

**INTER-AMERICAN LEGAL FRAMEWORK TO STRENGTHEN SOCIAL AND
ECONOMIC RESILIENCE IN THE REGION IN THE CONTEXT OF THE COVID-19
PANDEMIC AND ITS SUBSEQUENT EFFECTS: PROPOSAL BY THE INTER-AMERICAN
JURIDICAL COMMITTEE**

1. Introduction

The COVID-19 pandemic, after emerging in Wuhan, China, in the second half of 2019, reached the Americas around March 2020. It is an unprecedented health crisis, the first pandemic in the globalized world, and its consequences and effects cannot yet be determined.

As a health crisis, and not an economic (1929, 1973), financial (2008), political (1962), or security (2001) one, it is the first crisis with effects that impact health, politics, economics, finance, and security.

Although it is still difficult to measure the consequences and outcomes of the COVID-19 pandemic, it has already transformed many aspects of international relations, almost as much as people's lives. To address this situation, we must determine whether the inter-American legal framework has sufficient instruments to guarantee an adequate regional response to its repercussions and the challenges it poses in order to recover the levels prior to the health crisis and to strengthen the social and economic resilience of the states of the Americas.

2. Issues of internal politics arising from the pandemic

The COVID-19 pandemic is the most serious global crisis of the 21st century. It is also the greatest challenge to globalization and multilateralism, on account of the responses adopted to address it and the effects it has been producing. It has exposed serious deficiencies of various kinds in all states and, as is often the case with major disasters, it has shown that no state can forgo international cooperation in dealing with pandemics and their consequences.

The most immediate effect was the testing—and sometimes the collapse—of both public and private health systems. The speed of transmission (contagion) generated an unusual demand for drugs and oxygen, medical supplies (masks, molecular tests), clinical and ICU beds, medical personnel, means of transport, isolation measures, and assistance for infected people, and finally led to a high mortality rate.

Government response measures to the pandemic revealed that not only was the health emergency taking many countries by surprise, but that they also lacked the proper preparation to respond quickly and efficiently. The initial confinements ordered to slow down the speed of contagion allowed some governments to buy time to strengthen their health systems; others, however, failed to react in time and they were forced to prolong their lockdown measures, which had severe economic and labor consequences, especially for temporary employment, service activities (particularly hotels and tourism), and precarious jobs in the underground and informal economies.

The economic consequences have been felt in all sectors and practically no economic activity has been unaffected by the pandemic; in many cases, it has caused interruptions of the payment chain, bringing business bankruptcies and increased unemployment. The great task we now face is to rebuild

national economies, recover employment, and prevent the economic crisis caused by the pandemic from fuelling another increase in poverty among the most vulnerable sectors.

In addition to its effects on employment, the pandemic has brought about profound changes in employment relationships and ways of working, and this is perhaps its most enduring effect. Although very few companies and workers or professionals were prepared for digital or remote work, forced adaptation to this new way of working means—especially in large cities, with stable high-speed digital connection facilities—that the generalization of teleworking, the elimination of offices and facilities, and reduced mobility (increasingly complex in large cities) will emerge as the predominant paradigm for work in the near future.

At the international level, the pandemic has shown that integration systems and international organizations were unable to play a leading role, because states opted for unilateral decisions: states of exception, quarantines, lockdowns, border closures, and other measures that limited personal freedom (including the protection of personal data and the right to privacy); protectionist measures, restrictions on international transport and on the entry and exit of people and goods; individual negotiations and purchases of drugs, medical supplies, and vaccines.

For many analysts, national sovereignty prevailed over international cooperation. The response of international organizations was late and inadequate, compared to the immediacy of state actions. Without international cooperation, however, the vast majority of states would not have had access to vaccines: this cooperation has even materialized through a public-private mechanism, the Global Access Fund for COVID-19 vaccines, known as COVAX.

Without a doubt, the greatest effects of the pandemic have been felt in the field of education, at all levels. There was a sudden change from face-to-face education to tele-education, with all the inconveniences and limitations that an unplanned change implies. Distance education has been able, in many cases, to resolve the situation, but only when the students, teachers, and educational institutions had the necessary and sufficient means: technological equipment, training in the use of digital tools, broadband internet at adequate speeds, optimal connectivity, suitable environments for teaching and learning. But that was not the case for many schoolchildren, especially in Latin America. Economic gaps have had an impact on access to distance education, especially in public education in peri-urban and rural sectors. Higher education, with its peculiarities, has followed the same path. The fundamental importance of ICTs was revealed, as students and workers were forced to accelerate digital literacy to continue their studies or preserve their jobs.

The pandemic has not transformed the world, but many of the things that it brought (telework, tele-education, e-commerce) will have to remain, at least in large, mostly urban sectors. However, many of the things that will change, permanently or at least for a long time, will widen economic, health, educational, and employment gaps. States will have to provide solutions to many of the situations generated by the pandemic, and sometimes a national response will not suffice; this circumstance opens up an opportunity for international cooperation to act and to strengthen regional multilateralism and continental solidarity.

3. The inter-American legal framework

The inter-American system has legal instruments that have made regional action against COVID-19 possible, starting with the provisions in favor of continental solidarity, cooperation, and commitment to development contained in the initial articles of the OAS Charter itself:

Article 1

The American States establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence. Within the United Nations, the Organization of American States is a regional agency.

Article 2

The Organization of American States, in order to put into practice the principles on which it is founded and to fulfill its regional obligations under the Charter of the United Nations, proclaims the following essential purposes:

- a) To strengthen the peace and security of the continent; [...]
- e) To seek the solution of political, juridical, and economic problems that may arise among them;
- f) To promote, by cooperative action, their economic, social, and cultural development;
- g) To eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere; and

Article 3

The American States reaffirm the following principles: [...]

- f) The elimination of extreme poverty is an essential part of the promotion and consolidation of representative democracy and is the common and shared responsibility of the American States; [...]
- j) Social justice and social security are bases of lasting peace;
- k) Economic cooperation is essential to the common welfare and prosperity of the peoples of the continent.

Likewise, the aspiration toward integral development through solidarity and cooperation constitutes one of the system's pillars. It is included in several articles of the Charter, providing a legal framework for multilateral action that allows the deployment of joint efforts to achieve common objectives without diminishing the autonomy of states' actions:

Article 30

The Member States, inspired by the principles of interAmerican solidarity and cooperation; pledge themselves to a united effort to ensure international social justice in their relations and integral development for their peoples, as conditions essential to peace and security. Integral development encompasses the economic, social, educational, cultural, scientific, and technological fields through which the goals that each country sets for accomplishing it should be achieve.

Article 31

Inter-American cooperation for integral development is the common and joint responsibility of the Member States, within the framework of the democratic principles and the institutions of the Inter-American system. It should include the economic, social, educational, cultural, scientific, and technological fields, support the achievement of national objectives of the Member States, and respect the priorities established by each country in its development plans, without political ties or conditions.

Article 32

Inter-American cooperation for integral development should be continuous and preferably channeled through multilateral organizations, without prejudice to bilateral cooperation between Member States.

The Member States shall contribute to inter-American cooperation for integral development in accordance with their resources and capabilities and in conformity with their laws.

Article 34

The Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development.

Article 37

The Member States agree to join in seeking a solution to urgent or critical problems that may arise whenever the economic development or stability of any Member State is seriously affected by conditions that cannot be remedied through the efforts of that State.

More specific are the provisions of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador), which set out in detail the broad meaning that the American States give to the right to health:

Article 10 Right to health

1. Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being.

2. In order to ensure the exercise of the right to - 14 - health, the States Parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right:

- a. Primary health care, that is, essential health care made available to all individuals and families in the community;
- b. Extension of the benefits of health services to all individuals subject to the State's jurisdiction;
- c. Universal immunization against the principal infectious diseases;
- d. Prevention and treatment of endemic, occupational and other diseases;
- e. Education of the population on the prevention and treatment of health problems, and
- f. Satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

In line with the general objectives set out in the OAS Charter, the Social Charter of the Americas places emphasis on issues related to development, solidarity, and international cooperation.

CONSIDERING that the Charter of the Organization of American States (OAS) provides that integral development encompasses the economic, social, educational, cultural, scientific, and technological fields through which the goals that each country sets for accomplishing it should be achieved; [...]

TAKING INTO ACCOUNT that the full exercise of economic, social, and cultural rights requires that a series of measures be progressively adopted by member states in conjunction with regional and international cooperation; [...]

REAFFIRMING the value of inter-American solidarity and cooperation for promoting the economic, social, and cultural development of the peoples of the Americas; and

RECOGNIZING the need to strengthen the inter-American system with an instrument to guide action and partnership-for-development activities designed to promote integral development and observance of economic, social, and cultural rights, as well as the elimination of poverty and inequality,

ARTICLE 3

Member States determined and committed to combating the serious problems of poverty, social exclusion, and inequity and to address their underlying causes and their consequences, have the responsibility to create favorable conditions for achieving development with social justice for their peoples, thus contributing to strengthening democratic governance.

Member States will strengthen and promote policies and programs directed towards the achievement of societies that offer all people opportunities to benefit from sustainable development with equity and social inclusion.

ARTICLE 17

Member States reaffirm that the enjoyment of the highest attainable standard of health is a fundamental right of all persons without discrimination and they recognize that health is an essential condition for social inclusion and cohesion, integral development, and economic growth with equity. In that context, member states reaffirm their responsibility and commitment to improve the availability of, access to, and quality of health care services. Member states are committed to these country efforts in the health area, in keeping with the principles promoted by the Health Agenda for the Americas 2008-2017: human rights, universality, comprehensiveness, accessibility and inclusion, Pan American solidarity, equity in health, and social participation.

Member States affirm their commitment to promote healthy lifestyles and to strengthen their capacity to prevent, detect, and respond to chronic non-communicable diseases, current and emerging infectious diseases, and environmental health concerns. Member states also commit to promote their peoples' well-being through prevention and care strategies and, in partnership with public or private organizations, to improve access to health care.

ARTICLE 20

Member States recognize that water is fundamental for life and central to socioeconomic development and environmental sustainability and that non-discriminatory access by the population to safe drinking water and sanitation services, in the framework of national laws and policies, contributes to the objective of combating poverty.

Member States, in keeping with their national realities, undertake to continue working to ensure access to safe drinking water and sanitation services for present and future generations.

ARTICLE 21

Fighting poverty, reducing inequities, promoting social inclusion, and conservation and sustainable use of natural resources are fundamental and interrelated challenges facing the Hemisphere, and overcoming these challenges is essential to achieving sustainable development.

Member States will adopt and execute, with the participation of the private sector and civil society organizations, strategies, plans, and policies to meet these challenges as part of their development efforts and for the benefit and enjoyment of all persons and all generations.

ARTICLE 22

Natural and man-made disasters affect populations, economies, and the environment. Reducing the vulnerabilities of countries to these disasters, with particular attention to the most vulnerable regions and communities, including the poorest segments of society, is essential to ensuring nations' progress and the pursuit of a better quality of life.

Member States commit to improving regional cooperation and to strengthening their national, technical, and institutional capacity for disaster prevention, preparedness and response, rehabilitation, resilience, risk reduction, impact mitigation, and evaluation. Member States also commit to face the impact of climate variability, including the El Niño and La Niña phenomena, and the adverse effects of climate change that represent a risk increase in all countries of the Hemisphere, particularly for developing countries.

In the context of the pandemic, on October 20, 2020, the General Assembly adopted resolution 2952, "Advancing the Hemispheric Response to Climate Change in the Context of the COVID-19 Pandemic," the preambular paragraphs of which state:

EXPRESSING solidarity with the people and governments of the Americas as they confront the human, social, and economic impacts of the COVID-19 pandemic, experienced especially through the loss of livelihoods, the disproportionate loss of life among, and the impact on, vulnerable populations, and a projected GDP loss in excess of 9 percent in Latin America and the Caribbean as a whole;

RECOGNIZING that the Hemisphere's recovery from the impacts of COVID-19 will require enhanced multilateral cooperation to meet financing needs and build resilience against future shocks for a durable recovery, as well as policy responses that are inclusive and consider a gender perspective to drive new economic growth;

RECOGNIZING ALSO the challenges and time lost due to COVID-19 in 2020, which marks the beginning of the Decade of Action to deliver the Sustainable Development Goals; [...]

NOTING that public investment in building resilience, climate adaptation, and mitigation creates new growth opportunities for economies in the Americas, including from foreign investment, while making livelihoods more resilient to future shocks;

NOTING ALSO the emerging scholarship around new instruments such as debt-for-climate swaps to complement contingent debt instruments, green and blue bonds, and natural-disaster clauses in multilateral loan agreements, particularly for, but not limited to, small island and low-lying coastal states of the Americas;

The operative section addresses issues directly related to the generation of a collective response to the pandemic and a call to create conditions to allow strengthening social and economic resilience through a series of concrete measures to help achieve financing solutions in order to give an adequate regional response to the crisis:

1. **To call on all member states to take robust and integrated action to prevent and address the negative impacts of the COVID-19 pandemic, drive growth, and build resilience in their economic response to the pandemic, while making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development, as well as respecting the human rights of individuals in situations of vulnerability. [...]**

3. To invite member states, as they consider appropriate, to engage permanent observers in consultation with the General Secretariat, as well as to request the General Secretariat to engage donors, to advance and promote funding for, inter alia, capacity building, enhancing technology development, and voluntary transfer on mutually-agreed terms, taking into account the expressed needs of member states, in order to assist those States in implementing their environmental objectives, exploring the potential of ecosystem-based approaches and nature-based solutions to address climate change, and supporting their domestic policy responses to drive economic growth.

4. To request the General Secretariat to use its good offices to advocate for new and accelerated financing solutions and enhance access to existing technical and financial support mechanisms, where appropriate, to advance the hemispheric response to the crises generated by the COVID-19 pandemic and climate change.

Also on October 20, 2020, the General Assembly adopted resolution 2956, “The Challenges to Food Security and Nutrition in the Americas in the Context of the COVID-19 Pandemic under the Framework of the Plan of Action of Guatemala 2019”:

DEEPLY CONCERNED about the socioeconomic impact of the COVID-19 pandemic, which is threatening food security and nutrition in the countries of the Americas, including disproportionately impacting women’s and girls’ health, education, and access to basic public services, as well as social and financial services, deepening already existing inequalities, as well as poverty, extreme poverty, malnutrition, and hunger, particularly among the most vulnerable;

CONSIDERING that the Economic Commission for Latin America and the Caribbean (ECLAC) estimates that even larger numbers of people in the region will fall into poverty, that the number of those affected by COVID-19 will increase, and that the number of those in extreme poverty could rise, potentially reversing the advances made in the last decade in terms of economic growth and sustainable development, the fight against food insecurity and inequality, and access to education and health, among others. Also, aware that the Global Report on Food Crises 2020 estimates that acute food insecurity and food crisis have affected over 18.5 million people in eight countries of the region, and mindful that the United Nations World Food Programme warned that due to the effects of the COVID-19 pandemic and lockdown measures, the number of food insecure globally may double if action is not taken;

RECOGNIZING that the region has been characterized as the most unequal in the world, with the incidence of poverty and extreme poverty higher among women, older persons, youth and children, as well as all persons in vulnerable situations and marginalized communities in both rural and urban areas and that the situation of vulnerability is exacerbated as a result of the COVID-19 pandemic and its multidimensional and unprecedented effects – including the serious disruption of societies, economies, the labor market, global commerce, education– as well as its devastating impact on people’s livelihoods and wellbeing; [...]

TAKING INTO ACCOUNT the respective commitments made by member states in relevant international and inter-American instruments to which they are party, such as the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and the Social Charter of the Americas and its Plan of Action, as well as the International Covenant on Economic, Social, and Cultural Rights of the United Nations, in addition

to the mechanisms and other instances existing in the inter-American system, such as the Working Group to Examine the Periodic Reports of the States Parties to the Protocol of San Salvador and the Office of the Rapporteur on Economic, Social, Cultural, and Environmental Rights of the Inter-American Commission on Human Rights, which, through the preparation of progress indicators, reports and other activities, provide tools to member states on the path to food security and nutrition; [...]

RECOGNIZING that in the context of the COVID-19 pandemic, the adoption of social protection measures is vital to address the dual challenge of mitigating the pandemic's immediate economic impact and rebuilding the livelihoods, especially for the most vulnerable, and that through public-private partnerships and the private sector, among others, relief could be afforded to a large number of individuals whose food security and nutrition are at risk; [...]

CONSIDERING recent regional and subregional initiatives that address the problems of food security and nutrition, inclusive development, and those related to dealing with the COVID-19 pandemic in order to strengthen the resilience of food security and nutrition through social protection mechanisms; the uninterrupted operation of value chains, production, and people's access to food through transparent international trade, consistent with World Trade Organization rules; and promotion of sustainable agriculture and food systems within the region that meet the needs of the population, protect the environment, and respect the food habits and cultures of the Hemisphere; [...]

RECOGNIZING the efforts made to date by member states to address the emergency generated by COVID-19 and to meet the most pressing food security and nutrition needs of people in vulnerable situations; and convinced that the COVID-19 pandemic offers member states, civil society, the private sector, academia, and other relevant social actors the opportunity to collaborate on social protection and assistance policies, plans, and programs, eradication of hunger and chronic undernutrition to better prepare our societies to deal with future crises, and achieving the objectives set forth in this resolution;

RESOLVES:

1. To request the Secretariat for Access to Rights and Equity (SARE), in partnership with the Executive Secretariat for Integral Development (SEDI) and making use of the Inter-American Social Protection Network to promote cooperation in strengthening national social development institutions in collaboration with international organizations, experts on growth, development and prosperity, civil society organizations, the private sector, and academia responsible for combating poverty, reducing inequality with a comprehensive approach, expanding social protection, and promoting social programs to eradicate hunger and malnutrition in the fight against food insecurity through actions aimed at dialogue, capacity building, and the exchange of knowledge and lessons learned, as well as technical assistance and monitoring of indicators related to those issues.

2. To encourage member states to participate actively in the three working groups included in the Plan of Action of Guatemala 2019 and in the activities organized by the SARE to implement the said Plan of Action, giving priority in the agendas of the working groups to the issues of food security and nutrition and reduction of poverty and inequality, among others.

3. To encourage Member States to keep value chains open and connected so that international markets can continue to function, supporting the flow of agricultural

products and inputs, which play a key role in avoiding food shortages and thus achieving global food security and nutrition, and to ensure that emergency measures related to agriculture and agri-food products for addressing the COVID-19 pandemic are specific, proportionate, transparent and temporary, and do not create unnecessary barriers to trade or interrupt supply chains for agriculture and agri-food products. We resolve to limit any unjustified restrictive measures on agricultural commodities or food supply.

4. To invite member states, permanent observers, and other donors to contribute to the Fund for the Implementation of the Plan of Action of Guatemala 2019 to the extent of their capacities, with the aim of securing resources as soon as possible to finance cooperation and technical assistance for activities in support of the efforts of member states to respond to the serious consequences of hunger and malnutrition in the Americas now being aggravated by the COVID-19 pandemic.

Likewise, the Permanent Council expressed its concern regarding the situation created by the pandemic in CP/RES. 1151 (2280/20), "OAS Response to the COVID-19 Pandemic," adopted at the virtual special meeting held on April 16, 2020.

[...] EMPHASIZING that hemispheric solidarity and joint, coordinated action and cooperation can help slow and prevent the spread of COVID-19 and contribute to regional response and recovery efforts;

RECOGNIZING that the most vulnerable, especially those living in poverty and extreme poverty, are among the hardest hit by the pandemic, as well as the importance of considering differentiated approaches for all vulnerable populations and the need to address the increase of gender-based and other forms of domestic violence;

STRESSING that a comprehensive response to the pandemic depends upon access to required knowledge, freely accessible or sufficiently affordable for all affected societies, and that availability, accessibility, acceptability, and affordability of health products of assured quality will be important to tackling the pandemic;

ACKNOWLEDGING efforts to facilitate favorable credit conditions, alleviate fiscal challenges, and provide member states with the necessary financial capacity to deal with the pandemic and ensure resources for economic reactivation, bearing in mind the realities of middle-income countries and small-island developing States;

RECOGNIZING the work and initiatives of member states and of regional and subregional organizations to address the collective and multidimensional challenges of this pandemic, including its economic, financial, and food-security consequences; the need for better coordination of technical and cooperation efforts for enhanced exchange and sharing of relevant information, as well as for access to medicines, treatments, vaccines and equipment, and the required scientific and technical knowledge, and to find mechanisms to make resources available to address the unprecedented challenges ahead; [...]

AFFIRMING the role of the Organization of American States and other organs and agencies of the inter-American system in assisting Member States in their efforts to respond to and recover from the COVID-19 pandemic, and underscoring the need to bolster resilience in the wake of the crisis, as well as its recognition of the role of the Pan American Health Organization;

TAKING NOTE of the work of the Inter-American Commission on Human Rights to promote and protect human rights and fundamental freedoms in the context of the pandemic, including its resolution 1/2020 "Pandemic and Human Rights in The Americas";

TAKING NOTE ALSO of the Practical Guide to Inclusive Rights-Focused Responses to COVID-19 in the Americas;

RECALLING that the spirit of prompt and effective cooperation benefitting health conditions in the Americas has been present since the inception of the inter-American system and that the importance of providing all means and assistance for the study and research of epidemic diseases in the Hemisphere has been historically recognized; and

EMPHASIZING that the extreme circumstances of the pandemic require all in the Americas to enhance our cooperation, in a spirit of solidarity and mutual support,

RESOLVES:

1. To unite in a hemispheric response to the unprecedented COVID-19 crisis, driven by democratic leadership, cooperation and solidarity among member states and inter-American entities to mitigate the adverse impacts and accelerate the recovery.

2. To strengthen hemispheric cooperation and solidarity to contain, mitigate, and defeat the pandemic and its consequences, including exchanging information, scientific knowledge, lessons learned, and best practices, with due regard to the differential impacts on all vulnerable groups and at-risk populations by enhancing health care and services.

3. To underscore the need to make the prevention of and response to gender-based violence a priority in all measures relating to COVID-19.

4. To reiterate the imperative that member states uphold democratic principles, ensure full respect for human rights and transparency, and prevent any form of discrimination, including racism and xenophobia, as they respond to the crisis.

5. To welcome efforts by the OAS General Secretariat and other relevant international and regional bodies to deploy available resources and to explore additional measures needed to respond to the crisis, facilitate regional action, and bolster economic resilience during and after the COVID-19 pandemic.

6. To request the OAS General Secretariat to continue working with all relevant actors to mobilize an appropriate hemispheric response to the pandemic in coordination with other relevant organizations of the inter-American system and at the sub regional level, in order to enhance cooperation among Member States, while avoiding duplication of efforts and ensuring the full participation of women at all levels in doing so.

7. To request the OAS General Secretariat to continue engaging relevant multilateral institutions under the Joint Summit Working Group in order to promote coordinated inter institutional responses and to support national efforts of member states in addressing the social, economic, health and security impacts of the COVID-19 pandemic.

Equally relevant within the regional system is the pronouncement made by the Inter-American Court of Human Rights in Statement No. 1/20 of April 9, 2020, “Covid-19 and Human Rights: The problems and challenges must be addressed from a human rights perspective.” The Court warned of the need to align the measures taken by states with human rights protection standards, as well as with the criteria of necessity and proportionality. Thus, the Court urged states to guarantee economic, social, cultural, and environmental rights, with special attention to the most vulnerable groups; to

prevent gender violence; and to respect labor rights, uphold access to justice, and combat all forms of discrimination.

Finally, on April 10, 2020, the Inter-American Commission on Human Rights adopted Resolution 1/2020, “Pandemic and Human Rights in the Americas.” This is a document of the greatest interest that in its operative paragraphs recommend that the governments of the member states reconcile the measures taken in the context of the pandemic with respect for human rights protection standards.

2. Immediately adopt an intersectional human rights approach in all of their government strategies, policies and measures to deal with the COVID-19 pandemic and its consequences, including plans for social and economic recovery. They should adhere to unconditional observance of inter-American and international standards on human rights, which are universal, interdependent, indivisible and crosscutting, particularly economic, social, cultural, and environmental rights.

Subsequently, the IACHR adopted two further declarations: Resolution 4/2020, “Human Rights of Persons with COVID-19,” on July 27, 2020, and Resolution 1/2021, “COVID-19 Vaccines and Inter-American Human Rights Obligations,” on April 6, 2021. The first calls on states to guarantee the rights of people with COVID-19, ensuring their right to receive medical care, the adoption of reasonable measures regarding quarantines or isolation, and prior and informed consent for any treatment; to implement measures without any type of discrimination; and to effectively protect the rights of people with COVID-19. The second underlines the need for states to guarantee universal and equitable access to vaccines, especially for vulnerable groups; to strengthen infrastructure and distribution channels in their territory; and to prioritize the most at-risk groups. It also emphasizes that vaccine recipients must be able to express their prior, free, and informed consent, and that states must guarantee the protection of personal data.

This overview of the provisions of the inter-American system’s main instruments has demonstrated that there is a general normative framework that has allowed certain levels of cooperation and the resolved engagement of the OAS in the development of appropriate solutions for combating the pandemic and its harmful effects. With the exception of the specific resolutions identified above, however, it is evident that the conventional instruments in force have been clearly insufficient to deal with the multidimensional challenge posed by the pandemic.

Conceived to address various situations in a context of political, economic, and social normality and referring to specific aspects of the protection of human rights and inter-American cooperation (right to health, right to food), they do not, however, contain appropriate and relevant provisions for facing the situation arising from the pandemic. Therein lies the urgency of considering the development of an instrument that allows a regional response to the current situation and to probable future crises. The general opinion of the experts is that we are facing the first truly universal pandemic, and a normative framework that allows a timely response within the framework of continental cooperation and solidarity is urgently needed.

4. Proposals to strengthen social and economic resilience in the region in the framework of the COVID-19 pandemic and its subsequent effects

After identifying the inter-American legal framework, the need for instruments conceived and designed for joint action and cooperation in pandemic situations is evident. Over and above declarations, what is needed is a regional program capable of structuring states’ efforts.

The OAS is a political cooperation organization, but not an economic forum or a financial entity. Through an appropriate instrument, however, political standards can be established that allow content to be given to regional cooperation and involve other regional organizations in the joint effort to address the health, financial, and food assistance consequences of the pandemic and, in particular, to

provide help to the most vulnerable groups and communities. In line with the remarks made by human rights protection organizations, economic, social, cultural, and environmental rights must be guaranteed, without distinction, with special attention to the groups at greatest risk, women, children, and workers, especially with regard to free and informed access to vaccines. In the same way, as has been noted by the Inter-American Court and the Inter-American Commission on Human Rights, the actions that are undertaken must take due consideration of standards for the respect and protection of human rights.

It is possible to establish a general and specific legal framework to set political and operational guidelines to allow decision-making and concrete actions that can be taken through the existing mechanisms. In this way, the joint action of the OAS and its member states will be aimed at resolving the problems arising from the current pandemic and allowing analogous situations in the future to be addressed.

Although the OAS cannot make decisions for other hemispheric organizations, it can take this initiative to the Summit of the Americas, which would be the optimal forum for proposing that regional cooperation be channeled through legal instruments that facilitate joint action by all entities of the Americas that can collaborate in the effort to overcome the consequences of the pandemic and rebuild economies, boost production and work, close educational and labor gaps, and allow the region to resume the path of development, in compliance with the objectives common to the OAS and other hemispheric cooperation organizations.