urge a thorough and impartial investigation*.

<sup>406</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Follow-up report of the State of Colombia. Hearing No. 9. 181 IACHR Period of Sessions. November 12, 2021.

<sup>407</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>408</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.



257. In 2021, this Office continued to monitor the judicial process of *amparo* initiated in 2020 by the filmmaker *Ciro Guerra* against the journalists *Catalina Ruiz-Navarro* and *Matilde Londoño*, who had revealed in the *Volcánicas* magazine a series of anonymous complaints from eight women who reported having been victims of sexual harassment and abuse committed by him<sup>409</sup>. As this Office learned, on April 29, 2021, the Superior Court of Bogotá granted protection to the rights to good name and honor in favor of *Ciro Guerra* and ordered the journalists to, within 10 days after the notification of the decision, rectify their publication and present "the information carefully", providing context and evidence of the complaints made<sup>410</sup>. According to the information received, to comply with this sentence, on May 12, 2021, the journalists updated their publication and revealed more testimonies as evidence<sup>411</sup>.

258. Additionally, in the week following said judicial resolution, *Ciro Guerra* would have filed a new civil lawsuit for almost 1 million dollars before the 47th civil court of Bogotá, alleging an alleged damage to honor and damage to his professional career because of the journalistic report. A criminal complaint for defamation against the reporters would also be added to the aforementioned *amparo* action and civil lawsuit<sup>412</sup>. In this context, journalist *Catalina Ruiz-Navarro* described the events as judicial harassment against her, which in her opinion would be related to patriarchal structures and "a very strong power system" that seeks to censor the voices of women who denounce gender-based violence<sup>413</sup>. This vision is also shared by civil society, which has understood that the legal actions filed against the journalists represent a strategy of intimidation and judicial harassment<sup>414</sup>. Likewise, journalists have expressed they have received pressure to reveal their sources, which could compromise the safety of the alleged victims of sexual harassment and abuse<sup>415</sup>.

259. On the other hand, in 2021 and especially in the context of social protests, the Office of the Special Rapporteur observed with concern the stigmatization of indigenous populations who exercise their right to freedom of expression and peaceful assembly<sup>416</sup>. In a joint statement, experts from the UN and the OAS expressed their alarm at the violent attacks reported against the indigenous *Minga* in Cali, and rejected any attempt to accuse indigenous peoples of participating with weapons in the peaceful protests. The independent experts asked the authorities to take measures to prevent the stigmatization of protesters from spreading<sup>417</sup>.

260. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women and indigenous peoples. The inter-American system grants enhanced protection to those speeches that express constitutive elements of the personal identity or dignity of the person who speaks. In this sense, for this Office, the speech of women who denounce violence because of their status as women and the expressions of indigenous communities that demand respect for their rights are historically silenced discourses and must be specially protected today. In this sense, the Office of the Rapporteur invites the States to identify possible obstacles or limitations to the freedom of expression of these groups and to adapt institutional practices to the reinforced protection of this type of speech.

261. According to the State, the "Colombia Belongs to Everyone" Observatory has been responsible for investigating, analyzing and recording the situation of the population victims of discrimination throughout the national territory. According to them, the position of the "Colombia Belongs to Everyone" Observatory allows

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<sup>409</sup> CPJ. September 21, 2020. [Colombian journalists face criminal investigation for the crimes of libel and slander for reporting on allegations of sexual abuse](#); RCN. September 14, 2020. [Journalists who published complaints of sexual harassment against \*Ciro Guerra\* are summoned for questioning](#).

<sup>410</sup> RCN Radio. May 12, 2021. [The Bogotá court requests a very particular correction: lawyer for journalists in the \*Ciro Guerra\* case](#); Infobae. May 3, 2021. [Court orders journalists to rectify complaints of sexual abuse against \*Ciro Guerra\*](#); El Tiempo. May 3, 2021. [Superior Court of Bogotá rules in favor of filmmaker \*Ciro Guerra\*](#).

<sup>411</sup> Defence. July 29, 2021. [Las Volcánicas: sued for reporting on allegations of sexual abuse](#); El Espectador. May 16, 2021. ["We are convinced that we were fair": journalist \*Catalina Ruiz-Navarro\*](#).

<sup>412</sup> El Tiempo. May 13, 2021. [Ciro Guerra sues journalists for a million dollars](#); El Espectador. May 12, 2021. [Ciro Guerra demands US \\$ 917,000 from journalists who published his alleged abuse](#).

<sup>413</sup> El Espectador. May 16, 2021. ["We are convinced that we were fair": journalist \*Catalina Ruiz-Navarro\*](#).

<sup>414</sup> Infobae. May 13, 2021. [Flip noted as "judicial harassment and intimidation" \*Ciro Guerra's\* lawsuit against journalists](#); Semana. May 12, 2021. ["Intimidation and harassment strategy": Flip, on lawsuit of one million dollars from \*Ciro Guerra\*](#).

<sup>415</sup> El Espectador. May 16, 2021. ["We are convinced that we were fair": journalist \*Catalina Ruiz-Navarro\*](#).

<sup>416</sup> Amnesty International. May 9, 2021. [Colombia: Must stop violence against Indigenous Peoples now](#); The Empty Chair. May 14, 2021. [The wall of racism against the Indigenous \*Minga\* in Cali](#); The 2 Shores. May 20, 2021. [Let's not stigmatize the \*minga\*](#)

<sup>417</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 14, 2021. [Colombia: UN and OAS experts condemn crackdown on peaceful protests, urge a thorough and impartial investigation](#).

it to continue providing and developing technical assistance to public, private and educational entities and the ethnic and non-ethnic community in general, as well as protection measures to combat and prevent acts and practices of discrimination and racism<sup>418</sup>.

262. The State has also indicated that in August 2020 the Ministry of Interior presented the campaign '#LíderEsColombia, in prevention and protection we add lives', which seeks to recognize the work of social leaders and reduce the stigmatization of the exercise of the work of social leadership in the country. According to them, "#LíderEsColombia reiterates the respect for social leaders and the priority that their work has for the National Government", and has components of prevention and protection through educational actions involving mayors, governors and local authorities<sup>419</sup>.

#### **D. Freedom of Expression and the Internet**

263. The Internet represented a key instrument to unfold the potential of the right to freedom of expression in the context of the protests in Colombia. During the working visit, different state agencies provided the IACHR with information on the efforts undertaken to transmit official information quickly and widely through different platforms, and interact with the public directly. On the part of the citizens, the IACHR and its Office of the Special Rapporteur were able to verify that the use of the internet as a means of interaction and organization for those who came out to demonstrate<sup>420</sup>. In this way, the internet allowed protesters to report incidents and make open complaints, often in real time, about possible excesses in the use of force, in addition to requesting protection of their rights<sup>421</sup>.

264. However, despite the democratizing potential and the benefits of the internet to amplify public deliberation during the demonstrations, the IACHR also received with concern complaints that should be investigated regarding alleged state measures that could curtail freedoms in this medium. According to the information provided by different actors, these actions are being undertaken by subjective criteria instead of objective, legitimate and transparent parameters, in accordance with international human rights standards<sup>422</sup>. In this way, the Commission and its Office of the Special Rapporteur received information on cyber-patrol practices aimed at proactively monitoring allegedly false content regarding the development of the protests, discrediting the image of the public forces, as well as the instigation of public hatred<sup>423</sup>. These measures would be aimed at determining what information is false or true, and in this way, combat alleged "digital terrorism" activities that could have the potential to exacerbate violence. During the visit, the State reported that 21,675 hours of cyber-policing were carried out and that at least 154 false news and more than 2,300 publications containing threats to life or physical integrity were identified<sup>424</sup>. For the Commission and its Office of the Special Rapporteur, the powers of the security forces to check and classify content as "true" or "false" is especially worrying when the information it categorizes corresponds, for the most part, to the actions of the security forces.

265. Finally, the reports received also show possible uses of technology aimed at inhibiting or restricting the Internet signal, such as blocking the addresses of pages (URLs) that contained information related to the protests<sup>425</sup>. On this point, the Office of the Special Rapporteur has argued that blocking entire websites, IP addresses, ports, network protocols, or certain types of uses (such as social networks) constitutes an extreme measure that could only be justified according to international standards, for example, when necessary to protect minors from sexual exploitation.

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<sup>418</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>419</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>420</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 172.

<sup>421</sup> France 24. May 8, 2021. [Internet in Colombia: the other great scene of the protests](#).

<sup>422</sup> IACHR. *Observations and recommendations. Work visit to Colombia*. July 7, 2021. Para. 174.

<sup>423</sup> El Espectador. June 25, 2021. [21,647 hours monitoring the internet: cyber patrol in 36 days of the strike](#); Razón Pública. May 10, 2021. [Digital terrorism amid the national strike?](#)

<sup>424</sup> Written report of the State to the IACHR. June 8, 2021. Page 64.

<sup>425</sup> El País. 6 de mayo de 2021. [La interrupción de internet durante las protestas enardece a los manifestantes en Colombia](#); El Observador. 7 de mayo de 2021. [Colombia: denuncian bloqueos de transmisiones en vivo, censuras de videos y cortes de internet](#).

266. On the other hand, this Office also learned of the resolution of the Oversight Board of Facebook in relation to the elimination by the platform of a publication in which a video of protesters in Colombia was shown criticizing the President. According to publicly available information, in the video, the protesters used a term designated as an insult according to the community norms of the social network on hate speech, as it would imply an attack based on sexual orientation. In assessing the public interest value of the content, the Advisory Board reversed Facebook's decision to remove the post and demanded its restoration, noting that the newsworthy exemption should have been applied in this case to preserve the post on the platform<sup>426</sup>.

267. The State has emphasized that "the incorporation of information and communications technologies into the government agenda is an essential starting point for the creation of public plans and programs and/or public-private partnerships aimed at the economic and social development of countries, seeking to formalize sources of employment, generate income, access to new production opportunities and strengthen the entrepreneurial force"<sup>427</sup>.

268. In this line, the State has reported that, given that digital literacy is one of the main pillars in this area, the course "Community Cyberjournalism at your Reach" was formulated in order to promote free expression, with which people can learn how to search for and disseminate information through digital media. The State also indicated that educational support sessions have been provided mainly for children and adolescents, as well as for adults, through the "En TIC Confío +" program, which promotes responsible and safe use of ICTs, reflected in the experience that our beneficiaries should have in handling the devices, applications and networks where they access digital environments, producing their own or third party content, in which they communicate and express their opinions assertively with other users, contributing to the construction of digital coexistence relationships in the personal, work, professional and especially in conflict resolution<sup>428</sup>.

269. The State also noted that, as a starting point for the commitment to increase knowledge, research, innovation and social appropriation of capabilities around new technologies, the Ministry of Information and Communication Technologies - MinTIC leads the Pact for Digital Transformation, as one of the major initiatives of the National Government for the connectivity of the country<sup>429</sup>.

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<sup>426</sup> Oversight Board. September 27, 2021. [Decision of case 2021-010-FB-UA](#).

<sup>427</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>428</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>429</sup> Permanent Mission of Colombia to the OAS. September 20, 2021. Information provided by the State of Colombia for the preparation of the 2021 Annual Report of the Office of the Special Rapporteur.

## COSTA RICA

270. The Rapporteurship notes that there are guarantees for the exercise of the right to freedom of expression in Costa Rica. However, in 2021, this Office received reports of challenges faced by the independent press to access public information. In some instances, these requests had to be processed through judicial bodies pursuant to the law on access to public information. The Rapporteurship also learned about the suspension of the law “regulating the right to strike and its procedures”, while the Supreme Court of Justice of Costa Rica resolves an action of unconstitutionality filed against the law. In January 2021, the Office became aware of an initiative for a personal data protection law, in a context of growing public concern about the alleged installation of cameras with facial recognition technology, the development of applications for reporting and tracking of COVID-19 infections and the debate around biometric database regulations. Regarding the digital environment, this Office welcomes the fact that the issue of digital literacy has taken center stage in the public debate in Costa Rica. According to information provided to the Rapporteurship, digital literacy is considered a central issue in the electoral context leading up to May 2022. Digital literacy is also central in the fight of online discrimination against vulnerable groups, especially against the migrant population, given the increase in forced displacement from Nicaragua to Costa Rica.

### A. Journalism and Democracy

271. According to information received by this Office, in 2021 the main challenges to the practice of journalism in Costa Rica included difficulties in obtaining access to official public information, which often required judicial intervention. At the same time, the Rapporteurship was informed of a court order restricting journalistic coverage on issues of public interest.

272. On February 10, 2021, the Office of the Special Rapporteur learned that the Constitutional Chamber issued a ruling against the Minister of Planning and Economic Policy. The Minister had failed to answer the queries of journalist Marco Antonio González of *Diario Extra*, and the newspaper *El Pueblo*, regarding the negotiations with the International Monetary Fund (IMF) and the Public Employment Framework Bill, within the term of 10 working days as established by the Constitution. On December 3, 2020, the minister replied to the newspaper alleging that a presidential disposition would prevent her from referring to these issues. However, on the same day, the president reportedly gave an interview to the newspaper *La Nación* about the negotiations with the IMF. According to the information gathered, there would be a closer rapprochement between the government and some media outlets. The Special Rapporteurship welcomes the ruling issued by the Costa Rican Constitutional Court ordering the Minister to carry out all pertinent actions to comply with the requests<sup>430</sup>.

273. The Special Rapporteurship was also informed of an order of the Constitutional Chamber of the Supreme Court mandating the president of the Costa Rican Railroad Institute (Incofer), as well as the president of Aqueducts and Sewers, to provide information regarding the operation of their respective entities.<sup>431</sup>

274. According to the information received by the Special Rapporteurship, on October 11, 2021, the Attorney General reportedly denied the press and media information about the existence of a judicial process against a deputy. As reported by the local press, the prosecutor justified such refusal based on Article 295 of the Criminal Procedural Code, which indicates that the preparatory process will not be public for third parties, and that the parties and officials involved in the investigation and other actions carried out will have the obligation to maintain secrecy, under penalty of committing a serious misdemeanor<sup>432</sup>.

275. Faced with this situation, the director of *Noticias Monumental*, Randall Rivera, stated that the Attorney General’s directive would violate the right of access to public information, preventing the oversight of the actions of public officials. In addition, he noted that the existence of a complaint is not private information, by contrast, the details of the investigation and the contents of the file are private. Similarly, the director of *Noticias Repretel*, Jerry Alfaro, said that the information related to investigations and judicial processes in progress

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<sup>430</sup> *Diario Extra*. February 10, 2021. [Condanan a Pilar Garrido por no atender Diario Extra](#); *El Mundo*. February 10, 2021. [Sala IV condena a ministra Pilar Garrido por no atender a la prensa](#).

<sup>431</sup> Inter American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Costa Rica](#).

<sup>432</sup> *Diario Extra*. October 12, 2021. [Jueces y jerarcas impiden a la prensa informar](#); *CR Hoy*. October 11, 2021. [¡Fiscal General silencia a la prensa! Niega información sobre procesos contra Supremos Poderes](#).

against public officials should be known by the citizens. He further added that the decision of the Public Prosecutor's Office would be an attack against the freedom of the press. Several deputies described the decision of prosecutor Molina "as dangerous and contradictory, in terms of transparency and anti-corruption"<sup>433</sup>.

276. Accordingly, on October 19, 2021, the Inter American Press Association (IAPA) pointed out that there was a defensive attitude of the Costa Rican Government towards the press, allegedly reflected in the lack of access to public information, which would have motivated some media to file writs of amparo before the Constitutional Chamber IV.<sup>434</sup>

277. According to the information gathered, the Rapporteurship also learned about a civil action seeking compensation that was "filed against the head of the General Directorate of Immigration and Foreigners for defamation against *Diario Extra* and journalist Greivin Granados"<sup>435</sup>.

278. This office also received concerning information that on October 1, 2021, the National Association of Public and Private Employees (ANEP) filed a writ of amparo before the Constitutional Chamber against the court order preventing the Costa Rican Ministry of Justice from discussing prison issues with the public opinion and the media, allegedly with the purpose of guaranteeing the right of access to justice without any type of interference. This court order was issued after officials of the San José Execution Court visited the San Sebastián prison, with the purpose of determining whether to lift the closure order from 2016<sup>436</sup>. The Secretary General of ANEP argued that the judge's decision would limit the rights to freedom of expression and access to public information<sup>437</sup>. Similarly, the Association of Journalists of Costa Rica issued a statement urging the Minister of Justice to file the necessary appeals against the order, indicating that it would violate constitutional principles and international obligations enshrined in Article 13 of the American Convention<sup>438</sup>. In view of the public reproach of the decision, the judge issued a clarification indicating that the decision was intended to avoid "opinions that could directly or indirectly influence the final decision of the instant case and not for other matters that are within the competence of the Ministry". The judge also clarified that the request was made "only for the case of the San José Institutional Care Center" and "for a very short period of time, that is, until the final decision is issued, which is expected next week". The judge indicated that her intention was not to "deny the Costa Rican population the information guaranteed under a democratic rule" and that she did not seek to establish a "veiled censorship to the officials of the Ministry of Justice to give accounts on their management"<sup>439</sup>.

279. For its part, the State of Costa Rica provided information to this Office, reiterating that "freedom of the press and freedom of expression are cornerstones of Costa Rican democracy". Particularly in the context of the pandemic, the State took measures to "guarantee the safety of journalists and free access to information, both in person and online, especially since there are now more online activities than ever before" and, thus, to maintain "a free and appropriate environment that ensures journalists can report on COVID-19 and its consequences without any interference". In this regard, the State noted that "Costa Rica remains committed to denounce and fight for the protection of journalistic work, as it is fundamental for the construction of better informed societies and for this reason Costa Rica is part of the Coalition for Press Freedom (Media Coalition Online) and the Freedom Online Coalition". Regarding the measures provided by the Judiciary, the State informed that the courts seek to guarantee the maximum possible information to the press. To this end, with the aim of guaranteeing access to information and to avoid "compromising the process" or "the commission of violations and abuses against human rights and the integrity of the subjects of the process", in the case of sensitive cases (such as criminal or children's cases), "it has been decided that the media should contact directly with the Press Department of the Judiciary so that they are the ones who consult the Court and provide the information"<sup>440</sup>.

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<sup>433</sup> CR Hoy. October 11, 2021. [Prensa nacional condena mordaza de fiscal general, Warner Molina.](#)

<sup>434</sup> Inter American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Costa Rica.](#)

<sup>435</sup> Inter American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Costa Rica.](#)

<sup>436</sup> CRC 891. October 1, 2021. [ANEP presenta recurso de amparo contra prohibición a Ministerio de Justicia de referirse a temas penitenciarios.](#)

<sup>437</sup> *Diario Extra*. October 2, 2021. [Piden dejar sin efecto mordaza a Justicia](#)

<sup>438</sup> *Semanario Universidad*. October 1, 2021. [ANEP y Colper se oponen a medida que prohíbe a Justicia y Paz referirse a temas penitenciarios.](#)

<sup>439</sup> *Delfino*. October 1, 2021. [Jueza justifica orden contra Ministerio de Justicia y niega censura; ministra y ANEP acuden a Sala Constitucional;](#)  
CR Hoy. October 1, 2021. [Jueza desmiente a ministra de Justicia y le aclara que no hay censura para que rinda cuentas.](#)

<sup>440</sup> Permanent Mission of the Republic of Costa Rica to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. August 23, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

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

281. This Office also records that, according to the report of the Inter-American Press Association, “on March 15 there was a ruling against a well-known journalist because she did not publish a right of reply on time in her television program. It was an exorbitant amount which was considered an inhibitory measure”. In this regard, this Office notes that on several occasions, the Inter-American Court has warned that the fear of an extremely high civil penalty can be as or more intimidating and inhibiting for the exercise of freedom of expression than a criminal sanction.<sup>441</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

282. The State provided information to this Office about the role of the Ministry of Justice in the application of Law No. 7440, General Law on Material, Audiovisual and Printed Public Spectacles, dated October 11, 1994. The first article of this law establishes the obligation of the State to exercise activities aimed at protecting society, particularly minors and the family in terms of access to public spectacles, audiovisual and printed materials, thereby regulating the dissemination and commercialization of the content of activities. According to the Ministry, its powers are exercised in accordance with the duty of “protection of minors, with respect to access to materials that may harm their normal development, this is an obligation of the State, so all actions must be taken to exercise due regulation”; and in accordance with the due process and grounds established in the Constitution, in the Children’s Code, in the General Law on Public Entertainment, Audiovisual and Printed Materials, and in the Law against Commercial Sexual Exploitation<sup>442</sup>.

283. The State also underscored the efforts of its Judicial Branch to guarantee access to citizen information. In this regard, it indicated that “flyers, posters, spots and informative videos of the different institutional services, (...) [which] are disseminated by e-mail, social networks, radio or television media, organized groups, and other means of communication [which] are disseminated through e-mail, social networks, radio or television media, organized groups, among others”; the existence of a website that promotes access to accurate and updated information through a design focused on the user, with accessibility criteria, and which also has “forms for the filing of complaints, suggestions and requests for data protection, through which they can indicate those deficiencies with respect to the provision of public service”; the existence of toll-free telephone lines; and the development of an institutional *chatbot* to address queries with agility and efficiency. In addition, the Judicial Branch emphasized the role of the Users’ Commissions, consultative instances of social participation formed by civil society that allow to voice the needs of the sectors represented with respect to the service provided by the Judicial Branch, and of different institutional projects through which surveys of services and strategic projects are made and applied to obtain inputs directly from users. The Judicial Branch also noted the importance of the Open Public Defense and the Communication and Outreach Strategy Project, its institutional magazine and the Annual Management Report of the Comptroller’s Offices of Services for the accountability of its bodies and agencies to the Costa Rican society<sup>443</sup>.

284. At the same time, the Rapporteurship welcomes the decision of the Constitutional Chamber of the Supreme Court of Costa Rica to analyze the constitutional action filed by the National Association of Public and Private Employees against Law No. 9808 “regulating the right to strike and its procedures”. This law was approved in 2020 and establishes new regulations on the exercise of the right to freedom of peaceful assembly, establishing that it is the obligation of the State to ensure the continuity of the provision of public services

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<sup>441</sup> I/A Court H.R. *Case of Tristán Donoso v. Panama. Preliminary Objection, Merits, Reparations and Costs*. Judgment of January 27, 2009. Series C No. 193. Para. 129.

<sup>442</sup> Permanent Mission of the Republic of Costa Rica to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. August 23, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>443</sup> Permanent Mission of the Republic of Costa Rica to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. August 23, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.



during strikes. The Court also ruled on the suspension of the law while it resolves the action<sup>444</sup>. Since 2019, this Office cautiously observed the provisions of the draft law, given that the reform could affect the right to peaceful assembly<sup>445</sup>.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

285. At a meeting held with members of the Ministry of Education, the State informed this Office that hate or discriminatory speech in the online environment would be predominantly based on factors such as sexual orientation, nationality and race. The State emphasized the importance of developing public policies on the issue, with its efforts attentive to the recommendations of the Rabat Action Plan<sup>446</sup>. In this regard, the Rapporteurship notes that, according to Freedom House's "Freedom on the Net" 2020-2021 report, in Costa Rica, migrants and refugees were the main victims of the dissemination of false news in the context of the February 2020 municipal elections, and the LGBTQIA+ population "has also been targeted by the dissemination of false or misleading information". With respect to events in 2021, Freedom House concluded that "during 2020 and 2021, misleading images circulated of alleged groups of Nicaraguans infected with COVID-19 entering Costa Rica through the country's northern border"<sup>447</sup>. Xenophobic speeches are of particular concern, especially considering that, during the year, the IACHR "received information about the increase of Nicaraguans in forced displacement due to the intensification of repression and the climate of fear and persecution that is maintained in the country against all persons considered to be opponents of the government"<sup>448</sup>. In this regard, the Office of the Special Rapporteur recalls the duty of the State to counter intolerance, discrimination or misinformation, and the duty of political leaders and persons exercising public functions to promote intercultural understanding and respect for diversity<sup>449</sup>.

286. However, the Rapporteurship also notes with satisfaction the State's input with respect to initiatives to facilitate access to information for indigenous populations and persons with disabilities. Regarding the former, it was emphasized that "visits are made to indigenous areas in order to disseminate information related to the Judiciary as part of access to justice for these populations". At the same time, the State presented a large number of measures it has adopted in order to allow persons with disabilities to access information in conditions of equity, in compliance with the Law for the Recognition and Promotion of Costa Rican Sign Language, the Law on Equal Opportunities for Persons with Disabilities and its Regulations, and the international commitments subscribed by Costa Rica<sup>450</sup>.

### D. Freedom of Expression and the Internet

287. The internet penetration rate in Costa Rica is 81.2%, one of the highest in the hemisphere<sup>451</sup> and, according to Freedom House, the country's internet infrastructure can be considered efficient overall, despite the challenges posed by hurricanes and the rainy season<sup>452</sup>. The year 2021 was marked by the continuity of the discussion on the Digital Literacy Bill in Costa Rica and other related policies. Likewise, the protection of personal data was also the subject of public debates not only due to the presentation of the draft of a new Law on the subject, but also due to the attempt to use facial recognition technologies and Covid-19 case tracking applications by the Public Authorities.

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<sup>444</sup> Semanario Universidad. April 19, 2021. [Sala Constitucional acoge para estudio acción de ANEP contra Ley Antihuelgas](#); El Mundo. June 16, 2021. [Sala IV suspende aplicación de ley de huelgas mientras resuelve acción de inconstitucionalidad](#).

<sup>445</sup> IACHR. Annual Report 2019. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 403; IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 28. March 30, 2021. Paras. 445-446.

<sup>446</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Meeting with staff of the Ministry of Public Education of Costa Rica. October 8, 2021.

<sup>447</sup> Freedom House. 2021. Freedom on the net 2021: Costa Rica.

<sup>448</sup> IACHR. December 20, 2021. Press Release 346/21. [IACHR Calls for International Solidarity. Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua](#).

<sup>449</sup> UN, OSCE, OAS, CADHP. October 20, 2021. Joint Declaration 2021 on Political Leaders, Public Officials, and Freedom of Expression.

<sup>450</sup> Permanent Mission of the Republic of Costa Rica to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. August 23, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>451</sup> Data Reportal. 2021. [Costa Rica](#).

<sup>452</sup> Freedom House. 2021. Freedom on the net 2021: Costa Rica.



288. The Special Rapporteurship took cognizance of the draft law of the National Digital Literacy Program advanced by the Government, which would be included as part of the National Telecommunications Development Plan and financed by the resources of the National Telecommunications Fund (FONATEL)<sup>453</sup> and destined to the Ministries of Public Education and Science, Technology and Telecommunications (Micitt)<sup>454</sup>.

289. According to information received by this Office, some public entities have questioned the need for Congress to approve a bill that uses FONATEL's resources. In this regard, the Comptroller's Office determined that the current legal system would allow the inclusion of the National Digital Literacy Program in the National Telecommunications Development Plan and, consequently, the proposed reform would be unnecessary to execute FONATEL's resources. For its part, the Chamber of Info-communication and Technology (Infocom) argued that approving the proposal would result in a distortion of competencies, among them, the transfer of highly technical competencies to the Ministry of Public Education<sup>455</sup>. Other state entities such as the Superintendence of Telecommunications, and non-state organizations such as the Association of Professionals in Informatics and Computing (CPIC) and the Federated Association of Engineers and Architects (CFIA), expressed their opposition to the bill on the grounds that the General Telecommunications Law would contemplate the necessary mechanisms to carry out a digital literacy project, while expressing concern about the real capacity of the MEP and Micitt with respect to the transfer of FONATEL's funds<sup>456</sup>.

290. The Costa Rican Bar Association recommended the Tax Affairs Commission of Congress to shelve the bill proposed by the Government as the legal system that regulates the communications sector contains the necessary legal instruments and mechanisms to carry out a digital literacy plan in the country. In addition, the Costa Rican Bar Association pointed out that approving said project could imply a possible breach of the obligations and agreements acquired by the State under the Free Trade Agreement with the United States and also the recently approved legislation for Costa Rica's accession to the Organization for Economic Cooperation and Development (OECD)<sup>457</sup>. The Special Rapporteur also learned that the Bar Association reportedly mentioned that the bill weakens the controls of administrative contracting processes and the principles of transparency and non-discrimination in accordance with report DFOE-CIU-0301 of the Comptroller General's Office<sup>458</sup>.

291. Now, according to the Presidency of the Republic, the new law would be necessary because the "General Law of Telecommunications does not contemplate digital literacy among its objectives, and therefore, using FONATEL's resources is very bureaucratic and slow" in order to guarantee the objectives of digital literacy<sup>459</sup>. At the same time, according to available information, the government intends to include civic skills development goals in the National Telecommunications Plan 2022-2027<sup>460</sup>.

292. In the context of the debates on digital literacy, the Rapporteurship welcomes the promotion by the Supreme Electoral Tribunal of the course "Responsible Digital Citizenship", developed to train citizens to identify disinformation, protect their data and dialogue respectfully in the digital environment<sup>461</sup>. According to the information provided to this Office, although initiatives contemplating courses on digital citizenship have already been developed in the past through associations of the Tribunal, its Institute for Training and Studies in Democracy with digital platforms, the new course differs from previous initiatives by being digital, self-training and independent, although it is also possible to carry out the course collectively and with the help of a tutor of the Institute<sup>462</sup>. In addition, this Office welcomes the course's focus on the development of civic skills – covering the following four modules: (i) security of personal information (digital footprint) in social networks; (ii) functioning of social networks and their algorithms; (iii) tools to identify disinformation, false or misleading

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<sup>453</sup> Presidency of Costa Rica. September 9, 2020. [Bill seeks to provide digital access and education to Costa Rican students.](#)

<sup>454</sup> Diario Extra. October 13, 2021. [Abogados rechazan alfabetización digital.](#)

<sup>455</sup> CR Hoy. October 11, 2021. [¿Cuáles son las dudas que cosecha plan de alfabetización digital?](#)

<sup>456</sup> El Observador. October 8, 2021. [Proyecto de Alfabetización Digital gana detractores mientras diputada lo defiende.](#)

<sup>457</sup> Diario Extra. October 13, 2021. [Abogados rechazan alfabetización digital.](#)

<sup>458</sup> Diario Extra. October 13, 2021. [Abogados rechazan alfabetización digital.](#)

<sup>459</sup> Presidency of Costa Rica. May 4, 2021. [President bets on digital literacy bill to reduce education gap.](#)

<sup>460</sup> Diario Extra. November 6, 2021. [Micitt se contradice con alfabetización digital](#); La República. November 16, 2021. [Gobierno incluyó Alfabetización Digital en metas de telecomunicaciones.](#)

<sup>461</sup> Supreme Electoral Tribunal of Costa Rica. August 3, 2021. [TSE promotes training of responsible citizens in the use of social networks.](#)

<sup>462</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Meetings with staff of the Supreme Electoral Tribunal of Costa Rica, Ministry of Public Education of Costa Rica. October 8 and November 5, 2021.

news, inaccurate or outdated data, and reliable information sources; and (iv) fostering the active exercise of critical thinking, respectful dialogue and behavior in accordance with civic principles, values and practices when interacting in social networks.

293. Since its 2013 report *Freedom of Expression and the Internet*, the Rapporteurship has reiterated that “the authorities should foment educational measures intended to promote the training of all individuals in the autonomous, independent and responsible use of the Internet and digital technologies”, a set of processes known as digital literacy<sup>463</sup>. The Rapporteurship recognizes and congratulates Costa Rica for promoting, from different fronts, digital literacy and the debates on its central role in the design of public policies; and calls on the State to continue to reconcile the divergences in approaches and responsibilities on this task through sustained and pluralistic processes, reiterating the need to take into consideration differential approaches with special attention to the most vulnerable people<sup>464</sup>.

294. Regarding the protection of personal data, another of the main issues monitored by the Rapporteurship in Costa Rica throughout the year arises from the decision of the Attorney General’s Office. In January 2021, the Attorney General issued a Legal Opinion concluding that “in order for municipalities or any other public or private entity to collect, store or have access to biometric data, authorization by law defining the public purpose to be pursued with it is required, in addition to establishing other parameters for its treatment, such as, for example, the law needs to define who will have access to said information and their purpose, the treatment to be given to the data, sanctioning regime in case of non-compliance, security and backup measures, among others”. This Opinion was issued as a result of a request from a Congressional deputy, who had questioned “whether municipal governments require an enabling norm, with the rank of ordinary law, preferably special, to proceed as they have been announcing to the public; that is, to access and use biometric data of people without their consent, for the purpose of executing municipal public policies of preventive citizen security”<sup>465</sup>. The Legal Opinion request was interpreted as a reaction to the implementation (or proposed implementation) of facial recognition technologies in Costa Rican cities<sup>466</sup>. In November 2020, the City of Alajuela announced the installation of 195 cameras connected to facial recognition technology for the alleged improvement of public safety, despite the fact that Costa Rica has no specific legislation authorizing its use or regulating it<sup>467</sup>.

295. In the report “The Right to Privacy in the Digital Age”, the United Nations High Commissioner for Human Rights noted that “remote biometric recognition dramatically increases the ability of State authorities to systematically identify and track individuals in public spaces, undermining the ability of people to go about their lives unobserved and resulting in a direct negative effect on the exercise of the rights to freedom of expression, of peaceful assembly and of association, as well as freedom of movement”<sup>468</sup>. Likewise, in 2021, the IACHR found cases in which the use of “highly intrusive surveillance technologies” became detrimental to the work of women defenders, affecting freedom of expression and generating a climate of self-censorship in society<sup>469</sup>.

296. This Rapporteurship also took note of the Government’s announcement that a “contact exposure notification platform” was developed so that people can know if they have been exposed to a COVID-19 positive and “take the necessary steps to follow up”. However, on the morning of June 11, several people reported that they identified the presence of applications related to this platform even though they had not downloaded it

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<sup>463</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 48.

<sup>464</sup> IACHR. February 5, 2021. Press Release 26/2021. [IACHR warns of a turning point for freedom of expression on the Internet and calls for dialogue in the region](#).

<sup>465</sup> Attorney General’s Office of Costa Rica. [Legal Opinion : 004 - I of 08/01/2021](#).

<sup>466</sup> Repositorio Fracción del Partido Acción Ciudadana. January 15, 2021. [Municipalidades no tienen autorización legal para instalar cámaras de reconocimiento facial](#).

<sup>467</sup> Facebook account of the Municipality of Alajuela. [November 9, 2020](#) and [November 10, 2020](#); La Nación. November 9, 2020. [Alajuela usará inteligencia artificial y reconocimiento facial para combatir delitos y violación de medidas sanitarias](#).

<sup>468</sup> UN. [The right to privacy in the digital age](#). Report of the United Nations High Commissioner for Human Rights. A/HRC/48/31. September 13, 2021. Para. 27.

<sup>469</sup> IACHR. December 9, 2021. Press Release 328/21. [Message for International Human Rights Defenders Day, December 9](#).

from the app store<sup>470</sup>. The government informed that it was up to people to activate or not the application and that “neither the Ministry of Health, nor Google, nor Apple, can consume any personal information with the activation of this system”, since the passwords shared between the phones would be “anonymous through Bluetooth” and “do not store, record or exchange personal information, nor exchange phone numbers, location or use of GPS”<sup>471</sup>. Despite this, the application would be installed on all systems in a sort of standby mode.

297. In 2020, the IACHR recommended that States should “protect the right to privacy and the personal data of the population in the context of the pandemic”, given the emergence of new technological tools to combat COVID-19. The IACHR recalled that “particularly sensitive personal information on patients and people being tested during the pandemic” must be protected and that “Governments, health providers, businesses and other economic actors involved in the efforts to contain and treat the pandemic must obtain the consent of such persons when gathering or sharing their sensitive data”. It also emphasized that, in these cases, “people affected and patients shall retain their right to delete their sensitive data”<sup>472</sup>.

298. In the context of several initiatives that could have an impact on the privacy of citizens -such as the attempt to create the Presidential Data Analysis Unit by the Presidency of Costa Rica or the development of a biometric database for the recognition of individuals by the Supreme Electoral Tribunal and the progress of a Bill for this purpose<sup>473</sup>-, a new legislation proposal was presented for the comprehensive reform of the law for the protection of individuals against the processing of their personal data (Bill 22.388)<sup>474</sup>. The NGO Freedom House reported that different actors classified the previous law as “omissive and obsolete, with loopholes that do not adequately address contemporary challenges such as automated data collection and processing, geolocation of data and knowledge of where data is stored” and that “the broad wording of some articles can be interpreted to the detriment of individual privacy”. Now, Bill 22.388 would correct several of these flaws. According to Access Now, the proposal would seek to “adapt the legislation to high international standards” and, for example, “expand the list of rights, including the right to portability and not to be subject to decisions based solely on automated processing”; “propose an extraterritorial application of the law for more protection to individuals regardless of where and by whom the data is processed”; “would improve the Agency for the Protection of Inhabitants’ Data by turning it into an authority with functional, administrative, technical, budgetary and judgmental independence”; and “would be based on principles inspired by the European Union’s General Personal Data Protection Regulation”<sup>475</sup>.

299. The protection of personal data is closely related to the exercise of freedom of expression. In this regard, the IACHR has recommended that “legislative branches must strengthen local personal data protection frameworks, since the exploitation of the data for advertising purposes by platforms and other actors in the digital ecosystem is also one of the elements that, used improperly, indirectly promotes the phenomenon of misinformation”<sup>476</sup>. On the other hand, these legislative frameworks must “contain exceptions and guarantees that protect fundamental activities in a democracy - such as journalism and the circulation of information of public interest - and that allow the robust functioning of legal regimes for access to public information, an essential dimension of the right to freedom of thought and expression”<sup>477</sup>.

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<sup>470</sup> Rest of World. June 24, 2021. [Google automatically installed a Covid-19 tracker on phones in Costa Rica](#); Delfino. June 12, 2021. [Nadie hackeó su teléfono: Android y Apple lanzaron el "rastreador de COVID-19" desde el 2020](#); CR Hoy. June 11, 2021. [¿Le apareció de la nada este ícono del Ministerio de Salud en el celular? Esta es la razón](#).

<sup>471</sup> Ministry of Health of Costa Rica. June 11, 2021. [COVID-19 contact notification system created by Google and Apple is enabled](#).

<sup>472</sup> IACHR. [Resolution 1/20 on Pandemic and Human Rights](#). April 10, 2020. Para. 35.

<sup>473</sup> Access Now. January 25, 2021. [El estado actual de la protección de los datos biométricos en Costa Rica](#).

<sup>474</sup> Legislative Assembly of the Republic of Costa Rica. [Bill 22.388](#).

<sup>475</sup> Access Now. January 29, 2021. [Costa Rica: proponen una moderna ley de datos personales](#).

<sup>476</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2019. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. p. 35.

<sup>477</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2019. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. p. 35.

## CUBA

300. The facts documented by the Office of the Special Rapporteur in 2021 reaffirm the premise that there are currently no guarantees to exercise freedom of expression in Cuba, as stated in a previous report by this Office. Although the forms of harassment of independent journalists, artists, activists, and all those who question official voices are not new, the Office of the Special Rapporteur notes that they continue to worsen rapidly. The reports received from civil society in the framework of the social protests that began on July 11 are serious and include arbitrary detentions, incommunicado detention, use of criminal figures as a way to criminalize participation in the protests, and the development of summary trials that did not observe the minimum guarantees of due legal process, in addition to stigmatizing accusations by the authorities against the protesters. Changes in the Internet service by the government, especially in contexts of social conflict, have become a recurring strategy to silence critical voices, as this Office has been able to verify.

### A. Journalism and Democracy

301. The context of persecution of the independent press reported by this Office in its last annual report continued to worsen in 2021. As indicated in the Special Report on the Situation of Freedom of Expression in Cuba, the repression of the Cuban authorities against independent journalists constitute a systematic and prolonged practice, and include acts of threats, subpoenas, and interrogations for intimidating purposes; irregular and/or arbitrary detentions; raids and seizures of journalistic equipment or other property; internet service blocks; exit impediments and other restrictions on freedom of movement; pressures and threats to families and the social environment; among other censorship strategies.

302. During February 2021, journalists and directors of the Cuban Institute for Freedom of Expression and Press (ICLEP), a Cuban organization that publishes seven free newspapers in the country, reportedly suffered constant interrogations and threats from the Department of State Security. Thus, for example, on February 5, the Office of the Special Rapporteur registered the detention of Alberto Corzo, executive director of the organization, for more than 24 hours, in the province of Matanzas<sup>478</sup>. According to the information available, he was questioned about ICLEP's work, funding, and editorial policy, especially in relation to their coverage of the complaints and activities of the San Isidro Movement (MSI).<sup>479</sup> That same day, Juan Manuel Moreno Borrego, a journalist for *Amanecer Habanero*, an ICLEP community media outlet, was detained in Havana. He was threatened for publishing a series of interviews with members of the MSI<sup>480</sup>. On February 6, the ICLEP Training Director, Pedro Luis Hernández, was detained, physically, and verbally threatened in the province of Sancti Spíritus by officers of the political police, who warned him that "ICLEP's days were numbered"<sup>481</sup>. In this context, in addition, the facilities of the newspaper *Páginas Villareñas* would have been the target of siege by police forces; and intermittent blockades were reported to the telephones of executives of the media *Cocodrilo Callejero*, *Cimarrón de Mayabeque*, *El Majadero de Artemisa*, *Panorama Pinareño*, *Páginas Villareñas*, and *El Espirituano*, all of them belonging to ICLEP<sup>482</sup>. On February 16, according to the information received, journalist Carlos Torres Fleites from *Páginas Villareñas* was threatened with prison and death<sup>483</sup>. At least 42 ICLEP member journalists reported cuts in internet service on their cell phones and irregularities in the Internet connection on their personal computers, according to information received by the Office of the Special Rapporteur<sup>484</sup>.

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<sup>478</sup> Voces del Sur. February 6, 2021. [The Cuban regime keeps journalist and executive director of ICLEP Alberto Corzo unaccounted for](#); Cubanet. February 8, 2021. Cuba: [Several ICLEP executives are repressed in a national operation](#).

<sup>479</sup> ICLEP. February 8, 2021. [Political Police deploy a national operation to repress ICLEP executives](#); CPJ. March 5, 2021. [The staff of the Cuban organization that defends the freedom of the press, ICLEP, loses Internet service and fears that they will be subjected to selective interruptions](#).

<sup>480</sup> ICLEP. February 8, 2021. [Political Police deploy a national operation to repress ICLEP executives](#); Cubanet. February 8, 2021. Cuba: [Several ICLEP executives are repressed in a national operation](#).

<sup>481</sup> ICLEP. February 8, 2021. [Political Police deploy a national operation to repress ICLEP executives](#).

<sup>482</sup> ICLEP. February 8, 2021. [Political Police deploy a national operation to repress ICLEP executives](#); Cubanet. February 8, 2021. Cuba: [Several ICLEP executives are repressed in a national operation](#).

<sup>483</sup> ICLEP. February 15, 2021. [Cuban Political Police threatens journalist Carlos Torres Fleites with death](#); Voces del Sur. February 15, 2021. [Cuban Political Police threatens journalist Carlos Torres Fleites with death](#).

<sup>484</sup> CPJ. March 5, 2021. [The staff of the Cuban organization that defends the freedom of the press, ICLEP, loses Internet service and fears being subjected to selective interruptions](#); Diario Las Américas. March 1, 2021. [Cuban regime spies on and interrupts ICLEP communications](#); Radio Television Martí. [ICLEP denounces that ETECSA monitors and cuts communication between its journalists and managers](#).

303. Among other strategies deployed by the government to restrict the informational work of the media belonging to the Cuban Institute for Freedom of Expression and the Press, this Office learned of the arrest by agents of the National Revolutionary Police and the political police of the reporters from *Páginas Villareñas* Yoandy Cuéllar, Yunier Pérez, Leticia Torres, Raíza López, Juan Carlos Gutiérrez, and Michel González, on March 14 and 15, 2021<sup>485</sup>. The journalists were reportedly released on the same day, after being questioned. In this context, in addition, the Police would have raided the newspaper's headquarters, located in the province of Santa Clara, and confiscated two printers, two laptops, four mobile phones, a tablet, four USB memory sticks, paper and ink, according to a statement by ICLEP<sup>486</sup>. Faced with the confiscation of its work equipment, the media was seriously affected in the publication of the newspaper in the following weeks<sup>487</sup>. *Páginas Villareñas* is a local tabloid that is produced, printed, and distributed biweekly and free of charge in the city of Santa Clara.

304. On March 18, 2021, the Office of the Special Rapporteur registered with concern the complaint about the impediment of the journalist Karla Pérez from entering the country by the Cuban authorities, supposedly because they considered that she was returning to Cuba for "subversive purposes," according to an announcement from the government of Havana<sup>488</sup>. The journalist herself would have received permission to fly back to Costa Rica, where she petitioned to be recognized as a refugee, which was granted in August<sup>489</sup>. According to publicly known information, Karla Pérez, 22, was in Costa Rica studying journalism after being expelled in 2017 from the University of Las Villas, in the Cuban province of Villa Clara, for belonging to a political organization accused of being "counterrevolutionary", according to the information received by this Office<sup>490</sup>.

305. The stigmatizing speech promoted by government spheres against the independent press in Cuba has a clear potential to encourage violence against those who criticize official voices. In this context, the Office of the Special Rapporteur registered with concern the complaint made on May 23 by the journalist from *ADN Cuba*, Héctor Valdés Cocho, about the death threats he had received through his social networks, which would be linked to his work as a freelance reporter. As the Office of the Rapporteur learned, the threats also extended to his partner, family members, and close people. Among other things, the message warned him that he is the only one of his "group" who had not been imprisoned: "there's a reason we have you out, a reason that will not be very good for you"<sup>491</sup>.

306. On the other hand, in 2021 the Office continued to observe the imposition of fines against journalists who publish information or opinions contrary to official interests, based on Decree Law 370 on the computerization of society in Cuba<sup>492</sup>. Likewise, police harassment practices persist around the home of

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<sup>485</sup> Radio Television Martí. March 16, 2021. [Six ICLEP journalists are arrested and threatened in Santa Clara](#); CPJ. March 18, 2021. [The Cuban police raid the newspaper Páginas Villareñas, confiscate work equipment and harass personnel](#).

<sup>486</sup> ICLEP. March 16, 2021. [Repression by the Cuban regime forces ICLEP to close one of its community media outlets](#); Radio Television Martí. March 16, 2021. [Six ICLEP journalists are arrested and threatened in Santa Clara](#); CPJ. March 18, 2021. [The Cuban police raid the newspaper Páginas Villareñas, confiscate work equipment and harass personnel](#).

<sup>487</sup> ICLEP. March 16, 2021. [Repression by the Cuban regime forces ICLEP to close one of its community media outlets](#); CPJ. March 18, 2021. [The Cuban police raid the newspaper Páginas Villareñas, confiscate work equipment and harass personnel](#); Voz de América. April 24, 2021. [Raids, fines, and arrests to block the independent press in Cuba](#).

<sup>488</sup> El Mundo CR. March 18, 2021. [Journalist Karla Pérez González is prevented from entering Cuba and she is stranded in Panama](#); Deutsche Welle (DW). March 19, 2021. [Cuba alleges "subversive purposes" to veto the return of a young journalist to her country](#); Infobae. March 18, 2021. [The Cuban journalist is stranded in Panama with a ban on returning to her country](#).

<sup>489</sup> Swiss Info. March 19, 2021. [Journalist files for asylum in Costa Rica after being prevented from returning to Cuba](#); Cubanet. August 9, 2021. [Costa Rica grants political asylum to Cuban journalist Karla Pérez González](#); France 24. August 11, 2021. [Costa Rica grants asylum to a Cuban journalist prevented from returning to the island](#).

<sup>490</sup> Deutsche Welle (DW). March 19, 2021. [Cuba alleges "subversive purposes" to veto the return of a young journalist to her country](#).

<sup>491</sup> Twitter account of Héctor Luis Valdés Cocho (@HectorValdes\_91). [May 23, 2021](#); ADN Cuba. May 23, 2021. [Activist Héctor Valdés, a collaborator of ADN Cuba, threatened with death](#); Radio Television Martí. May 24, 2021. [Cuban journalist receives death threats against him and his family: "I will not stop telling the truth."](#)

<sup>492</sup> CiberCuba. March 17, 2021. [An independent journalist who recorded the protest of a self-employed worker in Guantánamo fined](#); Diario de Cuba. March 16, 2021. [The regime once again uses Decree-Law 370 to prevent repression from being disclosed](#); CiberCuba. September 14, 2021. [Cuban journalist Emilio Almaquer is fined for the second time while showing symptoms of coronavirus](#); Radio Television Martí. February 17, 2021. [They sought help for a person with a disability and State Security threatened them with Decree 370 \(VIDEO\)](#).



reporters<sup>493</sup>, as well as irregular arrests<sup>494</sup>, intimidation<sup>495</sup>, and internet cuts<sup>496</sup>. Among other worrisome cases, the Office of the Special Rapporteur highlights that of the journalist Luz Escobar of *14yMedio*, who would have been the target of police siege. On January 27, in the context of a public demonstration to celebrate the anniversary of José Martí's birth and the two months since the paradigmatic "27N" protest, the journalist was forced to stay at her home for at least four days by a State Security agent who stood near her door<sup>497</sup>. After the days of protest in July, the reporter would have remained under house arrest for at least 17 days, with police patrols at the door of her home<sup>498</sup>. Iliana Hernández, a *Cibercuba* reporter, has also been the target of constant acts of harassment, as this Office learned. On April 8, she was detained by State Security agents when she was walking on public roads and, in the months that followed, she was forced to remain under house arrest without a court order or formal accusation, guarded by a police rotation that surrounded her residence and that was maintained for several months<sup>499</sup>.

307. On the other hand, journalist Camila Acosta was violently detained by the Cuban political police when she was traveling to report on the January 27 demonstrations in Havana<sup>500</sup>. The *Cubanet* reporter and correspondent for the Spanish newspaper *ABC* would have been repeatedly threatened with prosecution for the crime of contempt and disobedience<sup>501</sup>. After being released, she had to remain in home confinement without a court order for at least four consecutive days<sup>502</sup>. She was also the target of harassment in the weeks that followed the start of the July protests<sup>503</sup>. The journalist was arrested on July 12 when she was leaving her house in Havana to carry out a personal errand in the company of her father<sup>504</sup>. According to the information received by the Office of the Special Rapporteur, on that occasion, security agents appeared and searched her home, from where they took all of her work equipment, including her personal computer<sup>505</sup>. Similar to other cases documented by the Office of the Special Rapporteur in the framework of the protests, Camila Acosta was charged with the crime of contempt and public disorder<sup>506</sup>. After spending four days in prison and

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<sup>493</sup> Periódico Cubano. August 4, 2021. [The State Security maintains a strong vigilance against the journalist Luz Escobar](#); Diario de Cuba. June 4, 2021. [House arrest, surveillance, and movement restriction in Cuba: the law to curtail individual freedoms](#); Voces del Sur. March 9, 2021. [Journalists and human rights activists under house arrest without a warrant](#); Radio Television Martí. June 5, 2021. [Journalist Héctor Luis Valdés Cocho is arrested, his colleague Iliana Hernández was about to be arrested \(VIDEO\)](#).

<sup>494</sup> Diario de Cuba. July 18, 2021. [State Security detains Cuban journalist Maykel González and threatens to prosecute him for the protests](#); Periódico Cubano. March 12, 2021. [Cuban journalist María Matienzo is arrested when she was going out to dump the garbage](#); CPJ. June 23, 2021. [Cuban journalist Lázaro Yuri Valle Roca has been detained by the Police since June 15](#).

<sup>495</sup> Cibercuba. June 30, 2021. [State Security threatens the wife of an independent journalist with taking custody of her son](#); Cubanet. June 29, 2021. [The Cuban family: an instrument in the hands of the dictatorship](#); Cubanet. February 26, 2021. [CubaNet reporter threatened with a fine of 15,000 pesos](#); ADN Cuba. April 11, 2021. [Activists and independent journalists, targets of another Sunday of repression](#); ADN Cuba. July 25, 2021. [Another independent journalist threatened with jail](#); Cibercuba. October 11, 2021. [Journalists and activists besieged by State Security for the second consecutive day](#).

<sup>496</sup> See infra section B on internet and freedom of expression.

<sup>497</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. February 5, 2021. Press Release R28 / 21. [The Office of the Special Rapporteur expresses concern about the persistent harassment against journalists, artists, and human rights defenders who exercise their freedom of expression in Cuba](#); IPYS Venezuela. February 3, 2021. [January: 38 acts that violate press freedom in Cuba | ICLEP](#).

<sup>498</sup> Cibercuba. July 28, 2021. [Luz Escobar, 17 days without being able to leave her house: "With the police patrol at the entrance of the building"](#); Deutsche Welle. August 6, 2021. [Press in German: arrests in Cuba and failure of the referendum in Mexico](#).

<sup>499</sup> 14yMedio. April 8, 2021. [Reporter Iliana Hernández is detained along with some of her friends while they were walking through Havana](#); Radio Television Martí. July 20, 2021. [Iliana Hernández is serving 90 days of home confinement without charge or trial](#); Human Rights Watch. June 30, 2021. [Cuba: Repression against artists and journalists](#).

<sup>500</sup> Cubanet. January 27, 2021. [State Security detains Camila Acosta during live broadcast](#); ICLEP. January 27, 2021. [Journalists and artists are attacked by the Minister of Culture of Cuba and arrested by the Political Police](#).

<sup>501</sup> IPYS Venezuela. February 3, 2021. [January: 38 acts that violate press freedom in Cuba | ICLEP](#); Association Pro Freedom of the Press (APLP). February 4, 2021. [Journalists attacked in Cuba \(January 2021\)](#).

<sup>502</sup> Cubanet. January 28, 2021. [Journalist Camila Acosta: "I am under house arrest, without a court order"](#); IPYS Venezuela. February 3, 2021. [January: 38 acts that violate press freedom in Cuba | ICLEP](#).

<sup>503</sup> Reporters Without Borders. August 13, 2021. [A month after the protests against the government, RSF urges the Cuban regime to release journalists detained and under house arrest](#).

<sup>504</sup> Europa Press. July 12, 2021. [Arrested Camila Acosta, the ABC correspondent in Cuba](#); Infobae. July 12, 2021. [The Cuban dictatorship detained the correspondent for the Spanish newspaper ABC](#).

<sup>505</sup> Infobae. July 17, 2021. [The testimony of Camila Acosta, the journalist who was imprisoned in the cells of the Cuban dictatorship: "God put me there to tell what happens"](#); ABC. July 14, 2021. [The ABC correspondent in Cuba, Camila Acosta, will be prosecuted for "crimes against the security of the State"](#).

<sup>506</sup> Cubanet. July 13, 2021. [They modify charges against Camila Acosta, now accused of "public disorder"](#); ABC. July 14, 2021. [The charges against the ABC correspondent in Cuba, Camila Acosta, are changed to "public disorder" and "contempt"](#).

incommunicado, the reporter was placed under house arrest, in which she remained for at least ten days<sup>507</sup>. On July 27, she was detained again by state security for a few hours when she tried to leave the home to question a police officer about alleged reprisals against her circle of friends and family<sup>508</sup>.

308. On April 22, 2021, the IACHR decided to grant precautionary measures in favor of the journalist from *Diario de Cuba*, Yoel Suárez Fernández, after considering that he is in a serious and urgent situation of risk of irreparable damage to his rights in Cuba. Among other events that led to the resolution, several police summons stand out in which he was questioned about his informative work on social networks, and threatened with prosecution and suffering consequences for his life and that of his family<sup>509</sup>.

309. Additionally, on April 30, 2021, agents of the National Revolutionary Police and the political police arrested Mary Karla Ares, a reporter for the community newspaper *Amanecer Habanero*, when she was covering live a demonstration in support of the artist Luis Manuel Otero Alcántara, who at that time was on a hunger and thirst strike to protest the lack of civil liberties in Cuba. The journalist was initially transferred to a police station in the municipality of Playa, accused of the alleged crime of public disorder and resistance and, later, on May 27, to the Women's Prison of the West, located in the municipality of La Lisa<sup>510</sup>. After almost a month of confinement, in an alleged context of incommunicado detention and cruel, inhuman, and degrading treatment, Mary Karla Ares was released on May 29 under the regime of house arrest<sup>511</sup>. This Office is also concerned about the situation of journalist Esteban Rodríguez, a collaborator of *ADN Cuba*, who was arrested at the same opportunity as Mary Karla Ares and accused of the same crimes<sup>512</sup>. Since then and to the date of writing this report, Esteban Rodríguez has been serving more than 175 days in prison, where he was reportedly infected with coronavirus<sup>513</sup>. According to the information denounced, the journalist -who is currently in the Combinado del Este prison awaiting a trial- would have been subjected to cruel, inhuman, and degrading treatment<sup>514</sup>. On October 18, the journalist began a hunger and thirst strike to denounce the irregularities in his detention, and to demand his release and respect for judicial guarantees<sup>515</sup>.

310. In the context of the protests that began on July 11, the independent press reported being the constant target of physical attacks, intimidation, detentions, and virtual attacks on its news portals. Thus, for example, the Office of the Special Rapporteur received reports that Ramón Espinosa, a photojournalist for the *AP Noticias* agency, had been attacked by police officers when he was covering the demonstration in Havana; also, a cameraman from the same agency was allegedly attacked by a group of citizens related to the Government<sup>516</sup>. Likewise, the SRFOE received information on numerous arrests of journalists from media such as *Cubanet*, *Tremenda Nota*, *Palenque Vision*, *ADN Cuba*, and *La Hora de Cuba*; and police operations that prevented several reporters from leaving their homes<sup>517</sup>. Some communication media in the interior of the country have been

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<sup>507</sup> TN. July 17, 2021. [Interrogations, beatings, and mistreatment: journalist Camila Acosta recounted details of her days in prison in Cuba](#); Infobae. July 17, 2021. [The testimony of Camila Acosta, the journalist who was imprisoned in the cells of the Cuban dictatorship: "God put me there to tell what happens."](#)

<sup>508</sup> La Vanguardia. July 27, 2021. [The journalist Camila Acosta is arrested again in Cuba](#); ABC. July 27, 2021. [The ABC correspondent in Havana. Camila Acosta, was released after being detained and interrogated for hours.](#)

<sup>509</sup> IACHR. April 23, 2021. Press Release 101/21. [The IACHR grants precautionary measures in favor of Yoel Suárez Fernández in Cuba.](#)

<sup>510</sup> CPJ. May 4, 2021. [Cuban journalist Mary Karla Ares is arrested for covering the protest](#); Cibercuba. May 2, 2021. [Journalist Mary Karla Ares accused of public disorder after reporting protest by Luis Manuel Otero in Havana](#); ICLEP. May 26, 2021. [ICLEP journalist Mary Karla Ares is transferred to prison.](#)

<sup>511</sup> Periódico Cubano. May 12, 2021. [Regime denies medicine to journalist Mary Karla Ares](#); 14yMedio. May 13, 2021. [Mary Karla Ares is serving two weeks in prison for filming the Obispo street protest](#); ICLEP. May 22, 2021. [ICLEP reporter Mary Karla Ares is tortured and transferred to prison](#); Cubanet. May 29, 2021. [Regime frees Mary Karla Ares, but imposes house arrest on her](#); 14yMedio. June 2, 2021. [Mary Karla Ares denounces "long hours of interrogation" and "psychological torture".](#)

<sup>512</sup> Cibercuba. April 26, 2021. [State Security detains Esteban Rodríguez near the home of Luis Manuel Otero](#); Amnesty International. August 19, 2021. [Cuba: Amnesty International names people prisoners of conscience in the context of repression of protests.](#)

<sup>513</sup> Radio Television Martí. August 28, 2021. [The San Isidro Movement denounces that Cuban journalist Esteban Rodríguez was again infected with COVID-19 in prison](#); Cibercuba. August 28, 2021. [Cuban activist Esteban Rodríguez is infected with coronavirus again in prison.](#)

<sup>514</sup> Diario de Cuba. June 15, 2021. [Cuban activist Esteban Rodríguez, in a maximum security prison, 'handcuffed'](#); Cibercuba. June 14, 2021. [Esteban Rodríguez, handcuffed, is transferred to a maximum security prison](#); Norges Rodríguez's Twitter account (@norges14). [June 16, 2021.](#)

<sup>515</sup> 14yMedio. October 21, 2021. [Detained since April 30, Esteban Rodríguez begins a hunger and thirst strike](#); Swiss Info. October 21, 2021. [Cuban journalist detained six months ago begins a hunger and thirst strike.](#)

<sup>516</sup> Agence France-Presse (@AFPespanol) Twitter account. [July 11, 2021](#); Diario de Cuba. July 12, 2021. [Pro-regime groups injure an AP correspondent during the repression of protests in Havana.](#)

<sup>517</sup> La Nación. July 13, 2021. [Protests in Cuba: they denounce that the arrests of journalists began to prevent them from reporting](#); VOA. July 19, 2021. [Cuba detains and interrogates dozens of journalists for their coverage of the protests.](#)



inoperative due to the prolonged arrests of their reporters, others have had to suspend the distribution of newspapers, and in some municipalities, it was reported that the action of taking a cell phone in the street triggered immediate police reprimand<sup>518</sup>.

311. Journalism is the primary and main manifestation of freedom of expression and States have a positive obligation to provide a safe working environment for the press. The IACHR and its Office of the Special Rapporteur have indicated in their Special Report on the situation of freedom of expression in Cuba that state agents are the main source of threats and attacks against the press in the country, a practice that should be dismantled and punished. The report recommended that the State of Cuba put an end to harassment, including citations, detentions of any duration, and judicial harassment of any person for reasons related to the exercise of their freedom of expression, freedom of association and assembly.

312. The Office of the Special Rapporteur recalls that in the context of social protests, journalists, camera people, photo reporters, and communicators who cover the protests play a fundamental role in gathering and disseminating information, including the actions of the security forces and possible acts of violence. For all these reasons, the State must provide the press with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of public interest.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

313. The days of protest that began on July 11 -initially in the towns of San Antonio de Los Baños and Palma Soriano, and then extended to at least 40 cities on the island- marked the debates on freedom of expression in Cuba in 2021. According to the information received by the Office of the Special Rapporteur, the days of protest were followed by a police deployment both in the streets and in private homes, which reportedly lasted for several days<sup>519</sup>. The events denounced included the arrests of hundreds of protesters, the incommunicado detention of detainees, and the uncertainty of relatives about their whereabouts<sup>520</sup>. In addition, surveillance and monitoring actions were reported at residences and the opening of summary judicial proceedings without adequately guaranteeing the right to defense of persons under state custody<sup>521</sup>. Among those detained there would be a significant number of young people, activists and political opponents, artists, journalists, teachers, priests and religious<sup>522</sup>.

314. In this context, the Office of the Special Rapporteur was informed of prison sentences as a result of the July 11 protests, many of which were handed down after a summary trial in which most of the accused did not have the proper legal defense<sup>523</sup>. According to information reported by official sources, as of August 4, at least 62 people had already been tried for events related to the July 11 protests, mostly for the crime of "public disorder" and, to a lesser extent, for "resistance", "contempt", "instigation to commit a crime" and "damages", which have penalties of up to one year of prison or fines<sup>524</sup>. According to a letter sent by various United Nations special procedures mandates to the government of Cuba, as of August 3, 2021, approximately 728 detainees were reported, of which 184 would be in the process of being released, and the whereabouts of 38 were unknown<sup>525</sup>. the whereabouts. In most cases, as this Office learned, those who were released have been

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<sup>518</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with Cuban journalists and media. July 20, 2021; Listening session with female journalists from Cuba. July 30, 2021.

<sup>519</sup> Clarín. July 12, 2021. [Cuba deploys the fearsome squad of "black berets" to suppress protests against the regime](#); EFE Agency. July 19, 2021. [A week after the protests in Cuba, the streets are owned by the Police](#).

<sup>520</sup> Infobae. July 16, 2021. [HRW denounced that there are about 400 detainees/disappeared in Cuba](#); BBC. July 12, 2021. [Protests in Cuba: "dozens of people" arrested after massive protests on Sunday](#); UN. July 16, 2021. [Cuba: Bachelet calls for the urgent release of the detained protesters and urges dialogue](#).

<sup>521</sup> Deutsche Welle (DW). July 22, 2021. [Twelve Cubans sentenced to prison without defense in summary trial](#); BBC. July 24, 2021. [Protests in Cuba: a 17-year-old teenager is sentenced to 8 months in prison for the demonstrations on the island](#).

<sup>522</sup> Efe Agency. July 20, 2021. [537 detainees since documented the protests in Cuba, among them minors](#); CiberCuba. July 12, 2021. [Cuban priest arrested and beaten for defending a minor during a protest in Camagüey](#).

<sup>523</sup> Deutsche Welle (DW). July 22, 2021. [Twelve Cubans sentenced to prison without defense in summary trial](#); BBC. July 22, 2021. [Protests in Cuba: prison sentences are handed down for 12 detainees in the recent demonstrations on the island](#).

<sup>524</sup> Cubadebate. August 4, 2021. [This is how the criminal investigations proceed after the events of July 11 in Cuba](#); Yamila Peña Ojeda's Twitter account (@yamilapenao). [August 5, 2021](#); El Universo. August 5, 2021. [The Cuban regime indicates that it is prosecuting 62 people for the July protests](#).

<sup>525</sup> Mandates of the Rapporteur on the rights to freedom of peaceful assembly and of association; of the Working Group on Arbitrary Detention; of the Working Group on Enforced or Involuntary Disappearances; of the Special Rapporteur on the promotion and protection

subjected to house arrest, a precautionary measure in accordance with Cuban law that mandates the accused person to be confined at home, with exceptions of very limited outings<sup>526</sup>. In this context, Amnesty International classified six people as prisoners of conscience who, they say, are “representative cases are only a tiny fraction of the total number of people who probably deserve to be described as such, but they serve to highlight some of the patterns of abuses by the Cuban authorities and the policy of repression that they were already applying before the energetic measures adopted on July 11”<sup>527</sup>. This group includes the artist and member of the San Isidro Movement, Luis Manuel Otero Alcántara; José Daniel Ferrer García, activist and leader of the Patriotic Union of Cuba (UNPACU); Esteban Rodríguez, a journalist for *ADN Cuba*; human rights activist Thais Mailén Franco Benítez; the musician Maykel Castillo Pérez; and the graphic artist Hamlet Lavastida<sup>528</sup>.

315. In this context, the Office of the Special Rapporteur highlighted that the scant information provided by the authorities did not correspond to the dimension of the phenomenon denounced. In an extensive interview, police authorities and the Prosecutor's Office denied that there was a single missing person, affirming that there were no unknown or secret places of detention on the island<sup>529</sup>. In a press release published on July 23, the Office of the Special Rapporteur warned that the state's approach to the Cuban crisis ignored international standards on the right to protest<sup>530</sup>. From the beginning, the authorities chose to describe the demonstrations as acts of disorder, vandalism, disturbance, and provocation, and the protesters as "instigators", "enemies", "worms" and "counterrevolutionaries"<sup>531</sup>. The Office of the Special Rapporteur has observed similar pronouncements by the President of Cuba on other occasions. Thus, for example, on June 28, 2021, in the framework of a commemorative act, he publicly stated that "in the Cuba of 2021 there is no place for the usual annexationists or for the mercenaries of the moment"<sup>532</sup>. These stigmatizing statements can encourage a confrontation between citizens, generate a climate of permissiveness to abuse of authority and inhibit legitimate expressions, discouraging the exercise of the rights of expression, assembly, and association on matters of public interest.

316. Cuban civil society has denounced a general atmosphere of fear and self-censorship. This Office received reports indicating that relatives of detained or disappeared persons have chosen not to ask the authorities, denounce, or publicly expose the cases for fear that this could put their life or integrity at risk, worsen the detention conditions or aggravate the legal consequences<sup>533</sup>. In addition to the hundreds of reported cases of repression, criminalization, and stigmatization of the protest, there are also allegations of militarization of cities, police surveillance, and alterations to internet access<sup>534</sup>. The Office of the Special Rapporteur understands that these actions constitute a barrier to public deliberation, seriously compromise the guarantees of present and future freedom of expression of Cuban society as a whole, and make it difficult for information to flow for international observation of what is happening in the Island.

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of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. August 3, 2021. [AL CUB 3/21](#).

<sup>526</sup> Infobae. August 12, 2021. [One month behind bars: hundreds of people remain in prison in Cuba after protests against the dictatorship](#); Amnesty International. August 19, 2021. [Cuba: Amnesty International names people prisoners of conscience in the context of repression of protests](#); IACHR. August 12, 2021. Press Release 211/21. [The IACHR and Special Rapporteurs Express Concern over Reports of Arbitrary Detentions, Incommunicado Detention, Lack of Legal Defense, and Other Violations of Due Process during the July 11 Protests in Cuba](#).

<sup>527</sup> Amnesty International. August 19, 2021. [Cuba: Amnesty International names people prisoners of conscience in the context of repression of protests](#).

<sup>528</sup> Amnesty International. August 19, 2021. [Cuba: Amnesty International names people prisoners of conscience in the context of repression of protests](#).

<sup>529</sup> Canal Caribe. July 20, 2021. [We make Cuba | Special edition: Update on criminal prosecution July 11 in Cuba](#).

<sup>530</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 23, 2021. Press Release R189 / 21. [The Office of the Special Rapporteur expresses concern over the reports of serious human rights violations in the context of the protests in Cuba](#).

<sup>531</sup> El País. July 11, 2021. [Cuba is experiencing the largest protests against the Government since the crisis of the 1990s](#); Euronews. July 12, 2021. [Díaz-Canel calls to combat protests against the government](#); Amnesty International. July 19, 2021. [Protests in Cuba: updated information](#).

<sup>532</sup> La Nación. June 29, 2021. [Cuba: the revolution justifies limits to freedom of expression, says Díaz-Canel](#); El País. June 30, 2021. [The Cuban regime justifies limits to freedom of expression](#).

<sup>533</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with Cuban journalists and media. July 20, 2021; Listening session with female journalists from Cuba. July 30, 2021.

<sup>534</sup> France 24. July 13, 2021. [Crisis, pandemic, and the internet, the triggers for the protests in Cuba](#); El País. July 14, 2021. [The internet blackout cools the mobilizations in Cuba](#).

317. Following up on the July days of protest, the group of dissident activists "Archipelago" called for a protest for November 15, which they called "Civic March for Change"<sup>535</sup>. In reaction to this call, the government declared that the demonstration was illegal because it violated constitutional provisions as it was a "destabilizing provocation" and a "regime changing strategy for Cuba, tested in other countries"<sup>536</sup>. According to the authorities, Article 4 of the Political Constitution indicates that the socialist system endorsed by the Constitution is irrevocable, therefore any action taken against it is illegal<sup>537</sup>. According to the information received by this Office, the day before the 15N protests, the security forces had deployed an operation at the residence of the playwright Yunió García Aguilera, leader of the Archipelago group, preventing him from leaving in an attempt to dismantle and discourage public demonstrations<sup>538</sup>. In addition, alleged interruptions to mobile communications and internet access, a large police deployment in the streets of several cities, repudiation rallies, and arrests of activists and journalists were reported<sup>539</sup>.

318. The Commission and its Office of the Special Rapporteur have continued to receive information indicating that the ideological discrepancy has been a reason to prevent artistic expressions of various kinds, which goal is to protest. In this regard, the IACHR has affirmed that Cuba shows "a marked intolerance in relation to artistic manifestations that could put into question either the benefits of the political system or the successes of the leading group." On January 27, 2021, within the framework of a congregation in front of the Ministry of Culture for the anniversary of the birth of José Martí and two months after the paradigmatic protest of the "27N", artists, activists, writers, journalists, and intellectuals were attacked and some detained by the security forces<sup>540</sup>. According to available information, the escalation of violence began when the Minister of Culture seized the phone from journalist Mauricio Mendoza of *Diario de Cuba* and, together with two vice ministers of the organization, began to launch blows against the protesters<sup>541</sup>. This situation would have triggered several violent arrests and the dissolution of the demonstration. As this Office learned, at least 27 people have been detained since the morning and progressively released from the afternoon until the last hours of the day<sup>542</sup>. On their way to the police station, the security forces allegedly stripped several protesters of their cell phones, some of which were wiped. Likewise, two women activists indicated that they were stripped and invasively searched by the police<sup>543</sup>.

319. Likewise, on February 16, a group of Cuban musicians published the song "Patria y vida" on various platforms, confronting one of the main slogans of the Cuban Revolution, "Patria o muerte," which would have generated violent reactions against those who they replicated it, according to the information received<sup>544</sup>. Thus, for example, on February 22, the activist Anyell Valdés Cruz, linked to the San Isidro Movement, was the victim along with her family of an act of repudiation and a threat of eviction after she wrote on the walls of her house phrases such as "Homeland and Life", "Revolution is repression" and "Down with the dictatorship", "We do not want any more dictatorship"<sup>545</sup>. The mayor of the Arroyo Naranjo municipality, in Havana, Kirenia Pomares,

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<sup>535</sup> Swissinfo. October 9, 2021. [Cuban activists move up peaceful march to 15N in a pulse to the Government](#); El País. November 15, 2021. [Shaking an island: the keys to the March for change in Cuba on November 15](#).

<sup>536</sup> Granma. October 12, 2021. [The march for destabilizing purposes called in Cuba is illegal \(+ Videos\)](#); ABC. October 13, 2021. [The 15N march in Cuba continues despite its ban](#).

<sup>537</sup> Granma. October 12, 2021. [The march for destabilizing purposes called in Cuba is illegal \(+ Videos\)](#).

<sup>538</sup> Deutsche Welle (DW). November 15, 2021. [Cuban police prevent the first act of protest of the 15N](#); El DiarioAr. November 15, 2021. [The Cuban government deactivates the 15N march by deploying a large police force](#).

<sup>539</sup> El Nacional. November 15, 2021. [Cut of the Internet service denounced in Cuba before the march](#); Deutsche Welle (DW). November 15, 2021. November 15, 2021. [Cuban police prevent the first act of protest of the 15N](#); CiberCuba. November 15, 2021. [State Security detains Cuban rapper Omar Mena, promoter of 15N](#); Voz de América. November 15, 2021. [Government harasses and detains opponents when massive protest is expected in Cuba](#); BBC. November 15, 2021. [Police in the streets, arrests, and acts of repudiation: the government of Cuba stops the unprecedented protest called for 15N](#).

<sup>540</sup> Swiss Info. January 27, 2021. [Cuban Minister clashes with activists during a peaceful protest](#); Diario de Cuba. January 28, 2021. [This was the physical violence against the young people who stood in front of the Ministry of Culture of Cuba](#).

<sup>541</sup> Cubalex. July 28, 2021. [Report on acts of harassment monitored by Cubalex on January 27, 2021](#); CiberCuba. January 27, 2021. [Minister of Culture of Cuba Alpidio Alonso attacks young artists](#).

<sup>542</sup> Cubalex. July 28, 2021. [Report on acts of harassment monitored by Cubalex on January 27, 2021](#).

<sup>543</sup> CiberCuba. January 27, 2021. [Woman arrested in protest of MINCULT was stripped by the police during interrogation, declares Yo Sí Te Creo Cuba](#); Asere. January 28, 2021. ["They were stripped naked and their genitals checked" for two protesters at the MINCULT](#).

<sup>544</sup> El País. February 22, 2021. ["Homeland and life": the rap song that irritates the Cuban regime](#); Radio Television Martí. February 17, 2021. [Artists: PATRIA Y VIDA "is already a hymn of hope" \(VIDEO\)](#).

<sup>545</sup> Radio Television Martí. February 22, 2021. [Violent act of repudiation of the family that wrote in his house "Patria y Vida" and "Abajo Díaz-Canel" \(VIDEO\)](#). 14yMedio. February 22, 2021. [Act of repudiation against a family in Havana for painting "Patria y Vida" on the wall of their house](#).

would have participated in the act of repudiation, as well as State Security agents and supporters of the regime<sup>546</sup>. The act included slogans, posters, and graffiti on the facade of the house to erase the words that Anyell Valdés had painted hours before.

320. Similar to the practices observed against the independent press, the Office of the Special Rapporteur also recorded numerous cases of irregular and violent detentions, police harassment, and forced detention in homes against artists and activists during 2021. Among other cases, the Office of the Rapporteur is concerned about the artist Luis Manuel Otero Alcántara, leader of the San Isidro Movement and beneficiary of precautionary measures from the IACHR<sup>547</sup>, who has been subjected to recurrent acts of harassment. According to the information documented by this Office, on April 25, 2021, the activist and artist went on a hunger and thirst strike to demand the works that had been stripped from him by State Security on April 16 during a raid, as well as to demand the removal of the police rotation that had been around his residence for a month, preventing him from leaving his home<sup>548</sup>. When he was on his eighth day of hunger and thirst strike, on May 2, 2021, Cuban authorities broke into Luis Manuel Otero's home to transfer him to the General Calixto García University Hospital in Havana, where he entered a state of "volunteer referred starvation," according to a statement from the Havana Department of Public Health<sup>549</sup>. The Office of the Rapporteur received reports that denounced strict police operations around the hospital since Otero Alcántara's arrival, isolation, few and controlled visits from family members and close associates, and forced medical treatment<sup>550</sup>. After four weeks of hospitalization, on May 31 the leader of the San Isidro Movement was discharged<sup>551</sup>.

321. The Office of the Special Rapporteur recalls that social protest constitutes a fundamental tool for the defense of human rights, essential for political and social critical expression, as well as for setting positions and action plans regarding human rights. As indicated on previous occasions, the Office of the Special Rapporteur calls on the State to recognize and protect the right to peaceful assembly and freedom of expression, without discrimination for reasons of political opinion. Likewise, the IACHR and its Office of the Special Rapporteur have repeatedly argued that the use of criminal law to punish expressions referring to public officials or on matters of public interest contravenes international norms and standards on the right to freedom of expression. Criminalization in these cases not only constitutes a direct limitation to freedom of expression, but can also be considered an indirect method due to its inhibiting effect on the free flow of ideas on matters of public interest.

322. In light of the foregoing considerations, this Office insists on the recommendations made in the Special Report on the situation of freedom of expression in Cuba with regard to putting an end to the practice of harassment of activists, artists, and independent journalists who exercise their right to freedom of expression, assembly, and association in the shortest possible time.

### **C. Freedom of Expression and the Fight against Discrimination and Exclusion**

323. Women continue to represent a group especially affected by government restrictions on the exercise of freedom of expression in Cuba. Activists, artists, journalists, human rights defenders, among other women who actively participate in public and political debate, have stated that their status as women implies a de facto limitation when it comes to exercising their rights to freedom of expression and citizen participation<sup>552</sup>.

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<sup>546</sup> 14yMedio. February 22, 2021. [Act of repudiation against a family in Havana for painting "Patria y Vida" on the wall of their house](#); ADN Cuba. March 1, 2021. [Anyell Valdés will legally denounce Castro's "act of repudiation" against his family](#).

<sup>547</sup> IACHR. February 12, 2021. Press release 032/21. [IACHR grants precautionary measures in favor of 20 identified members of the San Isidro Movement \(MSI\) regarding Cuba](#).

<sup>548</sup> 14yMedio. April 17, 2021. [Headquarters of the San Isidro Movement raided and Otero Alcántara detained for 16 hours](#); 14yMedio. April 25, 2021. ["It's already too much!": Otero Alcántara goes on a hunger strike](#).

<sup>549</sup> BBC. May 2, 2021. [Luis Manuel Otero Alcántara: Cuban authorities break into the home of the opposition artist who was on a hunger strike and transfer him to a hospital](#); France 24. May 2, 2021. [Cuban dissident artist on hunger strike is transferred to a hospital](#).

<sup>550</sup> Deutsche Welle (DW). May 26, 2021. [Cuba: Otero Alcántara, the most watched patient in the world](#); Freedom House. May 26, 2021. [Cuba: Authorities must immediately release artist and activist Luis Manuel Otero Alcántara](#); ABC. May 31, 2021. [The Cuban regime frees artist Otero Alcántara after a month of hospital "kidnapping"](#).

<sup>551</sup> El País. May 31, 2021. [Opposition artist Luis Manuel Otero Alcántara released in Cuba](#); BBC. May 31, 2021. [Luis Manuel Otero Alcántara: the artist receives "medical discharge" after being isolated for almost a month in a hospital in Havana](#); Diario de Cuba.. March 8, 2021. [Women activists in Cuba: between demands for a comprehensive gender law and political discrimination](#).

<sup>552</sup> Diario de Cuba. October 14, 2021. [Cuban feminists, next to the mothers, wives and daughters of those arrested by the 11J protests](#); Radio Television Martí. October 5, 2021. [Survey will help make political violence against women in Cuba visible](#); Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with female journalists from Cuba. July 30, 2021.



324. Likewise, women journalists have denounced to this Office that in the framework of police arrests or repression of the public force in social mobilizations, women reporters have been victims of various abuses of power based on gender. In this sense, they point out that the fact of being women journalists and, in many cases, also civil rights activists, places them in a condition of double vulnerability. The Office of the Rapporteur has also been informed about gender biases in relation to working conditions in the journalistic field, which subject women and other gender diversities to greater labor informality, legal helplessness, and economic vulnerability<sup>553</sup>.

325. During the hearing "Situation of human rights in the context of the protest in Cuba" held in the 181st Period of sessions of the IACHR, civil society organizations indicated that the repression observed in the context of the protests had an effect disproportionate in certain groups of people in vulnerable situations, such as youth, Afro-descendants, women, and LGBTIQ+ people, with the intention of causing an exemplary effect in their communities, particularly among those who belong to civil society groups perceived as critical of the government. Likewise, they highlighted that in this context the official discourse would have tried to accentuate the criminalization of the Afro-descendant population, both in its narrative and audiovisual aspects, presenting the protesters as criminals and mercenaries<sup>554</sup>.

326. This Office recalls that all forms of speech are, in principle, protected by the right to freedom of expression, which implies, among other things, the obligation of the State to guarantee that there are no persons, groups, ideas or means of expression excluded *a priori* from public debate<sup>555</sup>. Along these lines, the Office of the Rapporteur calls on the State to encourage democratic debate through measures that promote tolerance and respect for all people, under equal conditions, whatever their thoughts or ideas.

#### **D. Internet and freedom of expression**

327. The persistent deliberate restrictions on access to the Internet are another edge of the repressive strategy in Cuba, according to the evidence documented by this Office. Complaints about internet outages usually take place, especially in circumstances of social mobilizations, protests, artistic activities, and virtual events in which artists, independent activists, journalists and all those who express criticism against the government participate<sup>556</sup>.

328. Thus, for example, in the framework of the aforementioned demonstrations on January 27, 2021, various organizations that defend human rights and the Cuban media warned that at the time these events were taking place they received reports of cuts in the Internet mobile data service of Cuba<sup>557</sup>. Likewise, during the development of the protests that began in July, the Commission and the Office of the Special Rapporteur received reports on alterations in the internet service in the context of the protests, which would include blocking of mobile instant messaging applications and social media platforms, intermittent cuts to mobile internet service, and a decrease in internet traffic to and from Cuba according to the IODA report (Internet Outage detection and Analysis), which would even have fallen to 0 on Sunday, July 11<sup>558</sup>. As previously stated by this Office, these actions constitute a barrier to public deliberation, seriously compromise the guarantees of present and future freedom of expression of Cuban society as a whole, and make it difficult for information to flow for international observation of what is happening on the island<sup>559</sup>.

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<sup>553</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with female journalists from Cuba. July 30, 2021.

<sup>554</sup> IFEX. October 22, 2021. [Human rights organizations request the IACHR to visit on site to verify the situation of persons deprived of liberty in Cuba](#); IACHR. October 21, 2021. [Hearing on the Situation of human rights in the context of the protest in Cuba](#).

<sup>555</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American legal framework on freedom of expression](#). Para. 30.

<sup>556</sup> Radio Television Martí. June 1, 2021. [The regime uses ETECSA to try to silence independent journalists](#); ADN Cuba. June 7, 2021. [ETECSA cuts Tania Bruquera's internet access](#); Cibercuba. April 18, 2021. [State Security cuts the call and internet service to the journalist Luz Escobar's mobile](#).

<sup>557</sup> Cibercuba. January 27, 2021. [Government cuts mobile data from phones in Cuba](#); Periódico Cubano. January 27, 2021. [Mobile data is disabled in Cuba after the attack on young people in the Mincult](#); CPJ. February 1, 2021. [Authorities block Internet service in Cuba during a protest in favor of freedom of expression and harass journalist](#).

<sup>558</sup> AP News. July 12, 2021. [Internet cuts in Cuba, a tactic against dissidence](#); Netblocks. July 12, 2021. [Social media restricted in Cuba amid widening anti-government protests](#); BBC. July 13, 2021. [Cuba protests: Internet sheds light on anger - until it goes dark..](#)

<sup>559</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 23, 2021. Press Release R189 / 21. [The Office of the Special Rapporteur expresses concern over the reports of serious human rights violations in the context of the protests in Cuba](#).

329. On the other hand, the IACHR and its Office of the Special Rapporteur received information on the publication of Decree Law 35 on Telecommunications and Resolution 105 on Response to Cybersecurity Incidents in the Official Gazette on August 17<sup>560</sup>, which could have a negative impact on the exercise of the freedom of expression on the internet and the right to privacy of users. Civil organizations denounced that these regulations are framed in a broader context of state control over dissidence and social demonstrations, given that the internet has become a fundamental space to exercise the right to protest in Cuba.

330. The IACHR and SRFOE warn that said regulation could limit critical and dissenting expressions, among other speeches of public interest, with the alleged purpose of protecting security, public order, national defense, or other government interests. This is due to the fact that the norms establish broad and imprecise categories that would allow arbitrary and discretionary application by the State. As the Commission has maintained, vague or ambiguous legal norms, which grant broad discretionary powers to the authorities, are incompatible with inter-American standards, since they can give rise to acts of arbitrariness that amount to prior censorship or that impose disproportionate responsibilities against to specially protected speeches<sup>561</sup>. The IACHR and its Office of the Special Rapporteur have observed that Decree-Law 35 imposes on users, among other obligations, the obligation to refrain from using the service to transmit offensive information of "public morality", and to prevent the use of the services of telecommunications for the purpose of "attacking the security and internal order of the country, or transmitting false information and news." For its part, Resolution 105 on Cybersecurity typifies actions such as "social subversion", "media echo of false news" and "harmful dissemination". In addition, under these regulations, the incitement to social mobilizations, the dissemination of "offensive messages and defamation with an impact on the country's prestige", and the promotion of "social indiscipline", would be considered cybersecurity incidents that are "highly dangerous" and "very highly dangerous" and, therefore, subject to sanction. The application of these provisions could be particularly risky due to the challenges regarding democratic institutions in Cuba. In this regard, the IACHR report on the human rights situation in Cuba has indicated that the fundamental elements and institutions inherent to a representative democracy do not exist, there is no judicial independence, and there are limitations to the separation of powers<sup>562</sup>.

331. On the other hand, it is observed that some of the objectives that Decree-Law 35 and Resolution 105 invoke to limit freedom of expression are not consistent with inter-American human rights provisions. Such is the case, for example, of the protection of the "prestige of the country", of "social discipline" or of the stability of the functioning of the "mass structures". In this regard, it has previously been noted that States are not free to interpret the content of these objectives in any way in order to justify a limitation of freedom of expression in specific cases<sup>563</sup>. Furthermore, as understood by the Inter-American Court, the objectives destined to protect "public order" cannot be invoked to suppress, distort, or deprive of real content a right guaranteed by the Convention; on the contrary, they must be interpreted in a way that is strictly conforming to the just demands of a democratic society<sup>564</sup>.

332. Finally, the IACHR and its Office of the Special Rapporteur are concerned that the prevention, detection, and response tasks proposed by the State through Resolution 105 on Cybersecurity may imply the implementation of institutional systems for monitoring and filtering content on the Internet, resulting in the prior censorship of publications.

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<sup>560</sup> Official Gazette of the Republic of Cuba. [Ordinary Gazette No. 92](#). August 17, 2021. Decree-Law 35/2021 "On Telecommunications, Information and Communication Technologies and the use of the Radioelectric Spectrum" (GOC-2021-759-092) and Resolution 105 / 2021 "Regulation on the National Action Model for Response to Cybersecurity Incidents" (GOC-2021-762-092).

<sup>561</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American legal framework on freedom of expression](#). Para. 70.

<sup>562</sup> IACHR. [Situation of human rights in Cuba](#). Para. 22.

<sup>563</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American legal framework on freedom of expression](#). Para. 75.

<sup>564</sup> I/A Court H.R., Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights). [Advisory Opinion OC-5/85](#) of November 13, 1985. Series A No. 5. Para. 67.



## DOMINICA

333. The Office of the Special Rapporteur remains concerned about the criminalization of defamation in Dominica, which carries penalties of imprisonment or fines. Although the right to freedom of expression is guaranteed in the constitution, as this Office noted in its last annual report, defamation suits are reportedly being used against media workers.

### A. Freedom of Expression, Rule of Law, and Democratic Institutions

334. Dominica still lacks a law guaranteeing access to public information. Especially during the pandemic, requests for information made by journalists in several Caribbean countries that do not have such a law have been denied. The Media Institute of the Caribbean took the opportunity to call for the enactment of access to information laws on World Press Freedom Day.<sup>565</sup>

335. The pandemic has also led to the closure of small media outlets, forcing some journalists to look for other jobs outside their profession.<sup>566</sup>

336. The Office of the Special Rapporteur recalls that the transparency and accountability of public authorities strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

337. The Office of the Special Rapporteur has also stated that “in order to fully satisfy the information needs of society and create a long-term culture of transparency, the States not only must provide simple, prompt, and free remedies through which denials of access may be challenged but also must properly implement the respective regulations.”

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<sup>565</sup> Dominica News Online. 3 de mayo de 2021. [World Press Freedom Statement from Media Institute of the Caribbean.](#)

<sup>566</sup> Dominica News Online. 3 de mayo de 2021. [World Press Freedom Statement from Media Institute of the Caribbean.](#)

## ECUADOR

338. In 2021, the Rapporteurship has received information about the alleged increase of attacks and threats against journalists and media workers in Ecuador that could be linked to their informative work. This Office was also informed about the public apology to the relatives of the journalists of *El Comercio* who were kidnapped and murdered in 2018, given by Gustavo Angulo Arboleda, alias 'Cherry', one of the defendants in the case, seeking the reduction of his prison sentence. The relatives of the victims warned that in reality this public apology was far "from allowing to achieve memory, truth and justice". On the other hand, and as already expressed in the last annual report, this Office is concerned about the persistent delays and other alleged violations of due process in the investigation against the computer activist Ola Bini. The IACHR and its Office of the Special Rapporteur also followed the development of social protests in Ecuador, and urged the State to observe inter-American standards to guarantee freedom of expression and the right to assembly in the context of citizen demonstrations. The Rapporteurship has also taken note of the proposed reforms to the Organic Law on Communication (LOC) currently in force in Ecuador, and welcomes the State's willingness to continue its efforts to bring domestic legislation into line with international human rights standards. The Rapporteurship particularly notes that Ecuador was the country that recorded the greatest improvement in the indexes on freedom of expression on the Internet published annually by the organization Freedom House. This Office encourages the State to continue working on the development of policies for universal access to the Internet, and in the development of positive measures to reduce the digital gap and promote openness and pluralism of information in the digital environment.

### A. Journalism and Democracy

339. At the beginning of 2021, this Office observed an increase in reports of attacks against the press in Ecuador, including attacks on life and integrity, threats and intimidation, and stigmatizing remarks by official voices or public leaders. In this context, the Rapporteurship has called on the Ecuadorian State to further intensify its efforts to prevent violence against journalists and press workers.<sup>567</sup>

340. On January 27, Efraín Ruales, presenter of the television program "En Contacto" of *Ecuavisa* radio station, was murdered while he was driving home in his vehicle on Juan Tanca Marengo Avenue, north of Guayaquil. The journalist was shot four times by individuals in a high-end vehicle who, according to available information, chased the journalist for several blocks before attacking him.<sup>568</sup> According to information received, the Attorney General's Office of Ecuador initiated, ex officio, an investigation into the murder of Efraín Ruales.<sup>569</sup> This Office welcomes the call by the President of Ecuador to act as quickly as possible and to make every effort to investigate the case. According to publicly available information, at least six people are being investigated for their alleged participation as perpetrators, co-perpetrators and accomplices in the attack. The date set for the trial hearing was 26 November 2021, at the North Criminal Judicial Unit 2, but the proceedings have been suspended *sine die*.<sup>570</sup>

341. Likewise, on 19 January 2021, Marilú Capa Galarza, journalist of *Radio Sucumbíos* and former director of Communication of the Provincial Council, was attacked in the city of Nueva Loja, province of Sucumbíos, when she was in a restaurant she owned. A person armed with a revolver entered the place and fired eight shots, six of which hit the reporter's body, according to initial reports. The perpetrator managed to escape from the place on a motorcycle driven by another person. According to information received by this Office, Marilú Capa Galarza was recently transferred from the Dr. Marco Vinicio Iza Hospital in Nueva Loja to a hospital in the city of Quito, where she remains in critical condition in intensive care. The journalist is the host of the radio

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<sup>567</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 2 February 2021. [Ante incremento de denuncias sobre ataques contra la prensa en Ecuador, la Relatoría Especial insta al Estado a redoblar sus esfuerzos para la protección de las y los periodistas.](#)

<sup>568</sup> CNN. 27 January 2021. [Asesinan en Guayaquil al actor y presentador de televisión Efraín Ruales](#); BBC. 27 January 2021. [Efraín Ruales: qué se sabe del asesinato a plena luz del día en Ecuador del popular presentador de 36 años.](#)

<sup>569</sup> Twitter account of Fiscalía Ecuador (@FiscaliaEcuador). [27 January 2021.](#)

<sup>570</sup> El Universo. 26 November 2021. [Se suspende audiencia de juzgamiento en el caso del asesinato de Efraín Ruales](#); Ecuavisa. 26 November 2021. [Suspenden audiencia de juicio contra 6 procesados en caso Efraín Ruales.](#)

program “Mañanas Interactivas”, which is broadcasted by *Radio Sucumbíos*, where she addresses migration and human rights issues, among other news.<sup>571</sup>

342. In May 2021, Gustavo Angulo Arboleda, alias ‘Cherry’, one of the persons being prosecuted for the murder of the *El Comercio* journalists, apologized to the relatives of the victims, seeking a reduction of his prison sentence. Journalist Javier Ortega, photographer Paúl Rivas and driver Efraín Segarra were kidnapped on 26 March 2018 in Mataje, an Ecuadorian town on the border with Colombia, by the Óliver Sinisterra front, a FARC dissidence commanded by Walter Patricio Arízala Vernaza, alias Guacho. As the RELE was able to learn, the relatives of the victims indicated that Gustavo Angulo Arboleda’s apology contradicted his own statements that appear in the judicial file and warned that in reality the apology “is far from allowing to achieve memory, truth and justice” in the murder of the journalists. The relatives of the victims indicated that avoid re-victimization, the authorities must ensure that the perpetrator commits himself to tell the truth, to answer the questions accurately, to maintain an attitude of respect and solemnity, because forgiveness and reparation are not a formality.<sup>572</sup>

343. According to the information available, on July 12, the relatives of the *El Comercio* journalistic team filed an action before the Constitutional Court to have the minutes of the meetings of the State Public Security Council (Cosepe) declassified to clarify the circumstances of the crime against the press workers.<sup>573</sup>

344. The State, for its part, has informed this Office that the Inter-Institutional Committee for the Protection of Journalists – created based on the recommendation of the Special Follow-up Team (ESE) appointed by the IACHR to investigate the facts – has held several sessions in recent years, where they addressed issues of prevention and protection, risks and threats to journalists and media workers. According to the State, the creation of this Committee “constitutes a progress made by the Ecuadorian State in favor of the development of institutional capacities, public policies, as well as actions focused on the protection and promotion of freedom of expression, since its objective is to coordinate among various State and civil society institutions the adoption of agreements, protocols and mechanisms to prevent and protect communication and media workers who, in the performance of their professional work, may face risks to their lives, personal integrity, freedom and security”.

345. The Rapporteurship recalls that States must ensure that crimes against freedom of expression are subject to independent, prompt and effective investigations and judicial proceedings. As has been pointed out on other occasions, the lack of punishment for the material and intellectual perpetrators of homicides, aggressions, threats and attacks related to the exercise of journalistic activity encourages the occurrence of new crimes and generates an effect of self-censorship.

346. Likewise, this Office reiterates that there is nothing more permissive to the repetition of violence against the press than the absence of a forceful institutional reaction – and therefore it is important that the authorities at the highest level continue to emphatically condemn this escalation of violence – and, likewise, there is nothing more encouraging and reassuring for the perpetrators of violence than impunity for crimes against journalists.

347. Among other events reported to this Office, on May 28 journalist Calixto Zambrano of *Radio Eco FM Manabí* was the victim of an armed attack in the town of El Carmen, when two unidentified individuals shot him twice, resulting in his hospitalization<sup>574</sup>. In June, the journalist and co-founder of *La Posta*, Eduardo Vivanco, reportedly received at least two death threats – through social networks and when he was walking

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<sup>571</sup> El Universo. 19 January 2021. [Periodista Marilú Capa Galarza, en estado crítico tras recibir seis impactos de bala en Sucumbíos](#); Vistazo. 21 January 2021. [Periodista Marilú Capa sufre atentado al estilo sicariato dentro de su restaurante: su pronóstico es reservado](#).

<sup>572</sup> Twitter account of Yadira Aguagallo Chagñay (@yadira\_lach). 20 May 2021; El Comercio. 20 May 2021. [Fallido pedido de ‘perdón’ de alias ‘Cherry’; busca reducir pena por crimen de equipo de EL COMERCIO](#); Fundamedios Twitter account (@FUNDAMEDIOS). 20 May 2021; Periodistas Sin Cadenas. May 5, 2021. [Alias ‘Cherry’ pidió perdón y reavivó dudas sobre el secuestro y asesinato de Javier, Paúl y Efraín](#).

<sup>573</sup> El Comercio. 12 July 2021. [Familiares de Javier Ortega, Paúl Rivas y Efraín Segarra piden a Corte Constitucional desclasificar el caso](#)Ecuavisa. 16 April 2019. [Piden desclasificar información de crimen](#).

<sup>574</sup> Fundamedios. 31 May 2021. [Periodista sufrió atentado en Manabí](#); CPJ. June 4, 2021. [El periodista ecuatoriano Calixto Zambrano sobrevive atentado](#); El Diario. 28 May 2021. [Hieren a periodista de dos disparos en El Carmen](#).

near his residence – in less than 48 hours, according to information received by this Office<sup>575</sup>. Likewise, the Rapporteurship was made aware of the complaint made by journalist Virginia Suárez, host of the program “Tus noches con Virginia”, before the Prosecutor’s Office of Los Ríos, after having received several death threats in the exercise of her journalistic work during 2021. On August 27, the journalist reportedly found a note stuck on the window of her car in which she was warned that she would “end up dead in the cemetery” if she continued to publish certain reports<sup>576</sup>. Additionally, the journalistic team of *La Hora* has denounced the intensification of threats to their work in the province of Los Ríos, allegedly since they have published about an alleged embezzlement by a businessman. In July, they were allegedly victims of an attempted armed attack while they were covering a photographic assignment in the city of Quevedo, where an increasingly adverse and violent climate for the practice of journalism has been reported<sup>577</sup>. According to figures of the *Fundación Periodistas Sin Cadenas*, in June there were reportedly at least 19 attacks on journalists in the provinces of Guayas, Manabí, Cotopaxi, Cañar, Pichincha and Los Ríos, and in July there were at least 23 attacks in various regions<sup>578</sup>.

348. In October, the Rapporteurship expressed its concern at reports of threats that the media outlet *La Posta* had suffered after the publication of an investigation into the operation of criminal gangs in the country’s prisons. According to the information received, through a video, a group identifying itself as “Los Fantasmas” (The Ghosts) warned the media outlet “not to get involved in criminal affairs, because you don’t know what they are like”<sup>579</sup>. The Rapporteurship welcomes the fact that the State has acknowledged the case and encourages the authorities to continue investigating the facts in accordance with their duty to prevent violence against the press, which is particularly relevant in situations where a risk of harm has been detected<sup>580</sup>.

349. The State has indicated that the National Directorate of Security and Protection of the General Directorate of Intelligence (DGI) of the National Police has carried out 24 personal risk analyses focused on journalists and their relatives during the period 2018-2021. It also indicated that the National Unit for the Protection of Victims and Witnesses of the National Police, during 2019 to date, “has provided police protection to six people of the social media sector under the Victims and Witnesses Protection and Assistance System of the State Attorney General’s Office”. Further, the State emphasized that since 23 July 2021, the Communication Council has implemented a mechanism to respond to aggressions against media workers that has allowed it to gather information on attacks against journalists, establish contact with the victims, recommend inter-institutional actions and keep detailed statistics on the aggressions. This mechanism is expected to be improved in the coming weeks, so that its actions also include the participation and validation of civil society. By the end of August 2021, according to information reported, 15 alerts relating to aggressions affecting more than 20 journalists and several media outlets, had been registered.<sup>581</sup>

350. This Office has become aware of the use of judicial mechanisms and proceedings against journalists and media outlets investigating matters of public relevance<sup>582</sup>. The Rapporteurship noted with particular concern the decision of the Judge of the Judicial Unit for the Family, Women, Children and Adolescents in Quito who, in granting a protective order, forced the media outlet *La Posta* to withdraw a report on allegations of domestic violence against the former Ombudsman of Ecuador, on the basis that the right to privacy of the

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<sup>575</sup> CPJ. 30 June 2021. [El periodista ecuatoriano Luis Eduardo Vivanco recibe amenazas de muerte](#); Fundamedios. 25 June 2021. [Cofundador de La Posta sufrió un intento de agresión y luego fue amenazado de muerte](#); Twitter account Fundación Periodismo Sin Cadenas (@SinCadenasECU). [26 June 2021](#).

<sup>576</sup> CPJ. 9 September 2021. [La periodista ecuatoriana Virginia Suárez recibe amenazas de muerte](#); Voces del Sur. 30 August 2021. [La periodista ecuatoriana Virginia Suárez recibe amenazas de muerte](#); Voces del Sur. 30 August 2021. [Periodista ecuatoriana presentó denuncia ante Fiscalía por amenazas de muerte](#).

<sup>577</sup> La Hora. 4 August 2021. [Periodistas de LA HORA han sido amenazados hasta con armas](#); Voces del Sur. 23 July 2021. [Equipo periodístico de La Hora de Los Ríos sufre atentado armado](#); Periodistas sin Cadenas. 3 August 2021. [¿Quién obliga a la prensa de Quevedo a callar lo que debería gritar?](#).

<sup>578</sup> Twitter account of the Fundación Periodismo Sin Cadenas (@SinCadenasECU). [5 July 2021](#); [11 August 2021](#); Gk City. 6 July 2021. [Agresiones a periodistas en Ecuador: informe revela preocupante situación](#).

<sup>579</sup> La República. 14 October 2021. [Grupo armado «Los Fantasmas» amenaza a La Posta](#); Vistazo. 14 October 2021. [Grupo ‘Los Fantasmas’ lanza advertencia a medio digital y amenaza con ejecutar a organizaciones delictivas](#).

<sup>580</sup> Twitter account of the Office of the Special Rapporteur for Freedom of Expression (@RELE\_CIDH). [18 October 2021](#).

<sup>581</sup> Permanent Mission of Ecuador to the OAS. 14 September 2021. Information from the Ecuadorian State for the 2021 Annual Report of the Office of the Special Rapporteur for Freedom of Expression.

<sup>582</sup> Fundamedios. 2 April 2021. [Exfuncionario en Loja demanda a periodista](#); Voces del Sur Unidas. [Fiscalía de Ecuador solicitó el nombre de articulista a Diario](#).

persons involved had been violated.<sup>583</sup> The media outlet was also forced to publicly apologize for the publication of its investigation.

351. According to information recorded by the Office of the Special Rapporteur, on September 14, police officers and officials from the local prosecutor's office raided the office of journalist Fausto Chimbolema, director of the Facebook news page *La Voz TV Online*, located in the town of Tena, from where they seized his laptop computer, memory cards and cell phone. The raid was allegedly linked to a publication that the journalist had made about raids on five properties in Tena as part of an investigation into alleged bank fraud. As the RELE learned, the journalist warned that the seizure of his work equipment could increase the security risk to his sources.<sup>584</sup>

352. On this matter as well, the RELE continued to follow the case of journalist Juan Sarmiento, sentenced in 2020 to ten days in prison, the payment of 25% of a basic remuneration (US \$100) and the issuance of a public apology for alleged moral damage to the former governor of the province of Napo, Patricio Espíndola Lara. The case arose after the journalist reported on his program "Tendencia Digital" about denunciations and questioning of the provincial government's handling of the pandemic. As a result of the sentence, Juan Sarmiento was put under the protection of an international program for journalists at risk, and had to leave the country on 9 December 2020<sup>585</sup>. According to information received by the Rapporteurship, on 6 February 2021, upon returning to Ecuador, he was arrested by the National Police at the Mariscal Sucre airport in Quito, despite the fact that the arrest warrant against the journalist had expired 15 days earlier. The journalist was reportedly transferred from the capital to Tena, where the arrest warrant was revoked due to the statute of limitations.<sup>586</sup>

353. A free society is one that can hold open and rigorous public debate about itself. As the Declaration of Principles on Freedom of Expression states, "restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression".

354. The Inter-American Court of Human Rights has held that the protection of freedom of expression must extend not only to favorable information or ideas, but also to those that offend, shock or disturb, because such are the requirements of pluralism, tolerance and openness without which there is no democratic society. The protection of freedom of expression is accentuated when dealing with matters of public interest or involving public officials, who are exposed to a greater degree of criticism due to the nature of the activities they perform and because they have voluntarily exposed themselves to a more demanding scrutiny. This does not imply, as the Court pointed out, that their honor cannot be judicially protected; however, they may be protected in a manner consistent with the principles of democratic pluralism and weighing the interest of such protection with the interests of an open and uninhibited debate on public affairs.

355. The Rapporteurship also recorded with concern various statements by public leaders and people who exercise public functions that have the potential to encourage violence against journalists. On January 27, the former president of Ecuador and current parliamentarian candidate, Abdalá Bucaram, allegedly intimidated journalist Dayanna Monroy, reporter and news anchor of the *Teleamazonas* channel, through a video that circulated publicly on social networks.<sup>587</sup> Dayanna Monroy investigates corruption cases and has already been the target of attacks and disqualifications for her journalistic work on previous occasions, events that have been followed closely by this Office. Although the attacks against the journalist are not attributable to a public official in office, the Rapporteurship considers that they are part of an electoral context, since they emanate from a

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<sup>583</sup> Radio Pichincha. 21 September 2021. [La Posta tiene 24 horas para retirar reportaje y pedir disculpas a Priscila Schettini](#); Fundamedios. 21 September 2021. [Jueza aceptó acción de protección en contra de La Posta y censura contenido](#); Qué! Noticias. 21 September 2021. [Estas fueron las disculpas de La Posta tras el fallo a favor de Priscila Schettini](#).

<sup>584</sup> CPJ. 24 September 2021. [Autoridades ecuatorianas allanan la oficina del periodista Fausto Chimbolema y le incautan equipos de trabajo](#); Fundamedios. 15 September 2021. [Instalaciones de un medio digital fueron allanadas en la Amazonía](#).

<sup>585</sup> Committee to Protect Journalists. 23 November 2020. [Sentencian a pena de cárcel al periodista ecuatoriano Juan Sarmiento por 'desacreditar' a funcionario local](#); IFEX. 9 December 2020. [Juan Sarmiento enfrenta orden de prisión, ha sido puesto bajo la protección de un programa para periodistas en riesgo](#).

<sup>586</sup> Vistazo. 7 February 2021. [Juan Sarmiento, periodista que cuestionó al exgobernador de Napo, quedó en libertad](#); Fundamedios. 7 February 2021. [Periodista Juan Sarmiento quedó libre tras prescripción de sentencia](#).

<sup>587</sup> Fundamedios. 28 January 2021. [Expresidente Abdalá Bucaram lanza amenazas de muerte contra dos comunicadores](#); Women in Journalism. 24 November 2021. [Ecuador: Journalist Dayanna Monroy targeted with a smear campaign by former president Abdalá Bucaram](#); CPJ. 10 February 2021. [Expresidente ecuatoriano amenaza y demanda a la periodista Dayanna Monroy](#).



political figure who aspires to be an assembly member. Additionally, the fact that such figure is a former president accentuates the seriousness of the accusation and its impact on the conditions for journalistic coverage of the elections in which he participates.

356. Subsequently, on 28 January 2021, the Attorney General's Office called on the Ecuadorian Police to investigate possible risks for journalists and public whistleblowers investigating alleged acts of corruption, and urged the public to "reject any conduct that incites violence and to continue denouncing possible criminal acts", stressing that democracy is built on respect for freedom of expression.<sup>588</sup> For the Rapporteurship, this call is as important as the duty to ensure compliance with Inter-American standards on freedom of expression in the legal cases brought by former president and candidate Abdalá Bucaram against journalist Dayanna Monroy.<sup>589</sup>

357. This Office was also informed about various accusations made by former President Rafael Correa against the independent press, particularly against *Ecuavisa*, *El Comercio*, *El Universo* and *La Hora*, which he has described as "corrupt press"<sup>590</sup>. Likewise, journalist Carla Maldonado reported having received a series of intimidating messages and harassment of misogynist and sexist nature in social networks after the former president shared a tweet of the reporter and pointed out that "she is not even intelligent and is already making a fool of herself".<sup>591</sup>

358. The Rapporteurship reminds the State that political leaders and public officials are called upon to maintain a discourse encouraging public deliberation and freedom of expression that promotes and does not undermine the rule of law, the protection of human rights, freedom of the media and intercultural understanding, and public confidence in democratic systems of government. This is also part of the positive obligations of States to create an enabling environment for freedom of expression.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

359. As already expressed in the last annual report, this Office is concerned about the persistent delays in the judicial process against the computer activist Ola Bini. According to the information received by the Rapporteurship, on 29 June 2021, more than two years after his arrest, Ola Bini was brought to trial and prosecuted for the crime of non-consensual access to a computer system<sup>592</sup>. Although the trial hearing was initially scheduled for October 21 and 22, it was later postponed to January 2022 after the National Telecommunications Corporation, the accusing party in the criminal proceeding, requested its deferral due to the alleged impediment of its representative to attend that day<sup>593</sup>. Ola Bini's legal defense has denounced that the process is "vitiating of absolute nullity" due to the alleged violations to the guarantees of due process and right of defense, and insisted on the position of vulnerability in which he has constantly been placed. According to what was reported to this Office, from the day of the prosecutor's investigation to date, he has not been informed of the facts that constitute criminal conduct in a precise, detailed and duly identified manner<sup>594</sup>. On the other hand, civil society organizations dedicated to the defense of human rights in the digital environment

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<sup>588</sup> Twitter account of Fiscalía Ecuador (@FiscaliaEcuador). [28 January 2021](#); El Universo. 28 January 2021. [Fiscalía pidió medir riesgo de periodistas que investiguen presuntos actos de corrupción en Ecuador](#).

<sup>589</sup> El Universo. 1 February 2021. [Fiscalía cita a declarar a periodista por denuncia colocada por el expresidente Abdalá Bucaram](#); El Comercio. 1 February 2021. [Fiscalía ordena que se revise actuación de un fiscal que tramita denuncia contra periodista](#).

<sup>590</sup> Fundamedios. 9 February 2021. [Expresidente Rafael Correa vuelve a su discurso de «prensa corrupta» y ataca a los medios en el cierre de campaña](#); El Comercio. 21 February 2021. [Sin odio, pero con memoria](#); Fundamedios. 2 April 2021. [Expresidente Correa publica un tuit estigmatizante en contra de periodista de Univisión](#).

<sup>591</sup> Voces del Sur. 22 February 2021. [Una periodista recibe insultos sexistas en Twitter luego de un mensaje del ex presidente Rafael Correa](#); SIP - IAPA Twitter account (@sip\_oficial). [2 March 2021](#); El Telegrafo. 2 March 2021. [La SIP condena ataques sexistas de Rafael Correa contra directora de El Telégrafo](#).

<sup>592</sup> CNN. 30 June 2021. [Ola Bini, amigo de Julian Assange, irá a juicio por presunto acceso ilegal a sistema informático en Ecuador](#); AP. 29 June 2021. [Informático sueco Ola Bini es llamado a juicio en Ecuador](#); El Comercio. 29 June 2021. [El informático Ola Bini fue llamado a juicio por un delito que es sancionado hasta con cinco años de cárcel](#).

<sup>593</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by the legal defense of Ola Bini. 18 November 2021 and 9 December 2021.

<sup>594</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by the legal defense of Ola Bini. 18 November 2021 and 9 December 2021.



continue to call attention to alleged irregularities and obstacles raised by the Ecuadorian justice system in the case of Ola Bini<sup>595</sup>.

360. In April 2021, the judge partially granted the writ of habeas data filed by Ola Bini in October 2020 against the National Police, the Ministry of the Interior and the Center for Strategic Intelligence (CIES)<sup>596</sup>. Through this legal action, the activist asked to be informed if there had been any order to follow him, as well as interceptions of his electronic equipment, such as cell phones and computers. The judicial decision understood that the CIES had not provided the requested information in a timely manner and therefore requested that “a clear and concrete answer be given, which allows to understand if this entity, through its officials, has carried out or not activities of monitoring, surveillance or interception of communications, or if in its files there is information of this type of activities, considering that this is not a request for access to public information, but a request for personal information of the plaintiff”<sup>597</sup>.

361. Ola Bini was arrested on 11 April 2019 by officers of the National Police’s Technological Crimes Investigation Unit at Quito’s Mariscal Sucre airport. The arrest occurred a few hours after journalist Julian Assange was evicted from the Ecuadorian embassy in London. The activist was prosecuted with preventive deprivation of liberty for 70 days and on June 20 of that year a provincial court ordered his release after accepting a habeas corpus action. Since then, he has been on probation. Initially, the Prosecutor’s Office had charged him with attacking the integrity of computer systems and later reformulated the charges to non-consensual access.

362. On the other hand, the Commission and its Office of the Special Rapporteur followed the development of social protests in Ecuador, and urged the State to observe inter-American standards to guarantee freedom of expression and the right to assembly in the context of citizen demonstrations<sup>598</sup>. According to publicly available information, since October 26 there have been several protests in different provinces that were reportedly motivated by multiple socioeconomic factors. During the first day of protests, there were violent acts against demonstrators and police officers, as well as damages to third parties and public property by those who were protesting, particularly in Santo Domingo Square, Quito. On the other hand, according to official information, at least 37 people were arrested in this context<sup>599</sup>. Likewise, the reporter of *Ecuador Chequea*, Félix Amaya, was shot, allegedly by a police officer, with a rubber bullet that hit his left leg while he was covering the protests in the Historic Center of Quito. According to the information received, the journalist was carrying his press card and had identified himself as a journalist<sup>600</sup>. The Office was also informed about alleged aggressions by the police against journalist Pamela Morante and cameraman Estarlin Merchan, of *Channel 9*, while they were reporting on the social demonstrations in Cantón Daule, Guayas province<sup>601</sup>. Regarding this last incident, the Ecuadorian Police clarified in a press release that the police officers were not involved in the incident and that the journalist, “who understandably was not able to identify that it was not a police officer who was holding her arm”<sup>602</sup>, had been confused.

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<sup>595</sup> EFF. 19 October 2021. [Tras años de retrasos y pruebas alarmantemente endeble, el juicio del experto en seguridad Ola Bini se fija para esta semana](#); Human Rights Watch. 10 November 2021. [When Digital Rights and Cybercrime Collide](#); Access Now. August 2021. [La persecución de la comunidad de la seguridad informática en América Latina](#).

<sup>596</sup> Article 19. 29 April 2021. [Victoria parcial para Ola Bini: Juez reconoció infracción del CIES al negar entrega de información](#); Fundamedios. 22 April 2021. [Actualización: Juez aceptó parcialmente la acción de habeas data en el caso de Ola Bini](#).

<sup>597</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by the legal defense of Ola Bini. 11 June 2021.

<sup>598</sup> IACHR. 5 November 2021. Press Release 294/21. [In the Context of Demonstrations in Ecuador, the IACHR and its Special Rapporteurship for Freedom of Expression Stress Inter-American Standards on the Right to Protest](#).

<sup>599</sup> EFE. 26 October 2021. [Las protestas en Ecuador dejan un balance de 37 detenidos y dos militares retenidos](#); Actualidad RT. 27 October 2021. [Rutas bloqueadas, represión y al menos 37 detenidos durante las protestas en Ecuador por el precio del combustible](#); El Comercio. 26 October 2021. [Organizaciones documentaron uso excesivo de la fuerza en protestas](#); CNN. 26 October 2021. [Protestas contra las políticas económicas en Ecuador dejan 5 policías heridos y 37 manifestantes detenidos](#).

<sup>600</sup> El Comercio. 26 October 2021. [Reportero recibió impacto de bala de goma a quemarropa durante protestas](#); El Universo. 27 October 2021. [Un periodista fue impactado por una bala de goma durante las protestas en Quito](#).

<sup>601</sup> Fundamedios. 26 October 2021. [Periodista fue agredida a golpes por miembros de la Policía Nacional](#); Sputnik News. 26 October 2021. [Una periodista ecuatoriana es agredida por la Policía en manifestaciones contra el Gobierno](#); Gk City. 26 October 2021. [Periodista fue golpeada por la Policía Nacional mientras cubría protestas. Esto sabemos](#).

<sup>602</sup> Twitter account Policía Ecuador (@PoliciaEcuador). [26 October 2021](#); Vistazo. 26 October 2021. [La Policía asegura que hubo una “confusión” en la agresión contra periodista Pamela Morante](#).

363. The Commission has repeatedly pointed out that the fact that some persons in a protest participate in acts of violence does not, per se, make the entire protest illegitimate. The State has the simultaneous duty to contain any violent expressions and to guarantee the right to demonstrate by protecting those who express their discontent. Likewise, as the report “Protest and Human Rights” points out, it should be especially kept in mind that journalists, cameramen, photojournalists and media workers covering protests have the function of gathering and disseminating information about what happens in demonstrations and protests, including the actions of the security forces; and that freedom of expression protects the right to record and disseminate any incident.

364. The Commission and its Rapporteurship positively value the fact that the State has called for dialogue with the different sectors, and urged the authorities to ensure the effectiveness and inclusiveness of this effort, taking into special consideration the representatives of groups in vulnerable situations. Likewise, for the IACHR and its Office of the Special Rapporteur, it is essential that such dialogues address the legitimate demands of the population with the utmost respect for human rights and within the democratic framework of the rule of law.

365. The Rapporteurship welcomes the information provided by the State regarding the inclusion of training on international human rights standards on freedom of expression in the 2021 plan of the Directorate of Training and Mission Strengthening of the Attorney General’s Office. According to the State, these trainings have the objective of preparing and deepening the knowledge of public servants regarding investigations in this area. Likewise, the State has informed that they continue to use and diffuse the “Guidelines for the application of international human rights standards in investigations that take place in contexts of social protest”, issued on 9 January 2020.

366. The Rapporteurship has also been made aware of the proposed reforms to the Organic Law of Communication (LOC) in force in Ecuador. According to the information received, the International Relations Commission of the National Assembly would have approved the unification of several projects, including one promoted by the national executive branch, and another presented by Assembly members Fernando Villavicencio and Marjorie Chávez, together with the organization Fundamedios. As stated publicly by congresswoman Marjorie Chávez, the initiative “seeks to change a model of prior censorship, direct or indirect, to a model of subsequent responsibility and a model of self-regulation”<sup>603</sup>. As noted by the Special Report on the Situation of Freedom of Expression in Ecuador published by the UN and IACHR in 2019, “the 2013 Organic Law of Communication seriously undermined the independence of the media, as did the pressures exerted on journalists and reporters by the previous government. Self-censorship and self-doubt relating to investigative journalism persist among members of the press, as they continue to fear persecution under the Law, despite its legal and technical reform”<sup>604</sup>. In the State’s opinion, the legislation “will make it possible to abolish any remaining prior censorship, will eliminate the regulation of information and will prevent the persecution of journalists and media outlets”<sup>605</sup>.

367. According to the State, “recovering the institutional framework is one of the main tasks faced by the National Government”, for which “the paradigm has been changed so that public institutions are at the service of citizens and do not become an instance of political persecution. The Superintendence of Communication, a regulatory body that served to persecute and issue sanctions against freedom of expression, has been abolished”. They also indicated that the General Secretariat of Communication of the Presidency “has become a governmental instance for the promotion of freedom of expression; it is a coordinating body to provide governmental information to the media and citizens, in full exercise of its powers and obligations such as accountability”<sup>606</sup>.

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<sup>603</sup> LatAm Journalism Review. 15 September 2021. [Con proyecto de ley de comunicación, Ecuador busca abandonar por completo legado de su restrictiva antecesora](#); La Hora. 4 November 2021. [Reforma que elimina la Ley de Comunicación sigue atrapada en la Asamblea](#).

<sup>604</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 2019. [Special Report on the Situation of Freedom of Expression in Ecuador](#). Joint report by the Special Rapporteur for Freedom of Expression of the IACHR, Edison Lanza, and the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, on the missions to Ecuador.

<sup>605</sup> Permanent Mission of Ecuador to the OAS. 14 September 2021. Information from the Ecuadorian State for the 2021 Annual Report of the Office of the Special Rapporteur for Freedom of Expression.

<sup>606</sup> Permanent Mission of Ecuador to the OAS. 14 September 2021. Information from the Ecuadorian State for the 2021 Annual Report of the Office of the Special Rapporteur for Freedom of Expression.

368. This Office encourages the State to continue its efforts to bring domestic legislation in line with international human rights standards, in the understanding that respect, promotion and guarantee of freedom of expression is a fundamental mission of democracies.

### **C. Freedom of Expression and the Fight against Discrimination and Exclusion**

369. This Office has been informed of alleged threats to women activists who demonstrate for women's rights. In March, according to available information, Liz Zhingri, an activist of the "Femininjas" collective, was the target of a smear campaign after unknown individuals placed pamphlets with her face on the Mariano Moreno Bridge, known as "Vivas nos Queremos" (We want to be Alive) and a symbol of the protests against gender violence, and in the vicinity of the bridge. The pamphlets had messages such as "Wanted. Alias: La india. radical *Femibolche*. Cash Reward: 0.05". Likewise, the plaque placed on the bridge in November 2020 was allegedly destroyed on March 6, two days before the commemoration of International Women's Day<sup>607</sup>.

370. The Ecuadorian State has reported that "it continues to promote dialogue and the meeting of different sectors of society, the construction of public policies and legal projects through the participation of citizens, in what constitutes a true exercise of participatory democracy. Ecuador has promoted communication without discrimination, respecting human rights". As such, they mention that they are actively working on aspects such as respect for groups such as the LGBTI community, refugees and migrants, women, people with disabilities, people and nationalities and persons in vulnerable situations.

371. Likewise, the State has emphasized that, in compliance with collective rights and in the exercise of intercultural communication, "the community media of the peoples and nationalities are promoted; their educational and cultural role and their role in revaluing and rescuing the language of our nations; their power to strengthen the social fabric, and the promotion of rights, inclusion and intercultural communication".

372. In relation to the role of the media in the construction of more just and egalitarian democratic societies, the State has insisted on the importance of "the media being aware of the social responsibility that falls on them". For this reason, the Council for the Regulation, Development and Promotion of Information and Communication (CRDPIC) and the National Councils for Equality have developed instruments to guide the media so that they become pillars of equality, considering their importance in the social imaginary.

373. Finally, the Rapporteurship welcomes the information provided by the State regarding the work it is doing to guarantee access to communication and information for persons with disabilities, particularly through the National Council for the Equality of Disabilities (CONADIS).

### **D. Freedom of Expression and the Internet**

374. In 2021, Ecuador was the country that registered the greatest improvement in the indexes on freedom of expression on the Internet published annually by the organization Freedom House. According to the "Freedom on the Net" report, the online human rights environment deteriorated in 30 countries this year, while only 18 countries registered improvements, with Ecuador obtaining the most significant rise. According to the report, the improved conditions for the exercise of Internet rights in Ecuador are evidenced in an information field with increasingly diverse content, which allows journalists, citizens and users belonging to groups usually excluded, such as indigenous peoples, to participate in the public discussion. However, threats to freedom of expression on the Internet persist, associated with the use of judicial mechanisms or private moderation of content by state actors to eliminate content they consider critical<sup>608</sup>.

375. In this regard, the Ecuadorian government has informed that the eradication of the digital gap is one of the priority work objectives in this area and, in this sense, the State indicated that it is "working so that more and more communities, especially in rural areas of the country, can access the Internet". In this sense, the State emphasized that "better technology at the service of the communities means greater productivity, better

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<sup>607</sup> El Comercio. 8 March 2021. [La activista feminista Liz Zhingri es víctima de amenazas; indignación en redes sociales](#); El Universo. 8 March 2021. [Activista feminista de Cuenca recibe amenazas en el marco del Día Internacional de la Mujer](#); Fundamedios. 10 March 2021. [Panfletos con rostro de activista fueron colocados en el Centro de Cuenca](#).

<sup>608</sup> Freedom House. [Freedom on the Net 2021: Ecuador](#).

business opportunities and entrepreneurship. Undoubtedly, greater connectivity and access to digital information media opens a greater field for freedom of expression and access to information”<sup>609</sup>.

376. As the IACHR and its Rapporteurship have pointed out on multiple occasions, access to the Internet is currently a *sine qua non* condition for the full enjoyment of human rights. The Rapporteurship welcomes the progress observed in this area and encourages the State to continue working on the development of policies for universal access to the Internet, and on the development of positive measures to reduce the digital gap faced by vulnerable groups.

377. On the other hand, this Office has also followed the adoption of the “Law to Prevent and Combat Digital Sexual Violence and Strengthen the Fight against Computer Crimes”, approved by the National Assembly on May 6. While the legislation pursues legitimate and well-intentioned objectives such as responding to online gender-based violence, according to reports received by this Office, it may contain some articles that could undermine the right to freedom of expression in Ecuador. Among other provisions, the norm provided for prison sentences of one to three years for those who disclose or disseminate video recordings, audio, images or other digital content that may constitute private or reserved information, without the consent of the affected person. Thereby the law could threaten the free exercise of journalism or the work of human rights defenders who investigate highly sensitive and public interest events, and who for fear of criminalization could submit to self-censorship<sup>610</sup>. In June, the Rapporteurship was informed of the president’s partial veto of the law, through the objection of 19 articles of the legal body, among them the one referring to the disclosure of secrets or personal information of third parties, considering that it “could interrupt the free flow of information that should exist in a democratic society”.<sup>611</sup>

378. Freedom of expression applies to the Internet in the same way as to all media. This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards which provide, inter alia, that they must be set forth in a law and pursue a legitimate aim recognized by international law, be necessary and proportionate to achieve that aim. In this regard, the Office of the Special Rapporteur reiterates the importance of ensuring that any legislation regulating the Internet does not contain vague and general definitions or disproportionately affect the free flow of information.

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<sup>609</sup> Permanent Mission of Ecuador to the OAS. 14 September 2021. Information from the Ecuadorian State for the 2021 Annual Report of the Office of the Special Rapporteur for Freedom of Expression.

<sup>610</sup> Twitter account of the National Assembly (@AsambleaEcuador). [6 May 2021](#); Inter American Press Association. 7 May 2021. [SIP dice que la nueva Ley de Violencia Digital de Ecuador podría afectar la libertad de prensa](#); CPJ. 13 May 2021. [Asamblea Nacional de Ecuador aprueba proyecto de Ley de Violencia Digital que amenaza la libertad de prensa](#); Fundamedios. 16 May 2021. [Fundamedios rechaza la aprobación de la Ley de Violencia Digital por contener severas restricciones a derechos](#); Human Rights Watch. 8 June 2021. [Para erradicar la violencia digital en Ecuador no es necesario restringir la libertad de expresión](#).

<sup>611</sup> El Universo. 10 June 2021. [Presidente Guillermo Lasso veta parcialmente proyecto de ley contra la violencia sexual digital y lucha contra delitos informáticos](#); El Comercio. 12 June 2021. [Veto Presidencial al 80% de la Ley de Violencia Digital](#).

## EL SALVADOR

379. The Office of the Special Rapporteur continues to observe a deterioration in the guarantees for the exercise of the right to freedom of expression in El Salvador, which in 2021 has been observed through signs of government control of the public debate and a decrease in the plurality of voices. Organizations linked to the press have denounced that the political and institutional scene has become adverse for the exercise of independent journalism. Between January and August 2021, the Association of Journalists of El Salvador (APES) documented at least 173 cases of attacks on journalists, a figure that exceeds that of all of 2020. The restrictive trends in access to public information recorded by the Office of the Special Rapporteur in its last annual report persist and have increased gradually, particularly since the decision of the Legislative Assembly of May 1, 2021 to remove courts from the Constitutional Chamber of the Supreme Court of Justice, according to the information received.

### A. Journalism and Democracy

380. In 2021, independent journalists and the media denounced a hostile environment for the exercise of the right to freedom of expression, as well as the loss of guarantees to carry out their work freely and safely. As indicated, the instances of control and judicial protection have been drastically reduced in the face of alleged acts of harassment allegedly from government spheres.<sup>612</sup>

381. According to the information received by this Office, stigmatizing accusations and statements would be used frequently by high-ranking authorities against the press that investigates and criticizes government management. Thus, for example, on February 18, 2021, the president reportedly questioned through his social networks an article by Cecibel Romero, a journalist for the digital magazine *Salud con Lupa*, about the entry of vaccines against COVID-19 into the country.<sup>613</sup> As reported by the Association of Journalists of El Salvador (APES), the president's messages would have generated stigmatizing accusations against the journalist by people who are candidates for Congress for the Nuevas Ideas party, as well as government supporters, through social networks<sup>614</sup>. On other occasions, as this Office was able to document, the president described certain journalists and the media as "garbage"<sup>615</sup>, in addition to accusing them of spreading lies<sup>616</sup>, engaging in "activism, and of poor quality"<sup>617</sup>, "pretending to be the victims before international organizations"<sup>618</sup>, and instigating "vandalism" during social demonstrations.<sup>619</sup>

382. Likewise, the former candidate for Congress from San Salvador for the ruling party Nuevas Ideas, Walter Araujo, would have accused the *El Faro* portal of being "a sewer ... full of cheap journalists and liars" and "a disgust for the nation"<sup>620</sup>, in addition to labeling the journalist and director of APES, William Gómez as a "vandal", "criminal", "terrorist" and "parasite".<sup>621</sup> The Office of the Special Rapporteur also registered with concern the message of disqualification from the Press Secretary of the Presidency, Ernesto Sanabria, of the work of photojournalist Oscar Machón, accusing him of lying and misinforming, and of "crossing the line from journalism to activism".<sup>622</sup> Additionally, on July 5, when consulted by a journalist, Óscar Alberto López Jerez,

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<sup>612</sup> International Federation of journalists. May 4, 2021. [El Salvador: social organizations and civil society groups raise their voices to reject the dismissal of judges from the Constitutional Court and the attorney general](#); Amnesty International. July 19, 2021. [Nayib Bukele's recipe for limiting the exercise of human rights](#); El Espectador. July 8, 2021. [Nayib Bukele, a threat to the press and democracy in America?](#)

<sup>613</sup> Nayib Bukele's Twitter account (@NayibBukele). [February 18, 2021](#).

<sup>614</sup> APES. February 19, 2021. [President Bukele and users of social networks harass journalist](#).

<sup>615</sup> Nayib Bukele's Twitter account (@NayibBukele). [September 13, 2021](#).

<sup>616</sup> Nayib Bukele's Twitter account (@NayibBukele). [September 19, 2021](#); Nayib Bukele's Twitter account (@NayibBukele). [September 13, 2021](#).

<sup>617</sup> Nayib Bukele's Twitter account (@NayibBukele). [May 30, 2021](#).

<sup>618</sup> Nayib Bukele's Twitter account (@NayibBukele). [September 19, 2021](#).

<sup>619</sup> Nayib Bukele's Twitter account (@NayibBukele). [September 19, 2021](#).

<sup>620</sup> Walter Araujo's Twitter account (@waraujo64). [February 19, 2021](#).

<sup>621</sup> Walter Araujo's Twitter account (@waraujo64). [September 19, 2021](#); El Diario de Hoy September 19, 2021. [APES condemns defamation of President Bukele against one of its directors](#); Infobae. September 19, 2021. [Nayib Bukele calls himself a "cool dictator" and deepens his attacks against opponents, journalists, and civil organizations](#).

<sup>622</sup> Ernesto Sanabria's Twitter account (@NSanabria7). [April 25, 2021](#); Oscar Machón Twitter account (@OscarMachon). [April 25, 2021](#); La Prensa Gráfica. April 26, 2021. [APES denounces harassment by the press secretary against a journalist](#); APES. April 25, 2021. [Photojournalist receives digital harassment by press secretary and users of social networks](#); APES. April 25, 2021. [Photojournalist receives digital harassment by press secretary and users of social networks](#).



who was appointed on May 1 as president of the Supreme Court and judge of the Constitutional Chamber, replied to the journalist Luis Muñoz of Canal 33 that he was "a fairly poor-minded journalist".<sup>623</sup>

383. On the other hand, according to available information, on April 13, the Salvadoran Government reported, through the Presidential Press Secretariat, about the vaccination of journalist Paolo Luers, columnist for *El Diario de Hoy* and *Más!*, noting that "Despite the line he has maintained against the government of President Nayib Bukele" the reporter "was treated with kindness and professionalism by the health personnel".<sup>624</sup> The IACHR's Special Rapporteur for Freedom of Expression, Pedro Vaca, warned that "the Executive would do well to disallow value judgments from official channels with respect to vaccinated people and their public opinions".<sup>625</sup> The organization Human Rights Watch also expressed concern in this regard and recalled that international standards require that the vaccine be applied without any discrimination.<sup>626</sup>

384. This Office also observed with concern various statements by the Minister of Security, Gustavo Villatoro, against the work of the Salvadoran press in covering the so-called "Chalchuapa case", regarding the location of an alleged clandestine grave in the house of a former agent of the National Civil Police in the municipality of Chalchuapa, on May 8. According to the information received, on June 8, when he was interviewed on the YSKL radio station's "Punto de Vista" program, the official argued that the government would be "following up" and "constantly monitoring" journalists due to the alleged "irresponsible handling" of the information and the intention to "generate apology for the crime".<sup>627</sup> Later, on June 28, Minister Villatoro reportedly described the press as "prophets of calamity".<sup>628</sup> As reported to the Office of the Special Rapporteur, the official later denied having referred to the existence of a practice of persecution of journalists.<sup>629</sup>

385. This Office recalls that public leaders and people who exercise public functions are called upon to maintain a speech favorable to freedom of expression, and to ensure that with their statements they are not infringing the rights of those who contribute to the debate through the expression and dissemination of their thought. While it is legitimate for them to make criticisms, corrections, or objections, they must avoid stigmatization, discrediting, and threatening statements that may undermine respect for the independence of the media.

386. The Office of the Special Rapporteur received information on the alleged increase in attacks by security agents against press workers who legitimately exercise their right to report.<sup>630</sup> On February 28, 2021, in the context of the legislative and municipal elections, according to publicly available information, members of the president's security team allegedly violently attacked the *El Diario de Hoy* photojournalist, Jessica Orellana, moments after the president cast his vote at the voting center on Bulevar del Hipódromo, in San Salvador.<sup>631</sup> According to the information documented by APES, during the election day and the day after, at least 58 attacks against journalists were recorded.<sup>632</sup> Likewise, on July 7, 2021, a police officer attacked the journalist from *El Diario de Hoy*, Jorge Beltrán Luna, when he was covering the discovery of a body, allegedly linked to the

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<sup>623</sup> El Diario de Hoy. July 5, 2021. [Judge López Jerez defends his election and argues with a journalist](#); Luis Muñoz's Twitter account (@Luis33Tv). [July 5, 2021](#); APES. July 5, 2021. [President of the Supreme Court tries to discredit a Teleprensa journalist](#).

<sup>624</sup> Twitter account of the Press Secretary of the Presidency (@SecPrensaSV). [April 13, 2021](#).

<sup>625</sup> Pedro Vaca's Twitter account (@pvacav). [April 13, 2021](#).

<sup>626</sup> El Mundo. April 13, 2021. [Vivanco criticizes publication on vaccination to journalist critical of the Government](#); El Diario de Hoy. April 13, 2021. [Director of Human Rights Watch questions the Government for exposing and harassing opponents while they are vaccinated against COVID-19](#); La Prensa Gráfica. April 13, 2021. [Director of Human Rights Watch criticizes the use of government accounts to harass opponents for being vaccinated against covid-19](#).

<sup>627</sup> Radio YSKL. June 8, 2021. ["Everything has its limit": Minister of Security on apology for crime](#); El Diario de Hoy. June 8, 2021. [VIDEO / Minister of Security: "We are tracking a lot of journalists"](#); La Prensa Gráfica. June 8, 2021. [Minister says he "tracks" journalists who report on Chalchuapa](#); El Comercio. June 9, 2021. [Who is Gustavo Villatoro, the Bukele minister who admitted that the government "tracks" journalists?](#)

<sup>628</sup> La Prensa Gráfica. June 28, 2021. [Minister of Security denies cover-up in the Chalchuapa case and accuses the media of being "prophets of calamity"](#).

<sup>629</sup> Swiss Info. June 8, 2021. [The Salvadoran Security Minister denies that he persecutes journalists](#); Radio YSKL. June 9, 2021. [APES shows concern about government tracking journalists; Minister of Security denies persecution](#).

<sup>630</sup> Deutsche Welle (DW). September 16, 2021. [Journalists from El Salvador: "We hope that the public will support the press"](#); Latam Journalism Review. September 8, 2021. [Alarm in El Salvador, where violence and stigmatizing speeches against journalists increase](#).

<sup>631</sup> La Prensa Gráfica. February 28, 2021. [Photojournalist is attacked by Bukele's security](#); El Diario de Hoy. February 28, 2021. [Members of the Bukele security attack photojournalist from El Diario de Hoy](#); Twitter account of the International Foundation for Women in the Media (IWMF\_es). [March 1, 2021](#).

<sup>632</sup> APES. February 28, 2021. [Assaults on the press during the electoral process](#).



disappearance of a student in the municipality of Apopa.<sup>633</sup> On August 20, agents of the National Civil Police attacked and detained a team of journalists from *Diario El Mundo* and *Telecorporación Salvadoreña* (TCS) for an hour when they were covering the scene of an alleged homicide in the San Miguelito neighborhood, in El Salvador. According to the information received, during a violent struggle with the reporters, the police officers allegedly damaged a press video camera and seized a cell phone from them.<sup>634</sup>

387. In 2021, journalists from *El Faro* continued to denounce a campaign of attacks against them, allegedly from government spheres, which they say would have the purpose of obstructing their work and discrediting the media. On February 4, 2021, the IACHR granted precautionary measures to 34 identified members of the media outlet, understanding that their rights to life and personal integrity are in a serious and urgent situation due to "alleged harassment, intimidation, threats and stigmatization" against them that "would be closely related to the exercise of their freedom of expression on matters of public interest."<sup>635</sup>

388. Among other facts reported to this Office, on July 6, agents of the General Directorate of Migration appeared at the home of Mexican journalist Daniel Lizárraga, editor of the digital medium *El Faro*, to inform him that his temporary 90-day stay permit, which was in progress, was being revoked and that his application for a work permit was rejected and therefore he had to leave the country within five days<sup>636</sup>. According to the information received by the Office of the Special Rapporteur, the immigration authority based such decision on the fact that he had not been able to prove his journalistic profession. On July 7, the Director General of Migration and Foreigners, Ricardo Cucalón, affirmed that foreigners should "obey the laws" since otherwise they could be deported<sup>637</sup>. On July 8, Daniel Lizárraga left El Salvador. "They are not going to shut us up, we are going to continue offering the best information and with all possible rigor to inform this society as it deserves," said the journalist before leaving the country.<sup>638</sup> According to the media, the expulsion of the journalist would be framed in a context of "systematic harassment" by the president that both *El Faro* and other journalists and independent media in El Salvador face.<sup>639</sup> A few days later, on July 9, the Migration Directorate denied a work permit to another journalist from *El Faro*, Roman Olivier Gressier, a US national, arguing that the reporter was not in El Salvador at the time and therefore he did not have "the intention of staying and residing in the country".<sup>640</sup> According to the information received, neither *El Faro* nor the journalist Gressier received any summons from the Salvadoran authorities prior to the denial of the work permit.<sup>641</sup>

389. The Special Rapporteurship received with particular concern information regarding alleged state surveillance of communications to the detriment of at least eleven journalists of *El Faro*. According to information received by SRFOE, on November 23, Apple had warned by e-mail "a very small number of users" of iPhone phones about "possible espionage" that could involve "state-sponsored attackers". According to *El Faro*, the alert notifications were received by media personnel from different areas, including editorial heads, journalists and members of the board of directors. Representatives of civil society organizations and opposition political parties have also reportedly received them. Among other things, the message warned that "it is likely

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<sup>633</sup> Jorge Beltrán Luna's Twitter account (@Jbeltranluna\_). [July 7, 2021](#); *El Mundo*. July 7, 2021. [Police physically assault a journalist in coverage of the recovery of a student's body](#); *El Diario de Hoy*. July 7, 2021. [APES condemns the attack on a journalist from El Diario de Hoy by a PN official](#); César Fagoaga's Twitter account (@cesarfagoaga). [July 7, 2021](#); *El Diario de Hoy*. July 8, 2021. [Journalist Jorge Beltrán files suit against PNC inspector for beating him](#); *El Diario de Hoy*. July 8, 2021. ["I have to analyze the facts. I cannot base myself on what I saw on social networks," says the Prosecutor about assault on a journalist](#).

<sup>634</sup> *El Diario de Hoy*. August 20, 2021. [PNC agents attack journalists from Diario El Mundo and TCS](#); *Diario El Mundo*. August 20, 2021. [PNC detains for one hour journalists from Diario El Mundo and TCS](#); APES. August 20, 2021. [PNC attacks and detains journalists from Diario El Mundo and TCS](#).

<sup>635</sup> IACHR. February 4, 2021. [Precautionary Measures No. 1051-20 34](#). 32 identified members of the digital newspaper *El Faro* regarding El Salvador. Resolution 12/2021.

<sup>636</sup> *El País*. July 7, 2021. [Bukele expels from El Salvador Mexican journalist Daniel Lizárraga, editor of the digital medium El Faro](#); *La Prensa Gráfica*. July 7, 2021. [The Government of El Salvador orders the editor of the digital newspaper El Faro to be expelled from the country](#); *Swiss Info*. July 7, 2021. [The Salvadoran government orders the editor of El Faro to leave the country, according to the director](#).

<sup>637</sup> Ricardo Cucalón's Twitter account (@R\_Cucalon). [July 7, 2021](#).

<sup>638</sup> *El Faro*'s Twitter account (@\_elfaro\_). [July 8, 2021](#); *CNN*. July 8, 2021. [The Mexican journalist Daniel Lizárraga leaves El Salvador after being expelled by the government, according to the newspaper El Faro](#).

<sup>639</sup> *El Faro*'s Twitter account (@\_elfaro\_). [July 7, 2021](#); *The country*. July 7, 2021. [Bukele expels from El Salvador Mexican journalist Daniel Lizárraga, editor of the digital medium El Faro](#); *El Faro*. September 1, 2020. [Bukele, main instigator of attacks on the press](#);

<sup>640</sup> *La Prensa Gráfica*. July 12, 2021. [Government denied work permit to US journalist from digital medium El Faro](#); *El Diario de Hoy*. July 12, 2021. [Government denies work permit to another journalist from El Faro](#); *Swiss Info*. July 12, 2021. [Immigration from El Salvador denies permission to a journalist from El Faro, according to media](#).

<sup>641</sup> *El Faro*'s Twitter account (@\_elfaro\_). [July 12, 2021](#).

that these attackers are targeting you individually because of who you are or what you do" and that, in the case of an attack promoted by state actors, "it is possible that they could remotely access your confidential data, communications or even the camera and microphone".<sup>642</sup> That same day, according to the information available, Apple would have filed a lawsuit against the company NSO Group, responsible for the malicious spying software "Pegasus", about which this Office warned and expressed its concern on several occasions during 2021.<sup>643</sup>

390. The Office of the Special Rapporteur has also been informed of concerns about the potential government control of the public debate where there would be institutional efforts to position the official version as the only legitimate and truthful one through the use of state media,<sup>644</sup> privately owned media managed by the State,<sup>645</sup> and the reduction of independent news spaces. Various actors have reported to the Office of the Special Rapporteur on the alleged instrumentalization of the state media - *Canal 10*, *Radio Nacional*, and *Diario El Salvador*- for political purposes and for the dissemination of government propaganda.<sup>646</sup> In this context, this Office was reported on the reduction of informative spaces for reasons that could be linked to government pressure. Thus, for example, in March 2021 the news segment *Focos* on *Canal 33* was taken off the air, which, according to civil society, was one of the few journalistic investigation products on national TV and for the development of critical audiences.<sup>647</sup> Months later, the channel made the same decision with the talk show "República" due to alleged changes in the programming, as announced on July 29 by its host, Wendy Monterrosa.<sup>648</sup> *Canal 33* issued a statement confirming the facts and arguing alleged economic reasons resulting from the pandemic.<sup>649</sup> On the other hand, complaints have also been received about the closure of community radio stations by administrative order of the General Superintendency of Electricity and Telecommunications (SIGET), for allegedly not having the relevant authorization.<sup>650</sup>

391. In the different instances of communication, the State of El Salvador has recognized the important role that the media play in a democratic society, and in this sense, they highlight the open and proactive role that the current administration has had with the media to through press conferences, national channels, speeches, press releases, among other actions.<sup>651</sup>

392. According to the information provided by the State, strengthening the coverage and participation of the public media in the media and public discussion spaces has been positioned as a priority objective of the current Government since the beginning of its term, in order to promote plurality in the media. Along these lines, they indicated that the national public media system had been "reorganized and revitalized", through different strategic lines such as investment in human and technological resources to expand the coverage of the national channel and public radio; the launch of the newscast "El Salvador", among others. In this regard, the State emphasizes that the strengthening of the state media and its journalistic exercise contributes to providing the population with a variety of informational spaces, with a diversity of opinions and points of

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<sup>642</sup> El Faro. November 23, 2021. [Apple envía alerta de espionaje patrocinado por el Estado a 12 miembros de El Faro](#); Voice of America. November 24, 2021. [Periodistas salvadoreños denuncian posible espionaje por parte del Estado](#); Swiss Info. November 24, 2021.

<sup>643</sup> Apple Newsroom. November 23, 2021. [Apple sues NSO Group to curb the abuse of state-sponsored spyware](#).

<sup>644</sup> Deutsche Welle (DW). October 4, 2020. ["Bukele and his government are the main source of disinformation in the country."](#)

<sup>645</sup> Legislative Assembly. October 20, 2020. [Special Commission confirms abuses against journalists](#). ("CONAB is using the media that are administered by the entity and have been confiscated from radio and telecommunications entrepreneurs.")

<sup>646</sup> El Diario de Hoy. October 2, 2020. [The Government is turning Channel 10 into an official propaganda outlet](#); La Prensa Gráfica. October 4, 2020. [APES: State media are not for disseminating propaganda](#); Deutsche Welle (DW). October 12, 2020. [Noticiero El Salvador: Pre-election journalism?](#); Infobae. March 15, 2021. [Cases of attacks on the press in El Salvador total 94 so far this year](#); Virtual meeting with civil society organizations and journalists. May 5, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>647</sup> El Diario de Hoy. March 28, 2021. [Channel 33 removes the news segment FocosTV from programming](#); FOCOS Twitter account (@focostv). [March 28, 2021](#).

<sup>648</sup> Wendy Monterrosa's Twitter account (@wenmonterrosa). [July 29, 2021](#); El Mundo. July 29, 2021. [The talk show "República" is canceled on Channel 33](#); El Salvador Gram. July 29, 2021. [Wendy Monterrosa announces the cancellation of the Canal 33 program "República" and controversy breaks out](#).

<sup>649</sup> La Prensa Gráfica. July 30, 2021. [The closure of the talk show "República" on Channel 33 is announced](#).

<sup>650</sup> Participatory Radio Broadcasting Association of El Salvador (ARPAS). Report on the situation and dangers of community media in El Salvador. 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression. According to the information received, in mid-February 2021, the Participatory Radio Broadcasting Association of El Salvador (ARPAS) would have received three resolutions from SIGET that ordered it to immediately cease the transmissions of the *Fonseca y Copinula* radios, in addition to *La Voz de Mi Gente*, the only indigenous community radio in the country, under threat of being sanctioned with the payment of a fine.

<sup>651</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-112/21. September 29, 2021.

view.<sup>652</sup> Likewise, it warns that the foregoing has not meant a decrease in the activities or information work carried out by private media; on the contrary, the State indicates that the independent media have expanded in recent times in El Salvador, which they understand to be positive since "it favors media pluralism and contributes to social control in a democratic state of law".<sup>653</sup>

393. The Office of the Special Rapporteur recalls that, as stated in the Joint Declaration of Rapporteurs of 2021, "States have a positive obligation to create an environment conducive to freedom of expression and the right to information, among other things by promoting the independence and diversity of the communication media as a fundamental means to promote a solid and open debate on matters of public interest, and adopting norms that guarantee public transparency and the responsibility of public agents".<sup>654</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

394. During 2021, various symptoms of democratic decline continued to deepen in El Salvador. The IACHR and its Office of the Special Rapporteur observed with extreme concern the decision of the Legislative Assembly of May 1, 2021 to dismiss the titular and alternate judges of the Constitutional Chamber of the Supreme Court of Justice and of the Attorney General of the Republic, and the subsequent appointment of their substitutes<sup>655</sup>. In this context, the IACHR and its Office of the Special Rapporteur received reports from different civil society actors who denounced the lack of guarantees of transparency and accountability by the State, the violations of the republican principle of separation and independence of public powers, as well as threats and pressure to journalists and independent media who report and question the measures adopted.

395. In the last hours of May 1, the Constitutional Chamber of the Supreme Court of Justice of El Salvador, in its original composition, declared unconstitutional the dismissal of judges "insofar as it violates the republican, democratic, and representative and pluralist political system", which, according to it, evidences a "marked intention to suppress the effective controls towards the Executive and Legislative Bodies"<sup>656</sup>. Despite this, the president of El Salvador would have publicly insisted on the legitimacy of the measure, which in his opinion would not imply "eroding democracy, but rather strengthening it, since to erode it would be to do the same as always when people have voted for a change"<sup>657</sup>. On June 2, 2021, in a speech on the occasion of the two-year anniversary of his administration, addressing officials and representatives in Congress, the president would have urged progress on the "fifth step" of his project, which he described as "the battle of the Salvadoran people against the ideological apparatus" supposedly led by "the oligarchy", a concept in which he included "foundations, think tanks, and NGOs".<sup>658</sup>

396. In relation to the foregoing, the IACHR and its Office of the Special Rapporteur registered with concern the draft Law on Foreign Agents presented by the Ministry of the Interior and Territorial Development on November 9, the implementation of which could seriously affect the work of individuals, social organizations civil society, and the media that contribute to the defense of human rights and freedom of the press. According to the information available, the initiative establishes the obligation to register as a "foreign agent" for all natural or legal persons that carry out activities that "respond to interests, are controlled or financed, directly

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<sup>652</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-112/21. September 29, 2021.

<sup>653</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Report of the State of El Salvador to the Inter-American Commission on Human Rights in the framework of the thematic hearing "General situation of human rights in El Salvador" convened for June 30, 2021; Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-112/21. September 29, 2021.

<sup>654</sup> UN, OSCE, OEA and CADHP. October 20, 2021. [Joint Declaration 2021 on politicians and public officials and freedom of expression](#).

<sup>655</sup> AP News. May 2, 2021. [New Assembly of El Salvador dismisses judges](#); Deutsche Welle (DW). May 2, 2021. [Congress of El Salvador, akin to Bukele, dismisses judges of the Supreme Court](#).

<sup>656</sup> Constitutional Chamber of the Supreme Court of Justice of El Salvador. [Court order of unconstitutionality. 1-2021](#). May 1, 2021; La Prensa Gráfica. May 1, 2021. [The Constitutional Chamber declares the Assembly's proposal to remove them unconstitutional](#); Swiss Info. May 2, 2021. [The Supreme Court of El Salvador declares the dismissal of judges unconstitutional](#).

<sup>657</sup> Nayib Bukele / Facebook. May 4, 2021. [National network](#); El Faro. May 3, 2021. [Bukele responds to the avalanche of international repudiation: the people voted for this](#); BBC. May 2, 2021. [El Salvador: Bukele rejects international condemnations for the dismissal of Supreme Court judges](#).

<sup>658</sup> Diario El Mundo. June 1, 2021. [President reiterates there is no turning back and calls for the fight against the "ideological apparatus"](#); El Faro. June 2, 2021. [Nayib Bukele announces new "battle" against media and NGOs](#); La Nación. June 2, 2021. [Bukele affirms that "there is no turning back" and attacks "the oligarchy" after serving two years in power](#); Diario El Mundo. June 2, 2021. [President announces battle against "ideological apparatus"](#).

or indirectly, by a foreign principal". According to information from a public source, on November 16 the Foreign Relations Commission of the General Assembly issued an opinion in favor of said draft. The legal initiative prohibits "foreign agents" from carrying out activities that have "political or other purposes, with the aim of altering public order, or that endanger or threaten national security, social and political stability of the country," among other things. The IACHR and its Office of the Special Rapporteur are concerned that eventual non-compliance with these provisions could lead to criminal and administrative liability, in addition to the cessation of activities and the cancellation of legal status. The project also determines the application of a 40% tax on any financial transaction or donation from abroad that is not among the expressly provided exceptions. As expressly stated, the purpose of the regulation is to "promote transparency regarding foreign influence within El Salvador" so that "citizens are aware of foreign agents destined to influence public opinion", in addition to safeguarding security, national sovereignty, and the social and political stability of the country.

397. Human rights defenders, journalists, and the media play a central role in democratic societies and the process of strengthening the rule of law. In this sense, the IACHR and its Office of the Special Rapporteur understand that the imposition of economic or political pressure in order to influence or limit the expressions of people or the media considered critical or contrary to official voices or government interests is inadmissible; and they recall that direct or indirect pressure aimed at silencing legitimate speeches is incompatible with inter-American standards on freedom of expression.

398. In this context, journalists and the media have warned this Office about the accelerated deterioration of the guarantees of access to public information, especially after the decision of the Legislative Assembly of May 1, which would be reflected, among other facts, in obstructing independent media to cover public events in the legislature and in other governmental areas.<sup>659</sup>

399. Likewise, civil society organizations expressed to this Office their concern about the alleged lack of independence of the Institute for Access to Public Information (IAIP) of El Salvador, and warned about alleged decisions from the Executive that would have the purpose of appointing and removing commissioners according to political interests.<sup>660</sup> In this regard, the IACHR and its Office of the Special Rapporteur have been informed on the initiation of a process to remove the IAIP commissioner, Liduvina Escobar, by decision of the Presidential House, which would be based on political motives and with the purpose of obstructing the inspection and the system of brakes and counterweights in the Institute.<sup>661</sup> According to the information received, on April 23, 2021, the president suspended Liduvina Escobar from office and initiated the administrative removal process, applying the second cause of article 56 of the Law on Access to Public Information, by which the commissioners may be removed from their positions by the president in the event of committing acts or omissions that seriously affect the proper functioning of the Institute and for non-compliance with their functions.<sup>662</sup> From the presidential office they argued that the presence of the commissioner would destabilize the proper functioning of the IAIP due to alleged biases in the resolutions against the Executive Branch, her position against the reforms to the Regulation of the Law on Access to Public Information, alleged leaks of official information, and alleged links to civil society organizations critical of the government.<sup>663</sup> In the days prior to the removal order

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<sup>659</sup> Virtual meeting with civil society organizations and journalists. May 5, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression; El Diario de Hoy. June 1, 2021. [Capres implemented a protocol that restricts journalistic mobility in accountability of Bukele](#); APES. June 2, 2021. [CAPRES obstructs journalist in the legislature](#); La Prensa Gráfica. May 27, 2021. [Mayor of Apaneca restricts work as a journalist for LPG](#); El Diario de Hoy. June 19, 2021. [Minister of Education proposes closing the entry of information media to public schools](#); APES. May 3, 2021. [Restrictions on the media by Legislative Assembly authorities](#); El Diario de Hoy. May 15, 2021. [New ruling Assembly regresses in access to information and transparency](#); La Prensa Gráfica. June 2, 2021. [They limited non-official press work](#).

<sup>660</sup> El Diario de Hoy. May 4, 2021. [Liduvina Escobar: "Bukele is making an abusive use to remove commissioners from the IAIP"](#); El Faro. July 19, 2021. [Bukele Government seeks to bury access to public information](#).

<sup>661</sup> Gato Encerrado. April 24, 2021. [Removal of IAIP commissioner lacks legal basis, according to lawyers](#).

<sup>662</sup> La Prensa Gráfica. April 23, 2021. [Bukele orders the dismissal of IAIP commissioner, Liduvina Escobar](#); Focos TV. April 23, 2021. [President Bukele orders the suspension of IAIP Commissioner Liduvina Escobar](#); Swiss Info. April 24, 2021. [Commissioner of the Salvadoran public information entity denounces removal](#); La Prensa Gráfica. April 24, 2021. [Presidency sanctions commissioner of the Institute for Access to Public Information](#).

<sup>663</sup> La Prensa Gráfica. April 23, 2021. [Interview with Liduvina Escobar: "There are days coming when there will be no information from public institutions"](#); Gato Encerrado. April 24, 2021. [Removal of IAIP commissioner lacks legal basis, according to lawyers](#).



being issued, the commissioner had denounced a series of acts of harassment, disqualification, and isolation on the part of her colleagues representing the ruling party.<sup>664</sup>

400. In addition to the aforementioned events, this Office received with concern information regarding legal reforms and legislative proposals promoted by the Executive to the detriment of the right of access to public information and transparency. On May 5, 2021, the Legislative Assembly approved the law for the Use of Products for Medical Treatments in Exceptional Public Health Situations Caused by the COVID-19 pandemic, presented at the request of the president and that, according to what civil society actors warned, would overshadow the management of the pandemic.<sup>665</sup> According to available information, the law would guarantee the criminal and administrative immunity of government officials and individuals who have managed the COVID-19 pandemic, "in the event of any claim" of irregularities in the purchase of medical treatments to deal with the coronavirus and, in addition, provides that its application will be retroactive.<sup>666</sup>

401. Likewise, in July the Executive made public a proposal to reform the law on access to public information that, according to the information reported, would drastically reduce the effectiveness of current regulations and the IAIP.<sup>667</sup> Among the main changes that the proposal would seek to introduce is the possibility of classifying as reserved all the information that, according to the current law, is of an informal nature, alleging reasons of national defense, public safety, risk to the health and safety of the people, or damage to the prevention and investigation of illegal acts. Likewise, it proposes to extend the deadlines for the State's response to a request for information and also seeks to make violations of the law attributable to individuals. For the Regional Alliance for Freedom of Expression and Information, these reforms constitute a serious attack against transparency, promote a culture of secrecy and opacity, and are contrary to inter-American standards on the matter.<sup>668</sup>

402. The State has informed this Office that the Institute for Access to Public Information has designed tools that contribute to promoting a culture of transparency and access to information in El Salvador, such as the Transparency Portal, through which it has publishes informal information; or the "Legislative Portal", from where citizens can participate in the process of formulating regulations for public institutions, designed as a tool for citizen participation. Likewise, the State indicated that the IAIP has supported the development of capacities in public institutions on the application of matters related to access to public information, transparency, protection of personal data, document management and archives; It has also developed performance evaluation processes in compliance with the law on access to information by the obligated entities.

403. On the other hand, according to information provided by the Supreme Court of Justice of El Salvador, since the beginning of the pandemic, the judicial body has tried to make more accessible and interactive communications with the general public and with groups interested in the justice system, such as journalists, students, lawyers' associations, national institutions, and international organizations. In this sense, several lines of action stand out, such as the project "Justice Up Close", through which information of a legal nature is published weekly, in terms of procedures, rights and obligations in different branches of law, aimed at internal, external, and inter-institutional users. They also indicated that they are developing a training program on media management for officials of the judiciary. On the other hand, they highlight that the official social networks of the Supreme Court of Justice and the Judicial Branch "have consolidated themselves as an interactive and real-time communication channel with citizens and groups interested in legal and judicial

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<sup>664</sup> Liduvina Escobar's Twitter account (@Claudialiduvina). [April 17, 2021](#); Diario El Mundo. April 16, 2021. [Commissioner denounces "unprecedented harassment in the IAIP" of El Salvador](#); El Diario de Hoy. April 16, 2021. [IAIP Commissioner denounces attacks against her for defending transparency and access to public information](#);

<sup>665</sup> EFE. May 5, 2021. [The Salvadoran Congress approves a law that obscures the management of the pandemic](#); Swiss Info. May 5, 2021. [The Assembly of El Salvador decrees criminal immunity to managers of the pandemic](#).

<sup>666</sup> Salud Con Lupa. May 5, 2021. [El Salvador: A law that grants immunity for irregular purchases in a pandemic is approved](#).

<sup>667</sup> Fusades. July 20, 2021. [Proposals for reforms to the LAIP must be rejected by the Legislative Assembly](#); Fespad. July 13, 2021. [Statement: The regression in access to public information, transparency and the fight against corruption deepens](#); Swiss Info. July 14, 2021. [NGOs fear that reform of the information law will lead to "opacity" in El Salvador](#); APES Twitter account (@apeselsalvador). [July 13, 2021](#).

<sup>668</sup> Regional Alliance for Free Expression and Information. July 16, 2021. [El Salvador: Concern about setbacks and threats to the right to Access to Public Information](#).

information, becoming sources primaries and information officers for journalists and the media at the national and international level”<sup>669</sup>.

404. Access to public information is a fundamental right of individuals and States are obligated to guarantee its exercise. This includes, among other aspects, the duty to allow all media access to official press conferences, without discrimination based on editorial lines. Laws on public information should guarantee effective and widest possible access to this right, and exceptions should not become the general rule in practice. In addition, the exceptions regime must be interpreted restrictively, and any doubt must be resolved by transparency and access.

405. According to the information received by the State, the Legislative Assembly is currently studying a draft Law on Protection of personal data and habeas data, the purpose of which is to regulate its legitimate and informed treatment, in order to guarantee privacy and the right to the informative self-determination of people. This Office welcomes El Salvador's decision to advance legislation that protects the exercise of rights, and encourages the State to promote robust, open, and plural public deliberation processes, in which relevant actors in the matter can participate. Likewise, the Office of the Special Rapporteur recalls the importance of the regulation being aligned with international human rights standards on the right to freedom of expression and privacy<sup>670</sup>.

406. Likewise, the State, through its Supreme Court of Justice, reported on the launch of public services through digital platforms to accelerate administrative, legal, and judicial processes, in order to achieve greater access to justice for all sectors of the population<sup>671</sup>. Likewise, as they indicated, tools such as the publication of agendas and minutes of the Full Court have been made available, so that individuals and the media are aware of the agenda items and decisions of the highest court; a transparency portal, with informal information on the entire judicial body; and a jurisprudence portal, with current legislation, doctrine, and jurisprudence for citizen consultation; among others.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

407. El Salvador has been considered one of the most dangerous countries for women due to the high rates of gender violence that prevail<sup>672</sup>. In their latest annual reports and in the preliminary observations of their visit to the country, the IACHR and its Office of the Special Rapporteur noted with concern various acts of harassment and stigmatizing accusations against women who exercise their right to freedom of expression, occupy leadership roles and participate actively in public life<sup>673</sup>. In the framework of the demonstrations on March 8 for International Women's Day, a group of Salvadoran journalists and communicators marched to demand media and journalistic coverage free of sexist violence<sup>674</sup>. They also highlighted that, according to an APES study, 90.38% of journalists and communicators said that discriminatory practices exist in the media, while 96.15% said they had suffered expressions of sexual harassment in the media<sup>675</sup>.

408. Along these lines, in 2021 the Office of the Rapporteur was informed about the situation of risk to life and integrity that the lawyer and human rights defender Bertha Deleón Gutiérrez would face, who would have critically expressed herself in relation to government management and officials linked to the presidential party. According to the information received, since 2020 the attacks and harassment against her have worsened due to her complaints and public positions against the government and have reached a fever pitch after the

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<sup>669</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-144/21. November 12, 2021.

<sup>670</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-112/21. September 29, 2021.

<sup>671</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-144/21. November 12, 2021.

<sup>672</sup> Amnesty International. December 17, 2018. [El Salvador: State recognizes the injustice committed against a victim of sexual violence](#); IACHR. December 27, 2019. [IACHR presents its preliminary observations following its in loco visit to El Salvador](#). Press release 335/2019.

<sup>673</sup> IACHR. December 27, 2019. [IACHR presents its preliminary observations following its in loco visit to El Salvador](#). Press release 335/2019; IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#); IACHR. Annual Report 2019. [Report of the Office of the Special Rapporteur for Freedom of Expression](#).

<sup>674</sup> Alharaca. March 8, 2021. [Us journalists also marched](#); Deutsche Welle (DW). March 8, 2021. [El Salvador: thousands of women march in the capital for their rights](#); Swiss Info. March 7, 2021. [Salvadoran journalists join the march to demand media free from harassment](#).

<sup>675</sup> Swiss Info. 7 de marzo de 2021. [Periodistas salvadoreñas se suman a marcha para exigir medios libres de acoso](#); Deutsche Welle (DW). 8 de marzo de 2021. [El Salvador: miles de mujeres marchan en la capital por sus derechos](#).



dismissal of the judges of the Constitutional Chamber of the Supreme Court of Justice on May 1, 2021<sup>676</sup>. By making her positions publicly known, Bertha Deleón would have received attacks through social networks with a high misogynistic component, in some cases from people related to the government and even from high-ranking state authorities of the executive branch. In this sense, the Office of the Special Rapporteur was informed of messages that allude to sexual morality, to her private life, or to mental illnesses, in addition to death threats and messages that would incite sexual violence against her. On September 19, 2021, the IACHR granted precautionary measures in favor of Bertha Deleón, understanding that she is in a situation of imminent risk of affecting her rights to life and integrity<sup>677</sup>. For the IACHR, the expressions received by the beneficiary reflect a situation of threats that would have worsened, becoming a “campaign” of delegitimization against her, which would seek to intimidate her within the framework of her work as a human rights defender to limit or cease her work<sup>678</sup>.

409. For this Office, the speech of women who actively participate in public life is a historically silenced speech and therefore must be especially protected by the States. In this sense, we invite the State to identify possible obstacles or limitations to the freedom of expression of women journalists and human rights defenders, and to adapt institutional practices to the reinforced protection of this type of speech.

#### **D. Freedom of Expression and the Internet**

410. As this Office learned, on June 14, the First Court of the Peace of Santa Ana ordered *Revista Factum* to withdraw from its web portal and from any other digital medium an article on the judicial investigation into the Chalchuapa case because the note it provided details of the crimes committed “since the process has been declared confidential”<sup>679</sup>. As reported by the Prosecutor’s Office, the purpose of the measure would be to “safeguard the right to honor and privacy of the victims, in compliance with article 57 of the LEIV [Special Comprehensive Law for a Life Free of Violence] that orders us to refrain from providing any data that may facilitate the identification of the victims or their next of kin”<sup>680</sup>. The court decision also ordered *Factum* to refrain from “revealing” data on the criminal case in a discussion that was scheduled for that same day. Finally, it clarified that the judicial decision should not be understood “as a prohibition or censorship” of the digital medium. According to the information received, *Revista Factum* complied with the order, removing the article from its website and suspending the discussion<sup>681</sup>.

411. On the other hand, on June 2, the president announced on his social networks that the telecommunications companies Tigo and Claro would be fined for allegedly having “blocked” on several of their platforms a speech broadcasted by the national broadcast on the occasion of his two years in office<sup>682</sup>. In addition, he pointed out that users had reported internet outages during that period. According to the president, the behavior of the companies “is a clear example of the ideological apparatus trying to control the state”<sup>683</sup>. According to publicly known information, on June 2 the Consumer Defender reported that the administrative procedure had been activated in accordance with the Consumer Protection Law “to guarantee compensation to users” for cable and internet services that had not been provided during the transmission of the national broadcast<sup>684</sup>. Likewise, as a result of these events, on June 24 the head of the General

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<sup>676</sup> Revista La Brújula. May 26, 2021. [Bertha Deleón: I am still alive, free and ready to fight against the unjust and the abuses of power](#); Salvadoran Network of Women Human Rights Defenders (RSDDHH), Association of Journalists of El Salvador (APES), Passionist Social Service (SSPAS). [Special report: attacks against defenders and journalists in the context of COVID-19 in El Salvador, 2020](#). May 25, 2021; International Federation for Human Rights (FIDH). May 18, 2021. [El Salvador: Intimidation and criminalization of the lawyer Bertha María Deleón](#).

<sup>677</sup> IACHR. [Precautionary measure No. 475-21. Bertha María Deleón Gutiérrez regarding El Salvador](#). September 19, 2021.

<sup>678</sup> IACHR. [Precautionary measure No. 475-21. Bertha María Deleón Gutiérrez regarding El Salvador](#). September 19, 2021.

<sup>679</sup> Twitter account of the Attorney General of the Republic of El Salvador (@FGR\_SV). [June 14, 2021](#); El Diario de Hoy. [Judge orders Factum magazine to withdraw publication on “Chalchuapa murderer”](#); Diario El Mundo. June 14, 2021. [Court censors news of the Chalchuapa murderer in Factum Magazine](#).

<sup>680</sup> Twitter account of the Attorney General of the Republic of El Salvador (@FGR\_SV). [June 14, 2021](#).

<sup>681</sup> CPJ. June 17, 2021. [Salvadoran court orders Factum Magazine to withdraw an article on the murder case](#).

<sup>682</sup> Nayib Bukele’s Twitter account (@nayibbukele). [June 2, 2021](#); EFE Agency. June 2, 2021. [Cable companies will be fined for alleged blocking of Bukele’s speech](#); Deutsche Welle (DW). June 3, 2021. [El Salvador will fine Tigo and Claro for allegedly blocking Nayib Bukele’s speech](#).

<sup>683</sup> Nayib Bukele’s Twitter account (@nayibbukele). [June 2, 2021](#).

<sup>684</sup> Government of El Salvador, Consumer Defender. June 2, 2021. [Consumer Defender activates administrative proceedings against Tigo and Claro to guarantee compensation to users](#).

Superintendency of Electricity and Communications (SIGET) announced that they had enabled a web platform for citizens to report failures in the cable or internet signal, "before, during or after the National Broadcast", on the occasion of an announcement that the president would make to talk about the implementation of Bitcoin as legal tender<sup>685</sup>.

412. The State of El Salvador has reported that the Communications Secretariat of the Presidency has promoted new communication platforms within the digital environment, to amplify access to institutional information. As they indicated, "one of the fundamental pillars of the communication policy of the Government of El Salvador is the use of digital platforms, helping to inform and make citizens participate in their decisions"<sup>686</sup>.

413. Likewise, the State has indicated to this Office that it is a challenge to have a more precise regulation to address the situation of the use of technologies and to clearly define sanctions for those actions that limit or restrict access to the internet, networks, or transmission of data in the context of meetings and peaceful demonstrations, from the perspective of human rights and domestic legislation.

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<sup>685</sup> Twitter account of Manuel Aguilar (@Manuelsv). [June 24, 2021](#); El Salvador Gram. June 24, 2021. [SIGET asks Salvadorans to report internet or cable failures during the National Broadcast](#).

<sup>686</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note from the Permanent Mission of the Republic of El Salvador to the OAS. MPOEA-OEA-112/21. September 29, 2021.

## UNITED STATES

414. In 2021, the Office of the Special Rapporteur received reports indicating a difficult environment for journalism work during social demonstrations. The Office was also informed of alleged risk to the protection of the secrecy of journalism sources, based on the justification that classified information was leaked, leading to changes in Justice Department policies. The Office learned of a number of protests that took place in 2021 demanding racial justice, and in this context, it received with concern information on the death of a demonstrator. Regarding freedom of expression and the internet, the year was characterized by discussions on platform liability under section 230 of the Communications Decency Act of 1996, and on the legitimacy of the deplatforming policies of internet companies. Additionally, whistleblower complaints emerged alleging that the platforms were deeply aware of the possible harmful effects of their business models on the mental health of users, especially children and adolescents. The Office of the Special Rapporteur welcomes the decision of the Supreme Court of Justice in the case of the *Mahanoy Area School District v. B.L.*, enabling progress in standards on academic freedom. Likewise, the Office of the Special Rapporteur noted progress in the application of anti-SLAAP laws and justice in cases related to crimes against journalists, specifically in the attack on the *Capital Gazette* in 2018.

### A. Journalism and Democracy

415. As of the conclusion of the drafting of this report, in 2021, the U.S. Press Freedom Tracker had reported at least 141 cases of physical assaults in 2021; 36 cases of damage or destruction of media equipment; 20 cases of subpoenas requiring journalists to testify or give statements before authorities; 9 cases of media outlets being denied access to locations of interest to the public for journalism coverage; and 7 cases of acts of harassment, threats, or intimidation; as well as 5 cases reported as “other incidents.”<sup>687</sup>

416. Likewise, at least 57 cases of journalists being arrested<sup>688</sup> were documented, and according to the Inter-American Press Association, “in the majority (...) prosecutors refused to file charges against journalists arrested while covering protests; and in others, prosecutors filed charges but dropped them months later.”<sup>689</sup> Despite this, the U.S. Press Freedom Tracker reported that as of November 2021, at least eight journalists were still facing charges stemming from their arrests, with five of these cases were related to events from 2020 and another three from 2021.<sup>690</sup> In 2021, the Office of the Special Rapporteur also documented decisions to acquit or decline to press charges against journalists covering protests in 2021.<sup>691</sup> Among the cases still active, the Rapporteurship particularly highlights the case of journalist April Ehrlich, identified by the One Press Freedom Coalition as one of the most “urgent” cases of press freedom violations of the year.<sup>692</sup> The journalist faces charges of trespassing and resisting arrest after trying to do her journalism work by covering an eviction of unhoused persons in a park in an Oregon city in September 2020.<sup>693</sup> The Rapporteurship also notes with concern that one of the cases documented in 2021 also took place while a journalist was covering an encampment of unhoused persons in Sausalito, California. The journalist was reportedly arrested and charged after his equipment accidentally hit a police officer who was at the site.<sup>694</sup>

417. Although fewer incidents against journalists covering social protests were reported compared to 2020, in 2021, the Office of the Special Rapporteur also learned of a number of incidents of violence committed against the media for carrying out their work during protests. The Committee to Protect Journalists expressed particular concern over reports of the detention of journalists and the use of non-lethal weapons during social protests in April in Brooklyn Center, Minnesota, following the death of Daunte Wright.<sup>695</sup> On April 16, following

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<sup>687</sup> U.S. Press Freedom Tracker. Undated. [Physical Attack; Equipment Damage; Subpoena; Denial of Access; Chilling Statements; Other Incidents.](#)

<sup>688</sup> U.S. Press Freedom Tracker. Undated. [Arrest/Criminal Charge.](#)

<sup>689</sup> Inter-American Press Association. Report to the 77th Virtual General Assembly. October 19-22, 2021. [United States.](#)

<sup>690</sup> U.S. Press Freedom Tracker. Undated. [Arrest/Criminal Charge Pending.](#)

<sup>691</sup> Des Moines Register. March 10, 2021. [Andrea Sahouri verdict: Register reporter acquitted of charges from covering protest](#); Almalence News. May 26, 2021. [Charges against Almalence News reporter dropped - almalencenews.com](#); Telegram. March 19, 2021. [Charges dropped against photographer Richard Cummings, others arrested at Main South George Floyd protest.](#)

<sup>692</sup> One Press Freedom Coalition. February 1, 2022. [10 most urgent](#)

<sup>693</sup> CPJ. September 25, 2020. [Journalist April Ehrlich facing criminal charges over reporting on homelessness in Oregon - Committee to Protect Journalists.](#)

<sup>694</sup> Pacific Sun. December 3, 2021. [UPDATED: Sausalito Police Arrest Freelance Journalist Covering Homelessness.](#)

<sup>695</sup> CPJ. April 16, 2021. [CPJ calls on local law enforcement in US to ensure journalist safety amid protests - Committee to Protect Journalists.](#)

actions brought by entities representing journalists, a Minnesota District Court judge ruled that state security forces must refrain from seizing recording equipment or press passes; detaining, threatening to detain, or using physical force or chemical agents against journalists; or ordering them to stop reporting or covering the protests. The order also recognized that journalists are not required to disperse under a police order during protests; although, in these cases, state agents cannot be held responsible for exposing journalists to the effects of crowd control devices, such as tear gas, if the media remained in the area after the order to disperse was issued.<sup>696</sup> However, the Office of the Rapporteur received information about different cases in which it is alleged that the agents of the police forces had not respected the judicial order.<sup>697</sup>

418. The IACHR and its Office of the Special Rapporteur have indicated that journalism is one of the most important manifestations of freedom of expression in democratic societies, as it fosters more robust, plural, and informed public debates. In this regard, the RELE recalls that States must ensure full respect for freedom of the press, which is also fundamental for the validity of other fundamental freedoms.

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

420. Likewise, the Inter-American Press Association reported that during 2021, several journalists had been "assaulted while covering protests against COVID-19 vaccination requirements, mask mandates, and other restrictions related to the pandemic."<sup>698</sup> In this context, the Rapporteurship learned that Twitter had suspended the account of the Florida Press Secretary on August 20, 2021 for violating the platform's rules on abusive behavior. It did so after the Associated Press reported that the official's conduct had caused a reporter to receive threats and other abuses online. According to the information received, the press secretary also published or shared other messages stigmatizing of the media.<sup>699</sup>

421. The Office of the Special Rapporteur also expressed its concern regarding reports of alleged restrictions on the entry of journalists to border detention facilities in March 2021, in regards to information released about an alleged increase in unaccompanied minors trying to enter the United States from Mexico. According to the information available, the Secretary of Homeland Security justified the restrictions based on the pandemic and indicated that DHS was making efforts to ensure healthy and safe access to the media. In this context, there were complaints of a lack of active transparency and a failure by state authorities to provide images and information on facility conditions. Toward the end of March, journalists reported that they had been authorized to enter the facilities.<sup>700</sup>

422. According to information received, in July, a North Carolina Superior Court judge sentenced the editor of the Richmond County Daily Journal to five days in prison after one of his newspaper's reporters used an audio recorder to take notes during a murder trial taking place in the courtroom. The reporter was also fined \$500. This Office noted that the newspaper and a number of journalism organizations called the punishment excessive. According to the information received, the editor was allowed to leave jail.<sup>701</sup>

423. Additionally, the Office of the Special Rapporteur also received information indicating that former President Donald Trump had sued *The New York Times* and several of its reporters, along with his niece Mary Trump, for obtaining a significant portion of his tax documents as part of an investigation into his finances that

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<sup>696</sup> ACLU Minnesota. April 16, 2021. [JUDGE ISSUES ORDER HALTING POLICE ATTACKS ON JOURNALISTS](#); KTSP. April 19, 2021. [Federal judge grants restraining order stopping Minnesota law enforcement from arresting, using force against journalists](#).

<sup>697</sup> CPJ. April 19, 2021. [Minnesota law enforcement must stop obstructing journalists covering protests](#); Inter-American Press Association. Report to the 77th Virtual General Assembly. October 19-22, 2021. [United States](#).

<sup>698</sup> Inter-American Press Association. Report to the 77th Virtual General Assembly. October 19-22, 2021. [United States](#).

<sup>699</sup> Associated Press. August 20, 2021. [AP urges DeSantis to end bullying aimed at reporter](#); US Press Freedom Tracker. [Twitter account of Fla. governor's press secretary suspended for 'abusive behavior' against an AP reporter](#).

<sup>700</sup> CPJ. March 23, 2021. [CPJ calls on US government to give journalists access to border detention facilities - Committee to Protect Journalists](#); ABC News. March 24, 2021. [Biden administration allows access to border facility -- but not ones over capacity](#).

<sup>701</sup> Associated Press. July 7, 2021. [Judge jails editor over reporter's use of recorder in court](#).

was published in 2018 and concluded that Trump had "participated in dubious tax schemes during the 1990s, including instances of outright fraud," according to publicly available information. As this Office has learned, the former head of State maintained that the book's investigation into his tax payments using documents provided by Mary Trump violated a non-disclosure agreement and other agreements related to family properties.<sup>702</sup>

424. Additionally, according to the information received, the Eighth Circuit Court of Appeals rejected the defamation lawsuit filed by Congressman Devin Nunes against journalist Ryan Lizza over an article by the reporter in *Esquire* magazine looking into alleged illicit activities in congressman's family businesses. The court concluded that the suit over publication of the original article could not proceed due to lack of actual malice; however, it found that the fact that the journalist had subsequently posted a link to the article in question to his social media accounts in 2019, warranted the continuation of the defamation process, according to the information received.<sup>703</sup>

425. On November 18, a New York judge ruled that *The New York Times* must refrain from publishing certain information related to Project Veritas, a conservative activist group that describes itself as a "nonprofit journalism initiative," according to information received by the Office of the Special Rapporteur.<sup>704</sup> It also ordered them to refrain from actively soliciting or searching for such materials. As this Office was able to ascertain, the newspaper had published a critical report based on information collected from memos produced by the group's lawyer—and which were protected by attorney-client privilege—regarding the tools used by the group to obtain information about the actions of public officials and State agencies, tools which, according to *The New York Times*, were not compatible with the ethical exercise of journalism. On December 14, 2021, following a request from the newspaper, the judge issued a clarification of the order, allowing some leeway to report on the group until a final decision was reached but maintaining the underlying restriction, according to the information received.<sup>705</sup>

426. In December, Her Majesty's High Court of Justice in England ruled that journalist Julian Assange could be extradited to the United States under the extradition request filed by the United States for alleged crimes committed based on the Espionage Act and other regulations. In its 2020 Annual Report, the Office of the Special Rapporteur noted that "although the majority of the new charges were related to obtaining classified documents, some of them focus on the publication of certain documents that revealed the names of journalists, religious leaders, dissidents, and other persons in dangerous locations—such as war zones—who provided information to the United States." On January 4, 2021, a British judge from the Westminster Magistrates Court ruled to deny the request to extradite Julian Assange to the United States, finding that his mental health and the conditions in which he would probably be held in the United States could put him at extreme risk of committing suicide. However, upon analysis of an appeal filed by the United States, the High Court reversed the decision and decided that the extradition could be authorized because the United States offered guarantees that it would monitor Assange's mental health and provide the necessary care. With the High Court's decision, the process returns to the lower courts, such that the competent court will formally send the extradition request to the Home Office.<sup>706</sup> As of the closing date of this report's drafting, Assange could still appeal the decision. In September, a report by journalists Zach Dorfman, Sean D. Naylor and Michael Isikoff revealed alleged plans by the United States Central Intelligence Agency to mount an attack on the life and personal integrity of Julian

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<sup>702</sup> NPR. September 22, 2021. [Trump Sues His Niece Mary And 'The New York Times' Over Tax Return Stories](#); NPR; El País. [Mary Trump: Donald Trump demanda a su sobrina ya 'The New York Times' por difundir su historial fiscal](#).

<sup>703</sup> Politico. September 15, 2021. [Court reinstates Nunes suit over reporter's tweet](#); Vanity Fair. September 16, 2021. September 22, 2021. [Devin Nunes's Defamation Suit Against Journalist Gets Revived Over a Tweet](#).

<sup>704</sup> [Project Veritas](#).

<sup>705</sup> The New York Times. November 18, 2021. [Judge Tries to Block New York Times's Coverage of Project Veritas](#); CPJ. November 19, 2021. [CPJ extremely concerned by court order restricting New York Times coverage](#); The New York Times. December 14, 2021. [Judge Clarifies Order on New York Times Coverage of Project Veritas](#).

<sup>706</sup> The Guardian. December 10, 2021. [Julian Assange can be extradited to US to face espionage charges, court rules](#); BBC. October 27, 2021. [Wikileaks: US begins legal appeal to extradite Assange](#); BBC. December 10, 2021. [Julian Assange: la Justicia británica abre la puerta a la extradición del fundador de WikiLeaks a Estados Unidos](#); DW. December 10, 2021. [UK court rules in favor of US in appeal to extradite Julian Assange](#).



Assange.<sup>707</sup> This information was also submitted by Assange's legal representation before the London High Court.<sup>708</sup>

427. In 2021, and especially between May and August, the Office of the Special Rapporteur was informed of subpoenas from prosecutors aimed at obtaining information on emails, telephone records, and other communications from journalists. These orders were intended to identify the sources possibly responsible for providing journalists with classified information. According to the reports received, high-ranking media executives have received court orders preventing them from disclosing information about the ongoing investigations aimed at obtaining the records of reporters' communications.<sup>709</sup> In this context, this Office learned that in July, the Attorney General announced a new policy, applicable even in cases of disclosure of classified information, under which the department will not, as a rule, "seek compulsory legal process in leak investigations to obtain source information from members of the news media doing their jobs."<sup>710</sup> The exceptions to the rule are strict. In June, the White House had already stated that "While the White House does not intervene in criminal investigations, the issuing of subpoenas for the records of reporters in leak investigations is not consistent with the President's policy direction to the Department, and the Department of Justice has reconfirmed it will not be used moving forward."<sup>711</sup>

428. In December, a journalism investigation found that about 20 journalists had been the target of investigations by the Customs and Border Protection's anti-terrorism unit.<sup>712</sup> That office also used anti-terrorism technology to investigate members of NGOs, public figures, and others, according to publicly-available reports. Regarding the facts, the entity stated that "CBP does not investigate individuals without a legitimate and legal basis to do so."<sup>713</sup>

429. The Office of the Special Rapporteur recalls that, pursuant to Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR, "Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential." Under the inter-American legal framework, journalists can refuse to reveal their sources of information and the product of their investigations to private entities, third parties, and government or judicial authorities, since they are considered to have the right to professional secrecy, or the right to not reveal information and documentation they have received in confidence or as part of their investigative work.

430. Lastly, the Office of the Special Rapporteur highlights the progress reported regarding the administration of justice in crimes committed against journalists in the exercise of their profession. According to what this Office has been able to ascertain, on July 3, 2021, the Justice Department announced the indictment of five people for plotting kidnapping and conspiracy to violate sanctions, launder money, and commit bank and wire fraud to the detriment of journalist Masih Alinejad.<sup>714</sup>

431. The Office of the Special Rapporteur also learned that in 2021, Jarrod Ramos received a life sentence for the murder of 5 journalists and the attempted murder of seven others, during the mass shooting inside the newsroom of the *Capital Gazette* newspaper, in Annapolis, the capital city of the state of Maryland, on June 28, 2018. As this Office reported in 2018, the attack led to the deaths of editors Rob Hiaasen, Wendi Winters, and Gerald Fischman, reporter John McNamara, and sales assistant Rebecca Smith. The RELE was also able to ascertain that Jarrod Ramos was convicted and sentenced to prison for other minor charges related to the

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<sup>707</sup> Yahoo! News. September 26, 2021. [Kidnapping, assassination and a London shoot-out: Inside the CIA's secret war plans against WikiLeaks](#); RSF. September 28, 2021. [Alarming reported CIA plot against Julian Assange exposed](#).

<sup>708</sup> Yahoo! News. October 28, 2021. [Assange lawyer urges British court to review Yahoo News story on CIA plans targeting WikiLeaks founder](#).

<sup>709</sup> NPR. June 5, 2021. [DOJ Says It Will No Longer Seize Reporters' Records](#); CNN. June 5, 2021. [Biden's Justice Department says it will no longer seize reporters' records for leak investigations](#).

<sup>710</sup> CPJ. July 19, 2021. [CPI welcomes new US rules protecting journalists' records](#); Justice Department. July 19, 2021. [DOJ Formally Adopts New Policy Restricting Use of Compulsory Process to Obtain Reporter Information](#).

<sup>711</sup> White House. June 5, 2021. [Statement by Press Secretary Jen Psaki on the Department of Justice Leak Investigation Policy](#).

<sup>712</sup> Yahoo! News. December 11, 2021. [Operation Whistle Pig: Inside the secret CBP unit with no rules that investigates Americans](#).

<sup>713</sup> Yahoo! News. December 11, 2021. [Operation Whistle Pig: Inside the secret CBP unit with no rules that investigates Americans](#).

<sup>714</sup> CPJ. July 14, 2021. [US indicts 5 Iranian nationals over attempted kidnapping of US-based journalist Masih Alinejad](#); Justice Department. July 13, 2021. [Manhattan US Attorney Announces Kidnapping Conspiracy Charges Against An Iranian Intelligence Officer And Members Of An Iranian Intelligence Network](#).



attack.<sup>715</sup> In the context of seeking justice in this case, this Office also welcomes the inauguration on June 28, 2021, of a memorial to the victims of the attack on the *Capital Gazette* in downtown Annapolis.<sup>716</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

432. At the beginning of 2021, in the framework of the post-election period, the Office of the Special Rapporteur monitored the situation of the right to freedom of expression in the context of repeated accusations by former President Donald Trump alleging electoral fraud. According to the information received, on January 6, 2021, supporters of then-President Trump who were called together by him<sup>717</sup> held the "March to Save America" in Washington DC. Participants included his followers, various far-right groups, and "white supremacists," as well as groups that support conspiracy theories such as QAnon.<sup>718</sup> The march took place on the day that the Joint Session of the United States Congress was convened to count and certify the votes of the Electoral College for the presidential election held on November 3, 2020, finally declaring the results.<sup>719</sup>

433. During the march, the then president and other authorities delivered speeches to the protesters. Trump said, "We will never give up. We will never concede. It doesn't happen. You don't concede when there's theft involved. Our country has had enough. We will not take it anymore and that's what this is all about." "I know that everyone here will soon be marching over to the Capitol building to peacefully and patriotically make your voices heard," he said. He concluded by saying: "We fight like hell. And if you don't fight like hell, you're not going to have a country anymore. So we're going to walk down Pennsylvania Avenue." His sons Donald Trump Jr. and Eric Trump also criticized Republican lawmakers for not defending the president, and Rudolph W. Giuliani, the former mayor of New York, exclaimed to the protesters: "Let's have trial by combat."<sup>720</sup>

434. Following these speeches, thousands of people marched to the Capitol and hundreds seized it through the use of force. According to information published by multiple media outlets, these individuals forced doors and broke windows to enter the building, disrupting the proceedings of the Joint Session of Congress.<sup>721</sup> According to multiple media reports, the joint session of Congress became a stage where they could see "[...] Police officers brandishing guns in an armed standoff to defend the House chamber. Tear gas deployed in the Rotunda. Lawmakers in hiding. Extremists standing in the vice president's spot on the Senate dais and sitting at the desk of the speaker of the House."<sup>722</sup> According to publicly-available information, five people died as a result of the violent action—among them, a police officer, and a woman struck by gunfire—and multiple individuals and security forces officers were injured. Also, explosive devices and firearms were found in different locations in Washington, DC. Incidents of violence against journalists were also documented.<sup>723</sup>

435. More than an hour after the Capitol was seized, President Donald Trump took to his Twitter account to ask the people there to act peacefully. An hour after that, he posted a video saying, "I know they're hurt." "We

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<sup>715</sup> The New York Times. October 28, 2019. [Suspect in Capital Gazette Shooting Pleads Guilty](#); The New York Times. July 15, 2021. [Gunman Is Found Criminally Responsible for Killing 5 at Capital Gazette](#). The Washington Post. September 27, 2021. [Jarrod Ramos sentenced in Capital Gazette killings](#); Anne Arundel County, September 29, 2021. [Statement from State's Attorney Anne Colt Leitess on the Sentencing in the Capital Gazette Shooting Case](#); NPR. September 28, 2021. ['Capital Gazette' Gunman Is Sentenced To Multiple Life Prison Terms, Plus 345 Years](#).

<sup>716</sup> NPR. June 29, 2021. [Memorial To Capital Gazette Employees Killed In 2018 Is Dedicated In Annapolis](#); Associated Press. June 18, 2021. [Annapolis dedicates memorial to Capital Gazette shooting victims](#).

<sup>717</sup> Reuters. January 6, 2021. [Trump summoned supporters to "wild" protest, and told them to fight. They did](#); US News. January 6, 2021. [Trump Summoned Supporters to 'Wild' Protest, and Told Them to Fight. They Did](#).

<sup>718</sup> The Washington Post. January 13, 2021. [QAnon reshaped Trump's party and radicalized believers. The Capitol siege may just be the start](#); NPR. January 19, 2021. [Members of Right-Wing Militias, Extremist Groups Are Latest Charged in Capitol Siege](#).

<sup>719</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>720</sup> The New York Times. January 6, 2021. [A Mob and the Breach of Democracy: The Violent End of the Trump Era](#); BBC News. February 14, 2021. [Capitol riots timeline: The evidence presented against Trump](#).

<sup>721</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>722</sup> The New York Times. January 6, 2021. [A Mob and the Breach of Democracy: The Violent End of the Trump Era](#); The Washington Post. January 9, 2021. [How one of America's ugliest days unraveled inside and outside the Capitol](#).

<sup>723</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#); The New York Times. January 11, 2021. [These Are the 5 People Who Died in the Capitol Riot](#); Fox News. January 10, 2021. [Reporter's Notebook: Inside the US Capitol during the Jan. 6 riot](#); The Washington Post. January 9, 2021. [How one of America's ugliest days unraveled inside and outside the Capitol](#); New York Daily News. January 29, 2021. [Pipe bombs found near Capitol building were planted days before riot: FBI](#).

had an election that was stolen from us. It was a landslide election and everyone knows it, especially the other side. But you have to go home now.” He added: “We love you. You’re very special.”<sup>724</sup> Following these statements, social networks like Facebook and Twitter moved to temporarily suspend Trump's accounts to prevent the increase in violence. Twitter opted for a permanent suspension.

436. On January 6, security forces retook control of the Capitol building. That same night, the Joint Session of Congress resumed its activities in compliance with the constitutional mandate, recognizing Joseph Biden and Kamala Harris as the president and vice president of United States, elected by the people.<sup>725</sup> All the facts described above were the basis for the House of Representatives impeaching Donald Trump before the Senate for “incitement of insurrection” against the United States government. On February 13, 2021, the Senate decided to acquit the president, making this the second unsuccessful impeachment process against the president.<sup>726</sup>

437. The IACHR repudiated “the violence perpetrated against the US Capitol and against democratic institutions” and urged the State to “guarantee full respect for its democratic institutions, to conduct a rigorous investigation into these events, punish those responsible, and guarantee their non-repetition.”<sup>727</sup> Likewise, it joined the Office of the Special Rapporteur in condemning acts of violence against journalists. According to reports, both in Washington D.C. and in other states (Utah and Washington, for example), journalists have been attacked, detained for short periods, sprayed with chemical agents, threatened, and pushed by Trump supporters, who even threatened to shoot them.<sup>728</sup> Likewise, camera equipment was damaged when it was seized, piled up, and set on fire, as happened with the equipment of The Associated Press and the German public media outlet.<sup>729</sup> Many of the attacks on the media were perpetrated by Trump supporters, who according to publicly-available information hurled violent insults.<sup>730</sup> The Office of the Special Rapporteur also observes that the violence unleashed against journalists was clearly on display in the Capitol insurrection, during which the message “murder the media” was scrawled on a door inside the Capitol by followers of the president.<sup>731</sup> Also, several senior United Nations (UN) officials, including the Secretary General and the High Commissioner for Human Rights, condemned the acts of violence.<sup>732</sup>

438. The IACHR and the Office of the Special Rapporteur noted that the aggressions and acts described above did not occur spontaneously. Rather—as has been documented in the past—they were the result of a steady environment of stigmatization of the work of the media, encouraged by the most senior authorities, as well as discourse based on false or misleading information encouraging the use of violence against the persons and institutions of the rule of law.<sup>733</sup> The IACHR highlighted that the acts of violence documented were

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<sup>724</sup> The New York Times. January 6, 2021. [A Mob and the Breach of Democracy: The Violent End of the Trump Era](#); *The Washington Post*. January 9, 2021. [How one of America's ugliest days unraveled inside and outside the Capitol](#).

<sup>725</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>726</sup> France 24. January 26, 2021. [La Cámara de Representantes presenta al Senado los cargos del juicio político contra Trump](#); USA Today. February 13, 2021. [Live impeachment updates: In historic vote, Senate acquits Trump. Again](#).

<sup>727</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>728</sup> U.S. Press Freedom Tracker. Undated. Press freedom January 6, 2021 events database. Available at: [https://pressfreedomtracker.us/all-incidents/?date\\_lower=2021-01-06&date\\_upper=2021-01-06](https://pressfreedomtracker.us/all-incidents/?date_lower=2021-01-06&date_upper=2021-01-06). Committee to Protect Journalists (CPJ). January 7, 2021. [“Three people threatened to shoot me.” Journalists describe covering mob violence at the US Capitol](#). “This video of AP photographer @johnminchillo at the protest yesterday is insane. He was dragged out and nearly lynched. This should be seen by everyone”. Twitter account of correspondent Danny Gold @DGisSERIOUS. [January 7, 2021-11:23 PM](#). The Instagram video referenced in Danny Gold's tweet, in which AP News reporter John Minchillo is seen being attacked by suspected supporters of former President Donald Trump, is available at: <https://www.instagram.com/tv/CJxKMArpN0/?igshid=1gieqv5188vry>. See also Twitter posts by *Bloomberg News* reporter William Turton. January 6, 2021. Available at: <https://twitter.com/WilliamTurton/status/1346940440935870472?s=20>.

<sup>729</sup> U.S. Press Freedom Tracker. January 6, 2021. [Rioters rush broadcasters, destroy Associated Press, other media equipment](#); U.S. Press Freedom Tracker. January 6, 2021. [Rioters rush broadcasters, destroy German outlet's equipment](#).

<sup>730</sup> U.S. Press Freedom Tracker. January 6, 2021. [Rioters rush broadcasters, destroy Associated Press, other media equipment](#); U.S. Press Freedom Tracker. January 6, 2021. [Rioters rush broadcasters, destroy German outlet's equipment](#).

<sup>731</sup> Milwaukee Independent. January 9, 2021. [Murder the media: Journalists targeted again as “the enemy of the people” by pro-Trump insurrectionists](#); Fox News. January 26, 2021. [Burlison man photographed near ‘Murder the Media’ graffiti on Capitol door arrested](#); U.S. Press Freedom Tracker. January 29, 2021. [Our January 2021 Newsletter](#).

<sup>732</sup> UN. UN News. January 7, 2021. [Top UN officials saddened at mob violence during US Capitol breach; Bachelet decries ‘incitement’ by political leaders](#).

<sup>733</sup> Reporters Without Borders. May 31, 2020. [US: Fueled by years of Trump's demonization of the media, unprecedented violence breaks out against journalists covering protests](#); U.S. Press Freedom Tracker. September 7, 2020. [Journalist covering pro-Trump demonstration hit by](#)

“preceded by a long and complex misinformation process which in itself poses a serious challenge to human rights. In this context, the Commission asks that individuals involved in these events base their complaints on proven facts, file these complaints before the relevant institutions, and fully respect the decisions of US democratic institutions.”<sup>734</sup>

439. In the context of an election, freedom of expression is linked directly to political rights and their exercise, with both kinds of rights reciprocally strengthening each other. Healthy democratic debate requires the existence of a greater degree of circulation of ideas, opinions, and information with regard to the candidates, their parties, and their platforms during the period preceding an election, mainly via the media, from the candidates, and those wishing to express themselves. It is necessary for everyone to be able to question and investigate the abilities and suitability of the candidates, discussing and challenging their proposals, ideas and opinions so that the electorate can form an opinion on how to vote.<sup>735</sup> As the IACHR has noted, free speech and political debate are essential for the consolidation of democracy in societies, which is why they are of compelling social importance.<sup>736</sup> Without prejudice to this, the Commission has urged “public officials to cease speeches that encourage hatred or violence against officials and institutions that embody the rule of law.”<sup>737</sup>

440. Additionally, this Office continues to monitor confrontations and hostility in the context of racial justice social movements. In this regard, the Office of the Special Rapporteur also documented, for example, that the murder of Daunte Wright, a 20-year-old African-American man, allegedly by police officers, sparked a series of protests, including one in Brooklyn Center on April 11, 2021. According to the information available, despite the fact that the protest was initially peaceful, several violent incidents took place later, according to the information reported, and cases of alleged excessive use of force by the police were documented. According to reports, in response to the protesters' refusal to leave the area, the police attempted to disperse them using anti-riot gear, including tear gas and flashbangs.<sup>738</sup> According to the information received, use of force continued to be documented over the course of the following days.<sup>739</sup>

441. Also, on June 13, in the context of the protests over the death of Winston Boogie Smith—a 32-year-old African-American man—allegedly at the hands of agents of the State, a protestor died, Deona M. Knajdek. According to the information received, a man drove suddenly and at high speed, crashing his vehicle into demonstrators. As a result, Deona M Knajdek died and three other people were seriously injured. Criminal charges were filed for second-degree murder and two counts of assault, the Office learned.<sup>740</sup>

442. The Office of the Special Rapporteur has learned of a number of positive measures taken by the State to guarantee freedom of expression. In this regard, the Office welcomes the decision of the Supreme Court of the United States in the case of *Mahanoy Area School District v. B.L.*, finding that a student's comments on her social media accounts criticizing the school she attended using vulgar language are protected by the First Amendment of the Constitution. According to the Court, the punishment of the student violated her right to freedom of expression, in view of the fact that she had expressed herself through her personal social media accounts, outside of school, and that her expression did not amount to a substantial disturbance to the school or a threat of harm to others.<sup>741</sup> Office of the Special Rapporteur recalls that limitations on the right to freedom of expression are only admissible if they meet the requirements of legality, legitimate objective, and necessity and proportionality. Likewise, the Office of the Special Rapporteur emphasizes that under Article V of the

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[paintballs in Oregon](#); U.S. Press Freedom Tracker. September 30, 2020. [Trump supporter assaults, knocks phone out of journalist's hands](#); Reuters. January 15, 2021. ['Enemy of the people': Trump's relationship with the media](#).

<sup>734</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>735</sup> Inter-American Court. *Case of Canese v. Paraguay. Merits, Reparations and Costs*. Judgment of August 31, 2004. Series C No. 111. Par. 90.

<sup>736</sup> IACHR. Arguments before the Inter-American Court in the *Case of Ricardo Canese v. Paraguay*. Transcripts available at: Inter-American Court. *Case of Canese v. Paraguay*.

<sup>737</sup> IACHR. January 8, 2021. Press Release 005/21. [IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

<sup>738</sup> The New York Times. April 11, 2021. [Protesters Clash With Police After Minnesota Officer Shoots Black Man](#); The Washington Post. April 12, 2021. [Police fatally shoot man in suburban Minneapolis, sparking protests](#)

<sup>739</sup> CNN. April 12, 2021. [Police fire tear gas at protesters in a second night of demonstrations after Minnesota officer fatally shoots Black man](#); NPR. April 13, 2021. [Daunte Wright's Death: Protests In Minnesota. Across US](#).

<sup>740</sup> Associated Press. June 14, 2021. [Police: Vehicle plows into Minnesota protesters, killing 1](#); KSTP. October 6, 2021. [Driver in fatal Uptown crash to have jury trial](#); MinnPost. June 16, 2021. [Nicholas Kraus charged with murder in killing of protester Deona Knajdek](#)

<sup>741</sup> Supreme Court of the United States. June 23, 2021. [Mahanoy Area School District v. B.L.](#).

American Declaration, the right to privacy includes, *inter alia*, the right of each individual to have a sphere of privacy where they are protected from arbitrary interference by third parties.

443. This Office also notes that the current administration revoked Executive Orders 13950, of September 2020, and 13925, of May 2020,<sup>742</sup> which were a source of concern for potentially restricting freedom of expression. The former, although its stated purpose was to establish policies to combat the use of race and gender stereotypes, had a chilling effect, especially for how academic institutions handled their diversity and inclusion policies, according to public reports.<sup>743</sup> The latter because, among other things, it ordered different federal agencies to take measures to modify Section 230 of the Communications Decency Act of 1996, along with academic institutions.<sup>744</sup>

444. At the same time, this Office also received information on New York court decisions holding that the new anti-SLAPP (strategic lawsuit against public participation) legislation approved in that state in 2020 can even be applied retroactively in legal proceedings filed before the entry into force of said legislation, protecting the dissemination of matters in the public interest.<sup>745</sup> Separately, the state of Washington passed new anti-SLAPP legislation in July.<sup>746</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

445. This Office of the Special Rapporteur learned of various initiatives in the state of Florida seeking to curb the influence of so-called Critical Races Theory. In June, the Florida State Board of Education passed a resolution that prohibited the teaching of critical race theory in public school classes in the state, arguing, among other things, that the theory gave a distorted version of historical events.<sup>747</sup> In a meeting with the board, the governor of Florida stated that critical race theory taught children “to hate each other, instead of teaching them to read” and that hatred toward their country must not be taught in classes.<sup>748</sup> In December, the governor said he would introduce a bill to “give businesses, employees, children and families tools to fight back against woke indoctrination” (Stop the Wrongs to Our Kids and Employees, Stop W.O.K.E. Act) and ban their use in classes and corporate race training programs—allegedly forced, creating a hostile work environment. The governor stated that Florida was “taking a stand against the state-sanctioned racism that is critical race theory,” the Rapporteurship learned.<sup>749</sup>

446. In November, Kyle Rittenhouse was acquitted of all criminal charges, including murder, for the shooting he perpetrated during the social unrest sparked by the death of Jacob Blakepor in Kenosha, Wisconsin on August 23, 2020, at the hands of a police officer. As the Office of the Special Rapporteur noted in the 2020 Annual Report, the violent confrontations between demonstrators and counterdemonstrators who were members of the extreme right (white supremacists) also led to the deaths of two people in Kenosha, Wisconsin, on August 25, 2020, after they were shot.<sup>750</sup>

### D. Freedom of Expression and the Internet

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<sup>742</sup> White House. January 20, 2021. [Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#); White House. January 20, 2021. [Executive Order on the Revocation of Certain Presidential Actions and Technical Amendment](#).

<sup>743</sup> PEN. September 28, 2020. [TRUMP DIRECTIVES RESTRICTING DISCUSSION OF RACE, DISCRIMINATION ARE CENSORSHIP](#).

<sup>744</sup> EFF. May 14, 2021. [President Biden Revokes Unconstitutional Executive Order Retaliating Against Online Platforms](#); EFF. May 31, 2020. [Dangers of Trump's Executive Order Explained](#).

<sup>745</sup> JD Supra. April 20, 2021. [New York Court Applies Anti-SLAPP Amendment Retroactively to Previously Filed Lawsuit](#); The Hollywood Reporter. June 30, 2021. [Dr. Luke Suffers Blow on Road to Libel Trial Against Keshia](#).

<sup>746</sup> State of Washington. [Bill 5009, Chapter 259, Laws of 2021, 67th Legislature, 2021](#); Inter-American Press Association. Report to the 77th Virtual General Assembly. October 19-22, 2021. [United States](#).

<sup>747</sup> Associated Press. June 10, 2021. [Florida bans 'critical race theory' from its classrooms](#); CNN. June 10, 2021. [Florida bans teaching critical race theory in schools](#).

<sup>748</sup> Governor of Florida. June 10, 2021. [Governor DeSantis Emphasizes Importance of Keeping Critical Race Theory Out of Schools at State Board of Education Meeting](#).

<sup>749</sup> Governor of Florida. December 15, 2021. [Governor DeSantis Announces Legislative Proposal to Stop WOKE Activism and Critical Race Theory in Schools and Corporations](#); NBC Miami. December 15, 2021. [Florida Gov. DeSantis Unveils 'Stop WOKE Act' Targeting Critical Race Theory](#).

<sup>750</sup> Amnesty International. October 2020. [USA: Losing the Peace](#). Pg. 4. **Error! Hyperlink reference not valid.**



447. In 2021, the public debate over digital governance in the United States and the roles played by digital platforms in today's societies continued. According to the information received by the Office of the Special Rapporteur, in March, the CEOs of Facebook, Google, and Twitter testified before the House of Representatives on issues such as the roles of platforms in the functioning of democratic regimes, the fight against disinformation, and the deterioration of public debate.<sup>751</sup> Likewise, this Office noted the continuation of debates in Congress regarding Section 230 of the Communications Decency Act of 1996 and platform responsibility for the contents published by their users or for the decisions they make in terms of moderation, with different bills presented.<sup>752</sup> The Rapporteurship also took note of the presentation of the "Platform Accountability and Consumer Transparency" bill in the Senate.<sup>753</sup> In the framework of this debate, the Rapporteurship takes the opportunity to recall that according to the minimum guarantees and good practices of the Manila Principles on the liability of internet intermediaries, as a rule, intermediaries should be protected by law from liability for third-party content in circumstances where they have not been involved in modifying it.

448. In this context, in September and October several whistleblowers,<sup>754</sup> including Frances Haugens, a former employee of the civic integrity department of Meta (then Facebook), released a series of reports, documents, and allegations against Meta regarding the negative impacts of the platform's actions in different areas. According to the complaints, Facebook mapped and understood the potential negative impacts of using its platforms—especially Instagram—on the mental health of children and adolescents. The company also knew of the possible negative impacts of its content moderation and prioritization policy, along with its business model based on gaining attention, in the context of polarizing public discussion in different countries. For example, the platform ranked the reactions of the platform's users, then used it to target the content. Research by the company itself concluded that this ranking method could favor content considered toxic.<sup>755</sup>

449. Following the allegations, the Senate held hearings between October and December, inviting Frances Haugens and Adam Mosseri, from Instagram, to testify.<sup>756</sup> The CEO of Facebook was also asked to testify, but as of the date of the drafting this report, the hearing had not taken place.<sup>757</sup> In November, Frances Haugens was also reportedly called by the Chamber of Deputies to give her opinion on the proposals to reform Section 230.<sup>758</sup> In addition, the Governor of Florida ordered the Secretary of State to launch an investigation into Facebook.<sup>759</sup>

450. Alongside these initiatives, the Office of the Special Rapporteur monitored legal actions taken against the alleged Facebook/Meta and Google digital monopolies, filed by states. In June, the United States District Court for the District of Columbia dismissed an antitrust suit filed by the Federal Trade Commission in December 2020 against Facebook due to lack of evidence. In the decision, the judge said the petitioners failed to present concrete evidence and arguments on "the key question of how much power Facebook actually had, and still has, in a properly defined antitrust product market."<sup>760</sup> In August, after reformulating its allegations,

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<sup>751</sup> Washington Post. [Big tech CEOs face lawmakers in House hearing on social media's role in extremism, misinformation](#); NPR. March 25, 2021. [Facebook, Twitter, Google CEOs Testify Before Congress: 4 Things To Know](#).

<sup>752</sup> United States Congress. [S.299 - SAFE TECH Act](#); United States Congress. [S.3398 - EARN IT Act of 2020](#); United States Congress. [H.R.2154 - Protecting Americans from Dangerous Algorithms Act](#); United States Congress. [S.3029 - Protecting Americans from Dangerous Algorithms Act](#).

<sup>753</sup> United States Congress. [S.797 - PACT Act](#).

<sup>754</sup> The Guardian. October 23, 2021. [Facebook crisis grows as new whistleblower and leaked documents emerge](#); Forbes. October 22, 2021. [New Facebook Whistleblower Reportedly Alleges It Ignored Hate Speech](#).

<sup>755</sup> Wall Street Journal. September 13, 2021. [Facebook Says Its Rules Apply to All. Company Documents Reveal a Secret Elite That's Exempt](#); The Washington Post. October 25, 2021. [The Facebook Papers, explained](#).

<sup>756</sup> Associated Press. October 6, 2021. [Lo más destacado de la audiencia de explemada de Facebook](#); CNN. October 5, 2021. [Facebook Senate hearing news](#); CBS News. December 8, 2021. [Instagram CEO to testify before Senate committee on safety of teen users](#); Reuters. October 12, 2021. [US senator asks Facebook CEO to retain documents linked to testimony](#).

<sup>757</sup> The Verge. October 20, 2021. [Mark Zuckerberg called to testify before the Senate following Instagram reports](#); CNBC. October 5, 2021. [Senators demand Facebook CEO Mark Zuckerberg answer questions after whistleblower's revelations at hearing](#).

<sup>758</sup> The Hill. January 12, 2021. [Democrats to target Section 230 in Haugen hearing](#); Protocol. October 5, 2021. [Haugen says Sec. 230 and privacy changes won't fix 'core' Facebook issues - Protocol — The people, power and politics of tech](#).

<sup>759</sup> Governor of Florida. September 27, 2021. [Governor Ron DeSantis Directs Florida Secretary of State to Investigate Facebook for Alleged Violations of Election Laws](#).

<sup>760</sup> Federal Trade Commission. December 9, 2020. [FTC Sues Facebook for Illegal Monopolization](#); CNBC. June 28, 2021. [Judge dismisses FTC and state antitrust complaints against Facebook](#); Politico. June 28, 2021. [Federal court tosses antitrust suits against Facebook, in huge blow to DC's fight with tech](#).

the Commission filed a new lawsuit against Facebook/Meta under the antitrust law.<sup>761</sup> At the same time, in October 2020, the United States Department of Justice also filed an antitrust suit against Google.<sup>762</sup> Google filed its response in September 2021.<sup>763</sup> In addition, in July, 37 states in the United States filed suit on the grounds of Google's alleged abuse of power to maintain its app store monopoly, especially on Android phones.<sup>764</sup>

451. In May 2021, the Facebook/Meta Oversight Board upheld the company's January 7, 2021 decision to suspend Donald Trump from his Facebook pages and Instagram account for posting content. However, the Board found it was not appropriate to apply an "indeterminate and standardless penalty of indefinite suspension," urging Facebook to review this matter within six months "to determine and justify a proportionate response that is consistent with the rules that are applied to other users of its platform."<sup>765</sup> The Council noted that "heads of state and other high officials of government can have a greater power to cause harm than other people. If a head of state or high government official has repeatedly posted messages that pose a risk of harm under international human rights norms, Facebook should suspend the account for a period sufficient to protect against imminent harm. Suspension periods should be long enough to deter misconduct and may, in appropriate cases, include account or page deletion."<sup>766</sup> In response to these recommendations, Facebook/Meta decided to maintain the suspension of Donald Trump's account until January 2023, on both Facebook and Instagram. The company indicated that it had established new rules for suspending accounts of public officials during times of animosity or social violence, determining that the sanction applicable in such cases could range anywhere from one month to two years. At the end of the period, experts would assess whether the risk to public safety had decreased and whether conditions were right for lifting the sanction.<sup>767</sup>

452. As of the closing date of this report, Twitter was maintaining its suspension of Trump's account. Likewise, YouTube also maintained restrictions on the former president posting new content. The former president filed suit in federal court in Miami, Florida, against Google and Twitter, as well as Facebook, seek reactivation of his accounts. This year, federal judges recognized the jurisdiction of federal courts in California to hear the case, reported as a decision possibly favorable to the platforms.<sup>768</sup> Also, in October, Donald Trump announced that he would launch a new social network, Truth Social, billed as a space that "encourages an open, free, and honest global conversation without discriminating against political ideology."<sup>769</sup>

453. Following the suspension of accounts of public figures, in July, the governor of Florida signed a bill that, among other things, restricts digital platforms from deplatforming (a term that refers to access to accounts) political candidates.<sup>770</sup> The law was to take effect on July 1; however, its entry into force was effectively suspended by a court order issued in lawsuit filed by the organization NetChoice.<sup>771</sup>

454. At the same time, this Office received information on cases where investigating authorities had ordered internet search engines to turn over a full list of accounts and IP addresses of people who had searched for certain terms of keywords, known as "keyword warrants." In the most recent cases, as came to light publicly in

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<sup>761</sup> New York Times. August 19, 2021. [US Revives Facebook Suit, Adding Details to Back Claim of a Monopoly](#); NPR. August 19, 2021. August 19, 2021. [Federal Trade Commission Refiles Suit Accusing Facebook Of Illegal Monopoly](#).

<sup>762</sup> Justice Department. October 20, 2020. [Justice Department Sues Monopolist Google For Violating Antitrust Laws](#).

<sup>763</sup> New York Times December 21, 2021. [Google Denies Antitrust Claims in Early Response to U.S. Lawsuit](#); Bloomberg. September 1, 2021. [U.S. DOJ Readying Google Antitrust Lawsuit Over Ad-Tech Business](#).

<sup>764</sup> Reuters. July 7, 2021. [US states allege Google 'unlawfully' preserves Play Store monopoly](#); The Verge. July 7, 2021. [Google faces new antitrust lawsuit over Google Play Store fees](#).

<sup>765</sup> Oversight Board. May 2021. [Oversight Board upholds former President Trump's suspension, finds Facebook failed to impose proper penalty](#).

<sup>766</sup> Oversight Board. May 2021. [Oversight Board upholds former President Trump's suspension, finds Facebook failed to impose proper penalty](#).

<sup>767</sup> Oversight Board. June 4, 2021. [Response to Oversight Board, Trump Suspended for Two Years: Will Only Be Reinstated if Conditions Permit](#).

<sup>768</sup> Bloomberg. October 6, 2021. [Donald Trump Loses Effort to Keep Lawsuit Over YouTube Ban in Florida](#); Courthouse News Service. November 19, 2021. [Florida federal judge moves Trump lawsuit against Facebook to California court](#).

<sup>769</sup> Truth Social. Undated. [Truth Social](#); BBC. October 21, 2021. [Trump to launch new social media platform TRUTH Social - BBC News](#)

<sup>770</sup> Governor of Florida. May 24, 2021. [Governor Ron DeSantis Signs Bill to Stop the Censorship of Floridians by Big Tech](#); Florida Senate. Undated. [Bill 70721-2021](#).

<sup>771</sup> Net Choice. May 27, 2021. [NetChoice and CCIA Sue Florida: Unconstitutional Social Media Bill Circumvents Rights Afforded Under the First Amendment](#); Reuters. July 1, 2021. [Federal judge rules Florida social media law likely violates free speech](#).



October 2021, investigators asked Google to provide information on all users who had searched for the name and other personal information of a victim of sexual violence on 16 dates specified by the authorities.<sup>772</sup>

455. Also, in November, the US Department of Commerce's Bureau of Industry and Security announced it was adding (among others) the NSO Group—responsible for the Pegasus malware—to the "Entity List" based on "evidence that these entities developed and supplied spyware to foreign governments that used these tools to maliciously target government officials, journalists, businesspeople, activists, academics, and embassy workers." Adding them restricts United States companies from exporting to the group, meaning any company wishing to export goods subject to the Export Administration Regulations faces a license requirement with the department, meaning the transaction requires authorization, with presumption of denial.<sup>773</sup> In August, the IACHR, this Rapporteurship, and the Office in Mexico of the United Nations High Commissioner of Human Rights expressed concern over the new findings on the use of Pegasus and called on States and companies for an "immediate moratorium on the sale, transfer and use of surveillance technology until regulatory frameworks in line with human rights are established."<sup>774</sup>

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<sup>772</sup> Forbes. October 4, 2021. [Exclusive: Government Secretly Orders Google To Identify Anyone Who Searched A Sexual Assault Victim's Name, Address Or Telephone Number](#); New York Post. October 6, 2021. [US government ordering Google to provide users' search data: report](#).

<sup>773</sup> US Department of Commerce. November 3, 2021. [Commerce Adds NSO Group and Other Foreign Companies to Entity List for Malicious Cyber Activities](#).

<sup>774</sup> IACHR. RELE. R205/21. August 6, 2021. [The IACHR, SRFOE and OHCHR Mexico express their concern about the new findings on the use of Pegasus software](#).

## GRENADA

456. Grenada ranks high in terms of freedom of expression, but the Office of the Special Rapporteur remains concerned about the continued existence of the criminal offense of seditious libel, which affects the work of the press. Journalists also have few training opportunities. Although no political parties directly own any media outlet, it has been reported that their control over the media may limit editorial freedom.

### A. Journalism and Democracy

457. The Office of the Special Rapporteur has been informed of the difficult conditions in which reporters are working in Grenada, and the effect this may have on achieving the desired levels of professional journalism and press freedom. This, coupled with the lack of professional development and training, is said to lead journalists to look for other jobs.<sup>775</sup> The Office is also concerned about reports of political parties and other public officials heavily influencing the practice of journalism.<sup>776</sup>

458. The Office of the Special Rapporteur is additionally concerned that the crime of seditious libel, which could be used by members of the government and by courts to undermine key criticisms made by the media, is still on the books.<sup>777</sup> In 2021, the Office continued to receive reports of public officials and political leaders using the criminal justice system against the media. This has reportedly contributed to self-censorship, especially when it is difficult for the media to pay court costs and fines. In addition, prison sentences can be up to two years.

459. The Office of the Special Rapporteur has pointed out on previous occasions that fear of criminal penalties inevitably discourages and inhibits citizens from speaking out on matters of public interest. As the IACHR has stated, “[t]he sort of political debate encouraged by the right to free expression will inevitably generate some speech that is critical of and even offensive to those who hold public office or are intimately involved in the formation of public policy.” Article 13 of the American Convention allows for restrictions to freedom of thought and expression through the imposition of subsequent liability for the abuse of this right. However, it requires that any measure seeking to limit the exercise of the right to freedom of expression must be clearly and precisely defined by law, must be aimed at a legitimate objective, and must be necessary and strictly proportionate to the aim it seeks to achieve.

### B. Freedom of Expression, Rule of Law, and Democratic Institutions

460. This Office documented a few cases of demonstrations in Grenada, most of which were carried out peacefully. However, on May 26, police reportedly intervened in a protest by the Grenada Union of Teachers because of a change in the demonstration’s route. According to the information received, the demonstration, which was to take place near the Grenadian Ministerial Complex, was reported to have reached the complex itself. The police announced that if these violations continued, they would act again to stop them.<sup>778</sup>

461. We recall that social protest, which includes the rights of peaceful and unarmed assembly, freedom of association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and therefore the State has the duty to guarantee its free exercise. In its report “Protest and Human Rights,” the IACHR emphasized that holding meetings, demonstrations, and protests is a central activity of many associations and organizations, and that States must provide the means for them to conduct their activities freely and refrain from imposing obstacles that might hinder their work. States must also refrain from making irregular, collective, or indiscriminate arrests in public demonstrations; in addition, they have the duty to investigate violations committed within their jurisdiction in order to identify and, where appropriate, punish the perpetrators.

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<sup>775</sup> The Bubb Report. November 14, 2021. [The State of Media and Journalism in Grenada & The OECS](#).

<sup>776</sup> The Bubb Report. November 14, 2021. [The State of Media and Journalism in Grenada & The OECS](#).

<sup>777</sup> Free Speech Press. April 30, 2021. [Grenada](#).

<sup>778</sup> Free Speech Press. April 30, 2021. [Grenada](#).

## GUATEMALA

462. In 2021, the Rapporteurship has identified the persistence of a scenario of risks to journalistic work in Guatemala, with a record of at least two murders of journalists, episodes of harassment and intimidation, attacks in the context of social demonstrations, criminalization and obstruction of journalistic coverage of official events. According to the Unit for the Protection of Human Rights Defenders, between January and June 2021, 87 attacks against journalists or social communicators were reported. In the context of the pandemic, the Rapporteurship also identified restrictions on protests by means of measures issued in the framework of the state of emergency. The Office is also concerned about the entry into force of the new NGO law, which has been described by UN and OAS experts as “stifling” legislation for the work of civil society.

### A. Journalism and Democracy

463. This Office has received repeated reports warning of the deterioration of guarantees for the exercise of journalism in Guatemala. During the year, the Rapporteurship was informed of two murders of journalists that could be linked to their work as journalists. In addition, journalists who investigate matters of public interest have reported being the target of surveillance, intimidation and criminalization of their work. The Rapporteurship also received information on alleged impediments to the access of reporters to press conferences and official events.

464. On 9 June 2021, journalist, human rights defender and president of the *Asociación Fiscalizadora Pro-Justicia y Derechos Humanos*, Frank Stalyn Ramazzini, was killed in an armed attack in a nightclub in Guatemala City. Three other people were also killed. In addition to his work as a defender of labor rights of National Civil Police officers, he regularly investigated and published on social media information critical of the government and of high public interest, especially about alleged cases of corruption in the prison system.<sup>779</sup> On June 10, the Office of the Prosecutor for Crimes against Life and Integrity of Persons reported that it processed the crime scene.<sup>780</sup> On 12 September 2021, according to public information, the Prosecutor’s Office would have concluded that the weapons found at the crime scene were indeed used in the murder of the journalist, and that this situation was not related to an armed attack against Frank Ramazzini in 2018<sup>781</sup>.

465. According to information received, on 30 July 2021, Pedro Alfonso Guadrón Hernández, founder of the Facebook page “*Concepción Las Minas Mi Tierra*” where he reported local news, died of multiple gunshot wounds after unknown assailants attacked him near his home.<sup>782</sup> According to the Guatemalan Association of Journalists, Guadrón Hernández had previously reported threats against his life.<sup>783</sup>

466. The Rapporteurship also expressed concern over various attacks, intimidation and obstruction of journalists in the exercise of their profession, both by State agents and private individuals. Among other incidents reported to this Office<sup>784</sup>, on 28 September 2021, José Guarcas, a cameraman for *Xolabaj TV*, was reportedly detained by private individuals while covering a judicial exhumation in Chiul, municipality of Cunén, Quiché, linked to the judicial investigation into the massacre of nearly 115 children in 1998. The incident allegedly took place in a context of clashes resulting from the opposition of some people to the exhumation.<sup>785</sup> Further, on 8 November, reporter Rubén Jocol was reportedly apprehended and handcuffed for 45 minutes by police officers while covering a traffic incident in the city of Quetzaltenango. According to publicly available

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<sup>779</sup> IFJ. 12 July 2021. [Guatemala: asesinaron al activista y periodista independiente Frank Stalyn Ramazzini](#); Prensa Libre. 9 June 2021. [Ataque armado deja cuatro muertos y dos heridos en una discoteca de la zona 6 capitalina](#).

<sup>780</sup> Twitter account of the Public Prosecutor’s Office of Guatemala (@MPguatemala). June 10, 2021; La Hora. 10 June 2021. [Indignación y pedidos de investigación causa asesinato de Frank Ramazzini](#).

<sup>781</sup> El Periódico. 12 September 2021. [MP confirmó que las armas localizadas en la zona 6 se usaron en ataque a Ramazzini](#); Soy502. 13 September 2021. [Las ubicadas en un carro fueron usadas en el asesinato de Frank Ramazzini](#).

<sup>782</sup> RSF. 5 August 2021. [Asesinado el periodista Pedro Alfonso Guadrón Hernández](#); República. 31 July 2021. [Condenan el asesinato de comunicador social en Chiquimula](#).

<sup>783</sup> Association of Journalists of Guatemala. 31 July 2021. [Comunicado 31-07-2021](#).

<sup>784</sup> PDH of Guatemala. July 1, 2021. [Comunicado 108/21](#); Twitter account of the Association of Journalists of Guatemala (@APG\_1947). 30 June 2021; Ruda. October 28, 2021. [Periodista de El Estor cuenta intentos de censura y ataques](#); La Hora. 2 November 2021. [Juan Luis Font denuncia criminalización y exige al MP informe por supuesta investigación](#); Article 19. 17 June 2021. [Repudio ante la violencia y ataques contra periodistas y medios independientes en Guatemala](#).

<sup>785</sup> Ruda. October 1, 2021. [Periodistas narran detención y falta de información a comunidades sobre exhumación](#); PDH. 29 September 2021. [Comunicado 174/21](#).

information, the police reportedly forced the journalist to erase video and journalistic material from his cell phone.<sup>786</sup>

467. According to available information, on June 9, a group of agents of the National Civil Police along with personnel from the Public Prosecutor's Office raided the home of journalist Juan José Corado, sports editor of *El Periódico*, located in the town of San Lucas Sacatepéquez. According to information received by this Office, the raid was linked to the investigation of a criminal gang involved in car theft; however, hours later, a police spokesman said that the editor of *El Periódico* had no connection with the crimes being investigated. Journalist Juan José Corado warned of the allegedly violent way in which his home had been broken into and the fear generated for his children and wife. He also said that he was never given informed about the reason for the raid. *El Periódico* expressed its concern over the events, which were described as intimidating and had occurred on the same day that the newspaper received the award for Outstanding Media in Ibero-America<sup>787</sup>. According to information provided by the government, the raid was carried out with the proper judicial authorization and in accordance with due process.<sup>788</sup>

468. Also, according to information received by this Office, on October 22, at least four journalists from *Prensa Comunitaria* were reportedly attacked while reporting on demonstrations by the Q'eqchi' people in El Estor, Izabal, and on the use of public force to disperse them. According to information received by this Office, journalist Carlos Ernesto Choc of *Prensa Comunitaria* was reportedly beaten and stripped of his work equipment. On the other hand, the Rapporteurship received information on 26 October 2021, a raid was carried out by the National Civil Police at the home of the correspondent of the same media outlet, Juan Bautista Xol. According to information from a public source, the raid had been authorized in connection with an ongoing judicial investigation. To the best of this Office's knowledge, the journalist had given permanent coverage to the demonstrations of the Q'eqchi' population in opposition to mining exploitation.<sup>789</sup>

469. The Office of the Special Rapporteur observes with concern the situation of journalist Michelle Mendoza, a correspondent for *CNN en Español*, who has been the target of intimidating surveillance and harassment on social networks.<sup>790</sup> On 17 May 2021, an anonymous Twitter account posted photos of Michelle Mendoza taken while she was covering the Public Prosecutor's Office's annual management report. The photographs were accompanied by the message "The ice cream cart reporting from the Camino Real Hotel". According to the information available, the account which has now been suspended from Twitter<sup>791</sup>, was described as a means of exposing "the injustices of justice, all for my for my friends and for my enemies, the prosecutors, judges, magistrates, some journalists and the Non".<sup>792</sup>

470. The SRFOE has also received information about the activation of criminal complaints against journalist Juan Luis Font, host of the news program *Con Criterio*, related to his journalistic practice, with alleged intimidating and silencing purposes<sup>793</sup>.

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<sup>786</sup> PDH of Guatemala. 10 November 2021. [Comunicado 197/21](#); Twitter account of Prensa Comunitaria (@PrensaComunitar). 9 November 2021.

<sup>787</sup> El Periódico. 9 June 2021. [PNC allana vivienda de editor de elPeriódico](#); Latam Journalism Review. 9 June 2021. [Policía allana vivienda de editor de elPeriódico en Guatemala](#).

<sup>788</sup> State of Guatemala. NV-OEA-M4-749-202. 21 September 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>789</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 29 October 2021. Press Release 286. *The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards*; CPJ. 29 October 2021. [La Policía guatemalteca hostiga a periodistas que dan cobertura a protestas en El Estor y allanan sus viviendas](#); Prensa Comunitaria. 28 October 2021. [La policía guatemalteca hostiga y allana las casas de los periodistas que cubren las protestas en el Estor](#); El Periódico. 27 October 2021. [Allanan residencia de un periodista en El Estor](#); Prensa Comunitaria. 26 October 2021. [Allanamiento en casa del periodista Juan Bautista Xol, acto de criminalización y censura](#).

<sup>790</sup> Prensa Libre. 18 May 2021. [Corresponsal de CNN denuncia hostigamiento de parte de magistrada de la Corte Suprema de Justicia y ella lo niega](#).

<sup>791</sup> Twitter account @LordVaderGT.

<sup>792</sup> La Hora. 17 May 2021. [Periodistas acusan a Magistrada de la CSJ de filtrar imágenes a Netcenter](#); PDH de Guatemala. 17 May 2021. [Comunicado 75/21](#).

<sup>793</sup> La Hora. November 2, 2021. [Juan Luis Font denuncia criminalización y exige al MP informe por supuesta investigación](#); La Hora. November 2, 2021. [Desde redes sociales, manifiestan respaldo al periodista Juan Luis Font](#); Prensa Libre. December 21, 2021. [Juan Luis Font y Alejandro Sinibaldi comparecen ante juez por señalamientos de corrupción](#); Soy 502. December 6, 2021. [Arraian a periodista Juan Luis Font por acusación de Sinibaldi](#).

471. The State informed this Office that it has developed mechanisms to guarantee the safety of journalists. In this regard, they indicate that in order to protect the life and physical integrity of persons exercising the right to freedom of expression in Guatemala, when they become aware of threats against a journalist, the necessary preventive measures are taken to safeguard their rights. They also indicate that their institutional action protocols include the “Protocol for risk analysis, security study, and granting of security measures,” which provides for specific security measures when there are direct threats or specific events that put the rights of communicators at imminent risk. The State has also indicated that crimes related to the practice of journalism will be handled by the Office of the Prosecutor for Crimes Committed against Journalists, following the Protocol for the Investigation of Crimes Committed against Human Rights Defenders.<sup>794</sup>

472. The Rapporteurship recalls that, according to Principle 9 of the Declaration of Principles on Freedom of Expression, “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression”. The IACHR and its Office of the Special Rapporteur have maintained that the lack of punishment for those responsible for attacks related to the exercise of journalistic activity sends a permissive message of violence, encouraging the occurrence of new crimes and generating an effect of self-censorship. Likewise, this Office recalls that the right to freedom of expression protects the right to record and disseminate any incident in the context of demonstrations and situations of social conflict. The State must guarantee the highest degree of protection to press workers so that they can carry out their work freely and safely, keeping society informed on matters of great public interest.

473. This Office has also received reports of legal proceedings being brought against journalists and the media in order to limit information of public interest. For example, on May 21, Joselyn Fernanda Mérida Solano, congressional communications director, as well as relatives of Miguel Martínez Morales, former director of the Government Center, filed criminal charges against journalists Sonny Figueroa and journalist Marvin del Cid after they published investigative reports involving them.<sup>795</sup> As a result, the judges in charge of the cases reportedly ordered security measures for the alleged victims, including a ban on publishing information about them and restrictions to go near their homes or places of work, such as the office of the congressional communications director.<sup>796</sup> According to the information received, on August 3, trial judge Michelle Dardón lifted the security measures in the action linked to relatives of Miguel Martínez Morales; however, those in favor of Joselyn Fernanda Mérida Solano would remain in force<sup>797</sup>. In 2021, Sonny Figueroa and Marvin del Cid have continued to report being followed by the National Civil Police, intimidation and smear campaigns on social media against them, allegedly led by people linked to the government.<sup>798</sup>

474. Another case documented by this Office is that of the director of the National Victims’ Institute, who according to the information available, has filed a criminal complaint against the directors of the newspaper *La Hora* for allegedly publishing “systematically and periodically” “biased” information against her condition for being a woman. This situation would have caused her psychological damage. According to the Rapporteur’s Office, the complaint would be linked to reports that questioned alleged irregularities during her tenure as a deputy between 2015 and 2019.<sup>799</sup>

475. In addition, as the Office of the Rapporteur learned, on 27 September 2021, the Supreme Court of Justice requested the Public Prosecutor’s Office to investigate *El Periódico* for the “possible commission of

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<sup>794</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Document provided by the Permanent Mission of the Republic of Guatemala to the OAS. Ref. NV-OEA-M4-750-2021. 21 September 2021.

<sup>795</sup> Article 19. 28 August 2021. [Interponen denuncias penales contra Marvin Del Cid y Sonny Figueroa por publicar casos de interés público](#); CPJ. 7 June 2021. [Familiares de exfuncionario guatemalteco se amparan en ley contra el femicidio para querellar a dos periodistas](#).

<sup>796</sup> Guatemalan Federation of Radio Schools. 7 June 2021. [Juez ordena a periodistas alejarse a la directora de comunicación del congreso](#); Prensa Libre. 7 June 2021. [Juez ordena a periodistas medidas de alejamiento a favor de directora de Comunicaciones del Congreso](#); Article 35. 3 August 2021. [Levantán censura en contra de periodistas](#).

<sup>797</sup> Article 35. 3 August 2021. [Levantán censura en contra de periodistas](#); Prensa Comunitaria. 3 August 2021. [Los periodistas Marvin Del Cid y Sonny Figueroa no cometieron delito de violencia contra la mujer, dice jueza](#); UDEFEGUA / Facebook. 3 August 2021.

<sup>798</sup> OMCT. 3 June 2021. [Guatemala: La criminalización como respuesta a la labor periodística](#); Swissinfo. 1 April 2021. [Periodistas de Guatemala denuncian nuevos seguimientos y ataques en su contra](#); OHCHR. 20 May 2021. [“Nuestra labor es fundamental”](#); Deutsche Welle (DW). 1 April 2021. [Periodistas de Guatemala denuncian nuevos seguimientos y ataques](#).

<sup>799</sup> PDH of Guatemala. 26 August 2021. [Comunicado de prensa 153/21](#); CRN Noticias. 28 August 2021. [Alejandra Carrillo usa la Ley Contra el Femicidio para denunciar a directivos del Diario La Hora](#); Deutsche Welle (DW). 28 August 2021. [Asociación de Periodistas de Guatemala condena “acoso judicial” contra La Hora](#).



unlawful acts derived from the publication and use as a means of conviction of a document that contains a witness statement within the case (...) as well as any other action related to obtaining and disseminating said information within a summary case file.” According to the information provided, the Court’s request is related to the publication by *El Periódico* of a statement by attorney Marco Aurelio Alveño Hernández, who testified before the Special Prosecutor’s Office against Impunity in relation to alleged illicit acts committed by a high-ranking judicial authority.<sup>800</sup> The document would have been leaked and published by the media in July 2021. In its decision, the Court reportedly stated that the witness statement could not be disclosed to the public due to the summary nature of the case. The organization *Acción Ciudadana* said it was a “counterattack against the complainants and the independent media”.<sup>801</sup>

476. The newspaper *La Hora* also reported that on October 2 it received a communication from the Public Prosecutor’s Office requesting contact information for one of its journalists responsible for publishing in 2019 an article about operations that the Special Prosecutor’s Office against Impunity and the International Commission against Impunity in Guatemala had carried out.<sup>802</sup> Among other facts reported to this Office, on October 19, the journalist and president of the same media outlet, José Rubén Zamora, denounced acts of criminal persecution, promoted by high-ranking public officials with the purpose to intimidate. As the Office of the Special Rapporteur was able to learn, the Public Prosecutor’s Office confirmed that an investigation dating back to 2013 by the Office of the Public Prosecutor for Administrative Crimes is ongoing, following a complaint filed by an internal audit of the Guatemalan Social Security Institute (IGSS).<sup>803</sup>

477. This Office recalls that the use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards since it does not respond to a pressing social need that justifies it, is unnecessary and disproportionate, and can be a means of indirect censorship given its chilling effect on debate of matters of public interest.<sup>804</sup> Principle 11 of the IACHR Declaration of Principles on Freedom of Expression states that public officials are subject to greater scrutiny by society. The Inter-American Court has held that this threshold of protection is explained by the fact that public officials have voluntarily exposed themselves to more demanding scrutiny, so that their activities leave the domain of the private sphere and enter the sphere of public debate.

478. The Office of the Special Rapporteur notes with concern the use of exceptional legislative measures to limit the freedom of expression of journalists and the work of the media. The information received indicates that Government Decrees 6-2021 and 7-2021 and their presidential provisions include arbitrary restrictions on the freedom of press by establishing that “on the basis of the Public Order Law, publicity agencies and the media are obliged to avoid publications that could cause confusion or panic or aggravate the situation, assuming the responsibilities that derive from this”.<sup>805</sup> According to available information, the Human Rights Ombudsman’s Office and deputies of the National Unity of Hope (UNE) filed constitutional actions against Governmental Decree 7/2021 before the Constitutional Court on the grounds of violations of the rights to freedom of expression, freedom of information and free access to sources.<sup>806</sup> Finally, on August 24, the Guatemalan Congress rejected Decrees 6-2021, 7-2021 and their reforms.<sup>807</sup>

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<sup>800</sup> El Periódico. 28 September 2021. [Insólito: Corte Suprema de Justicia resuelve al estilo de la tremenda Corte de Tres Patines](#); IAPA. 30 September 2021. [IAPA Rejects Investigation of el Periódico Ordered by Guatemalan Supreme Court](#); La Hora. 4 October 2021. [Asociación de Periodistas de Guatemala condena "acoso judicial" contra La Hora](#).

<sup>801</sup> El Periódico. 28 September 2021. [Insólito: Corte Suprema de Justicia resuelve al estilo de la tremenda Corte de Tres Patines](#).

<sup>802</sup> La Hora. 2 October 2021. [MP quiere interrogar a periodista por nota que denunció filtración](#).

<sup>803</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 29 October 2021. Press Release 286. *The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards*

<sup>804</sup> IACHR. Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. 31 December 2015.

<sup>805</sup> Government of Guatemala. 13 August 2021. Governmental Decree 6-2021; Government of Guatemala. 13 August 2021. Presidential Provisions and Orders for the Strict Enforcement Necessary for the public calamity caused by the pandemic covid-19 and its variants, especially the delta variant. Government of Guatemala. 21 August 2021. Governmental Decree 7-2021; Government of Guatemala. 21 August 2021. Presidential Provisions and Orders for the Strict Enforcement Necessary for the public calamity caused by the pandemic covid-19 and its variants, especially the delta variant.

<sup>806</sup> La Hora. 22 August 2021. [La amenaza a la libertad de prensa que ya estaba y ahora causó preocupación](#); PDH Guatemala Twitter account (@PDHgt). 22 August 2021; La Hora. 23 August 2021. [Diputados de la UNE accionan contra disposición presidencial sobre labor informativa](#).

<sup>807</sup> Soy502. 23 August 2021. [Congreso rechaza el Estado de Calamidad](#); Deutsche Welle (DW). 24 August 2021. [Congreso de Guatemala rechaza estado de calamidad por COVID-19 decretado por Giammattei](#).



479. In 2021, this Office of the Special Rapporteur was also alerted about the difficulties in press access to press conferences and other channels of access to public information. On 22 June 2021, journalists Edwin Bercian of *Publinews* and Rolanda García of *Prensa Comunitaria* were denied access to the public judicial hearing of the first declaration in the *Diario Militar* case, which investigates the alleged clandestine capture, torture and forced disappearance of at least 183 people between 1983 and 1985. On this same occasion, according to public information, a military officer allegedly asked journalist Edwin Bercian “what his ideology was” with the alleged purpose of intimidating him.<sup>808</sup> Also on September 2, the president of Congress, Allan Rodríguez, reportedly prevented journalist Enrique García of *El Periódico* from attending a press conference in his office to discuss the proposed 2022 budget. According to information learned by this Office, at the end of the event, the official reportedly accused the media of not being objective and of providing erroneous information to the public about the budget.<sup>809</sup> Additionally, the Rapporteurship received information about alleged aggressions, obstruction and other intimidating acts against journalists, who were trying to cover a judicial hearing in the Sololá Court of First Criminal Instance. These acts were allegedly led by local authorities and representatives of the local Community Development Council.<sup>810</sup>

480. Transparency and accountability of public actors strengthen democratic systems. Access to information held by the state is a fundamental right, with only exceptional limitations. In this regard, the authorities must ensure that the press can freely access places such as parliament and events such as press conferences to gather information on matters of public interest, and provide equal opportunities to ask questions<sup>811</sup>. Moreover, this Office recalls that political leaders or persons exercising public functions are called upon to maintain a discourse conducive to public deliberation and to avoid stigmatizing remarks towards the press that may constitute an indirect restriction on the right to freedom of expression.<sup>812</sup>

481. This Office is grateful for the information provided by the State of Guatemala on the situation of freedom of expression in the country to contribute to this report. Among other matters, the authorities have reported on the launch of the “Press Room” on 12 July 2021, a digital platform that integrates the information resources produced by the institutions that make up the executive body. The State notes that the platform is conceived as a tool to support journalistic work and to democratize access to public information. It also reported that since January 2021, the Secretariat of Social Communication of the Office of the President has held weekly press conferences with officials of the executive branch so that the media can have access to sources.<sup>813</sup>

482. On the other hand, this Office has recorded progress in the case of journalist Norma Sancir, which is documented in the Rapporteurship’s 2014 Annual Report. On 18 September 2014, the *Prensa Comunitaria* contributor was reportedly detained while documenting the actions of the police during a demonstration in the Ch’orti’ region, in Chiquimula, and remained in detention for four days.<sup>814</sup> According to the information available, on 22 September 2021, the Criminal and Narcotics Court of First Instance of Chiquimula reportedly resumed the intermediate hearing against four officers of the National Civil Police.<sup>815</sup>

483. The Rapporteurship also welcomes the decision of 3 September 2021 of the Criminal Court of First Instance of Nebaj, which dismissed the criminal case against the indigenous journalist Maya K’ich’e Anastasia Mejía Tiriquiz, for alleged crimes of “sedition” and “attack with specific aggravating circumstances”, on the

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<sup>808</sup> Prensa Comunitaria. 22 June 2021. [Violentando mandato Constitucional en Centro Médico Militar](#); PDH. 22 June 2021. [Comunicado 103/21](#).

<sup>809</sup> PDH Guatemala. 2 September 2021. [Comunicado 158/21](#); El Periódico. 2 September 2021. [Presidente del Congreso niega acceso a periodista de “el Periódico” a rueda de prensa](#).

<sup>810</sup> PDH of Guatemala. 11 November 2021. [Comunicado 198/21](#); Twitter account of the Association of Journalists of Guatemala (@APG\_1947). 9 November 2021.

<sup>811</sup> UN, OSCE, OAS, ACHPR. 20 October 2021. Joint Declaration on Politicians and Public Officials and Freedom of Expression.

<sup>812</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>813</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Note provided by the Permanent Mission of the Republic of Guatemala to the OAS. Ref. NV-OEA-M4-No.750-2021. 21 September 2021.

<sup>814</sup> IACHR. Annual Report 2014. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 13. 9 March 2015. Para. 551.

<sup>815</sup> Guatemalan Federation of Radio Schools. 22 September 2021. [Inicia etapa intermedia en caso de periodista Norma Sancir - Federación Guatemalteca de Escuelas Radiofónicas](#); Ruda. 22 September 2021. [Policías podrían enfrentar juicio por abuso de autoridad en contra de periodista](#).

understanding that there was insufficient evidence to charge her<sup>816</sup>. As this Office pointed out in its 2020 Annual Report, the journalist had been criminally charged as a result of her journalistic coverage of citizen demonstrations against the mayor of the town of Joyabaj, being detained for approximately 38 days without a preventive detention order by a competent judge<sup>817</sup>. The Rapporteurship considers that the case against Anastasia Mejía is particularly important because she is a journalist who does community journalism in indigenous languages and because she is a woman journalist and community leader. For the Rapporteurship, her criminalization is not only a disproportionate measure but may also have a chilling or self-censoring effect on other communicators who also cover issues of public interest, especially those who practice community or independent journalism.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

484. The Rapporteurship noted with concern the entry into force of the reforms to the Law on Non-Governmental Organizations for Development and the Civil Code of Guatemala. It also learned of various exceptional measures in the context of the COVID-19 pandemic that seek to limit social demonstrations. The Rapporteurship has also observed episodes of excessive use of force in the context of social demonstrations.

485. On 11 May 2021, the Constitutional Court of Guatemala revoked a provisional injunction and annulled several appeals filed against the entry into force of the reforms to the Law on Non-Governmental Organizations for Development and the Guatemalan Civil Code. These reforms had been approved by the Congress of the Republic through Decree 4-2020 of 11 February 2020, and sanctioned by the head of the Executive on 27 February 2020. With the decision, the law could enter into force on 21 June 2021<sup>818</sup>. These reforms establish a set of requirements for the incorporation, registration, regulation, operation and oversight applicable to national and international NGOs that, according to the information available, would be excessive and disproportionate and, in practice, could be used in a discretionary or arbitrary manner to the detriment of civil society entities. Likewise, the IACHR and the Office of the Special Rapporteur are concerned about the establishment of rigid and restrictive definitions of what constitutes an NGO, as well as the possibility of using vague and ambiguous criteria to limit access to foreign funding for reasons of “public order” through the imposition of sanctions, the cancellation of registration, and the initiation of criminal proceedings. In addition, according to reports received, Decree 4-2020 would reform the Guatemalan Civil Code with the aim of incorporating powers of the Executive related to the monitoring and oversight of NGO activities, including the power to dissolve and NGO for reasons of “public order”<sup>819</sup>. By communication of May 19, the State indicated to the IACHR that, “the content of Decree 4-2020 of the Congress of the Republic seeks to improve Guatemala’s development by establishing mechanisms that allow for transparency in the actions of national or international nongovernmental organizations, which does not represent any limitation on the rights of association and freedom of expression or disproportionately hinder public participation and the defense of the human rights of Guatemalans, or the performance of the activities carried out by NGOs. The State also pointed out that “in the Guatemalan model of government there are mechanisms of checks and balances, one of them being the work of the Constitutional Court, which, within the framework of its powers, ruled that the injunction filed against the aforementioned decree were inadmissible”<sup>820</sup>.

486. On the other hand, according to the information received, on 13 August 2021, the President and his Council of Ministers approved Decree 5-2021, effective as of 14 July 2021, which established a state of prevention for 15 days “as an extraordinary measure to avoid the risk of increased public danger” due to COVID-19<sup>821</sup>. This Rapporteurship received reports about the negative impact that this measure could have on the exercise of freedom of expression and peaceful assembly. Among the exceptional measures, the government

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<sup>816</sup> CPJ. 13 September 2021. [El CPJ saluda decisión de sobreeser la causa penal abierta contra la periodista guatemalteca Anastasia Mejía](#); International Federation for Human Rights. 23 September 2021. [Guatemala: Fin de la criminalización de Anastasia Mejía Tiriquiz](#).

<sup>817</sup> IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 745.

<sup>818</sup> Soy502. 15 June 2021. [Ley de ONG entrará en vigencia el lunes 21 de junio](#); República. 21 June 2021. [Entran en vigencia reformas a la Ley de Organizaciones no Gubernamentales](#).

<sup>819</sup> IACHR. May 19, 2021. *Press Release No. 128/21*. [IACHR and RFOE Reject Entry into Force of Reforms to the Nongovernmental Organizations Act in Guatemala](#).

<sup>820</sup> IACHR. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>821</sup> Government of Guatemala. 13 July 2021. [Governmental Decree5-2021](#); La Hora. 14 July 2021. [Publican Estado de Prevención: Vicepresidente votó en contra](#).

determined that “with regard to the meeting, group or public demonstration that is carried out without due authorization or if, having been authorized, it is carried out without compliance with the necessary sanitary measures, carrying weapons or other elements of violence, it will proceed to order them to comply with the same as established in the Law of Public Order, and to dissolve them when public health and safety so warrants.”<sup>822</sup> According to publicly available information, on 13 July 2021, the Human Rights Ombudsman of Guatemala filed an injunction before the Constitutional Court against the President, the Minister of the Interior and the Director General of the National Civil Police, claiming “an imminent and determined threat by the challenged authorities of not guaranteeing (...) the right to assembly and demonstration, the right to movement and free expression of thought, of the persons participating in the demonstrations (...)”.<sup>823</sup> On 28 July 2021, the Constitutional Court granted provisional protection to the Human Rights Ombudsman and ordered the authorities to guarantee the right to demonstrate.<sup>824</sup>

487. The Office of the Special Rapporteur has continued to observe the development of social demonstrations in Guatemala, during which various episodes of police deployment and use of public force have been reported. The Rapporteurship received information about alleged violent clashes between police officers and demonstrators that took place on 27 September 2021 in Cuyotenango, Suchitepéquez, in the context of a protest and road blockade demanding the restoration of electricity in the region.<sup>825</sup> As this Office was able to learn, on 9 August 2021, the Minister of the Economy recognized the right to demonstrate but warned that “there are certain economic losses that businessmen have due to this type of blockade, which is illegal”.<sup>826</sup>

488. The IACHR and its Rapporteurship expressed concern about the reports received in the context of the demonstrations by retired military officers in the vicinity of Congress on 19 October 2021, which reportedly resulted in injuries, damage to facilities, and burning of vehicles. At least eight journalists from various media outlets were reportedly physically attacked, intimidated and had their equipment destroyed.<sup>827</sup> According to the information available, the president of Congress has reportedly requested a full investigation into the incident.

489. Also, according to publicly available information, on October 22 and 23, agents of the National Civil Police attempted to violently disperse demonstrations and blockades of the Mayan Q’eqchi’ people in the municipality of El Estor, department of Izabal, who are opposed to the operation of the Fénix mining project. In addition to the reported threats to journalists to refrain from recording these events, police officers reportedly used tear gas against demonstrators and media workers, some of whom were injured. In addition, several members of the National Civil Police were reportedly injured, including four officers with gunshot wounds, according to official reports<sup>828</sup>. According to the Government, the demonstrations are said to have obstructed access routes and damaged the efforts at dialogue that had been attempted.<sup>829</sup>

490. States must respect, protect and guarantee the right to protest and refrain from applying disproportionate restrictions that inhibit the legitimate exercise of critical expression. To be compatible with international human rights obligations, any regulation affecting the right to peaceful assembly must comply with requirements of legality, necessity and proportionality. States are called upon to adopt the necessary

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<sup>822</sup> Government of Guatemala. 13 August 2021. [Governmental Decree 5-2021](#).

<sup>823</sup> PDH of Guatemala Twitter account (@PDHgt). [13 July 2021](#).

<sup>824</sup> PDH of Guatemala. 28 July 2021. [CC otorga amparo provisional a PDH y ordena a las autoridades impugnadas garantizar el derecho a manifestar](#); BBC. 29 July 2021. [Protestas en Guatemala contra el presidente Giammattei y la jefa del Ministerio Público por la destitución del fiscal anticorrupción](#).

<sup>825</sup> El Periódico. 27 September 2021. [Al menos veinte personas heridas tras protestas en Cuyotenango](#); República. 28 September 2021. [Diez policías heridos durante desalojo en bloqueo de Cuyotenango, Suchitepéquez](#).

<sup>826</sup> La Hora. 9 August 2021. [Ministro de Economía reconoce derecho a manifestar, pero cuestiona bloqueos](#); Perspectiva. 9 August 2021. [Malouf: “bloqueos ocasionan pérdidas económicas”](#).

<sup>827</sup> EFE. 20 October 2021. [Exmilitares guatemaltecos asaltan el Congreso para pedir compensaciones](#); El Periódico. 20 October 2021. [APG condenó las agresiones contra periodistas durante la manifestación de militares retirados | el Periódico de Guatemala](#).

<sup>828</sup> Government of Guatemala. 24 October 2021. [Comunicado: Ante la serie de hechos violentos que alteraron el orden público y atentaron contra la integridad de elementos de las fuerzas de seguridad que resguardaban el orden en el municipio del Estor, Izabal el Gobierno de Guatemala hace saber a la Opi](#).

<sup>829</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 29 October 2021. Press Release 286. *The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards*.

measures to prevent acts of violence and guarantee the safety of persons in the context of social protests, which must be carried out in accordance with international human rights principles and standards.<sup>830</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

491. This Office continues to observe significant challenges regarding community broadcasting and the decriminalization of unlicensed broadcasting in the country. This Office reiterates its diagnosis from the 2020 Annual Report and recalls that to date there has been no progress regarding the community media law initiative, or any other initiative to legalize community radio stations, adopt positive measures in their favor, and grant them space on the radio spectrum. In 2021, a report by Article 19, Centro Civitas and Article 35 concluded that between 2011 and 2020, the criminalization and criminal prosecution of community radio stations was one of the main challenges to freedom of expression in Guatemala. According to the study, the lack of regulations governing the access of indigenous peoples to the frequency bands of the radio spectrum contributes to the criminalization and delegitimization of community radio stations and its communicators.<sup>831</sup> The above, as well as the raids, seizure of equipment, and the initiation of criminal proceedings against community radio stations operating without licenses, will be analyzed by the Inter-American Court in the case of *Pueblos Maya Kaqchikel de Sumpango et al. v. Guatemala*, for which a public hearing was held between June 9 and 11, 2021.<sup>832</sup>

492. In this context, in 2021 the Rapporteurship became aware of an alleged search of the premises of the community radio station *Xyaab' Tzuultaq'a* by police officers on October 24, after a state of siege was declared in the municipality of El Estor. According to the information available, the radio station had reported in previous weeks on the claims of the Mayan Q'eqchi' community that opposes mining exploitation<sup>833</sup>.

493. In its report "Justice and Social Inclusion: The Challenges of Democracy in Guatemala", the IACHR indicated that community radio stations are positive because they promote the culture and history of the communities, and that the granting or renewal of broadcasting licenses must be subject to a clear, fair, and objective procedure that takes into consideration the importance of the media for all sectors of Guatemalan society to participate in the democratic process in an informed manner<sup>834</sup>. Therefore, this Office reiterates that States should implement measures to ensure that community radio stations are legally recognized and that spectrum reserves are set aside for this type of media, as well as equitable conditions of access to licenses that differentiate the diverse realities of private, non-commercial media.

494. This Office notes with concern the restrictions on freedom of expression imposed against women who legitimately speak out against gender-based violence. According to the information available, the National Civil Service Office (Onsec) has reportedly dismissed its adviser María Alejandra Morales Arana, one of the organizers of the #IHaveFear (*#TengoMiedo*) campaign, through which Guatemalan women gave testimonies and recounted personal experiences on social networks about gender-based violence. According to information from a public source, the decision resulted from alleged "instructions" from the president "in retaliation for having promoted this public dialogue on the situation of violence against women and girls".<sup>835</sup> On March 24, María Alejandra Morales reportedly filed an injunction against the president, the Minister of Labor and the director of Onsec with the Constitutional Court, alleging violation of her rights to freedom of expression, to equality and non-discrimination, to dignity and privacy and to a life free of violence.<sup>836</sup>

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<sup>830</sup> I/A Court H.R., *Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 28, 2018. Series C No. 371. para. 162.

<sup>831</sup> Article 19, Centro Civitas, Article 35. 19 April 2021. [Guatemala: Estado contra la Prensa y la Libertad de Expresión](#).

<sup>832</sup> I/A Court H.R. / YouTube. 9 June 2021. [Public Hearing. Case Maya Kaqchikel peoples of Sumpango and others v. Guatemala](#).

<sup>833</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 29, 2021. Press Release 286. *The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards*.

<sup>834</sup> IACHR. 29 December 2003. Justice and Social Inclusion: The Challenges of Democracy in Guatemala. Chapter VII: The Situation of Freedom of Expression. Para. 414.

<sup>835</sup> El País. 28 April 2021 [#TengoMiedo, el grito contra los asesinatos y desapariciones de mujeres y niñas en Guatemala](#); Prensa Libre. 15 February 2021. ["Tengo miedo", la campaña contra la violencia hacia las mujeres y que el MP critica](#); La Hora. 15 February 2021. [Campaña "#TengoMiedo" busca hacer conciencia sobre la violencia contra las niñas y mujeres en GT](#).

<sup>836</sup> Prensa Libre. 25 March 2021. [Exasesora de Onsec denuncia a funcionarios de represalias por participar en campaña #TengoMiedo](#); Twitter account of Diario La Hora (@lahoragt). 24 March 2021.

495. The disproportionate attacks and restrictions to which women are exposed are also reflected in the field of journalism. According to the information reported, although cases of sexual harassment against women journalists in the exercise of their profession are not isolated, making them visible is still a challenge, since most of them are not reported. In 2020, in response to requests for access to public information, the Ministry of the Interior and the Public Prosecutor's Office, among other state entities, stated that they do not have specialized protocols for dealing with women journalists, according to the study by Article 19, Centro Civitas and Article 35 previously cited.<sup>837</sup>

#### **D. Freedom of Expression and the Internet**

496. The Rapporteurship has received reports about the alleged operation of troll farms or *netcenters* in Guatemala, which promote online harassment campaigns against journalists, human rights defenders, and other people who actively participate in public life. According to publicly available information, *netcenters* continue to operate, in which - as this Office stated in its 2020 Annual Report - networks of people seek to deliberately disseminate false news in order to influence public opinion and attack public figures who oppose or criticize the Government.<sup>838</sup>

497. The digital gap continues to represent a major challenge for Guatemala. An Inter-American Development Bank report published in June 2021 places the country among those with the lowest broadband development indices (IDBA). The IDBA aims to measure access to broadband and digital technologies in Latin America and the Caribbean (LAC) and is composed of four pillars: public policies and strategic vision; strategic regulation; infrastructure; and applications and training. According to the study, the main investment to close the digital gap should be located in rural areas of the country<sup>839</sup>. On the other hand, and in this context, the Rapporteurship has become aware of various controversies involving the advancement of 4G technology coverage in Guatemala.<sup>840</sup>

498. For its part, the State has reported that, in order to combat cybercrime, the country has taken an important step in April 2020 by acceding to the Budapest Convention, which has a favorable opinion of the National Security Committee of Congress. According to them, this would allow adequate protection for all Guatemalans in the exercise of their rights in the digital space.

499. As pointed out in the IACHR's practical guide "How to promote universal access to the internet during the COVID-19 pandemic", universal access to a free, open and inclusive internet depends fundamentally on the positive measures that States are called upon to adopt to reach individuals and groups who, due to various factors (socioeconomic, geographic, age, among others) have not yet been able to access the global network. The actions and measures adopted by other actors in the digital ecosystem, such as telecommunications companies and Internet service providers, are also crucial.<sup>841</sup> In this regard, this Office recalls that the digital gap reinforces pre-existing inequalities suffered by vulnerable groups of people.

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<sup>837</sup> Article 19, Centro Civitas, Article 35. 19 April 2021. [Guatemala: Estado contra la Prensa y la Libertad de Expresión.](#)

<sup>838</sup> IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. Para. 743; El Periódico. 4 July 2021. [Un netcenter en Twitter disemina apoyo al presidente Giammattei](#); Soy502. 4 July 2021. [El "apoyo ficticio" a Giammattei en Twitter por las vacunas.](#)

<sup>839</sup> Inter-American Development Bank. June 2021. Annual Report of the Broadband Development Index: IDBA 2020: Digital Gap in Latin America and the Caribbean.

<sup>840</sup> Plaza Pública. 10 January 2021. [La posición ambigua de Tigo: Tiene los derechos sobre la banda 4G pero no puede usarlos, por el momento](#); Plaza Pública. 13 May 2021. [Gobierno hace malabares con banda 4G y beneficia a Tigo](#); Prensa Libre. 7 January 2021. [Dos recursos se cruzan en el proceso para subastar la red 4G.](#)

<sup>841</sup> IACHR. 26 March 2021. RIRCU Practical Guide No. 3 How to Promote Universal Access to the Internet during the COVID-19 Pandemic.



## GUYANA

500. The lack of effectiveness of the Access to Information Act remains a challenge in Guyana, since the current law allows the State to reject applications, supposedly with little or no justification. Likewise, the Office of the Special Rapporteur continues to observe the use of defamation laws in Guyana, which can limit expression in the public interest. At least two complaints for defamation were documented by this Office during 2021.

### A. Journalism and Democracy

501. In the framework of World Press Freedom Day, several journalists from the country analyzed the status of this right in Guyana. The difficulty of accessing public information through the law enabling it was one of the most common criticisms. They also made reference to the need to practice journalism without any pressure from public officials.<sup>842</sup>

502. The country dropped two places in the 2021 World Press Freedom Index prepared by Reporters Without Borders (RSF), due especially to some officials' proposals of defamation laws that would impose fines and up to two years in prison to "stop journalists who disagree with their political party."<sup>843</sup>

503. The Office of the Special Rapporteur learned of the complaints of three journalists from *Kaieteur News* about an alleged toxic work environment there that included sitting through radio programs featuring lies by the newspaper's publisher about the oil and gas sector. They spoke out after the publisher publicly criticized them for having resigned from the paper.<sup>844</sup>

504. Likewise, this Office documented at least two libel lawsuits during 2021. According to the information received, in February 2021, the former CEO of the *National Communications Network (NCN)*, Enrico Woolford, filed a defamation lawsuit against the *Guyana Times* and columnist Leslie Ramsammy, formerly the Minister of Health, for a large sum of money. The origin of the lawsuit was a column by Ramsammy in which he claimed that Woolford had conspired with the APNU/AFC political party to manipulate the general and regional elections of March 2, 2020. The lawsuit also sought for the outlet to remove the article from its online editions and issue a retraction and an apology in the print and online versions of the newspaper "for the false, malicious, and defamatory statements impugning his character and reputation."<sup>845</sup> Judge Fidela Corbin-Lincoln granted Woolford's suit.<sup>846</sup> In November, Ramsammy asked that he be allowed to issue his defense, claiming that he had never been informed of the lawsuit.<sup>847</sup>

505. Likewise, the *Guyana Times* and Leslie Ramsammy have been sued for libel and slander by the former deputy electoral director Roxanne Myers and journalist Gordon Moseley, seeking \$100 million and \$80 million, respectively. The lawsuit also originated from a Ramsammy column.<sup>848</sup>

506. The Office of the Special Rapporteur has indicated on previous occasions that fear of criminal sanctions necessarily discourages and inhibits citizens from expressing themselves on matters of public interest. As the IACHR has held, "[t]he sort of political debate encouraged by the right to free expression will inevitably generate some speech that is critical of, and even offensive to those who hold public office or are intimately involved in the formation of public policy." Article 13 of the American Convention provides for the possibility of placing restrictions on freedom of thought and expression through the application of subsequent liability for the abusive exercise of this right. However, it requires any measure intended to limit the exercise of the right to freedom of expression to be defined precisely and clearly by law; have a legitimate objective; be necessary; and be strictly proportionate to its objective.

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<sup>842</sup> Guyana Chronicle. May 4, 2021. [Local journalists talk about press freedom.](#)

<sup>843</sup> Reporters Without Borders. Undated. [2021 World Press Freedom Index/ Guyana](#); Kaieteur News. May 8, 2021. [Guyana flagged for problematic press freedom in 2021 World Press Freedom Index.](#)

<sup>844</sup> Newsroom. June 2, 2021. [Ex Kaieteur News staff say were forced to sit through untruths about oil & gas sector on radio show.](#)

<sup>845</sup> Kaieteur News. February 21, 2021. [Enrico Woolford sues Guyana Times, Leslie Ramsammy for \\$185 M in libel.](#)

<sup>846</sup> Stabroek News. August 28, 2021. [Woolford gets libel judgement against Ramsammy](#); Kaieteur News. August 29, 2021. [High Court grants default judgment to Enrico Woolford in \\$150M libel suit against Ramsammy.](#)

<sup>847</sup> Kaieteur News. November 25, 2021. [Ramsammy asks court to set aside default judgment in libel suit.](#)

<sup>848</sup> Stabroek News. September 1, 2021. [Myers, Moseley file libel suits against Guyana Times, Ramsammy.](#)



507. Lastly, the Office of the Special Rapporteur welcomes the incorporation of Guyana into the Media Freedom Coalition. Founded in 2019, its objective is to defend the freedom of the media in places where it is in danger. The coalition is co-chaired by Canada and the United Kingdom. The Minister of the Office of the Prime Minister of Guyana in charge of public affairs, Kwame McCoy, expressed the country's commitment to "achieve lasting impact on the issues of media freedom for the bastions of the 'Fourth State' among our democratic societies."<sup>849</sup>

## **B. Freedom of expression, Rule of Law and Democratic Institutions**

508. During 2021, the country experienced a series of protests against the management of the COVID-19 pandemic and the restrictions to control it. The Office of the Special Rapporteur received information on alleged attempts to prevent the demonstrations or the participation of specific groups. Thus, for example, on September 13, the country's government said it would stand by its decision not to pay teachers who supported the three-day strike and joined the protest against vaccination policies. The teachers were arguing that the conditions to return to in-person learning were not met.<sup>850</sup>

509. This Office reiterates that social protest, which includes the rights to peaceful, unarmed assembly, association, and freedom of expression, is a fundamental tool for the defense of democracy and human rights. The State therefore has a duty to guarantee its exercise. In its report on Protest and Human Rights, the IACHR noted that criminalization of social protest has an intimidating effect on society as a whole, as it can prevent or inhibit this type of expression.

## **C. Freedom of Expression and the Internet**

510. According to the information received by the Office of the Special Rapporteur, on July 20, the IT team of *Kaieteur News* detected "a collective and continued effort to bring down the website that appears to be well funded." According to its Information and Communication Technology (ICT) Chief, starting a month prior to the announcement the technicians detected a distributed denial of service (DDOS) software that attempted to make the website inaccessible. The goal of DDOS programs is to overwhelm a site with more traffic than the server or network can handle. Similar attempts to block access to *Kaieteur News'* online server had been observed in the past during its reporting on Bai Shan Lin and other similar Chinese companies and their operations at the local level. The ICT Chief pointed out that, at that time, they were able to determine that the attempts came from China, and the company resorted to blocking access to the website in that country. However, the latest attacks were more sophisticated and strategic, and their origins could not be established.<sup>851</sup>

511. Freedom of expression applies to the Internet the same as to other media outlets. As the Office of the Rapporteur has already pointed out on previous occasions, States have positive obligations to protect digital communications systems against cyberattacks and to reinforce the digital security of those who are at risk of suffering them, including journalists.

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<sup>849</sup> Guyana Chronicle. August 6, 2021. [UK, Canada welcome Guyana to Media Freedom Coalition.](#)

<sup>850</sup> The Gleaner. September 13, 2021. [Guyana says teachers who participated in vaccination protest will not be paid.](#)

<sup>851</sup> Kaieteur News. July 20, 2021. [Kaieteur News' website under constant attack.](#)

## HAITI

512. According to the reports received by the Office of the Special Rapporteur, in 2021 violence against the press in Haiti has continued to intensify, framed in a context of social and political crisis. The protests that took place since the beginning of 2021 questioning the length of the presidential term also showed signs of high social violence. In February 2021, the IACHR expressed concern about acts of violence, excessive use of force, an attempt to interrupt the constitutional order, and destabilization of democratic institutions in the country, in the context of a controversy about the duration of the president's mandate. The Office of the Special Rapporteur is concerned about the lack of progress in judicial investigations into crimes against freedom of expression, which would have an inhibitory effect on the exercise of this work.

### A. Journalism and Democracy

513. In 2021, in a context of growing violence and political and institutional tensions that have been the object of special attention by the IACHR, the Office of the Special Rapporteur for Freedom of Expression has continued to receive information on the persistence of attacks and threats against press workers in Haiti. Journalists warn about the environment of fear and insecurity in which they work, surrounded by continuous attacks and few security guarantees<sup>852</sup>.

514. Between 2019 and 2021, this Office has registered various episodes of attacks, threats, and intimidation against journalists, which come from both government spheres and armed groups, some of them in the context of social demonstrations<sup>853</sup>. According to the press, social tensions, citizen insecurity and the agitated political climate would have an inhibitory effect on the exercise of their work. On several occasions they have refrained from publishing certain information because the consequences can be excessively costly, according to the information reported<sup>854</sup>. Some press workers have indicated that they even prefer to expose themselves publicly as little as possible, and not wear any type of press identification visible<sup>855</sup>. On January 28, 2021, journalists and opposition activists peacefully demonstrated in the Haitian capital to denounce alleged acts of police abuse and demand justice for colleagues killed in recent years<sup>856</sup>. "No more violence against journalists" and "when freedom of the press is threatened, it is democracy that is in danger" were some of the

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<sup>852</sup> AyiboPost. November 14, 2020. [Pourquoi le journalisme d'investigation est-il si rare en Haïti?](#)

<sup>853</sup> Loop Haïti. February 13, 2019. [Haïti - Manifestation: le journaliste Robenson Sanon touché par balle](#); Knight Center. February 18, 2019. [Periodista haitiano es baleado durante protestas contra el gobierno](#); Le Nouvelliste. February 13, 2019. [Le journaliste Robenson Sanon blessé par balle lors de manifestations anti-gouvernementales](#); CPJ. February 14, 2019. [Journalist shot in anti-government demonstrations in Haiti](#); Loop Haïti. June 10, 2019. [Haïti - Insécurité : Un journaliste de la RSF tué par balles](#); Loop Haïti. June 10, 2019. [Des véhicules de Radio Télé Ginen incendiés par des protestataires](#); Associated Press. June 11, 2019. [Journalists in Haiti demand protection after reporter killed](#); Loop Haïti. June 18, 2019. [Les locaux de radio Télé Zénith attaqués par des individus armés](#); Haïti Standard. June 18, 2019. [Les locaux de la Radio télé Zénith attaqués par des individus armés](#); Loop Haïti. June 24, 2019. [Un autre véhicule de Radio Télé Métropole attaqué par des manifestants](#); Vant Bèf Info. June 24, 2019. [Haïti/Média: Nouvelle attaque contre un autobus de Radio Télé Métropole](#); Haitian Times. June 20, 2019. [Radio Télé vehicle targeted in Turgeau Wednesday](#); Vant Bèf Info. June 24, 2019. [Haïti/Média: Nouvelle attaque contre un autobus de Radio Télé Métropole](#); Loop Haïti. June 24, 2019. [Un autre véhicule de Radio Télé Métropole attaqué par des manifestants](#); CPJ. August 13, 2019. [Journalist Luckson Saint-Vil survives shooting attack in southern Haiti](#). Loop Haïti. August 6, 2019. [Notre reporter Luckson Saint-Vil victime d'une attaque armée à Léogâne](#); Le Nouvelliste. August 7, 2019. [Le journaliste Luckson Saint-Vil cible d'une attaque armée à Léogâne](#); Loop Haïti. July 19, 2019. [Victime d'une attaque armée, le journaliste Kendi Zidor porte plainte](#); CPJ. July 22, 2019. [Haitian journalist Kendi Zidor survives shooting attempt in Port-au-Prince](#); Knight Center. July 24, 2019. [Periodista que recibió amenazas sobrevive a ataque armado en la capital de Haïti](#); CPJ. July 22, 2019. [Haitian journalist Kendi Zidor survives shooting attempt in Port-au-Prince](#); The Guardian. September 23, 2019. [Haiti: photojournalist shot in face as senator opens fire outside parliament](#); BBC. September 24, 2019. [Haiti senator opens fire outside parliament, wounding two](#); CPJ. September 24, 2019. [Haitian senator opens fire, injuring AP photographer Chery Dieu-Nalio](#); Reuters. September 30, 2019. [Haitian journalist shot in wrist in latest round of protests](#); CPJ. October 1, 2019. [Journalist Edmond Agenor Joseph shot by police in Haiti while covering protests](#); Le Nouvelliste. February 27, 2020. [Protestations unanimes après l'attaque contre la Radio Télévision Caraïbes](#); Van Bèf Info. April 30, 2020. [Haïti / Affaire Georges Allen : Des Associations de médias exigent des sanctions contre les policiers fautifs](#); Haïti Standard. July 29, 2020. [Menaces de mort proférées contre le journaliste Pradel Alexandre, l'Union des journalistes du basartibonite dénonce et condamne](#); Radio Télévision Caraïbes / Facebook. [September 13, 2020](#) <https://www.facebook.com/rtvchaiti/posts/3639965589371257/>; Le Nouvelliste. December 29, 2020. [Le journaliste Vario Sérant blessé par balle lors d'une attaque à Port-au-Prince](#).

<sup>854</sup> Ayibo Post. March 16, 2021. [Insecurity Coupled with Impunity Forces Haitian Journalists to Hide Sensitive Information](#).

<sup>855</sup> Ayibo Post. March 16, 2021. [Insecurity Coupled with Impunity Forces Haitian Journalists to Hide Sensitive Information](#).

<sup>856</sup> Associated Press. January 28, 2021. [Haiti journalists denounce police brutality, demand justice](#); VOA News. January 28, 2021. [Haitian Journalists Protest Police Brutality](#).

slogans raised. The press workers reported being the target of attacks by the public forces during coverage of protests and other informational events, as well as intimidation and death threats.

515. In 2021, the Office of the Special Rapporteur for Freedom of Expression documented the murder of 33-year-old journalist Diego Charles, who worked as a reporter for *Radio Vision 2000*, as well as *Gazette Haiti News* and *La Repiblik*; and Antoinette Duclaire, also 33, a radio host, political activist, and spokesperson for the opposition political movement Matris Liberasyon. Both were allegedly attacked on the night of June 29, 2021 by unidentified armed individuals who were driving a motorcycle and shot them when Antoinette Duclair was leaving Charles at the entrance of his house in the Christ-Roi area, in Port-au-Prince<sup>857</sup>. According to public information, both had previously received threats<sup>858</sup>. Likewise, after the murders, some family members and close associates were reportedly intimidated for speaking with the authorities in the framework of the respective investigations<sup>859</sup>. As this Office learned, the journalist Diego Charles was investigating various issues of public relevance to the magazine *La Repiblik*, including the murder in 2020 of the president of the Port-au-Prince Bar Association, Monferrier Dorval, which is still open and in which no significant progress had been reported, according to the information received<sup>860</sup>.

516. This Office has also been informed that Dieu-Nalio Chéry, a photojournalist for the *Associated Press* in Haiti, had to leave the country due to alleged risks to his life and integrity and that of his family members. According to the information received, the reporter had received threatening messages since he took photographs of an armed attack committed by a criminal group on the route of the Port-au-Prince international airport, on March 17, 2021, which had repercussions in the international press<sup>861</sup>. On February 10, 2021, as part of a student protest in Port-au-Prince against the government, Dieu-Nalio Chéry, together with the journalist Johnny Fils-Aimé, was reportedly one of the journalists injured with tear gas canisters supposedly deliberately fired by police officers<sup>862</sup>.

517. Additionally, the Office of the Special Rapporteur was informed of alleged attacks on the press in the context of clashes between the police and protesters during the funeral of former Haitian president, Jovenel Moïse, in the city of Cap-Haitien (Cap-Haitien)<sup>863</sup>.

518. On June 25, 2021, armed individuals shot and wounded *Le Nouvelliste* journalist Fritz Pinvin in Port-au-Prince, according to available information. The reporter would have been rushed to a hospital with serious injuries after being hit by at least three projectiles<sup>864</sup>.

519. The Office of the Special Rapporteur registered with concern the reports received about the kidnapping of reporter Alexander Gálvez, a correspondent for *Telemicro Media Group* in Haiti, by a criminal gang on the border between Haiti and the Dominican Republic. The reporter was said to have been deprived of liberty for nine days before being released on December 5<sup>865</sup>.

520. In its previous annual reports, the Office of the Special Rapporteur has recorded several episodes of violence against the independent press, such as the murder of journalist Petión Rospide, presenter of *Radio*

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<sup>857</sup> Al Jazeera. June 30, 2021. [Haitian journalist, activist killed in Port-au-Prince shootings](#); France 24. June 30, 2021. [Journalist, activist among at least five killed in Haiti](#).

<sup>858</sup> Amnesty International. August 6, 2021. [Haiti: Authorities must protect relatives of murdered journalist and activist from death threats](#).

<sup>859</sup> Amnesty International. August 6, 2021.. [Haiti: Authorities must protect relatives of murdered journalist and activist from death threats](#).

<sup>860</sup> CPJ. July 1, 2021. [Haitian journalist Diego Charles shot and killed in Port-au-Prince](#).

<sup>861</sup> Alter Presse. June 21, 2021. [Criminalité : Le photojournaliste Dieu-Nalio Chéry contraint de laisser Haiti, suite aux menaces persistantes de groupes armés](#); Le Nouvelliste. June 22, 2021. [L'un des meilleurs photojournalistes haïtiens prend l'exil pour échapper à la fureur des gangs](#); Ayibo Post. June 23, 2021. [Vidéo | Dieu-Nalio photographie des bandits transportant des cadavres de victimes. Ce sont ses dernières photos en Haïti](#).

<sup>862</sup> Le Nouvelliste. February 10, 2021. [Des journalistes pris pour cibles par des policiers](#); Trip Foumi. February 10, 2021. [Des Journalistes attaqués par des Policiers à Laïue : Dieu-Nalio Chéry et Johnny Fils-Aimé blessés](#).

<sup>863</sup> Le Journal de Montréal. July 23, 2021. [Haïti dit adieu, sous haute sécurité, à son président assassiné](#); Reuters. July 23, 2021. [Funérailles sous tension de Jovenel Moïse à Haïti](#); International Journalists' Network. August 20, 2021. [Being a journalist in crisis-hit Haiti](#).

<sup>864</sup> Vant Bèf Info. June 26, 2021. [Insécurité à Port-au-Prince : Un journaliste blessé par balle](#); Haïti Standard. Port-au-Prince: le journaliste Fritz Pinvin du journal Le Nouvelliste blessé par balles à la rue Capois

<sup>865</sup> Listin Diario. December 6, 2021. [Pandilla haitiana libera al periodista Alexander Gálvez tras 9 días secuestrado](#); Vant Bèf Info. December 6, 2021. [Haïti / Kidnapping : Libération contre rançon du journaliste Alexander Galvez](#).

Le Nouvelliste. November 29, 2021. [Multiplication des raptés dans des rues livrées aux kidnappeurs](#); Le Nouvelliste. November 30, 2021. [Haïti: Une organisation de journalistes exige la libération d'Alexander Galvez](#).

Gazette Haiti. December 6, 2021. [Kidnappé depuis 9 jours, le journaliste Alexander Galvez libéré ce dimanche](#).

*Sans Fin*, who was the victim of an armed attack by unknown individuals when he was driving back to his home in an official vehicle of the radio station in Port-au-Prince, on June 10, 2019<sup>866</sup>. The 45-year-old reporter had just finished his radio show, focused on allegations of corruption against the government<sup>867</sup>. Likewise, the Office of the Special Rapporteur has followed up on the case of the reporter Néhémie Joseph, from *Radio Panic* and *Radio Méga*, who was found dead on October 10, 2019 in his private vehicle with gunshot wounds, in the town of Mirebalais, northeast of Puerto Principe and on the border with the Dominican Republic<sup>868</sup>. The journalist reported on the situation in the town and frequently addressed issues related to the protests unleashed in Haiti in 2019 and the calls for the resignation of then-President Moïse. According to this Office, Néhémie Joseph was characterized by his publications critical of the government and the management of the political crisis by local authorities, and had previously received threats<sup>869</sup>. As this Office learned, in November 2020 investigating judge Samson Jean, who was investigating the murder of the journalist from *Radio Méga* and *Radio Panic FM*, withdrew from the case alleging reasons of personal security<sup>870</sup>.

521. According to the information reported to this Office, there has been no significant progress in the judicial investigations of the aforementioned cases. In this regard, the independent press has pointed out that Haiti will continue to be an inappropriate terrain for journalistic investigation as long as "the judicial system continues to be weak and incapable of protecting journalists and witnesses"<sup>871</sup>. The Office of the Special Rapporteur has also not received information regarding the case of journalist Vladjimir Legagneur, who has been reported missing since March 14, 2018, when he left his home to make a report on living conditions in the Grand Ravine neighborhood, in the district of Martissant<sup>872</sup>. According to what was reported, he was working on an independent project with the aim of documenting the clashes between the police and gangs in that area. So far, the journalist's family continues to await the results of the DNA test that the police would have carried out on the remains of a body found in March of that same year in a vacant lot in the town of Palema in Grand Ravine<sup>873</sup>.

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

523. States have a positive obligation to identify and punish the perpetrators of crimes against journalists in a complete, effective, and impartial manner and to judicially determine the relationship they may have to journalistic activity and freedom of expression. The authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions in the development of the processes in the stages of indictment or trial. Not having completely

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<sup>866</sup> IACHR. Office of the Special Rapporteur. June 14, 2019. Press Release R151/19. [The Office of the Special Rapporteur condemns the murder of journalist Petión Rospide and expresses its concern over the ongoing violence against journalists in the framework of the public demonstrations' coverage in Haiti](#); CPJ. June 13, 2019. [Radio Sans Fin host Pétiion Rospide killed in Port-au-Prince, Haiti](#); Knight Center. June 11, 2019. [Periodista de radio es asesinado en Haití en medio de protestas contra el presidente del país](#).

<sup>867</sup> Associated Press. June 11, 2019. [Journalists in Haiti demand protection after reporter killed](#).

<sup>868</sup> CPJ. October 11, 2019. [Radio Panic FM journalist found dead in Haiti following threats](#); Reuters. October 11, 2019. [Journalist's killing fuels ire of Haiti protesters](#); Knight Center. October 11, 2019. [Periodista radial asesinado en Haití en medio de violentas protestas contra el presidente del país](#).

<sup>869</sup> Associated Press. October 11, 2019. [Thousands of protesters in Haiti loot stores, battle police](#); RSF. October 14, 2019. [Asesinan a otro periodista en Haití](#); Amnesty International. October 31, 2019. [Haití: Amnistía Internacional verifica indicios de uso excesivo de la fuerza contra manifestantes](#); Le Nouvelliste. October 10, 2019. [Un journaliste tué par balle à Mirebalais](#).

<sup>870</sup> Zoom Haiti News. November 23, 2020. [Le juge d'instruction Samson Jean se déporte du dossier de l'assassinat du journaliste Néhémie Joseph](#); Le Nouvelliste. November 24, 2020. [Le juge Samson Jean s'est déporté du dossier de l'assassinat de Néhémie Joseph](#).

<sup>871</sup> AyiboPost. November 14, 2020. [Pourquoi le journalisme d'investigation est-il si rare en Haití?](#).

<sup>872</sup> CPJ. [Vladjimir Legagneur](#).

<sup>873</sup> France 24. July 1, 2021. [Haitian journalist, activist killed in suspected revenge attacks in Haiti](#); Yahoo! News. June 30, 2021. [15 killed in suspected revenge attacks in Haiti; police](#).

exhausted the logical lines of investigation influences, above all, that the intellectual authors cannot be identified.

524. Likewise, the Office of the Rapporteur reiterates that there is nothing more permissive to the repetition of violence against the press than the absence of a strong institutional reaction -and therefore it is important that the authorities at the highest level continue to emphatically repudiate this escalation of violence-, and nothing is more encouraging and reassuring for those who exercise violence than impunity for crimes against journalists.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

525. The protests that took place since the beginning of 2021 questioning the length of the presidential term also showed signs of high social violence. In February 2021, the IACHR expressed concern about acts of violence, excessive use of force, an attempt to interrupt the constitutional order, and destabilization of democratic institutions in the country, in the context of a controversy about the duration of the president's mandate. In this regard, the IACHR is concerned that said situation culminated in the arrest of at least 23 people who were allegedly involved in a failed coup attempt. On that occasion, the IACHR urged the State to guarantee full respect for its democratic institutions and the independence of its powers, and called on all political and social actors to abide by the channels of institutional dialogue with adherence to the principles and rules of the constitutional and democratic framework. The Commission also reminded the State of its duty to guarantee the right to protest in accordance with international standards.

526. According to the information received by the Office of the Special Rapporteur, in February 2021, students from the University of Port-au-Prince (UP) and the University of Haiti (UdeH) protested for the release of UP professor Abbias Édumé and the student of the UdeH Albert Junior Augusma, both kidnapped days before by unknown subjects. The students reportedly concentrated nearby the UP campus in Port-au-Prince. According to the reports received, the Haitian National Police used tear gas to disperse the protesters from the streets<sup>874</sup>.

527. Additionally, this Office was informed that, during demonstrations on January 20, 2021, the journalist Réginald Rémy, from *Radio Caraïbes*, identified as a press, received three shots from a police patrol. During these events, Destiné Alvalès, from the online medium *Altv*, and Reynald Petit-Frère, from *Signal Fm*, were also attacked while doing their work<sup>875</sup>. Likewise, on February 8, 2021, two journalists were attacked and wounded with rubber bullets while covering the clashes between protesters and security forces in the Champs-des-Mars area, in Port-au-Prince. Alvaes Destiné, owner and reporter for the *Actualités Locales TV* station, was shot in the hand, while Jeanril Méus, a reporter for the *Tele Pam* channel, was shot in the abdomen. Both were rushed to Bernard Mevs Hospital<sup>876</sup>.

528. The Office of the Special Rapporteur also received with concern information about an alleged attack on the *TV Pacific* press team that was covering a protest on February 10, 2021. According to the reports received, police agents tried to disperse the demonstration violently and placed a boat of tear gas in the back of a *TV Pacific* vehicle, which was clearly marked as newspaper<sup>877</sup>. The Association of Haitian Journalists asked the authorities of the Haitian National Police to carry out an investigation to identify the perpetrators of these abuses, so that they can be held accountable for their actions. In a press conference held on Tuesday, February 23, the spokesman for the Haitian National Police indicated that there would be an ongoing investigation; however, the Office of the Special Rapporteur has not been made aware of any progress in this regard.

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<sup>874</sup> Van Bèf Info. February 22, 2021. [Haïti : Une manifestation d'étudiants contre le kidnapping dispersée par la police à coups de gaz lacrymogènes](#); Le Facteur Haïti. February 22, 2021. [Haïti-Kidnapping : Des étudiants de la Faculté de Linguistique Appliquée réclament la libération de leur camarade, «Tinèg»](#); Scholars at Risk. February 22, 2021. [Report University of Port-au-Prince](#).

<sup>875</sup> Le Nouvelliste. January 25, 2021. [L'ANMH inquiète de «la situation de délitement de la démocratie» en Haïti](#); Alter Presse. January 25, 2021. [Médias : L'Association nationale des médias haïtiens dénonce les actes de répressions contre plusieurs journalistes en Haïti](#).

<sup>876</sup> Haïti Standard. February 8, 2021. [Protestation: 2 journalistes blessés par balles à Port-au-Prince](#); Rezo Nòdwes. February 8, 2021. [Panique au Champ de Mars : Deux journalistes blessés par balles par les soldats de Jovenel Moïse](#); CPJ. February 9, 2021. [Journalists Alvarez Destiné and Méus Jeanril shot as police and armed forces disperse protest in Haiti](#).

<sup>877</sup> France 24. February 10, 2021. [Haitian police fire tear gas on protesters in renewed clashes over disputed elections](#); Al Jazeera. February 10, 2021. [In Pictures: Haitian police tear gas protesters, journalists](#); VOA News. February 11, 2021. [Haiti Ambassador Condemns Police Attack on Journalists Covering Protest](#).



529. In this context, on February 14, the United Nations Integrated Office in Haiti (BINUH) expressed its concern about the increase in attacks against journalists covering the demonstrations, some of them committed by agents of the security forces<sup>878</sup>. "Covering events live is the core of journalistic work, essential to guarantee freedom of the press and the right to information," they stated, while warning that these acts "have the effect of limiting the right to freedom of expression"<sup>879</sup>.

530. Faced with an outlook of the risk of instability of the institutions and deepening violence in the country, the IACHR has expressed to the Haitian authorities the special obligation to prevent all factors that could generate and deepen human rights violations. The IACHR has urged the authorities and political and social actors in the country to abide by the democratic channels, strategies, and spaces for the resolution of conflicts and disputes, with full respect for the democratic and constitutional framework. Likewise, it has stated that the environment of political and institutional tension must be addressed through the creation of effective mechanisms for participation and social dialogue, as well as political agreement.

531. Likewise, the Office of the Special Rapporteur for Freedom of Expression reiterates that social protest, which includes the rights of peaceful assembly and without arms, freedom of association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights; and the States have the obligation to guarantee its exercise. As the report "Pandemic and Human Rights" points out, this obligation implies first of all the duties to investigate and punish any violation that occurs in the framework of a public demonstration. In these contexts, the absence of an exhaustive investigation when rights such as life and physical integrity have been violated generates a frightening effect that turns out to be especially serious due to the impact it has on the exercise of the rights of assembly, of freedom of expression, and freedom of association.

532. Freedom of expression protects the right to record and report any incident. Press workers covering protests play an essential role in gathering and disseminating information about what happens in demonstrations, including the actions of the security forces. In this sense, the State is reminded that it must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

533. On the other hand, this Office has been informed that the alleged hostile climate for the exercise of freedom of the press in Haiti would also be motivated by statements by public leaders that discourage the work of the independent press and people who contribute to the public conversation. Within this framework, as this Office was able to learn, in February 2021, former President Jovenel Moïse declared, in the framework of a UN Security Council meeting, that "gangs often disguise themselves as protesters and journalists to attack to police officers on duty"<sup>880</sup>. The statements were rejected by different organizations linked to the press, such as the Association of Haitian Journalists (AJH)<sup>881</sup>, the National Association of Haitian Media (ANMH)<sup>882</sup> and the Association of Independent Media of Haiti (AMIH)<sup>883</sup>, who understood that these statements could increase the risk of journalism and expose reporters to all kinds of violence.

534. Public authorities are called upon to maintain a discourse favorable to public deliberation and freedom of expression. Public leaders and people who exercise public functions have the duty to ensure that their pronouncements are not infringing the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts, such as journalists, the media, and human rights organizations, and must attend to the context in which they are expressed. According to the Inter-American Court of Human

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<sup>878</sup> United Nations Integrated Office in Haiti (BINUH). February 14, 2021. [Les Nations Unies Préoccupées par l'utilisation disproportionnée de la force contre les journalistes couvrant les manifestations en Haïti](#). Communiqué de presse du Système des Nations Unies en Haïti.

<sup>879</sup> United Nations Integrated Office in Haiti (BINUH). February 14, 2021. [Les Nations Unies Préoccupées par l'utilisation disproportionnée de la force contre les journalistes couvrant les manifestations en Haïti](#). Communiqué de presse du Système des Nations Unies en Haïti.

<sup>880</sup> Vant Bèf Info. February 23, 2021. [Haïti : Des associations de Journalistes indignées contre la déclaration de Jovenel Moïse à l'égard des Journalistes](#).

<sup>881</sup> Le Nouvelliste. February 23, 2021. [Le président Moïse met en danger la vie des journalistes, dénonce la corporation](#); La Presse. February 23, 2021. [Le président Moïse accusé de mettre en danger les journalistes](#).

<sup>882</sup> Le Nouvelliste. February 23, 2021. [Le président Moïse met en danger la vie des journalistes, dénonce la corporation](#); La Presse. February 23, 2021. [Le président Moïse accusé de mettre en danger les journalistes](#).

<sup>883</sup> Le Nouvelliste. February 23, 2021. [Le président Moïse met en danger la vie des journalistes, dénonce la corporation](#); La Presse. February 23, 2021. [Le président Moïse accusé de mettre en danger les journalistes](#).



Rights, this type of statements made by public officials could constitute an indirect restriction on the right to freedom of expression.

535. On the other hand, according to the information received by this Office, access to public information by citizens continues to be a challenge in Haiti. Human rights organizations and those linked to journalism highlight the opacity of institutions and public figures, the difficulties they face in accessing information related to COVID-19 as well as other information of public interest and sensitive issues in the framework of the political and social conflict that Haiti is going through<sup>884</sup>. As reported by some journalists, sometimes they publish reports that lack certain information that may increase the risks to their life or integrity by criticizing certain people with power, armed groups, or members of the government<sup>885</sup>.

536. In a context in which it is reported that the information would be almost entirely in the hands of the government, the reporters point out that to report they depend solely on press conferences to obtain reliable information. The communicator Robenson Sanon, who usually covers topics such as natural disasters, social unrest, assassinations, among other issues, points out that in Haiti information is not guaranteed, but that "you have to fight to access it" since it is "really difficult to obtain government information"<sup>886</sup>. According to the journalist to the Committee to Protect Journalists, government institutions usually ask them for an appointment each time they approach in search of information.

537. As the IACHR and its Office of the Special Rapporteur have highlighted, transparency and accountability of public powers strengthen democratic systems. In accordance with Principle 4 of the IACHR Declaration of Principles on Freedom of Expression, "[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies."

538. The Office of the Special Rapporteur recognizes that Haiti is going through a scenario of high political, social and human rights sensitivity, therefore it calls on the international community to support the efforts of the Haitian State in the observance and consolidation of democratic institutions and the Rule of Law. For this Office, it is essential that any institutional process or mechanism that is promoted puts at the center of debate the respect and promotion of the right to freedom of expression and the guarantees to the work of the press. As this Office has pointed out on previous occasions, there is nothing more permissive to the repetition of violence than the absence of a strong institutional reaction. It is the duty of public authorities to condemn attacks against journalists, defenders, and all those who contribute to public deliberation through their work, and to promote the crucial role they play in democratic societies.

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<sup>884</sup> Connectas. December 12, 2019. [Haití, ¿cómo salir de la crisis de corrupción y pobreza extrema?](#); CPJ. April 8, 2020. [Haitian journalist Robenson Sanon says covering COVID-19 feels like being 'soldiers in the battlefield'](#); AyiboPost. November 14, 2020. [Pourquoi le journalisme d'investigation est-il si rare en Haïti?](#)

<sup>885</sup> Ayibo Post. March 16, 2021. [Insecurity Coupled with Impunity Forces Haitian Journalists to Hide Sensitive Information.](#)

<sup>886</sup> CPJ. April 8, 2020. [Haitian journalist Robenson Sanon says covering COVID-19 feels like being 'soldiers in the battlefield'.](#)

## HONDURAS

539. The Office of the Special Rapporteur for Freedom of Expression continues to observe with concern a hostile context for the practice of journalism in Honduras. In the framework of the COVID-19 pandemic, restrictions on certain fundamental rights have been ongoing. These measures have also represented a challenge for journalistic work within the country. Likewise, the Office of the Special Rapporteur has been informed about alleged acts of repression by law-enforcement agents during social protests and the use of criminal mechanisms to limit expressions of public interest. In addition, in 2021, various legal reforms have been approved that could have a negative impact on the exercise of fundamental freedoms and on the work of the media and civil society organizations. In the electoral context, the Office of the Special Rapporteur has received information indicating an increase in stigmatizing allegations against groups in vulnerable situations. Attacks on social networks and messaging applications against certain groups of people represent a challenge for freedom of expression on the internet in Honduras.

### A. Journalism and Democracy

540. The Office of the Special Rapporteur has continued to observe a scene of obstacles to journalistic work in Honduras. This Office has received various reports on threats and attacks against the press, as well as impediments to coverage, including official events and during vaccination events. The Office of the Special Rapporteur has learned of alleged death threats against journalists, in addition to stigmatizing accusations by public officials against journalists, which in many cases would generate hostilities at press conferences. The Office of the Rapporteur expresses particular concern regarding two murders of press workers, and two cases of individuals fleeing the country for fear of reprisals.

541. After the close of its 2020 Annual Report, the Office of the Special Rapporteur documented the murder of journalist Pedro Arcángel Canelas, owner of *Radio Bambi "La voz de Culmí"* in the city of Dulce Nombre de Culmí, department of Olancho, on December 19, 2020. According to publicly available information, the journalist was shot to death by an unknown person on a motorcycle. According to available information, in the last "Correo Informativo" program that he conducted on *Radio Bambi*, Pedro Canelas referred to the increase in violence in the area, as well as the ineffectiveness of the security forces, denouncing the alleged complicity of government authorities in this context.<sup>887</sup>

542. In addition, the Office of the Special Rapporteur registered the murder of the radio operator of the HRN station, Wilmer Joel Fúnez Ochoa, who was found dead on September 29, 2021. According to publicly available information, Wilmer Ochoa had been shot to death by various unknown subjects on his way to work.<sup>888</sup> The Office of the Special Rapporteur considers it essential that the Honduran State fully, effectively, and impartially investigate the facts and determine the relationship they could have to the right to freedom of expression.

543. In 2021, the Office of the Special Rapporteur has also registered various physical attacks against journalists and communicators in Honduras. According to the information received, on May 6, members of the National Police attacked the journalist Pablo Echeverría of the *HCH* channel, while he was covering a protest by transporters in the municipality of Santa Cruz de Yojoa, in the department of Cortés.<sup>889</sup> Likewise, this Office received information about repeated attacks and threats against journalist Henry Fiallos, the last one on August 1 in the department of Intibucá, while he was reporting for *Televiscentro*. The Secretary of State in the Office of Human Rights reported that it regretted "this type of abuse that puts at risk the freedom of the press exercised by journalists and social communicators" and that "the State of Honduras guarantees the right to freedom of expression and the right to freedom of information, which are limited by international human rights norms and

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<sup>887</sup> Artículo 19. December 21, 2020. [Journalist and owner of Radio Bambi murdered in Olancho, Honduras](#); CPJ. December 23, 2021. [Honduran radio presenter Pedro Canelas is killed](#); IAPA. December 23, 2020. [The IAPA condemns the murder of a journalist in Honduras](#).

<sup>888</sup> C-Libre. October 3, 2021. [Radio operator HRN is murdered on the Cantagallo hill](#); El Herald. September 29, 2021. [Radio operator killed on Francisco Morazán's Cantagallo hill - Diario El Herald](#).

<sup>889</sup> HCH. May 6, 2021. [HCH Morning](#). 2:42:08; C-Libre. May 10, 2021. [HCH correspondent attacked by police in protest of transporters](#).

standards”.<sup>890</sup> The reporter also received threats via text messages in February 2021, linked to his news coverage of the alleged murder of the university student Keyla Patricia Martínez in a police cell in La Esperanza, Intibucá.<sup>891</sup>

544. Among other events reported by this Office<sup>892</sup>, the journalist Nirvana Velásquez, of the television channel HCH, denounced that on February 20, after presenting a news report on a car accident, she had received threatening messages through WhatsApp, stating that “that is why they kill you people, for saying things that are not”<sup>893</sup>. On February 22, the journalist Charly Pineda from HCH reported death threats, which is why he had been away from his home for more than a month.<sup>894</sup> On May 20, journalist Milton Turcios of the television channel Paradise TV denounced threats against his life from an unknown person on a motorcycle, who warned him that he “was talking too much”.<sup>895</sup>

545. The Office of the Special Rapporteur follows with special concern the case of journalist Jairo López, who since 2020 would be facing a new criminal proceeding against him by the Public Ministry, who accused him of “Possession of Commercial Explosives, Possession of Homemade Construction Devices, Illegal Possession of Controlled Substances (Chlorate Gunpowder) and Attacks to the detriment of the State’s Internal Security”, as highlighted in the latest annual report of the SRFOE. On October 22, he was found guilty and ordered his prosecution for the crimes of possession of commercial explosives, illegal possession of controlled substances (chlorate powder) and possession of police equipment, according to the Public Ministry in a statement. This Office has been alerted about the situation of vulnerability in which the journalist is in, being prevented from leaving the country and under constant police surveillance around his home. The reporter must appear before the judicial authority every 15 days.<sup>896</sup>

546. The Office of the Special Rapporteur has also received reports of alleged harassment against members of the Committee for Freedom of Expression (C-Libre). As this Office has been informed, since the end of 2020, staff of the organization have been the target of alleged follow-ups, surveillance actions, and arrests, which would be linked to their complaints about the alleged lack of transparency of the government regarding the management of resources to combat the COVID-19 pandemic and the humanitarian crisis caused by Hurricane ETA that affected Honduras in 2020.<sup>897</sup> On November 2, 2020, Cesario Padilla and Miriam Elvir, two members of C-Libre, were allegedly detained for more than eight hours by agents of the National Police. As this Office learned, both had suffered degrading treatment and were transferred to four different police stations, making it difficult for their relatives and acquaintances to find their whereabouts. These events were subsequently reported to the Public Ministry, pointing out in particular the police officers Cristian Gómez, Joselin Melhado, and Marlín Vásquez as allegedly responsible; however, to date no information on progress in the investigation has been received.<sup>898</sup>

547. Likewise, in February 2021, the executive director of C-Libre, Amada Ponce, would have been the victim of an attempted kidnapping and murder by a criminal group. According to the information received, a complaint was filed with the Public Ministry against Lester Enrique Obando Rodríguez, the alleged intellectual

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<sup>890</sup> Hondudiarío. August 2, 2021. [Police attack journalist Henry Fiallos, he had received threats for covering the Keyla Martínez case](#); Televisión News. August 2, 2021. [Police attack journalist Henry Fiallos](#).

<sup>891</sup> Artículo 19. February 13, 2021. [Journalist from Honduras is intimidated and threatened for covering a protest to demand justice in the murder of Keyla Martínez](#); Proceso Digital. February 12, 2021. [Journalist Henry Fiallos receives threats after coverage of the death of Keyla Martínez](#).

<sup>892</sup> C-Libre. May 13, 2021. [Journalist is threatened when publishing report in Yoro](#); Noticero Hoy Mismo Facebook account. [May 8, 2021](#); C-Libre. August 31, 2021. [Journalist receives threats for reporting on ZEDES in northern Honduras](#).

<sup>893</sup> C-Libre. February 23, 2021. [Journalist denounces death threats after covering an event in the capital](#); Nirvana Velásquez Facebook account. [February 22, 2021](#).

<sup>894</sup> HCH. February 22, 2021. [Charly Pineda: "I have been away from my house for more than a month due to death threats"](#); Tiempo. February 23, 2021. ["If something happens to me, I hold the State responsible": another journalist denounces threats in Intibucá](#).

<sup>895</sup> Pasos de Animal Grande. May 20, 2021. [You're talking too much, says a man on a motorcycle to journalist Milton Turcios](#); C-Libre. May 26, 2021. ["You're talking too much": Threats from a motorcyclist to a journalist in western Honduras](#).

<sup>896</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening sessions with journalists from Honduras. October 5, 2021; IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 874.

<sup>897</sup> Pasos de Animal Grande. July 20, 2021. [The risk: Why did the DPI and the National Police almost knock down the door of Cesario Padilla's house?](#); Twitter account of PEN International -Latin America and the Caribbean (@penlac). [July 23, 2021](#).

<sup>898</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information sent by IFEX. July 16, 2021; C-Libre. November 3, 2020. [C-Libre journalists illegally detained and tortured by the National Police](#); Criterio. November 2, 2021. [Police illegally detain journalists from C-Libre](#).

author of the incident, who, according to what was reported, infiltrated the organization as a provider of car rental services and subsequently as an external advisor on security matters for the institution. So far, the Office of the Special Rapporteur has not heard any progress on the investigation of his case. As a result of these events, the journalist and human rights defender was forced into exile for her safety.<sup>899</sup>

548. This Office was also informed about the departure from the country of the journalist and member of C-Libre, Thirzia Galeas, as a result of the threats she would have received from Lester Enrique Obando Rodríguez, in addition to acts of harassment by police dressed of civilians that she was the target of during the delivery of aid to people affected by hurricanes ETA and IOTA in 2020. In December 2020, the Office of the Special Rapporteur learned of alleged death threats received by the journalist through a telephone call from a man who claimed to be a Public Ministry prosecutor. According to available information, Thirzia Galeas is currently awaiting a judicial decision on her immigration status.<sup>900</sup>

549. On the other hand, the Office of the Special Rapporteur has received information about the situation of risk communicator Leonel García Guevara is in. For several years the communicator has documented and published information related to acts of corruption in the southern part of the country. The situation of risk to his life and physical integrity would have increased since his colleague Gabriel Hernández, with whom he was investigating alleged government irregularities, was assassinated on February 17, 2019. Since then, he has been the constant target of threats and persecution, according to the reports received by this Office. On July 15, 2021, the Protection Mechanism reportedly informed the organization ACI PARTICIPA --representatives of the reporter before said institution-- of its decision to suspend the protection measures for Leonel García Guevara. In this way, it would have been decided to suspend the police liaison; suspend punctual police escorts; and suspend police patrols at his home. The decision was based on the impossibility of identifying the origin of the risk and on the journalist's refusal to give all the information that he has regarding his case to the representatives of the State institutions. According to the information reported to this Office of the Special Rapporteur, the suspension of the protection measures could be linked to his journalistic work.<sup>901</sup>

550. In its 2019 annual report, the Office of the Special Rapporteur indicated that the journalist's case was especially serious and highlighted the insufficient protection of the National Protection Mechanism in the face of risk situations of various communicators. On that occasion, likewise, the Office of the Special Rapporteur indicated that the protection measures requested by Leonel García Guevara had been initially denied, finally reaching a favorable decision after the death of his colleague Gabriel Hernández.<sup>902</sup>

551. In accordance with Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR, “the murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation”. The attacks committed against media workers because of the work they perform not only threaten their rights to life, personal integrity, and freedom of expression, but also create an environment of self-censorship and violate the right of citizens to seek and receive information and ideas of all kinds. The IACHR and its Office of the Special Rapporteur have argued that the lack of sanctions for those responsible for attacks related to the exercise of journalism sends a permissive message of violence, fostering the occurrence of new crimes and generating an effect of self-censorship.

552. This Office has also learned of alleged obstacles to journalistic coverage of official acts that are also inserted in a context of stigmatization against the press, on some occasions from high-ranking authorities.<sup>903</sup> On January 25, the director of *Radio Progreso*, Ismael Moreno, denounced that journalists from his medium had been denied entry to the place where a new legislature would be installed, which he described as a way of “restricting the freedom of expression and an arbitrary and discriminatory political decision”.<sup>904</sup> Likewise,

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<sup>899</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information sent by IFEX. July 16, 2021.

<sup>900</sup> IFEX. June 2, 2021. [In a detention center and without medication, Honduran journalist and defender who is requesting political asylum in the USA](#); SwissInfo. June 1, 2021. [The detention of a Honduran journalist by US Immigration](#).

<sup>901</sup> Asociación para una Ciudadanía Participativa. July 21, 2021. [Announcement. In defenseless social communicator Leonel García](#).

<sup>902</sup> IACHR. Annual Report 2019. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 816.

<sup>903</sup> Radio America, May 24, 2021. [Journalists react to the President's words after event vaccinating media employees](#); Confidencial HN. May 24, 2021. [“Imagine that his little arm has already peeled too”, emphasizes Dr. Ligia Ramos to JOH](#).

<sup>904</sup> Ismael Moreno's Twitter account (@melosjmoreno). [January 25, 2021](#).

according to the reports received, on February 25 the municipal government of Santa Rita, Yoro, prevented coverage by *Radio Progreso* journalists of a municipal corporation session.<sup>905</sup> Likewise, under the justification of preventing COVID-19 infections, on March 25, 2021 journalists were prevented from covering an oral and public trial session in the Supreme Court of Justice for the murder of journalist Erick Martínez Ávila.<sup>906</sup> The SRFOE was also informed that agents of the Presidential Honor Guard had obstructed the news coverage of the awarding of the Álvaro Contreras Award on the journalists' day.<sup>907</sup>

553. The Office of the Special Rapporteur also observed an adverse climate for press freedom in the electoral context of Honduras, especially for the coverage of issues related to the COVID-19 pandemic and vaccination campaigns. On January 8, in the city of Santa Rosa in the department of Copán, while the construction of mobile hospitals was being carried out, members of the Military Police expelled journalists who were trying to take photographs of the construction.<sup>908</sup> On February 8, a similar event was reported on the same site.<sup>909</sup> At the same time, this Office obtained information on official communication 231-RISS-RSM-2021, issued on April 7 by the Ministry of Health through the department of integrated networks of the health services in which they indicated that the only spokesperson Authorized to give statements to the media would be Dr. Harry Bock Melara, which according to the complaints received by the Office of the Special Rapporteur would have meant a measure of censorship against doctors from the Central District Triage Centers, by not allowing them to give interviews to the media of communication on the management of the COVID-19 pandemic.<sup>910</sup> In this context, the Office of the Special Rapporteur received information that a state agent had expelled photojournalist Alex Fernando Destephen from the vaccination center at the Sports Center of the National Autonomous University of Honduras.<sup>911</sup>

554. The Observatory for Freedom of Expression in the 2021 general elections, made up of the Committee for Free Expression (C-Libre), the Network for Alerts and Protection of Journalists and Social Communicators (RAPCOS), and the digital newspaper *Conexión*, reported that on the date of the presidential elections of November 28, at least 6 journalists reported "information obstructions" by military agents or public officials.<sup>912</sup>

555. This Office also learned of the alleged impediment of the journalist Adriana Sivori, *TeleSurTV* correspondent in Uruguay, from entering Honduras, allegedly because she did not have all the necessary documentation to enter the country, which was disputed by *TeleSur*.<sup>913</sup> Furthermore, according to the information available, the Argentine journalist Carlos Montero, also from *TeleSur*, was initially denied entry, he finally managed to accredit himself and enter Honduras a day later.<sup>914</sup>

556. Transparency and accountability of public powers strengthen democratic systems. Access to information held by the State is a fundamental right, which only admits exceptional limitations. In this sense, the authorities must ensure that the press can freely access places such as parliament and events such as press conferences to gather information on matters of public interest and provide equal opportunities to ask questions. On the other hand, this Office recalls that political leaders or persons who exercise public functions

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<sup>905</sup> Radio Progreso. February 25, 2021. [Mayor of Santa Rita, Yoro denies information and access to Radio Progreso](#); C-Libre. February 28, 2021. [Mayor denies news coverage to Radio Progreso correspondent](#).

<sup>906</sup> Reporteros de Investigación. March 26, 2021. [Journalists without access to oral and public trials](#); C-Libre. March 29, 2021. [Impediment in news coverage, report journalists assigned to a judicial source](#).

<sup>907</sup> El Libertador Facebook page. [May 25, 2021](#); C-Libre. [Presidential guard prevents a communicator from covering the awards ceremony for journalists](#).

<sup>908</sup> La Pauta Honduras. January 8, 2021. [Restricted area! Military expels journalists who tried to film the mobile hospital of Santa Rosa de Copán](#); Voces del Sur Unidas. January 11, 2021. [Military prevents news coverage of the construction of state mobile hospitals](#).

<sup>909</sup> C-Libre. February 8, 2021. [The military remove a journalist who was reporting from the construction of a Mobile Hospital in the western area](#).

<sup>910</sup> Conexión Honduras. April 8, 2021. [Alert and rejection by office that imposes censorship on doctors in the Honduran capital](#); El Heraldo. April 7, 2021. [Triage officials are gagged so that they do not report covid cases - Diario El Heraldo](#).

<sup>911</sup> C-Libre. May 10, 2021. [In full news coverage, a Health employee expelled a Criterio.hn photojournalist](#).

<sup>912</sup> C-Libre. [Information obstructions and attacks against journalists are registered in the first closure of the observatory to the electoral process in terms of freedom of expression](#).

<sup>913</sup> Pasos de Animal Grande. November 19, 2021. [Migration denies admission to an international journalist who was covering the elections in Honduras](#); Adriana Sivori account (@SivoriteleSUR). [November 20, 2021](#).

<sup>914</sup> Tu Nota. November 27, 2021. [Argentine journalist is allowed to enter Honduras after denouncing that it was denied in the first attempt](#); C-Libre Twitter account (@clibrehn). [November 26, 2021](#).



are called upon to maintain a speech favorable to public deliberation and avoid stigmatizing accusations towards the press that may constitute an indirect restriction on the right to freedom of expression.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

557. In 2021, this Office has been informed about legal reforms that could put the right to fundamental freedoms at risk. Reports on the alleged use of force and the use of criminal mechanisms to limit legitimate expressions have also been topics to which the Office of the Special Rapporteur has given special follow-up.

558. The IACHR and its Office of the Special Rapporteur have expressed concern about the entry into force of regulations in Honduras that put the right to freedom of expression, peaceful assembly, and association at risk. On November 1, the National Congress of Honduras published in the Official Gazette different reforms to the Criminal Code and the Special Law on Money Laundering in Honduras, among other regulatory frameworks, which were approved by Decree 93/21 on 7 October 2021<sup>915</sup>. According to the information received, the National Congress would have sanctioned these regulations in a virtual session held just a few hours before it was called and within the framework of one of the main public holidays in Honduras, without the necessary public debate<sup>916</sup>. The Office of the Special Rapporteur was able to learn that various appeals of unconstitutionality have been filed against the norm.<sup>917</sup>

559. The reform of the Penal Code incorporates the figure of "possession of public space" as a form of the crime of usurpation. Article 378 subsection 4 punishes with prison sentences whoever "possess the land or space corresponding to the right of use of public goods such as the right of way, road, street, garden, park, green area, walkway, or other places of use or public domain (...)" with the purpose of preventing a person "from developing or continuing the exercise of their duties affecting the normal development of their activities and rights". It draws the attention of the IACHR and its Office of the Special Rapporteur that the reform of the crime of usurpation provides for the figure of continuous flagrante delicto, which enables the application of expedited processes, increases the penalty and adds aggravating circumstances, as well as the figure of preventive eviction, without a court order.

560. On the other hand, according to public information, the reforms to the Money Laundering Law include the incorporation of the figure of politically exposed persons (PEP), within which would be the civil society organizations that administer cooperation funds external, that are dedicated to executing projects or programs of different types, and to oversight, research, evaluation, or analysis of public management.

561. The IACHR and the Office of the Special Rapporteur understand that these legal reforms could lead to illegitimate restrictions on freedom of expression and peaceful assembly by limiting the exercise of protest in public spaces, as well as promoting the criminalization of human rights defenders. At the same time, the incorporation of civil society organizations such as PEP could generate a disproportionate restriction to obtain international financial cooperation for the development of activities, since there is the possibility of applying the concept of "non-risk management". Civil society organizations indicated that this legislation would have the purpose of obstructing institutional channels to investigate government irregularities and abuses against authority, fostering opacity and a culture of secrecy.

562. On the other hand, the Office of the Special Rapporteur has also continued to receive information on the alleged use of criminal mechanisms to limit speeches of public interest, particularly represented. According to the information received by the Office of the Special Rapporteur, on March 30, 2021, the Execution Court of Francisco Morazán issued an arrest warrant against Congress representative María Luisa Borjas in the framework of the process for slander constituting defamation initiated by the businessman Camilo Atala, after the official pointed him out as the intellectual author of the murder of the environmentalist Berta Cáceres, and questioned the lack of action of the Public Ministry in this and other crimes<sup>918</sup>. As indicated in the last annual

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<sup>915</sup> Republic of Honduras. [The Gazette](#). November 1, 2021, no. 35760.

<sup>916</sup> IACHR. November 16, 2021. Press Release 304/21. [IACHR Concerned About the Implementation of Legislative Reforms with a Regressive Impact on the Exercise of the Right to Protest in Honduras](#).

<sup>917</sup> HCH. November 19, 2021. [Protest! Organizations present recourse against penal reforms on land usurpation issues](#); Swissinfo. November 19, 2021. [Honduran organizations file an appeal against the reform of the Penal Code](#).

<sup>918</sup> Proceso Digital. March 30, 2021. [Arrest warrant issued against Deputy María Luisa Borjas](#); La Prensa. March 31, 2021. [Court issues arrest warrant against María Luisa Borjas, current Congress representative of Libre](#).



report, in July 2020 the Supreme Court of Justice had confirmed Borjas's sentence to two years and eight months in prison. The sentence was exchanged for the payment of a fine and the Congress representative received her final release letter on April 9, 2021<sup>919</sup>. However, the Office of the Special Rapporteur received information about a new criminal defamation proceeding against María Luisa Borjas initiated in April 2021 by the Congress representative Mario Sorto Deras, after she pointed him out as allegedly responsible for alleged irregularities in the primary electoral process within the Freedom and Refoundation Party. According to the information available, the oral trial will take place in January 2022<sup>920</sup>.

563. This Office recalls that the use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “desacato laws,” restrict freedom of expression and the right to information.” In addition, the IACHR has held that the use of criminal law in these cases does not respond to a pressing social need that justifies it, is unnecessary and disproportionate, and can be a means of indirect censorship given its discouraging effect on the debate on matters of public interest.

564. On the other hand, according to the reports of the Observatory of protests of the Committee for Free Expression, between January and September 2021 there would have been at least 306 protests at the national level, the main reasons being the claims against the program of the Zones de Employment and Economic Development, and the demands for payments, the resignation of the health secretariat, the economic reactivation, the reduction of fuel, and the repair of streets<sup>921</sup>.

565. The month of February would have been marked by protests demanding the investigation into the death of university student Keyla Patricia Martínez in police custody in the city of La Esperanza. According to available information, on February 8 and 9, 2021, in the context of the protests over the investigation into the death of the student Keyla Patricia Martínez when she was in police custody, military and police officers reprimanded with tear gas and rubber bullets one of the citizen demonstrations in La Esperanza, where it was also reported that police officers were recording protesters<sup>922</sup>. In this context, the Honduran Public Ministry apprehended five university students who participated in the protests on February 9, against whom an investigation was opened for alleged crimes of injury and damage, aggravated arson, and criminal association. According to the Committee of Relatives of the Detained-Disappeared in Honduras (Cofadeh), the Public Ministry would be criminalizing and violating the procedural guarantees of the students, and the police and military would be profiling the protesters who were located in the La Granja Court, where the initial hearing would be held<sup>923</sup>.

566. Regarding the guarantee for social mobilizations, the Honduran State registered at least 458 social mobilizations nationwide between January and September 2021<sup>924</sup>. Likewise, the State of Honduras reported that, in order to guarantee the right to life, personal integrity, and personal liberty of citizens, training was carried out for the National Police in the Use of Force and Control of Crowds and Disturbances, introducing a transversal approach to human rights in the curriculum. Likewise, as the State informed the IACHR, in September 2021, the National Commissioner for Human Rights (CONADEH) provided accompaniment to four

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<sup>919</sup> Tiempo. April 9, 2021. [The LIBRE Congress representative, María Luisa Borjas, is finally released](#); Criterio. April 9, 2021. [María Luisa Borjas is released a letter after commutation of sentence](#); El Heraldo. April 10, 2021. [Camilo Atala pays commutes to María Luisa Borjas and she obtains a letter of freedom - Diario El Heraldo](#).

<sup>920</sup> Hondudiario. April 12, 2021. [New complaint filed against María Luisa Borjas for libel and slander](#); Proceso Digital. July 30, 2021. [Without conciliation, new complaint against María Luisa Borjas](#); Proceso Digital. November 17, 2021. [For January 2022, oral trial set for María Luisa Borjas for a complaint](#).

<sup>921</sup> C- Libre. October 11, 2021. [First Semester 2021 Bulletin: Observatory of social protest](#); C- Libre. October 21, 2021. [Third Month Bulletin - July-September 2021: Observatory of social protest](#).

<sup>922</sup> CNN. February 8, 2021. [Honduras: protests demand clarification of the death of a detained student](#); Digital Process. February 8, 2021. [Outrage: They demand justice in the death of Keyla Martínez](#); C- Libre. February 8, 2021. [Violent police eviction of a citizen demonstration in La Esperanza](#); C- Libre. February 9, 2021. [Second day of repression of protests against a crime against a young university student](#); Amnesty International. February 12, 2021. [Amnesty International: "Investigation into Keyla's crime must reach high-ranking police officers."](#)

<sup>923</sup> El Heraldo. February 11, 2021. [Five young people accused of assaulting an agent captured in protests for Keyla Martínez - Diario El Heraldo](#); El Libertador. February 25, 2021. [Trial Begins Against Students Detained In Protest for Keyla](#).

<sup>924</sup> State of Honduras. Follow-up Report on compliance with the IACHR Recommendations, October 2021.

social demonstrations, mediating the relationship between citizens and authorities in order to guarantee rights<sup>925</sup>.

567. On November 21, 2021, the OAS Electoral Observation Mission for the 2021 elections in Honduras expressed its concern “about the acts of violence that have taken place in the context of this electoral process” and urged “all actors politicians and citizens to contribute to generating an environment of peace, which allows Hondurans to freely express their will through voting”. Likewise, OHCHR reported that from the primary elections in September 2020 to November 18, 2021 they had registered at least 29 deaths in the context of political violence in Honduras, 14 attacks, 2 threats, 7 attacks and 1 kidnapping. Records of violent acts had been registered in at least 15 of the 17 departments of Honduras, particularly in Francisco Morazán, Copán, Santa Bárbara, and Cortés<sup>926</sup>. On November 15, the United Nations Program with the support of the European Union announced the activation of an early warning system in Honduras, which would operate for a month, as one of the responses to the escalation of electoral conflicts.<sup>927</sup>

568. The Office of the Special Rapporteur was also informed that, within the framework of the electoral process, the State had created the National Table for the Prevention of Social Conflict, of a multisectoral nature, and four regional tables in prioritized areas according to conflict, the purpose of which would be to prepare, develop and implement a "Conflict Prevention Strategy", creating spaces for strengthening democracy and governance, which would have included the Forums for the Construction of Citizen Participation as spaces for debate, especially with candidates. According to the State, civil society and state institutions were invited to the Citizen Participation Construction Forums, with a view to strengthening governance and the commitment to human rights of candidates at the municipal level. They also reported that in the framework of the Situation Room for the Prevention of Social Conflict COVID-19, 8 social conflicts would have been prevented, from January 1 to October 18, 2021.<sup>928</sup>

569. In this context, the Office of the Special Rapporteur highlights the granting of precautionary measures to the candidate for Congress representative Ligia Ramos, who has denounced alleged acts of corruption related to the health sector, which would have motivated a series of threats and harassment against her since 2015, and even an alleged attempt on her life that led her into exile until August 2021. Despite the fact that the Protection Mechanism has provided measures in favor of the candidate, Ligia Ramos presented a new request for protection in August considering the current measures insufficient<sup>929</sup>. The Office of the Special Rapporteur observed that on November 9, different civil society organizations expressed their dissatisfaction with the effectiveness of the measures dictated by the National Protection System for human rights defenders, journalists, and justice operators and possible violations of due process that would put them at increased risk and vulnerability.<sup>930</sup>

570. This Office indicates that the States must respect, protect, and guarantee the right to protest and refrain from applying disproportionate restrictions that inhibit the legitimate exercise of critical expressions. Although the States are called to adopt the necessary measures to avoid acts of violence and guarantee the safety of people in the framework of social protests, they must observe strict adherence to the principles of legality, exceptionality, proportionality, and absolute necessity in the use of force, with successive prompt and exhaustive investigation of any abuse of force during social demonstrations.

571. Likewise, the Office of the Special Rapporteur recalls that freedom of expression is directly linked to political rights and their exercise, and both types of rights are mutually reinforcing. In order for citizens to carry out their decisions at the time of voting, it is essential that there is the highest level of circulation of ideas, opinions and information regarding the candidates, their parties, and their proposals. Citizens need to be able to question and inquire about the capacity and suitability of the candidates, disagree, and confront their proposals, ideas and opinions, so that voters can form their criteria to vote. As the IACHR has highlighted, free

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<sup>925</sup> State of Honduras. Follow-up Report on compliance with the IACHR Recommendations, October 2021.

<sup>926</sup> OHCHR. November 22, 2021. [Infographic on cases of political violence](#).

<sup>927</sup> UNDP. November 15, 2021. [The SAT is activated to monitor and mitigate electoral and gender conflict in general elections](#); EFE. November 15, 2021. [An early warning system for electoral conflicts is activated in Honduras](#).

<sup>928</sup> State of Honduras. Follow-up Report on compliance with the IACHR Recommendations, October 2021.

<sup>929</sup> IACHR. Resolution 84/2021. [Precautionary Measure No. 845-21](#). Ligia del Carmen Ramos Zúniga regarding Honduras. October 12, 2021.

<sup>930</sup> Civic Council of Popular and Indigenous Organizations of Honduras. November 9, 2021. [Public Statement "Protection System in Honduras violates rights and increases the risk of attacks against human rights defenders."](#)

speech and political debate are essential for the consolidation of the democratic life of societies, which is why they are of imperative social interest.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

572. In the electoral context, the Office of the Special Rapporteur has observed statements by candidates and representatives of political parties that have the potential to stigmatize vulnerable groups, such as women. In this framework, according to the information available, feminist civil society organizations filed a complaint with the Supreme Electoral Council to administratively punish those responsible for the campaigns in which these types of speeches were spread<sup>931</sup>. The Office of the Special Rapporteur emphasizes that persons who exercise public functions and persons who are candidates for public office must refrain from making statements that may activate risks against certain persons or groups of persons or promote discriminatory and violent acts; and, on the contrary, they must take advantage of their leadership positions to counteract social damage and promote intercultural understanding and respect for diversity.

573. The Office of the Rapporteur also learned of the alleged repressive actions of police officers against a peaceful protest by women in Tegucigalpa within the framework of the International Day for the Eradication of Violence against Women (November 25). According to the available information, one of the protesters was even beaten on the face and received misogynistic insults from the police officers.<sup>932</sup>

574. This Office also received reports on alleged attacks by unknown individuals against community radio stations. Pablo Hernández, director of *Radio Tenán* in the municipality of San Marcos de Caiquín, department of Lempira, denounced that on February 23 unknown persons had damaged the electrical light wiring, internet signal, and input for the microphones in the facilities of the radio. According to the information available, the incident occurred in the context of complaints made by the station about alleged acts of corruption that involved the mayor.<sup>933</sup> The Office of the Special Rapporteur was informed that on May 10, people armed with machetes, firearms, and other weapons destroyed the perimeter wall of the *Radio Dignidad Tolupana* facilities, in San Francisco Locomapa.<sup>934</sup>

575. On August 30, 2021, the Community Media Association of Honduras expressed its rejection of alleged acts of surveillance and monitoring by CONATEL. They also denounced that the entity was deliberately denying the granting of licenses to community radios under the argument that the radioelectric space would be saturated. In the statement, the Association particularly highlighted the situation of *Radio Azacualpa "La voz de las Mujeres"*, which is being the target of persecution and threats of closure.<sup>935</sup>

576. Likewise, in the framework of vaccination against COVID-19, the Press Association of Honduras denounced that, since the beginning of the vaccination of journalists, some community communicators have been excluded from the process.<sup>936</sup>

577. Community journalism contributes to diversity and news pluralism. Community broadcasters can play an extremely important role in offering public interest programming and complementing the content offered by commercial broadcasters. However, they face various obstacles, such as: the lack of specific legal recognition based on adequate criteria for this sector and the decision not to reserve sufficient frequencies for community radio stations or to create adequate financing mechanisms. In this sense, the Office of the Special Rapporteur recalls that community broadcasting must be expressly recognized in the law as a differentiated form of communication media, and the States must consider spectrum reservations for this type of media, as well as equitable conditions of access to licenses that differentiate the different realities of the media ecosystem. Likewise, the delivery or renewal of broadcasting licenses must be subject to a clear, fair, and objective

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<sup>931</sup> Facebook account of the National Party of Honduras. [September 20, 2021](#); Somos Muchas Twitter account (@SomosMuchasHN), [November 10, 2021](#); Study Center for Democracy. November 10, 2021. [The campaign of hatred towards women, behind the political campaign of the ruling party](#); ConexiHon. November 15, 2021. [Feminist organizations report David Chávez for hate speech against women](#).

<sup>932</sup> Mesoamerican Initiative of Women Human Rights Defenders. November 25, 2021. [Members of the Riot Police, National Police and Military Police of Public Order attack women defenders in the framework of the protest for the International Day for the Eradication of Violence against Women](#).

<sup>933</sup> C-Libre. February 25, 2021. [Wiring cut to prevent community radio broadcasts](#).

<sup>934</sup> Movimiento Amplio por la Dignidad y Justicia. May 13, 2021. [Indigenous radio facilities attacked and destroyed in Honduras](#); CARE International Honduras Facebook page. [May 17, 2021](#).

<sup>935</sup> Facebook page of the Community Media Association of Honduras. [August 30, 2021](#).

<sup>936</sup> Pasos de Animal Grande. June 22, 2021. [Community and independent journalists are being excluded from vaccination against Covid19](#).

procedure that takes into account the importance of the media so that all sectors of society participate in an informed manner in the democratic process.

#### **D. Freedom of Expression and the internet**

578. In Honduras, universal access to the Internet represents a major challenge. According to complaints received by the Office of the Special Rapporteur in 2021, journalists and people whose voices have a relevant role in the Honduran public debate have been the target of smear campaigns in the digital environment. Likewise, the Office of the Special Rapporteur registered the suspension of journalists' content on social media platforms.

579. This Office is concerned about the persistent digital divide in Honduras. According to 2021 data from the Permanent Survey of Multiple Purpose Homes of the National Institute of Statistics of Honduras, only 13.6% of Honduran citizens have access to the internet. Of this figure, only 56.3% have been able to access the internet from their home. Despite the fact that 85.1% of households have a cell phone, only 16.5% own a computer<sup>937</sup>.

580. As indicated on the IACHR's Practical Guide "How to promote universal access to the internet during the COVID-19 pandemic?", universal access to a free, open, and inclusive internet depends largely on the positive measures that States are called upon to adopt to reach individuals and groups that, due to various factors (socioeconomic, geographic, age, among others) have not yet been able to access the global network. Likewise, the actions and measures adopted by other actors of the digital ecosystem such as telecommunications companies and internet service providers are crucial. In this sense, this Office recalls that the digital divide reinforces the pre-existing inequalities suffered by groups of vulnerable people.

581. Among other reported events<sup>938</sup>, the Office of the Special Rapporteur documented online smear campaigns against journalists, particularly critical of the current government. In October 2021, journalists Salustio Cervantes and Gilberto Gálvez denounced a discrediting campaign against them in which, they say, public authorities were involved. The messages spread on social networks accused them of receiving public funding to cover up irregular public bidding processes<sup>939</sup>. Likewise, on November 10, 2021, the communicator Bessy Sánchez denounced that she had received similar messages from the same page<sup>940</sup>.

582. In June, journalists Héctor Amador and Brayan Flores, both communicators from *Radio Globo* and *Globo TV*, reported having been censored on YouTube for allegedly revealing the salaries of some Public Ministry officials. The platform would have notified them that their content constituted an infringement of copyright.<sup>941</sup>

583. The Office of the Special Rapporteur recalls that the Internet is a platform and a means for the exercise of human rights such as freedom of expression, political participation, the rights of association and assembly, economic, social and cultural rights, for which the States are called to guarantee the necessary conditions for the enjoyment and exercise of these rights.

584. In February 2021, the IACHR and its Office of the Special Rapporteur recognized the existence of a turning point for freedom of expression on the internet, characterized, among other things, by the general deterioration of public debate and attempts to capture public debate promoted by the disinformation phenomenon. As stated in the Joint Declaration of the Rapporteurs on Freedom of Expression of 2017, disinformation, violence, and social polarization threaten the integrity of democracy and the validity of human rights, mainly affecting people in vulnerable situations. On that occasion, the rapporteurs stressed that "state actors should not make, endorse, encourage or otherwise disseminate statements that they know or should reasonably know are false (disinformation) or that show a manifest disregard for verifiable information (propaganda)", in line with their national and international legal obligations and their public duties.

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<sup>937</sup> National Institute of Statistics of Honduras. 2021. [Permanent Multiple Purpose Household Survey](#).

<sup>938</sup> El Libertador. January 21, 2021. [ALERT! EL LIBERTADOR DIGITAL NETWORK UNDER ATTACK BY "POLITICAL BOTS"](#); CARE International Facebook account in Honduras. [February 16, 2021](#).

<sup>939</sup> C-Libre. October 27, 2021. [Journalist from La Paz denounces smear campaign against them](#); C-Libre. October 29, 2021. [The smear campaign against journalists opposed to the regime continues in La Paz](#).

<sup>940</sup> C-Libre. 10, 2021. [Journalist Bessy Sánchez receives anonymous threats in La Paz](#).

<sup>941</sup> Pasos de Animal Grande. June 12, 2021. [Journalists denounce censorship of Globo Tv for publishing high selective salaries in the MP](#).

## JAMAICA

585. In general terms, the country maintains high levels of respect for the right to freedom of expression. The Office of the Special Rapporteur received information about restrictions on protest and even arrests allegedly related to online expressions against the measures taken to combat the COVID-19 pandemic.

### A. Journalism and Democracy

586. The Office of the Special Rapporteur learned of the announcement made by the Broadcasting Commission of Jamaica (BCJ) that in January 2022, the country would begin transitioning to digital television. As announced, the transition, which would be completed by 2023, seeks to bring a greater diversity of content to the public. Likewise, with the support of Unesco, the country has started a literacy project in digital media and information. The project would eventually deliver digital certification, along with recommendations for a national digital literacy policy with targets and monitoring in areas including education, training, employment, and digital security.<sup>942</sup>

587. On April 11, the Minister of Health and Welfare announced that media workers were included among the groups approved to receive the COVID-19 vaccine. The decision was made after a meeting with members of the media.<sup>943</sup> On April 20, journalist and former television host Michael Sharpe, who was working as the manager of news operations at *Jamaica News Network*, died of COVID-19, adding to at least one other member of the media who has died from COVID-19.<sup>944</sup> According to the *Caribbean Broadcasting Union*, multiple cases of COVID-19 infection occurred in Jamaica.<sup>945</sup> This Office welcomes the decision to prioritize this group.

### B. Freedom of Expression, Rule of Law and Democratic Institutions

588. According to the information received by the Office of the Special Rapporteur, in the framework of the COVID-19 pandemic, restrictions have been established that hindered the protests and there were even cases of arrests of people who had insulted the Prime Minister over the curfews. For example, a man identified as Shaquille Higgins was arrested by the police after posting a video in which he insults the Prime Minister over the new measures to combat COVID-19. Higgins later appears in a video inside what appears to be a police station apologizing for his earlier video.<sup>946</sup> The police indicated that Higgins was arrested for something other than the video, presumably over a robbery case.<sup>947</sup> Higgins sued the State for his arrest.<sup>948</sup> The Office of the Special Rapporteur received information indicating that at least three people were arrested for making comments criticizing these measures online.<sup>949</sup>

589. Likewise, information was also received about arrests in the framework of anti-vaccine marches. The police announced that they would review the recordings of the protests to arrest those who participated in them.<sup>950</sup> Although not at demonstrations, on October 10, 24 people were arrested for moving about on a no-movement day.<sup>951</sup>

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<sup>942</sup> Jamaica Observer. October 8, 2021. [New generation programmes, new work lifestyle coming — Broadcasting Commission](#); The Gleaner. December 7, 2021. [Digital Television Switchover in Jamaica set to begin in 2022](#).

<sup>943</sup> Loop News. April 11, 2021. [UPDATE: Media personnel now eligible for COVID-19 jabs at blitzes](#).

<sup>944</sup> Press Emblem Campaign. Undated. [COVID-19](#).

<sup>945</sup> Jamaica Observer. August 18, 2021. [Caribbean media houses urge stronger effort to counter 'unverified' COVID-19 information](#).

<sup>946</sup> Jamaica Observer. July 27, 2021. [Man seen in viral video cursing Holness over curfew measures in police custody](#).

<sup>947</sup> Loop News. July 27, 2021. [Man in viral video was not arrested for comments against the PM- cops](#).

<sup>948</sup> Radio Jamaica News. July 29, 2021. [Man arrested after making insulting remarks about prime minister taking legal action](#).

<sup>949</sup> CVM. July 30, 2021. [Is Freedom of Speech Under Threat in Jamaica?](#); The Gleaner. August 21, 2021. [Gordon Robinson | Protecting freedom of speech](#).

<sup>950</sup> The Gleaner. September 24, 2021. [Police going through footage to arrest anti-vax protesters](#).

<sup>951</sup> Loop News. October 11, 2021. [24 arrested on Sunday - 'no movement day'](#).

590. Social protest, which includes the rights to peaceful, unarmed assembly, association, and freedom of expression, is a fundamental tool for the defense of democracy and human rights. In this regard, the Commission has found that “in principle, criminalization *per se* of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly.”<sup>952</sup> The Office of the Special Rapporteur recalls that the States must refrain from carrying out mass, collective, or indiscriminate arrests during public demonstrations. Likewise, they must especially bear in mind that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can do their work freely and keep society informed on matters significantly in the public interest.

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<sup>952</sup> IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197.



## MEXICO

591. Mexico has been considered by the Committee to Protect Journalists (CPJ) as one of the most violent countries in the world for the exercise of journalism in 2021, a situation that was also addressed at the hearing on “Protection of the human rights of human rights defenders and communicators in Mexico” in the 180 Period of Sessions of the IACHR. The findings on actions of state surveillance against journalists’ communications are of particular concern to the Office of the Rapporteur, especially due to the context of violence in which they exercise their profession. Likewise, the Office of the Special Rapporteur has continued to receive information on the excessive use of force during protests by women who denounce gender-based violence. The Office of the Special Rapporteur positively values the progress made in the prosecution of some of the most emblematic cases of murders and serious human rights violations committed against journalists in Mexico in recent decades, including Lydia Cacho, Javier Valdez, Alicia Díaz, and Miroslava Breach.

### A. Journalism and Democracy

592. Lethal violence against journalists continues to be one of the main to exercise the right to freedom of expression in Mexico. During 2021, the Office of the Special Rapporteur for Freedom of Expression received information on at least ten murders of communicators that could be related to their profession. Likewise, the Office has continued to receive with concern reports that warn of activities of state surveillance of communications to the detriment of journalists and human rights defenders and people with public leadership who oppose the government.

593. As reported by this Office, on May 3, Benjamín Morales Hernández, 50, founder and director of the *Noticias Xonoidag* portal in the municipality of Sonoyta, Sonora state, was found dead by police officers on a highway between Caborca and Sonoyta, two municipalities of the state of Sonora.<sup>953</sup> As the Office of the Special Rapporteur learned, the journalist published information and opinions on current affairs in the Sonoyta area. On May 1, he reported on the June 6 federal, state, and municipal elections through a live broadcast from his page, in which he mentioned receiving anonymous threats.<sup>954</sup>

594. On June 17, the journalist and director of the digital medium *Noticias Minuto a Minuto*, Gustavo Sánchez Cabrera, was shot to death when he was driving his motorcycle in the company of another person in the community of Morro de Mazatán, municipality of Santo Domingo Tehuantepec, state of Oaxaca.<sup>955</sup> The Oaxaca State Attorney General's Office indicated that it has already initiated an investigation to find those responsible and clarify the crime. The reporter, who covered local political issues and had investigated hydrocarbon trafficking in the area, was a beneficiary of the Protection Mechanism for Human Rights Defenders and

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<sup>953</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 28, 2021. Press Release R131 / 21. [Office of the Special Rapporteur condemns the murder of journalist Benjamín Morales Hernández, and calls on the Mexican State to investigate the events fully and impartially and to strengthen measures to protect the press](#); CPJ. May 12, 2021. [Reporter Benjamín Morales assassinated in the Mexican state of Sonora](#); Political Animal. May 3, 2021. [Journalist Benjamín Morales is murdered in Sonora; he had reported anonymous threats](#).

<sup>954</sup> Jornada. May 3, 2021. [Journalist Benjamín Morales is murdered in the Sonora desert](#); El Sol de México. May 3, 2021. [Journalist Benjamín Morales is murdered in Sonoyta, Sonora](#).

<sup>955</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 24, 2021. Press Release R157 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the facts and strengthen measures to protect the press](#).

Journalists.<sup>956</sup> This Office had already documented threats to the reporter's life on previous occasions, including an armed attack on his home in 2020.<sup>957</sup>

595. On the other hand, on June 17, the body of journalist Felipe Enrique García García was found dead with gunshot wounds, aboard his vehicle, in the city of Metepec, state of Mexico.<sup>958</sup> Enrique García had worked as a reporter for the newspaper *El Sol de Toluca*.<sup>959</sup> On October 13, the Attorney General's Office of the State of Mexico reported that a man and a woman allegedly implicated in the homicide of the communicator had been detained and linked to a judicial process.<sup>960</sup>

596. Likewise, on June 22, journalist Saúl Tijerina Rentería, was found dead in Ciudad Acuña, Coahuila state. He was a reporter for the digital medium *La Voz de Coahuila* and for *Noticias en la Web*, and also worked as a drone operator for the site *Policiaca Acuña*.<sup>961</sup> According to official information, the journalist was found dead next to his vehicle at the Libramiento Surponiente and the intersection with the Antiguo Camino a Las Cuevas. The Office of the Special Rapporteur also learned of the arrest by the State Attorney General's Office of two individuals allegedly linked to the murder of the reporter.<sup>962</sup>

597. On July 19, journalist Abraham Mendoza was shot to death by unknown individuals who were driving a vehicle and who shot him as he was leaving a gym in the city of Morelia, Michoacán state<sup>963</sup>. The journalist and broadcaster conducted the program "Observatorio" on the *Uve Radio* station of the Universidad Vasco de Quiroga, where he reported on matters of public interest. The Attorney General of the State of Michoacán reported the initiation of an investigation file against three persons indicated as likely responsible for this murder, who would have been handed over to the Specialized Unit for the Investigation of Homicide, for the investigation and clarification of the facts<sup>964</sup>.

598. Also, on July 22, journalist Ricardo López, owner and director of the InfoGuaymas portal, was shot to death in the parking lot of a supermarket in the municipality of Guaymas, Sonora state.<sup>965</sup> Ricardo López was president of the Metropolitan Association of Independent Journalists of Guaymas and Empalme and last March he had denounced threats against him after reporting on the disappearance of a reporter in Sonora. The Sonora State Attorney General's Office reported that the corresponding investigation had been initiated and that the Special Prosecutor for Attention to Crimes against Freedom of Expression (FEADLE) would be informed.<sup>966</sup>

599. The Office of the Special Rapporteur also received information about the murder of Jacinto Romero Flores, host of a program on the *Ori Stereo 99.3 FM* radio station and on Radio Ixtac Online, when he was

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<sup>956</sup> CPJ. June 28, 2021. [Mexican journalist Gustavo Sánchez shot to death in Oaxaca](#); El Financiero. June 17, 2021. [Journalist Gustavo Sánchez Cabrera is murdered in Oaxaca; he survived an attack in 2020](#); Quadratin Oaxaca. June 17, 2021. [Gustavo Sánchez Cabrera, journalist from Oaxaca, is murdered](#).

<sup>957</sup> IACHR. [Annual Report 2014. Report of the Office of the Special Rapporteur for Freedom of Expression](#). March 9, 2015. Para. 720; Deutsche Welle (DW). June 17, 2021. [Mexico: journalist Gustavo Sánchez Cabrera is murdered](#); El Universal. June 17, 2021. [Journalist Gustavo Sánchez is shot to death on the Isthmus of Tehuantepec, Oaxaca](#).

<sup>958</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 24, 2021. Press Release R157 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the facts and strengthen measures to protect the press](#).

<sup>959</sup> Political Animal. June 17, 2021. In 48 hours, two journalists are murdered in Oaxaca and Edomex.

<sup>960</sup> Attorney General's Office of the State of Mexico (FGJEM). October 13, 2021. [Press Release 1390/2021](#); Political Animal. October 13, 2021. [Two alleged implicated in the murder of Edomex journalist Enrique García are arrested](#); El Universal. October 18, 2021. [Alleged murderers of communicator Enrique García, murdered in Metepec, are linked](#).

<sup>961</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 24, 2021. Press Release R157 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the facts and strengthen measures to protect the press](#).

<sup>962</sup> Political Animal. June 23, 2021. [Journalist Saúl Tijerina is murdered in Coahuila; he is the third communicator assassinated so far in June](#); Aristegui Noticias. June 23, 2021. [Journalist Saúl Tijerina is murdered in Ciudad Acuña, Coahuila; two suspects are arrested](#); Milenio. June 23, 2021. [Two are arrested for the murder of journalist Saúl Tijerina in Acuña, Coahuila](#).

<sup>963</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 27, 2021. Press Release R196 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Abraham Mendoza and Ricardo López in Mexico and urges the State to investigate the events and increase its efforts to prevent violence against the press](#).

<sup>964</sup> Attorney General of the State of Michoacán. July 19, 2021. [Press Release 1509/2021. After persecution, three probable perpetrators of homicide are arrested](#).

<sup>965</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 27, 2021. Press Release R196 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Abraham Mendoza and Ricardo López in Mexico and urges the State to investigate the events and increase its efforts to prevent violence against the press](#).

<sup>966</sup> Twitter account of the Attorney General's Office of the State of Sonora (@fgjesonora). [July 22, 2021](#).

attacked by armed individuals who shot him repeatedly when he was driving in his car, which was marked as a press, in the municipality of Ixtaczoquitlán, state of Veracruz<sup>967</sup>. According to the information available, the State Attorney General's Office and the Public Security Secretariat have begun the corresponding investigations. The communicator, who covered political, social, and police issues in the Zongolica area, had recently denounced threats, which would be linked to his reports on alleged police abuses in the municipality of Texhuacán, according to the reports received.<sup>968</sup>

600. This Office also learned of the murder of journalist Manuel González Reyes in the city of Cuernavaca, Morelos state. The journalist -who reported on local issues of public interest in the digital medium *Portal Morelos*- was allegedly shot to death by two unknown individuals on September 28, 2021<sup>969</sup>. As this Office was able to learn, at the time of the events, the reporter was carrying his press credential that accredited him as a *Portal Morelos* journalist. The Attorney General of the State of Morelos reported that the corresponding investigation file was opened.<sup>970</sup>

601. Likewise, photojournalist Alfredo Cardoso, founder and director of the *Las Dos Costas* portal, died on October 31 after being the victim of a kidnapping and armed attack by unknown individuals while he was at his home in Acapulco, Guerrero state.<sup>971</sup> On October 29, the Guerrero State Attorney General's Office (FGE) declared that it had opened an investigation in this regard.<sup>972</sup> That same week, the Office of the Special Rapporteur also documented the murder of journalist Freddy López Arévalo in the city of San Cristóbal de Las Casas, Chiapas state, who was allegedly shot to death at the door of his home on October 29, 2021.<sup>973</sup> The Chiapas Prosecutor's Office confirmed that it initiated an investigation after receiving the report of the homicide.<sup>974</sup>

602. The aforementioned cases are inserted in a worrying scenario of escalation of attacks, threats, and intimidation against the press in Mexico. Among other reported events<sup>975</sup>, this Office received information about an alleged attempt on the life of journalist Edgar Leyva Mendoza, director of the news portal *Urbano 24 Horas*, on February 3 in the municipality of Ocotlán, state of Oaxaca, which could be linked to with media investigations on alleged acts of corruption and abuse of power by public authorities. According to information from a public source, the reporter managed to flee and hide after the attack. However, two people in his family were said to have died on the spot, after which the Oaxaca State Attorney General's Office announced the initiation of an investigation.<sup>976</sup> On the other hand, on May 21, an unknown individual physically assaulted Luis

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<sup>967</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 27, 2021. Press Release 223/21. [The Office of the Special Rapporteur condemns the murder of journalist Jacinto Romero Flores and notes with concern the continuing violence against the press in Mexico.](#)

<sup>968</sup> El Economista. August 19, 2021. [Journalist Jacinto Romero Flores murdered in Veracruz](#); La Silla Rota. August 19, 2021. [Jacinto Romero, a reporter from Veracruz, murdered](#); CPJ. August 25, 2021. [Mexican journalist Jacinto Romero is shot dead in Veracruz.](#)

<sup>969</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2021. Press release R290 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Manuel González Reyes and Freddy López Arévalo in Mexico and urges the State to strengthen the mechanisms for the protection of journalists and the administration of justice.](#)

<sup>970</sup> El País. September 29, 2021. [The journalist Manuel González was shot to death in Cuernavaca](#); La Silla Rota. September 28, 2021. [Journalist Manuel Reyes is murdered in Cuernavaca.](#) CPJ. October 4, 2021. [Mexican journalist Manuel González Reyes is shot to death in Cuernavaca.](#)

<sup>971</sup> CPJ. November 8, 2021. [Mexican journalist Alfredo Cardoso Echevarría is kidnapped and killed in Acapulco](#); Political Animal. October 31, 2021. [Photojournalist Alfredo Cardoso dies: he had been kidnapped and shot three days earlier in Guerrero.](#)

<sup>972</sup> Guerrero State Attorney General / Facebook. [October 29, 2021.](#)

<sup>973</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2021. Press release R290 / 21. [The Office of the Special Rapporteur condemns the murder of journalists Manuel González Reyes and Freddy López Arévalo in Mexico and urges the State to strengthen the mechanisms for the protection of journalists and the administration of justice.](#)

<sup>974</sup> CPJ. November 4, 2021. [Mexican journalist Freddy López shot to death in San Cristóbal de las Casas](#); ; La Jornada. October 28, 2021. [Journalist Freddy López Arévalo murdered in Chiapas](#); SDP Noticias. October 29, 2021. [Who is Freddy López Arévalo, the journalist murdered in Chiapas?](#); Chiapas State Attorney General's Office / Facebook. [October 28, 2021.](#)

<sup>975</sup> Twitter account of Red Rompe el Miedo (@RompeMiedo). [June 6, 2021](#); Reacción Informativa. January 28, 2021. [Journalists' Collective condemns attacks against Escuinapa reporters](#); CPJ. November 18, 2021. [Unidentified individuals shoot at the car of Mexican journalist Beatriz Flores after she receives threats by telephone](#); La Jornada. July 7, 2021. [Police raided the house of the director of Diario de La Tarde in Iguala](#); Reporters Without Borders. October 7, 2021. [Mexico. Authorities must protect journalist Jacob Morales after intimidation by Acapulco ministerial police](#); Excelsior. October 2, 2021. ['Baja a chin... a tu ma... tus mentiras o vas a ver', the mayor threatens a reporter](#); Radio Formula. October 6, 2021. [EMEEQUIS portal attacked after publishing report 'The checker behind AMLO's shell companies'](#); El País. June 30, 2021. [Aggressions and arbitrary detentions, the daily life of journalists in Mexico.](#)

<sup>976</sup> CPJ. February 22, 2021. [Mexican journalist Edgar Leyva hides after attack](#); Oaxaca Vial. February 3, 2021. [Two women executed in Ocotlán de Morelos, Oaxaca](#); Quadratin Oaxaca. February 3, 2021. [2 women shot to death in Oaxaca](#); Twitter account of the Oaxaca State Attorney General's Office (@FISCALIA\_GobOax). [February 3, 2021.](#)

Raúl Aguilar Pérez, founder of the digital media *Pénjamo.Biz* and *Pénjamo.Biz 2.0*, when he was returning to his house in the town of Pénjamo, Guanajuato state. The reporter was reportedly injured in the arms and neck, and had to undergo surgery at a local hospital, according to information from a public source.<sup>977</sup> In addition, on March 2, a vehicle allegedly tried to ram the car of journalist Alberto Amaro Jordán, co-founder and director of *La Prensa de Tlaxcala*, when the journalist was driving with his son in the municipality of Tetla de la Solidaridad, Tlaxcala state. The Office of the Special Rapporteur also learned, at the beginning of August, about alleged death threats against the journalist and news presenter of the *Milenio* TV channel, Azucena Uresti, as a result of her coverage of drug trafficking in the state of Michoacán, by a group of masked and armed subjects who in a video that was publicly circulated claimed to represent a Mexican drug trafficking cartel.<sup>978</sup> Likewise, the Office of the Special Rapporteur received information about a report of kidnapping, robbery, and death threat to the independent reporter Teresa Maraño, in the municipality of Zinacantepec.<sup>979</sup>

603. In addition, during 2021 the Office of the Special Rapporteur was informed about the disappearance of two journalists who could be linked to the exercise of journalism: Pablo Felipe Romero Chávez, since March 25 in Guaymas, Sonora; and Jorge Molontzín Centlal, disappeared since May 10 in the city of Santa Ana, Sonora.<sup>980</sup>

604. The State of Mexico reported that they have continued their efforts to protect the right to freedom of expression. In this sense, they pointed out, regarding the protection of Human Rights Defenders and Journalists, that in 2020 and 2021 there were a total of 1,313 people incorporated as beneficiaries of the Mechanism. These are mainly concentrated in five states: Mexico City, Oaxaca, Michoacán, Chiapas, and Guerrero. In the last two years, a total of 516 people have joined, which represents an increase of 60 percent compared to 2018. The most significant increase has been in women. Likewise, the State indicated that “they have proposed to consolidate a national comprehensive protection system that guarantees the consolidation of a State policy for the protection of human rights defenders and journalists. This implies strengthening the relationship with state governments, through a working group, from where the strategic national campaign will be promoted to recognize the work of human rights defenders and journalists”.<sup>981</sup>

605. Attacks and aggressions committed against journalists violate the right to freedom of expression, both individually and collectively, and cannot be tolerated in a democratic society. The Office of the Special Rapporteur reiterates the importance of combating violence against the press through a comprehensive policy of prevention, protection, and prosecution. This last obligation includes the duty to investigate, prosecute, convict those responsible for these crimes, and make comprehensive reparations to the victims.

606. On the other hand, this Office of the Special Rapporteur has been informed of alleged attempts to censor journalistic information of public interest. Among other reported cases<sup>982</sup>, in March, Dianeth Pérez Arreola, journalist and founder of the portal *Yo Rechazo la Corrupción y la Impunidad*, reportedly received letters from the Special Prosecutor's Office for Electoral Crimes of Baja California and from the Special Prosecutor's Office for the Attention of Electoral Crimes of Sonora, to refrain from publishing and remove from the portal any reference to Natalia Rivera, former head of the Office of the governor of the state of Sonora, and then a candidate for the federal Chamber of Deputies for the Institutional Revolutionary Party (PRI) in the elections of June 6, 2021. The requests would be linked to information published on her website about an

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<sup>977</sup> CPJ. June 7, 2021. [Mexican journalist Luis Aguilar survives knife attack in Pénjamo](#); Proceso. May 22, 2021. [A reporter is stabbed in Pénjamo, Guanajuato](#); Sopitas. May 23, 2021. [A reporter who blamed a PVEM candidate responsible for his physical integrity is stabbed](#).

<sup>978</sup> Associated Press. August 9, 2021. [Mexico: Drug traffickers threaten journalist with death](#); Aristegui Noticias. August 9, 2021. [Jalisco Cartel threatens journalist Azucena Uresti: government announces measures](#).

<sup>979</sup> CPJ. August 23, 2021. [The Mexican journalist María Teresa Montaño is kidnapped, threatened, and robbed in Toluca](#); Political Animal. August 14, 2021. [Teresa Montaño, Edomex journalist, is robbed, detained, and threatened with death](#).

<sup>980</sup> United Nations Mexico. August 23, 2021. [“When those who use the microphones face the bullets, the whole society loses”: UN-DH](#); CPJ. March 24, 2021. [The Mexican journalist Jorge Molontzín has been missing in Sonora since March 10](#).

<sup>981</sup> Joint communication AL MEX 7/2021. State report in response to the request of the United Nations Special Procedures. July 23, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>982</sup> Artículo 19. October 8, 2021. [Yucatán Prosecutor's Office and former state official criminalize and judicially harass journalists](#).

alleged network of companies created by Natalia Rivera from her position as an official, and complaints of illicit enrichment.<sup>983</sup>

607. Additionally, in 2021 the Office of the Special Rapporteur received information about the president's announcement to inaugurate a weekly section in the morning press conferences to display news that the government considers to be false, identifying the journalists who publish them. The head of state would have called it the "who is who in the lies of the week" and would have justified its need based on the importance of "informing" the public.<sup>984</sup> In this context, on June 24, 2021 and following his announcement the day before, the president would have targeted the newspaper *El Universal* for a report published about alleged espionage activities by government authorities on critical journalists. The president said that the information was false and that the aforementioned newspaper "is dedicated to defame" and "belongs to the underworld of journalism", and that this evidenced the need to have a space for the exhibition of false news in press conferences.<sup>985</sup> Furthermore, on June 30, the head of State and the proposed Director of Networks of the General Coordination of Social Communication and Spokesperson for the Presidency, Ana Elizabeth García Vilchis, presented the five false news items of the week and it was concluded that the journalist Raymundo Riva Palacio was the one who, in his opinion, spread the greatest number of falsehoods, calling him the "Pinocchio of the week".<sup>986</sup> The notes and columns displayed included some related to an alleged case of espionage on journalists by the Government, including a note from *Forbes Mexico* magazine. Likewise, they singled out an article in the newspaper *El País* -and its author, the journalist Emilio Godoy- on radioactive waste at the Laguna Verde nuclear power plant. Both media outlets understood that the government had made an inaccuracy in marking their informative articles as *fake news*.<sup>987</sup>

608. In this regard, the State has reported that the section "Who is who in the lies" constitutes a new mechanism, but a legitimate channel of communication between society and public servants (...) that seeks to generate a critical and participatory citizenship of the public affairs, that questions the behavior and decisions of the government in order to move towards a more democratic regime", and in respect of the constitutionally enshrined right to freedom of expression. Likewise, the State indicated that "if any of the observations made during the section is imprecise or requires some clarification, they will always be ready to acknowledge it".<sup>988</sup>

609. This Office of the Rapporteur recognizes that it is legitimate and, on certain occasions, a duty for state authorities to provide statements on matters of public interest and defend themselves against criticism or questioning from the press. However, in doing so they should not discredit or stigmatize those who question them, due to their high status, the wide scope and eventual effects that their expressions may have on certain sectors of the population. Likewise, in contemporary democracies, especially in countries with high rates of violence against the press, the challenge of distinguishing between the legitimate defense of an official position and a discourse that, under that justification, may imply stigmatization is accentuated. In relation to disinformation, this Office recognizes the negative consequences that derive from it and believes that democratic societies should combat attempts to manipulate the public debate. However, it considers atypical - and not without risks for democracy- that a government check section is promoted that labels both the content and the media and journalists that publish them.

610. The Office of the Special Rapporteur welcomes the availability of the Mexican State to discuss these issues. On July 1, in the framework of a hearing on Mexico during the 180 period of sessions of the IACHR, the

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<sup>983</sup> CPJ. April 28, 2021. [Authorities from two Mexican states order the news portal to withdraw critical articles about a political candidate](#); El Vigía. March 25, 2021. [They try to intimidate a journalist for publishing acts of corruption](#); The Coalition for Women in Journalism. April 28, 2021. Mexico: [CFWJI Condemns State Authorities for Impeding Dianeth Perez Arreola](#).

<sup>984</sup> El País. June 23, 2021. [López Obrador's 'who's who' or the new offensive against the press](#); Swissinfo. June 23, 2021. [López Obrador announces a weekly section to display "fake news."](#)

<sup>985</sup> Infobae. June 24, 2021. ["Why are they predictable": AMLO denied espionage to journalists and inaugurated the "who's who" of fake news](#); Proceso. June 24, 2021. [AMLO inaugurates the "who's who in lies"; denies espionage to columnists of El Universal](#).

<sup>986</sup> El País. June 30, 2021. [The president of Mexico opens his space against the media, calling them "corrupt, creeping, and fundamentalists"](#); Swissinfo. June 30, 2021. [Mexican Government attacks the press exhibiting supposed "fake news"](#); Jornada. June 30, 2021. [AMLO opens in the morning section against "fake news."](#)

<sup>987</sup> El País. June 30, 2021. [The president of Mexico opens his space against the media, calling them "corrupt, creeping, and fundamentalists"](#); Forbes México Twitter account (@Forbes\_Mexico). [July 1, 2021](#).

<sup>988</sup> Response of the Mexican State to the request by Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art. 41/05-2021/164). July 28, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.



State underscored its willingness to participate in multisectoral dialogues and its willingness to move forward, together, to verify and combat any provision or practice that discredits journalists and human rights defenders.<sup>989</sup>

611. On the other hand, the Office of the Special Rapporteur positively appreciates the progress made in the prosecution of some of the most emblematic cases of murders and serious human rights violations committed against journalists in Mexico during the last decades. Thus, for example, on February 3, 2021, the former governor of the state of Puebla, Mario Marín, was arrested in the city of Acapulco, accused of being the intellectual author of the alleged crime of torture against journalist Lydia Cacho in 2005. On 9 February, the Second District Court in Quintana Roo notified the order of formal imprisonment.<sup>990</sup> "I have been seeking justice for 14 years for having been tortured," said the journalist, activist and author of the book "The demons of Eden", published in 2005, in which she denounced the existence of a network of child sexual exploitation that would involve high-ranking Mexican businesspeople and politicians.<sup>991</sup> In December 2005, the reporter was illegally detained and tortured by State agents during a transfer of more than 20 hours from Quintana Roo to the state of Puebla, events that would be linked to the publication of said journalistic investigation. Likewise, in the following years she continued to receive threats and intimidation for her journalistic work, which led the IACHR to grant her precautionary measures on August 10, 2009.<sup>992</sup> According to available information, on July 27, the Third District Court in Quintana Roo denied the amparo that former Governor Marín had filed against the formal prison order, and the amparo by which he requested a precautionary measure to continue his process outside of prison.<sup>993</sup> On the other hand, according to the organization Article 19, the former ministerial police officer of Quintana Roo, Miguel "N", accused of having violently detained the journalist Lydia Cacho in 2005, in support of two policemen from Puebla, received a conviction of five years and three months in prison, notified on June 7.<sup>994</sup>

612. However, this Office emphasizes that prosecution will not be complete until there are effective sanctions for all those responsible for the human rights violations committed against the journalist Lydia Cacho. In this regard, the Office of the Special Rapporteur has learned that on July 15, the Third Collegiate Court in the State of Quintana Roo granted an amparo to businessman José Kamel Nacif Borge, by means of which he would be exempt from all responsibility for the crime of torture against the journalist. According to the information available, the judges concluded that there was no reliable evidence to determine the existence of an order to arrest and torture the journalist for publishing her book. To do this, they analyzed the conversations between the former governor of Puebla, Mario Marín, and Kamel Nacif, published in 2006 and in which the former official affirmed that "he had just given this old bitch a fucking slap (sic)", which the Court considered a "vague and generic" statement that would not allow to conclude that it was specifically Lydia Cacho.<sup>995</sup>

613. Likewise, according to available information, on May 11, 2021, a collegiate court found Anwar Osiris Delgado Cedillo, alias "El Ninja," guilty of the crimes of femicide and the crime comparable to robbery to the detriment of journalist Alicia Díaz, who was murdered in 2018. The Vice Prosecutor of the Public Ministry of the Attorney General's Office of Nuevo León reported that the defendant was sentenced to 50 years in prison as the material author of the crime, in addition to an additional prison sentence for a crime equivalent to robbery and the payment of compensation as damage reparation.<sup>996</sup> The journalist Alicia Díaz González was murdered on May 23, 2018 at her home in the city of Monterrey, Nuevo León. The reporter worked at the

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<sup>989</sup> IACHR. 180 Period of Sessions. [Hearing 21. Protection of the human rights of human rights defenders and communicators in Mexico](#). July 1, 2021.

<sup>990</sup> BBC. February 4, 2021. [Mario Marín: The former governor of Puebla is arrested in the case of torture of the journalist Lydia Cacho](#); Artículo 19. February 10, 2021. [Judge issues a formal prison order against former governor Mario Marín for torture of Lydia Cacho](#); Forbes Mexico. February 10, 2021. [Mario Marín is imprisoned for torture of Lydia Cacho](#).

<sup>991</sup> ABC. February 5, 2021. [Lydia Cacho: "I have been seeking justice for 14 years for having been tortured"](#); El Financiero. February 3, 2021. [I have been seeking justice for 14 years, says Lydia Cacho after the arrest of Mario Marín, 'the precious Governor'](#).

<sup>992</sup> IACHR. MC 192/09 - Lydia Cacho and others, Mexico. August 10, 2009.

<sup>993</sup> La Silla Rota. July 27, 2021. ["The Precious Governor" will remain in prison](#); Publimetro. July 27, 2021. [They deny amparo remedy to Mario Marín against prison for torture of Lydia Cacho](#).

<sup>994</sup> Article 19 Twitter account (@article19mex). [June 7, 2021](#); Sin Embargo. June 7, 2021. [QRoo police involved in case Lydia Cacho receives 5 years in prison](#); Noroeste. June 7, 2021. [One of the policemen who tortured journalist Lydia Cacho in 2005 is sentenced](#).

<sup>995</sup> Political Animal. July 27, 2021. [Judges grant protection to Kamel Nacif: they dismiss audios as evidence in the case of Lydia Cacho](#); Aristegui Noticias. July 27, 2021. [Lydia Cacho case: Kamel Nacif is exonerated from the crime of torture: They deny protection to Mario Marín](#).

<sup>996</sup> El Financiero. May 12, 2021. [The murderer of a journalist is sentenced to 55 years in prison](#); El Universal. May 12, 2021. [55 years in prison are given to the individual who murdered the journalist Alicia Díaz in Nuevo León](#).



newspaper *El Norte* for 20 years, and she was a contributor to the national newspaper *El Financiero* since January 2018.<sup>997</sup>

614. On June 15, 2021, Hugo Amed Schultz, former mayor of Chínipas, Chihuahua state, was sentenced to 8 years in prison as an auxiliary participant in the murder of journalist Miroslava Breach Velducea, which occurred on March 23, 2017. The judge in charge of the hearing established the obligation to fully repair the damage to all the victims, as well as the performance of an act of recognition and public apology. According to the information received, the former official waived his right to appeal against the sentence handed down at a hearing, so it was final, and the procedure went to the stage of execution of the judgment.<sup>998</sup> The Office of the Special Rapporteur welcomes this significant progress in the investigation of the events and punishment of those responsible for the murder of the journalist. This is the second conviction in the case, in addition to the 2020 court decision that sentenced Juan Carlos Moreno Ochoa, alias 'El Larry', to 50 years in prison as he was considered a material co-author of the murder of the reporter.

615. This Office considers especially important the progress regarding the investigation into the murder of journalist Javier Valdez, which occurred on May 15, 2017, in Culiacán, Sinaloa. According to the information received, on June 8, 2021, federal judge José Noé Egre issued a conviction against Juan Francisco Picos, alias "El Quillo", a member of a local criminal gang, for his material participation in the murder of the reporter. Likewise, he established that Javier Valdez was a victim of homicide as a consequence of his journalistic investigations. According to the organization Alianza Cívica, this ruling represents an "important precedent" in the fight against impunity for crimes against journalists in Mexico. Javier Valdez worked as a journalist and writer, investigating mainly organized crime and drug trafficking matters; He was the founder and director of the Sinaloan weekly *Ríodoce* and the Sinaloa correspondent for the newspaper *La Jornada*.<sup>999</sup>

616. This Office also welcomes the declaration of unconstitutionality of the General Law of Social Communication by the Supreme Court of Justice of the Nation. Citing inter-American human rights standards, the court concluded that the norm violates the right to freedom of expression and the right to information by not providing clear and precise allocation criteria for spending on social communication, nor by providing mechanisms to guarantee that said spending meets the criteria constitutionally.<sup>1000</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

617. The Office of the Special Rapporteur is concerned about the information received on actions of state surveillance of the communications of journalists and human rights defenders who investigate highly sensitive issues, such as corruption and serious human rights violations. In August, the IACHR, its SRFOE, and the Mexico Office of the United Nations High Commissioner for Human Rights (UN-DH) expressed concern about new findings regarding the use of *Pegasus* software for espionage purposes. The public information revealed in 2021 adds to the complaints that organizations, human rights defenders, and journalists have made at least since 2017, regarding the use of this and other espionage tools in Mexico and other countries in the region.<sup>1001</sup>

618. Public reports in recent years have revealed multiple victims of espionage attempts through software, including journalists Carmen Aristegui, Carlos Lloret de Mola and Azam Amhed, as well as Cecilio Pineda, a reporter killed in the state of Guerrero in 2017. Reported targets of illegal surveillance include the members of the Miguel Agustín Pro Juárez Human Rights Center (PRODH Center); the judge of the Inter-American Court Eduardo Ferrer Mac-Gregor; and at least one member of the Interdisciplinary Group of Independent Experts

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<sup>997</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 1, 2018. Press Release R125 / 18. [The Office of the Special Rapporteur condemns the murder of journalists in Mexico and notes with concern the situation of violence against media workers.](#)

<sup>998</sup> Political Animal. June 15, 2021. [Former PAN mayor sentenced to 8 years for the murder of journalist Miroslava Breach in Chihuahua](#); Propuesta Cívica. June 15, 2021. [Hugo Amed Schultz Alcaraz is convicted of the murder of journalist Miroslava Breach Velducea](#); El Sol de México. June 15, 2021. [Former Mexican mayor sentenced to prison for the murder of journalist Miroslava Breach.](#)

<sup>999</sup> Propuesta Cívica. June 8, 2021. [Conviction of Juan Francisco Picos Barrueta alias "El Quillo" for his participation in the murder of journalist Javier Valdez](#); El País. June 8, 2021. [El Quillo condemned for the murder of journalist Javier Valdez](#); CPJ. June 9, 2021. [CPJ welcomes 2nd conviction in case of slain Mexican journalist Javier Valdez Cárdenas.](#)

<sup>1000</sup> Artículo 19. September 8, 2021. [The Supreme Court of Justice of the Nation grants amparo to ARTICLE 19 and declares the General Law of Social Communication unconstitutional](#); Expansion. September 8, 2021. [The Court declares the General Law of Social Communication unconstitutional.](#)

<sup>1001</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 6, 2021. Press Release R205/21. [The IACHR, SRFOE and OHCHR Mexico express their concern about the new findings on the use of Pegasus software.](#)

(GIEI) in the Ayotzinapa case, established to investigate the mass disappearance of students in Iguala in 2014. According to public information, almost a third of the 50,000 telephone numbers allegedly identified for espionage would be based on in Mexico, which is why it would have been singled out as one of the States with the greatest interest in acquiring malicious software.<sup>1002</sup>

619. In this sense, the IACHR, its SRFOE, and the UN-DH have recalled that it is imperative that States limit the use of any type of technology that may interfere in private communications in accordance with international human rights standards. In addition, this use must be clearly and precisely delimited by law, be exceptional, and operate as strictly necessary; In addition, it must have prior judicial authorization and constant supervision from the relevant state agencies.<sup>1003</sup>

620. The SRFOE has recognized the progress made in the framework of the judicial investigation on the use of *Pegasus* software. According to the available information, on November 1, the Federal Ministerial Police (PFM) detained an individual in the city of Querétaro for his probable responsibility in the crime of illegal intervention of communications aggravated to the detriment of a journalist, using *Pegasus*<sup>1004</sup>. The person prosecuted would have been a member of Proyectos y Diseño VME, one of the companies that acquired the software, according to reports from a public source<sup>1005</sup>. The Office of the Special Rapporteur has considered that, although relevant and transcendent, this measure is by itself insufficient given the complexity and dimension of the complaints received and the information that has been publicly disclosed in 2021. For the Office of the Special Rapporteur, this progress accentuates the obligations of due diligence, completeness and speed of the ongoing investigation, and to ensure the protection of the integrity of the victims and their representatives, of the accused persons, and of all those persons linked to the judicial process, including judicial operators, in such a way as to avoid possible undue pressure that seeks to alter the investigation or the expectation of exemplary justice that guarantees the non-repetition of the facts.<sup>1006</sup>

621. Likewise, this Office expressed its concern at the reports received on actions of state surveillance of communications against women human rights defenders and journalists who were investigating the massacre of the 196 people found in 48 clandestine graves in San Fernando, Tamaulipas, in 2011. According to the Available information, between February 2015 and April 2016, the Mexican authorities, through the then Specialized Office for Organized Crime Investigations, opened an investigation into alleged “kidnapping and organized crime” against the journalist Marcela Turati and the defenders Ana Lorena Delgadillo and Mercedes Doretti, requesting in an “extra urgent” way a complete record of their calls and messages sent and received, including the location.<sup>1007</sup> This Office has called on the State to investigate the facts in a complete, exhaustive and impartial manner, and recalls its duty to respect, protect and guarantee the right to privacy and freedom of expression of those who exercise journalism and defend human rights.<sup>1008</sup>

622. On the other hand, this Office was informed about the opening of an investigation by the Office of the Attorney General of the Republic against 31 academics belonging to the National Council of Science and Technology (Conacyt), for the alleged crimes of organized crime, illicit enrichment, and embezzled in relation to public funds granted to the entity for 244 million pesos. Some civil society organizations and academia have described the measure as an attempt at intimidation for political reasons.<sup>1009</sup> According to the information

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<sup>1002</sup> Deutsche Welle (DW). July 22, 2021. [Pegasus spyware: Mexico one of the biggest targets](#); The Washington Post. August 2, 2021. [Takeaways from the Pegasus Project](#).

<sup>1003</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 6, 2021. Press Release R205/21. [The IACHR, SRFOE and OHCHR Mexico express their concern about the new findings on the use of Pegasus software](#).

<sup>1004</sup> El País. November 8, 2021. [The espionage of the 'Pegasus case' in Mexico claims its first detainee](#); CNN Español. November 10, 2021. [Arrest in Mexico allegedly implicated in the intervention of Carmen Aristegui's communications with the Pegasus software](#); Attorney General of the Republic, United Mexican States. November 8, 2021. [Press release FGR 449/21. FGR informs](#).

<sup>1005</sup> El País. November 8, 2021. [The espionage of the 'Pegasus case' in Mexico claims its first detainee](#); R3D. July 23, 2021. [What we know about the authorities who acquired](#).

<sup>1006</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 16, 2021. Press Release R303 / 21. [The Office of the Special Rapporteur for Freedom of Expression recognizes the progress made in the investigation of the Pegasus case and calls on the Mexican authorities to ensure the integrity of the persons involved in the process](#).

<sup>1007</sup> The Washington Post. November 23, 2021. [A lawyer fought for justice after a Mexican massacre. Then the government made her a suspect](#); El País. November 24, 2021. [Three investigators of the San Fernando massacre denounce that they were spied on by the Government of Peña Nieto](#); El Economista. November 24, 2021. [Investigators of forced disappearances denounce espionage by the PGR in the San Fernando case](#).

<sup>1008</sup> Twitter account of the Office of the Special Rapporteur for Freedom of Expression (@RELE\_CIDH). [November 23, 2021](#).

<sup>1009</sup> El País. September 22, 2021. [The Prosecutor's Office will request for the third time the arrest of 31 Conacyt investigators for organized crime](#); Aristegui News. September 22, 2021. [The FGR investigates members of Conacyt; They argue that it is persecution](#).

received, the president of Mexico supported the actions of the FGR in a morning press conference, stating that the members of FCCyT “went to congresses and had to be paid out of the budget, even for their luxuries. (...) And when that disappears, those extravagances, those luxuries, the waste is taken away, then they become dissatisfied and complain there is no investment in science”.<sup>1010</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

623. The Office of the Special Rapporteur has continued to receive information about alleged cases of excessive use of force in contexts of protests by women.<sup>1011</sup> In the framework of the 181st Period of Sessions of the IACHR, civil society organizations denounced the existence of a hostile and repressive environment for the exercise of the right to protest by women in Mexico. In this sense, they reported a pattern of excessive and unnecessary use of force, illegal and arbitrary detentions, and verbal and physical abuse based on gender against women who publicly demonstrate against gender violence. Likewise, they warned that feminist and anti-gender violence demonstrations have been stigmatized and designated as violent, both by authorities and the media, which would create an environment hostile to the right to assembly, in addition to discouraging activism and promote violence against them. According to them, “all this violence inflicted by the police and other judicial authorities are a form of instruction for daring to go out and demonstrate and for having a behavior contrary to gender stereotypes”.<sup>1012</sup> The context of violence and disproportionate use of force against women also extends to journalists, human rights defenders, and people who actively participate in public debate, according to information reported to the Office of the Special Rapporteur.<sup>1013</sup> At the close of this report, the monitoring system of the Women's Communication and Information Association (CIMAC) had documented at least 213 attacks on women journalists.<sup>1014</sup>

624. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women. The inter-American system grants enhanced protection to those speeches that express constitutive elements of the personal identity or the dignity of the person who speaks. In this sense, for this Office, the speech of women who denounce violence due to their status as women are historically silenced speeches and must be especially protected today. In this sense, the Office of the Special Rapporteur invites the States to identify possible obstacles or limitations to the freedom of expression of women and to adapt institutional practices to the reinforced protection of this type of speech.

### D. Freedom of Expression and the Internet

625. According to the Freedom on the Net report, in 2021 more and more cases of request for the removal of content for political reasons would have been documented, based to a greater extent on alleged violations of copyright or of the conditions of service, as well as of local and electoral laws.<sup>1015</sup> According to the report “#LibertadNoDisponibile: Censorship and removal of content in Mexico” of the organization Article 19, published in February 2021, Mexico is the ninth country with the most government requests to Facebook to know or preserve information on profiles or content, reaching a total of 12,070 requests between 2017 and the first semester of 2020. Likewise, the aforementioned report mentioned that, according to the information they received from 16 states, 1,697 requests were made to remove content from digital platforms between 2017 and 2020.<sup>1016</sup>

626. Likewise, this Office learned of the entry into force of the decree that created the so-called National Register of Mobile Phone Users, which would obligate mobile phone users to provide their personal information to the companies that provide this service, including biometric data. The database would be

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<sup>1011</sup> La Jornada. June 2, 2021. [They beat and evict rural students from the Puebla Executive headquarters](#); Deutsche Welle (DW). May 29, 2021. [Feminists march in Mexico to demand an end to police repression](#); Proceso. October 27, 2021. [They denounce a hostile environment for feminist protest in Mexico](#).

<sup>1012</sup> IACHR. 181 Period of Sessions. [Hearing 16: Situation of the human rights of women and girls in the context of the protests in Mexico](#). October 27, 2021; Information provided by the petitioning organizations within the framework of the hearing request. August 5, 2021. IACHR Archive.

<sup>1013</sup> Debate. June 29, 2021. [Violence against women journalists increases in Mexico](#).

<sup>1014</sup> CIMAC. [Cartography of attacks on women journalists](#).

<sup>1015</sup> Freedom House. [Freedom on the Net 2021: México](#).

<sup>1016</sup> Artículo 19. February 24, 2021. [Report #LibertadNoDisponibile: Censorship and removal of content in Mexico](#).

accessible to Mexican authorities.<sup>1017</sup> According to reports from civil society, its application would constitute a serious risk to the privacy of citizens.<sup>1018</sup> According to official information, in October the First Chamber of the Supreme Court of Justice of the Nation confirmed the suspension of effects and consequences of the decree that created the registry until the merits of the matter are discussed, as a result of a constitutional controversy promoted by the Federal Institute of Telecommunications.<sup>1019</sup>

627. This Office also became aware of the legislative project to regulate social networks proposed by Senator Ricardo Monreal, which according to reports received from civil society organizations could seriously limit freedom of expression in Mexico, imposing allegedly disproportionate requirements for the operation of internet platforms.<sup>1020</sup>

628. This Office recalls that freedom of expression applies to the Internet in the same way as to all media. In this sense, restrictions are only acceptable when they comply with the international standards that they provide, among other things, which must be provided for by law, pursue a legitimate objective, be necessary to achieve said objective, and strictly proportionate.

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<sup>1017</sup> SEGOB, Official Gazette of the Federation. April 16, 2021. [DECREE by which various provisions of the Federal Telecommunications and Broadcasting Law are amended and added](#); El Economista. April 17, 2021. [The mobile phone registry that obliges users to deliver their biometric data comes into force](#); BBC. April 20, 2021. [Mobile phone registry in Mexico: the great doubts caused by the mandatory registration that requires your biometric data](#).

<sup>1018</sup> R3D. March 16, 2021. [Senate must reject opinion on the National Register of Mobile Telephone Users](#).

<sup>1019</sup> Supreme Court of Justice of the Nation. October 21, 2021. [Press Release 321/2021](#); Forbes. October 20, 2021. [Court indefinitely suspends mobile phone registry](#).

<sup>1020</sup> Senate of the Republic. LXV Legislature. February 2, 2021. [Senator Ricardo Monreal enlists initiative to regulate social networks](#); HRW. April 14, 2021. [Mexico: Freedom of expression on the internet is at risk](#); Forbes Mexico. October 18, 2021. [Ricardo Monreal says that he will not take down his initiative to regulate Facebook, Twitter and TikTok](#).

## NICARAGUA

629. In 2021, the situation of the right to freedom of expression in Nicaragua continued to deteriorate rapidly. The Office of the Special Rapporteur condemns the repeated stigmatizing statements made by government officials against the independent media; the irregular detentions and judicial proceedings without guarantees of due process brought against journalists and demonstrators who expressed criticism; restrictions on protest; the obstruction of the free functioning of civil society organizations; the media's inability to cover official events; the State's lack of active transparency; and restrictions on freedom of expression in the digital space, among other concerning facts. The evidence compiled by the Office of the Rapporteur has led to the conclusion that there are currently no guarantees of any kind for the exercise of the right to freedom of expression in the country.<sup>1021</sup>

### A. Journalism and Democracy

630. During 2021, the Office of the Special Rapporteur has continued to monitor acts of repression against the independent media by the government and its supporters in a context that is increasingly restrictive regarding the exercise of fundamental freedoms and the legitimate expression of critical and dissident voices in Nicaragua. The Office of the Special Rapporteur has documented a number of patterns of attacks on the media, including stigmatizing statements and criminalizing accusations by public leaders, which resonate with supporters of the current president and, on certain occasions, have intensified the escalation of violence against journalists. There have likewise been raids on the media and attempts to block the media's material inputs; judicial harassment against communicators; threats of sanctions, in several cases based on the Cybercrime Law and the Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-determination for Peace; and arrests of opposition media journalists, executives, and staff. The testimony and information documented by this Office also indicate an atmosphere of self-censorship and exile of journalists. Between January and September 2021, *La Prensa* reported at least 362 attacks on press freedom in Nicaragua<sup>1022</sup> and, in the month of October alone, the newspaper documented 107 more attacks.<sup>1023</sup> Likewise, in 2021, the Office of the Special Rapporteur identified at least 65 cases of journalists facing significant vulnerability and risk.<sup>1024</sup> This situation became even more concerning in the context of elections in Nicaragua, where numerous limitations to journalistic coverage were observed.

631. As the Office of the Special Rapporteur was able to ascertain, the Nicaraguan Office of the Public Prosecutor has summoned at least 40 reporters and media directors in the framework of the case in which the Fundación Violeta Barrios de Chamorro is being persecuted for alleged money laundering.

632. Likewise, on June 21, the sports writer Miguel Mendoza was detained over criticism he posted on social media and charged with a number of counts of disturbance of public order. At the time of writing this report,

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<sup>1021</sup> Twitter account of the Special Rapporteur (@RELE\_CIDH). [September 9, 2021](#).

<sup>1022</sup> *La Prensa*. September of 2021. [Informe de violaciones a la libertad de prensa. Septiembre 2021](#).

<sup>1023</sup> *La Prensa*. September of 2021. [Informe de violaciones a la libertad de prensa. Octubre 2021](#).

<sup>1024</sup> Twitter account of the Special Rapporteur (@RELE\_CIDH). [September 9, 2021](#).



the reporter remains in prison and incommunicado, according to the reports received.<sup>1025</sup> According to a press release from the National Police, the reporter is being investigated for “carrying out acts that undermine independence, sovereignty, and self-determination, inciting foreign interference in internal affairs, requesting military interventions, organizing with funding from foreign powers to carry out acts of terrorism and destabilization,” among other acts.<sup>1026</sup>

633. Similarly, on August 14, journalist Juan Lorenzo Holmann Chamorro, manager of *La Prensa*, was detained under an investigation for customs fraud and money, property, and asset laundering.<sup>1027</sup> The Office of the Special Rapporteur also received complaints about various acts of harassment against journalist Dario Aníbal Toruño and his *Radio Darío Aníbal Toruño*.<sup>1028</sup> Between January and February 2021, members of the National Police raided his house on three occasions in connection with an investigation into the alleged crime of drug trafficking.<sup>1029</sup> *Radio Darío Aníbal Toruño* has also denounced the repeat presence of the police outside their offices.<sup>1030</sup>

634. The Office of the Rapporteur is particularly concerned about the case of the journalist Kalúa Salazar, news editor for radio station *La Costeñísima*, who in 2021 was reportedly the target of a state of siege by police officers. On March 31, 2021, the Office of the Special Rapporteur for Freedom of Expression and the Special Follow-up Mechanism for Nicaragua (MESENI) witnessed an episode of harassment against the journalist when a Nicaraguan police officer stood at the doors of his residence as they were holding a meeting virtually.<sup>1031</sup> All during 2021, the journalist alleged that the presence of the police outside her home prevented her from going to work or even carrying out basic activities such as shopping, and highlighted the particularly intimidating and damaging effect that the presence of armed men outside her home had on her young daughters.<sup>1032</sup> The reporter was beaten by police officers when trying to leave her home on April 19, 2021, according to what this Office has learned.<sup>1033</sup>

635. According to publicly available information, on May 20, the headquarters of the magazine *Confidencial* and the recording studios of the television program “Esta Semana” and “Esta Noche,” hosted by journalist Carlos Fernando Chamorro, were raided by the National Police. This Office learned that the Police confiscated boxes containing documents and equipment, and cameraman Leonel Gutiérrez was detained for more than six hours.<sup>1034</sup> It was also reported that some journalists who were trying to cover the events were forced to leave, while others fled for fear of being detained.<sup>1035</sup> Under these circumstances, officers detained AFP journalist Luis Siquer and erased the content he had recorded.<sup>1036</sup> The Office of the Special Rapporteur recalls that this is the second time *Confidencial*'s headquarters have been searched. The media outlet's offices were occupied by the

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<sup>1025</sup> CPJ. June 24, 2021. [Nicaraguan police detain journalist Miguel Mendoza for alleged treason](#); Fundamedios. June 22, 2021. [Miguel Mendoza es el segundo periodista detenido en Nicaragua, la policía además allanó la casa de Fernando Chamorro](#).

<sup>1026</sup> Nicaraguan National Police. June 21, 2021. [Press release No. 164 - 2021](#).

<sup>1027</sup> Twitter account of the Centro Nicaragüense de Derechos Humanos (@cenidh). [August 14, 2021](#).

<sup>1028</sup> 100% Noticias. January 11, 2021. [CPJ exige al régimen cesar hostigamiento contra el periodista Aníbal Toruño](#); CPJ. January 8, 2021. [Nicaraguan journalist Aníbal Toruño harassed, home raided](#).

<sup>1029</sup> Confidencial. January 5, 2021. ["Es un acto de odio y terror", denuncia Aníbal Toruño, sobre allanamiento a su casa](#); CPJ. January 8, 2021. [Nicaraguan journalist Aníbal Toruño harassed, home raided](#); Confidencial. February 4, 2021. [Policía allana por tercera vez la casa de Aníbal Toruño, director de Radio Darío](#); Nicaragua Investiga. February 4, 2021. [Policía entra con violencia a casa del periodista Aníbal Toruño](#).

<sup>1030</sup> Twitter account of Radio Darío 89.3 (@RadioDarioNi). January 23, 2021.

<sup>1031</sup> Twitter account of IACHR (@CIDH). [March 31, 2021](#).

<sup>1032</sup> La Prensa. May 20, 2021. [Siento que será una noche difícil». Policía Orteguista asedia viviendas de periodistas en Bluefields](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. Podcast Deliberante / Spotify. [Episode 2: Reporting is not a crime](#); Despacho 505. October 30, 2021. [Policía asedia casa de la periodista Kalúa Salazar, en Bluefields](#); La Prensa. March 22, 2021. [Periodista Kalúa Salazar denuncia asedio policial: «Mis niñas están creciendo viendo a hombres armados»](#); Nicaragua Actual. April 9, 2021. [Jefa de prensa de Radio La Costeñísima continúa siendo asediada por policías sandinistas](#).

<sup>1033</sup> Despacho 505. April 19, 2021. [Policías golpean a la periodista Kalúa Salazar y no la deja salir de su casa](#); Confidencial. April 19, 2021. [Policía golpea e impone casa por cárcel a periodista Kalúa Salazar](#).

<sup>1034</sup> Deutsche Welle. May 21, 2021. [Allanan en Nicaragua a ONG y medios críticos con Ortega](#); Voice of America. May 21, 2021. ["¿Dónde están los golpistas?": Gobierno de Nicaragua allana oficinas del diario Confidencial](#); CPJ. May 21, 2021. [Nicaraguan police raid Confidencial office, briefly detain camera operator Leonel Gutiérrez](#).

<sup>1035</sup> El Universo. May 21, 2021. [Policía de Nicaragua detiene a periodistas que cubrían el allanamiento de un medio crítico con el gobierno de Daniel Ortega](#); EFE. May 21, 2021. [Policía allana medio crítico con Ortega, detiene a periodista y acusa a otros](#).

<sup>1036</sup> France 24. May 21, 2021. [Nicaragua: denuncian asedio y allanamientos a ONG y medios de comunicación críticoS](#); Voice of America. May 21, 2021. ["¿Dónde están los golpistas?": Nicaragua Investiga. May 26, 2021. Director de AFP protesta ante autoridades nicaragüenses por detención a su reportero](#).



National Police on December 14, 2018 and, according to available information, on February 23, 2020, the Ministry of Health opened the Casa Materna Camilla López in these facilities.<sup>1037</sup> The Office of the Special Rapporteur also received information indicating that on February 25, 2021, the Ministry of Health opened the Care Center for People with Alcoholism and/or Drug Addiction in Lanzona Oriental de Managua Valentin Mendez in the offices of *100% Noticias*, also raided on December 23, 2018.<sup>1038</sup>

636. On August 13, 2021, the National Police and the Public Ministry raided the facilities of the newspaper *La Prensa*, seized property, and detained its general manager, Juan Lorenzo Holmann Chamorro, the following day, in the framework of an investigation for alleged crimes of customs fraud and money, goods, and asset laundering.<sup>1039</sup> According to the Nicaraguan president, *La Prensa's* offices were being used "to launder money and hide the evidence."<sup>1040</sup> There were also reports that the workers were held incommunicado during the raid and *La Prensa's* internal server was temporarily suspended, preventing posting on its website. On August 12, that same newspaper had denounced that the customs authority's move to withhold newsprint for more than 20 days would force it to stop publishing its printed edition and to continue only in digital format.<sup>1041</sup> On September 15, *La Prensa* reported that its facilities were still inaccessible to the newspaper's staff and that it had made a "forced staffing cut," in order "to operate with only enough workers to continue reporting" from its website, and it announced the end of its print edition until its facilities were returned and the newsprint released.<sup>1042</sup> The Office of the Special Rapporteur recalls that the newspaper's raw material had already been temporarily withheld once before, in June 2021.<sup>1043</sup>

637. The Rapporteurship also learned that the Nicaraguan Institute of Telecommunications and Mail had ordered the suspension of the broadcast frequencies of *Radio Nexo* and *Enlace Canal 21*, media outlets represented by the presidential candidate Guillermo Osorno, who reported suspicions of fraud in the National Assembly elections on November 7, 2021. According to the information available, on November 11, 2021, the signal from both media outlets was taken off the air and the broadcast continued only on the internet.<sup>1044</sup>

638. Since the political, economic, social, and human rights crisis erupted in Nicaragua in April 2018, government leaders are reported to have escalated their stigmatizing rhetoric and criminalizing accusations against the independent media.<sup>1045</sup> According to the information reported, in 2021, Vice President Rosario Murillo described journalists as "communicational terrorists,"<sup>1046</sup> "pandemic terrorists,"<sup>1047</sup> "agents spreading

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<sup>1037</sup> Artículo 66. February 24, 2021. [Régimen «amuebla» casa materna con lo que saquearon a Confidencial y 100% Noticias](#); Confidencial. March 23, 2021. ["Casa materna" en CONFIDENCIAL está vacía y bajo control policial](#); Confidencial. January 30, 2021. Nicaragua: [Destruyen y usurpan propiedades confiscadas en 2018](#).

<sup>1038</sup> Nicaragua Investiga. February 25, 2021. [Gobierno abre centro contra las adicciones en edificio confiscado a 100% Noticias](#); CNN. February 26, 2021. [Nicaragua: abren centros de salud en oficinas de medios clausurados](#); France 24. December 23, 2018. [Nicaragua: allanamiento de 100% Noticias, el segundo golpe del Gobierno a la prensa](#).

<sup>1039</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 18, 2021. Press Release 216. [The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua](#); *Voz de America*. August 13, 2021. [En fotos: ¿Cómo fue el allanamiento a diario La Prensa de Nicaragua?](#); CPJ. August 17, 2021. [Nicaraguan police raid La Prensa offices, detain publisher Juan Lorenzo Holmann](#).

<sup>1040</sup> Confidencial. August 14, 2021. [Ortega acusa y condena a La Prensa y justifica golpe contra libertad de prensa](#); *100% Noticias*. August 13, 2021. [Daniel Ortega ataca a LA PRENSA, dicta sentencia y los condena de "lavado de dinero"](#).

<sup>1041</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 18, 2021. Press Release No. 216/2021. [The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua](#).

<sup>1042</sup> *La Prensa*. September 16, 2021. [La Prensa seguirá informando desde el sitio web](#); Artículo 66. September 15, 2021. [Diario La Prensa despide a trabajadores y periodistas después de un mes de ocupación policial](#).

<sup>1043</sup> *La Prensa*. June 10, 2021. [La Prensa podría dejar de circular el próximo miércoles por retención de materia prima en Aduana](#); *100% Noticias*. June 10, 2021. [Liberan embarque de papel retenido a Diario La Prensa](#).

<sup>1044</sup> Artículo 66. November 10, 2021. [Dictadura orteguista suspende frecuencia de radio y televisión dirigidas por Guillermo Osorno](#); Nicaragua Investiga. November 10, 2021. [Telcel cancela la licencia para operar a Enlace y a Radio Nexos](#); EFE. November 9, 2021. [Partido denuncia "fraude electoral" en Nicaragua y que ganó el "no voto"](#).

<sup>1045</sup> Nicaragua Investiga. September 23, 2021. [CSE advierte sobre "sanciones" por denigrar a partidos](#); Nicaragua Investiga. August 31, 2021. [Wálmaro Gutiérrez ataca nuevamente a medios independientes](#); *100% Noticias*. June 14, 2021. [Ortega y Murillo van por apagón informativo, acusan a medios de "traición y conspiración" en documento enviado a diplomáticos](#).

<sup>1046</sup> Nicaragua Actual. May 6, 2021. [Rosario Murillo acusa de "terrorismo comunicacional" a los que denuncian a su gobierno](#).

<sup>1047</sup> *100% Noticias*. August 31, 2021. [Rosario Murillo acusa a médicos y medios de "terrorismo pandémico" y "comunicacional" al minimizar covid-19](#).

malicious falsehoods,<sup>1048</sup> “fake talkers,”<sup>1049</sup> “lying scum,”<sup>1050</sup> “vile, lying, and slanderous” communicators,<sup>1051</sup> and “evil beings.”<sup>1052</sup> This context of stigmatization has led to multiple attacks, verbal abuse, and threats by individuals against journalists and media professionals, including death threats.<sup>1053</sup>

639. Likewise, throughout 2021, the Office of the Special Rapporteur documented various attacks and incidents of intimidation against the press by public officials over their work, in some cases obstructing the coverage of official acts.<sup>1054</sup> For example, on February 28, 2021, members of the National Police intimidated a *Confidencial* team while it was covering the event to launch the candidacy of Félix Maradiaga, allegedly stealing some of their equipment.<sup>1055</sup> On April 9, police officers took the cell phone of journalist Carlos Larios from *La Prensa* while he was recording the presidential candidates’ departure from Nicaragua.<sup>1056</sup> The journalist Alberto Miranda Herrera from *Literal - Periodismo Ciudadano* reported experiencing verbal and physical attacks from police officers, along with death threats, as he was doing his reporting.<sup>1057</sup> Likewise, the Office of the Special Rapporteur was informed that, after he covered the impact of COVID-19 in San Sebastián de Yalí, reporter Jacdiel Rivera was detained on May 5, 2021 for, supposedly, trying to “destabilize the country.”<sup>1058</sup>

640. The Office of the Special Rapporteur also documented a number of reports of attacks on journalists and obstruction of their work in the context of the detention of Cristiana Chamorro on June 2, 2021.<sup>1059</sup> Journalist Mauricio Madrigal, *Canal 10* press chief, was prevented from leaving the country supposedly by an active administrative measure, according to what he was told at the airport. They also told him that his passport must remain with immigration authorities.<sup>1060</sup>

641. The Office of the Special Rapporteur continues to observe the use of the criminal offenses of slander and defamation to punish journalists criminally. In February 2021, journalist David Quintana was found guilty of the alleged crimes of slander and defamation for publishing information in the public interest. He was sentenced to a 200-day fine. According to the information received, the journalist appealed the decision, but the appeal was rejected.<sup>1061</sup> In addition, the Office of the Special Rapporteur learned of the appeal filed by

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<sup>1048</sup> Artículo 66. July 9, 2021. [Rosario Murillo amenaza con hacer pagar a quienes difunden “malignidades y falsedades”.](#)

<sup>1049</sup> Artículo 66. July 8, 2021. [Rosario Murillo llama “lenguas fingidas” a periodistas independientes y celebra censura.](#)

<sup>1050</sup> 100% Noticias. March 17, 2021. [Rosario Murillo tilda de “espuma mentirosa” denuncias contra su dictadura.](#)

<sup>1051</sup> 100% Noticias. March 1, 2021. [Rosario Murillo acusa a periodistas independientes de “infames, mentirosos y calumniadores”.](#)

<sup>1052</sup> Nicaragua Investiga. September 8, 2021. [Rosario Murillo tacha de “seres de maldad” a periodistas.](#)

<sup>1053</sup> Nicaragua Investiga. March 3, 2021. [Interceptan a repartidor del periódico La Prensa y lo despojan de los ejemplares](#); *Confidencial*. March 3, 2021. [Fanáticos orteguistas continúan amenazando de muerte a periodistas nicaragüenses](#); 100% Noticias. February 28, 2021. [Periodista Wilih Narváez denuncia agresión a su familia de parte de seguidor de Daniel Ortega](#); Nicaragua Actual. March 17, 2021. [Comentarista sandinista emite grave amenaza contra la periodista independiente Jennifer Ortiz](#); Radio Camoapa. March 17, 2021. [Acosan y persiguen a periodista de canal 10 en mercado capitalino](#); 100% Noticias. March 30, 2021. [Fanático sandinista culpa a periodistas de canal 10 por alza de combustibles y sanciones a PetroniC](#); La Prensa. May 11, 2021. [Turba orteguista agrede y roba celular a fotoreportero Wilmer López en mercado Roberto Huembes](#); Artículo 66. August 4, 2021. [Policía y motorizados sandinistas persiguen a presentadora de televisión Aminta Ramírez](#); Artículo 66. October 29, 2021. [Orteguistas amenazan a Wilmer Benavides, periodista de Artículo 66.](#)

<sup>1054</sup> Artículo 66. April 16, 2021. [Policía orteguista agrede a periodistas que daban cobertura a la UNAB](#); Nicaragua Actual. April 16, 2021. [Policía orteguista agrede a Policía sandinista agrede y ultraja a periodistas en Managua](#); 100% Noticias. April 19, 2021. [Policía lanza orines, agrede a médico y periodistas en protesta de Alianza Cívica](#); La Prensa. April 19, 2021. [Opositores y periodistas estuvieron retenidos por la Policía en sede de la UMN](#); *Despacho 505*. May 5, 2021. [Policía detiene y luego libera a periodista en San Sebastián de Yalí, Jinotega](#); *Despacho 505*. June 2, 2021. [Policía Orteguista reprime a periodistas e impide que registren arresto de Cristiana Chamorro](#); 100% Noticias. June 2, 2021. [Policía agrede a periodistas que cubren captura de Cristiana Chamorro](#); La Prensa. August 20, 2021. [Policía orteguista roba al celular al periodista independiente William Aragón.](#)

<sup>1055</sup> *Confidencial*. February 28, 2021. [Policía catea a periodistas de CONFIDENCIAL y secuestra una libreta de notas](#); Artículo 66. February 28, 2021. [Policía amenaza y agrede en «espionaje ilegal» contra periodistas.](#)

<sup>1056</sup> La Prensa. April 9, 2021. [Policía retiene a equipo de LA PRENSA en cobertura de salida de precandidatos presidenciales en el aeropuerto](#); 100% Noticias. April 9, 2021. [Policía arrebató celular a periodista de La Prensa al cubrir retención de precandidatos presidenciales en aeropuerto.](#)

<sup>1057</sup> *Literal* Nicaragua. April 15, 2021. [Policías agreden al periodista Alberto Miranda de Literal Periodismo Ciudadano](#); Artículo 66. April 15, 2021. [Policía Orteguista amenaza al periodista Alberto Miranda: “Si te veo otra vez en la calle, te voy a turquear”.](#)

<sup>1058</sup> *Despacho 505*. [Policía detiene y luego libera a periodista en San Sebastián de Yalí, Jinotega](#); Nicaragua Actual. May 5, 2021. [Policía sandinista de Yalí detiene ilegalmente a periodista de Canal 10.](#)

<sup>1059</sup> 100% Noticias. June 2, 2021. [Policía agrede a periodistas que cubren captura de Cristiana Chamorro](#); *Fundamedios*. June 2, 2021. [Policía agrede a periodistas durante allanamiento a Cristiana Chamorro.](#)

<sup>1060</sup> Artículo 66. September 29, 2021. [Mauricio Madrigal de Canal 10: «El que no la debe, no la teme».](#)

<sup>1061</sup> *Confidencial*. February 17, 2021. [Orteguismo impone multa económica contra periodista en Nicaragua](#); *SwissInfo*. February 17, 2021. [Luz impone multa de 387 dólares a periodista crítico de Ortega en Nicaragua](#); 100% Noticias. April 8, 2021. [Periodista David Quintana colecta para pagar multa, tras ratificación de sentencia.](#)

journalist Kalúa Salazar in the judicial proceeding for defamation against her after she reported on alleged cases of corruption in the mayor of El Rama. According to the information received, the conviction and sentence to pay a 120-day fine were final.<sup>1062</sup>

642. Additionally, during 2021 the Office of the Special Rapporteur also monitored an increase in actions to block foreign journalists from entering Nicaragua, which were especially intense in the weeks prior to the presidential elections. The Office of the Special Rapporteur learned of alleged impediments to the entry of journalists from the US newspaper *The New York Times* in June; a team from *Televisión Española* in July; and journalists from the French newspaper *Le Monde* and the Honduran newspaper *El Herald* in October.<sup>1063</sup> This Office learned that when the team from *El Herald* was prevented from entering, immigration authorities demanded that they leave Nicaragua "because their presence was not allowed."<sup>1064</sup> On November 3, 2021, a member of the Nicaraguan Army prohibited a team from *Televisión Española* from filming in or toward Nicaraguan territory while they were in El Mojón, a border region between Nicaragua and Costa Rica known for its free trade and movement.<sup>1065</sup> According to the information available, even though the *Televisión Española* team was on Costa Rican territory, the soldiers reportedly told them that it was forbidden to film toward Nicaragua and that they should erase the material recorded. The Office of the Special Rapporteur also learned that on November 6, 2021, a journalist from *The Washington Post* was prevented from boarding a plane fly from Mexico City to Managua, allegedly because she was not authorized by the government to enter the country.<sup>1066</sup>

643. The Office of the Special Rapporteur received with concern multiple reports of restrictions on freedom of the press in the context of election day, including the obstruction of accrediting journalists to cover the election by the Supreme Electoral Council; obstruction of the work of the independent media; prohibiting reporters from approaching polling stations; harassment of the media and journalists; the temporary detention of journalists and the taking of personal and work equipment; being forced to show a speech by the president on national television on election day; electoral advertising transmitted through government channels, violations of the country's electoral laws; and the expulsion from the country of international media seeking to cover the elections, as well as denial of entry.<sup>1067</sup> Also, on November 5, police officers raided the headquarters of the Mercaplan polling company, which had done polling on the electoral climate in Nicaragua in 2021. The officers allegedly seized the company's equipment and its workers, and some of the people employed by Mercaplan were summoned to testify before the Office on Judicial Assistance.<sup>1068</sup>

644. According to the information received, on November 7, 2021, journalist Mileydi Trujillo and journalist Elvin Martinez were detained while covering elections in the city of Masaya and taken to a police station to give statements, where they remained for nearly three hours. As they alleged publicly, the police stripped them of their equipment and interrogated them at length about their reporting work, calling them "promoters of non-

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<sup>1062</sup> Artículo 66. June 28, 2021. [Justicia orteguista rechaza recurso de apelación en favor de la periodista Kalúa Salazar](#); 100% Noticias. March 9, 2021. [Realizan audiencia de apelación del caso de la periodista Kalúa Salazar](#).

<sup>1063</sup> The New York Times. June 17, 2021. [Nicaragua Denies Entry to New York Times Journalist Amid Escalating Crisis](#); Artículo 66. July 3, 2021. [Dictadura de Ortega niega acceso a televisión pública de España a Nicaragua](#); Nicaragua Investiga. October 22, 2021. [Impiden a periodista de "Le Monde" ingresar a Nicaragua](#); Nicaragua Investiga. October 27, 2021. [Ortega expulsa a un equipo periodístico de diario hondureño](#).

<sup>1064</sup> Nicaragua Investiga. October 27, 2021. [Ortega expulsa a un equipo periodístico de diario hondureño](#); La Prensa. October 29, 2021. [Régimen de Ortega le cierra las puertas de Nicaragua a la prensa internacional de cara a las elecciones](#).

<sup>1065</sup> 100% Noticias. November 3, 2021. [Dictadura de Nicaragua niega entrada a periodistas de Televisión Española](#); Artículo 66. November 3, 2021. [Televisión Española denuncia que dictadura orteguista impidió su entrada a Nicaragua](#).

<sup>1066</sup> La Prensa. November 5, 2021. [Régimen prohíbe la entrada a corresponsal del Washington Post que iba a cubrir las elecciones](#); 100% Noticias. November 5, 2021. [Nicaragua prohíbe la entrada a periodista de Washington Post que venía a cubrir las votaciones de este domingo](#).

<sup>1067</sup> IACHR. November 10, 2021. Press Release 300. [IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua](#). Nicaragua Investiga. September 16, 2021. [Pérdidas millonarias a televisoras y radios que se enlazan a discursos de Ortega](#); 100% Noticias. October 19, 2021. [Trabas a periodistas para cubrir votaciones en Nicaragua, ni acreditación ni seguridad](#); Voice of America. October 18, 2021. [Periodistas, sin acreditación y sin garantías de seguridad para las elecciones en Nicaragua](#); Despacho 505. November 1, 2021. [Nicaragua arranca la fase final de un proceso electoral sin acceso a cobertura periodística](#); Twitter account of La Prensa (@laprensa). November 7, 2021; Twitter account of República 18 (@18republica). November 7, 2021; Infobae. [Entre abstencionismo y represión se realizó la jornada electoral en Nicaragua calificada de "farsa" que lleva a Daniel Ortega a reelegirse otra vez](#); Confidencial. November 7, 2021. [#Nicaragua7N | Costa Rica no reconoce votaciones del 7 de noviembre en Nicaragua](#); Despacho 505. November 7, 2021. [Policía orteguista retiene y luego libera a periodistas del medio digital Masaya al Día](#); Twitter account of journalist Marcos Medina Ramos. November 7, 2021.

<sup>1068</sup> Artículo 66. November 12, 2021. [Régimen allana Mercaplan, empresa que encuestaba sobre las elecciones](#); Confidencial. November 12, 2021. [Policía allana encuestadora Mercaplan por preguntar sobre elecciones](#).

voting" among citizens.<sup>1069</sup> Likewise, the NGO Periodistas y Comunicadores Independientes de Nicaragua (PCIN) documented at least 52 attacks on the media from October 25 to November 7.<sup>1070</sup> According to official information, at least 600 journalists were accredited to cover election day,<sup>1071</sup> and according to the president of the Supreme Electoral Council, election day proceeded peacefully.<sup>1072</sup>

645. This Office of the Special Rapporteur reiterates that these types of actions amount to serious attacks on and undue restrictions of the right to freedom of expression, and in some cases constitute acts of censorship. All this affects not only the rights of journalists and media owners to do their work freely, safely, and independently, but also the right of all citizens to have access to as much information and as many ideas as possible.

646. The Office of the Special Rapporteur has been able to observe a significant increase in self-censorship—prompted largely by fear of the application of the Cybercrime Law—and in exile of journalists.<sup>1073</sup> According to information received, at least 22 journalists and media professionals have been exiled to Costa Rica since June 2021.<sup>1074</sup> This Office of the Special Rapporteur particularly highlights the case of journalist Patricia Orozco, who left the country after denouncing the expropriation of the house that the government had provided to her family for 36 years;<sup>1075</sup> and the case of journalist Carlos Chamorro, after the National Police raided his home on June 21, 2021.<sup>1076</sup> Other publicly reported cases include those of journalists and communicators Wilfredo Miranda,<sup>1077</sup> Jennifer Ortiz,<sup>1078</sup> Sergio Ramírez,<sup>1079</sup> Denis Castellon,<sup>1080</sup> Jacksell Herrera,<sup>1081</sup> Octavio Enríquez,<sup>1082</sup> Marisol Ballardes,<sup>1083</sup> Iván Olivares,<sup>1084</sup> David Quintana,<sup>1085</sup> Julio Lopez,<sup>1086</sup> Sergio Marin,<sup>1087</sup> and Leticia Gaitán.<sup>1088</sup>

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<sup>1069</sup> Confidencial. November 7. [#Nicaragua7N | Costa Rica no reconoce votaciones del 7 de noviembre en Nicaragua](#); Artículo 66. November 7, 2021. [Policía del régimen retiene a periodistas Mileydi Trujillo y Elvin Martínez durante cobertura electoral](#)

<sup>1070</sup> Intertextual / Youtube. November 9, 2021. [Press Conference: Presentation of the PCIN Report](#); La Prensa. November 10, 2021. [PCIN reporta ocho desplazamientos forzados de periodistas durante la jornada electoral](#).

<sup>1071</sup> Twitter account of the Supreme Electoral Council of Nicaragua (@cse\_nicaragua). [November 6, 2021](#).

<sup>1072</sup> Sputnik News. November 7, 2021. [Las elecciones en Nicaragua se realizan "de una manera tranquila"](#).

<sup>1073</sup> La Prensa. September of 2021. [Informe de Violaciones a la Libertad de Prensa-Septiembre de 2021](#); Nicaragua Investiga. June 30, 2021. [Periodista Wilfredo Miranda se resguarda por seguridad](#); CPJ. November 2021. [Eight press freedom threats to watch ahead of Nicaragua's presidential elections](#).

<sup>1074</sup> Archive of the Office of the Special Rapporteur. List of Nicaraguan journalists exiled since June 2021.

<sup>1075</sup> Artículo 66. August 24, 2021. [Periodista Patricia Orozco, desde el exilio, denuncia que dictadura de Nicaragua le expropió su casa](#); Confidencial. August 24, 2021. [Régimen desaloja y confisca la casa de la periodista Patricia Orozco](#).

<sup>1076</sup> Confidencial. June 22, 2021. [Carlos F. Chamorro: "El objetivo era capturarme" y "silenciarme"](#); Voice of America. June 22, 2021. [El periodista Carlos Fernando Chamorro sale de Nicaragua](#).

<sup>1077</sup> 100% Noticias. October 31, 2021. [Periodista Wilfredo Miranda se exilia en Costa Rica por persecución de Daniel Ortega](#); El País. October 31, 2021. [Tuve que exiliarme otra vez de Nicaragua | Internacional](#).

<sup>1078</sup> 100% Noticias. October 30, 2021. ["Ortega es un paupérrimo líder en decadencia" dice periodista exiliada](#); Artículo 66. October 30, 2021. ["Ortega es un paupérrimo líder en decadencia", dice periodista nicaragüense Jennifer Ortiz](#).

<sup>1079</sup> Confidencial. October 25, 2021. [Sergio Ramírez: "Se me ha enjuiciado por mostrar la realidad de un país sometido"](#); Deutsche Welle. October 23, 2021. [Escritor nicaragüense Sergio Ramírez se exilia en España](#).

<sup>1080</sup> 100% Noticias. October 22, 2021. ["Locuín", quien hace parodias de Rosario Murillo se exilia tras amenazas de la dictadura](#); Nicaragua Actual. October 22, 2021. [Se exilia Locuín, el joven que ridiculiza a Rosario Murillo](#).

<sup>1081</sup> Artículo 66. August 23, 2021. [El periodista Jacksell Herrera se exilia y solicita asilo político en Estados Unidos](#); Nicaragua Actual. August 23, 2021. [Se exilia periodista de Nicaragua Actual por amenazas de muerte de fanáticos y policías de Ortega](#).

<sup>1082</sup> 100% Noticias. August 20, 2021. [Periodista investigador Octavio Enríquez sale de Nicaragua](#); Artículo 66. August 20, 2021. [Periodista Octavio Enríquez sale de Nicaragua por amenazas de ser encarcelado](#).

<sup>1083</sup> Fundamedios. August 11, 2021. [Marisol Ballardares lucha por ingresar a los Estados Unidos](#); 100% Nicaragua. [Fundamedios: Periodista Marisol Ballardares y su hija huyen de Nicaragua, luchan por ingresar a EEUU](#).

<sup>1084</sup> Despacho 505. August 6, 2021. [Periodista de Confidencial se exilia por segunda vez](#); Artículo 66. August 5, 2021. [Carta abierta al Ministerio Público](#).

<sup>1085</sup> 100% Noticia. July 5, 2021. [Periodista David Quintana oficializa su exilio, por amenazas de sandinistas](#); Nicaragua Actual. July 5, 2021. [David Quintana "La narrativa de odio de Ortega-Murillo, me obliga a pedir refugio en Centroamérica"](#).

<sup>1086</sup> Confidencial. June 25, 2021. [Periodista Julio López, de Onda Local, sale al exilio](#); 100% Noticias. June 24, 2021. [Periodista Julio López de Onda Local se exilia](#).

<sup>1087</sup> 100% Noticia. June 22, 2021. [Periodista Sergio Marin se exilia ante ola de amenazas del régimen](#); Nicaragua Investiga. June 25, 2021. [Otra vez periodistas nicaragüenses parten al exilio por amenazas en su contra](#).

<sup>1088</sup> 100% Noticias. April 13, 2021. [Leticia Gaitán: "había orden de captura para mí, entonces decidí salir de Nicaragua"](#); Latino Reportes. July 12, 2021. [Periodistas nicaragüenses se enfrentan al exilio, amenazas y persecución política indefinida](#).



647. In view of the aforementioned context, upon finding a situation of imminent risk to their rights to life and personal integrity, in 2021 the IACHR granted precautionary measures in favor of journalist Miguel Mora and his son, Miguel Anjo Mendonza Urbina, and his family,<sup>1089</sup> as well as journalists Kalúa Salazar,<sup>1090</sup> Willih Francisco Narváez González,<sup>1091</sup> Alberto José Miranda Herrera,<sup>1092</sup> Georgina Roxana Vargas Clarens,<sup>1093</sup> and Javier Iván Olivares.<sup>1094</sup> Likewise, the IACHR granted precautionary measures in favor of Mariano Valle Peters,<sup>1095</sup> owner of Nicavisión S.A., the company that owns *Canal 12*, and asked the State to refrain from proceeding with its decision to auction or sell the media outlet until the impact this decision would have on Mr. Valle Peters' exercise of freedom of expression has been evaluated. As this office indicated in its 2020 Annual Report, the channel could be closed over liens connected to alleged tax debts.

648. The Office of the Special Rapporteur recalls that the IACHR's Declaration of Principles on Freedom of Expression describes freedom of expression as "an indispensable requirement for the very existence of a democratic society" and hold that "Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression," and that "direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression."

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

649. The Nicaraguan government has pursued an almost total closure of civic space and imposed *de facto* martial law, in which protests and any legitimate expression against the government are not tolerated, and punishments are applied disproportionately and arbitrarily to dissenting voices. In the context of the pandemic, the Office of the Rapporteur has also been concerned about the lack of State transparency, along with the persecution, threatening, and harassment of doctors and entities seeking to provide information on the health crisis. The dearth of information from public sources has also been evidenced in relation to electoral matters. The environment in which civil society organizations do their work is suffocating, with constant threats of canceling organizations' legal status or imposition of abusive requirements for their operation.<sup>1096</sup>

650. The Office of the Special Rapporteur is following with particular concern the course of the investigation against the Fundación Violeta Barrios de Chamorro for alleged money laundering related to the use of international cooperation funds, in application of the Law Against Money Laundering, Terrorism Financing and Financing the Proliferation of Weapons of Mass Destruction. In this context, the Office of the Special Rapporteur followed with concern the house arrest of Cristiana Chamorro, director and founder of the Foundation. The journalist and presidential candidate was arrested on June 3 following accusations of criminal mismanagement, document tampering, and laundering of money, property, and assets.<sup>1097</sup> Likewise, former organization officials Walter Antonio Gómez Silva and Marcos Antonio Fletes Casco and former member of the board of directors Pedro Joaquín Chamorro Barrios were also sent to trial and remained in preventive detention in the framework

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<sup>1089</sup> IACHR. August 11, 2021. Resolution 61/21. [Precautionary measure No. 873/18](#). Miguel de los Ángeles Mora Barberena regarding Nicaragua (Expansion).

<sup>1090</sup> IACHR. Resolution 47/21. [Precautionary Measure No. 366/21](#). Kalua Salazar and his family regarding Nicaragua.

<sup>1091</sup> IACHR. Resolution 52/21. [Precautionary Measures No. 311/21 and 462/21](#). Willih Francisco Narváez González and Alberto José Miranda Herrera regarding Nicaragua.

<sup>1092</sup> IACHR. Resolution 52/21. [Precautionary Measures No. 311/21 and 462/21](#). Willih Francisco Narváez González and Alberto José Miranda Herrera regarding Nicaragua.

<sup>1093</sup> IACHR. Resolution 70/21. [Precautionary Measures No. 1061/20](#). Georgina Roxana Vargas Clarens regarding Nicaragua.

<sup>1094</sup> IACHR. Resolution 31/21. [Precautionary Measures No. 1606/18](#). Javier Iván Olivares regarding Nicaragua (Expansion).

<sup>1095</sup> IACHR. Resolution 3/21. [Precautionary Measures No. 968/20](#). Mariano Valle Peters regarding Nicaragua.

<sup>1096</sup> CNN. July 28, 2021. [La Asamblea Nacional de Nicaragua cancela la personería jurídica a 24 organismos civiles, incluidas asociaciones médicas](#); CNN. 26 de agosto de 2021. [Nicaragua: cancelan personería jurídica a 15 ONG más](#).

<sup>1097</sup> El Observador. June 2, 2021. [Fiscalía ordena el allanamiento y detención de la candidata opositora nicaragüense, Cristiana Chamorro](#); BBC. June 2, 2021. [Cristiana Chamorro: la aspirante presidencial opositora queda bajo arresto domiciliario en Nicaragua después de que se ordenara su detención](#).

of this investigation.<sup>1098</sup> The IACHR granted precautionary measures in favor of these individuals<sup>1099</sup> and asked the Inter-American Court for provisional measures for their protection, which were granted on November 4.<sup>1100</sup>

651. Likewise, on June 20, 2021, journalist and presidential candidate Miguel Mora—the owner and former director of the TV channel *100% Noticias*—was arrested, accused of “inciting foreign interference in domestic affairs and requesting military interventions,” based on Law 1055 on the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace.<sup>1101</sup> According to the information reported to the Office of the Special Rapporteur, just like reporter Miguel Mendoza and other political figures of the opposition, Miguel Mora is in the El Chipote prison, in Managua, undergoing a judicial process with no due process guarantees.<sup>1102</sup> His family members have said they are concerned for his health and safety. On October 22, 2021, a court order extended indefinitely Miguel Mora’s preventative detention, according to information from a public source.<sup>1103</sup>

652. The Office of the Special Rapporteur also noted with concern the detention of journalist, political commentator and presidential candidate Jaime Arellano Arana on July 24, 2021, who was placed under house arrest based on the same law and held incommunicado.<sup>1104</sup>

653. The persecution of all discourse that questions or criticizes official voices has also been aimed at young people who actively participate in public life through their social networks. On February 22, 2021, the IACHR granted precautionary measures in favor of Kevin Adrián Monzón Mora and his nuclear family upon concluding that, as a result of his posts on social network TikTok, he was exposed to threats, harassment, intimidation, and acts of violence in Nicaragua.<sup>1105</sup> Kevin Monzón is known for posting anti-corruption messages and reporting about human rights violations and had already been detained on previous occasions, between August 2019 and December 2020. Despite the existence of the precautionary measures granted by the IACHR, the Office of the Special Rapporteur learned that acts of harassment and violence against him continued. Among the various incidents reported<sup>1106</sup>—which include the expulsion of him and his family from public places<sup>1107</sup>—the Office of the Special Rapporteur particularly highlights the alleged attacks on him by the police on July 20, 2021, and the search of his residence.<sup>1108</sup> According to Kevin Monzón, at that time, the officers threatened to shoot him if he ran.

654. The IACHR, its Office of the Special Rapporteur for Freedom of Expression, and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and the Dominican Republic

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<sup>1098</sup> Onda Local. May 29, 2021. [Extrabajadores de la Fundación Violeta Barrios investigados bajo prisión](#); Deutsche Welle (DW). September 3, 2021. [Justicia de Nicaragua envía a juicio a opositora](#).

<sup>1099</sup> IACHR, Resolution 49/21. [Precautionary measure No. 480/21](#). Cristiana María Chamorro Barrios *et al.* regarding Nicaragua; IACHR, Resolution 58/21. [Precautionary measure No. 480/21](#). Pedro Salvador Vásquez (Expansion) regarding Nicaragua.

<sup>1100</sup> Inter-American Court. November 4, 2021. [Juan Sebastián Chamorro and Others regarding Nicaragua](#). Expansion of provisional measures

<sup>1101</sup> France 24. June 21, 2021. [Detenido Miguel Mora, el quinto precandidato a la Presidencia de Nicaragua](#); Deutsche Welle (DW). June 21, 2021. [Detenido quinto precandidato presidencial en Nicaragua](#).

<sup>1102</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. August 18, 2021. Press Release 216. [The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua](#).

<sup>1103</sup> 100% Noticias. October 22, 2021. [Juez interrumpe de forma indefinida plazo máximo de duración del proceso de Miguel Mora](#).

<sup>1104</sup> BBC. July 25, 2021. [Arrestan al séptimo precandidato presidencial en Nicaragua antes de las elecciones](#); IACHR. October 12, 2021. Resolution 82/21. [Precautionary Measure No. 206/20](#), Jaime José Arellano Arana regarding Nicaragua.

<sup>1105</sup> IACHR, Resolution 16/21. [Precautionary Measure No. 907/20](#). Kevin Adrián Monzón Mora and his nuclear family regarding Nicaragua.

<sup>1106</sup> Nicaragua Actual. [Tiktoker opositor, Kevin Monzón, denuncia nuevo allanamiento policial en su vivienda](#); Artículo 66. September 22, 2021. [Policía allana casa del «tiktoker» Kevin Monzón, golpean a sus familiares e intentan detenerlo](#); Despacho 505. June 13, 2021. [Tiktoker crítico de Ortega y Murillo denuncia asedio de paramilitares y policías](#); La Prensa. April 21, 2021. [Asedio de policías y fanáticos del régimen causan despido del tiktoker Kevin Monzón](#).

<sup>1107</sup> 100% Noticias. April 4, 2021. [Policía desaloja de balneario a tiktoker Kevin Monzón opositor a régimen de Daniel Ortega](#); Artículo 66. April 4, 2021. [Policía expulsa al «tiktoker» Kevin Monzón de un balneario en Rivas «por ser golpista y terrorista»](#).

<sup>1108</sup> Despacho 505. July 21, 2021. [El tiktoker Kevin Monzón no está dispuesto a callar ni a huir por las amenazas del régimen](#); Despacho 505. July 20, 2021. [Policía orteguista allana la casa del “tiktoker” Kevin Monzón, crítico de la dictadura](#); 100% Noticias. July 20, 2021. [Colectivo de Derechos Humanos Nicaragua denuncia agresión policial contra el tiktoker Kevin Monzón](#); Artículo 66. July 20, 2021. [Cenidh condena intento de secuestro contra el «tiktoker» Kevin Monzón](#); Artículo 66. July 20, 2021. [Policía orteguista intenta secuestrar al «tiktoker» Kevin Monzón](#); La Prensa. July 20, 2021. [Policía intenta arrestar por cuarta vez al joven opositor Kevin Monzón, pero su padre salió en su defensa](#).



(OHCHR) strongly condemned Nicaraguan authorities' repeated acts of persecution against legitimate expression and urged the government to halt all actions affecting the rights of these persons.<sup>1109</sup>

655. Harassment, censorship, stigmatization and persecution, arrests and arbitrary legal proceedings against the media, journalists, and civil society organizations that defend human rights and freedom of the press are incompatible with the protection of freedom of expression and they generate a general climate of fear and self-censorship. They are particularly serious in the context of an electoral process and incompatible with democracy and with international human rights obligations.

656. As indicated in the 2020 Annual Report of this Office, in 2021 the Nicaraguan National Assembly, largely controlled by members of the ruling party, continued to pass laws that legitimize abusive practices and impose severe restrictions on freedom of expression, assembly, and association. On January 18, 2021, it passed an amendment to article 37 of the Political Constitution, imposing life imprisonment as a punishment for "hate crimes."<sup>1110</sup> Likewise, following passage of the Foreign Agents Regulation Act in 2020 and the successive ministerial regulations adopted for its implementation,<sup>1111</sup> the Office of the Special Rapporteur learned that in February 2021, the Fundación Violeta Chamorro and PEN Nicaragua announced that they were suspending their activities indefinitely due to the excessive conditions and obligations imposed by these regulations.<sup>1112</sup> Likewise, the Comisión Permanente por los Derechos Humanos announced that despite its best efforts to abide by the law, the authorities had raised numerous regulatory obstacles and did not certify their compliance, preventing the entity from being registered.<sup>1113</sup> The Office of the Special Rapporteur has stressed that the Foreign Agents Act is contrary to inter-American standards and an abusive instrument used to destroy the fabric of society, including independent media and civil society organizations.<sup>1114</sup>

657. In its report "Nicaragua: Concentration of Power and Weakened Rule of Law in Nicaragua," the IACHR underscored starting in 2018, a series of repressive measures and actions have been imposed in Nicaragua to restrict the exercise of the right to peaceful assembly and to harass and criminalize people opposed to the government.<sup>1115</sup> On May 4, a reform to the Electoral Law was passed that, among other things, allowed for the National Civil Police and the Supreme Electoral Council to coordinate with the corresponding facilities on measures to prevent non-party movements from taking part in the electoral campaign.<sup>1116</sup> In this context, the Office of the Special Rapporteur also received information on a number of actions by State agents to dismantle protests that included the excessive use of security forces.<sup>1117</sup>

658. Additionally, the Office of the Special Rapporteur has also observed with concern the repression of medical personnel who provide information on the course of the pandemic in Nicaragua.<sup>1118</sup> According to reports, the Ministry of Health fired Dr. Pablo Moreno Padilla from the Manollo Morales Hospital, supposedly

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<sup>1109</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 18, 2021. Press Release 216. [The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua](#).

<sup>1110</sup> CNN. January 18, 2021. [Asamblea Nacional de Nicaragua ratifica reforma constitucional que establece prisión perpetua por "crímenes de odio"](#); Swissinfo. January 19, 2021. [Entra en vigor la cadena perpetua en Nicaragua en medio de críticas](#).

<sup>1111</sup> IACHR. February 26, 2021. Press Release No. 043/21. [IACHR Rejects Nicaragua's Foreign Agents Act and Calls on the State to Repeal It](#).

<sup>1112</sup> Associated Press. February 5, 2021. [Fundación Violeta Chamorro cierra en Nicaragua debido a ley](#); Confidential. February 4, 2021. [Carta abierta sobre la decisión de suspender de forma indefinida PEN Nicaragua](#).

<sup>1113</sup> Despacho 505. [CPDH apela contra "bloqueo" a su inscripción como agente extranjero y Gobernación la rechaza](#); IACHR. February 26, 2021. Press Release No. 43/21. [IACHR Rejects Nicaragua's Foreign Agents Act and Calls on the State to Repeal It](#).

<sup>1114</sup> Twitter account of the Office of the Special Rapporteur for Freedom of Expression (@RELE\_CIDH). [February 5, 2021](#).

<sup>1115</sup> IACHR. October 25, 2021. [Nicaragua: Concentration of Power and Weakened Rule of Law in Nicaragua](#). OEA/SER.L/V/II. Doc. 288. Par. 146.

<sup>1116</sup> Republic of Nicaragua. [Act to Reform and Amend Law No. 331, Electoral Law](#). *La Gaceta*, Official Gazette No. 81, May 05, 2021.

<sup>1117</sup> Yahoo! News. May 28, 2021. [La Policía de Nicaragua disuelve una protesta de políticos opositores](#); Confidential. May 28, 2021. [Policía golpea a miembros de la UNAB que intentaban protestar](#); Nicaragua Actual. May 11, 2021. [Policía Sandinista agrede a jóvenes que protestaban frente a sede de CxL](#); Nicaragua Investiga. April 28, 2021. [Estudiantes son perseguidos tras realizar protesta en la UCA](#); Despacho 505. April 22, 2021. [Al menos 12 opositores detenidos por protestar contra Ortega en la última semana](#); 100% Noticias. April 19, 2021. [Policía lanza orines, agrede a médico y periodistas en protesta de Alianza Cívica](#); La Prensa. April 16, 2021. [Policía impide protesta que realizaban miembros de la UNAB en conmemoración al tercer año de la lucha cívica](#); 100% Noticias. March 25, 2021. [Policía neutraliza intento de protesta de taxistas por alza de combustibles, advierten que quitarán placas](#); La Prensa. March 25, 2021. [Esto cuesta el cotidiano despliegue policial "antiprotestas" en Managua](#).

<sup>1118</sup> IACHR. Office of the Special Rapporteur on Economic, Social, and Cultural Rights July 28, 2021. Press Release 197/21. [IACHR and the OSRESCER Urge Nicaragua to Immediately Cease Harassment of the Medical Sector](#).

over his criticism of the government regarding its handling of the pandemic.<sup>1119</sup> Likewise, the president of Unidad Médica Nicaragüense, José Antonio Vásquez, was summoned for a meeting on July 28, 2021 before the Office of Sanitary Regulation of the Ministry of Health at which they warned him that he could be in violation of the Cybercrime Act if he continued to address the government's managing of the pandemic, since the Ministry of Health was the only entity authorized to provide such information and assessments.<sup>1120</sup> On June 23, 2021, the Unidad Médica Nicaragüense announced that it would close its operations in the country's capital due to the persistent acts of political harassment targeting it.<sup>1121</sup> Pulmonologist Dr. Jorge Miranda was threatened by Ministry of Health personnel with suspension of his license and prosecution under the Cybercrime Act for his statements to the media about the government's management of the health crisis.<sup>1122</sup> In this context, the Office of the Special Rapporteur was informed of the cancellation of the legal status of at least 20 medical associations for alleged non-compliance with the legislation on non-profits.<sup>1123</sup>

659. The Office of the Rapporteur notes with concern the lack of active transparency on the part of the Nicaraguan government in the context of the pandemic.<sup>1124</sup> According to publicly available information, May 2021 marked one year since the Ministry of Health suspended the online publication of the epidemiological bulletin.<sup>1125</sup> Likewise, the Office of the Special Rapporteur received reports on various obstacles to accessing information related to electoral matters: As of at least October 2021, no information had been made available regarding the acquisition of electoral material or the printing of electoral ballots.<sup>1126</sup>

660. The Office of the Special Rapporteur also received reports of threats to academic freedom in Nicaragua. According to a report produced by a number of civil society organizations and published in March 2021, at least 108 teachers and administrative professionals, as well as 147 university students have been dismissed or expelled since 2018 as a result of their political opinions.<sup>1127</sup> On May 13, 2021, teacher María Magdalena Munduía Jiménez was fired from her position at the Madre Teresa de Calcuta school in El Rosario, Carazo, after she encouraged a discussion about migration and gender during a class.<sup>1128</sup> Likewise, five students were expelled from the National Universidad Nacional Autónoma de Nicaragua (UNAN-León) for allegedly having carried out actions that threatened the peace and stability of the university community.<sup>1129</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

661. The Office of the Special Rapporteur received information on alleged attempts to restrict public demonstrations on International Women's Day. On March 8, members of the National Police stood guard at the residences of opposition women to prevent them from leaving and participating in the demonstrations, indicating that they "did not have authorization" to do so.<sup>1130</sup> Likewise, the Office of the Rapporteur learned of various difficulties facing community radio stations in the current context in Nicaragua. According to the information received, some stations have stopped operating due to the lack of conditions and guarantees to

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<sup>1119</sup> Confidencial. January 13, 2021. [Dr. Pablo Moreno, despedido por "no ser de los afines o silenciados" del régimen orteguista](#); Despacho 505. January 13, 2021. [Médico del Manolo Morales es despedido por no ser de los "afines o silenciados" de la dictadura](#).

<sup>1120</sup> Artículo 66. July 28, 2021. [Presidente de la Unidad Médica Nicaragüense, amenazado con la Ley de Ciberdelitos](#); Confidencial. [Allanan asociación médica tras cancelar 24 personerías en Nicaragua](#).

<sup>1121</sup> Confidencial. June 23, 2021. [Unidad Médica Nicaragüense anuncia cierre de sus oficinas ante asedio](#). Swissinfo. June 23, 2021. [La Unidad Médica Nicaragüense cierra sus oficinas por "agresión del Gobierno"](#).

<sup>1122</sup> Nicaragua Investiga. July 26, 2021. [Amenazan a médico con suspensión de su licencia](#); Deutsche Welle. July 23, 2021. [Nicaragua: amenazan con aplicar ley a médicos críticos](#).

<sup>1123</sup> Swissinfo. July 28. [Nicaragua cancela personalidad jurídica a 24 ONG, la mayoría médicas](#); CNN. July 28, 2021. [La Asamblea Nacional de Nicaragua cancela la personería jurídica a 24 organismos civiles, incluidas asociaciones médicas](#).

<sup>1124</sup> Confidencial. [OPS: Nicaragua es el único país en Centroamérica sin reportar datos sobre variantes](#); Swissinfo. May 17, 2021. [Seis fuentes de incertidumbre sobre la covid-19 en Nicaragua](#).

<sup>1125</sup> Confidencial. May 29, 2021. [Ministry of Health marks one year without publishing the epidemiological bulletin](#); Republic of Nicaragua, Ministry of Health. July 20-27, 2021. [Epidemiological Bulletin No. 29](#).

<sup>1126</sup> Despacho 505. October 1, 2021. [CSE no informa sobre la impresión de las boletas electorales](#); Confidencial. October 19, 2021. [CSE mantiene en secreto adquisición de material electoral e impresión de boletas](#).

<sup>1127</sup> SOS Nicaragua. March 25, 2021. [Libro blanco: las evidencias de un Estado totalitario: Violaciones de los derechos humanos en Universidades Públicas de Nicaragua](#).

<sup>1128</sup> 100% Noticias. May 13, 2021. [Ministerio de Educación despide a profesora de El Rosario, Carazo por razones políticas](#); Nicaragua Actual. May 13, 2021. [Mined despide por órdenes políticas a profesora en El Rosario Carazo](#).

<sup>1129</sup> 100% Noticias. July 2, 2021. [UNAN-León expulsa a cinco estudiantes de derecho por "atentar" contra la "paz y estabilidad"](#); Despacho 505. July 1, 2021. [El delito de "atentar contra la paz" llega a las universidades públicas de Nicaragua en año electoral](#).

<sup>1130</sup> Despacho 505. March 8, 2021. [Régimen receta "casa por cárcel" a las mujeres en Nicaragua este 8 de marzo](#); Swissinfo. March 8, 2021. [Jóvenes realizan marcha "clandestina" en Nicaragua por Día de la Mujer](#).

exercise independent journalism, and due to a lack of support from advertisers, given the general fear among them of retaliation.<sup>1131</sup>

#### **D. Freedom of Expression and the Internet**

662. In 2021, the Office of the Special Rapporteur monitored a variety of reports of harassment and threats over social media against voices critical of the government, in some cases through false accounts involving State agents.<sup>1132</sup> In this context, Facebook announced that in October, it had removed more than a thousand accounts from its social network that, it indicated, had ties to the Nicaraguan government and the ruling Sandinista National Liberation Front party and that were intended to change public opinion, publishing positive content about the government and negative comments about the opposition.<sup>1133</sup> According to Facebook's report, this is one of the most comprehensive trolling operations they have managed to dismantle to date. It had been in operation since April 2018 and involved multiple State entities, including the Nicaraguan Institute of Telecommunications and Mail (TELCOR), which operated out of the headquarters of the postal service in Managua. Other smaller groups managed by other institutions were also involved, such as the Supreme Court of Justice and the Nicaraguan Institute of Social Security. This network is an example of a "troll farm," according to the company in its October 2021 report on inauthentic behavior; and, in addition to being intergovernmental, the campaign was multi-platform, executed over Facebook, TikTok, Instagram, Twitter, YouTube, Blogspot, and Telegram, among other networks.<sup>1134</sup>

663. As of March 31, this Office had learned of the suspension of at least 10 Twitter accounts known to support the government, a decision based on the alleged violation of the company's community rules. According to the information received, the platform's decision was linked to a hashtag campaign that several accounts of government supporters had promoted in the days prior and that was indicative of spam—that is, artificially amplifying or suppressing information.<sup>1135</sup>

664. This Office has continued to monitor the disproportionate application of the Special Cybercrime Law, as previously mentioned in this report. Likewise, the Rapporteurship also noted with concern the information security cooperation agreement signed by the governments of Nicaragua and Russia on July 19, 2021, and subsequently approved by the Nicaraguan National Assembly on September 7, that could intensify restrictions on the civic digital space and the criminalization of journalists and civil society organizations, according to the reports received.<sup>1136</sup> The document indicates that information and communication technologies can represent threats to States when used to undermine sovereignty, security, and territorial integrity, or to disturb public order, interfere in affairs for terrorist purposes, among other purposes, for which it establishes areas of collaboration between the States and their different bodies.<sup>1137</sup>

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<sup>1131</sup> 100% Noticias. May 3, 2021. [Apagón informativo en Nicaragua impuesto por Daniel Ortega contra la libertad de expresión](#); Nicaragua Investiga. October 4, 2021. [Solo seis medios independientes quedan en Bluefields](#); Twitter account of Voces del Sur (@VDSorg). [November 7, 2021](#).

<sup>1132</sup> Confidencial. March 17, 2021. [Troles, cuentas falsas y bots maliciosos: las plagas del debate público en las redes](#).

<sup>1133</sup> Reuters. November 1, 2021. [Facebook says it removed troll farm run by Nicaraguan government](#); Deutsche Welle (DW). November 1, 2021. [Facebook elimina red de perfiles falsos operada por el Gobierno de Nicaragua](#).

<sup>1134</sup> Meta. October 2021. [October 2021 Coordinated Inauthentic Behavior Report](#).

<sup>1135</sup> Confidencial. March 31, 2021. [Twitter suspende más de 10 cuentas afines a FSLN en un solo día](#); Artículo 66. March 31, 2021. [Twitter suspende cuentas sandinistas que llenaban de información «basura» la red social](#).

<sup>1136</sup> Republic of Nicaragua. September 8, 2021. [National Assembly Decree N° 8768](#); La Gaceta, Official Gazette No. 169; Nicaragua Investiga. July 29, 2021. [Nicaragua y Rusia firman convenio de seguridad informática y se pronuncian contra sanciones](#); Artículo 66. July 21, 2021. [Rusia y Nicaragua "combatirán" la propagación de supuestas "noticias falsas" en contra de la dictadura](#).

<sup>1137</sup> Republic of Nicaragua. September 8, 2021. [National Assembly Decree N° 8768](#). La Gaceta, Official Gazette No. 169.

## **PANAMA**

665. Although the Office of the Special Rapporteur notes that the right to freedom of expression is largely guaranteed in Panama, in 2021 the Office received reports of threats, obstruction of journalistic work, and activation of judicial mechanisms against journalists. Likewise, it documented a number of stigmatizing remarks against the media by public leaders. The Office of the Special Rapporteur also received information on alleged limitations on the right to protest and to reporting in the context of protests. The entry into force of the new Protection of Personal Data Act and its regulations represents an important instrument for the protection of privacy and freedom of expression in the digital sphere; however, the Office of the Special Rapporteur considers it important for the State to continue to carefully monitor its application so that it does not become an instrument used to restrict access to information in the public interest, especially in view of the complaints from civil society organizations about an alleged lack of transparency during the COVID-19 pandemic.

### **A. Journalism and Democracy**

666. During the course of 2021, the Office of the Special Rapporteur received reports of several attacks on and incidents of intimidation against journalists for the exercise of their profession, especially against those who investigate and report on issues in the public interest, like corruption. This Office observed with concern statements made by government authorities and actions that obstructed journalism work, which violated the rights of those who contribute to public deliberation and facilitate access to information, such as journalists, the media, and human rights defender organizations. The Office of the Special Rapporteur also took note of multiple reports of delays and/or a lack of response to requests made to public institutions to access information on the management of the COVID-19 pandemic and other matters of public interest. The Office of the Special Rapporteur was also informed of lawsuits filed against journalists who report on issues of public relevance; and received information about alleged bias in the allocation of government advertising.

667. The Office of the Special Rapporteur received information about alleged anonymous threats against the journalist Flor Mizrachi Ángel after she reported on supposedly illicit vaccinations in the interior of the

country, in the context of the COVID-19 vaccination campaign. The National Journalism Council condemned this type of attack, noting that its aim is “self-censorship by the media and journalists regarding the increasing incidence of illicit facts that have been the subject of news reports by the journalist.”<sup>1138</sup> The International Federation of Journalists also condemned the intimidation.<sup>1139</sup>

668. The Office of the Special Rapporteur also notes with concern the complaints made on October 13 by journalist Castalia Pascual, of *TVN Channel 2*, indicating that a former president had threatened her and told her not to investigate his children, who are currently imprisoned in Guatemala and awaiting extradition.<sup>1140</sup>

669. At the same time, in March 2021, the National Association of Journalists (CONAPE) in Panama took to its Twitter account to allege police officers had attacked journalists Alexis Garcés and Linda Bran, shooting them with rubber bullets as they covered protests at the Latin American and Caribbean Parliament (Parlatino). According to CONAPE, the reporters were visibly identified as members of the press.<sup>1141</sup>

670. Likewise, according to the information received by the Office of the Special Rapporteur, a deputy called journalists Atenógenes Rodríguez and Flor Mizrachi Ángel liars and “puppets of the economic powers,” describing their work derisively using a play on words for freedom of expression (“*libertinaje de expresión*”).<sup>1142</sup> In this context, on March 19, 2021, when interviewed on *Telemetro Reporta*, journalist Mary Triny Zea, from *La Prensa*, gave her personal account of the stigmatization and harassment campaigns on social media targeting her when she was investigating cases of corruption.<sup>1143</sup>

671. According to the information available, on April 28, 2021, Ronier Ortiz, former president Ricardo Martinelli's lawyer, responded to the coverage of the former president by online news site *Foco* as follows: “...I want you to know, we are going to attack you. So don't start crying, because you are a bunch of crybabies, both you and the people who pay you. You're cowards and crybabies. Then you talk about freedom of expression. That's not freedom of expression. That is why, Fernando [Correa], you see in Mexico, the list of those journalists who like to stick their noses in things that do not concern them, how it is growing every day, how they are murdered, because at the end of the day, there are people who don't tolerate it...”<sup>1144</sup> The National Journalism Council, the Forum of Journalists of Panama and the Panamanian Broadcasting Association called his statements “inappropriate” and “intolerable.” They also said his statement “justifies the murder” of journalists and “represents a not-so-hidden threat” against local journalists and the exercise of freedom of expression and information in Panama.<sup>1145</sup>

672. According to Principle 9 of the Declaration of Principles on Freedom of Expression, intimidation of and/or threats to social communicators violate the fundamental rights of individuals and strongly restrict freedom of expression. The protection of freedom of expression requires authorities to ensure the necessary conditions for journalists to be able to freely and safely cover events of interest to the public. In this regard, the Office of the Special Rapporteur has also indicated that public leaders or people who exercise public functions are called upon to maintain a discourse favorable to freedom of expression, ensuring that their statements do no harm to the rights of those who contribute to the public discourse, including journalists, the media, and human rights defenders, and they must pay attention to the context in which they express themselves. According to the Inter-American Court of Human Rights, such stigmatizing statements from public officials may constitute an indirect restriction on the right to freedom of expression.<sup>1146</sup>

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<sup>1138</sup> La Estrella. June 14, 2021. [Consejo Nacional de Periodismo condena amenazas dirigidas contra la periodista Flor Mizrachi Ángel](#); Fórum de Periodistas. June 7, 2021. [Press release](#).

<sup>1139</sup> IFJ. June 18, 2021. [Panamá: la periodista Flor Mizrachi recibió amenazas luego de una investigación](#).

<sup>1140</sup> Inter-American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Panama](#); La Prensa. October 12, 2021. [Castalia Pascual cuenta por qué Martinelli le pidió perdón: 'el ciudadano tiene que entender la gravedad de esto](#).

<sup>1141</sup> Twitter account of the National Association of Journalists (@conape\_panama). [March 17, 2021](#).

<sup>1142</sup> Zulay Rodríguez Lu's YouTube account. [March 15, 2021](#) and [August 4, 2021](#).

<sup>1143</sup> Telemetro Reporta Twitter account (@TRreporta). [March 19, 2021](#).

<sup>1144</sup> La Estrella. May 01, 2021. [Gremios de periodistas rechazan declaraciones de Ronier Ortiz, abogado de Martinelli](#).

<sup>1145</sup> La Estrella. May 01, 2021. [Gremios de periodistas rechazan declaraciones de Ronier Ortiz, abogado de Martinelli](#); La Prensa. May 2, 2021. [Condenan amenazas contra comunicadores](#).

<sup>1146</sup> Inter-American Court. *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194. Para. 139.



673. The Office of the Special Rapporteur has also received information alleging obstruction of the work the media does to obtain information of relevance to the public. Regarding management of the COVID-19 pandemic and the decisions on reactivating the economy, on February 12, 2021, the newspaper *Panamá América* indicated in an article on the procurement of COVID-19 vaccines that the Ministry of Health was reportedly “keeping quiet” about the purchase of refrigerators to store the vaccines.<sup>1147</sup> At the same time, the Rapporteurship has received reports indicating that journalists are being limited in the questions they can ask at presidential press conferences.<sup>1148</sup>

674. On March 22, 2021, journalist Einar Valdés López posted on his Twitter account that the Office of the Attorney General of the Republic had prevented the media from entering its facilities.<sup>1149</sup> On October 7, 2021, the General Director of the Institute for the Training and Engagement of Human Resources (IFARHU) denied the media outlet *La Prensa*'s request for information to access the list of people who received aid and scholarships and the amounts, submitted under the Transparency Act. According to the information reported, in one of *La Prensa*'s attempts to make contact with the organization, an official presumably working as a security guard at the General Directorate told them that the person in charge of responding to the request was “very busy, and that he would not return calls.” According to what this Office was able to ascertain, before the deadline for responding to the request for information expired, the general director of IFARHU sent a note indicating that “the lists of students benefiting from educational aid are published and available to the public.” However, as pointed out by the media, the official did not indicate where to find the “quarterly files” containing the lists in question, and he refused to provide information on the financial aid amounts.<sup>1150</sup>

675. Government transparency and accountability strengthen democratic systems. The Office of the Special Rapporteur recalls that Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

676. Additionally, the Inter-American Press Association (IAPA) denounced the increased use of legal actions against the media and journalists as a mechanism of intimidation and threats. The report refers to the complaints and lawsuits that former President Ricardo Martinelli filed against *La Prensa*.<sup>1151</sup>

677. The Office of the Special Rapporteur recalls that both the Commission and the Inter-American Court have held that the application of criminal law to limit speech on matters of public interest is incompatible with the American Convention on Human Rights. Expressions of this type enjoys enhanced protection in the inter-American legal framework due to their importance for the exercise of human rights and for the consolidation and functioning of democratic societies. When it comes to specially protected speech, the Commission has found that even stricter criteria must be followed to verify the validity of the limitations imposed on such speech.

678. Among other facts documented by the Office, after the International Consortium of Investigative Journalists (ICIJ) announced the imminent publication of its “Pandora Papers” or “Panama Papers” investigation, the Panamanian government sent the team a letter offering to open “a dialogue to provide critical facts” in the understanding that it should be “taken into account that prior media coverage by the ICIJ used a false and defamatory term—that is, the Panama Papers, which caused a great deal of harm to Panama.” According to the statements provided, the proposal to open a dialogue was not intended to prevent the ICIJ from investigating and publishing on issues of broad public relevance, but rather to ensure the information collected was accurate.<sup>1152</sup> The ICIJ has described the Pandora Papers as “the most expansive leak of tax haven

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<sup>1147</sup> Panamá América. January 12, 2021. [Ministerio de Salud guarda silencio sobre compra de neveras para almacenar vacunas contra la covid-19.](#)

<sup>1148</sup> Twitter account of Einar A Valdes Lopez (@einarvaldes). [July 1, 2021](#); Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by civil society. August 5, 2021.

<sup>1149</sup> Twitter account of Einar A Valdes Lopez (@einarvaldes). [March 22, 2021.](#)

<sup>1150</sup> La Prensa. October 7, 2021. [Ifarhu se niega a dar información de carácter pública.](#)

<sup>1151</sup> Inter-American Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [Panama.](#)

<sup>1152</sup> La Estrella. October 3, 2021. [Panamá plantea diálogo al ICIJ para evitar que manchen su nombre](#); Deutsche Welle (DW). October 3, 2021. [Panamá pide “proporcionar hechos” ante publicación de “Pandora Papers”.](#)



files in history,” the investigation of which “reveals the secret deals and hidden assets of more than 330 politicians and high-level public officials in more than 90 countries and territories, including 35 country leaders. Ambassadors, mayors and ministers, presidential advisers, generals and a central bank governor appear in the files.”<sup>1153</sup>

679. The Office of the Special Rapporteur has also been informed of various labor-related challenges faced by Panamanian media. On July 7, 2021, the National Association of Journalists of Panama issued a public statement about the situation faced by journalists from *Radio Panama*, who, in the midst of the economic crisis due to the COVID-19 pandemic, were fired from their jobs. The statement condemns the termination of their employment contracts and points out that this type of dismissal weakens the system of checks and balances between the rulers and the ruled that is made possible through the exercise of journalism.<sup>1154</sup>

680. Lastly, the Office of the Special Rapporteur notes the worrying results of the investigation published by digital newspaper *Foco*, analyzing data on government advertisement placement. The report raises questions about the criteria for allocating advertising to the benefit of some media outlets.<sup>1155</sup> This Office reiterates that “advertising funds must be allocated according to pre-established criteria that are clear, transparent, and objective. Government advertising must never be allocated by the States as a reward or punishment for the editorial and reporting content of the media.”<sup>1156</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

681. In the context of the social protests documented in Panama during 2021, the Office of the Special Rapporteur received information indicating possible violations of the exercise of the right to peaceful assembly against people who were demonstrating in front of the offices of the National Secretariat for Children, Adolescents and the Family (SENNAF) following public allegations of abuses committed against minors in State shelters.<sup>1157</sup> In this context, there were reports of alleged arbitrary detentions of demonstrators and attacks on journalists covering the events, perpetrated by members of the police. Likewise, the Office of the Special Rapporteur learned of several legislative and governmental initiatives that could impact and/or influence issues related to active transparency and accountability by State government authorities.<sup>1158</sup>

682. On February 19, 2021, in the midst of protests outside the National Secretariat for Children, Adolescents and Family (SENNAF) against alleged abuse of minors in State shelters, the Office of the Special Rapporteur was informed of a number of attacks on and detentions of demonstrators and journalists. According to publicly available information, the National Police arrested several demonstrators for disturbing public order.<sup>1159</sup>

683. Social protest, which includes the rights to peaceful, unarmed assembly, association, and freedom of expression, is a fundamental tool for the defense of democracy and human rights. The State therefore has a duty to guarantee its exercise. In its report on Protest and Human Rights, the IACHR noted that criminalization of social protest has an intimidating effect on society as a whole, as it can prevent or inhibit this type of expression. Additionally, the IACHR and the Inter-American Court have found that the use of force is a last resort that, limited qualitatively and quantitatively, is intended to prevent incidents of greater gravity than what would be caused by the State’s reaction. Within this framework of exceptionality, for the use of force to be justified, it must effectively satisfy the principles of legality, absolute necessity, and proportionality. Likewise, States must especially bear in mind that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can do their work freely and keep society informed on matters significantly in the public interest.

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<sup>1153</sup> ICJ. October 3, 2021. [About the Pandora Papers](#).

<sup>1154</sup> Twitter account of the National Association of Journalists (@conape\_panama). [July 7, 2021](#).

<sup>1155</sup> Foco Panamá. April 6, 2021. [Periódicos relacionados al PRD, los que más pautas estatal reciben](#).

<sup>1156</sup> Office of the Special Rapporteur for Freedom of Expression. [Principles on the Regulation of Government Advertising in the Inter-American System for the Protection of Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 6/12 March 7, 2011. Para. 46.

<sup>1157</sup> *La Noticia*. February 27, 2021. [Protestas por abuso a menores en albergues en Panamá para exigir acciones](#).

<sup>1158</sup> SwissInfo. October 18, 2021. [TI rechaza reforma electoral de Panamá que reduce la transparencia y justicia](#). EFE. October 18, 2021. [El Tribunal Electoral de Panamá rechaza las reformas electorales y pedirá que se veten](#).

<sup>1159</sup> La Prensa. February 20, 2021. [Tras protestas afuera de la Senniaf retienen a tres personas: fueron enviados a una Casa de Justicia](#).

684. Additionally, on September 23 and 24, 2021, demonstrations took place in front of the Parliament of Panama, protesting some changes made by deputies to an electoral reform bill. According to the local media, the marches took place peacefully. According to some political actors, the changes represented a setback for the electoral code and democratic institutions, since provisions on organizing elections, campaign finance, equal participation of women, and freedom of expression were eliminated.<sup>1160</sup> Regarding these changes, the Office of the Special Rapporteur observes with concern the statements issued by some civil organizations and the National Commission for Electoral Reforms (CNRE) indicating that a reform process is being carried forth without due disclosure, transparency, and inclusion.<sup>1161</sup>

685. The Office of the Special Rapporteur also took note of the approval of Resolution 71 by the Ministry of the Presidency of Panama on August 21, under which the minutes, notes, files, and records of the discussions or activities in which the Cabinet Council of the president or vice president takes part (except for contract approvals) are classified as restricted for a period of 10 years.<sup>1162</sup> The Office of the Rapporteur recalls that any classification of information as secret, reserved, or confidential requires not only that it be based on a clear and precise law, but also that it be based on one of the legitimate objectives under international human rights law, and that it be strictly necessary, suitable, and proportional.<sup>1163</sup>

686. Notwithstanding the foregoing, the Office of the Special Rapporteur welcomes some progress reported in Panama on transparency and access to information. On September 29, 2021, the National Authority for Transparency and Access to Information (ANTAI) announced that as of January 2022, transparency monitoring of the websites of public entities would be digitized to ensure that entities of the State more efficiently comply with active transparency and open data public policy. During the ceremony introducing the ANTAI's Smart CID platform, the General Director of ANTAI pointed out that this initiative uses technology to promote access to information for citizens.<sup>1164</sup> During the meeting, the Director of Information Sciences of the Authority for Government Innovation (AIG) referred to the fact that the automation of these processes would enable institutions to actively participate in social development and economic reactivation after the pandemic due to COVID-19.<sup>1165</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

687. This Office learned of the participation of feminist human rights organizations in the protests and demonstrations that took place during April and October 2021. Specifically, women's associations and feminist groups denounced alleged acts of abuse of power by Panamanian State authorities when they protested reforms to the Electoral Code, demanding inclusion of gender parity and guaranteed equal participation for the next elections.

688. For its part, on April 22, 2021, the Asociación de Abogadas Feministas de Panamá (AFEMPA) accused the country's authorities of police and judicial abuse for detaining three protesters and fining them up to \$1,000 for protesting against a ruling exonerating a deputy from charges of an alleged sex crime. The demonstrators' lawyer told *Agencia EFE* that the fine was excessive and represented a mechanism intended to criminalize the protest.<sup>1166</sup>

689. This Office notes that States are required to respect and guarantee the right to protest. Within this framework, under the inter-American human rights system, demonstrators have the freedom to choose the

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<sup>1160</sup> EFE. September 24, 2021. [Centenares de personas vuelven a protestar en Panamá por la reforma electoral](#); La Estrella. September 23, 2021. [Sectores de la sociedad civil protestan y afirman que ha habido avances en revisión del proyecto de reformas electorales](#).

<sup>1161</sup> La Prensa. October 5, 2021. [Organizaciones civiles denuncian que la Comisión de Gobierno insiste en aprobar las reformas electorales sin la debida divulgación y transparencia](#).

<sup>1162</sup> Office of the President of Panama. August 21, 2021. [Ministerio de la Presidencia emite Resolución fundamentada en la Ley de Transparencia de 2002](#).

<sup>1163</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American Legal Framework with regard to the Right to Access to Information. Second edition](#). OEA/SER.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 11.

<sup>1164</sup> National Authority for Transparency and Access to Information. September 29, 2021. [Press release](#); La Prensa. September 29, 2021. [Digitalizan el monitoreo mensual de transparencia de entidades públicas](#).

<sup>1165</sup> Crítica. September 29, 2021. [ANTAI y AIG digitalizan monitoreo mensual de transparencia](#).

<sup>1166</sup> La Estrella. April 22, 2021. [Abogadas feministas denuncian abuso policial y judicial en protesta en Panamá](#).

modality, form, place, and message for their protest, and any measure that seeks to limit the right to protest must comply with requirements of legality, necessity, and proportionality.<sup>1167</sup>

690. In response to the proposed electoral reform, on October 12, Panamanian women's associations and a number of feminist groups from civil society gathered in front of parliament to demand gender parity in the electoral reform for the next elections. According to the information documented by the Office of the Special Rapporteur, the protesting groups insisted that gender parity be included in the electoral reform after a "technical roundtable" decided to exclude the provisions favoring gender equality in political representation from the original bill.<sup>1168</sup>

691. The Office of the Special Rapporteur recalls that the speech of women who actively participate in public life has historically been silenced and therefore must be specially protected by States. In this sense, we invite the State to identify possible obstacles to or limitations on the freedom of expression of women who participate in public life and adjust institutional practices to provide enhanced protection for this type of discourse.

#### **D. Freedom of Expression and the Internet**

692. The Office of the Special Rapporteur took note of the entry into force of the new law on the Protection of Personal Data, updating the regulatory framework on personal data held by private companies, state agencies, and non-profit entities. The law recognizes that the data is the property of those to which it corresponds and any manipulation, disclosure, and/or processing of it must be with the consent of the affected person.<sup>1169</sup> According to the information reported, the promulgation of the Law on the Protection of Personal Data could mean an advance in terms of protecting and guaranteeing the privacy rights of people in digital environments. On the other hand, the Rapporteurship once again highlights the challenges posed by the lack of equal access to the Internet in different regions of Panama.<sup>1170</sup>

693. Although the Office of the Special Rapporteur welcomes the legislative progress on personal data protection in Panama, it has also received reports warning of possible risks to the right to information in how the law is implemented.<sup>1171</sup> As this Office was able to learn, Executive Decree 285 of May 20, 2021, establishing the law's regulations, includes the functions of the Personal Data Protection Officer, the rights of the owners of personal data, those responsible for processing and maintaining custody of the database, etc.<sup>1172</sup>

694. The Office of the Special Rapporteur recalls that protecting personal data is closely related to the exercise of freedom of expression. In this sense, the IACHR and its Rapporteurship have recommended that "Legislative branches must strengthen local personal data protection frameworks, since the exploitation of the data for advertising purposes by platforms and other actors in the digital ecosystem is also one of the elements that, used improperly, indirectly promotes the phenomenon of misinformation."<sup>1173</sup> In turn, they have pointed out that the legislative frameworks on the protection of personal data should "contain exceptions and guarantees that protect fundamental activities in a democracy—such as journalism and the circulation of information of public interest—and that allow the robust functioning of legal regimes for access to public information, an essential dimension of the right to freedom of thought and expression."<sup>1174</sup>

695. The Office of the Special Rapporteur has also received reports from civil society organizations warning about the digital divide between urban and rural areas in the interior of the country, in addition to the poor quality of Internet connections in Panama.<sup>1175</sup> The RELE has pointed out that the digital divide reinforces pre-existing inequalities suffered by vulnerable groups of people. In this sense, the Office encourages the State to

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<sup>1167</sup> IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF. 22/19. September of 2019. Para. 10-13.

<sup>1168</sup> EFE. October 13, 2021. [Asociaciones de mujeres de Panamá exigen incluir paridad en la reforma electoral](#).

<sup>1169</sup> La Prensa. March 29, 2021. [Empieza la era de protección de datos personales](#).

<sup>1170</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by civil society. August 5, 2021.

<sup>1171</sup> National Authority for Transparency and Access to Information. March 29, 2021. [Ley 81 de Protección de Datos Personales entra en vigencia en Panamá](#); La Prensa. March 29, 2021. [Empieza la era de protección de datos personales](#).

<sup>1172</sup> National Authority for Transparency and Access to Information. March 29, 2021. [Ley 81 de Protección de Datos Personales entra en vigencia en Panamá](#).

<sup>1173</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2019. [Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts](#). Pg. 35.

<sup>1174</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2019. [Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts](#). Pg. 35.

<sup>1175</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information provided by civil society. August 5, 2021.

continue taking actions to progressively promote universal access to Internet infrastructure and to the technology necessary for its use and enjoyment.

## **PARAGUAY**

<sup>696</sup>. In 2021, the Office of the Special Rapporteur has received reports of attacks and threats against journalists who cover matters of public interest. Likewise, the Office has been informed about the persistence of the use of criminal mechanisms against defenders who publicly demonstrate in social protests, as well as against journalists who denounce alleged irregularities in the management of government. This Office is concerned about complaints about the disproportionate use of public force against demonstrators in contexts of social protest. Likewise, the Office of the Rapporteur has followed up on reports received on alleged violations of the transparency law by the director of the Yacyretá Binational Entity (EBI).

### **A. Journalism and Democracy**

<sup>697</sup>. In 2021, the SRFOE was informed about attacks on the press in the exercise of its work. On March 9, 2021, the Forum of Paraguayan Journalists and the Union of Journalists of Paraguay, members of the Roundtable for the Protection of Journalists, filed a complaint with the Human Rights Prosecutor's Office in the city of Asunción for the attacks that several journalists allegedly suffered in the framework of the protests that began on March 5, 2021, against the government. According to the information available, the journalists attacked were Osvaldo Casenave from *ABC*, Milcíades Castillo and Valentino Arce from *Diario Popular*, Álvaro Rojas from *Canal GEN*, and Jorge Martínez from *Paraguay TV*. The reported attacks include the launching of

rubber bullets by the Riot Police, attacks by people identified as infiltrators, and theft of communicators' work equipment.<sup>1176</sup>

698. As has been pointed out on multiple occasions by the IACHR and its Office of the Special Rapporteur, freedom of expression protects the right to record and disseminate any incident in the context of social protests, so States must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of high public interest.

699. On March 26, 2021, the journalist Cristian Bianciotto of the digital media *Oviedo Press* filed a complaint with the Public Ministry against the mayor of the town of Coronel Oviedo, department of Caaguazú, for coercion and death threats, a situation that according to the journalist has been going on for several months and would put his life and that of his family at risk. The journalist indicated that on several occasions he received insults for his publications referring to alleged irregular handling by the communal chief, and claimed to have messages and audios sent by the mayor that would show the intention to coerce him and stop the publications that he has made.<sup>1177</sup>

700. On April 30, 2021, communicator Éver Candia denounced threats against him after making a comment on his program broadcasted on *Radio Aquidabán*, from Concepción, about alleged cases of fuel trafficking in the area. According to the information received, after reading on the air a message from a listener that gave details about the alleged involvement of the National Police, the Economic Crimes Police, the Prosecutor's Office, and the Naval Subprefecture in the events, he received a threatening message.<sup>1178</sup>

701. Attacks against journalists and the media violate the right to freedom of expression, both individually and collectively, and cannot be tolerated in a democratic society. The Office of the Special Rapporteur recalls that, according to principle 9 of the IACHR's Declaration of Principles on Freedom of Expression, intimidation or threats to social communicators, as well as the material destruction of communications media "violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

702. The Office of the Special Rapporteur has received reports on the use of criminal mechanisms to limit the right to freedom of expression, especially through defamation<sup>1179</sup>. In February 2021, the *ABC Color* newspaper reported on the call for oral and public trial of journalist Juan Carlos Lezcano Flecha, who is accused of defamation, slander, and insult by a former senator of the political party *Partido Liberal Radical Auténtico*. The lawsuit would be linked to a publication by the reporter in which he investigated the official for alleged acts of corruption, facts that would later have motivated the withdrawal of his swearing-in in the Senate.<sup>1180</sup>

703. The Office of the Special Rapporteur continued to monitor the defamation process initiated against the journalist Juan Carlos Lezcano and the director of the newspaper *ABC Color*, Natalia Zuccolillo Pappalardo, by the former Deputy Minister of the Undersecretary of State for Taxation (SET), Marta González Ayala. According to the documented information, in May, an appeal court granted the request for the disqualification of Judge Elio Rubén Ovelar Frutos, considering that there could be a lack of impartiality in the judge's actions in the case<sup>1181</sup>. The case originated in 2019, when the former deputy minister filed an autonomous complaint against the journalist and the director of the *ABC Color* newspaper, arguing that she had been aggrieved by publications from the media outlet that denounced the alleged commission of serious irregularities in the exercise of the position. The former official requested in her judicial brief that prison sentences be applied in addition to very

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<sup>1176</sup> Mesa para la Seguridad de Periodistas. March 9, 2021. [Fiscalía abre investigación sobre agresiones a la prensa](#); ABC. March 9, 2021. [Periodistas denuncian agresiones en protestas](#); Hoy. March 9, 2021. [Agresiones en protesta: Periodistas presentan denuncia ante Fiscalía de DDHH](#).

<sup>1177</sup> La Nación. March 29, 2021. [Periodista denuncia amenaza de muerte de intendente ovetense](#); Última Hora. March 27, 2021. [Periodista denuncia a intendente de Coronel Oviedo por amenaza de muerte](#).

<sup>1178</sup> Última Hora. May 1, 2021. [Periodista de Concepción denuncia amenaza de muerte](#); ADN. May 1, 2021. [Periodista acusa amenaza de muerte tras denunciar tráfico de combustible](#).

<sup>1179</sup> Última Hora. May 28, 2021. [Condena a dirigente por caso Domínguez](#); Hoy. August 16, 2021. ['No hay elementos para la condena' dice abogado de ex socio de Rodolfo Friedmann](#); Hoy. August 2, 2021. [Confirman rechazo de la querrela contra la diputada Katty González](#).

<sup>1180</sup> La Nación. February 10, 2021. [Periodista de Abc Color, a juicio oral por difamación, calumnia e injuria](#).

<sup>1181</sup> ABC. May 19, 2021. [Apartan al juez Ovelar de juicio promovido por ex viceministra de Cartes](#); Interamerican Press Association. October 19-22, 2021. [Informe ante la 77ª Asamblea General Virtual. Paraguay](#).

high compensation for damages (more than USD 1,400,000). As indicated in the last annual report of the Office of the Special Rapporteur, the case was taken to oral trial but for different reasons --overlapping public hearings, an agreement by the Court that suspended hearings due to the coronavirus, and a request for inhibition by the judge of the case-- the process did not advance substantively. The Inter-American Press Association warned about this case, which could result in a two-year prison sentence for press workers for reporting on irregularities in public management.<sup>1182</sup>

704. According to the information reported to the Office of the Special Rapporteur, in June 2021 the journalist Juan Carlos Lezcano and Natalia Zuccolillo, director of the *ABC Color* newspaper, were again sued for defamation and slander by the former Vice Minister of Taxation as a result of a series of publications in which they denounced alleged illegal acts committed by the former official and her husband.<sup>1183</sup>

705. In September, a congress representative from the political party *Partido Encuentro Nacional* (PEN) filed a complaint with the State Attorney General's Office and the Ministry of the Interior against Grupo Cartes media outlets for alleged attacks through false news. In her brief, the representative denounced her concern about the "dangerous editorial line of the media belonging to the former president of the Republic (...), embarked on a systematic dissemination of false news, irresponsible disqualifications and promotion of hatred, mistrust and deliberate confusion".<sup>1184</sup>

706. The Office of the Special Rapporteur recalls that, under Article 13 of the American Convention, speeches on matters of public interest have enhanced protection, so the use of criminal mechanisms to punish this type of speech is incompatible with inter-American standards. The Office of the Special Rapporteur recalls that "[t]he type of political debate to which the right to freedom of expression gives rise will inevitably generate certain critical or even offensive speeches for those who hold public office or are closely linked to the formulation of public policy."

707. As the IACHR and the Inter-American Court have repeatedly held, public officials or candidates for public office are exposed to a greater degree of public criticism due to the public interest nature of the activities they carry out and because they have been exposed voluntarily to more exacting scrutiny. This does not imply, according to the Court, that they cannot be judicially protected in terms of their honor; however, they may be so in accordance with the principles of democratic pluralism and weighing the interest of such protection with the interests of an open and uninhibited debate on public affairs. In this sense, the Commission and the Court have insisted that the use of criminal mechanisms to punish speeches on matters of public interest, especially those related to public officials, is incompatible with inter-American standards.

708. Finally, the Office of the Special Rapporteur positively highlights the IACHR's submission of the case for the murder of reporter Santiago Leguizamón in Paraguay to the Inter-American Court. Santiago Leguizamón, who worked as a journalist and human rights defender in Pedro Juan Caballero, one of the most violent areas of Paraguay on the border with Brazil, was murdered on April 26, 1991, for reasons that would be linked to his profession. In its merit report, the Commission highlighted that journalism represents one of the most important manifestations of freedom of expression and information. Likewise, it highlighted the transcendental role that journalism plays in keeping society informed, a necessary condition to strengthen public debate. For this reason, journalists and media workers may find themselves in a situation of vulnerability due to the role they play in society, which on many occasions places them in a situation of risk to their lives and personal integrity.<sup>1185</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

709. In 2021, the Office of the Special Rapporteur has received reports on the alleged disproportionate use of public force against people who demonstrate peacefully. Likewise, the Office has been informed of various

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<sup>1182</sup> IACHR. Annual report 2020. [Annual report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 1110;

Interamerican Press Association. August 25, 2020. [Alerta de la SIP por pedido de cárcel para directora y un periodista de ABC Color](#).

<sup>1183</sup> ABC Color. June 17, 2021. [Juez rechaza intento de amedrentamiento a directora y periodista de ABC](#); La Nación. July 12, 2021. [Natalia Zuccolillo enfrentará otro juicio oral por difamación y calumnia](#); ABC Color. May 2, 2021. [La persecución de Jacinto y María](#).

<sup>1184</sup> Última Hora. September 25, 2021. [Kattyva demanda a Cartes y su grupo de medios por ataques](#); Interamerican Press Association. October 19-22, 2021. [Informe ante la 77ª Asamblea General Virtual. Paraguay](#).

<sup>1185</sup> IACHR. February 25, 2021. Press release No. 041/21. [The IACHR refers case on Paraguay to the Inter-American Court](#); Swiss Info. March 3, 2021. [La SIP aplaude que el caso Leguizamón pase a manos de la Corte IDH](#).



cases of criminalization of human rights defenders who express themselves critically against the government or make claims about matters of public interest. The Office of the Special Rapporteur has also followed up on reports received on alleged violations of the transparency law by the director of the Yacyretá Binational Entity (EBI).

710. On August 4, 2021, the Human Rights Coordinator of Paraguay (CODEHUPY) warned that the administrative investigation initiated against the lawyer and human rights defender of rural workers, Leticia Almada Paoli, who had denounced irregularities in public management, could generate “a negative precedent in the institutional order of the Republic” and a threat to the exercise of the right to freedom of expression in Paraguay. According to the information received, the administrative process – through which the annulment of her registration is sought – was initiated as a result of the request of a judge, who maintains that she had been harmed by the criticism and complaints of the defender Leticia Almada Paoli on alleged acts of corruption in the judiciary.<sup>1186</sup>

711. According to the information received, on January 27, 2021, the Police arbitrarily detained the human rights defender Ladislaa Villanueva Ríos, in the framework of an allegedly irregular eviction of the Ita Ycuá settlement, in the city of Limpio, faced with the demands of the activist for access to land and decent housing. The Prosecutor in charge of the case would have ordered her arrest for the alleged crimes of “invasion of someone else’s property” and requested imprisonment for her and two other individuals.<sup>1187</sup>

712. This Office was also informed about the arrest of the lawyer and human rights defender, María Esther Roa, allegedly for violating the sanitary quarantine, on June 3, 2021, in the context of protests in front of the National Pantheon of Heroes in Asunción.<sup>1188</sup>

713. On the other hand, the Office also learned of the social protests that took place during the first days of March 2021, in which Paraguayan citizens demonstrated against the government’s handling of the pandemic, the shortage of basic medicines, the lack of vaccines, in addition to claims for alleged acts of corruption and privileges on the part of government spheres. As the Office of the Special Rapporteur was informed, the demonstrations would have taken place peacefully. However, according to the reports received, the security forces allegedly responded disproportionately, using rubber bullets, tear gas, and water cannons.<sup>1189</sup>

714. On March 22, 2021, in the context of citizen protests to demand the resignation of the president, the National Police would have used the public force to clear route PY07, in Alto Paraná, as the Office of the Special Rapporteur learned. Given the refusal of the demonstrators to leave the protests, the police reportedly proceeded to push them and shoot them with rubber bullets to disperse them. Likewise, according to the reports received, some people were reportedly detained by the Police.<sup>1190</sup>

715. In March, after the arrests and opening of criminal proceedings registered in the previous weeks against protesters, the Paraguayan Human Rights Coordinator (CODEHUPY) asked the State Attorney General to train prosecutors on the right to social protest.<sup>1191</sup> “Suppressing protests, be it with violence or criminalization, is nothing more than the symptom of a society that has failed in its attempts at plurality and the search for consensus. The Paraguayan State, represented by the authorities, in this case the Public Ministry, cannot renounce its tutelary role of protecting the right”, she highlighted.

716. Social protest, which includes the rights to peaceful assembly, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and it is the duty of the State to guarantee the exercise of this right. In its report on Protest and Human Rights, the IACHR noted that criminalization in

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<sup>1186</sup> Coordinadora Derechos Humanos Paraguay. August 4, 2021. [Codehupy advierte peligro para la libertad de expresión en sumario contra abogada que denunció negociado en Indert](#); ABC. August 8, 2021. [Sumario contra abogada que denunció negociados en Indert apelió libertad de expresión, advierten](#); Última Hora. September 21, 2021. [Codehupy informa a NNUU sobre caso de abogada hostigada](#).

<sup>1187</sup> Coordinadora Derechos Humanos Paraguay. February 15, 2021. [Detención arbitraria de defensora de derechos humanos en Limpio en el marco de reclamo de acceso a tierra y vivienda digna](#).

<sup>1188</sup> La Nación. June 9, 2020. [Imputan a María Esther Roa por violar la cuarentena](#).

<sup>1189</sup> The New York Times. March 11, 2021. [Indignación en Paraguay: la corrupción y el aumento de casos de la COVID-19 generan protestas](#); France 24. March 6, 2021. [Protestas en Paraguay por el manejo de la pandemia fuerzan cambios en el Gobierno](#); Deutsche Welle (DW). March 6, 2021. [Paraguay: Policía dispersa con gases protesta contra Mario Abdo Benítez](#).

<sup>1190</sup> Última Hora. March 23, 2021. [Policía recurrió a la fuerza para despejar ruta en Alto Paraná](#); ABC. March 22, 2021. [Reprimen a manifestantes para liberar paso sobre ruta en Santa Fe del Paraná](#).

<sup>1191</sup> Coordinadora Derechos Humanos Paraguay. [CODEHUPY pide que fiscales sean capacitados sobre derecho a la protesta social](#).

contexts of social protest has an intimidating effect on the entire society, and can prevent or inhibit this type of expression. In addition, the IACHR and the Inter-American Court have understood that the use of force constitutes a last resort which, limited qualitatively and quantitatively, aims to prevent an act of greater gravity than the one provoked by the state reaction. Within this framework characterized by exceptionality, for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be satisfied.

717. Likewise, this Office reiterates that no protest participant may be subjected to illegal or arbitrary detention and that States must refrain from engaging in mass, collective, or indiscriminate arrests in public demonstrations. In its report *Protest and Human Rights*, the IACHR and its Office of the Special Rapporteur indicated that any detention based exclusively on the act of participating in a protest or public demonstration does not meet the requirements of reasonableness and proportionality established by international standards. The deprivation of liberty during a demonstration has the immediate effect of preventing the detainee from exercising the right to protest and generates an inhibiting effect with respect to participation in public demonstrations.

718. The Office of the Special Rapporteur has stated on multiple occasions that access to public information is a fundamental right and that the States are obligated to guarantee its exercise. In this sense, this Office positively values the decision of Judge Alice González Delorenzi of August 13, 2021, who requested to submit a contempt case to the Public Ministry against the director of the Yacretá Binational Entity (EBI) after he did not deliver all the information requested by a journalist from the newspaper *La Nación* on accountability of the entity's social and advertising expenses during the years 2019/2020. According to the information available, the management of the entity would have justified its non-compliance in that they needed an authorization from Argentina to proceed with the request, among other arguments.<sup>1192</sup> However, according to available information, in September, an appeal court would have decided to annul the decision that declared him in contempt.<sup>1193</sup>

## PERÚ

719. In 2021, the Rapporteurship noted several signs of deterioration of the public debate in Peru during the electoral period, such as the proliferation of speeches that could encourage violence and discrimination, allegedly false and misleading publications about the elections, and stigmatizing remarks by public leaders. In this context, the Rapporteurship also recorded an escalation of violence and harassment campaigns on social networks, including *doxing* practices. In addition, several journalists expressed their concern about alleged political pressure and retaliation due to the editorial line of their programs in the coverage of the elections, fueling the debate about the ethical responsibilities of the media with respect to Peruvian society. In the context of the change of government, the Rapporteurship was alerted about stigmatizing statements by public officials against the press and threats to affect official advertising according to the editorial line of the media outlet. Likewise, the Rapporteurship was informed about bills that could jeopardize freedom of artistic expression and freedom of the press. Peru made significant progress in the area of prosecution of acts of violence against the press; and presented new efforts for digital literacy and universal access to the network.

### A. Journalism and Democracy

720. The Rapporteurship has observed that in 2021 the electoral campaign was marked by a strong political polarization in Peru, which led to a scenario of threats, aggressions and stigmatizing statements against the press. In this context, the Rapporteurship became aware of alleged acts of violence against journalists and media outlets led by State agents, private individuals and political leaders. According to the information received, stigmatizing statements made by high-ranking officials against journalists and a lack of access to

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<sup>1192</sup> *La Nación*. August 14, 2021. [Jueza confirma la denuncia periodística y remite desacato de la EBY a Fiscalía](#); Interamerican Press Association. October 19-22, 2021. [Informe ante la 77ª Asamblea General Virtual. Paraguay](#).

<sup>1193</sup> Interamerican Press Association. October 19-22, 2021. [Informe ante la 77ª Asamblea General Virtual. Paraguay](#).

public sources by journalists also marked the first days of the new president's administration. Likewise, the use of judicial mechanisms against journalists reporting on matters of public interest persists.

721. In 2021, several journalists reported acts of obstruction of coverage and aggressions while performing their work, including acts by public officials<sup>1194</sup>. This Office highlights the cases of journalists Henry Francis Pajuelo Parejas, who was punched on the face while covering a protest in the vicinity of the central market of La Oroya, Yauli province, on February 24, and Iván Escudero, who was hit in the head with a stone while covering a transport workers' strike in Huaycán. Likewise, on August 18, Pedro Castillo's security agents forcibly removed journalist Tiffany Tipian, from *TV Peru*, when she tried to approach the president, who was walking on the street in Lima and was approached by a group of journalists. In its social networks, the official account of the presidency apologized to the journalist and stated that the government would take "the respective measures so that events of such nature do not happen again"<sup>1195</sup>. On September 15, 2021, a member of the president's team tried to take the microphone away from journalist Hellen Meniz while she was trying to approach the president at the exit of a public event.<sup>1196</sup>

722. The Rapporteurship also received reports of acts of harassment and *online* smear campaigns, as well as threats against journalists as a result of the publication of articles and reports on matters of public interest<sup>1197</sup>. In this regard, the Rapporteurship particularly notes the acts of harassment and threats against journalists carried out by groups identified as "La Resistencia" and "Legión Patriotas del Perú" in November 2021, which could be linked to journalistic reports on the operation of these groups. Thus, for example, a retired lieutenant colonel of the Peruvian Army, recognized as spokesman of the group "Legion Patriots of Peru", would have published on his social networks photographs of journalists Abel Cardenas and Piero Espiritu, of *La Republica*, with their respective identity documents, announcing reprisals and threats<sup>1198</sup>. Also, one of the leaders of the group "La Resistencia" reportedly published on social networks photos of journalist Hernán Floríndez along with offensive comments<sup>1199</sup>. On October 7, members of "La Resistencia" reportedly hit an *Exitosa* press vehicle and insulted the professionals inside<sup>1200</sup>.

723. The Rapporteurship was particularly concerned about the escalation of violence against the press in the 2021 electoral process in Peru. On May 14, 2021, the IACHR expressed concern about the increase in stigmatizing statements by persons of notoriety or who aspire to positions of responsibility in the electoral<sup>1201</sup> process. According to data compiled by the National Association of Journalists of Peru, in the context of the electoral process, at least 71 attacks against the press have been registered, including harassment, threats,

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<sup>1194</sup> Twitter account of National Association of Journalists of Peru (@ANP\_Periodistas). [29 April 2021](#); IPYS. 23 July 2021. [Perú: equipo de televisión fue agredido por dos sujetos para impedir cobertura](#); Correo. 11 June 2021. [Lambayeque: Funcionario de ARCC es denunciado por violencia](#); Twitter account of National Association of Journalists of Peru (@ANP\_Periodistas). [25 April 2021](#); Facebook account of AP Noticias. [15 July 2021](#); IFJ. 13 October 2021. [Perú: una periodista fue atacada con un látigo mientras realizaba una cobertura](#); Twitter account of National Association of Journalists of Peru (@ANP\_Periodistas). [8 November 2021](#); Twitter account of National Association of Journalists of Peru (@ANP\_Periodistas). [16 November 2021](#); IPYS. 4 November 2021. [Perú: mayor de la policía agradece a equipo de prensa](#).

<sup>1195</sup> El Comercio. 18 August 2021. [Seguridad de Pedro Castillo agradece a periodista de TV Perú y le impide realizarle preguntas a mandatario](#); La República. 18 August 2021. [Presidencia ofrece disculpas a reportera que fue empujada por seguridad de Castillo](#).

<sup>1196</sup> RPP. 15 September 2021. [Prensa de Presidencia agredió a reportera de RPP Noticias que intentó entrevistar a Pedro Castillo](#); La República. 15 September 2021. [Equipo de prensa de Pedro Castillo forcejea con reportera durante actividad oficial](#).

<sup>1197</sup> IFJ. 1 April 2021. [Perú: Periodista local amenazado tras informar sobre casos de corrupción](#); Facebook account of National Association of Journalists of Peru. [17 May 2021](#); Facebook account of National Association of Journalists of Peru. [15 May 2021](#); Twitter account of National Association of Journalists of Peru (@ANP\_Perú). [10 September 2021](#); Twitter account of National Association of Journalists of Peru (@ANP\_Perú). [7 October 2021](#).

<sup>1198</sup> La República. 23 November 2021. [Amenazan a reporteros de La República que investigan a grupos de exmilitares](#); Consejo de la Prensa Peruana. 25 November 2021. [El Consejo de la Prensa Peruana condena los atentados realizados por La Resistencia y Legión Patriotas del Perú](#); La República. 20 November 2021. [Fuerzas Armadas: surgen más colectivos de exmilitares golpistas](#).

<sup>1199</sup> IFJ. 29 November 2021. [Perú: periodistas sufrieron diversas formas de hostigamiento y agresiones en las últimas semanas](#); Consejo de la Prensa Peruana. 25 November 2021. [El Consejo de la Prensa Peruana condena los atentados realizados por La Resistencia y Legión Patriotas del Perú](#).

<sup>1200</sup> Exitosa. 7 October 2021. [Grupo 'La Resistencia' agredió a equipo periodístico de Exitosa](#); IPYS. 7 October 2021. [Perú: integrantes de grupo radical de derecha agradece a equipo periodístico](#).

<sup>1201</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 17 May 2021. Press Release R126/21. [The Office of the Special Rapporteur for Freedom of Expression calls on those who hold or aspire to hold elected office in Peru to contribute with their speech to the protection of human rights](#).

cyber-attacks, closure of programs, stigmatizing speeches, effects on coverage, labor affectation and verbal and physical aggressions<sup>1202</sup>.

724. Among other reported incidents, then-candidate Rafael López Aliaga allegedly made a series of offensive comments against journalist Mónica Delta, who had questioned him about his business activities days earlier during an interview and had also been the moderator of a presidential candidates' debate<sup>1203</sup>. Also, on April 14, 2021, an unknown person threw a Molotov cocktail bomb at the vehicle of Marco Sánchez Mamani, a radio broadcaster of *La Estación* radio station, which was parked in front of his work station. The reporter also reported that he had received threats for his critical exposures of candidates<sup>1204</sup>. On May 19, 2021, reporter Stefanie Medina and cameraman Carlos Brown, from *Canal N*, were physically assaulted at an event of Pedro Castillo's candidacy in La Merced, Huamanga-Ayacucho, after the master of ceremony referred to the press as "mermelera press". At the end of the event, participants of the rally allegedly chased journalists from different media outlets to their vehicles<sup>1205</sup>. On May 20, reporter Jorge Dett, of *Latina Televisión*, was pushed and removed from the vicinity of then-candidate Pedro Castillo when he asked for a statement about the recent aggressions against the press<sup>1206</sup>. Likewise, in May, correspondent Jacqueline Fowks was allegedly victim of a cyber-attack harassment campaign by profiles identifying themselves as sympathizers of *Fuerza Popular*<sup>1207</sup>. On June 2, 2021, the vehicle of journalist Carlos Padilla Castillo was also set on fire, which could constitute a possible reprisal for his journalistic work<sup>1208</sup>.

725. This climate of violence against journalists is said to have continued, even up to the moment of the vote count and final decisions of the electoral authority. On July 14, 2021, supporters of presidential candidate Keiko Fujimori and *Fuerza Popular* marched to the government palace and, in that context, among other reports of aggressions and attacks received<sup>1209</sup>, journalistic teams from *Canal N*, *La República* and *ATV* were verbally and physically assaulted<sup>1210</sup>.

726. Attacks and aggressions committed against journalists violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society. The Rapporteurship recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation". In electoral contexts, while it is necessary and desirable to have a vigorous public debate, it is imperative that political leaders and those who hold office should not "intentionally make false statements attacking the integrity of journalists, media workers or human rights defenders"<sup>1211</sup>.

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<sup>1202</sup> National Association of Journalists of Peru. 28 July 2021. [Informe Ataques A La Libertad de Prensa en El Marco Del Proceso Electoral 2021](#).

<sup>1203</sup> Perú 21. 31 March 2021. [Periodistas responden a candidato López Aliaga ante acoso a Mónica Delta: "Todas exigimos respeto"](#); Latina. 4 April 2021. [Nota editorial de Latina Televisión](#).

<sup>1204</sup> La República. 15 April 2015. [Tacna: lanzan bomba molotov a vehículo de periodista](#); CPJ. 19 April 2021. [Atacan con bomba incendiaria el auto del periodista peruano Roberto Sánchez](#).

<sup>1205</sup> Canal N. 20 May 2021. [Agreden a equipo de Canal N y América TV durante mitin de Pedro Castillo](#); El Comercio. 19 May 2021. [Simpatizantes de Pedro Castillo persiguieron a periodista tras mitin en Ayacucho](#).

<sup>1206</sup> Latina. 20 May 2021. [Simpatizantes de Pedro Castillo agreden nuevamente al equipo de Latina](#); RPP. 20 May 2021. [Elecciones 2021: Periodista es agredido durante entrevista a Pedro Castillo](#).

<sup>1207</sup> National Association of Journalists of Peru. July 28, 2021. [Informe Ataques A La Libertad de Prensa en El Marco Del Proceso Electoral 2021](#) Twitter account of journalist Fernando Gimeno (@fernandogimeno). [May 14, 2021](#).

<sup>1208</sup> RSD Radio. June 2, 2021. [Chimbote: journalist's vehicle caught fire and ended up useless](#); IPYS. June 2, 2021. [Peru: journalist denounces that his car was set on fire in retaliation for his work](#).

<sup>1209</sup> EFE. July 15, 2021. [Keiko Fujimori's followers march to the Palace and attack ministers' car](#); El Comercio. July 14, 2021. [Óscar Ugarte: security cameras recorded attack by demonstrators against his official vehicle in downtown Lima](#); Gestión. July 14, 2021. [Keiko Fujimori: Fuerza Popular supporters tried to reach Government Palace](#).

<sup>1210</sup> National Association of Journalists of Peru. 28 July 2021. [Informe Ataques A La Libertad de Prensa en El Marco Del Proceso Electoral 2021](#); Twitter account of journalist Fernando Gimeno (@fernandogimeno). [14 May 2021](#).

<sup>1211</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression; Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression; African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [Joint Declaration 2021 on Politicians and Public Officials and Freedom of Expression](#).



727. Likewise, in the electoral context, various journalists reported that their programs had been suspended for allegedly political reasons<sup>1212</sup>. This Office was informed of complaints from press workers who reported having been pressured in their jobs in relation to the news coverage of the elections, and of the lack of guarantees to carry out journalistic work in the electoral context<sup>1213</sup>.

728. On April 23, 2021, the board of shareholders of the *Compañía Peruana de Radiodifusión* –the business group responsible for *América Noticias* and *Canal N*– decided to dismiss Clara Elvira Ospina as news director of these channels, who was later replaced by Gilberto Hume. These events would have occurred about a month before the second round of the Peruvian presidential elections and in a context of political polarization, for which the company received criticism that the decision could have been linked to political interests<sup>1214</sup>. On May 10, 2021, the Ethics Tribunal issued a statement expressing its concern “about unclear business decisions that impact on matters of public interest” and urged “the media, associated or not, to be transparent with the motivations underlying decisions of this nature. Even more so when these may be determined by the editorial line they decide to follow and, especially so, if this involves supporting a particular political candidacy”<sup>1215</sup>.

729. On May 11, journalists Carlos Mauriola Martínez, Daniel Yovera, Ana Buenaluque, Carlos Hidalgo, David Gómez Fernandini, René Gastelumendi, José Miguel Hidalgo, Luis Miranda, Matilde Soto and Cecilia Zuloeta, from *América Televisión*'s “Cuarto Poder” program, sent a letter to the channel's Board of Directors expressing their rejection of Clara Elvira Ospina's resignation and their concerns about the credibility of the channel's journalistic work<sup>1216</sup>. Again, on May 24, the journalists sent another letter to the Board of Directors emphasizing their concerns, to which the company replied that the person currently in charge had the capacity to objectively address the issues raised<sup>1217</sup>. On June 5, 2021, Carola Miranda, then general producer of *América Noticias - Edición Central*, and Carlos Fonseca, at the time *Canal N*'s journalistic producer, sent a letter to the Board of Directors of *América Televisión* and *Canal N*, where they denounced a “flagrant violation of the guiding principles” of journalism, alleging lack of independence due to partisan interests in the presidential candidacies<sup>1218</sup>. On June 8, Carola Miranda and Carlos Fonseca were dismissed from their positions<sup>1219</sup>. In response to this decision, several journalists of “Cuarto Poder” resigned<sup>1220</sup>.

730. In this context, the Ethics Tribunal of the Peruvian Press Council issued a statement in which it pointed out that the “right of society to truthful and impartial information” requires the media to “duly differentiate opinion spaces from news coverage, which must advocate objectivity and balance, as part of the ethical commitment of journalism to the search for truth”. In this sense, the Court expressed its concern for the contravention of these principles during the electoral process by several media outlets, which, according to them, would have been evidenced in front pages and headlines that did not accurately reflect the facts; the presentation of opinions with political interests dressed as impartial analysis; and unequal coverage of the activities of the presidential candidates, in time and space, despite the fact that they were rallies and events of similar importance<sup>1221</sup>.

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<sup>1212</sup> Facebook account of the National Association of Journalists of Peru. [13 May 2021](#); Facebook account of the National Association of Journalists of Peru. [17 May 2021](#).

<sup>1213</sup> IACHR. 22 June 2021. Press Release 155/2021. [IACHR Concerned about Reports of Harassment and Stigmatizing Messages Fueling Discrimination in Peru's Election Context](#).

<sup>1214</sup> El Comercio. 24 April 2021. [América Televisión inicia proceso para elección de nueva dirección periodística](#); La República. [Sorpresivo cambio de Clara Elvira Ospina de la dirección periodística de América Televisión](#).

<sup>1215</sup> Ethics Tribunal. 10 May 2021. [PRONOUNCEMENT N° 002-2021-TDE Ethics Tribunal expresses its concern for electoral coverage, and invokes impartiality](#).

<sup>1216</sup> IPYS. 15 May 2021. [Perú: Periodistas de Cuarto Poder protestan por despido de Clara Elvira Ospina y alertan daño a la credibilidad del programa](#); La República. 9 June 2021. [Piden a Tribunal de Ética pronunciarse por graves hechos en canales 4 y N](#).

<sup>1217</sup> La República. 9 June 2021. [Piden a Tribunal de Ética pronunciarse por graves hechos en canales 4 y N](#); Latam Journalism Review. 15 June 2021. [Salida de periodistas durante elecciones amenaza la credibilidad de canales de televisión en Perú](#).

<sup>1218</sup> IPYS. 8 June 2021. [Perú: Solicitan a Tribunal de Ética pronunciarse por graves hechos en América Televisión y Canal N](#); La República. 9 June 2021. [Piden a Tribunal de Ética pronunciarse por graves hechos en canales 4 y N](#).

<sup>1219</sup> IDL Reporteros. 11 June 2021. [Purga en América Televisión y Canal N](#); Latam Journalism Review. 15 June 2021. [Salida de periodistas durante elecciones amenaza la credibilidad de canales de televisión en Perú](#).

<sup>1220</sup> El Perfil. 8 June 2021. [Mordaza en Cuarto Poder: Periodistas renuncian por desacuerdo](#); IPYS. 9 June 2021. [Perú: periodistas se pronuncian tras su renuncia a Cuarto Poder](#); Wapa. 17 June 2021. [Cuarto Poder se pronuncia tras salida de periodistas: "Hemos ejercido un periodismo plural"](#).

<sup>1221</sup> Ethics Tribunal of the Peruvian Press Council. 7 June 2021. [PRONOUNCEMENT N° 003-2021-TDE Ethics Tribunal rejects the lack of journalistic objectivity in the coverage of the second round of elections](#).

731. On June 7, 2021, executives of *La República* filed a complaint before the Ethics Tribunal as a result of the “surprising and unexpected changes that took place in the channel’s management between the first and second rounds” and the events reported to *América TV*’s board of directors<sup>1222</sup>. On June 29, 2021, the Ethics Tribunal declared the complaint filed founded, urged *América TV* to promote respect for the Guiding Principles of the Peruvian Broadcasting Company - independence, autonomy and journalistic ethics - and determined that it publish the ruling in the company’s media<sup>1223</sup>. Although on July 5, 2021 the decision was published<sup>1224</sup>, on June 29 *América TV* and *Canal N* expressed their disagreement with the decision due to “the lack of analysis, evidence, thoroughness and evident partiality shown in the arguments and in the actions of the Court”. They also announced that the channels would be evaluating “their positions before the Council”<sup>1225</sup>. The Rapporteurship emphasizes that it is important that the mechanisms of ethical self-regulation of the press are promoted and accompanied by the State, and that the media value these decisions.

732. At the same time, in the context of the debate on media concentration in Peru, this Office was informed that, in deciding a constitutional amparo lawsuit filed by journalists, editors and newspaper entrepreneurs, the Fourth Constitutional Court of the Superior Court of Justice of Lima declared null and void a contract whereby El Comercio and SED purchased from Agois Banchemo 54 percent of the shares (majority of the capital stock) of the companies Empresa Periodística Nacional S. A. EPENSA and Alfa Beta Sistemas SAC ABS, assuming the shareholding control of these companies. According to the ruling, after concluding this contract the El Comercio group reached “80% of the market; a situation that exceeds all concentration limits in the markets of other Latin American countries”. In this way, and extensively citing several reports of this Office, the court ruled in favor of the amparo lawsuit for violation of the rights to freedom of expression and information protected in Article 2, paragraph 4 of the Peruvian Constitution and Article 13 of the American Convention on Human Rights. The Court also urged “the Congress of the Republic and the Executive Power to dictate the necessary legislative measures and other procedures to ensure freedom of expression in accordance with the international mandate, regarding concentration in all social communication markets, cross ownership of media, transparency in the ownership of media, and others”<sup>1226</sup>. The El Comercio group expressed that it considered the decision arbitrary and that it would appeal the ruling<sup>1227</sup>.

733. In 2021, the Rapporteurship also noted with particular concern the attacks and stigmatizing statements against the press by public officials. Among other reported facts, President Pedro Castillo reportedly referred to the press as actors that distract the people with “smokescreens”<sup>1228</sup>. Likewise, the Rapporteurship was informed about several remarks and disqualifications to the press by the former head of the Council of Ministers and current congressman, Guido Bellido, who reportedly said that the press is “obstructionist”<sup>1229</sup> and that “pollsters and newspapers are worthless”<sup>1230</sup>, among others<sup>1231</sup>. According to information received by the Office, Guido Bellido’s position has even generated fear of reprisals in the media *Inka Visión*, which, according to civil society organizations, has fired a journalist who interviewed him on controversial issues<sup>1232</sup>.

734. Likewise, according to the information received, the Minister of Transportation and Communications questioned the work of *TV Peru*, the state channel, opining that “it hits us as if it was a foreign channel” and

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<sup>1222</sup> La República. 9 June 2021. [Piden a Tribunal de Ética pronunciarse por graves hechos en canales 4 y N](#); Ethics Tribunal of the Peruvian Press Council. [Case 006 006-2021 Grupo La República / CPR \(América TV\) and PPI \(Canal N\)](#). Resolution 003-TdE/2021 of 28 June 2021.

<sup>1223</sup> Ethics Tribunal of the Peruvian Press Council. [Case 006 006-2021 Grupo La República / CPR \(América TV\) and PPI \(Canal N\)](#). Resolution 003-TdE/2021 of 28 June 2021.

<sup>1224</sup> América TV. 5 July 2021. [Fallo del Tribunal de Ética del Consejo de la Prensa Peruana](#).

<sup>1225</sup> La Lupa. 29 June 2021. [Así se defiende Canal N y 4 tras ser declarados antiéticos por el Consejo de la Prensa Peruana](#); Perú 21. 30 June 2021. [América TV y Canal N evalúan su permanencia en el Consejo de la Prensa Peruana](#)

<sup>1226</sup> Fourth Constitutional Tribunal of the Superior Court of Justice of Lima. 24 June 2021. Case No. 35583-2013. [Decision](#).

<sup>1227</sup> El Comercio. 25 June 2021. [El Comercio apelará fallo contra asociación El Comercio](#).

<sup>1228</sup> AP. 12 August 2021. [Pedro Castillo arremete una vez más contra la prensa](#); Perú 21. 11 August 2021. [Castillo otra vez contra la prensa: “Siempre han querido distraer al pueblo con otras cosas, con cortinas de humo, con titulares”](#).

<sup>1229</sup> Perú 21. 5 August 2021. [Guido Bellido se estrena con mentiras y amenazas veladas contra la prensa](#); El Comercio. 5 August 2021. [Guido Bellido defiende el rol de Vladimir Cerrón y Perú Libre y culpa a la prensa](#).

<sup>1230</sup> La República. 3 October 2021. [Guido Bellido dispara contra la prensa, congresistas e insiste en expropiar gas](#); Diario Ahora. [Guido Bellido dispara contra la prensa y los congresistas](#).

<sup>1231</sup> La República. 15 September 2021. [Guido Bellido le falta el respeto a periodista: “Tienes que lavarte el oído, no escuchas”](#); El Comercio. 15 September 2021. [Guido Bellido a reportero de TV: “tienes que lavarte el oído porque no escuchas”](#).

<sup>1232</sup> IPYS. 21 August 2021. [Perú: despiden a periodista por temor a represalias luego de entrevista con actual primer ministro](#).



therefore, in his opinion, it would be necessary to “make changes there so that once and for all Channel 7 educates the people and reaches the most remote sectors of our country”<sup>1233</sup>. Subsequently, the Minister affirmed that he had not intended to threaten the channel’s independence, and ratified his respect for freedom of expression<sup>1234</sup>. On the other hand, according to the information received, the Minister of Labor and Employment Promotion had questioned the alleged “power groups that control some media, and that without the slightest shame attack, slander and defame”<sup>1235</sup>. Additionally, the Rapporteurship became aware of the statements made by a congressman that some media outlets “abuse the spectrum that does not belong to them, the spectrum belongs to the State”<sup>1236</sup>.

735. According to the information reported, in different cases, stigmatizing statements were accompanied by pressures on the editorial line through the use of official advertising. In this sense, President Castillo reportedly stated during a visit to Huancavelica on November 23, 2021 that he would not “allow giving a penny to those who distort reality, to those who do not want to see the people, those who want to make people believe something else”<sup>1237</sup>. The President also allegedly stated that the media are asking to be given “a budget to speak well of the government”<sup>1238</sup>. On the other hand, on November 11, the founding leader of Peru Libre questioned whether the “neoliberal media” intended that “the people continue paying for their freedom of deceit, extortion and media terrorism”<sup>1239</sup>. Likewise, according to the information received, presidential advisor Ricardo Belmont Cassinelli would have published a video in social networks stating that the government would not provide official advertising to *El Comercio*, since the group would promote “harm and evil” and the budget should be distributed “among provincial channels and radios that promote culture, the family and not the destruction of it, progress”<sup>1240</sup>.

736. The Office of the Special Rapporteur recalls that political leaders and persons exercising public functions are called upon to maintain a discourse favorable to public deliberation; and, in this sense, they must ensure that their expressions do not constitute, in the words of the Inter-American Court, “forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute with public deliberation through the expression and diffusion of their thoughts”, such as journalists, the media and human rights organizations. According to the Inter-American Court of Human Rights, stigmatizing statements by public officials could constitute an indirect restriction on the right to freedom of expression<sup>1241</sup>.

737. In 2021, this Office again noted with concern the continued use of criminal mechanisms against journalists who are legitimately exercising their right to inform<sup>1242</sup>. According to the information received, an official of the District Municipality of Lurigancho, in Chosica, reportedly filed a criminal defamation complaint against journalist Gina Katty Bisso Castillo<sup>1243</sup>. Likewise, the former mayor of Villa El Salvador, Guido Ingño, reportedly sued journalist Wilson Tarfur for aggravated defamation as a result of a 2017 publication that linked him to alleged investigations for drug trafficking, money laundering and corruption<sup>1244</sup>.

738. Likewise, on August 5, 2021, journalist Carlos Yofré López Sifuentes, of the web portal *Barranca.pe*, was sentenced to two years of suspended imprisonment, 240 days of fines and a payment of 50 thousand soles

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<sup>1233</sup> Expreso. 27 September 2021. [Ministro Juan Silva arremete contra canal del Estado: “Tenemos que hacer cambios ahí”](#); Gestión. 27 September 2021. [Ministro Juan Silva ahora dice que “de ninguna manera” pretendió amenazar a TV Perú](#).

<sup>1234</sup> Gestión. 27 September 2021. [Ministro Juan Silva ahora dice que “de ninguna manera” pretendió amenazar a TV Perú](#).

<sup>1235</sup> Expreso. 3 October 2021. [Iber Maraví llama a ‘movilizarse’ frente a un supuesto ‘golpe de Estado’: “El pueblo tiene que defender a su gobierno”](#); Gestión. 4 October 2021. [Carlos Anderson: “El que ataca todos los días \(al Congreso\) es Bellido”](#).

<sup>1236</sup> Expreso. 29 September 2021. [Bermejo arremete contra reporteros: “A ustedes se les considera prensa basura”](#)

<sup>1237</sup> La razón. November 24, 2021. [Castillo against the press: “they distort reality”](#); La República. November 23, 2021. [Castillo: “I will not allow myself to give a penny to those who distort reality”](#).

<sup>1238</sup> La razón. 24 November 2021. [Castillo contra la prensa: “tergiversan la realidad”](#); La República. 23 November 2021. [Castillo: “No me voy a permitir a darle ni un centavo a aquellos que tergiversan la realidad”](#).

<sup>1239</sup> Twitter account of Vladimir Cerrón (@VLADIMIR\_CERRON). [11 November 2021](#).

<sup>1240</sup> IPYS. 20 October 2021. [Perú: asesor presidencial amenaza con retirar la publicidad oficial del grupo El Comercio](#).

<sup>1241</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>1242</sup> IPYS. 27 September 2021. [Perú: periodista denuncia acoso judicial de parte de ex candidato a la presidencia](#); IPYS. 12 October 2021. [Perú: operadora política de gobernador regional denuncia a periodista](#); Twitter account of IPYS. (@IPYS). [16 September 2021](#); Facebook account of National Association of Journalists of Peru. [13 May 2021](#).

<sup>1243</sup> IPYS. 19 May 2021. [Perú: regidora municipal querrela a periodista](#); Facebook account of National Association of Journalists of Peru. [10 May 2021](#).

<sup>1244</sup> Facebook account of the National Association of Journalists of Peru. [13 May 2021](#).

in reparation in the framework of a criminal complaint for the crimes of slander and libel filed against him by a former judge. The journalist had published reports regarding allegations of sexual harassment involving the plaintiff<sup>1245</sup>. The journalist is also being investigated in another criminal proceeding for the alleged commission of libel, slander and defamation after the publication of an article criticizing the decision of the judge to revoke the preventive detention of a former mayor of the city of Barranca, who is being investigated for crimes in the framework of the administration<sup>1246</sup>.

739. This office continues to monitor the various lawsuits and legal proceedings underway against investigative journalist Paola Ugaz, which are allegedly related to her journalistic practice.<sup>1247</sup> As the Rapporteurship noted in its previous reports, the journalist faces various civil and criminal proceedings related to her participation in the book “Mitad monjes, mitad soldados” (Half monks, half soldiers), together with journalist Pedro Salinas. The book details an alleged history of sexual, physical and psychological abuse within the religious organization El Sodalicio de Vida Cristiana (SVC), as well as a subsequent financial investigation that would have identified alleged acts of corruption by the religious order.

740. Likewise, according to the information received, César Acuña, leader and founder of the Alianza para el Progreso party, would allegedly sued journalist Christopher Acosta and Jerónimo Pimentel, general director of the publishing house Penguin Random House for the crime of aggravated defamation, as a result of the publication of the book “Plata como cancha”<sup>1248</sup>. The book is described by the publisher as “an exhaustive journalistic investigation that reveals secrets, impunity and fortune of the Peruvian politician César Acuña”, and would include “judicial and fiscal records, governmental resolutions”, among other information related to Acuña’s political and business career. According to the information available, he also requested the seizure of Christopher Acosta’s assets, those of the publishing house and of Jerónimo Pimentel in the total value attributed to the civil case as security for the requested reparation.<sup>1249</sup> Previously, Acuña had administratively sued the author and the publishing house before the National Institute for the Defense of Competition and Protection of Intellectual Property for “unfair competition in the modality of acts of confusion and undue exploitation of the reputation of others”. However, the Institute declared the claim inadmissible in its entirety.<sup>1250</sup>

741. The Commission has pointed out that although according to Article 13(2) of the American Convention the protection of the honor and reputation of others may be a reason to establish subsequent liability for the abusive exercise of freedom of expression, this is legitimate as long as it complies with the requirements of legality, necessity and proportionality (“tripartite test”). Inter-American jurisprudence has emphasized that the principle of necessity requires the State to choose the means least harmful to freedom of expression. The criminal sanction must be a measure of last resort and States must remember that the application of a disproportionate civil sanction can have as intimidating or more inhibiting effects on the exercise of freedom of expression than a criminal sanction.

742. The portal *Ojo Público* also reported that the Prosecutor’s Office initiated an investigation against its journalist Ernesto Cabral Mejía for undue violation of identity as a result of a 2019 report in which the portal published audios revealing allegedly illicit collaborations between prosecutors and a possible aspiring effective collaborator in the framework of the *Lava Jato* investigation. According to *Ojo Público*, the Prosecutor’s Office

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<sup>1245</sup> International Federation of Journalists. 18 August 2021. [Perú: alerta por el hostigamiento y persecución judicial contra un periodista - IJF](#); Facebook account of the National Association of Journalists of Peru. [6 September 2021](#).

<sup>1246</sup> Facebook account of the National Association of Journalists of Peru. [17 August 2021](#).

<sup>1247</sup> Superior Court of Justice of Lima. Fourth Criminal Chamber for Proceedings with Free Convicts. Notification 4724-2021-SP-PE. Exp. 10876-2019. 22 January 2021; La República. 8 January 2021. [Querellante de Paola Ugaz solo dio partes de supuestas pruebas contra periodista](#); El Comercio. 7 January 2021. [Paola Ugaz: los detalles del inicio del juicio contra la periodista por presunta difamación](#); La República. 4 February 2021. [Fiscalía decide investigar a Paola Ugaz por lavado de activos](#); Archive of the Office of the Special Rapporteur for Freedom of Expression. Meeting with journalist Paola Ugaz. 19 October 2021.

<sup>1248</sup> La República. June 1, 2021. [César Acuña demanda y exige S/100 millones a periodista por publicación de libro](#); RPP Noticias. June 1, 2021. [César Acuña demanda al autor del libro 'Plata como cancha' y exige S/ 100 millones por supuesta difamación](#); Swissinfo. November 18, 2021. [Prensa peruana rechaza querrela de ex candidato Acuña a periodista y editorial](#).

<sup>1249</sup> Gestión. 18 November 2021. [Consejo de la Prensa Peruana condena pedido de embargo contra Christopher Acosta y Jerónimo Pimentel](#); EFE. 18 November 2021. [Prensa peruana rechaza querrela de ex candidato Acuña a periodista y editorial](#).

<sup>1250</sup> Gestión. 15 March 2021. [César Acuña demanda a periodista argumentando que frase “Plata como cancha” es suya](#); El Comercio. 15 March 2021. [César Acuña demanda a periodista al argumentar que frase “Plata como cancha” es suya y busca retirar libro del mercado](#); Gestión. 10 July 2021. [Indecopi rechazó denuncia de César Acuña contra autor del libro “Plata como cancha”](#); El Comercio. 10 July 2021. [César Acuña: Indecopi declara infundada su denuncia contra autor del libro ‘Plata como cancha’](#)

also requested that the Judiciary lift the secrecy of the investigated journalist's communications.<sup>1251</sup> The Rapporteurship emphasizes that, according to Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR, "[e]very social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential". Any measure tending to seize journalistic material that requires the disclosure of sources or the summoning of journalists as witnesses has an intimidating and restrictive effect on freedom of expression.

743. In addition, this office received several reports of alleged obstruction of the press in accessing public information or participating in official government events.<sup>1252</sup> For example, on July 30, journalists and independent media outlets were allegedly denied access to the Gran Teatro Nacional to cover the swearing-in of the ministers of the new government cabinet.<sup>1253</sup> However, according to information received by this Office, journalists from *TV Peru* were reportedly allowed access to the event.<sup>1254</sup> Similar events were reported during the ceremony in which the president was recognized as supreme chief of the Armed Forces and the National Police.<sup>1255</sup> In addition, according to the Peruvian Public Defender's Office, since the beginning of his mandate, the president "has not given press conferences or interviews, but has only resorted to speeches in public spaces and his social networks to express his position on various issues of public relevance".<sup>1256</sup> The occasions in which the president would have engaged with press professionals would have been few and brief<sup>1257</sup> and, in his public statements, the president would not have allowed questions from the press or replies from journalists.<sup>1258</sup> In this context, on August 8, 2021, the Peruvian Ombudsman's Office denounced that the official agenda of the new president in the framework of the new mandate was completely unknown.<sup>1259</sup> However, the Rapporteurship learned that on October 18, Pedro Castillo received the National Association of Journalists of Peru (ANP) in order for the institution to expose "the needs of working journalists throughout the country".<sup>1260</sup>

744. Transparency and accountability of public authorities strengthen democratic systems. Access to information held by the state is a fundamental right, which admits only exceptional limitations. In this regard, the authorities should ensure that the press could freely access places such as parliament and events such as press conferences to gather information on matters of public interest, and provide equal opportunities for the formulation of questions in such contexts.<sup>1261</sup>

745. The Rapporteurship also recalls that, as pointed out by the Joint Declaration of Rapporteurs on freedom of expression and "fake news", disinformation and propaganda, the press is called upon to offer "critical coverage of disinformation and propaganda as part of their news services in line with their watchdog role in society". This role of the press "imposes a series of good practices that have proven to be significant contributions to the democratic system, such as investigative journalism, editorial independence and a certain objectivity as a regulatory ideal of office". In this sense, this Office is concerned, for example, about the alleged dissemination of inaccurate information about the effectiveness of vaccines on the *Willax TV* channel.<sup>1262</sup> This Office also notes that, in a proceeding conducted before the Peruvian Press Ethics Tribunal, said broadcaster

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<sup>1251</sup> Ojo Público. [Fiscalía abre investigación penal a periodista de OjoPúblico por publicar audios del Caso Lava Jato](#); IPYS. 9 November 2021. [Perú: Fiscalía abre investigación contra periodista por revelar audios del caso Lava Jato](#).

<sup>1252</sup> El Comercio. 23 November 2021. [Consejo de la Prensa e IPYS rechazan expresiones de ministro de Energía y Minas](#); Gestión. 22 November 2021. [Solo responderé a medios de comunicación que no me hagan problemas, dice ministro de Minas](#); IPYS. 10 September 2021. [Perú: congresista de partido aliado al gobierno se niega a declarar frente a medio de comunicación de oposición](#); Willax. 18 July 2021. [Tras denuncia de abogados de Perú Libre. Fiscalía abre investigación preliminar a Rafael López Aliaga, Beto Ortiz y Phillip Butters por supuesta sedición](#)

<sup>1253</sup> Canal N. 30 July 2021. [CPL: Es pésimo precedente impedir ingreso de la prensa a la juramentación de ministros](#); América TV. 29 July 2021. [IPYS y Consejo de la Prensa Peruana rechazaron las restricciones para cubrir la juramentación del gabinete ministerial](#).

<sup>1254</sup> Rapporteurship Archives. Letter sent by Instituto Político para la Libertad Perú, Diario El Gobierno, Movimiento Respeto, Regulación Racional, Instituto Libertad y Respeto - LibRes. 16 August 2021.

<sup>1255</sup> Gestión. 5 August 2021. [Pedro Castillo: se evitó acceso a la prensa a ceremonia con FF.AA. y PNP en Palacio de Gobierno](#); IPYS. 5 August 2021. [IPYS: Gobierno impidió ingreso de la prensa a ceremonia en Palacio y dispuso colocar cortinas en lunas del vehículo oficial presidencial](#).

<sup>1256</sup> Ombudsman's Office. December 2021. [Oversight of the Executive Branch in Relation to Freedom of the Press](#).

<sup>1257</sup> El Comercio. 5 December 2021. [Pedro Castillo y cuatro meses sin explicaciones ni espacio para preguntas](#); Ombudsman's Office. December 2021. [Oversight to the Executive Branch in Relation to Freedom of the Press](#).

<sup>1258</sup> Swissinfo. 6 December 2021. [Defensoría: El Gobierno peruano vulneró estándares de libertad de prensa](#); Ombudsman's Office. December 2021. [Oversight to the Executive Branch in Relation to Freedom of the Press](#).

<sup>1259</sup> Abogacía del Pueblo. 8 August 2021. Press Release 022/DP/2021. [Gobierno debe cesar todo acto que limite la libertad de prensa](#).

<sup>1260</sup> Twitter account of the National Association of Journalists of Peru (@ANP\_Periodistas). [18 October 2021](#).

<sup>1261</sup> UN, OSCE, OAS, CADHP. October 20, 2021. [Joint Declaration 2021 on Politicians and Public Officials and Freedom of Expression](#).

<sup>1262</sup> Willax Tv. 5 March 2021. [Beto A Saber: Resultados de ensayo de vacuna Sinopharm en Perú revelan eficacia de 11 % y 33 %](#); Perú 21. 6 March 2021. [Ciudadanos denuncian a Beto Ortiz y Willax por el presunto delito contra tranquilidad pública](#).

acknowledged that, during the transmission of the program “Beto a Saber”, on June 16, 2021, journalist Humberto Martín Ortiz Pajuelo used dangerous and/or violent elements on screen. In the proceeding, the Court emphasized that “it is important to avoid the normalization of the use of firearms, especially one of high caliber as the one shown or, if it is necessary to use them, to be careful how to do it”, especially in the context of a climate of intense political and social polarization that the country is experiencing.<sup>1263</sup>

746. Finally, the Rapporteurship highlights some progress made in the context of judicial investigations into crimes committed against journalists. In this regard, the Office was informed of the decision of the Fourth Transitory National Superior Criminal Court that sentenced Vladimiro Montesinos Torres to 17 years imprisonment and José Rolando Valdivia Dueñas to 12 years imprisonment for the kidnapping of journalist Gustavo Gorriti on April 5, 1992<sup>1264</sup>, in the context of the closure of the democratic space and the closure of the National Congress perpetrated by Alberto Fujimori.

747. Likewise, in 2021, the Third National Superior Criminal Court of the National Superior Court of Specialized Criminal Justice advanced in the oral trials against Daniel Urresti, accused in the trial for the murder of Hugo Bustíos on November 24, 1988.<sup>1265</sup> This event was the subject of Merits Report 38/97 of the system of petitions and cases of the IACHR, in which the Commission recognized that the State had violated the rights to life, freedom of expression and judicial protection to the detriment of Hugo Bustíos Saavedra, and determined that the State should carry out a new serious, impartial and effective investigation of the denounced facts in order to identify the responsible authors.<sup>1266</sup>

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

748. On June 11, the plenary of Congress approved the General Museum Bill (Bills 2456/2017 and 7060/2020).<sup>1267</sup> Article 30.3.3.f of the Bill states that “the implementation of exhibitions and/or the execution of activities that seek to distort the truth of past events or situations, with the purpose of maliciously modifying the collective memory of the citizenship”, constitute a very serious infraction that can be sanctioned by the Ministry of Culture. In turn, article 30.3.3.g also establishes as a very serious infraction “the implementation of exhibitions and/or the execution of activities related to an apology to terrorism (praise, defense or justification)”. Article 30.3.2.i also established as serious infringements “the implementation of exhibitions and/or the execution of activities that are contrary to public order”. Such infractions could be sanctioned with a fine and suspension or withdrawal of registration, in addition to possible civil or criminal actions. As learned by this Office, various civil society organizations pointed out that the initiative would put freedom of expression at risk, especially due to the use of imprecise and vague terms, such as “misrepresenting the truth of the facts” or “malicious modification”. They also warned about the historical use of terms such as “terrorism” to limit artistic expression.<sup>1268</sup> Even the president, who reviewed the bill on July 22, 2021, indicated that the aforementioned articles should be excluded.<sup>1269</sup>

749. On July 1, 2021, the National Congress approved a bill amending Law 28874, which “Regulates State Advertising to Safeguard the Right to Information and Establish Equal Opportunities”<sup>1270</sup>. On July 26, 2021, then President Francisco Ragael Sagasti Hochhausler reviewed the bill<sup>1271</sup>. On October 13, 2021, it was assigned the updated No. 440/2021-CR<sup>1272</sup> and, as of the date of this report, the bill was again being debated in the

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<sup>1263</sup> Ethics Tribunal of the Peruvian Press Council. Case 009-2021 Agnieszka Céspedes / Willax TV. [Resolution 005-TE/2021](#). 30 September 2021.

<sup>1264</sup> Latam Journalism Review. 30 November 2021. [Periodista peruano Gustavo Gorriti sobre la sentencia de su secuestro: “No siento alegría, pero sí certeza de que la sentencia fue correcta”](#); La República. 18 August 2021. [Dictan 17 años de prisión contra Vladimiro Montesinos por secuestro de Gustavo Gorriti](#).

<sup>1265</sup> Justicia TV. [Juicio oral contra Daniel Urresti Elera por el asesinato del periodista Hugo Bustíos](#).

<sup>1266</sup> IACHR. Case 10.548. [Merits Report 38/97](#). Hugo Bustíos Saavedra. Peru. 16 October 1997.

<sup>1267</sup> Congress of the Republic. [Substitute Text “General Museums Bill”](#). Opinion rendered on bills 2456/2017-CR and 7060/2020-CR. 11 June 2021.

<sup>1268</sup> Disonancia. 29 June 2021. [Arte, memoria y democratización. Notas a propósito del Proyecto de Ley General de Museos en Perú](#); IFEX. 23 June 2021. [Congreso aprueba proyecto de ley para censurar artistas y curadores de museos](#).

<sup>1269</sup> Presidency of the Republic. [Oficio 490-2021-PR](#). 22 July 2021.

<sup>1270</sup> Congress of the Republic. PL 4318/2018 and others. [Law that amends Law 28874, law that regulates state advertising, to protect the right to information and establish equal opportunities](#). 7 July 2021.

<sup>1271</sup> Presidency of the Republic. [Oficio 515-2021-PR](#). 25 July 2021.

<sup>1272</sup> Congress of the Republic. [Bill 440/2021-CR](#).



Transportation and Communications Commission, where public hearings were held with representatives of the media.<sup>1273</sup> With respect to the version of the bill approved by the Legislative Power and reviewed by the former President of the Republic, it is worth noting that the National Press Council of Peru criticized the rule that establishes that “the State entities that contract with private media, for radio and television, must contract with media that operate in the districts, provinces and regions with a local programming of no less than 50%”. According to the Council, “preferring media operating in districts, provinces and regions with no less than 50% local programming does not necessarily imply that State advertising reaches as many people as possible”.<sup>1274</sup> They also criticized the lack of provisions expressly establishing rating or reach criteria for radio and television, and transparency in the expenditure of public resources.<sup>1275</sup>

750. On September 17, 2021, congress members of the government party presented a bill declaring of public necessity and national interest the fair and equitable distribution of the electromagnetic and radioelectric spectrum in radio, television and other media, and transmission in the national territory (Bill No. 269/2021). According to Article 2, the media are “a public service of national competence” and, according to Article 3.4, radio and television broadcasting must be protected and promoted by the State. Article 3 of the bill establishes different criteria for the Executive Branch to promote the fair and equitable distribution of the electromagnetic spectrum, as referenced in Article 1 of the bill. Likewise, Article 4 established that “in cases of declared emergency, in accordance with the legal system, the Executive Power may issue temporary measures to be complied with by operators, suppliers and users of telecommunications services”. In this sense, the Executive Power could also assume “on an exceptional and transitory basis, respecting the principles of proportionality and reasonableness, (...) the direct provision of certain services or the operation of certain communications networks when necessary to mitigate the effects of the state of necessity and urgency”. Associations of journalists and press media and civil society organizations expressed concern about an implicit “confiscatory” or “expiatory” danger against the press, since, according to them, the bill would not only allow the direct assumption of the operation of services in case of emergency, but would also use vague terms such as criteria of justice and equity for the distribution of the radio electric spectrum.<sup>1276</sup> Likewise, the Ombudsman’s Office called on Congress to shelve the bill because the “legislative initiative could result in an arbitrary use of power by the Executive in emergency situations”. On September 20, Congressman Jaime Quito, of the Peru Libre party, affirmed that the bill did not intend to “close programs”, but rather “to set rules or requirements so that they are adapted to adequately reach the population”.<sup>1277</sup> On September 21, Congresswoman Francis Jhasmina Paredes Castro, one of the co-authors of the bill, withdrew her signature<sup>1278</sup>, so that, according to the decision of the Parliamentary General Directorate, the initiative could not continue its course.<sup>1279</sup> After the election day, and in the context in which the final results of the second round were awaited, the Peru Libre party stated in its social networks that “a media law and an end to these extortionists” was necessary.<sup>1280</sup>

751. The Rapporteurship recalls that, according to Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR, “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law”.

752. On September 8, 2021, the Peruvian Press Council, the Press and Society Institute, the Foreign Press Association in Peru and the organizations Transparency Peru and *Proética* sent a letter to the president of the

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<sup>1273</sup> La República. 11 November 2021. [Congreso: debaten proyecto de ley de publicidad en los medios de comunicación](#); Congreso de la República. [Bill 440/2021-CR](#).

<sup>1274</sup> La República. 3 July 2021. [CPP muestra preocupación por aprobación de modificación de Ley de Publicidad Estatal](#).

<sup>1275</sup> La República. 3 July 2021. [CPP muestra preocupación por aprobación de modificación de Ley de Publicidad Estatal](#).

<sup>1276</sup> IPYS. 20 September 2021. [Perú: El IPYS rechaza proyecto de ley que amenaza directamente la libertad de expresión](#); La República. 21 September 2021. [Consejo de la Prensa Peruana tilda de “confiscatorio” proyecto de ley de medios de Perú Libre](#); El Comercio. 21 September 2021. [Consejo de la Prensa Peruana exhorta al presidente Castillo a rechazar proyecto de ley contra los medios de comunicación](#)

<sup>1277</sup> El Comercio. 20 September 2021. [Congresista de Perú Libre sobre ley de medios: “El Estado tiene todo el derecho de proteger a su población”](#); La República. 20 September 2021. [Jaime Quito sobre ley de medios: “El Estado tiene todo el derecho de proteger a su población”](#).

<sup>1278</sup> Congress of the Republic. Francis Jhasmina Paredes Castro. [Official Communication 100-2021-FJPC/CR](#). 21 September 2021.

<sup>1279</sup> Congress of the Republic. Parliamentary General Directorate. [Oficio 098-0692282-7-2021-2022-DGP-CR](#). 22 September 2021.

<sup>1280</sup> La Tercera. 7 June 2021. [Pedro Castillo: “Seré el primero en hacer respetar la voluntad del pueblo peruano”](#).

Republic inviting him to symbolically sign the Chapultepec Declarations on freedom of expression and the press, adopted by the hemispheric conference on freedom of expression in Mexico in 1994, and the Salta Declaration on Principles of Freedom of Expression in the Digital Age, adopted at the 43rd General Assembly of the Inter-American Press Association in Argentina in 2018. Despite the fact that the president had promised to study and analyze the documents<sup>1281</sup>, the governing party, Peru Libre, published a statement on September 26 where it expressed its “total and absolute rejection of the political and media pressure that has been exerted on the president of the Republic, Professor Pedro Castillo Terrones to sign said documents”. The Rapporteurship regrets this reaction to inter-American instruments that have proven to contribute to the exercise of civil liberties.

753. On the other hand, the Rapporteurship received information on progress made in the framework of investigations into alleged police abuse in the context of the social protests of November 2019 in Peru, after Congress voted in favor of the motion of vacancy against President Martin Vizcarra and declared his “permanent moral incapacity”. In this regard, as the Rapporteurship was able to learn, the First Supraprovincial Criminal Prosecutor’s Office of Lima Specializing in Human Rights Crimes filed on October 6 a criminal complaint. This complaint was against 11 high-ranking officers of the National Police (PNP) for the alleged crimes of aggravated homicide against Inti Sotelo and Bryan Pintado, serious and minor injuries against 80 demonstrators and abuse of authority.<sup>1282</sup> As this Office reported in its 2020 Annual Report, the National Police allegedly used tear gas and pellets in a massive and indiscriminate manner, injuring demonstrators, in order to disperse the protests. In this context, two young men, Jordan Inti Sotelo Camargo and Jack Bryan Pintado Sánchez lost their lives and several demonstrators and police officers were injured.

754. The Rapporteurship urges the State to continue investigating cases of disproportionate use of public force in social protests, using the maximum diligence possible. This Office recalls that justice in a case will not be fully served until there are effective sanctions for all those responsible for the human rights violations committed.

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

755. In 2021, the Office of the Special Rapporteur was concerned about the proliferation of discriminatory and stigmatizing speech in the Peruvian electoral context, in several cases coming from political leaders<sup>1283</sup>. In May, this Office noted that it “recognizes the importance of vigorous and uninhibited political debate on matters of public interest and supports that such protection is accentuated in electoral contexts, but also fears that some statements may encourage violence and discrimination”.<sup>1284</sup> On June 22, the IACHR noted that it received information “on the dissemination of messages that include denigrating and stigmatizing expressions that may encourage discrimination based on ethnic-racial origin, socioeconomic status, alleged political affiliations, regional origin and other social conditions of persons, mainly indigenous persons and inhabitants of rural areas of the country”, a situation that was denounced especially by authorities of indigenous peoples, peasant communities in the country. In this context, the United Nations High Commissioner for Human Rights also rejected “hate speech and discrimination in all its facets, unacceptable in any democratic society” in the face of “a growing number of verbal attacks against supporters of a candidate, including racist messages and derogatory comments based on their ethnicity, social status or regional origin” in the Peruvian electoral context.<sup>1285</sup>

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<sup>1281</sup> El Comercio. 8 September 2021. [Presidente Castillo se compromete a estudiar las Declaraciones de Chapultepec y de Salta, referidos a la libertad de expresión](#); La República. 8 September 2021. [Mandatario Pedro Castillo evaluará firmar compromisos en favor de la prensa](#).

<sup>1282</sup> Office of the Attorney General of the Nation. 6 October 2021. [Public Prosecutor's Office formalizes criminal complaint against high commanders and PNP officers for the murders of Inti and Bryan](#).

<sup>1283</sup> Wapa. 12 April 2021. [Pedro Castillo: Redes se llenan de comentarios racistas tras su eventual llegada a segunda vuelta](#); AP. 12 April 2021. [Tula Rodríguez pidió terminar con comentarios racistas hacia candidato Pedro Castillo - VIDEO](#); Swissinfo. 17 June 2021. [El racismo entró en campaña en la contienda electoral peruana](#); Caretas. 27 September 2021. [Aprueban investigar al premier Guido Bellido por la agresión verbal en contra de Patricia Chirinos](#); Canal N. 3 November 2021. [Comisión de Ética investigará a Guido Bellido por agresión verbal contra Patricia Chirinos](#); National Association of Journalists of Peru - Filial Provincial Pucallpa. [Pronunciamiento](#); Diario Ahora. 8 July 2021. [ANP sanciona a periodista por discriminación](#).

<sup>1284</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 17 May 2021. Press Release R126/21. [The Office of the Special Rapporteur for Freedom of Expression calls on those who hold or aspire to hold elected office in Peru to contribute with their speech to the protection of human rights](#).

<sup>1285</sup> OHCHR. 14 June 2021. [Bachelet calls for calm to avoid further social fracture after the elections in Peru - OHCHR](#).



756. As the 2021 Joint Statement of the Special Rapporteurs on Freedom of Expression highlights, “[p]oliticians and public officials should not make statements that are likely to promote intolerance, discrimination or dis/misinformation and should, instead, take advantage of their leadership positions to counter these social harms and to promote intercultural understanding and respect for diversity”.<sup>1286</sup>

757. On the other hand, the Rapporteurship was informed about alleged violations to freedom of expression of women journalists who denounce gender violence. Since March, journalists Graciela Jimena and Luciana Távara Bermejo of *Wayka Perú* have reportedly suffered threats, which escalated to threats against their lives, when they revealed reports of alleged sexual harassment by the candidate for the National Congress, Víctor Quijada Tacuri. Following these publications, the candidate reportedly sued the journalists for aggravated defamation on February 25.<sup>1287</sup> For this Office, the speeches of women who denounce violence because of their status as women are historically silenced speeches and should be especially protected nowadays. In this sense, the Rapporteurship invites the States to identify possible obstacles or limitations to the freedom of expression of these groups and to align institutional practices with the reinforced protection of this type of speech.

#### **D. Freedom of Expression and the Internet**

758. According to the National Institute of Information and Statistics, 52.5% of Peruvian households had Internet access as of the second quarter of 2021. Although this is an improvement over the same period last year, when it was reported that only 43.2% of households had Internet access, the figure still shows that almost half of Peruvian households do not have Internet access. Likewise, there is a great discrepancy when contrasting data from urban and rural areas, since in Lima and the Metropolitan Region 68.3% of households had access to the network; in the rest of the cities, 56.1%; but only 20.1% in rural areas.<sup>1288</sup> On the other hand, the Rapporteurship positively values the announcement of the Ministry of Transport and Communications that the National Telecommunications Program (Pronatel) will provide 1 million scholarships for digital literacy in rural regions in courses with Netzun, EDTeam, Facebook and Microsoft.<sup>1289</sup>

759. The IACHR and its Office of the Special Rapporteur have called on the States to take prompt action to progressively promote universal access to the Internet infrastructure and the technology necessary for its use and exploitation by citizens.<sup>1290</sup> In this regard, this Office encourages the State to continue working on the development of positive measures to reduce the digital divide faced by vulnerable groups, which can often reinforce pre-existing inequalities.<sup>1291</sup>

760. At the same time, this Office has monitored with concern the increase of violence in the digital environment during the Peruvian electoral period. In a campaign known as “Chapa tu Caviar”, by which people are allegedly intimidated based on their political opinions, confidential personal information was disseminated without consent, in order to force them to leave the national territory in retaliation for their political affiliations or opinions. The IACHR notes that the Public Prosecutor’s Office has initiated proceedings with respect to this campaign.<sup>1292</sup>

761. To date, the IACHR has emphasized that this category of digital harassment, known as “doxing”, consists of the disclosure of confidential personal information for intimidating or extortive purposes. Doxing has the potential to expose individuals to digital attacks and, in addition, to physical violations, including

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<sup>1286</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression; Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression; African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. 20 October 2021. [Joint Declaration 2021 on Politicians and Public Officials and Freedom of Expression](#).

<sup>1287</sup> CPJ. 9 September 2021. [Candidato al Congreso de Perú presenta querrela por difamación contra dos periodistas por informar sobre denuncias de acoso sexual](#); Wayka. 2 March 2021. [Candidato al Congreso querrela a Wayka por revelar denuncias de acoso](#); Wayka. 9 November 2021. [Archivan dos querellas de excandidato Víctor Quijada contra Wayka por publicar denuncias de acoso](#).

<sup>1288</sup> INEI. 28 September 2021. [El 52.5% de los hogares del país tiene conexión a internet en el trimestre abril-mayo-junio de este año](#).

<sup>1289</sup> Gob.pe. 9 September 2021. [Minister Silva: 1 million scholarships to provide digital literacy to Peruvians in rural areas](#).

<sup>1290</sup> IACHR Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 15.

<sup>1291</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). OEA/Ser.G CP/CAJP/INF.652/19. 2019. P. 39.

<sup>1292</sup> IACHR. 22 June 2021. Press Release 155/2021. [IACHR Concerned about Reports of Harassment and Stigmatizing Messages Fueling Discrimination in Peru’s Election Context](#).

attacks on life and personal integrity, encouraged by the disclosure of personal information in the digital sphere. In this regard, it is important for Internet companies to adopt measures to prevent and mitigate this type of content, in line with the recommendations made by the IACHR in various thematic reports that have analyzed the Internet's potential for dissemination.<sup>1293</sup>

762. In its April 2021 Coordinated Inauthentic Behavior Report, Meta announced that it removed 80 Facebook accounts and six Instagram accounts for violating its coordinated inauthentic behavior policies. Meta recorded that “the people behind this activity used fake accounts — some of which had already been detected and disabled by our automated systems — to post and comment in Spanish on political issues in Peru” in the electoral context and that it “found links to individuals associated with the Fuerza Popular party and individuals employed by Alfagraf, an advertising firm in Peru”. It also reported the removal of 80 Facebook accounts, 12 pages, five groups and three accounts, because “[t]he people behind this activity used compromised and fake accounts — some of which were already detected and disabled by our automated systems — to post content and manage Pages posing as independent local news entities” in the Ancash region.<sup>1294</sup>

## DOMINICAN REPUBLIC

763. In 2021, the Office of the Special Rapporteur received information that, in general, in the Dominican Republic the exercise of freedom of expression has been guaranteed throughout the year. However, the Office of the Special Rapporteur identified some incidents of violence against journalists and acts of harassment. The Office of the Special Rapporteur is also concerned about various stigmatizing speeches made by public officials, and which especially have elements of gender and sexual orientation. Dominican society is also going through a scenario of vigorous public debates, with proposals for bills that have an impact on freedom of expression. The year was especially marked by debates about the draft of the new Criminal Code, which after parliamentary deliberations was not approved in the Chamber of Representatives. The State must also continue its efforts to bridge the digital gap, promote digital literacy, and continue developing transparency and information access policies, considering the specificities of people in situations of vulnerability. This Office also notes positively that the State has promoted requests for information on freedom of expression to experts and institutions of civil society, in addition to various State entities, to respond to the consultation carried out by the Office of the Rapporteur in August 2021 in the framework of the preparation of this annual report. This demonstrated the State's commitment to multilateral dialogue and allowed the Office of the Special Rapporteur to receive information from different points of view on the guarantee of the exercise of free expression in Dominican society.

### A. Journalism and Democracy

764. The Office of the Special Rapporteur recognizes an environment, in general, that guarantees the exercise of freedom of expression and of the press and guarantees journalistic work in the Dominican Republic.<sup>1295</sup> According to the information provided by the Dominican Association of Journalists, through communication from the State, throughout the year “there have been minimal cases of threats, attacks, persecution, and summons to journalists” and that “there have been no reported measures against media of

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<sup>1293</sup> IACHR. 22 June 2021. Press Release 155/2021. [IACHR Concerned about Reports of Harassment and Stigmatizing Messages Fueling Discrimination in Peru's Election Context.](#)

<sup>1294</sup> Meta. 6 May 2021. [Coordinated Inauthentic Behavior Report - April 2021.](#)

<sup>1295</sup> Interamerican Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [República Dominicana.](#)

communication, cases of closure of radio stations, television channels, or repression against the media.” Likewise, through State proceedings, the Office of the Rapporteur also received information from Persio Maldonado, president of the Dominican Society of Newspapers, who stated that “journalism is practiced in the Dominican Republic with fluidity, due to the diversity of communication media and for respect for freedom of expression” and that “there is no violence or threats against journalists, although groups linked to illicit activities may exercise this practice.” At the same time, the director of the newspaper *Listin Diario*, Miguel Franjul, reported that “isolated” cases of possible violations of press freedom occur, “not exactly the result of any State policy, of abuses, threats or interference with journalists and commentators for their critical opinions. This generally favorable environment for journalistic work has also been recognized by the Inter-American Press Association.<sup>1296</sup>

765. However, the Office of the Special Rapporteur recorded some acts of violence and harassment, in addition to threats against journalists. The economic viability of the media and journalistic work itself is also at risk in the face of economic crises and low investment by the State in official advertising.

766. On May 19, the Dominican Association of Journalists of the Valdesia Region (CDP) reported that journalist Ulises Muñoz had been kidnapped. According to this same entity, the individuals who kidnapped him supposedly entered his residence, located in the “Las 20 Casitas” sector, in the northern area of Baní, and after a struggle they put him in a vehicle in front of his home and they took him<sup>1297</sup>. On May 20, journalist Ulises Muñoz was presented to the press by police officers after being released. Muñoz declared to the media that he did not know the place where he had been taken because he had been hooded, and denounced having been tortured by his kidnappers<sup>1298</sup>.

767. On June 11, the journalist Santiago Matías denounced having received death threats after interviewing the musician and current Vice Minister of the Dominican Republic, Fernando Cruz, on his program *Alofoke Radio Show*, who declared that he had sung on the birthday of Nicolás Maduro on November 23, 2020, and for that he would have supposedly received \$60,000.00.<sup>1299</sup>

768. This Office also learned that, in September, journalist Estarling Mateo Feliz of *Telenoticias* in Monte Plata allegedly received threats from police agents after reporting alleged irregularities in the removal of a person under criminal proceedings from the hospital where he was hospitalized, linking police agents to the events.<sup>1300</sup>

769. According to the information provided by the State, the Attorney General's Office of the Dominican Republic registered only isolated cases of violence against journalists and, as they indicated, the cases registered in general would not have been perpetrated due to the exercise of journalistic work.<sup>1301</sup> This Office also received positively the information that on September 7, 2021, a court in the province of Hermanas Mirabal issued an order of archive in favor of Francisco Villanueva, journalist and director of the *Prensa Extrema* media outlet, who would have been accused of spreading false information and attack against the State.<sup>1302</sup>

770. Likewise, the Inter-American Press Association reported that, in 2021, the government without official explanation stopped publishing the monthly dossier on budget executions during the COVID-19 pandemic, a measure that would have been created to “alleviate the economic situation of newspaper”<sup>1303</sup>. Although - according to the president of the Dominican Society of Newspapers- “state advertising is based on visible

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<sup>1296</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1297</sup> CDN. May 19, 2021. [Denuncian secuestro del periodista Ulises Muñoz en Baní](#); El Nacional. May 20, 2021. [Hombres armados secuestran al periodista banilejo Ulises Muñoz](#).

<sup>1298</sup> Listin Diario. May 20, 2021. [Liberan periodista secuestrado en Baní y él dice fue torturado](#); CDN 37. May 20, 2021. [Secuestradores liberan a periodista Ulises Muñoz en Baní](#).

<sup>1299</sup> PR Noticias. 11 de junio de 2021. [Periodista dominicano denuncia “amenazas de muerte desde Venezuela”](#); N Digital. June 3, 2021. [“Temo por mi vida”: amenazan a Santiago Matías tras entrevistar a Bonny Cepeda](#).

<sup>1300</sup> El Nuevo Diario. September 30, 2021. [Periodista denuncia es supuestamente amenazado por dos hermanos policías en Yamasá](#); El Caribe. September 30, 2021. [Periodista denuncia un cabo de la policía lo amenaza con matarlo](#)

<sup>1301</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1302</sup> La República Hoy. September 7, 2021. [Dictan auto de no a lugar a favor de comunicador Francisco Villanueva](#); El nuevo diario. September 7, 2021. [Tribunal dicta auto de no a lugar a favor de periodista Francisco Villanueva](#)

<sup>1303</sup> Interamerican Press Association. October 19-22, 2021. Report to the 77th Virtual General Assembly. [República Dominicana](#).

privileges and with the purpose of punishing the media for its informative and editorial line”<sup>1304</sup>, the Dominican Association of Journalists stressed that the press denounces permanently “the lack of government advertising, although the signing of advertising contracts in favor of some television producers is also denounced. The authorities justify the little publicity in the measures they have had to adopt in the face of the COVID-19 pandemic.”<sup>1305</sup>

771. In addition, the Dominican Association of Journalists reported that it would be necessary to “delineate social and communication policies to ensure that the lower-income sectors of society and Haitian migrants have increasingly more access to traditional media, such as radio, television, and print newspapers”.<sup>1306</sup>

772. This Office of the Special Rapporteur recalls that, although on the one hand, “there is no intrinsic right to receive advertising resources by the media” and that “the state agenda should not be considered as a mechanism for supporting the media”, States are called to “establish policies and allocate resources to promote media diversity and pluralism through mechanisms of indirect aid or explicit and neutral subsidies, differentiated from official advertising expenses.” In this sense, “States should never use official advertising as a subsidy, since they have different objectives”.<sup>1307</sup>

773. The Office also learned that, in April, the government had granted a special state pension to 44 journalists, as indicated, “in response to a prolonged claim and evidence of the precariousness of jobs in the Dominican media”<sup>1308</sup>. The Office of the Rapporteur also positively highlights the government’s promotion of the Diploma in Ethical Journalism, together with the Autonomous University of Santo Domingo, also supported by the Dominican Society of Newspapers<sup>1309</sup>.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

774. 2021 was marked by different citizen protests in the framework of public debates for a new Criminal Code in the Dominican Republic, which could eventually abolish the absolute ban on abortion in the country, establishing favorable grounds; it would make femicide a crime; and criminalize discrimination based on sexual orientation.<sup>1310</sup> In a meeting with the organization RD es de Todes, this Office was informed about the debate on the extension of conscientious objection, especially by medical teams; and the limits to parliamentary immunity for the exercise of speeches in the National Congress. On this last point, the organization reported that different parliamentarians made speeches containing stigmatizing statements with elements of gender or sexual orientation in the National Congress.<sup>1311</sup> In December 2021, the Office of the Special Rapporteur recorded the information that the Bill was not approved by the Chamber of Representatives in a vote.<sup>1312</sup> The Office of the Special Rapporteur highlights that according to the information received, in 2021 the protests occurred in general without impediments or obstacles.<sup>1313</sup>

775. Likewise, although the guarantee of access to information is generally recognized within the framework of the General Law of Free Access to Public Information, Miguel Franjul, director of the newspaper

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<sup>1304</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1305</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1306</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1307</sup> Office of the Special Rapporteur for Freedom of Expression. [Principles on the Regulation of Government Advertising in the Inter-American System for the Protection of Human Rights](#). OEA/Ser.L/V/II. IACHR/RELE/INF. 6/12 March 7, 2011. Para. 49, 77 and 80.

<sup>1308</sup> Presidencia de la República Dominicana. April 5, 2021. [Poder Ejecutivo otorga pensión de estado a 44 periodistas](#).

<sup>1309</sup> Presidencia de la República Dominicana. March 17, 2021. [Presidente Abinader se compromete a que el periodismo en el país sea garantía de transparencia](#).

<sup>1310</sup> Swissinfo. July 11, 2021. [Comunidad "queer" marcha hasta el Congreso dominicano contra discriminación - SWI swissinfo.ch](#); EFE. July 1, 2021. [Diputados dominicanos quitan la discriminación a LGTBI del nuevo Código Penal](#); Deutsche Welle. August 30, 2021. [República Dominicana: piden ley que proteja a personas LGBTI](#).

<sup>1311</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Meeting with RD belongs to everyone. August 27, 2021.

<sup>1312</sup> Deutsche Welle (DW). December 17, 2021. [Congreso: el aborto sigue prohibido en República Dominicana | Las noticias y análisis más importantes en América Latina](#).

<sup>1313</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.; Chapultepec Index of Freedom of Expression and of the press. Report 2021. [REPÚBLICA DOMINICANA: Nuevo gobierno y libertad de expresión sin amenazas](#).

*Listín Diario*, reported that “there are cases in which public institutions delay or they hide the information that is requested from them in a timely manner, which contradicts the mandate and the spirit of that law”.<sup>1314</sup>

776. For its part, the State –through its Public Defender of Audiovisual Communication Services– has reported on the existence of the Single Request Portal for Access to Public Information, designed in compliance with Law 200-04, which provides citizens “the required information with higher levels of efficiency and effectiveness” and that, as they point out, “has had a positive impact on citizens, creating an environment of transparency, honesty, and credibility towards public officials”.<sup>1315</sup>

777. The State also highlighted the active transparency mechanisms of the judiciary, which allows citizens to access information regarding the different services it provides and/or news of interest within the justice system, including consulting up-to-date institutional statistics regarding the requirements received in the courts, Face-to-Face Service Centers and general indicators of access to judicial services, without forgetting the transparency portal, the consultation of judgements, among others. Likewise, it reported that in 2021 the Security Policy for Information and Communication Technologies of the Judiciary was approved, which “aims to define the general principles and guidelines for the administration of information in electronic format in the Judiciary.” The initiative of the Judiciary to provide support and train lawyers in the use of new technologies used by the courts draws the attention of this Office positively and, within the framework of the “I sign up for virtuality” program, they have already trained 801 professionals up to August 2021. The Judiciary also developed the Justice and Gender Observatory, which provides access to information and follows up on judgments and judicial resolutions issued in this area.

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

779. The Office of the Special Rapporteur was also informed that since September 2020, the reform of Law 6132 on the expression and dissemination of thought has been proposed. Among other issues, the bill would seek to remove the prison sentence for the crime of defamation against members of the Cabinet; members of the legislative chambers; public workers; custodians or agents of public authority; citizens in charge of some service or an official, temporary, or permanent mandate; or a witness by reason of his deposition. Likewise, it would seek to prevent imprisonment for defamation against Heads of State and foreign Diplomatic Agents. All this expanding the cases of non-prison for “crimes of word” already established in the judgment TC/0075/16 of the Constitutional Court of the country. Additionally, the reform would seek to establish the need for any lawsuit against a journalist to be analyzed by conciliation bodies, with free access, before being presented to judicial bodies.<sup>1316</sup>

780. The Office of the Special Rapporteur recalls that, under Article 13 of the American Convention, speeches on matters of public interest have enhanced protection, so the use of criminal mechanisms to punish this type of speech is incompatible with inter-American standards. The Office of the Special Rapporteur recalls that “[t]he type of political debate to which the right to freedom of expression gives rise will inevitably generate certain critical or even offensive speeches for those who hold public office or are closely linked to the formulation of public policy.” As the IACHR and the Inter-American Court have repeatedly held, public officials or candidates for public office are exposed to a greater degree of public criticism due to the public interest nature of the activities they carry out and because they have been exposed voluntarily to more exacting scrutiny.

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<sup>1314</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1315</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1316</sup> Ethical Journalism Diploma. August 21, 2021. [Persio Maldonado exhorta a los periodistas a luchar por preservar el espacio de garantía y ampliación de derechos para su ejercicio - Diplomado periodismo ético.](#)



### C. Freedom of Expression and the Fight against Discrimination and Exclusion

781. This Office was also informed about alleged statements of a discriminatory and stigmatizing nature by the congress representative and president of the Permanent Commission on the Media of the Chamber of Representatives, who reportedly stated that “the vulgarity that exists in the media of the Republic Dominican affects the image of the country, because both artists and communicators are dedicated to promoting anti-values”. Among others, the representative would have affirmed that one could not have “people promoting homosexuality through music, promoting lesbianism (...) promoting practices that are totally contrary to a healthy family”.<sup>1317</sup>

782. The Office of the Special Rapporteur has also received information on the alleged criminalization of female artists, motivated by discriminatory reasons. On August 17, it was reported that the Mayor's Office of La Vega filed a lawsuit against an urban music performer known as Tokischa, accusing her of having desecrated the sanctuary of the Virgin of Our Lady of Altigracia (Virgen del Puerto). The complaint, as the SRFGE was able to learn, was filed with the Prosecutor's Office of this same city by a commission made up of the lawyer representing the city council, the director of the Municipal Police, and the commander of the National Police in the municipality of La Vega.<sup>1318</sup>

783. The Office of the Special Rapporteur emphasizes that “political leaders and people who exercise public office should not make statements that could promote intolerance, discrimination or misinformation and, instead, should take advantage of their leadership positions to counteract this social harm and promote intercultural understanding and respect for diversity”<sup>1319</sup>. Likewise, freedom of artistic expression is a speech that is explicitly protected in the ACHR in terms of its form and, in many cases, especially protected also because of its content.<sup>1320</sup> This Office recalls that, as pointed out by the United Nations Special Rapporteur on Cultural Rights, artists have the right “to dissent, to use political, religious, and economic symbols as opposed to the discourse of the dominant powers and to express their own beliefs and world view” and, therefore, “decision makers, including judges, when using their power to impose limitations on artistic freedoms, must take into account the nature of artistic creation (rather than its value or merit)”.<sup>1321</sup>

784. This Office also appreciates the information provided by the State of the Dominican Republic on the fight against discrimination. In this sense, the National Disability Council reported different mechanisms that seek to guarantee access to information for people with disabilities.<sup>1322</sup>

### D. Freedom of Expression and the Internet

785. According to data available in the “Report on the main indicators of adoption of digital technologies in the framework of the Digital Agenda for Latin America and the Caribbean of 2021”, in 2018 in the Dominican Republic, 71% of the population living in urban areas and 53.1% of the population living in rural areas would have access to the Internet.<sup>1323</sup>

786. The Office of the Special Rapporteur also learned that through the “Conectar a los no Conectados” project, the State would act for the “promotion, ease of access, and use of digital technologies in households with conditions of extreme poverty, especially those headed by women, and recipients of government subsidy

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<sup>1317</sup> Al Momento. October 6, 2021. [Diputado considera vulgaridad en medios afecta imagen de la RD](#); El Nuevo Diario. October 5, 2021. [Diputado Elpidio Báez: “Vulguridad en medios de comunicación afecta a niños e imagen del país”](#)

<sup>1318</sup> Al momento. August 8, 2021. [Fiscalía de La Vega presenta querrela contra la “cantante” urbana Tokischa](#); RNN. No date. [Alcaldía de La Vega deposita querrela contra cantante urbana Tokischa](#).

<sup>1319</sup> UN, OSCE, OAS, ACHPR. October 20, 2021. [2021 Joint Declaration on political leaders, public officials, and freedom of expression](#).

<sup>1320</sup> Office of the Special Rapporteur for Freedom of Expression. A hemispheric agenda for the defense of freedom of expression. OEA/Ser.L/V/II IACHR/RELE/INF. 4/09, February 25, 2009. par. 20 and 22.

<sup>1321</sup> UN. The right to freedom of expression and artistic creation. Report of the Special Rapporteur on cultural rights, Farida Shaheed.A/HRC/23/34. Para. 88.d.

<sup>1322</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1323</sup> CEPAL. [Datos y hechos sobre la transformación digital](#). Report on the main indicators of adoption of digital technologies in the framework of the Digital Agenda for Latin America and the Caribbean. 2021. P. 10.



programs".<sup>1324</sup> In October, it was disclosed that it would provide Internet access to 2,000 households, including training in the "proper use of technology".<sup>1325</sup>

787. The Office of the Special Rapporteur urges the Dominican Republic to continue heeding the call –and even increase its efforts– to promote and develop public policies for digital literacy and universal access to the Internet.<sup>1326</sup> This Office recalls that the digital divide reinforces the pre-existing inequalities suffered by groups of vulnerable people and "one of the basic conditions for fighting disinformation is to be able to access various sources of information to compare and check whether the information received by people is credible".<sup>1327</sup> At the same time, "the authorities must promote educational measures aimed at promoting the ability of all people to make autonomous, independent, and responsible use of the Internet and digital technologies".<sup>1328</sup>

788. Likewise, the Office has observed the progress of the public debate on the right to be forgotten in the Dominican Republic. This, especially, after the ruling TC/071/20 of the Constitutional Court that established that "to eliminate, correct, update, clarify, or rectify the negative data that appears on a person in any registry -whether public or private-, the judge of habeas data must ensure that such information, at the time it was established or the reasons for which it was implemented have been ratified, comes from an illegitimate or untrue source, in order to, ipso facto, verify that its maintenance translates into a violation of the fundamental right of informative self-determination".<sup>1329</sup> This reasoning is pointed out as protective of freedom of journalistic expression. According to information received by the Office, the bill to reform Law 6132 would also straighten out this issue.<sup>1330</sup>

789. In this sense, the Office of the Special Rapporteur recalls that, according to the report on Standards for a free, open, and inclusive internet, "the application in the Americas of a system for the removal and private deindexation of online content with such vague and ambiguous limits is particularly problematic in light of the wide normative margin of protection of freedom of expression under article 13 of the American Convention on Human Rights".<sup>1331</sup>

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<sup>1324</sup> Supérate. October 18, 2021. [Indotel y Supérate pondrán en marcha proyecto para beneficiar a 2 mil hogares con acceso a internet](#).

<sup>1325</sup> Twitter account of Supérate (@superaterdo). [18 de octubre de 2021](#).

<sup>1326</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OAS/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013. Para. 15

<sup>1327</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). OAS/Ser.G CP/CAJP/INF.652/19. 2019. P. 39

<sup>1328</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OAS/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013. Para. 48.

<sup>1329</sup> Constitutional Court of the Dominican Republic. [Sentencia TC/0171/20](#). June 17, 2020.

<sup>1330</sup> Permanent Mission of the Dominican Republic to the OAS. Information sent by the State for the Annual Report of the Office of the Special Rapporteur. September 20, 2021. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1331</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive internet](#). OAS/Ser.L/V/II. IACHR/RELE/INF.17/17. March 15, 2017. Par. 132.

## SAINT KITTS AND NEVIS

790. The Office of the Special Rapporteur remains concerned about the failure to implement the Freedom of Information Act despite its passage in 2018. We call on the State of St. Kitts and Nevis to address this challenge. As in other Eastern Caribbean countries, defamation continues to be a criminal offense used by public officials to protect their honor and reputation against criticism from journalists, the media, and political opponents.

### A. Freedom of Expression, Rule of Law and Democratic Institutions

791. As the Office of the Special Rapporteur stated in its last annual report, although the Freedom of Information Act was enacted in 2018, it has still not been implemented. Based on the information received for 2019, according to Attorney General Vincent Byron, the law has not yet been implemented due to a lack of government funding to develop protocols and hire staff. He additionally stated that a “profound cultural change” among public servants in the area of government transparency was needed to ensure the proper implementation of the law.<sup>1332</sup>

792. Although on December 22, 2020, the Attorney General and Minister of Justice and Legal Affairs, Vincent Byron, stated in Parliament that the Integrity in Public Life Commission would meet in 2021 with the Attorney General’s Office to resolve several issues on the government’s good governance agenda, including the implementation of the Access to Public Information Act, we have received no reports showing progress in this regard.<sup>1333</sup>

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<sup>1332</sup> IACHR. Annual Report 2019. Report of the Office of the Special Rapporteur for Freedom of Expression, para. 1101; Winn FM. June 1, 2020. [Konris and Drew Respond To Questions About SKNLP’s Governance Record](#).

<sup>1333</sup> St. Kitts and Nevis Observer. December 22, 2020. [Public Life Commission to iron out good governance agenda issues](#); St. Kitts and Nevis Information Service. December 23, 2020. [Government continues to strengthen good governance agenda](#).

793. The Office of the Special Rapporteur recalls that the transparency and accountability of public authorities strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

794. This Office has stressed on previous occasions that a key factor in the proper implementation of a State’s regulatory framework for access to information is “creating a specialized administrative body to oversee and enforce compliance with the law and resolve disputes arising between the right of access to public information and the State’s interest in protecting certain information, based on legally established limitations.”

795. The Office of the Special Rapporteur has similarly stated that “in order to fully satisfy the information needs of society and create a long-term culture of transparency, the States not only must provide simple, prompt, and free remedies through which denials of access may be challenged but also must properly implement the respective regulations.”

## **ST. VINCENT AND THE GRENADINES**

796. In 2021, the Office of the Special Rapporteur continued to receive reports on the alleged influence of political interests in the media. According to the information available, this situation is shared by some of the member countries of the Organization of East Caribbean States (OECS) where there would be cases of political parties that own the media or have important shares in them, according to Reporters Without Borders. Likewise, journalists continue to be at risk of facing criminal charges for the crime of defamation, which is extended to the digital sphere after the Cybercrime Law was approved in 2016. In this sense, the Office of the Rapporteur is concerned that the increase in the control and monitoring of this type of content on social networks could lead to self-censorship.

### **A. Journalism and Democracy**

797. The journalists of Saint Vincent and the Grenadines usually receive little training, and their salaries are low, a situation that would lead them to abandon their profession, according to the reports received. This would have had a special impact during the coverage of the explosions of at least five days of the La Soufrière volcano in April 2021. Journalists found their work restricted not only by the conditions of nature but also by the lack of resources. The Association of Caribbean Media Workers (ACM) in conjunction with the Media Institute of the Caribbean sent a package with protective equipment for press workers in the country. Among the items shipped were goggles, N95 masks, boots, raincoats, gloves, flashlights, and hand sanitizer.

798. As the SRFOE learned, some journalists questioned the lack of access to information related to the volcano’s eruption. According to reports, the informative sessions of the event would only allow questions by

journalists from official media or sometimes it was the Prime Minister who asked the questions to the scientists.<sup>1334</sup>

799. States have a positive obligation to promote a safe working environment for the press. In this sense, in addition, the Inter-American Court has held that "it is essential that journalists [...] enjoy the protection and independence necessary to fully carry out their functions, since they are the ones who keep society informed, a requirement essential for it to enjoy full freedom".<sup>1335</sup> Likewise, the IACHR has highlighted the importance of access to information in the public health emergency situation and the crucial role that journalists play in reporting on critical points and monitoring government actions.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

800. In the framework of the COVID-19 pandemic, the government of Saint Vincent and the Grenadines took some measures that reportedly restricted the right to protest and that would have ended in the arrest of the people who participated or promoted them. One of them took place on August 5, 2021, when demonstrators reportedly gathered to protest against what would be mandatory vaccination for frontline workers. According to publicly available information, the protest allegedly took place without permission from the police –a requirement stated by law in Saint Vincent and the Grenadines. During the protest, the Prime Minister, Ralph Gonsalves, was reportedly hit by an object allegedly thrown by a protester, for which he had to be transferred to Barbados to undergo an MRI.<sup>1336</sup> The Prime Minister reportedly stated that he holds opposition leader Godwin Friday personally, though not criminally, responsible for his injury.<sup>1337</sup>

801. A month later, two people from the opposition were reportedly accused of charges related to disturbing public order in the context of the demonstration on August 5. Among the accusations would be the participation in the organization of a public demonstration without notifying the Police Commissioner at least 24 hours in advance, in addition to their participation in the protests and their alleged role in the organization of the day.<sup>1338</sup>

802. This Office recalls that social protest, which includes the rights of peaceful and unarmed assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights and therefore it is the duty of the State to guarantee its free exercise. Likewise, the Office of the Rapporteur has indicated that "it is in principle inadmissible to criminalize demonstrations on public roads *per se* when they are carried out within the framework of the right to freedom of expression and the right to assembly." In its report "Protest and Human Rights," the IACHR highlighted that holding meetings, demonstrations, and protests is a central activity of many associations and organizations and, in this regard, the States have the duty to provide the necessary means for them to freely carry out their activities and to refrain from imposing obstacles that hinder the performance of their work. Likewise, the IACHR has considered that the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry out. Legal requirements that provide a basis for an assembly or demonstration to be prohibited or limited, for example through the requirement of prior permission, are not compatible with the right of assembly or the exercise of freedom of expression in the Inter-American System.

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<sup>1334</sup> LatAm Journalism Review. April 14, 2021. [Periodistas en San Vicente luchan contra las cenizas y con recursos limitados para cubrir la histórica erupción de volcán en medio de la pandemia.](#)

<sup>1335</sup> *Case of Ivcher Bronstein vs. Peru*. Reparations and Costs. Judgment of February 6, 2001. Series C No. 74, para. 147-150.

<sup>1336</sup> BBC News. August 6, 2021. [St Vincent and the Grenadines leader hit during anti-vaccine mandate protest](#); Reuters. August 5, 2021. [St. Vincent PM recovering after head injury at protest.](#)

<sup>1337</sup> Global Voices. September 2, 2021. [A month after vaccine mandate protests, opposition figures arrested in St Vincent & the Grenadines](#); Loop News. August 16, 2021. [SVG: Activists plead not guilty to breaching the public order.](#)

<sup>1338</sup> Global Voices. September 2, 2021. [A month after vaccine mandate protests, opposition figures arrested in St Vincent & the Grenadines](#); Loop News. August 16, 2021. [SVG: Activists plead not guilty to breaching the public order.](#)

## SAINT LUCIA

803. As the Office of the Special Rapporteur has stated in previous reports, St. Lucia enjoys considerable freedom of expression. However, the Office of the Special Rapporteur observes that journalists and media outlets continue to face threats of criminal prosecution for defamation. This situation has reportedly also led to significant levels of self-censorship, given that lawsuits are also often very costly.

### A. Journalism and Democracy

804. In its annual report for 2020, the Office of the Special Rapporteur noted with concern the problematic relationship between the media and the then United Workers Party (UWP) government. At the time, there were reports of threats and disparaging remarks against those who investigated public officials. Following the inauguration of a new Prime Minister on July 28, 2021, fewer such incidents have been reported. On August 19, a brief incident reportedly occurred in which the Prime Minister, Philip J. Pierre, got into a confrontation with a journalist and refused to answer in detail when asked why his government had not maintained the previous administration's policies to prevent the spread of COVID-19.<sup>1339</sup> Despite the downward trend in the number of these occurrences, this Office calls on the State to pay attention to them.

805. The Office of the Special Rapporteur underscores that, as the 2021 Joint Declaration of the Rapporteurs on Freedom of Expression points out, "States have a positive obligation to create an enabling environment for freedom of expression and the right to information, including by fostering media independence and diversity as a key means of promoting robust, open debate about matters of public interest, and by adopting rules that ensure public transparency and accountability of public actors."

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<sup>1339</sup> Loop News. August 20, 2021. [PM Pierre defends exchange with journalist](#).

806. The Office of the Special Rapporteur is also concerned that criminal defamation laws remain in force in Saint Lucia. Conviction can entail heavy fines and prison sentences of up to five years. This leads to increased levels of self-censorship by journalists and media outlets.<sup>1340</sup>

807. The Office of the Special Rapporteur has pointed out on previous occasions that fear of criminal penalties inevitably discourages and inhibits citizens from speaking out on matters of public interest. As the IACHR has stated, “[t]he sort of political debate encouraged by the right to free expression will inevitably generate some speech that is critical of and even offensive to those who hold public office or are intimately involved in the formation of public policy.” Article 13 of the American Convention allows for restrictions to freedom of thought and expression through the imposition of subsequent liability for the abuse of this right. However, it requires that any measure seeking to limit the exercise of the right to freedom of expression must be clearly and precisely defined by law, must be aimed at a legitimate objective, and must be necessary and strictly proportionate to the aim it seeks to achieve.

## **B. Freedom of expression, Rule of Law and Democratic Institutions**

808. The Office of the Special Rapporteur has received information that official government accounts have allegedly been spoofed to publish false information on the management of COVID-19 and other information of public interest. For example, on September 17, the current administration’s Saint Lucia Labour Party (SLP) made public a complaint concerning the alleged alteration of an official government statistics sheet on COVID-19.<sup>1341</sup> In addition, on December 11, the SLP alerted the public to two fake social media accounts purportedly attributable to government officials, specifically the Minister for Investment and Culture and the Prime Minister. According to reports, the accounts were not only active but would frequently post false information in order to “generate disputes in the society.”<sup>1342</sup>

809. In the context of social protests, the Office has received information that there have been threats from people seeking to provoke violence. The police have announced that they are investigating the facts.<sup>1343</sup>

810. The Office of the Special Rapporteur recalls that the transparency and accountability of public authorities strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” The IACHR Resolution “Pandemic and Human Rights in the Americas” has highlighted the importance of access to information during a pandemic and the critical role of journalists in reporting on hotspots and monitoring government actions. The resolution also cautions that public officials should take special care in statements and declarations regarding the status of the pandemic and that both governments and internet companies should transparently address and combat misinformation circulating about the pandemic. “In current circumstances, it is the duty of the authorities to inform the population, and as they do so, they must act with diligence and give reasoned reports that are science-based. They should also remember that they are exposed to greater scrutiny and to public criticisms, even during special periods. Governments and Internet companies must counter and be transparent about any misinformation circulating about the pandemic.”

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<sup>1340</sup> Freedom House Report. Undated. [St. Lucia](#).

<sup>1341</sup> St. Lucia Times. September 17, 2021. [Saint Lucia Labour Party Condemns Dissemination Of COVID-19 Fake News](#).

<sup>1342</sup> Loop News. December 11, 2021. [SLP warns of fake social media profiles of Govt officials](#).

<sup>1343</sup> St. Lucia Times. December 9, 2021. [UWP Condemns Voice Notes Threatening Violent Protests](#).



## **SURINAME**

811. Although Suriname remains highly respectful of the exercise of the right to freedom of expression, this Office has received reports on the obstacles posed by the lack of a law on access to public information, especially for the exercise of independent journalism. Additionally, defamation remains a criminal offense. The Office of the Special Rapporteur has also been informed of alleged limitations on the media's ability to access official sources.

### **A. Journalism and Democracy**

812. The Office of the Special Rapporteur received information indicating that journalists have a difficult time getting answers during press conferences. According to the information received, during these events, not only are questions left unanswered, but journalists are not allowed to ask follow-up questions. Reporters also do not have space for doing impromptu interviews with ministers.<sup>1344</sup> In October, a group known as the Media Collective sent a letter of protest to the Cabinet of the President of Suriname. In the letter, the journalists reportedly called for better press conferences, a better system for asking and receiving answers, and for all ministers to be available to answer questions from the media.<sup>1345</sup> On November 20, representatives of the Media Collective and the country's president, Chandrikapersad Santokii, met to find solutions to this situation. According to the information received, these three requests have been accepted by the president. Likewise, it

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<sup>1344</sup> Archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021; *World Today News*. October 12, 2021. [Media collective submits letter of protest to cabinet](#).

<sup>1345</sup> *World Today News*. October 12, 2021. [Media collective submits letter of protest to cabinet](#).

was guaranteed that starting on January 1, 2022, a new media strategy would be implemented with the aim of improving government communication with the media and society in general.<sup>1346</sup>

813. In addition, according to reports, some have maintained affiliations with certain political parties, which results in biased reporting. Likewise, civil society organizations indicate that the generally low salaries of the independent media increase their economic vulnerability and affect the impartiality and quality of the information.

814. According to the information provided by the State of Suriname, freedom of expression, freedom of the press, and freedom of peaceful assembly and association are guaranteed by the Constitution and domestic law. The State also indicated that the media sector is diverse.

815. As this Office has pointed out on previous occasions, journalism is called upon to be exercised in function of democracy and human rights, just as democracy must seek to be accompanied by professional journalism. In this context, the Inter-American Human Rights System has held that fear of criminal sanctions necessarily discourages, inhibits, and weakens journalism on matters of public interest. The Commission has indicated that although, according to Article 13(2) of the American Convention, protection of the honor and reputation of others may be grounds for establishing subsequent liability for the abusive exercise of freedom of expression, it must be done without prejudice to the exercise of freedom of expression or the right to receive information. Both the IACHR and the Inter-American Court have emphasized that the principle of necessity requires the State to choose the means of repairing the damage that is the least costly to freedom of expression.

## **B. Freedom of expression, Rule of Law and Democratic Institutions**

816. The lack of a law on access to public information and the centralization of information hinders the exercise of journalism and citizens' right to access information of public interest. According to the information received, starting in 2017, government communications have been centralized in a single agency under the vice-presidency. This has continued with the arrival of the new administration in 2020. The Office received reports that on several occasions, journalists have denounced that when requesting comments from ministers, they are sent to the central communications office, and that this office then fails to send the information requested.<sup>1347</sup> In most cases, they are told that the information required is "confidential", and the reporters would receive information and statements based on their reputations or the media outlet to which they belong.<sup>1348</sup>

817. This Office learned of the draft for the Freedom of Information Act that was submitted on November 5 for debate in parliament. The bill seeks to achieve transparency in governance as well as to make government information more accessible to citizens.<sup>1349</sup>

818. Although there were no serious threats or judgments handed down against journalists in 2021, the defamation law, which remains in effect, continues to be an obstacle to the free exercise of freedom of expression for both citizens and journalists, who sometimes resort to self-censorship to avoid sanctions. According to the information available, the Electronic Legal Traffic law approved in 2018 would also criminalize slander, insults, and defamation in the form of expression on the internet.<sup>1350</sup>

819. The restrictions imposed as a result of the COVID-19 pandemic continued to represent a restriction on the full exercise of fundamental freedoms and civic space in 2021. In this context, vulnerable groups such as women or indigenous peoples face additional challenges. According to reports received, the government has threatened to sanction those who announce protests, although during the year, this Office did not learn of any arrests or prosecutions related to the exercise of peaceful assembly.<sup>1351</sup>

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<sup>1346</sup> *Caribbean News*. November 22, 2021. [Journalist describe talks with President Santhoki as fruitful](#); *News Fox 24*. November 22, 2021. [Media Collective has fruitful conversation with Surinamese president](#).

<sup>1347</sup> Archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021.

<sup>1348</sup> Archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021.

<sup>1349</sup> *StarNieuws*. November 5, 2021. [Opposition submits draft Public Administration Act](#); archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021.

<sup>1350</sup> Archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021.

<sup>1351</sup> Archive of the Office of the Special Rapporteur. Information sent by Suriname civil society. November 22, 2021.

820. Additionally, the State informed this Office of a number of measures implemented in the framework of the 2020 general elections intended to contribute to the quality of the public electoral debate and civic education on electoral matters. These measures remain in place amid efforts to perfect them.

821. This Office reiterates that government transparency and accountability strengthen democratic systems. Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, "Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." In addition, the IACHR and its Office of the Special Rapporteur have underscored the importance of access to information during the pandemic and the crucial role that journalists play by reporting on critical issues and monitoring the government's actions. In this regard, the IACHR has also underscored that "States should not include communicators in restrictions on movement of people, and are obliged to allow all access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health."

### **C. Freedom of Expression and the Fight against Discrimination and Exclusion**

822. The State indicated that some of the challenges faced in the area of freedom of expression are related to religious expression that could affect other people, although they note that the challenges were resolved through dialogue. Some religious leaders have also expressed disagreement with the restrictions imposed in the framework of the COVID-19 pandemic that prevent the performance of some services.<sup>1352</sup> However, they note that the right of religious organizations to disseminate news articles and messages through television channels is respected. They also highlighted that the Ministry of the Interior called a meeting with religious organizations in the understanding that "the diversity of religions makes it necessary to have good communications between the government and religious organizations."

823. Additionally, the authorities point out that the right to protest is respected and guaranteed by the State, especially highlighting the case of demonstrations by organizations defending women's rights that took place in Suriname during 2021.<sup>1353</sup> Along these lines, the Office of the Special Rapporteur welcomes the information provided by the State on public awareness activities on gender violence, aimed at—among other actors—high-level government officials.

824. This Office reiterates the importance of States adopting positive measures regarding the right to freedom of expression and citizen participation of groups historically excluded from public debate. For the inter-American system, speech whose elements are expressive of the personal identity or dignity of the person engaging in it enjoys enhanced protection.

### **D. Freedom of expression and the Internet**

825. According to the State, access to the Internet and digital media has significantly strengthened the exercise of freedom of expression by citizens, which, in its opinion, accentuates the challenge of verifying to what extent certain expressions could overstep the limits on legitimate speech protected by the right to freedom of expression.

826. This Office recalls that freedom of expression applies to the Internet the same as to other media outlets. In this regard, restrictions are only acceptable when they comply with international standards requiring, among other things, that they must be established by law, pursue a legitimate objective, be necessary to achieve their purpose, and be strictly proportionate.

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<sup>1352</sup> Republic of Suriname. October 22, 2021. RESPONSE IN RELATION TO THE 2021 ANNUAL REPORT OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. Available at: Archive of the Office of the Special Rapporteur.

<sup>1353</sup> Republic of Suriname. October 22, 2021. RESPONSE IN RELATION TO THE 2021 ANNUAL REPORT OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. Available at: Archive of the Office of the Special Rapporteur.

## TRINIDAD AND TOBAGO

827. During 2021, the Office of the Special Rapporteur received information on different forms of pressure exerted by public officials or figures on journalists as they were doing their work. The criminal offense of defamation remains in force in Trinidad and Tobago. It provides for a prison term of up to two years, in addition to a fine, and it remains a risk to the legitimate exercise of freedom of expression.

### A. Journalism and Democracy

828. On May 3, within the framework of World Press Freedom Day, the Trinidad and Tobago Publishers and Broadcasters Association issued a statement indicating that journalists must be faithful to their responsibilities and demanding that they be allowed to go on with work at a time when journalism is under increasing attack from all directions. The Association also noted that it had cooperated and would continue to cooperate with the country's legislators to continue monitoring laws that directly and indirectly affect press freedom and, in that sense, the right of people to be informed.<sup>1354</sup>

829. On May 10, *Sunshine* newspaper editor and reporter Anthony 'Lexo' Alexis was found dead at his home in Tacarigua.<sup>1355</sup> Although the journalist's face had some injuries, the autopsy was inconclusive.<sup>1356</sup> This Office has not received any additional information on the case.

830. On July 9, it was learned that Police Commissioner Gary Griffith had issued a pre-action protocol letter against sports journalist Lasana Liburd and public relations officer Dennise Demming. The action was in response to posts by Liburd and Demming on their respective social media accounts alleging that the

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<sup>1354</sup> Newsday. May 3, 2021. [TTPBA: Let journalists do their job.](#)

<sup>1355</sup> Newsday. May 11, 2021. [Veteran journalist, songwriter found dead at Tacarigua house.](#)

<sup>1356</sup> Newsday. May 18, 2021. [Autopsy on veteran journalist Alexis inconclusive.](#)

commissioner had pulled strings to get his son on the national soccer team. The commissioner's lawyers had reportedly indicated that legal action could be avoided if both Liburd and Demming offered public apologies.<sup>1357</sup>

831. The Office of the Special Rapporteur received information indicating that the Minister of Communications, Symon de Nobriga, was allegedly blocking some media outlets. According to *News at 7*, during coverage of the repatriation of Venezuelan citizens to their country, De Nobriga told the media present off-camera that they were not officially invited to cover this news. According to reports, exclusive access was given to members of the state channel *TTT (Trinidad and Tobago Television Limited)*.<sup>1358</sup> On July 20, Minister De Nobriga issued a statement stating that it is "unfortunate" that a statement given "light heartedly" and "supposedly off the record" was taken seriously. He added that due to sanitary measures, *TTT* had been allowed to enter exclusively, but that they had received instructions to share their footage with all the media outlets requesting it.<sup>1359</sup> The country's Prime Minister, Keith Rowley, also denied any restrictions on the media and indicated that, "This Government has been more accessible to the media than most."<sup>1360</sup>

832. Journalist Sharlene Rampersad, from *Guardian Media Limited*, was threatened and the target of an attack known as doxing (publication of personal information) by a well-known American rapper and singer born in Trinidad and Tobago. According to the information received, Rampersad tried to interview people close to the artist who, according to a tweet by the singer, suffered side effects from the COVID-19 vaccine. The singer posted "your days are numbered" on her social media accounts and then published the name, photo, social media accounts, cell phone number, and address of the journalist's workplace. Some of the singer's followers reportedly posted evidence of their attempts to call the journalist. The media group where Rampersad works expressed its rejection of the threat and the attack, and noted that it had taken all measures necessary to guarantee her safety and protection.<sup>1361</sup> Twitter deleted Minaj's posts doxing the journalist.<sup>1362</sup>

833. The Office of the Special Rapporteur welcomes the ruling issued on January 13, 2021 by Supreme Court Justice Frank Seepersad, who held that the two search warrants obtained by the police for the Trinidad Express newspaper in search of information which could lead them to a journalist's source were "plainly irregular," unlawful, and unconstitutional as they disproportionately infringed on the media outlet's right to freedom of the press.<sup>1363</sup> The ruling found that the decision to search the newspaper needed "an informed and measured determination as to whether the public interest in identifying and prosecuting the journalist's source was of greater importance than the public's right to know that a serious investigation was looming over the head of a very senior police officer," an analysis that, according to Justice Seepersad, that Police did not provide. The Media Association of Trinidad and Tobago called the ruling "a win for the public interest, a win for every journalist in the country and every media house, a win for whistleblowers and a big win for democracy."<sup>1364</sup>

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

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<sup>1357</sup> Newsday. July 11, 2021. [CoP threatens lawsuits against 3 for defamation](#); Izzso. May 11, 2021. [Griffith accuses journalist and PR specialist of defamation: legal action filed](#).

<sup>1358</sup> *Newsat7*. Twitter account (@News7TT) [July 19, 2021](#).

<sup>1359</sup> Trinidad and Tobago Guardian. July 20, 2021. [Statement of clarification by Communications Minister de Nobriga](#). "I have seen the news report circulating and it is unfortunate that Kejan Haynes took seriously a statement made by me light heartedly and supposedly off the record at the repatriation exercise on Saturday. Given the large numbers and in keeping with the health protocols it was determined that only TTT and the information Division would have access; however, the Director of Government Communications had been instructed to ensure that all footage of the event be made available to all media houses once they requested same"; The Gleaner. July 21, 2021. [T&T gov't denies restricting access to info to private media houses](#).

<sup>1360</sup> The New York Carib News. July 23, 2021. [PM Rowley denies media restrictions](#).

<sup>1361</sup> Newsday. September 17, 2021. [Nicki Minaj tells Trinidadian journalist: Your days are numbered](#); Yahoo! News. September 19, 2021. Nicki Minaj angrily hits out at journalists and posts their personal details online amid vaccine controversy; Global Voices. September 18, 2021. [From vaxxing to doxxing: The social media power of Nicki Minaj](#).

<sup>1362</sup> Guardian. September 17, 2021. [Twitter deletes Nicki's posts attacking Guardian Media journalist](#).

<sup>1363</sup> The Gleaner. January 14, 2021. [Judge Rules Raid On Media House In Trinidad Unconstitutional](#); Barbados Today. January 13, 2021. [Regional: Judge rules raid on media unconstitutional](#); Trinidad & Tobago Guardian. January 14, 2021. [Judge rules raids on Express unlawful](#).

<sup>1364</sup> Newsday. January 13, 2021. [MATT: Court ruling on Express raid a big win for democracy](#).

restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

835. This Office also reiterates the important role that the media play in democracy, especially active investigative journalism. Consequently, journalists who investigate cases of corruption or improper actions by public officials must not be the target of judicial or other type of harassment in retaliation for their work.

836. The Office of the Special Rapporteur also reiterates that government transparency and accountability strengthen democratic systems. Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” The IACHR’s Resolution on Pandemic and Human Rights in the Americas underscored the importance of access to information during the pandemic and the crucial role that journalists play by reporting on critical issues and monitoring the government’s actions. In this regard, the IACHR has also underscored that “States should not include communicators in restrictions on movement of people, and are obliged to allow all access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.”<sup>1365</sup>

## **B. Freedom of Expression and the Fight against Discrimination and Exclusion**

837. This Office has received information that public leaders and people who exercise public functions continue to engage in certain stigmatizing speech against various groups in vulnerable situations.<sup>1366</sup> The Office of the Special Rapporteur emphasizes that persons who exercise public functions and persons who are candidates for public office must refrain from making statements that may put at risk certain persons or groups of persons or promote discriminatory and violent acts; instead, they must take advantage of their leadership positions to push back on social harm and promote intercultural understanding and respect for diversity.

## **C. Freedom of Expression and the Internet**

838. During 2021, the Office of the Special Rapporteur learned of Attorney General of Trinidad and Tobago’s announcement regarding his intention to “strengthen data protection legislation.” The statement was given after what happened with Cambridge Analytica. In it, the Attorney General indicated that the government was reviewing the legislation with the aim of enacting legislation oriented more toward data protection principles, not focused on technology.<sup>1367</sup> Although the change was to take place in the first quarter of the year, this Office did not receive details of what changes were made to the law.

839. The Office of the Special Rapporteur recalls that the Internet is a platform and a means for the exercise of human rights such as freedom of expression, political participation, the rights of association and assembly, and economic, social and cultural rights. States are called to guarantee the necessary conditions for the enjoyment and exercise of these rights.

840. In this framework, this Office recalls that any measure that has an impact on the operation of the Internet must comply with international human rights standards that establish, among other things, that restrictions must be established by law and pursue a legitimate purpose recognized by international law, and they must be necessary and proportionate to achieve their purpose.

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<sup>1365</sup> IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Paras. 29 and 32; IACHR. Office of the Special Rapporteur for Freedom of Expression. March 19, 2020. Press Release No. 58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic](#).

<sup>1366</sup> Newsday. April 23, 2021. [Local xenophobia](#); Amnesty International. August 6, 2020. [Trinidad and Tobago: Deportation of 165 Venezuelans violates international law](#).

<sup>1367</sup> Newsday. December 8, 2020. [AG: Changes coming to data protection laws](#).



## URUGUAY

841. The Office of the Special Rapporteur has pointed out on several occasions that Uruguay maintains high levels of respect for the right to freedom of expression and democratic institutions. However, the Office of the Special Rapporteur has received complaints alleging a growing climate of harassment and accusations against journalists and critical media, especially on social networks and allegedly by official voices, which would be restricting the guarantees for freedom of expression and the information space. This Office also continues to monitor challenges regarding access to public information in Uruguay, as reported in its latest annual report. After the outbreak of the pandemic, civil society organizations and journalists have denounced an alleged setback in the guarantees of government transparency and a restrictive environment for access to information of public relevance. The Office of the Special Rapporteur has also become aware of alleged risks to community radio broadcasting as a result of legal reform initiatives that would threaten the operation of several stations. Regarding freedom of expression on the internet, this Office is concerned about the reports received about the removal of the Google search results of two investigations published by the *Sudestada* medium, whose information is of special relevance for public debate.

### A. Journalism and Democracy

842. According to the information reported to this Office, in 2021 there was reportedly a growing climate of harassment and accusations against journalists and critical media, especially on social media and presumably by official voices.

843. In April, journalist Aldo Silva, presenter of the *Canal 12* news program, was allegedly the target of a series of aggressive messages on social networks after he questioned the president while they debated with other journalists about the numbers of people killed by COVID-19 in Uruguay on the program he conducts on

*Radio Sarandí*<sup>1368</sup>. According to the information received, when referring to a publication that highlighted the journalist's statements on the air, a senator from the ruling party indicated on her social networks that "the pandemic has some positive things: it unmasks 'journalists' who posed as independent professionals (...) Uruguayans have more memory than mediocre people think, and we will not forgive the miserable"<sup>1369</sup>.

844. As this Office was able to learn, the same official would have described a report by *CNN* journalist Darío Klein on the alleged accelerated increase in COVID-19 infections in Uruguay between March and April as "treason". The senator would have indicated that the information published by the journalist was false and warned that "those who falsify the reality of the situation of the pandemic in the country will have to render accounts sooner or later"<sup>1370</sup>. The Office of the Special Rapporteur is also concerned about the senator's message in a television interview in which she suggested that the government was "investigating journalists" who allegedly work against the government and have political interests.

845. According to the information received by this Office, the dissemination of a report from the *Deutsche Welle* chain that reported on legislation and other matters allegedly threatening freedom of expression in Uruguay would have provoked an institutional response by the Chamber of Representatives of "emphatic rejection" of the "unfounded statement". Through a statement, Congress representatives of the coalition parties would have highlighted "the full and unrestricted validity in our country of the fundamental right"<sup>1371</sup>. The report by the German channel also generated messages of disapproval from people who exercise public functions, who considered that the information released was "false" or "an insult"<sup>1372</sup>.

846. The Uruguayan Press Association and the Center for Archives and Access to Public Information (CAinfo) have indicated that these accusations "are not only offensive to the professional performance of journalists, but also expose them to harassment on social networks, discrimination and social discredit" and that they "constitute a clear case of discourse that generates a hostile environment against the press, which is outside the debate of opinions or ideas that should prevail in a democratic system".

847. On the other hand, this Office has been informed about an alleged growing trend of lawsuits - or threats of lawsuits - against journalists by public officials, businesspeople, political leaders and trade unionists. Along these lines, the CAinfo organization reported at least seven cases of activation of judicial mechanisms, mostly criminal lawsuits for defamation and insults, between the months of July and September, which in its opinion would be an unusual number in a brief period of time<sup>1373</sup>.

848. Some of the cases reported to the RELE include the criminal lawsuit for defamation brought by the departmental director of Health of Tacuarembó against the journalist José Morales Brum of the weekly *Tacuarembó Ahora*. The complaint would be related to the publication of various newspaper articles that allegedly criticized the management of the official at the head of the organization in terms of the management of the COVID-19 pandemic. According to the information received, after certain judicial instances an agreement was reached to terminate the process<sup>1374</sup>.

849. Likewise, according to available information, the journalist Eduardo Mérica from *Diario Uruguay* had been criminally denounced for defamation and insults by the former legal adviser of the Interior Football

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<sup>1368</sup> La diaria. April 17, 2021. [Asociación de la Prensa Uruguaya: "Enorme preocupación" por "escalada de ataques a la libertad de expresión"](#); El Observador. April 18, 2021. [Aldo Silva: autoridades de Telemundo y radio Sarandí respaldaron al periodista tras sus críticas a Lacalle Pou](#).

<sup>1369</sup> Graciela Bianchi's Twitter account (@gbianchi404). [April 17, 2021](#).

<sup>1370</sup> La diaria. May 3, 2021. [CAinfo denuncia "reiteradas presiones de jefes del Poder Ejecutivo hacia periodistas y medios"](#); Graciela Bianchi's Twitter account (@gbianchi404). [April 26, 2021](#).

<sup>1371</sup> La diaria. June 4, 2021. [Cámara de Diputados manifiesta su "enfático rechazo" a informe de la DW sobre libertad de expresión](#); Montevideo Portal. June 10, 2021. [Diputados votó resolución de "enfático rechazo" a informe de cadena alemana Deutsche Welle](#).

<sup>1372</sup> El Observador. June 1, 2021. [La Deutsche Welle le respondió a diputado que llamó "insulto" al informe sobre la libertad de expresión en Uruguay: "No hay razón para ofenderse"](#); Esta boca es mía / Youtube. [June 16, 2021](#).

<sup>1373</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Information sent by CAinfo. Harassment and stigmatization of journalists. Uruguay situation and regional context. October 20, 2021; CAinfo. September 15, 2021. [Auge de juicios penales a periodistas amenaza la libertad de expresión](#); Caras y Caretas. September 26, 2021. [Dispáren al cartero: amenazas a la libertad de expresión](#); El País. October 16, 2021. [Periodista Federico Leicht a Fiscalía por haber opinado que Intendencia de Canelones es "comunista"](#).

<sup>1374</sup> CAinfo. July 28, 2021. [CAinfo expresa preocupación por juicio penal de director de Salud contra periodista en Tacuarembó](#); La diaria. September 16, 2021. [CAinfo alerta por "una serie de demandas judiciales" contra periodistas por difamación e injurias](#).

Organization (OFI), allegedly for information that the journalist had published on the separation of the former OFI advisor. The case was finally closed after the journalist agreed to a right to reply<sup>1375</sup>.

850. Similarly, a congress representative from the Intransigent Radical Ecologist Party (PERI) criminally sued journalist Leandro Guille for understanding that his messages on a television program constituted "defamatory and insulting conceptualizations." According to the information reported, the claim was rejected in the first instance and, despite the fact that the legislator had hinted at his intention to appeal the sentence, the Office of the Special Rapporteur does not have updated information in this regard<sup>1376</sup>.

851. On the other hand, according to the information available, the journalist of the *Semanario Crónicas del Este*, Sergio Secinano, denounced that he had received a call from the Minister of Labor and one of his advisers, requesting the withdrawal of a publication -which according to what this Office learned reported on alleged irregularities in public procurement- "to avoid a lawsuit." Later, the minister would have made it public in a television interview that he had withdrawn the lawsuit "because the journalist clarified the situation"<sup>1377</sup>.

852. The Office of the Special Rapporteur also received information on the robbery that occurred on Sunday, July 11, at the home of the president of CAinfo, Fabian Werner, from whom, among other things, computer equipment was stolen. CAinfo expressed its concern and asked the authorities for a prompt investigation in order to clarify the situation, locate those responsible, and recover the stolen equipment, which contained information relevant to the organization's work<sup>1378</sup>.

853. Within the framework of the Day of the Journalist and media workers in Uruguay, which is celebrated on October 23 of each year, the Special Rapporteur for Freedom of Expression of the IACHR participated in a discussion organized by civil society, in where he stressed that the defense of freedom of expression "is not a privilege" for journalists, but must be a commitment that involves society as a whole. Likewise, he highlighted some of the most relevant points of the Joint Declaration of Rapporteurs on Freedom of Expression of 2021, noting that political leaders and people who exercise public functions are called to take care of the public debate, among other things by refraining from stigmatizing the work of journalists.

854. The State has indicated to this Office that "journalism is essential for coexistence in a free, democratic society" and that "abuses of power are not the monopoly of authoritarian regimes; they also occur in democracies, and although independent journalism cannot avoid them, reporting such abuses in itself fulfills an extraordinarily valuable function". In this sense, the Uruguayan State has reported that "the main problem faced today is the attempt to replace journalism with what is now called 'the story', it is the replacement of the serious, professional effort of enumeration of the facts, by the imposition of a narrative created to the taste of the consumer", which is regulated by various regulations such as the Press Law and the Audiovisual Communication Services Law, as indicated. In this context, they also reported that the executive branch has submitted to its Parliament a preliminary draft of the amendment of the Media Law, which was under study<sup>1379</sup>.

855. The IACHR and its Office of the Special Rapporteur have pointed out that journalism represents one of the most important manifestations of freedom of expression in democratic societies, since it fosters more robust, pluralistic, and informed public debates. States must ensure full respect for freedom of the press, which also constitutes a fundamental element for the enforcement of the other fundamental freedoms.

856. In democratic systems, the State is subjected to social scrutiny at the same time that it is responsible for assuming the duty of guarantor of the freedom of expression of all the people who participate in the public debate. In this regard, the IACHR and its Office of the Special Rapporteur have indicated that those who hold positions of public leadership are called upon to maintain a speech in favor of freedom of expression, ensuring

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<sup>1375</sup> CAinfo. September 15, 2021. [Auge de juicios penales a periodistas amenaza la libertad de expresión](#); Caras y Caretas. [Disparen al cartero: amenazas a la libertad de expresión](#).

<sup>1376</sup> CAinfo. September 15, 2021. [Auge de juicios penales a periodistas amenaza la libertad de expresión](#).

<sup>1377</sup> CAinfo. September 15, 2021. [Auge de juicios penales a periodistas amenaza la libertad de expresión](#); *Semanario Crónicas del Este*. August 20, 2021. [Ministro Pablo Mieres mandó bajar publicación de Crónicas del Este advirtiendo juicio penal](#); Hiperactiva FM. August 19, 2021. [Ministro Pablo Mieres apretó y amenazó a un periodista del interior](#).

<sup>1378</sup> CAinfo. July 12, 2021. [CAinfo manifiesta preocupación por el robo ocurrido en el domicilio de su presidente](#); Red de Gobierno Abierto. No date. [RGA se solidariza con CAinfo por el robo ocurrido en el domicilio de su presidente](#).

<sup>1379</sup> Permanent Mission of Uruguay to the OAS. September 20, 2021. Contributions to the 2021 Annual Report of the Office of the Special Rapporteur.

that their pronouncements are not infringing the rights of those who contribute to the debate through expression and dissemination of their thoughts, such as journalists and the media. According to the Inter-American Court of Rights, this type of statements made by public officials could constitute an indirect restriction on the right to freedom of expression. While the crossing of arguments and the public exposure of disagreements enrich the debate, speeches that encourage the stigmatization of the press erode the democratic system and contribute to creating a climate of self-censorship.

857. Likewise, this Office recalls that, as the IACHR and the Inter-American Court have held, public officials or candidates to exercise public functions are exposed to a greater degree to public criticism due to the public interest nature of the activities they perform and because they have voluntarily been exposed to more demanding scrutiny. This does not imply, according to the Court, that they cannot be judicially protected as regards their honor; However, they may do so in accordance with the principles of democratic pluralism and weighing the interest of such protection with the interests of an open and uninhibited debate on public affairs. In this sense, the Commission and the Court have insisted that the use of criminal mechanisms to punish speeches on matters of public interest, especially related to public officials, is incompatible with inter-American standards.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

858. The Office of the Special Rapporteur continues to monitor challenges regarding access to public information in Uruguay, as reported in its latest annual report. After the outbreak of the pandemic, civil society organizations and journalists have denounced an alleged setback in the guarantees of government transparency and a restrictive environment for access to information of public relevance<sup>1380</sup>. According to the latest CAinfo monitoring report, published on World Press Freedom Day, 29 of the 49 registered cases of threats to freedom of expression in Uruguay correspond to limitations on access to public information<sup>1381</sup>.

859. Among other recorded events, the SRFOE received information about the alleged rejection by the Presidency of a request for access to public information requested by the weekly *Búsqueda* in order to find out who the president had received in the last year at the presidential residence<sup>1382</sup>.

860. Likewise, the 3rd shift Administrative Litigation Court dismissed the action for access to information presented by the journalist for the weekly *Brecha*, Mauricio Pérez, against the Presidency of the Republic, after the Executive did not provide information on the negotiations and the government agreements with the laboratories that supply coronavirus vaccines. As this Office learned, in January 2021, the journalist had made a request for access to information on the agreements reached by the State with the Pfizer/Biotech, Sinovac, and Gavi-Alliance laboratories to acquire the vaccines against COVID-19. However, the Presidential Office would not have agreed to provide the requested information, considering that all the documentation related to the negotiations held and the contracts concluded by the Uruguayan State for the acquisition of vaccines was information classified as confidential by the Council of Ministers. Faced with this response, the reporter made a similar request under article 30 of Decree 232/20, through which he could have obtained at least a summary of said information, but it was not answered. In the ruling, the judge held that the Executive Power fulfilled its commitments established in the Law on Access to Public Information by informing the journalist about the declaration of confidentiality of the data. According to the judge, "the weighting of two constitutional rights is at stake", referring to the right to public information and the right to health, "considering that the confidentiality clauses were for the purpose of being able to acquire vaccines for the Uruguayan population to combat the COVID-19 pandemic"<sup>1383</sup>. The judicial decision was appealed by the weekly *Brecha* and CAinfo<sup>1384</sup>.

861. On May 3, on World Press Freedom Day, a group of 17 human rights organizations signed a "Declaration for transparency in handling information on the pandemic" in which they raised concerns "about

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<sup>1380</sup> CAinfo. January 7, 2021. [Falta de transparencia afecta el acceso a la información sobre la pandemia.](#)

<sup>1381</sup> CAinfo. May 3, 2021. [CAinfo registró 49 casos de amenazas a la libertad de expresión en el último año.](#)

<sup>1382</sup> Semanario *Búsqueda*. October 20, 2021. [Reuniones del presidente en Suárez y Reyes fueron declaradas reservadas.](#)

<sup>1383</sup> *Brecha*. March 5, 2021. [Se paga en silencio](#); La diaria. May 21, 2021. [La Justicia analiza acción contra Presidencia por incumplimiento en pedido de acceso a la información pública](#); La diaria. May 24, 2021. [La Justicia desestimó la acción de acceso a la información contra Presidencia, que negó datos sobre acuerdos para adquirir vacunas contra la covid-19](#);

<sup>1384</sup> La diaria. May 28, 2021. [Apelan fallo que respaldó la negativa de Presidencia a dar información sobre la compra de vacunas contra el coronavirus.](#)

the difficulties persistent to access quality information more than a year after the start of the COVID-19 pandemic in the country" and urged "national and departmental authorities to comply with national legislation and international commitments assumed by the country in matter of Access to Public Information", according to the statement." The Declaration also maintains that "there are clear standards in the international arena regarding access to information that the Uruguayan State is not complying with and, therefore, is not exercising its role as guarantor of the full exercise of this right. This non-compliance is largely due to government decisions that prevent knowing essential information on the progress of the pandemic in the country, and on the way in which the State is dealing with it"<sup>1385</sup>.

862. The report presented on the Online Active Transparency Index (Itael), prepared annually by CAinfo and by the Department of Humanities and Communication of the Catholic University of Uruguay, indicated a drop in compliance with the obligations of active transparency by the obligated subjects. The document, which analyzes the level of compliance of public bodies with the obligations provided by Law No. 18.3811 on Access to Public Information, indicates that of the 262 sites surveyed, only 4 reach high levels of active transparency, which would represent less than 2%. In addition, 57% of organizations would not meet half of the requirements set by the index of active transparency online. Municipalities, Departmental Boards, and Municipalities present the lowest levels of compliance, according to the report<sup>1386</sup>. For all these reasons, CAinfo concluded that "twelve years after the regulation was approved, the facts show that the path towards a culture of transparency has been slower than desired. Most of the organisms have not taken a leap to allow them to access high levels of compliance"<sup>1387</sup>.

863. The State has reported that a "constant flow of information in relation to the pandemic has been maintained, creating a working group destined to advise and report on the subject, never hiding any type of information." Likewise, they indicate that since the beginning of the pandemic and in the year 2021 they have undergone "a process of electronic modernization and an increase in the web agendas of all procedures to streamline them and not be frustrated, giving greater inclusion with this practice of reaching all parts of the country that contributes to decentralization"<sup>1388</sup>.

864. In 2021, this Office followed up on the legislative process to approve the Accountability Bill, the articles of which would include an amendment to the law on access to public information that could affect the exercise of this right, according to civil society's organizations as well as the regional representative for South America of the Office of the United Nations High Commissioner for Human Rights, Jan Jarab, and the director of the UNESCO Regional Office for Sciences for Latin America and the Caribbean, Lidia Brito<sup>1389</sup>. According to the information available, the proposed change established that "the requested information that is published with a periodicity of at least once a year can only be claimed in the event of the aforementioned breach once the deadline for it to be given to diffusion". In the opinion of the UN expert opinion, the norm would be "regressive" in terms of access to information "by including new requirements for the action of access to public information to be appropriate", while highlighting the particular implications that the initiative could present for the most vulnerable groups<sup>1390</sup>. In September, civil society highlighted the announcement by the Secretary of the Presidency, who expressed the government's will to modify the article that was questioned<sup>1391</sup>.

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<sup>1385</sup> Centro de Archivos y Acceso a la Información Pública, Agencia Voz y Vos - El Abrojo, Amnesty International Uruguay, Casa Bertolt Brecht, C.i.e.en.p.re Juntos, CIVICO, Colectiva Mujeres, Cotidiano Mujer, DATA, Grupo de Trabajo por Educación Inclusiva, Hermandad Pro Derechos - Uruguay, Instituto Comunicación y Desarrollo (ICD), Grupo de Trabajo por Educación Inclusiva, PODER, Red Pro Cuidados, Uruguay Transparente, OBSERVACOM. [Declaración por la transparencia en el manejo de la información sobre la pandemia](#). May 3, 2021.

<sup>1386</sup> CAinfo. [Índice de Transparencia Activa en Línea 2020-2021](#); El Observador. October 7, 2021. [Informe CAinfo: el 57% de los organismos públicos presentan un nivel bajo de cumplimiento de transparencia activa](#).

<sup>1387</sup> CAinfo Twitter account (@CAinfo). [October 7, 2021](#).

<sup>1388</sup> Permanent Mission of Uruguay to the OAS. September 20, 2021. Contributions to the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>1389</sup> La diaria. July 8, 2021. [Preocupación de organizaciones por artículo de la Rendición de Cuentas que modifica la Ley de Acceso a la Información Pública](#); Red de Gobierno Abierto. No date. [Proyecto de Ley de Rendición de Cuentas introduce obstáculos al Acceso a la Información](#); Monitor Civicus. October 15, 2021. [Uruguay: la sociedad civil se opone a una legislación regresiva](#).

La diaria. September 10, 2021. [Naciones Unidas advierte que modificación a la ley de acceso a la información es "regresiva e innecesaria"](#); Prensa Latina. September 11, 2021. [Critican propuesta que limita acceso a la información en Uruguay](#).

<sup>1390</sup> La diaria. September 10, 2021. [Naciones Unidas advierte que modificación a la ley de acceso a la información es "regresiva e innecesaria"](#); Prensa Latina. September 11, 2021. [Critican propuesta que limita acceso a la información en Uruguay](#).

<sup>1391</sup> CAinfo. September 13, 2021. [El gobierno se comprometió a modificar artículo de la Rendición de Cuentas que afecta el acceso a la información](#); UY Press. September 16, 2021. [Rendición de Cuentas: Artículo sobre acceso a la información será modificado o eliminado](#).



865. In the opinion of the State, "the year 2021 has had challenges in terms of democratic institutionality and its strengthening, internal, external, and collective tools in full use of their legal powers have been the protagonists and a solid guarantee in electoral contexts." In this regard, they report that in mid-July 2021, signatures to repeal a law of urgent consideration promulgated the previous year were presented to the Electoral Court of the Eastern Republic of Uruguay, by popular initiative. As they pointed out, the citizens expressed "through signatures their willingness to call a future referendum, without opposition from the State and with the necessary guarantees, even though it is, as in the entire region, in the midst of a global pandemic due to COVID-19"<sup>1392</sup>.

866. The Office of the Special Rapporteur reiterates that transparency and accountability of public powers strengthen democratic systems. As established in the Declaration of Principles on Freedom of Expression of the IACHR, "[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." Likewise, the IACHR Resolution on Pandemic and Human Rights in the Americas has highlighted the importance of access to information in the context of a pandemic and the crucial role that journalists play in reporting on critical points and monitoring government actions.

867. Likewise, this Office recalls that Article 13.2 of the American Convention requires that any measure that seeks to limit the exercise of the right to freedom of expression be defined precisely and clearly through a law, be oriented to a legitimate objective, be necessary, and strictly proportionate to the purpose.

### **C. Freedom of expression and the Fight against Discrimination and Exclusion**

868. As reported by the World Association of Community Radios (AMARC Uruguay), some of the articles of the previously mentioned Accountability Bill would affect "more than 40% of the awards to community radios, which means a serious violation of the freedom of expression and the right to communication and information of Uruguayan society". According to the information available, the bill would establish that the radios that broadcast in the modality of shared frequencies will only be able to do so for a maximum period of two years, and once the period has elapsed, the broadcasts should cease and the closing of the same after that time has elapsed. For AMARC Uruguay, this change "particularly curtails the right of the population of the interior of the country, where 90% of the radios with shared frequencies are found", and that "due to the reality of their communities it is not possible to sustain the demands of a legal status or the full use of a frequency, and that in practice play a fundamental role for their population, being in many cases the only radio they have"<sup>1393</sup>.

869. According to the information received, the National Directorate of Telecommunications and Audiovisual Communication Services (Dinatel) said during a debate before the Budget Commission integrated with the Treasury of the Chamber of Senators, that the changes to the community radio system that the Accountability bill was seeking would have the purpose of solving "a great disorder" that had been generated and that does not mean "limiting any type of freedom of expression, far from it." For his part, Miguel Dell'Acqua, a member of the national board of the World Association of Community Radios, said that "ordering cannot mean closing when sweeping," and pointed out that the above would be "an excuse to close radios in the interior"<sup>1394</sup>.

870. The State has reported that the fight against discrimination and exclusion is necessary in order to advance in the development and fulfillment of human rights. Along these lines, they point out that the vulnerability of certain groups is reflected in different ways, and freedom of expression is a very useful tool to combat it. With regard to the media, the State indicates that the government carries out a management and good practice on the use of official advertising, freedom of expression and the management of the public sector, as well as free competition in the private sector. Likewise, they point out that Uruguay maintains "an openness

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<sup>1392</sup> Permanent Mission of Uruguay to the OAS. September 20, 2021. Contributions to the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>1393</sup> Caras y Caretas. August 7, 2021. [Rendición de Cuentas, borra de un plumazo más del 40% de radios comunitarias](#); La diaria. August 6, 2021. [Asociación de Radios Comunitarias denuncia que gobierno eliminará 40% de las adjudicaciones con la Rendición de Cuentas](#).

<sup>1394</sup> La diaria. September 28, 2021. [Radios comunitarias: el gobierno argumenta que hay "un gran desorden" y busca que los encargados tengan personería jurídica](#).



to the different views of political parties, unions, non-governmental organizations, in short, anyone who wishes to express themselves can fully develop in this regard”<sup>1395</sup>.

871. The SRFOE has indicated that community journalism contributes to diversity and pluralism in the news. Community broadcasters play an extremely important role in offering public interest programming that complements the content offered by commercial broadcasters, and in promoting the national culture, development, and education of the different communities. In this sense, the Office of the Special Rapporteur recalls that community broadcasting must be expressly recognized in the law as a differentiated form of communication media, and the States must consider spectrum reservations for this type of media, as well as equitable conditions of access to licenses that differentiate the different realities of the media ecosystem. Likewise, the delivery or renewal of broadcasting licenses must be subject to a clear, fair, and objective procedure that takes into account the importance of the media so that all sectors of society participate in an informed manner in the democratic process.

#### **D. Freedom of Expression and the Internet**

872. In 2021, civil society organizations expressed concern about the removal of the Google search results of two investigations published by the digital medium *Sudestada*. According to the information received, one of the journalistic investigations would have been de-indexed for an alleged violation of copyright in accordance with United States law, while the other article would have been de-indexed from the search engine for an alleged violation of the General Regulations of European Union Data Protection (GDPR). As reported, although the grounds are different, both decisions have some issues in common, such as the alleged purpose of limiting the circulation of information of high public interest on the alleged participation of Uruguayan law firms in international money laundering networks; Google notifications, supposedly, do not have a sufficient description or basis to account for the illegal assumptions; They also point out that the complainants are anonymous in both cases and the forms of appeal would be inappropriate and/or abusive, since the simple claim obligates the journalist and the media to accept that the trial would take place in a jurisdiction outside of Uruguay. According to the information received, *Sudestada* would have filed an appeal before a Civil Court for the removal of two newspaper articles from Google’s search results, arguing that Google incurred in a “violation and attack on the rights to freedom of expression and being heard, to a well-founded decision and due process of the *Sudestada* news outlet and the journalist Fabián Werner”. Along these lines, the action requested that “the de-indexed content be immediately restored and the adoption of measures of non-repetition of human rights violations and procedural guarantees affected here be ordered with respect to future complaints against the media and the journalist”<sup>1396</sup>.

873. The State has reported that, without prejudice to not being expressly provided for, internet access and freedom of expression online may enter the Uruguayan constitutional framework in accordance with Articles 28, 29, 72, and 332 of the Constitution. Within this framework, they affirm that Uruguay “is a promoter of rights” and that is why they have sought to increase internet access in times of pandemic, mainly in the area of education in order to reach the most remote areas. According to the information provided, the Ceibal Plan, as an accessibility platform and in the context of the pandemic, had an impact on the continuity of education in 2021.

874. On the other hand, the State has indicated that in 2021, the proposal “Standards for a democratic regulation of large platforms that guarantees freedom of expression online and a free and open internet”, prepared by the Latin American Observatory for Media Regulation and Convergence (OBSERVACOM) will be presented in Parliament to begin studying the matter, which they consider to be “booming in the southern hemisphere and the American continent.” The proposal seeks to establish criteria for the regulation of content,

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<sup>1395</sup> Permanent Mission of Uruguay to the OAS. September 20, 2021. Contributions to the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>1396</sup> *Sudestada*. November 19, 2021. [Censura en Internet: investigaciones de Sudestada son removidas del buscador de Google](#); IFEX. November 26, 2021. [Organizaciones de la sociedad civil expresan su preocupación por el uso abusivo de los mecanismos de censura privada en plataformas digitales violentando la libertad de expresión de medios de prensa en Uruguay](#); La diaria. 22 de noviembre de 2021. [Google restringió en su buscador dos notas de Sudestada sobre estudios jurídicos uruguayos vinculados a casos de lavado](#); El Observador. November 20, 2021. [El medio Sudestada denuncia que Google censuró dos de sus trabajos periodísticos](#).

seeking a “third way”, outside the self-regulation of technology companies or state intervention, according to the information provided<sup>1397</sup>.

875. Freedom of expression applies to the internet in the same way as to all media. The IACHR and its Office of the Special Rapporteur have previously stated that human rights and, in particular, the right to freedom of expression, find on the internet a unique instrument to deploy its enormous potential in broad sectors of the population, and that its relevance as a platform for the enjoyment and exercise of human rights is directly linked to the architecture of the network and the principles that govern it, including the principle of openness, decentralization, and neutrality. In this framework, the Office of the Special Rapporteur reiterates that any measure that has a restrictive impact on the exercise of the right to freedom of expression of people in the digital space is only acceptable when they comply with the international standards that provide, among other things, that they must be provided for by law, pursue a legitimate purpose recognized by international law, and be necessary and proportionate to that purpose.

876. Internet service providers today have a crucial role in the digital communications environment and, as such, they have the responsibility to respect human rights and repair violations. Addressing these challenges requires the support of multiple stakeholders and the active participation of state actors, the media, intermediaries, civil society, and the general public. In this sense, the 2020 Joint Declaration of Freedom of Expression Rapporteurs has urged internet intermediaries to “take measures with due diligence to ensure that their products, policies, and practices do not affect human rights” and to “make sufficient efforts to adopt measures that enable users to access various political ideas and perspectives”. In particular, the rapporteurs have highlighted that companies should ensure that automatic tools, such as classification algorithms, do not unduly impede - intentionally or not - access to content of public interest.

## **VENEZUELA**

877. During 2021, the Office of the Special Rapporteur has monitored with concern the continuation of serious violations of the right to freedom of expression in Venezuela. Independent journalists, especially those critical of the government, have been stigmatized, harassed, threatened and prevented from doing their work, especially through the application of the Law against Hate. This, along with to the closure of media programs and outlets, in addition to costly civil penalties, constitutes a severe limitation on the diversity of voices and informational pluralism. An environment of surveillance of critical voices and risks to free expression has been moved to online, where media sites were reported blocked and legal proceedings launched for criticism expressed on social media. The Office of the Special Rapporteur has also received reports of stigmatization of NGOs and limitations imposed by the State on their free operation, supposedly to combat terrorism. The social and economic crisis the country is facing has also posed obstacles for journalists and human rights defenders.

### **A. Journalism and Democracy**

878. In February 2021, the IACHR and its Office of the Special Rapporteur for Freedom of Expression took note of the closure of democratic spaces in Venezuela, especially following threats to the exercise of independent journalism in the country.<sup>1398</sup> Irregular arrests, threats, and harassment of journalists for doing their work are a constant risk, exacerbated by stigmatization. Prosecutions launched against dissident voices, many in application of the Law against Hate, became more frequent in 2021. The attacks on media facilities, the application of financial sanctions against the media—allegedly in retaliation for their editorial stances—the

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<sup>1397</sup> Permanent Mission of Uruguay to the OAS. September 20, 2021. Contributions to the 2021 Annual Report of the Office of the Special Rapporteur.

<sup>1398</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. February 5, 2021. Press Release 25. [IACHR and OSRFE Condemn Attacks Against Human Rights Defenders and Journalists and Warn of the Closure of Democratic Spaces in Venezuela.](#)

closure of stations, and acts of censorship in news programming are of particular concern to the Office of the Special Rapporteur.

879. This Office has received information on journalists arrested while carrying out their journalism work.<sup>1399</sup> This office was informed that on March 30, 2021, journalists Luis Gonzalo Pérez and Rafael Hernández and activists Juan Carlos Salazar and Diógenes Tirado, from Fundaredes, were detained and held in Brigade 92 of the Bolivarian National Guard, Fort Sorocaima de Guas dualito, in the Páez municipality, Apure, border region with Colombia. According to available information, the journalists and activists—who were covering alleged clashes between the Bolivarian National Armed Forces and armed groups on the border—were detained for more than 24 hours.<sup>1400</sup> After their release, on April 7, 2021, the first vice president of the United Socialist Party of Venezuela, Diosdado Cabello, said in his program *Con el Mazo Dando* that the journalists who covered the conflict in Apure should be considered enemies that “are going to sow hatred and weeds against the Bolivarian National Armed Forces and the Venezuelan Government.”<sup>1401</sup>

880. These detentions took place within a context of threats, harassment and intimidation of the independent press.<sup>1402</sup> The Inter-American Press Association has identified a pattern of physical attacks against journalists and seizing of their equipment in Venezuela during 2021.<sup>1403</sup> Likewise, the Office of the Special Rapporteur received reports on alleged impediments and obstacles to journalistic coverage by State agents.<sup>1404</sup> The Office of the Special Rapporteur also documented different cases in which journalists were forced or threatened to erase audiovisual material collected during their work.<sup>1405</sup> Likewise, cases of photographing and intimidating surveillance of journalists doing their work were also reported to this Office.<sup>1406</sup> The Office of the Special Rapporteur has also observed impediments to coverage of matters of public interest, such as social protests, election days, and vaccination campaigns.<sup>1407</sup>

881. The Office of the Special Rapporteur learned that on April 27, 2021, agents of the Bolivarian National Guard detained journalists Lenin Danieri and Edwin Prieto for at least one hour and strip searched them outside detachment 114 of the Bolivarian National Guard, between the municipalities of Machiques de Perijá

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<sup>1399</sup> SwissInfo. March 8, 2021. [Detienen varias horas a un periodista venezolano que cubría protestas del 8M](#); Espacio Público. April 5, 2021. [Poliaragua detuvo a periodista y estudiante por fotografiar las afueras del HCM](#); Instituto de Prensa y Sociedad Venezuela. April 13, 2021. [Dos detenciones arbitrarias se registraron en centros de salud en lo que va de abril](#); Caraota Digital. July 9, 2021. [Detienen al periodista Joan Camarago mientras cubría enfrentamientos](#).

<sup>1400</sup> El Nacional. March 31, 2021. [Denuncian desaparición de 2 periodistas de NTN24 detenidos por la GNB mientras cubrían conflicto en Apure](#); NTN24. April 1, 2021. [Liberados los periodistas de NTN24 y defensores de DDHH](#); Instituto de Prensa y Sociedad Venezuela. April 1, 2021. [Liberados los dos periodistas y los dos activistas que fueron detenidos y desaparecidos por la GNB en Apure](#).

<sup>1401</sup> Tal Cual Digital. April 7, 2021. [Cabello: periodistas que cubran conflicto en Apure deben ser considerados enemigos](#); Espacio Público. April 8, 2021. [Diosdado Cabello amenazó a periodistas que cubran conflicto en Apure](#).

<sup>1402</sup> Noticero Digital. March 16, 2021. [PNB graba a periodistas mientras cubrían protesta en Arauca](#); Tal Cual Digital. June 28, 2021. [Directora del hospital Pérez de León acosó a periodista que trabaja allí](#); Twitter account of the National Press Workers Union (@sntpvenezuela). [July 13, 2021](#); Espacio Público. August 17, 2021. [Amenazan a periodista por denunciar las precarias condiciones de un centro de salud en Barinas](#); Crónica Uno. October 13, 2021. [Recrudece hostigamiento contra periodista Roberto Deniz](#).

<sup>1403</sup> Inter-American Press Association. October 15, 2021. [Venezuela - Report to the 77th Virtual General Assembly](#).

<sup>1404</sup> Espacio Público. May 12, 2021. [Secretario de gobierno de Carabobo censuró a la prensa durante protesta de maestros](#); Instituto de Prensa y Sociedad de Venezuela. June 5, 2021. [En menos de una semana impiden labor periodística a tres equipos de reporteros en Lara](#); Twitter account of the Colegio Nacional de Periodistas de Caracas (@cnpccaracas). [October 21, 2021](#); Espacio Público. November 13, 2021. [PNB intimida a reportero de Caraota Digital](#).

<sup>1405</sup> El Carabobeño. April 12, 2021. [Reporteros de El Carabobeño fueron intimidados por sujetos desconocidos mientras hacían su labor periodística](#); EVT. August 5, 2021. [Intentan quitarle el celular a periodista en Sucre que grababa discusión entre oficialistas](#); Twitter account of the National Press Workers Union of Venezuela (@sntpvenezuela). [August 8, 2021](#); Twitter account of the National Press Workers Union (@sntpvenezuela). [August 8, 2021](#).

<sup>1406</sup> Archive of the Office of the Special Rapporteur. Meeting with journalists from Venezuela. June 28, 2021 and July 15, 2021; Espacio Público. September 23, 2021. [PNB graba a periodistas mientras cubrían protesta en Arauca](#); Espacio Público. November 2, 2021. [Fotografían a periodistas mientras cubrían protesta en el Táchira](#).

<sup>1407</sup> Instituto Prensa y Sociedad Venezuela. June 22, 2021. [Al menos seis reporteros han sido limitados a cubrir operativos de vacunación en lo que va de junio](#); Espacio Público. July 8, 2021. [Junio: ¡periodistas sin autorización para cubrir la vacunación!](#); Espacio Público. May 31, 2021. [Intimidación al reportero Orlando Montlouis durante cobertura de vacunación](#); Twitter account of the National Press Workers Union of Venezuela (@sntpvenezuela). [August 8, 2021](#); Guachimán Electoral. August 9, 2021. [Se registraron cinco ataques a la prensa en la jornada de primarias PSUV](#); Guachimán Electoral. October 10, 2021. [SNTP denunció abusos del Plan República contra periodistas en cobertura del simulacro electoral](#); Espacio Público. October 29, 2021. [Partidarios de la oposición intentaron impedir cobertura del reportero gráfico Daniel Sosa](#).

and Rosario de Perijá. The reporters—who were covering a demonstration by the Yukpa indigenous people—were forced to erase all the material they had collected through their journalism work.<sup>1408</sup>

882. The Office of the Special Rapporteur also observed with concern the attacks on media facilities and journalists' organizations in Venezuela. The Sucre headquarters of the National Association of Journalists of Venezuela caught fire on April 19, 2021, partially destroying the structure and desks, tables, chairs, and documents. On April 25, a report from the Fire Department concluded that the fire was started intentionally.<sup>1409</sup> Likewise, it was documented that at different times throughout the year, a number of offices of *Radio Fe y Alegría* were the target of robberies, which in some cases temporarily prevented the local programming from being broadcast.<sup>1410</sup>

883. Principle 9 of the Declaration of Principles on Freedom of Expression states: “The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression.” The Office of the Special Rapporteur recalls, in this regard, that the failure to punish those responsible for assaults, threats, and attacks related to the exercise of journalistic activity sends a message that violence is allowed, fostering the occurrence of new crimes and leading to self-censorship.

884. Throughout 2021, the Office of the Special Rapporteur continued to document judicial proceedings against journalists and communicators based on the Law Against Hate. Thus, for example, on May 17, 2021, columnist José Marval was sued for aggravated ongoing defamation and injury, in addition to incitement to hatred over the publication of his column in *100% Noticias*.<sup>1411</sup>

885. Likewise, the Office of the Special Rapporteur learned that on March 31, journalist and writer Milagros Mata Gil and poet Juan Manuel Muñoz, her husband, were arrested after they allegedly posted a message on their social media accounts that was critical of the attorney general of Venezuela. According to the information available, they were charged with incitement to hatred. They were released on April 1 under precautionary measures requiring them to present themselves to the authorities every 30 days and prohibiting them from expressing themselves with regard to the case.<sup>1412</sup> Months later, on June 16, 2021, Milagros Mata Gil was the victim of an attack by two unknown individuals aboard a motorcycle, who tried to stab her.<sup>1413</sup>

886. On June 3, 2021, the Directorate of Criminal Investigation of the Monaga State Police raided the residence of writer and *El Nacional* columnist Rafael Rattia and arrested him following the publication of an opinion article in which he criticized Aristóbulo Istúriz, the late Minister of Education. The columnist was imprisoned for two days, and on June 5 he was conditionally released at the arraignment hearing, at which the Prosecutor's Office charged him with the crime of inciting hatred.<sup>1414</sup>

887. According to the information received, on July 29, 2021, the Tenth Trial Oversight Court of the Criminal Judicial Circuit of the State of Táchira issued a warrant for the arrest of journalist and news host Obeysser Prada Torres, who is in exile and accused of the crimes of promoting or inciting hatred. According to the journalist, the charges are retaliation for reporting irregularities in the administration of the State of Táchira that involved

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<sup>1408</sup> El Carabobeño. April 27, 2021. [GNB detuvo, desnudó y borró el material a periodistas Edwin Prieto y Lenin Danieri](#); El Pitazo. April 28, 2021. [Sindicato de prensa denuncia que GN detuvo y desnudó a dos periodistas zulianos](#); Espacio Público. April 28, 2021. [Detienen a dos periodistas por grabar protesta indígena en el Zulia](#).

<sup>1409</sup> La Patilla. April 25, 2021. [Informe técnico de los bomberos reveló que el incendio en la sede del CNP en Sucre fue provocado](#); NTN-24. April 25. [Incendio en sede de CNP en sucre fue provocado según informe de bomberos \(ntn24.com\)](#). Twitter account of the National Association of Journalists (@cnpven). [April 25, 2021](#).

<sup>1410</sup> Radio Fe y Alegría. August 19, 2021. [Robaron la malla de la antena radial de Radio Fe y Alegría Guasdalito - Radio Fe y Alegría Noticias](#); Radio Fe y Alegría. May 20, 2021. [Así también se silencia una radio - Radio Fe y Alegría Noticias](#).

<sup>1411</sup> Asociación Carabobeña de Noticias. May 21, 2021. [Llevan a juicio a supuesto periodista por difamación e incitación al odio](#); Instituto de Prensa y Sociedad Venezuela. May 28, 2021. [Columnista y medio de comunicación de Carabobo demandados por difamación e injuria](#).

<sup>1412</sup> El Nacional. April 1, 2021. [Milagros Mata Gil, escritora venezolana, denuncia su detención](#); SwissInfo. April 1, 2021. [Excarcelada la escritora venezolana Milagros Mata Gil y su marido, según ONG](#).

<sup>1413</sup> El Carabobeño. June 17, 2021. [La escritora venezolana Milagros Mata Gil sufre atentado en Anzoátegui](#); El Nacional. June 17, 2021. [Milagros Mata-Gil denunció que fue atacada con un cuchillo](#).

<sup>1414</sup> Efecto Cocuyo. June 4, 2021. [Denuncian la detención del escritor Rafael Rattia por escribir un artículo](#); El Pitazo. June 6, 2021. [Escritor Rafael Rattia fue imputado por instigación al odio en Maturín](#).

Tamani Bernal, son of Freddy Bernal, appointed in 2018 by the national government as the "protector of the state of Táchira."<sup>1415</sup>

888. Likewise, the Office of the Special Rapporteur received information indicating that on September 8, 2021, members of the Scientific, Criminal, and Forensic Investigations Corps (Cicpc) had raided the homes of the comedians of the political humor program Kurda Konducta, Napoléon Eduardo Rivero and Reubén Morales, for the alleged crime of inciting hate and computer crimes. According to available information, a warrant was issued for the comedians' arrest. They are outside the country.<sup>1416</sup>

889. The IACHR and its Office of the Special Rapporteur received with concern the reports on the search and arrest warrants issued for journalist Roberto Deniz, whose family members have been beneficiaries of the IACHR's precautionary measures since February 2020. According to information sent to this Office, on October 12, 2021, journalist Roberto Deniz was informed that a new criminal proceeding had been opened against him for the crime of incitement to hatred, allegedly linked to his journalism work.<sup>1417</sup> On October 15, agents of the Venezuelan Scientific, Forensic, and Criminal Investigations Corps (CICPC) raided his parents' residence in the capital of Venezuela, where his brother, sister-in-law and two young girls were living, despite the fact that the journalist has not lived in Caracas since 2018.<sup>1418</sup> This Office has also been informed that on October 14, 2021, the Thirty-Second Court of First Instance in Control Function of the Criminal Judicial Circuit of the Metropolitan Area of Caracas issued a warrant for the arrest of Roberto Deniz and Anyelo Julio Herida in the framework of the case against them for the alleged crime of inciting hatred. That same day, the chief commissioner of the International Police Directorate was informed of the warrant and asked to add an international red alert to the Interpol system.<sup>1419</sup>

890. The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: "Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as 'desacato laws,' restrict freedom of expression and the right to information." Likewise, the IACHR has held that the use of criminal law in these cases does not meet a pressing social need that would justify it; is unnecessary and disproportionate; and could be a means of indirect censorship, given its chilling effect on debate surrounding matters of public interest. Additionally, within the framework of judicial investigations, journalists have the right to not reveal information, documentation, and sources.

891. The use of the criminal offenses of terrorism and treason against independent journalists continues to be a concerning trend in Venezuela. As of the drafting of this report, journalist Ronald Carreños has been in detention for more than 370 days. As the Office of the Special Rapporteur reported in its 2020 annual report, the journalist was arrested by members of the Bolivarian National Police on October 26, 2020, and charged with the alleged crimes of conspiracy, illicit trafficking in weapons of war and ammunition, and financing of terrorism. On July 9, 2021, the judge in charge of the case accepted the charges.<sup>1420</sup> The journalist's legal team

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<sup>1415</sup> El Carabobeño. August 5, 2021. [Tribunal del Táchira emitió orden de detención contra el periodista Obeysser Prada](#); Radio Fe y Alegría. August 7, 2021. [Tribunal Penal del Táchira emite orden de detención contra el periodista Obeysser Prada - Radio Fe y Alegría Noticias](#); Instituto Prensa y Sociedad Venezuela. May 28, 2021. [Periodista Obeysser Prada denunció ser víctima de una investigación judicial en Táchira](#).

<sup>1416</sup> El Nacional. September 9, 2021. [Cicpc allanó viviendas de los humoristas Reuben Morales y Napoleón Rivero](#); Runrun. September 9, 2021. [Allanaron viviendas de humoristas Reuben Morales y Napoleón Rivero](#); Archive of the Office of the Special Rapporteur. Report of the Kurda Konducta Case. October 23, 2021.

<sup>1417</sup> El País. October 13, 2021. [La Fiscalía chavista intensifica sus ataques al periodismo y arremete contra el reportero que destapó los negocios de Alex Saab, presunto testaferro de Maduro](#); El Pitazo. October 12, 2021. [Periodista Roberto Deniz denuncia que seguidores de Saab le montan expediente con acusaciones falsas](#).

<sup>1418</sup> Twitter account of Roberto Deniz (@robertodeniz). [October 13, 2021](#); Twitter account of CPJ Americas. <https://twitter.com/CPJAmericas/status/1448681765262999553?s=20>October 14,

<https://twitter.com/CPJAmericas/status/1448681765262999553?s=20>; CNN Español. October 15, 2021. [Denuncian allanamiento en casa de familiares del periodista venezolano Roberto Deniz](#); Committee to Protect Journalists. October 20, 2021. [Las autoridades venezolanas dictan orden de arresto contra el periodista Roberto Deniz y allanan la casa de su familia](#).

<sup>1419</sup> Bolivarian Republic of Venezuela. October 14, 2021. Official Letters [301-21](#) and [304-21](#). Criminal Judicial Circuit of the Judicial District of the Metropolitan Area of Caracas Trial Control Court 32.

<sup>1420</sup> Radio Fe y Alegría. July 9, 2021. [Periodista Roland Carreño seguirá preso - Radio Fe y Alegría Noticias](#); Efecto Cocuyo. July 9, 2021. [Roland Carreño seguirá privado de libertad mientras dure su juicio, decide tribunal](#).



has alerted to deterioration of Carreños' health status and asked judicial authorities to transfer him to a health care center. On September 6, 2021, Carreño had to be transferred to the Hospital de Clínicas de Caracas during a hypertensive crisis, where he was diagnosed with COVID-19.<sup>1421</sup> Currently, the journalist is being held in the Helicoide prison in Caracas.<sup>1422</sup>

892. This Office of the Special Rapporteur also observed with grave concern the decision of the Civil Cassation Chamber of the Supreme Court of Justice of April 16, 2021 ordering Venezuelan newspaper *El Nacional* to pay 237,000 petros—around 13 million dollars—in non-pecuniary damage to a former president and current deputy of the National Assembly of Venezuela, who filed a civil lawsuit against *El Nacional* after the outlet published an article by Spanish newspaper *ABC* that, through the testimony of the former bodyguard of official Leamsy Salazar, accused him of ties to drug trafficking.<sup>1423</sup> On May 14, as part of the compensation process, the Fourth Municipal Trial and Measures Execution Court of the Judicial District of the Metropolitan Area of Caracas ordered the seizure of the newspaper's national headquarters.<sup>1424</sup> On June 10, 2021, *El Nacional* received notification that, after the deadline for voluntary payment of compensation had passed, the Third Trial Court of Civil, Commercial, Transit and Banking of the Judicial District ordered the seizure of assets amounting to more than 30 million reals, double the compensation ordered plus 25% for procedural costs.<sup>1425</sup> This office received information that although *El Nacional* filed an appeal for constitutional review, the Constitutional Chamber of the Court declared it inadmissible.<sup>1426</sup>

893. The Commission has indicated that although, according to Article 13(2) of the American Convention, protection of the honor and reputation of others may be grounds for establishing subsequent liability for the abusive exercise of freedom of expression, it must be done without prejudice to the exercise of freedom of expression. Inter-American case law has emphasized that the principle of necessity requires the State to choose the means of repairing the damage that is the least costly to freedom of expression. Criminal sanction must be a measure of last resort, and the States must remember that the application of a disproportionate civil sanction can have effects that are just as intimidating and inhibiting as a criminal sanction—or more so—for the exercise of freedom of expression.

894. In 2021, the Office of the Special Rapporteur also continued to document raids on different radio stations, TV stations, and print newspapers, followed by the confiscation of equipment and the closure of media outlets. These measures were generally based on alleged non-compliance with tax law or the legislative and administrative regulations for using the radio spectrum in Venezuela. In this regard, on January 8, 2021, CONATEL and SENIAT officials inspected the facilities of digital TV channel *VPI-TV* under the pretext of reviewing tax documentation for equipment purchased. Officials allegedly seized an array of equipment, causing the media outlet to have to temporarily suspend operations.<sup>1427</sup> The newspaper *Panorama* in the city of Macaraibo was also sanctioned by SENIAT with the closure of its facilities until January 12 due to alleged failure to comply with tax laws.<sup>1428</sup> CONATEL ordered the closure or removal from the airwaves of the programming of *Aragua Mágica 88.1 FM*<sup>1429</sup> in Macaray, Aragua; *Radio Vea*<sup>1430</sup> in Coro, Falcón; *Zeta 103.5 FM*

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<sup>1421</sup> Tal Cual. September 2, 2021. [Defensa de Roland Carreño pide nuevamente que sea revisado por médicos de confianza](#); El Pitazo. September 6, 2021. [Periodista Roland Carreño es trasladado a una emergencia por crisis hipertensiva](#).

<sup>1422</sup> RSF. October 26, 2021. [RSF pide la liberación del periodista Roland Carreño, encarcelado arbitrariamente desde hace un año en Venezuela](#).

<sup>1423</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 21, 2021. Press Release 96/2021. [The IACHR and its Office of the Special Rapporteur for Freedom of Expression express grave concern over ruling ordering the newspaper El Nacional in Venezuela to pay more than 13 million dollars](#).

<sup>1424</sup> EFE. May 15, 2021. [La justicia venezolana da otra vuelta de tuerca al embargar al diario El Nacional](#); Infobae. May 14, 2021. [La dictadura de Nicolás Maduro embargó la sede del periódico venezolano El Nacional](#).

<sup>1425</sup> El Nacional. June 10, 2021. [El régimen incrementó de 13 a 30 millones de dólares lo que El Nacional debe pagarle a Diosdado Cabello](#); Swissinfo. June 11, 2021. [La Justicia venezolana eleva de 13 a 30 millones la multa al diario El Nacional](#).

<sup>1426</sup> Archive of the Office of the Special Rapporteur. Update of information from *El Nacional*. August 20, 2021.

<sup>1427</sup> NTN-24. January 8, 2021. [Funcionarios del régimen venezolano le quitan los equipos al medio digital VPI TV](#); Deutsche Welle. January 9, 2021. [Gobierno de Venezuela confisca equipos a canal de TV digital](#); Twitter account of VPI-TV (@vpitv). [January 10, 2021](#).

<sup>1428</sup> El Nacional. January 8, 2021. [Seniat clausuró por cinco días sede del diario Panorama](#); Instituto de Prensa y Sociedad Venezuela. January 15, 2021. [Radio y prensa en medio de limitaciones durante las primeras semanas de enero](#).

<sup>1429</sup> Instituto de Prensa y Sociedad Venezuela. March 31, 2021. [Alerta IPYSve | Conatel cierra emisora comunitaria Aragua Mágica 88.1 FM](#); Diario de Lara: La Prensa. Undated. [Periodistas denuncia cierre de la emisora Aragua Mágica 88.1 FM](#).

<sup>1430</sup> El Pitazo. February 26, 2021. [Conatel apaga señal radiofónica de emisora VEA 100.7 FM](#); Tal Cual. February 27, 2021. [Conatel saca del aire señal de emisora VEA 100.7 FM](#).



in Ocumare del Tuy, Miranda;<sup>1431</sup> and Genial 89.9 Fm in Portuguesa<sup>1432</sup> for failure to comply with the administrative requirements established in the Telecommunications Law or the correct radio spectrum concession. Also, in October alone, the Office of the Special Rapporteur received information on at least seven program closures in Venezuela on orders from CONATEL, possibly related to their editorial stances.<sup>1433</sup> In September, the Office of the Special Rapporteur took note of the closure of the program "Lo De Hoy Es Noticia," hosted by journalist Edecio García Sosa, allegedly after pressure from public officials.<sup>1434</sup> To these cases are added reports that, on August 3, 2021, CONATEL took the program "Punto de Corte"—broadcast on Radio Fe y Alegría 1390 AM and 105.7 FM—off the air without informing its host or the radio's leadership of its reasons for doing so.<sup>1435</sup> Independent journalists reported to the Office of the Special Rapporteur that they now engage in self-censorship with regard to certain expressions or words that could put their radio programs in jeopardy. They indicated that they could not use terms like usurpation, dictatorship, or illegitimate in reference to the government or to the National Assembly.<sup>1436</sup>

895. This Office recalls that Principle 5 of the Declaration of Principles on Freedom of Expression establishes that, "Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression."

896. The Office of the Special Rapporteur also continued to observe a pattern of stigmatizing statements against journalists by public officials, frequently calling them "liars"<sup>1437</sup> or linking them to acts of violence.<sup>1438</sup> According to the information received, the president described the media as a "sewer" and "garbage from the garbage."<sup>1439</sup> At the beginning of 2021, the IACHR and its Rapporteurship became aware of a video with the insignia of the Bolivarian National Air Force disseminated by official Twitter accounts in which journalists from the *Efecto Cocuyo* media outlet are profiled and accused of being "info-mercenaries" for having received foreign financing for its operation.<sup>1440</sup> The National Press Workers Union (SNTP), the Instituto Radiofónico Fe y Alegría, the Centro de Justicia y Paz (CEPAZ), the organization Espacio Público, the Instituto de Prensa y Sociedad (IPYS), and Transparencia Venezuela were also allegedly targeted similarly.<sup>1441</sup> Likewise, on January 13, during the transmission of his television program *Con el Mazo Dando*, legislator Diosdado Cabello referred to human rights organizations as "tools for destabilizing the people,"<sup>1442</sup> and accused journalists of links to paramilitarism.<sup>1443</sup>

897. This Office recalls that public officials and persons who engage in public service are called on to maintain a discourse that is favorable to freedom of expression and ensure that their statements do not cause

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<sup>1431</sup> El Nacional. May 28, 2021. [Conatel cerró la emisora Zeta 103.5 FM](#); Espacio Público. May 28, 2021. [Conatel decomisa equipos y cierra la emisora Zeta 103.5 FM](#).

<sup>1432</sup> Noticero Digital. October 15, 2021. [Conatel confisca equipos de emisora Genial 89.9 FM en Guanare](#); Espacio Público. October 18, 2021. [Conatel confisca equipos de la emisora Genial 89.9 FM del estado Portuguesa](#).

<sup>1433</sup> Instituto Prensa y Sociedad Venezuela. October 14, 2021. [Locutor y programa de denuncias censurados en Amazonas](#); Espacio Público. October 21, 2021. [Cierran cinco programas de radio en el estado Zulia y Falcón](#).

<sup>1434</sup> IFEX. September 11, 2021. [Cierran programa de Barinas TV dedicado a denuncias de la comunidad](#); La Noticia - Barinas. September 8, 2021. [APR rechazó cierre de programa de Edecio García en Barinas TV](#).

<sup>1435</sup> Tal Cual. August 3, 2021. [Conatel saca del aire programa "Punto de Corte"](#); Twitter account of the National Association of Journalists of Caracas (@CNPCaracas). [August 3, 2021](#).

<sup>1436</sup> Archive of the Office of the Special Rapporteur. Meeting with journalists from Venezuela. June 28, 2021 and July 15, 2021

<sup>1437</sup> Twitter account of the National Press Workers Union (@sntpvenezuela). [August 30, 2021](#).

<sup>1438</sup> Espacio Público. July 13, 2021. [Jorge Rodríguez vincula a medios digitales con violencia en Caracas](#).

<sup>1439</sup> Semana. March 17, 2021. ["Cloacas del mundo": Nicolás Maduro arremete contra SEMANA, The New York Times y The Miami Herald](#); NTN24. November 16, 2021. [Maduro cargó contra NTN24 por publicar posiciones de Estados Unidos](#).

<sup>1440</sup> IACHR. February 5, 2021. Press Release 25. [IACHR and OSRFE Condemn Attacks Against Human Rights Defenders and Journalists and Warn of the Closure of Democratic Spaces in Venezuela](#).

<sup>1441</sup> IACHR. February 5, 2021. Press Release 25. [IACHR and OSRFE Condemn Attacks Against Human Rights Defenders and Journalists and Warn of the Closure of Democratic Spaces in Venezuela](#).

<sup>1442</sup> IACHR. February 5, 2021. Press Release 25. [IACHR and OSRFE Condemn Attacks Against Human Rights Defenders and Journalists and Warn of the Closure of Democratic Spaces in Venezuela](#); Tal Cual. January 13, 2021. [Cabello pide investigación contra Provea por señalar financiamiento exterior del PSUV](#).

<sup>1443</sup> Espacio Público. October 27, 2021. [Diosdado Cabello acusa a Sebastiana Barráez de vínculos con el paramilitarismo colombiano](#); Con el Mazo Dando / Youtube. October 20, 2021. [Programa 362](#).

harm to the rights of those who contribute to the public debate through the expression and circulation of their thoughts. Although it is legitimate to criticize, correct, or object, they must avoid stigmatizing, disparagement, and threats that could undermine respect for the independence of the media.

898. This office also received information on the obstacles imposed on the exercise of journalism in Venezuela by the economic and energy crisis there, hindering the operation of the media.<sup>1444</sup> Likewise, according to information provided to the RELE, the lack of gasoline prevents journalists from traveling to other regions to cover important events, or they depend on support from journalists' unions and associations for travel.<sup>1445</sup> On May 25, 2021, the leadership of *Diario El Tiempo* announced the end of its print edition due to a lack of newsprint and in the context of the economic crisis.<sup>1446</sup>

899. Finally, the Rapporteurship positively values the judgment of the Second Trial Court of Nueva Esparta to acquit journalist Braulio Jatar.<sup>1447</sup> As documented in the 2016 Annual Report of the Office of the Special Rapporteur, on September 3 of that year, agents of the Bolivarian National Intelligence Service arrested Jatar, director of digital media outlet *Reporte Confidencial*, and he was later charged with money laundering. The arrest of the communicator occurred the day after the visit that President Nicolás Maduro made to the municipality of Villa Rosa on Margarita Island and during which a demonstration was recorded that involved a direct confrontation between the president and some of the demonstrators. The news website run by Jatar published videos and articles on the demonstration.<sup>1448</sup>

## **B. Freedom of expression, Rule of Law and Democratic Institutions**

900. The pattern of persecution, accusations against, and harassment of opposition voices in Venezuela in 2021 took the form of arrests, prosecutions, and stigmatization of members of non-governmental organizations; repression of people who publicly demonstrate against the government; and threats to academic and university autonomy. Likewise, the obstruction of the exercise of the right to access to public information continues to be a serious problem in Venezuela, despite the fact that the National Assembly approved an access to information law in September. This is a regulatory framework that, although it represents an important milestone, includes rules that could perpetuate the kind of opacity documented by the Office of the Special Rapporteur in its earlier annual reports.

901. The Office of the Special Rapporteur continues to observe a context of stigmatization and criminalization of non-governmental organizations in Venezuela. This Office took note with concern of Administrative Order No. 001-2021, published in the Official Gazette on March 30, 2021, which required civil society organizations to register with the National Office Against Organized Crime and Financing Terrorism (ONCDOFT). As part of the registration requirements, civil society organizations must reveal the donor organizations they depend on to operate and identify the beneficiaries of their work, among whom may be victims of human rights violations.<sup>1449</sup> The Office of the Special Rapporteur indicated that the creation of this registry has the potential to encourage the stigmatization of human rights defenders and organizations, especially in a context in which State authorities have identified the NGOs as linked to terrorist actions.<sup>1450</sup>

902. In this context, the Office of the Special Rapporteur considers the reports of the detention of activists Javier Tarazona, director of Fundaredes; Rafael Tarazona and Omar de Díos García; members of that organization; and Jhonny Roremo, of the Comité Nacional de Familia Víctimas de Desapariciones Forzadas en

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<sup>1444</sup> Espacio Público. April 25, 2021. [Fallas eléctricas dejan fuera del aire a Radio Rumbos 670 AM](#); Espacio Público. July 15, 2021. [Apagones afectaron la conectividad de varios estados de Venezuela](#); Espacio Público. September 20, 2021. [Apagones dejan incomunicada a la población del país](#); Espacio Público. October 4, 2021. [Apagón deja sin información al estado Zulia](#).

<sup>1445</sup> Archive of the Office of the Special Rapporteur. Meeting with journalists from Venezuela. June 28, 2021 and July 15, 2021.

<sup>1446</sup> Instituto Prensa y Sociedad Venezuela. May 26, 2021. [Diario El Tiempo anunció cierre definitivo de su rotativa en Anzoátegui](#); *El Pitazo*. May 25, 2021. [Diario El Tiempo deja de circular definitivamente en Anzoátegui](#).

<sup>1447</sup> El Nacional. September 10, 2021. [Declaran No Culpable a comunicador Braulio Jatar](#); El Carabobeño. September 10, 2021. [Libertad plena: Periodista Braulio Jatar fue declarado no culpable](#).

<sup>1448</sup> CPJ. September 13, 2021. [El CPI saluda fallo absolutorio a favor del periodista venezolano Braulio Jatar](#); LatAm Journalism Review. July 9, 2021. [Periodista Braulio Jatar es liberado de arresto domiciliario pero tiene prohibido salir de Venezuela](#).

<sup>1449</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 30, 2021. Press Release No. 108/21 [IACHR and RFOE Reject the Registering of Not-For-Profit Organizations with Venezuela's National Office against Organized Crime and Terrorist Financing](#).

<sup>1450</sup> La Patilla. April 21, 2021. [Diosdado dijo que "muchas" ONG venezolanas "están vinculadas al terrorismo"](#); El País. April 25, 2021. [Maduro somete a las ONG de Venezuela al control de la oficina contra el terrorismo](#).

las Costas Venezolanas, on July 2, 2021, by members of the Bolivarian National Intelligence Service in the Coro Prosecutor's Office, Falcón. According to available information, they were charged with the crimes of terrorism, inciting hatred, and treason against the fatherland,<sup>1451</sup> and they were held incommunicado for at least twenty days.<sup>1452</sup> On October 26, 2021, Rafael Tarazona and Omar de Díos García were released with precautionary measures that required them to appear every eight days before the courts, but the NGO director, Javier Tarazona, was kept in custody.<sup>1453</sup> During that period, members of SEBIN raided the NGO's headquarters and the residence of Javier Tarazona.<sup>1454</sup>

903. On July 21, 2021, nurse Ada Macuare was detained by security forces after denouncing supply shortages at the Alí Romero Hospital in Barcelona and demanding better working conditions. On July 26, the Control Court No. 3 of the state of Anzoátegui ordered the pretrial imprisonment of Ada Macuare for the alleged crimes of incitement to hatred and terrorism. She was released on August 5, on the condition that she appear before the court every 30 days.<sup>1455</sup> According to public information from representatives of the Venezuelan Trade Union Coalition, as of July 2021, at least 11 union leaders had been detained so far in for year.<sup>1456</sup>

904. Likewise, the IACHR, REDESCA, and the RELE received information on a variety of actions by the State aimed at undermining university autonomy, including the decision to pay public university personnel and staff from their affiliated entities through the Patria System. As reported by civil society, because it is a State platform, this could have a chilling effect on teachers and university officials who are critical of the government. Thus, there were complaints of the exclusion of the Federation of Associations of University Professors of Venezuela (FAPUV) and other university groups from collective bargaining with the government, affecting the freedom of association of the teaching body. According to civil society organizations, this was in retaliation for its members' criticism of government labor policies.<sup>1457</sup>

905. The Office of the Special Rapporteur recalls that academic freedom is essential for strengthening of democracy. The IACHR has emphasized the crucial role that universities play as centers for critical thinking and the exchange of ideas. States therefore have a duty to respect academic freedom and adopt measures to prevent, investigate, and punish violations of this right.<sup>1458</sup> The Inter-American Principles on Academic Freedom and University Autonomy state that "academic freedom is protected in both formal and informal educational settings, and also encompasses the right to express oneself, to assemble, and to protest peacefully concerning issues being researched or discussed within the academic community in any space, including the media."

906. The Office of the Special Rapporteur has continued to receive information on the disproportionate use of security forces to disperse protests. According to the Observatorio Venezolano de Conflictividad Social, during the first half of 2021, 59 protests were repressed by State security forces and paramilitary *colectivos*, with 25 people detained, 7 injured, and one demonstrator murdered, allegedly because the Bolivarian National Guard, Bolivarian National Police and Cojedes State Police used firearms.<sup>1459</sup> States must protect and guarantee the legitimate exercise of social protest and prevent the application of disproportionate restrictions that may

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<sup>1451</sup> Fundaredes. July 8, 2021. [Cronología de la detención arbitraria de los Activistas de FundaRedes](#); El Nacional. July 3, 2021. [A Javier Tarazona, director de Fundaredes, lo acusan de instigación al odio](#); SwissInfo. July 3, 2021. [Imputan por incitación al odio a los tres activistas venezolanos detenidos](#).

<sup>1452</sup> Tal Cual. July 21, 2021. [FundaRedes denuncia que Javier Tarazona y los demás activistas están incommunicados](#); Diario La Nación. July 24, 2021. [Todavía incommunicados activistas de FundaRedes presos en Caracas](#); Twitter account of Fundaredes (@FundaREDES\_). [October 13, 2021](#).

<sup>1453</sup> EFE. October 26, 2021. [Excarcelados dos activistas de una ONG venezolana que denunció un conflicto fronterizo](#); Deutsche Welle (DW). October 26, 2021. [Corte de Venezuela excarcela a dos activistas de Fundaredes que denunciaron conflicto fronterizo](#).

<sup>1454</sup> La Prensa de Lara. July 14, 2021. [Denuncian un allanamiento en la sede de Fundaredes](#); Federación Internacional por los Derechos Humanos. July 16, 2021. [Venezuela: Allanamiento ilegal de la sede de FundaRedes y de la casa materna de su director](#).

<sup>1455</sup> Efecto Cocuyo. July 26, 2021. [Exigen libertad para enfermera Ada Macuare detenida en Anzoátegui](#); Espacio Público. July 27, 2021. [Dictan privativa de libertad a enfermera por exigir mejoras salariales](#); El Carabobeño. August 5, 2021. [Libertad provisional para Ada Macuare detenida por denunciar escasez de insumos médicos](#).

<sup>1456</sup> EFE. July 23, 2021. [El sindicalismo, el otro foco de detenciones y "agresiones" en Venezuela | Política | Edición América](#).

<sup>1457</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights. July 26, 2021. Press Release No. 192/2021. [IACHR and Offices of Special Rapporteurs Express Concern Over University Autonomy and Academic Freedom in Venezuela](#).

<sup>1458</sup> IACHR. [Serious human rights violations in the context of social protests in Nicaragua](#). OEA/SER.L/V/II. Doc. 86. June 21, 2018. Para. 170.

<sup>1459</sup> Observatorio Venezolano de Prisiones. July 22, 2021. [Conflictividad Social en el primer Semestre de 2021](#).

be used to inhibit critical or dissenting expressions. Likewise, although the States are called upon to adopt the measures necessary to avoid acts of violence and guarantee the safety of persons and public order in the framework of social protests, they must only do so with strict adherence to the general principles of legality, exceptionality, proportionality, and absolute necessity of the use of force.

907. Additionally, a report by the United Nations High Commissioner for Human Rights indicates that 60 requests have been documented for public information related to economic, social, cultural, and environmental rights between 2020 and 2021 by civil society organizations, requests that have, for the most part, gone unanswered.<sup>1460</sup> This opacity of government institutions is also reflected in other cases reported by Espacio Público—for example, on requests to clarify the policy on COVID-19 vaccinations.<sup>1461</sup>

908. The Office of the Special Rapporteur also learned of the passage of the Law on Transparency and Access to Information of Public Interest.<sup>1462</sup> Although this Office supports the advancement of laws that promoting guarantee of the right to access public information, reports have been received expressing concerns over the effectiveness of the new regulatory framework. As stated by the Alianza Regional por la Libre Expresión e Información, “without open and public consultation, this instrument places arbitrary limitations on the exercise of the right to access information. In addition, it is based on concepts that run contrary to the Venezuelan Constitution and international human rights treaties and standards.”<sup>1463</sup> Thus, for example, article 7 of the law establishes that the State can, “by reasoned decision,” be exempted from providing the information when access to it could entail “a threat to or violation of human rights, public health, public order, integral national defense, or the normal course of the socioeconomic regime of the Republic.” The Office of the Rapporteur is concerned that some of these requirements, given how open they are, may provide excessive discretion to the government agents who hold the information, limiting access to protect political interests. It is a direct consequence of the principle of maximum disclosure that “the right to access to information is the rule and secrecy the exception.”<sup>1464</sup>

### C. Freedom of Expression and the Fight against Discrimination and Exclusion

909. In recent years, the Office of the Special Rapporteur has followed up on reports of violence against women journalists—attacks that are often exacerbated in the digital sphere. According to an analysis by the Instituto de Prensa y Sociedad Venezuela published in February 2021, 113 female reporters were victims of attacks on their information rights in 2019, and another 127 women were attacked in the context of their profession during 2020.<sup>1465</sup> The Office of the Special Rapporteur was able to ascertain that attacks tend to take place especially when female journalists cover matters related to the economy, politics, sports, and other topics that are more often covered by men.<sup>1466</sup> Likewise, Espacio Público published a specific report analyzing online violence against women in which it analyzed the cases of Diana Liz Duque, Gregoria Diaz, and Lorena Arraes, journalists who, during 2020, had suffered a series of attacks and digital harassment campaigns while performing their journalism work.<sup>1467</sup>

910. As the Inter-American Court has found, women journalists “face specific risks due to being women, risks that also intersect with other factors of vulnerability such as race, class, sexual orientation and ethnic origin, among others.”<sup>1468</sup> Therefore, compliance with the obligations to respect and guarantee freedom of

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<sup>1460</sup> UN. Situation of human rights and technical assistance in the Bolivarian Republic of Venezuela. Report of the United Nations High Commissioner for Human Rights. A/HRC/48/19. September 10, 2021. Para. 44.

<sup>1461</sup> Espacio Público. September 9, 2021. [Hidrocapital rechaza solicitud de información de cuatro comunidades](#); Espacio Público. [BCV no respondió solicitud de información sobre el nuevo cono monetario](#); Espacio Público. June 26, 2021. [El Estado venezolano no informa sobre los procesos de vacunación](#).

<sup>1462</sup> Bolivarian Republic of Venezuela. September 20, 2021. [Law on Transparency and Access to Information of Public Interest](#). Official Gazette of the Bolivarian Republic of Venezuela. Year CXLVIII – Month VII, number 42,118.

<sup>1463</sup> Alianza Regional por la Libre Expresión e Información. September 24, 2021. [VENEZUELA: La Alianza Regional rechaza la aprobación de la denominada Ley de Transparencia y Acceso a la Información de Interés Público](#).

<sup>1464</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2021](#). Chapter III: The Right to Access to Information in the Americas, para. 21 and following. OEA/SER.L/V/II. Doc. 69. December 30, 2011.

<sup>1465</sup> Instituto Prensa y Sociedad Venezuela. February 1, 2021. [Periodistas mujeres son las más afectadas por violencia en línea](#).

<sup>1466</sup> Espacio Público. August 18, 2021. [La violencia digital contra las mujeres, un concepto que debe ser visibilizado](#).

<sup>1467</sup> Espacio Público. 2021. [Violencia digital de género contras las mujeres en Venezuela: Análisis de casos](#).

<sup>1468</sup> Inter-American Court. *Case of Bedoya Lima et al. v. Colombia*. Merits, reparations and costs. Judgment of August 26, 2021. Series C No. 431, para. 49.



expression must also be framed from a "gender perspective to ensure that women journalists are adequately protected and can exercise their right to freedom of expression without undue restrictions."<sup>1469</sup>

911. The Office of the Special Rapporteur also reinforces the importance of active transparency and disaggregation of data on violence and discrimination against vulnerable groups to ensure the right to access to information is fully guaranteed. In 2021, the IACHR received information from civil society on the absence of state policies to collect data on acts of violence against LGBTI persons and recalled that States must systematically collect and analyze statistics on the prevalence and nature of the violence and discrimination based on prejudice against LGBTI persons or those perceived as such.<sup>1470</sup>

#### **D. Freedom of Expression and the Internet**

912. The exercise of freedom of expression on the internet faces a number of obstacles in Venezuela, including the country's deficient network infrastructure, the energy crisis—which results in blackouts—the high cost of access, the high concentration of service providers in single ISP, and poor connection quality. For all these reasons, it is difficult to guarantee universal access. At the same time, this Office of the Special Rapporteur has been informed of a trend toward criminalizing expression on the Internet and alleged website blockages.

913. According to Freedom House, internet infrastructure in Venezuela "suffers from failures, theft, and vandalism, resulting in frequent blackouts and poor connection speeds," all within a context of socioeconomic crisis.<sup>1471</sup> The Venezuela Sin Filtro project reported a number of cases of internet service loss in different regions of the country.<sup>1472</sup> IPYS Venezuela reported 26 cases of infrastructure and service failures during the month of September, affecting connectivity in all of the country's 23 states and in the capital on at least one occasion. The main causes were power outages, general deficiencies in the national power grid, and fiber optic cuts.<sup>1473</sup> In addition to unstable infrastructure, the Office of the Special Rapporteur has observed that the high cost of accessing the internet in Venezuela also hinders the universalization of access.<sup>1474</sup> According to the information available, in the first semester of 2021, 63.3% of Venezuelan households did not have access to an internet line.<sup>1475</sup> In this context, the Office of the Special Rapporteur recalls that the States are called to take action to progressively promote universal access to Internet infrastructure and to the technology necessary for its use, as well as measures to prohibit blocking or limiting access to the Internet.<sup>1476</sup>

914. This Office was also informed that on February 28, 2021, officials of the Scientific, Criminal and Forensic Investigations Corps (CIPC) detained José Pérez, a well-known TikTok influencer, supposedly for posting a video in which he questioned the alleged privileges enjoyed by a musician's family because they supported the current government. According to the information available, José Pérez was charged with the crime of inciting hate and released after 20 days in detention under a precautionary measure prohibiting him from speaking about his case and leaving the country, in addition to requiring him to appear before the courts every 15 days.<sup>1477</sup>

915. Likewise, the Office of the Special Rapporteur has also received information about alleged blocks of news and civil society organization websites. For example, on May 29, 2021, VE sin Filtro found that *La Patilla*—one of the country's main news sites<sup>1478</sup>—was blocked. Shortly prior, it had been publicly and threateningly

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<sup>1469</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women Journalists and Freedom of Expression: Gender-based discrimination and violence against women journalists for exercising their profession](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 76.

<sup>1470</sup> IACHR. September 8, 2021. Press Release No. 235/21. [IACHR Calls on State of Venezuela to Guarantee Rights of LGBTI People](#).

<sup>1471</sup> Freedom House. 2021. [Freedom on the Net 2021: Venezuela](#).

<sup>1472</sup> Twitter account of VE sin Filtro (@vesinfiltro). [April 10, 2021](#); [May 4, 2021](#); [June 13, 2021](#); [June 29, 2021](#); [July 14, 2021](#); [July 16, 2021](#); [July 21, 2021](#); [August 2, 2021](#); [August 19, 2021](#); [September 12, 2021](#); [September 22, 2021](#); [September 25, 2021](#); [October 4, 2021](#); [October 14, 2021](#).

<sup>1473</sup> Instituto de Prensa y Sociedad Venezuela. October 25, 2021. [Venezuela: territorio desconectado](#).

<sup>1474</sup> Freedom House. 2021. [Freedom on the Net 2021: Venezuela](#).

<sup>1475</sup> OVSP. June 2021. [Boletín Informativo del OVSP](#).

<sup>1476</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 15.

<sup>1477</sup> El Nacional. March 13, 2021. [Cicpc detuvo a Tiktok por criticar a hija de Omar Enrique](#); Tal Cual. March 13, 2021. [Cicpc detiene a tiktok luego de criticar a hija de Omar Enrique](#).

<sup>1478</sup> VE sin filtro. June 4, 2021. [Arrecia la censura digital contra la prensa en Venezuela](#).

singled out by a high-ranking public official.<sup>1479</sup> The site of *TeleSur Libre*, a website associated with allies of Juan Guaidó, was blocked on May 25 minutes after its launch.<sup>1480</sup> Additionally, this Office documented attacks on digital media outlets *Qué pasa en Venezuela*,<sup>1481</sup> *VPI TV*,<sup>1482</sup> *Punto de Corte*,<sup>1483</sup> *Tal Cual*,<sup>1484</sup> and *Venezuela Zona Gris*.<sup>1485</sup> As the Office of the Special Rapporteur has indicated on multiple occasions, freedom of expression applies to the Internet the same as to other media outlets. Therefore, restrictions on freedom of expression on the internet are only acceptable when they comply with international standards requiring, among other things, that they must be established by law, pursue a legitimate objective, be necessary to achieve their purpose, and be proportionate.

916. This Office of the Special Rapporteur also learned that on March 27, 2021, Facebook temporarily suspended—for 30 days—the page of the president of Venezuela, after reports of “repeated violations” of its policies against COVID-19 disinformation.<sup>1486</sup> The government called the suspension an act of “digital totalitarianism” on the part of the social network.<sup>1487</sup> On prior occasions, the president accused the social network of censorship for removing videos in which he promoted supposed “miraculous medicine” called Carvativir that, according to the president, could neutralize COVID-19.<sup>1488</sup> Likewise, on July 28, 2021, Twitter suspended the account of deputy Diosdado Cabello’s program “Con el Mazo Dando.” According to Cabello, his program had followed all the social network’s rules.<sup>1489</sup> As of the writing this report, the program’s account remains suspended.<sup>1490</sup>

917. Although public officials, like all individuals, have the right to exercise freedom of expression in its different forms, they have special duties in view of their status as public officials. Thus, the inter-American human rights system has found they are required to reasonably—although not necessarily exhaustively—verify the facts on which they base their opinions and, as indicated by the Inter-American Court, “this verification should be performed subject to a higher standard than that used by private parties, given the high level of credibility the authorities enjoy.”<sup>1491</sup>

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<sup>1479</sup> La Patilla. May 12, 2021. [Diosdado Cabello: Una vez que termine lo de El Nacional voy con La Patilla](#); Espacio Público. May 15, 2021. [Diosdado Cabello amenazó al portal web La Patilla](#).

<sup>1480</sup> Freedom House. 2021. [Freedom on the Net 2021: Venezuela](#).

<sup>1481</sup> Espacio Público. August 24, 2021. [Atacan sitio web del portal Qué pasa en Venezuela](#).

<sup>1482</sup> VPITV Twitter account (@vpitv). [August 15, 2021](#).

<sup>1483</sup> Tal Cual. June 26, 2021. [Punto de Corte denuncia que su portal está bajo un ciberataque](#); Espacio Público. June 27, 2021. [Atacan sitio web de Punto de Corte](#).

<sup>1484</sup> Tal Cual. January 8, 2021. [Página web de TalCual se recupera tras ataque cibernético](#); Espacio Público. January 11, 2021. [Tal Cual denuncia nueva vulneración a su sitio web](#); El Pitazo. March 13, 2021. [Diario Tal Cual denuncia ataque a su página web](#).

<sup>1485</sup> VE sin Filtro. November 14, 2021. [Bloquean web de 'Venezuela Zona Gris'. el nuevo trabajo de investigación de la periodista Ibéyise Pacheco](#).

<sup>1486</sup> EFE. March 27, 2021. [Facebook bloquea por un mes la cuenta de Maduro por "desinformar" sobre la covid](#); CNN. March 28, 2021. [Facebook suspende temporalmente la página de Nicolás Maduro](#).

<sup>1487</sup> AFP. March 28, 2021. [Caracas acusa a Facebook de "totalitarismo digital" por bloquear página de Maduro](#); EFE. March 28, 2021. [Venezuela denuncia el "totalitarismo digital" de Facebook por bloqueo a Maduro](#).

<sup>1488</sup> Semana. February 2, 2021. [Nicolás Maduro acusa a Facebook de censurar videos sobre sus "gotitas milagrosas" contra el coronavirus](#); Swissinfo. February 3, 2021. [Maduro acusa a Zuckerberg de "abusador" por censurar fármaco que él preconiza](#).

<sup>1489</sup> El Nacional. July 28, 2021. [Twitter suspendió la cuenta del programa Con el Mazo Dando](#); Deutsche Welle (DW). August 5, 2021. [Venezuela: Diosdado Cabello acusa a Twitter de "robar" cuenta de su programa](#).

<sup>1490</sup> [Twitter account "Con el mazo dando" \(@conelmazodando\)](#).

<sup>1491</sup> Inter-American Court, *Case of Apitz Barbera et al. ("First Court of Administrative Disputes") v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment dated August 5, 2008. Series C No. 182, para. 131.



## **CHAPTER III: CONCLUSIONS AND RECOMMENDATIONS**

### **A. Journalism and Democracy**

1. In 2021, at least 17 murders of journalists were reported to this Office in the region for reasons that could be related to the exercise of the journalistic function: 1 in Colombia, 1 in Ecuador, 1 in Honduras, 2 in Guatemala, 2 in Haiti and 10 in Mexico. The murder of journalists is the most extreme form of censorship against the press and this figure demonstrates the continuity of an extremely worrying scenario for the exercise of the informative work in the hemisphere, which includes acts such as threats, intimidation, kidnapping, physical and verbal aggressions and other attempts against life and integrity. This trend is of particular concern in Bolivia, Cuba, Colombia, Guatemala, Haiti, Honduras, Mexico, Nicaragua and Venezuela. Media facilities have also reportedly been the target of attacks in retaliation for their editorial line in several countries, such as Brazil and Argentina. In turn, even in countries where the Rapporteurship recognizes an environment that, in general, guarantees the exercise of the right to freedom of expression and of the press, certain attacks and threats were recorded, albeit isolated. Thus, for example, in the Dominican Republic, the Rapporteurship received reports of the alleged kidnapping of a journalist and threats against another as a result of the exercise of journalistic work.

2. In this context, the Rapporteurship also notes with concern the lack of progress in judicial investigations into the murders of journalists, which contributes to the generalized self-censorship of the press.

This Office has pointed out that there is nothing more permissive to the repetition of violence against the press than the absence of a forceful institutional reaction and nothing more encouraging and reassuring for the perpetrators of violence than impunity for crimes against journalists. However, the Rapporteurship recognizes some progress, such as the conviction of Jarrod Ramos for the murder of 5 journalists and the attempted murder of seven others, during the mass shooting inside the newsroom of the Capital Gazette newspaper in Annapolis, in the United States, in 2018.

3. At the same time, particularly in Cuba, Nicaragua and Venezuela, the Rapporteurship documented the arbitrary detention of journalists for facts related to the exercise of their work, many times under laws that use vague and broad criminal concepts that could lead to arbitrary application to limit legitimate expressions. Thus, for example, RELE has recurrently observed the use of criminal laws aimed at combating acts of hatred, terrorism, treason, insult, public disorder and disobedience. In Nicaragua, in a context of escalating judicial harassment of journalists and human rights defenders who speak out on matters of public interest, the Rapporteurship recorded a growing trend of exile of journalists. Likewise, in Honduras, the Rapporteurship recorded at least two cases of journalists who left the country for fear of reprisals for their work.

4. In 2021, the Rapporteurship has also observed that press workers continue to be subjected to aggression, obstruction of their work, and theft of their work equipment in the context of social protests, both by demonstrators and by state agents. In some cases, the disproportionate actions of the security forces in the context of protests have also affected the exercise of journalism, preventing coverage of the events. Social demonstrations in Colombia and Cuba were particularly monitored by this Office. In this regard, during the working visit that took place between June 8 and 10, 2021 in Colombia, the Commission and the Rapporteurship received reports of journalists who were victims of attacks and obstructions to their informative work in the context of social demonstrations.

5. The Rapporteurship also recorded a high number of violations of the right to freedom of the press during the coverage of protests in Argentina, Bolivia, Brazil, Chile, Ecuador, Guatemala, Paraguay, Peru, and the United States. In Canada, the Rapporteurship received information about journalists who were reportedly prevented from covering citizen demonstrations, road blockades, and encampments in protests related to environmental protection.

6. In several countries, this scenario was aggravated by stigmatization statements and accusations made by State officials, including high-level authorities. This Office received a number of reports of stigmatizing statements to the press in Argentina, Brazil, Bolivia, Cuba, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay and Venezuela. In El Salvador, the Rapporteurship has received reports that stigmatizing statements against the press were also accompanied by attempts to capture the public debate in order to legitimize the official narrative as the only legitimate voice.

7. On the other hand, the Rapporteurship continues to observe a tendency to use judicial mechanisms to limit the freedom of expression of those who speak out on matters of public interest, including judicial proceedings based on crimes against the honor of public officials, especially in Argentina, Brazil, Colombia, Ecuador, Guatemala, Panama, Paraguay, and Peru. Likewise, the Rapporteurship again notes the continued use of norms for the protection of honor or privacy that are contrary to international human rights standards in Caribbean countries, particularly in Bahamas, Grenada, Guyana, St. Kitts, St. Vincent and the Grenadines, St. Lucia, and Trinidad and Tobago. In turn, in 2021, the Rapporteurship was also concerned about possible disproportionate civil penalties for the alleged abusive exercise of freedom of expression in judicial proceedings in Brazil, Colombia, Peru and Venezuela. In Uruguay, an alleged growing trend of criminal lawsuits against journalists by public officials, businessmen and political leaders was reported.

8. On the other hand, in Cuba, Nicaragua and Venezuela, the Office of the Special Rapporteur continues to observe various state actions used for censorship purposes, such as, for example, the dispossession of independent media outlets through judicial investigations with procedural irregularities; suspension of radio and television spots that report on political and other matters of public interest; criminalization of critical and dissident voices.

9. As reported in its 2020 Annual Report, the Office of the Special Rapporteur continues to receive reports on a trend in the region of official parameterization practices of the expression of those who express themselves

through social networks, as well as the use of various technologies to monitor journalists, activists and social and political leaders in some countries of the region. This year, the Office was particularly concerned about reports of the use of Pegasus software, particularly in Mexico and El Salvador. Likewise, this Office continues to observe strategies of control and surveillance of citizens' communications on social networks in Cuba, Nicaragua and Venezuela.

10. Asimismo, la Relatoría tomó conocimiento acerca de reportes sobre amenazas a la reserva de fuentes periodísticas; por ejemplo, documentó diversas decisiones judiciales que habrían solicitado a periodistas que revelaran sus fuentes. Especialmente en Estados Unidos, en 2021 la Relatoría recibió información sobre citaciones por parte del Departamento de Justicia a periodistas que publicaran notas que tenían como fuente información presuntamente clasificada.

11. En 2021, las y los trabajadores de prensa también enfrentaron obstáculos para acceder a información pública o dar cobertura a actos oficiales, o acceder a fuentes de gobierno, particularmente en Bolivia, Guatemala, Honduras, Nicaragua, Perú, y Venezuela. Asimismo, en Costa Rica se reportaron decisiones estatales que limitarían el acceso a la información de parte de instituciones públicas.

12. La Relatoría también recibió información sobre condiciones socioeconómicas apremiantes para el ejercicio del periodismo en distintos países de Caribe, incluyendo Dominica, Granada, Haití y San Vicente y las Granadinas. Esto representa un obstáculo para el fortalecimiento del periodismo profesional e independiente. En este sentido, de acuerdo a información recibida, en algunos Estados los medios de comunicación aún dependen de forma significativa de la publicidad oficial y eso generaría problemas de autocensura.

13. In relation to this point, as in previous years, the Office of the Special Rapporteur recommends to the Member States:

- A. Adopt adequate preventive mechanisms in order to avert violence against media workers, including the public condemnation of all acts of aggression, omitting any statement that may increase the risk for journalists; the respect for journalists' right to keep their sources of information; the training of public officials, particularly police and security forces, and, if necessary, the adoption of operation manuals or guidelines on the respect for the right of freedom of expression, determining appropriate sanctions proportionate to the damage done; as well as the development of accurate statistics on violence against journalists.
- B. Adopt the measures necessary to guarantee the security of those who are at special risk by virtue of exercising their right to freedom of expression, whether the threats come from state agents or private individuals. Measures or protection programs must be suitable and sufficient for its purpose, in accordance with the views expressed in this report.
- C. Carry out serious, impartial, and effective investigations into the murders, attacks, threats, and acts of intimidation committed against journalists and media workers, in accordance with this report. This entails the creation of specialized units and special investigative protocols, as well as the identification and exhaustion of all possible case theories related to the professional work of the victim.
- D. Bring to trial, before impartial and independent tribunals, all those responsible for the murders, attacks, threats, and acts of intimidation based on the exercise of freedom of expression, remove legal obstacles to the investigation and punishment of these crimes, and provide the victims and their family members ample participation during the investigation and prosecution, as well as adequate compensation, and eliminate gender barriers that obstruct access to justice.
- E. Adopt the necessary measures so that media workers in situations of risk who have been displaced or exiled can return to their homes in conditions of safety. If these persons cannot return, the States must adopt measures so that they can stay in their chosen place in conditions of dignity, with security measures, and with the necessary economic support to maintain their work and their family lives.
- F. Adopt specific, adequate and effective measures to prevent attacks and other forms of violence perpetrated against women journalists, and prosecute and punish those responsible. States must adopt effective measures to encourage reporting of cases of violence against women journalists and combat the impunity that characterizes those crimes.
- G. Promote the repeal of laws that enshrine *desacato*, regardless of the form in which they are presented, given that these norms are contrary to the American Convention and restrict public debate, an essential element of democratic functioning.

- H. Repeal criminal defamation laws and, in particular, refrain from using criminal proceedings to protect honor and reputation when disseminating information on matters of public interest, on public officials, or on candidates for public office. The protection of the privacy or the honor and reputation of public officials or persons who have voluntarily taken an interest in matters of public interest should be guaranteed only through civil law.
- I. Promote the incorporation of Inter-American standards into civil law so that civil proceedings brought against persons who have made statements about public officials or matters of public interest apply the standard of actual or actual malice, in accordance with Principle 10 of the Declaration of Principles, and are proportionate and reasonable.
- J. Promote the modification of ambiguous or vague criminal laws that disproportionately limit freedom of expression, such as those designed to protect the honor of ideas or institutions, in order to eliminate the use of criminal prosecutions to inhibit free democratic debate on all matters of public interest.
- K. Refrain from using public power to punish or reward media and communicators, in relation to their editorial line or coverage of certain information, either through the discriminatory and arbitrary allocation of official advertising or other indirect means aimed at impeding communication and the circulation of ideas and opinions.
- L. Encourage democratic debate through declarations, practices and public policies that promote tolerance and respect for all people, on equal terms, whatever their thoughts or ideas.
- M. Urge state authorities to refrain from making public statements or using state media for public campaigns that may encourage violence against people because of their opinions. In particular, avoid statements that may stigmatize journalists, media and human rights defenders.
- N. Eliminate any norm that enables prior censorship by any state body, and also any prior conditioning that may imply censorship of freedom of expression, such as prior requirements of truthfulness, timeliness and impartiality in information.
- O. Adopt legislation to regulate state powers of control and oversight, and the allocation of public goods or resources directly or indirectly related to the exercise of freedom of expression. On this point, the task is to adjust the institutional frameworks to two fundamental purposes: to prevent the possibility of state powers being used to reward or punish the media according to their editorial line and, on the other hand, to promote pluralism and diversity in the public debate.
- P. Review its legislation to establish the limits to the power to monitor private communications, its necessity and proportionality, in accordance with the universal rights of individuals and the principles of international law that have been reflected in this report.
- Q. Ensure that the public has access to information about private communications surveillance programs, their scope, and the controls in place to ensure that they cannot be used arbitrarily. In any case, States should establish independent control mechanisms capable of ensuring transparency and accountability over these programs.
- R. Refrain from sanctioning journalists, members of the media or members of civil society who have access to and disseminate confidential information on this type of surveillance programs, considering it to be in the public interest. Similarly, confidential sources and materials related to the disclosure of classified information should be protected by law.

## **B. Freedom of Expression, Rule of Law and Democratic Institutions**

14. In 2021, the Office of the Special Rapporteur documented several protests in the Americas, which on many occasions included excessive use of police force to disperse them. In some cases, the escalation of tension and conflict in the context of social demonstrations resulted in injuries, arrests and deaths. In this regard, the Rapporteurship recorded that at least in Chile, Guatemala and Ecuador states of emergency were declared for reasons related to protests in the context of escalating violence. In the United States, this Office continued to record episodes of conflict between State forces and demonstrators in the context of protests for racial justice. In Canada, evictions of encampments and roadblocks were judicially ordered as a result of citizen demonstrations, particularly those related to environmental issues. Likewise, the Rapporteurship recorded episodes of restriction of protests with reports of excessive use of police force in Argentina and Paraguay. In Nicaragua, the information received by the Rapporteurship has led to the conclusion that there is an extreme restriction of civic space, where protests have been violently repressed. In Haiti, the IACHR and its Rapporteurship observed since the beginning of 2021 signs of high levels of social violence in the context of

citizen demonstrations questioning the duration of the presidential mandate, a situation that escalated particularly after the assassination of then President Jovenel Moïse.

15. In this context, the Office of the Special Rapporteur observed with concern several episodes of excessive use of police force to disperse protests, which in some cases resulted in injuries, arrests and deaths. The IACHR and its Office of the Special Rapporteur followed with concern reports of excessive use of force against demonstrators in the context of the protests that began on April 28 in Colombia, as well as reports of threats, intimidation, and arbitrary detentions, among others. The reports received also indicated possible use of technology aimed at inhibiting or restricting the Internet signal, such as the blocking of web addresses (URLs) containing information related to the protests. In this context, the IACHR conducted a working visit to Colombia between June 8 and 10, 2021, where it observed the human rights situation in the protests on the ground.

16. In July, the Rapporteurship recorded with extreme concern reports of repression of the protests that began on July 11 in Cuba, which included reports of arbitrary detentions, incommunicado detention, the use of criminal charges as a way to criminalize citizen participation, the development of summary trials that did not observe the minimum guarantees of due process, and stigmatizing remarks by the authorities against the protesters. Likewise, the Rapporteurship received complaints about the blocking of Internet service during demonstrations with the alleged objective of hindering and silencing public demonstrations. In November, the government declared that a demonstration called by citizens was illegal and contrary to the Cuban Constitution, and urged the organizers to refrain from holding it.

17. The Rapporteurship has received information on alleged limitations to the rights to peaceful assembly and association in different Caribbean countries, where in some cases protests were not allowed to take place without legal authorization, demonstrators were threatened with sanctions, or in several cases organizers of demonstrations were detained.

18. The Office also documented a number of legislative initiatives that could have a negative impact on the right to freedom of expression and access to public information in Bolivia, Ecuador, El Salvador and Peru. In this context, the Office noted with particular concern the entry into force of reforms to the Law on Non-Governmental Organizations for Development and the Civil Code of Guatemala, which established a set of excessive requirements for the incorporation, registration, regulation, operation and oversight of NGOs. In Honduras, reforms to criminal legislation approved on a public holiday and after little public debate could further limit the exercise of protest in public spaces, in addition to criminalizing human rights defenders and creating disproportionate restrictions for NGOs to obtain international financial cooperation.

19. The IACHR also continued to monitor the disproportionate application of the Foreign Agents Law in Nicaragua, under which, according to reports received, the operation of civil society organizations has been criminalized and obstructed-among other things, through the cancellation of various entities-in a year marked by the criminalization of political opponents and candidates during the electoral period. The IACHR and its RELE also noted their concern over the issuance of administrative rulings in Venezuela that would have required civil society organizations to register with the National Office Against Organized Crime and Terrorist Financing (ONCDOFT).

20. Likewise, in 2021, the Rapporteurship received information about alleged use of surveillance technologies to the detriment of journalists and defenders in Mexico, which is in addition to complaints that the Office has been documenting since at least 2017.

21. For its part, in the year that the IACHR and its Special Rapporteurships published the Inter-American Principles on Academic Freedom and University Autonomy, this Office has recorded alleged threats to academic freedom and university autonomy in at least Brazil, Mexico, Nicaragua, and Venezuela.

22. In addition, the Rapporteurship continued to record different challenges to the guarantee of access to public information in the hemisphere. This Office has received reports on denials of access to information of public interest in different countries, as well as the lack of active transparency and opacity of data on the pandemic and other matters of public interest. In particular, the Rapporteurship notes that there are challenges of active transparency in relation to groups in vulnerable situations. In this regard, the Rapporteurship highlights that it has received information that the guarantee of access to public information is one of the main

challenges in several Caribbean countries, where there are countries that still do not have laws and others where, although such regulations have already been approved, there are still significant institutional challenges for implementation.

23. The Rapporteurship has also received reports on possible risks and setbacks in guaranteeing access to public information in El Salvador, particularly due to reforms and alleged lack of independence of the Institute of Access to Public Information. In Haiti, one of the main consequences for the exercise of freedom of expression in the context of the political and social conflict that the country is going through is the opacity of the institutions, according to reports received by the Rapporteurship.

24. Finally, in 2021, there were reports of signs of deterioration in public debate, especially in electoral contexts, political polarization and social conflict, where stigmatizing speeches by political leaders or high-level authorities could encourage reactions of intolerance or violence.

25. In relation to this point, as in previous years, the Office of the Special Rapporteur recommends that member states:

- A. Guarantee the legitimate exercise of social protest and prevent the application of disproportionate restrictions that can be used to inhibit or suppress critical or dissident expressions. In order to be consistent with international obligations on human rights, any national regulation affecting the right to social protest must meet requirements of legality, necessity and proportionality.
- B. Initiate the necessary legislative reforms to eliminate from the legal system requirements for the previous authorization or permission to carry out demonstrations and protests in public spaces, and expressly establish the general presumption in favor of the exercise of this right.
- C. Ensure protection of individuals and refrain from stigmatizing or stereotyping protesters and their demands, avoiding generalizations based on the behavior of particular groups or isolated events. If security forces must act in a demonstration, they shall use the safest and least harmful measures to individual rights. The response of security forces should aim to protect and facilitate rights, not to repress them. The general principles on the use of force, applied to the context of protests and demonstrations, require that security operations be carefully and thoroughly planned by persons with specific experience and training for this type of situation.
- D. In the context of positive obligations to guarantee the right and protect the person exercising it as well as third parties, States should establish specific rules and action protocols for security forces acting in situations of social protest and public demonstrations. These guidelines should aim for police agents to act in the knowledge that their obligation is to protect the participants in a public meeting, demonstration or concentration, to the extent that it is the exercise of a human right.
- E. Guarantee that firearms are excluded from the devices used to control social protests. The ban on carrying firearms and lead ammunition by officials who may come into contact with protesters has been proven as the best measure of preventing lethal violence and deaths occurring in a context of social protests. Operations may provide for the availability of firearms and lead ammunition somewhere outside the range of the demonstration for those exceptional cases in which a violent situation warranting such use occurs. In this extreme scenario, there shall be explicit rules regarding who has the power to authorize their use and the ways in which this authorization is to be properly documented.
- F. Continue promulgating laws that permit effective access to information and complementary norms that guarantee its adequate implementation, in conformity with the international standards in this area.
- G. Guarantee effectively, both de jure and de facto, the right of habeas data of all persons, this being an essential element of freedom of expression and the democratic system.
- H. Encourage the effective and efficient implementation of norms on access to information, adequately training public employees and informing the citizenry in order to eradicate the culture of secrecy and provide citizens the tools to effectively monitor state activities, public administration and the prevention of corruption, all essential to the democratic process.
- I. Strengthen the institutional structure for supervision of the implementation of laws regarding access to public information, pursuant to the highest standards in this field, such as those adopted by the



General Assembly of the OAS, in its Resolution AG/RES. 2607 (XL-O/10), by means of which it adopts the “Model Inter-American Law on Access to Information.”

- J. Promote the widespread dissemination of information on the human rights of women and how to uphold them, the mechanisms of protection available to women at potential risk of suffering violence and how to access them, the programs for free legal assistance available to women victims of violence and discrimination, and all other mechanisms for addressing these issues.
- K. Step up efforts to move towards the effective implementation of comprehensive systems for compiling information on discrimination and violence against women that incorporate information from all State organs with authority in this area, especially the judicial systems. Based on the information collected, States should produce complete statistics on violence and discrimination against women, as well as other kinds of quantitative and qualitative information in this respect. Those statistics should be updated periodically and should include information that is disaggregated at least by sex, gender identity, age, race, ethnicity, sexual orientation, socioeconomic status, and situation of disability so as to make it possible to construct an accurate image of the specific forms in which violence and discrimination affect the women in most vulnerable situations. The statistical information produced should be proactively published.
- L. Establish systematic policies for the education and training of state officials, in particular judicial officers, on international standards in relation to access to information and violence and discrimination against women. In addition, train the civil society organizations in the use of the mechanisms available to make requests of information to the state.
- M. Observe, in its policies and decisions, the Inter-American Principles on Academic Freedom and University Autonomy; and evaluate the adoption of measures that incorporate these standards in its domestic law.
- N. Protect freedom of artistic expression in accordance with Inter-American standards.

### **C. Freedom of Expression and the Fight against Discrimination and Exclusion**

26. In its Annual Report 2021, the Rapporteurship focused for the first time its analysis, in a specific section, on the obstacles faced by various groups in vulnerable situations in the exercise of the right to freedom of expression and for their realities to be inserted in the public debate. SRFOE has particularly identified the challenges to free expression faced by women journalists and women who actively participate in political life, as well as those who denounce gender-based violence. In addition, it has reported on the situation of groups historically discriminated against for ethnic, national or religious reasons; or of people who are vulnerable due to their socioeconomic status, geographic location, migrant status and/or disability.

27. Thus, for example, the complaints received by this Office and the information gathered show that in Argentina, women journalists suffered harassment for publishing articles on public figures and political spaces that would have positions against sexual and reproductive rights in Argentina. In Colombia and Peru, women journalists were allegedly sued after revealing allegations of sexual harassment and abuse. In Brazil, the Rapporteurship received information on an escalation of stigmatizing statements against women journalists by high-level authorities, including sexual accusations. In the country, women journalists have also reportedly been victims of online harassment campaigns. This type of digital campaign has also reportedly escalated in Venezuela, particularly against women journalists covering political, economic and sports issues. In Cuba, where the exercise of freedom of the press faces severe restrictions, the Rapporteurship recorded that women journalists suffer gender-based abuses of power in the context of arrests, and that labor informality and socioeconomic vulnerability affect them disproportionately. The Rapporteurship also received reports of aggravated risks of violence in the exercise of journalism by women journalists or those who participate in public life in El Salvador, Guatemala, Honduras and Mexico.

28. The Rapporteurship also recorded episodes of allegedly disproportionate restrictions on freedom of religion and artistic freedom. In Canada, a teacher was reportedly restricted from wearing the hijab while teaching. In Chile, artistic interventions and protests on gender issues were allegedly subject to pressure and interference by public authorities, including the sanctioning of a group of women for endangering health during the state of emergency due to the pandemic.

29. The Rapporteurship has also recorded with concern reports of violations of the exercise of peaceful protest by certain groups of people. For example, in Bolivia, Honduras and Mexico, the Rapporteurship received information on alleged excessive use of public force in response to peaceful demonstrations for women's rights. In Nicaragua, police officers reportedly besieged the homes of opposition women to prevent them from leaving and participating in the demonstrations on International Women's Day. In Panama, three women were reportedly detained and then fined for allegedly attacking authorities while participating in a protest against a ruling that exonerated a congressman of charges of sexual crimes. In Colombia, the Office reported stigmatizing statements against indigenous peoples participating in social demonstrations. In Cuba, on the occasion of the #11J protests, the Rapporteurship received information that the repression had a disproportionate effect on certain groups of people in vulnerable situations, such as youth, Afro-descendants, women and LGBTIQ+ persons, with the intention of provoking an exemplary effect in their communities. In Ecuador and El Salvador, according to the information received, several leaders of human rights movements have reportedly received various threats and have been subjected to harassment campaigns. In the United States, RELE recorded attempts by the Florida government to prohibit the teaching of critical theories on race in the state's public school classes, in a context in which protests for racial justice continue to be reported in the country.

30. The Rapporteurship also noted with concern actions that could foster discrimination and racism in electoral contexts. In Bolivia, the Office received information on alleged acts, especially by public leaders, that would encourage discrimination and polarization in Bolivia in relation to the Wiphala flag, constitutionally recognized as a patriotic symbol of Andean cultures. In Peru, the Rapporteurship observed with concern the increase in stigmatizing statements based on negative stereotypes towards groups in vulnerable situations by persons of notoriety or who aspire to positions of responsibility in the electoral process. Likewise, during the electoral race in Honduras, the Rapporteurship has observed statements by candidates and representatives of political parties that have the potential to stigmatize women. Similarly, the Rapporteurship received reports of stigmatizing speeches by public leaders or persons aspiring to public office against groups historically discriminated against in Trinidad and Tobago. In this context, the Rapporteurship also registered the concern of the State of Costa Rica regarding the existence of discriminatory speech on the Internet, predominantly based on factors such as sexual orientation, nationality and race.

31. This Office recalls the role that community radio stations often play in providing a voice to groups that have historically been discriminated against and, in this regard, notes that in Guatemala there continue to be significant challenges with regard to community radio broadcasting and the decriminalization of unlicensed broadcasting in the country, where these spaces are important for the exercise of freedom by various indigenous peoples. The Rapporteurship was also informed of alleged attacks against community radio stations in Honduras and Venezuela. In Nicaragua, several community radio stations have reportedly closed their operations due to lack of advertising support, as there is a generalized fear among advertisers of retaliation. In Uruguay, as far as the Rapporteurship was able to learn, a draft bill on accountability could seriously affect the allocation of radio space to community radio stations, especially in the interior of the country. The Rapporteurship also received reports on the challenges for Haitian migrants to access radio, television and printed newspapers in the Dominican Republic.

32. In relation to this point, the Office of the Special Rapporteur recommends that member states:
- A. To counteract by all possible means speech that incites discrimination, hostility or violence, in accordance with international human rights standards.
  - B. Recognize social protest and artistic discourse as privileged spaces for historically discriminated groups to enjoy the right to freedom of expression, even considering that it is up to the groups themselves to choose the modalities of protest and artistic expression.
  - C. Encourage public officials to contribute, in the exercise of freedom of expression, to counteract discrimination and intolerance, intercultural understanding, social inclusion and respect for diversity.
  - D. To invite, within the framework of party autonomy, political parties to participate in inter-party initiatives and to adopt good practices aimed at eradicating stigmatization against the press, especially during election periods.
  - E. Legislate on community radio broadcasting, so that an equitable share of the spectrum and the digital dividend is allocated to community radio stations and channels. When allocating these frequencies, democratic criteria should be taken into account to guarantee equal opportunities for all individuals to access and operate these media under equitable conditions, without disproportionate or

unreasonable restrictions and with protection against violence, in accordance with principle 12 of the Declaration of Principles and the "Joint Declaration on Diversity in Broadcasting".

- F. Promote effective policies and practices that allow access to information and equal participation of all sectors of society so that their needs, opinions and interests are taken into account in the design and decision-making on public policies. Likewise, to adopt legislative and other measures necessary to guarantee pluralism, including laws that prevent the existence of public or private monopolies and undue or excessive concentration of the media.
- G. Adopt clear, fair, objective and equitable procedures for the granting or renewal of broadcasting licenses, taking into consideration the importance of the media for all sectors of society - including those historically discriminated against - to participate in the democratic process in an informed manner.

#### **D. Freedom of Expression and the Internet**

33. In 2021, RELE has continued to receive information on state initiatives related to the Internet in the region and in which there is a need for an interpretation of international human rights standards to ensure their harmonization. These initiatives are generally framed in the debate on what is the role of private companies in relation to the content that circulates on their platforms, and what should be their responsibility for the decisions they make in that context. In particular, the Rapporteurship has recorded initiatives aimed at preventing certain speeches considered "harmful" or that contribute to the proliferation of disinformation for public conversation in digital spaces. All this is in a context of deterioration of public debate, where the Rapporteurship received various reports of coordinated campaigns of deliberate disinformation, harassment of journalists, discrediting of political opponents, delegitimization of democratic institutions, allegedly false claims about election results, among others.

34. RELE has monitored substantial progress in the discussion of legal frameworks on the regulation of the internet in Brazil, where in 2021 a provisional measure of the Executive Branch attempted to limit the possibility of content moderation by platforms, while the discussion of the Fake News Bill was advancing in a cycle of public debates in the Chamber of Deputies. These discussions are also taking center stage in the United States, where the liability of intermediaries is being analyzed under Section 230 of the Communications Decency Act of 1996 and where Congress has conducted several meetings and hearings with stakeholders on the issue of platform regulation over the last few years. Likewise, in Canada, there are initiatives that seek to reform broadcasting legislation, and RELE has received reports that identify possible collisions with the right to freedom of expression. In Chile and Mexico there are also several bills to regulate digital platforms. In Ecuador, the Law to Prevent and Combat Digital Sexual Violence and Strengthen the Fight against Computer Crimes was approved, which later received a partial veto from the president, through the objection of 19 articles of the law. Although the legislation pursues legitimate and well-intentioned objectives such as responding to gender-based violence online, according to reports received by this Office, it contains some articles that could undermine the right to freedom of expression in Ecuador.

35. For its part, Cuba approved Decree Law 35 on Telecommunications and Resolution 105 on Response to Cybersecurity Incidents. The IACHR and its Rapporteurship noted that these norms have the potential to increase restrictions and criminalization of legitimate speech that is especially protected by the Inter-American Human Rights System. This would be particularly worrisome as it is framed in a scenario of state controls on dissident speech, which has included, among other things, reports of internet interruptions in the context of heated public conversations such as the social protests of July 2021. Likewise, in Nicaragua, an increase in criminalization of legitimate expression has been reported, especially since the entry into force of the Special Law on Cybercrime. In Venezuela, the deficient infrastructure of the network, the energy crisis and the high cost of access would hinder universal access to the Internet in a context where there would be high levels of concentration in the services of state providers. Likewise, there are reports of alleged strategies of blocking or restricting access, especially to information portals critical of the government's administration.

36. The Rapporteurship also recognizes that these phenomena and the attempt to regulate online content are part of a public debate about the role of digital platforms in the moderation and prioritization of content, with possible effects on freedom of expression. In this context, the issue of "private moderation" of content has had a relevant place, especially after the discussions about the deplatforming or suspension of social media

accounts of the former president of the United States, after the events on Capitol Hill on January 6, 2021. Additionally, RELE received reports particularly on the possible biases in the automated moderation of content, the lack of transparency on the platforms' regulations and the absence of processes for users to appeal decisions to remove content from the platforms. In some cases, such as Argentina, debates on the "right to be forgotten" continue as a result of allegedly controversial court decisions. In Uruguay, a journalistic investigation was allegedly de-indexed by Google from its searches for alleged violation of copyright and the European Union's General Data Protection Regulation (GDPR).

37. The Rapporteurship continues to monitor the debates related to the role of speeches by public leaders and officials in the digital sphere. Likewise, the Office has become aware of initiatives by social media companies aimed at providing greater transparency in their decisions and clearer instances of review; and counteracting deliberate disinformation or misleading information based on international human rights standards. Within this framework, the Rapporteurship considers that 2021 was a particularly relevant year in this regard since the first decisions of Facebook's Oversight Board were made public.

38. In addition, the leading role now occupied by digital civic life and access to online government has exacerbated the consequences of the digital divide and inequalities in access. In this regard, the Rapporteurship reiterates that it is urgent that States advance in universal access policies and digital literacy programs aimed at developing civic skills in the perspective of democratic coexistence and with a human rights approach. Programs in the hemisphere on this issue are still incipient, despite the progress made in countries such as Costa Rica.

39. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:

- A. Avoid regulatory frameworks that hold internet intermediaries responsible for user content circulating on their platforms, which may encourage the dynamics of "private censorship".
- B. Avoid the creation of general and/or ambiguous laws in order to combat disinformation on the internet, as well as the use of criminal prohibitions to punish the dissemination of "falsehoods" or "non-objective information".
- C. Engage in multilateral dialogues with the objective of building consensus in accordance with the principles and standards of international human rights law, especially in the area of online content moderation and Internet governance.
- D. Promote broad, plural and robust consultations with all interested parties on the occasion of any legislative proposal or institutional initiative that arises in this area.
- E. Promote universal access to the Internet to ensure universal and effective enjoyment of the right to freedom of expression through this medium.
- F. Carry out positive actions for literacy, awareness and development of digital competencies and skills.
- G. Ensure that the treatment of data and Internet traffic should not be subject to any kind of discrimination based on factors such as devices, content, author, origin and/or destination of the material, service or application, in accordance with the principle of net neutrality.
- H. Promote good practices for public officials to contribute with their speeches to counteract disinformation on the Internet.