

CHAPTER IV.b

Venezuela



CHAPTER IV. B: VENEZUELA

I.	INTRODUCTION	713
II.	INSTITUTIONAL CRISIS AND ARBITRARY INTERFERENCE IN DEMOCRACY.....	715
A.	Separation of powers and democratic institutional framework	715
B.	Arbitrary interference of the citizens' branch in democracy	715
III.	CLOSURE OF CIVIC SPACE	716
A.	Legislative initiatives aimed at closing the civic space.....	716
B.	Court rulings impacting the civic space	717
C.	Criminalization of political participation and the need to implement agreements in good faith	717
D.	Persecution against human rights defenders and union leaders	718
E.	Corruption and opacity in public governance	719
IV.	HUMAN RIGHTS VIOLATIONS.....	720
A.	Violations of the right to life, liberty and personal integrity.....	720
B.	Situation of freedom of expression	722
C.	Situation of economic, social, cultural and environmental Rights (ESCERs).....	730

V.	IMPACT ON GROUPS IN VULNERABLE SITUATIONS AND DISCRIMINATION	733
	Women.....	734
	Refugees, migrants and persons from Venezuela in need of international protection.....	736
	Persons deprived of liberty.....	737
	Lesbian, gay, bisexual, trans and intersex (LGBTI) persons	740
	Indigenous peoples.....	741
	Afro-descendant persons.....	742
VI.	CONCLUSIONS AND RECOMMENDATIONS.....	742

CHAPTER IV. B

VENEZUELA¹

I. INTRODUCTION

1. In fulfilling its conventional and statutory mandate, the Inter-American Commission on Human Rights (“the Commission”, “the Inter-American Commission” or “the IACHR”) has followed up on the human rights situation in Venezuela with special attention. The State has been included in Chapter IV.B of the Annual Report since 2005 due to the complete erosion of the democratic system and the serious human rights situation. The progressive concentration of power in the executive branch and the absence of the Rule of Law have been documented throughout these years.

2. In spite of the different calls and recommendations from the Inter-American Commission and other international bodies, in 2023, the State did not adopt suitable and effective measures to restore the democratic order and the separation and independence of the branches of government. This has allowed the executive branch to maintain control over the judicial branch, the citizens’ branch,² the electoral branch and the legislative branch, and to impose a systematic policy of repression and intimidation against individuals and organizations that defend rights, express their disagreement with the government, are opponents or perceived as such.

3. Consequently, after having assessed the human rights situation in Venezuela, the Commission decided to incorporate this country into Chapter IV.B of its Annual Report in accordance with Article 59, subparagraphs 6.a.i, 6.a.ii, 6.d.i and 6.d.iii of its Rules of Procedure, which establishes the following criteria:

- a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:
 - i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;
 - ii. there has been an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order.
- d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

¹ Chapter not approved by Commissioner Carlos Bernal, with a partial reasoned vote. The partial reasoned vote is found at the end of this chapter.

² The Constitution establishes a Citizen Power. Its bodies enjoy functional, financial, and administrative autonomy. Citizen Power is exercised by the Republican Moral Council composed by the Ombudsman, the Prosecutor General and the Comptroller General of the Republic (Constitution of the Bolivarian Republic of Venezuela, promulgated on December 30, 1999. Art. 273).

i. serious institutional crises that infringe the enjoyment of human rights.

iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court [...].

4. In relation to Article 59, subparagraphs 6.a.i, 6.a.ii and 6.d.i, the Commission considers that, after more than a decade of undue and arbitrary interference, the executive branch has succeeded in controlling the different branches of government. The process of co-opting the institutions has been greatly facilitated by the lack of independence of the Supreme Court of Justice (TSJ). Since 2015, this institution has acted as an extension of the executive branch by systematically adopting decisions which are detrimental to the Rule of Law, the separation of powers and political participation. All this constitutes a clear violation of the requirements set forth in the Inter-American Democratic Charter and other applicable instruments.

5. The subordination of the institutions to the executive branch had two significant consequences in 2023. First, no decisive measures were adopted to combat impunity for the violations that had occurred in previous years, especially during the protests of 2015 and 2017. It is important to remind that, since these violations were serious and systematic, and considering that they remain unpunished, the Office of the Prosecutor of the International Criminal Court (ICC) opened an investigation due to the alleged commission of crimes against humanity, an unprecedented event in the Western Hemisphere.

6. The second consequence of the absence of independence of the branches of government was discrimination in the access to public office. During this year, the Office of the Comptroller General of the Republic ratified the disqualification sanctions imposed against opposition leaders with presidential aspirations. In addition, the Office of the Public Prosecutor opened criminal investigations against the individuals who had organized the so-called “primary elections,” aimed at asking citizens about who they would choose as the opposition candidate for the 2024 presidential election. These acts show that the national public institutions operate primarily to guarantee the permanence of the ruling party in power, and not to promote and protect human rights.

7. Regarding Article 59, subparagraph 6.d.iii of the Rules of Procedure, the Commission notes that the structural situations that seriously affect the enjoyment of human rights persist, especially with respect to economic, social, cultural and environmental rights (ESCERs). The limitations on access to these rights caused 500,000 persons to forcibly leave the country in 2023.³ More than 7 million persons have been forced to migrate, resulting in the largest displacement in the region and one of the largest in the world. This migration flow responds to a survival strategy to protect rights such as life, personal integrity, health and food. All of this is a consequence of the dire human rights situation in Venezuela.

8. In accordance with Article 59.5 of the Rules of Procedure, the Commission has used various sources of information to prepare this report. These sources include: official acts and any statement or action attributable to state bodies; information available in cases, petitions and precautionary and provisional measures in the inter-American system; information gathered in the course of on-site visits; information obtained during public hearings; conclusions of other international human rights bodies, including UN treaty bodies; human rights reports issued by governments and regional organs; reports by civil society organizations and public information that is widely disseminated in the media.

³ This number was obtained by contrasting the *R4V Latin America and the Caribbean, Venezuelan Refugees and Migrants in the Region* report, published in December 2022, with the *R4V Latin America and the Caribbean, Venezuelan Refugees and Migrants in the Region*, from August 2023.

9. The Commission approved this report on November 29, 2023. On January 12, 2024, the Commission sent the State of Venezuela a copy of the report in accordance with Article 59.10 of its Rules of Procedure. The State did not submit observations.

II. INSTITUTIONAL CRISIS AND ARBITRARY INTERFERENCE IN DEMOCRACY

A. Separation of powers and democratic institutional framework

10. At the regulatory level, the Constitution establishes the separation and independence of powers.⁴ Nevertheless, due to constant interference from the executive branch, the institutions intended to promote and protect human rights operate primarily to guarantee the permanence of the ruling party in power.

11. The independence of the judiciary remained compromised in 2023 due to the irregular appointment of Supreme Court justices, the possibility of reelection within that institution, the excessive number of provisional judges, the lack of public competitive examinations for positions within the judiciary and the absence of guarantees for the stability in office.⁵

12. Likewise, the independence of the legislative branch remained compromised due to the lack of guarantees for opposition political parties, the arbitrary criminal prosecution of opposition leaders and the removal from office and disqualification sanctions imposed by the Office of the Comptroller General of the Republic. The Commission recalls that the National Assembly elected in 2015 was suspended arbitrarily by the Supreme Court of Justice and no measures to repair this severe damage to the institutional framework of the country have been adopted to date.⁶

13. The independence of the citizens' branch also remained compromised due to the irregular appointment of its authorities. The current Attorney General of the Republic, the highest authority in the Office of the Public Prosecutor, was not appointed in accordance with the Constitution. Instead, the National Constituent Assembly was responsible for the designation.⁷

14. The independence of the electoral branch remained compromised as a consequence of the atypical appointment of the National Electoral Council (CNE) authorities. The members of the CNE Board of Directors resigned on June 14 this year without providing an adequate justification.⁸ This situation empowered the National Assembly to appoint new members. As part of this restructuring process, the National Assembly appointed Elvis Amoroso as president of the CNE. At that time, Mr. Amoroso was the highest authority in the Office of the Comptroller General of the Republic, an entity which has systematically imposed disqualification sanctions against opposition leaders.⁹ The Commission recalls that the members of the CNE were not appointed in accordance with constitutional procedures between 1991 and 2021.¹⁰

B. Arbitrary interference of the citizens' branch in democracy

15. During this year, the Office of the Comptroller General of the Republic continued imposing sanctions such as disqualification for holding public office, which constitute violations of the inter-American standards on political rights). These sanctions have been disproportionately imposed, against individuals who oppose the government, which has in turn caused discrimination in the access to public office.

⁴ For example, see Articles 256 and 294 of the 1999 Constitution.

⁵ IACHR, [2022 Annual Report. Chapter IV.B. Venezuela](#), paras. 14–19.

⁶ IACHR, [2021 Annual report. Chapter IV.B. Venezuela](#), paras. 23–36.

⁷ IACHR, [2019 Annual Report. Chapter IV.B. Venezuela](#), para. 32.

⁸ *El País*, "[La renuncia de la directiva del Consejo Nacional Electoral en Venezuela deja en el aire las primarias de la oposición.](#)" June 14, 2023.

⁹ National Assembly, "[Asamblea Nacional designa y juramenta a nuevos rectores del CNE.](#)" August 24, 2023.

¹⁰ Acceso a la Justicia, "[La historia de un fraude \(III\): el secuestro del Poder Electoral.](#)" September 21, 2019.

Below are some of the disqualification sanctions with the greatest impact on the Venezuelan opposition, based on official documentation and observations from international bodies.

16. On June 27, through Official Letter No. DGPE-23-08-00-008,¹¹ the Office of the Comptroller General of the Republic announced that opposition candidate María Corina Machado had been disqualified from holding public office for 15 years, thus preventing her from running in the 2024 presidential elections. This disqualification follows those of other well-known opposition leaders aspiring to run for president, such as Henrique Capriles and Freddy Superlano.¹²

17. The European Union,¹³ the Office of the High Commissioner for Human Rights¹⁴ and the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela established by the Human Rights Council (hereinafter “the Independent International Mission”) have condemned these disqualifications.¹⁵

18. The Commission recalls that the State of Venezuela was found internationally responsible for these sanctions in *López Mendoza v. Venezuela*. In this context, the Commission reiterates that no administrative body can restrict the political rights to elect and be elected through sanctions of disqualification or dismissal. In accordance with inter-American standards, in order to consolidate and protect a democratic system that is respectful of human rights, this type of sanction can only be imposed through a sentence adopted by a judge within the framework of a criminal proceeding.¹⁶

III. CLOSURE OF CIVIC SPACE

A. Legislative initiatives aimed at closing the civic space

19. During this year, the National Assembly continued discussing legislative proposals aimed at controlling and limiting the work of civil society organizations, as well as restricting fundamental freedoms, such as the freedom of expression, association, and participation in matters of public interest.

20. On January 24, 2023, the legislative branch successfully held a first debate on a bill to audit and regularize the operations of non-governmental organizations and other similar institutions and to oversee their actions and funding.¹⁷ This bill not only restricts the activities that may be carried out by these organizations, but also enables state authorities to unilaterally dissolve all organizations who, by the State’s own criteria, engage in political activities or otherwise undermine national stability or the institutions of Venezuela.¹⁸

21. The introduction of the bill included stigmatizing references to 62 civil society organizations, who were described as “enemies,” “traitors,” and “front operations for political parties.”¹⁹ This confirms that

¹¹ Office of the Comptroller General of the Republic, General Directorate for Special Procedures, Official Letter No. DGPE-23-08-00-008, June 27, 2023.

¹² IACHR, Press Release No. 155/23, “[Venezuela: IACHR Condemns Politically Motivated Persecution of Individuals in Run-Up to Elections](#),” July 14, 2023.

¹³ European Parliament, [Resolution on the political disqualifications in Venezuela](#), 2023/2780 (RSP), July 12, 2023.

¹⁴ Office of the High Commissioner for Human Rights, “[Venezuela update by High Commissioner Türk](#),” July 5, 2023.

¹⁵ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, paras. 70–72.

¹⁶ IAHR Court, *López Mendoza v. Venezuela*. Merits, reparations and costs. Judgment of September 1, 2011. Series C No. 233.

¹⁷ National Assembly, “[AN aprueba en primera discusión ley para regular las ONG](#),” January 24, 2023.

¹⁸ Bill titled “[Law for the Supervision, Regularization, Performance and Financing of Non-Governmental and Related Organizations](#).”

¹⁹ National Assembly, “[AN aprueba en primera discusión ley para regular las ONG](#),” January 24, 2023.

human rights defense organizations still face a hostile environment in Venezuela, where smear campaigns, stigmatization and acts of harassment are rife in retaliation for their advocacy activities.²⁰

B. Court rulings impacting the civic space

22. During 2023, the Supreme Court of Justice continued to adopt arbitrary decisions that restrict the civic space, discourage participation in matters of public interest and evidence the absence of independence from the executive branch.

23. On August 4, the Supreme Court of Justice dissolved the National Committee of the Venezuelan Red Cross through Judgment No. 1,057 and appointed an *ad hoc* restructuring board with the power to reorganize it. This decision contradicts the organization's internal bylaws regarding its governance and grants powers contrary to its articles of incorporation.²¹ Likewise, on August 11, 2023, the TSJ issued Judgment No. 1,160, through which it arbitrarily appointed an *ad hoc* board of directors for the Communist Party of Venezuela, a political organization which opposes the government coalition.²²

C. Criminalization of political participation and the need to implement agreements in good faith

24. The Commission has indicated that the human rights challenges in Venezuela show the need for dialogue processes aimed at re-establishing democratic institutions and the independence of the branches of government.²³ Therefore, the Commission welcomed the dialogue sessions between the government and the Unity Platform (coalition of opposition parties) held from August 13 to 15,²⁴ which resumed on November 25, 2022.²⁵

25. In 2023, the Commission commended the agreements reached by the parties in Bridgetown, Barbados, on October 17. Among other things, the State committed to establishing a timetable and road map for presidential elections so that the participation of all candidates without arbitrary restrictions, under equal conditions and with security guarantees, would be ensured. In addition, as a result of these agreements, the State released a group of at least five people who had been arbitrarily detained, including journalist Ronald Carreño and opposition legislator Juan Requesens.²⁶

26. In spite of the commitments assumed, during this year, the Office of the Public Prosecutor opened a criminal investigation against the organizers of a public consultation, held on October 22, with the purpose of electing the person who would run represent the opposition in the presidential elections.²⁷

²⁰ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 79.

²¹ Supreme Court of Justice, Action for the protection of collective or diffuse interests or rights. File No. 23-0802. Judgment No. 1,057, August 4, 2023.

²² Supreme Court of Justice, Claim for the protection of constitutional rights. File No. 23-0708. Judgment No. 1,160, August 11, 2023.

²³ IACHR, Press Release No. 217/21, "[IACHR Calls for Serious, Broad, Inclusive Dialogue for the Urgent Reconstruction of Democratic Institutions in Venezuela](#)," August 23, 2021.

²⁴ IACHR, Press Release No. 217/21, "[IACHR Calls for Serious, Broad, Inclusive Dialogue for the Urgent Reconstruction of Democratic Institutions in Venezuela](#)," August 23, 2021.

²⁵ *El País*, "[El Gobierno venezolano y la oposición acuerdan descongelar entre 3.000 y 5.000 millones de fondos estatales en el extranjero](#)," November 25, 2022.

²⁶ IACHR, Press Release No. 253/23, "[Venezuela: IACHR Urges State to Implement Agreements, Including Guarantees for Political Participation](#)," October 27, 2023.

²⁷ IACHR, Press Release No. 253/23, "[Venezuela: IACHR Urges State to Implement Agreements, Including Guarantees for Political Participation](#)," October 27, 2023.

27. The Commission considers that the opening of this criminal investigation contravenes the spirit of the agreements and discourages political participation. In the Venezuelan context, political rights are essential for dialogue and to overcome the crisis. Therefore, it is crucial to implement agreements in good faith, avoid the criminalization of this type of citizen initiatives and guarantee the political participation of all sectors in the next presidential elections.²⁸

D. Persecution against human rights defenders and union leaders

28. Human rights defenders and union leaders continued to face an adverse environment in 2023. This was marked by public smear campaigns promoted by high-ranking public officials, stigmatization, acts of harassment and criminal proceedings as a means of reprisal for their work.

29. During the 188th ordinary period of sessions held in November 2023, civil society organizations informed that the State had adjusted its repressive model. In this regard, they reported that repression was no longer generalized and had become more selective, with a special focus on individuals with leadership roles within workers' movements with the purpose of discouraging social mobilizations.²⁹

30. In this context, according to information received in 2023, 87 union leaders were detained and prosecuted for defending rights between 2013 and 2022, and 344 cases of threats against workers and union leaders were recorded only in 2022. In addition, between July 4 and 7, 2022, six individuals with leadership roles within unions were arbitrarily detained and subsequently sentenced to lengthy terms of imprisonment in August 2023.³⁰

31. In the state of Bolívar, six workers of the Alfredo Maneiro Orinoco Steel Mill (SIDOR) (company) were detained in January 2023 under "incitement to hatred" charges. Three other union leaders of the same company were arrested in July of the same year, two of whom were transferred to Caracas and brought before a court with special competence over terrorism. A leader of the Socialist Workers United Front of the state of Bolívar was detained on July 7, 2023, and his home was raided on September 1, 2023.³¹

32. Furthermore, the Center for Defenders and Justice (CDJ) informed that 421 attacks against human rights defenders were recorded between January and September 2023, which represents a 6.31 percent increase from 2022.³² In general, the civil society stated that the executive branch is trying to build an internal enemy narrative by linking the work of human rights defenders to criminal activities, especially by associating them with terrorism, destabilization and threats to the peace of the country.³³

33. At the same time, international human rights bodies have also warned about the hardships faced by human rights defenders and union leaders. The Independent International Mission determined that there were reasonable grounds to believe that the regular activities of human rights defenders, union members, journalists and politicians had been systematically repressed, either through direct intervention or through intimidation and surveillance. The acts of repression documented in 2023 included harassment by security forces in uniform and individuals in civilian clothes, unauthorized pictures, threats in the street and in their own homes.³⁴

34. The Independent International Mission also documented a concerted Government campaign to undermine the reputation of real or perceived opponents to the government through defamatory and

²⁸ IACHR, Press Release No. 253/23, "[Venezuela: IACHR Urges State to Implement Agreements, Including Guarantees for Political Participation](#)," October 27, 2023.

²⁹ IACHR, 188th regular period of sessions, public hearing "[Venezuela: closure of civic spaces](#)," held on November 9, 2023.

³⁰ IACHR, 188th regular period of sessions, public hearing "[Venezuela: closure of civic spaces](#)," held on November 9, 2023.

³¹ IACHR, 188th regular period of sessions, public hearing "[Venezuela: closure of civic spaces](#)," held on November 9, 2023.

³² IACHR, 188th regular period of sessions, public hearing "[Venezuela: closure of civic spaces](#)," held on November 9, 2023.

³³ CDJ, *Situation of human rights defenders in Venezuela, First semester of 2023*, June 2023, p. 5.

³⁴ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 54.

stigmatizing messages issued by high-level state officials, which were taken up and widely diffused by pro-government websites and social media.³⁵

35. In addition, the Office of the High Commissioner for Human Rights (OHCHR) documented, between May 1, 2022, and April 30, 2023; 21 cases of threats and harassment, 46 cases of stigmatization on social media or public broadcasts by state officials; and 17 instances of criminalization, including 10 arbitrary detentions against human rights defenders, journalists and other civil society actors, including eight women.³⁶

36. The Commission considers that human rights defenders and union leaders face an active public policy of persecution, discrediting and criminalization by the State. It is important to recall that human rights defenders and civil society organizations are fundamental pillars in any democratic society. Therefore, it is crucial that Venezuela urgently refrain from taking any actions or measures that may disproportionately restrict the right of association and negatively impact the free exercise of the defense of human rights.

E. Corruption and opacity in public governance

37. The Commission observes that public governance in Venezuela lacks transparency. There is no publicly available information in the country with regard to human development indexes, poverty, schooling, infant mortality, maternal mortality, malnutrition, government contracting, civil service, impunity, criminal complaints, public finances, among others.

38. According to the most recent report published by Transparency International, Venezuela was ranked 177 among the 180 countries perceived to be the most corrupt.³⁷ Eighty-seven percent of individuals considered that corruption had increased in the previous 12 months, and 50 percent believed that public service had been used to pay bribes.³⁸

39. The opacity in public governance, the use of the judiciary as a political instrument and the absence of independence of institutions from the ruling party has a twofold effect. On one hand, it enables corruption and creates a climate of tolerance for it. On the other, it casts doubt on the efforts made to fight this phenomenon, especially when political benefits are sought or obtained from the arrest of individuals for non-flagrant criminal offenses.

40. The Commission notes that more than 40 public officials from Petr6leos de Venezuela, S.A. (PDVSA), a state company, were detained in March of this year due to alleged corruption acts.³⁹ However, due to the opacity of the information, it is not possible to determine whether these charges respond to criminal conduct or political persecution since the executive branch uses the criminal justice system to persecute workers who oppose the government.

41. The Commission notes that economic, social, cultural and environmental rights may be seriously and negatively impacted by corruption, both directly and indirectly. An act of corruption directly impairs a right when it is used as a means to prevent its effective realization and enjoyment; for instance, when a person has to make unlawful payments to study or gain access to health care, among others. In such instances, corruption is used directly to impair protected rights, be it by obstructing direct access to their full enjoyment or by reducing the resources specifically required to guarantee those rights.⁴⁰

³⁵ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 57.

³⁶ OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights, [A/HRC/53/54](#), July 4, 2023, para. 61.

³⁷ Transparency International, *Corruption perceptions index*, 2022.

³⁸ Transparency International, *Global corruption barometer*, 2019.

³⁹ France 24, "Ya son 42 los funcionarios y empresarios detenidos en Venezuela en la 'cruzada' anticorrupci6n," April 2, 2023.

⁴⁰ IACHR, *Corruption and Human Rights in the Americas: Inter-American Standards*, 2019, para. 163.

42. In other situations, acts of corruption create the conditions contributing indirectly or in a more subtle or covert manner to violations of economic, social, cultural and environmental rights when, for instance, the authorities find themselves forced to prioritize private interests in their fiscal policy, thereby reducing the overall availability of public resources; when they fail to take proactive steps to recover resources diverted by acts of corruption; when they inflate prices in procurement processes or prioritize private interests in public tenders for jobs in the education or health sectors, thereby jeopardizing quality in educational and health care services, among others.⁴¹

IV. HUMAN RIGHTS VIOLATIONS

A. Violations of the right to life, liberty and personal integrity⁴²

43. The State has systematically violated human rights, including freedom of expression, to facilitate the concentration of power in the executive branch, to discourage political participation and to undermine the independence of institutions. At the same time, institutional deterioration, and the lack of independence of the judiciary have fostered a climate of impunity in the face of serious human rights violations, which may amount to crimes against humanity due to their systematic nature.

44. In light of the reluctance to decisively combat impunity, on June 27, 2023, the Pre-Trial Chamber of the International Criminal Court (ICC) ordered the Office of the Prosecutor of that body to resume their investigation on the alleged commission of crimes against humanity. Venezuela is the only country in the Western Hemisphere with an open investigation before the ICC.

45. Both the Inter-American Commission and the Independent International Mission⁴³ agree that neither the Office of the Public Prosecutor nor the Office of the Ombudsperson nor the judiciary have acted with due diligence to investigate, prosecute, and punish serious human rights violations. This is a consequence of the lack of independence of these institutions from the government.

46. The absence of independent democratic institutions has also prevented the State from prioritizing the design of public policies aimed at addressing the needs of the population, especially to counteract the narrowed access to ESCERs.

Extrajudicial executions and arbitrary deprivation of life

47. The Independent International Mission investigated nine cases of deaths between 2020 and 2023, out of which five might be attributable to state authorities. Three of these deaths took place in the context of demonstrations over fuel shortages; the remaining two cases involved individuals who were deprived of liberty and reportedly died as a result of the denial of adequate medical attention.⁴⁴ In addition, the Committee of Relatives of Victims of the Caracazo (COFAVIC) reported that 414 cases of alleged extrajudicial executions were recorded between January and September 2023.⁴⁵

Political prisoners and arbitrary detentions

48. The Commission has used the term “political prisoners” to refer to individuals who, by misusing criminal law, have been detained arbitrarily for disagreeing politically and ideologically with governments in office, for legitimately exercising the fundamental freedoms of expression, assembly and

⁴¹ IACHR, *Corruption and Human Rights in the Americas: Inter-American Standards*, 2019, para. 164.

⁴² This section was prepared by the Office of the Special Rapporteur for Freedom of Expression.

⁴³ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 42.

⁴⁴ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, paras. 27–30.

⁴⁵ COFAVIC, Information on human rights violations between January–September 2023, received by the Commission in November 2023.

association, or for working in the defense of human rights, in States where the justice system is not independent.

49. In 2023, the Commission continued to observe that the justice system in Venezuela was being used to persecute and detain actual or perceived opponents to the government, due to the absence of the Rule of Law and the co-opting of the judiciary by the executive branch. According to Foro Penal, as of November 2023, there were 272 political prisoners, out of which 18 were women and 146 members of the military.⁴⁶ It is particularly concerning that 135 out of the 272 political prisoners have not been convicted, which shows an abuse of pre-trial detention and a lack of compliance with judicial guarantees.⁴⁷

50. The Independent International Mission documented 58 arbitrary detentions between 2020 and 2023, out of which at least 53 had taken place in the context of selective repression against actual or perceived opponents to the government. This was the case of union leaders, human rights defenders, members of civil society organizations, members of the opposition, teachers and others who had expressed their complaints against the government, including labor demands.⁴⁸ Likewise, the COFAVIC recorded 413 alleged arbitrary detentions between January and September 2023,⁴⁹ thus reaching a total of 15,700 cases since 2014.⁵⁰

51. The Commission urges Venezuela to release all the persons who have been deprived of liberty for political reasons and to ensure that all the guarantees of the right to defense and due process enshrined in international human rights instruments are respected.

Torture and other cruel, inhuman or degrading treatment

52. Individuals who are deprived of liberty for political reasons receive differentiated treatment based on the grounds for their arrest, which has an impact on their detention conditions and increases the risk of torture and other cruel, inhuman or degrading treatment.⁵¹ In general, these persons are held in the General Directorate of Military Counterintelligence; El Helicoide, a building that belongs to the Bolivarian National Intelligence Service (SEBIN); and the National Institute for Feminine Orientation (INOF). The information received by the Commission in 2023 included reports of at least 160 complaints of torture of political prisoners under the custody of the State between 2017 and 2020.⁵²

53. The Commission held a hearing in 2023 to follow up on the precautionary measures granted to victims of torture deprived of their liberty in 2017 and 2018. On that occasion, members of the beneficiaries' families informed that the precautionary measures had not been implemented and that their relatives still suffered deplorable and unsanitary detention conditions; overcrowding; suffocation due to lack of ventilation, and lack of access to essential medical treatment.⁵³ Furthermore, the Independent International Mission documented cases of denial of sexual and reproductive health services, arbitrary restrictions of family and legal visits, and violations of the rights of breastfeeding mothers and detained women with young children outside of prison.⁵⁴

⁴⁶ Foro Penal database, accessed on November 11, 2023.

⁴⁷ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, paras. 36–38.

⁴⁸ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 33.

⁴⁹ COFAVIC, Information on human rights violations between January–September 2023 received by the Commission in November 2023.

⁵⁰ Amnesty International, *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, August 29, 2023.

⁵¹ IACHR, Press Release No. 288/22, "[IACHR Calls for Immediate Release of All Individuals Detained for Political Reasons in the Americas](#)," December 29, 2022.

⁵² Information received by the IACHR.

⁵³ IACHR, 186th regular period of sessions, public hearing "[Follow-up of precautionary measures of beneficiaries deprived of their liberty in Venezuela](#)," held on March 6, 2023.

⁵⁴ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, para. 44.

54. At this hearing, civil society organizations reported that the beneficiaries of these measures still endured physical torture, prolonged isolation periods, lack of communication, depression, suicide attempts, lack of medical care, denial of transfers to medical centers and acts of coercion to induce confession. One of the beneficiaries participated at the hearing via videoconference and reported that prisoners did not receive medical attention and suffered from mental health disorders and severe dehydration. In addition, this beneficiary requested that a commission from the International Committee of the Red Cross be authorized to enter detention centers and verify their conditions, and that the Office of the Prosecutor of the ICC expedite the ongoing investigation into acts of torture in Venezuela.⁵⁵

55. The Independent International Mission underscored in its September 2023 report that, during the 2020-2023 period, the mission had investigated 19 cases of gender-based violence, including sexual violence, against persons who were deprived of liberty and were actual or perceived opponents to the government. These cases involved four men and 15 women, including a transgender woman. Among the acts reported were threats of rape, forced nudity, rapes with blunt objects and degrading insults, such as “bad mothers,” “bitches” or “prostitutes,” among others.⁵⁶

56. According to the Independent International Mission, “these acts were carried out with particular viciousness against real or perceived political opponents,” in particular against women, who were subjected to threats revolving around their children in a disproportionate number of cases compared to men.⁵⁷

57. In addition, the COFAVIC recorded 74 new cases of alleged torture in the context of repression by state agents during the first nine months of the year.⁵⁸

B. Situation of freedom of expression⁵⁹

Challenges to journalism and the media

58. Journalists continue to endure a hostile environment in Venezuela. According to the reports received by the Commission, as in previous years, journalists have suffered threats, intimidation, and legal persecution, as well as seizures of their work equipment and censorship of press material.

59. Acts of harassment and attacks against media facilities and journalist organizations were recorded in 2023. For instance, on January 23, 2023, masked individuals reportedly used Molotov cocktails and stones to attack the headquarters of *Palpitar Trujillano*, a digital media outlet.⁶⁰ Subsequently, on May 11, 2023, SEBIN officials allegedly conducted a search and seized equipment from the headquarters of *Mundo Oriental*, a news website. The search had been reportedly ordered in the context of the administrative proceedings relating to the arrest of former Mayor Ernesto Paraqueima.⁶¹

60. These attacks took place in a context of constant stigmatization of the media by public authorities and political leaders. The following instances can be highlighted as paradigmatic examples of this situation: on January 27, the governor of the state of Trujillo labelled *Diario Los Andes* and journalist Alexander

⁵⁵ IACHR, 186th regular period of sessions, public hearing “[Follow-up of precautionary measures of beneficiaries deprived of their liberty in Venezuela](#),” held on March 6, 2023.

⁵⁶ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, paras. 45–49.

⁵⁷ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/54/57](#), September 18, 2023, paras. 45–49.

⁵⁸ COFAVIC, Information on human rights violations between January–September 2023 received by the Commission in November 2023.

⁵⁹ This section was prepared by the Office of the Special Rapporteur for Freedom of Expression (SRFOE).

⁶⁰ This media outlet reportedly suffered four attacks against its social media accounts in December 2022. *Efecto Cocuyo*, “Atacan con piedras y molotov la sede de un medio digital en Trujillo,” January 23, 2023; *IPYS*, “[Desconocidos atacaron la sede del medio Palpitar Trujillano](#),” January 25, 2023.

⁶¹ *Punto de Corte*, “[SNTP rechaza el allanamiento e incautación de equipos del diario Mundo Oriental en El Tigre](#),” May 9, 2023; Espacio Público, “[Funcionarios del SEBIN allanaron la sede del medio Mundo Oriental en Anzoátegui](#),” May 11, 2023.

González as *palangristas* (recipients of *payola*) and accused them of having participated in a *coup d'état*.⁶² The governor attacked the same media outlet and journalist on April 14, stating that they had been involved in alleged acts of corruption.⁶³ In addition, on February 28, the mayor of the Piar municipality, in the state of Bolívar, accused journalists from different media outlets of “having engaged in media terrorism,” following the coverage of a protest by relatives of patients who had died during the pandemic.⁶⁴ In the same vein, Diosdado Cabello, a member of the National Assembly and anchor of *Con el Mazo Dando*, continued with his stigmatizing statements against the press, which were aired on a public television channel in Venezuela.⁶⁵

61. Criminal law continues to be used for intimidation. According to public information, on January 25, a prosecutor from the Office of the Public Prosecutor and a group of officials from the Scientific, Criminal and Criminalistics Investigations Body (CICPC) visited the home of the chief editor of *El Nacional*, a newspaper, and took him to the headquarters of the Office of the Public Prosecutor to take a statement. The summons, which allegedly included four other journalists, was reportedly related to his investigative work.

62. On February 2023, the mayor of the Piar municipality threatened to sue six journalists for their informative work.⁶⁶ In May, journalist Sebastiana Barráez reported that she had been threatened with arrest for her coverage of a case of alleged abuse of power committed by a high-ranking government official.⁶⁷ Subsequently, in June, the governor of the state of Táchira expressed his intention to sue those who had “unfoundedly” denounced problems in the state for “defamation and libel.” According to available information, the same official had allegedly threatened journalist Sebastiana Barráez and political leaders.⁶⁸ On May 5, journalist Gustavo Azocar was summoned by the Office of the Public Prosecutor in the state of Táchira for his posts on his social media accounts.⁶⁹

63. During this year, the Commission followed up on the situation of journalists Roland Carreño, who has been under arrest since October 26, 2020, and Roberto Deniz, who has faced criminal proceedings since October 2021 for the alleged crime of incitement to hatred, linked to his work in the press.⁷⁰ Deniz is a beneficiary of precautionary measures.⁷¹

64. In addition to the aforementioned information, media outlets continued to be closed based on the alleged non-compliance with administrative requirements for radio broadcasting. According to a report published by IPYS Venezuela, the National Telecommunications Commission of Venezuela (CONATEL), the state administrative agency tasked with issuing permits to operate, it is allegedly responsible for this situation. Radio stations are faced with administrative obstacles, as well as a context of “economic strangulation” caused by the lack of economic resources and optimal infrastructure conditions to carry out their transmissions.⁷² This

⁶² SNTX account (@sntxvenezuela), [January 27, 2023](#); CEPAZ, “[CEPAZ documentó 187 casos de persecución y criminalización en enero de 2023](#),” February 24, 2023.

⁶³ *Diario Los Andes*, “[Piden al Ministerio Público y a la Defensoría del Pueblo cese de ataques del gobernador de Trujillo contra la prensa](#),” April 24, 2023; IPYS, “[Gobernador de Trujillo vuelve a atacar discursivamente a Diario Los Andes](#),” April 18, 2023.

⁶⁴ *Efecto Cocuyo*, “[Por qué la alcaldesa de Upata amenazó a periodistas locales](#),” March 1, 2023; Espacio Público, “[Alcaldesa oficialista amenazó a seis periodistas por cubrir denuncias en Upata](#),” March 1, 2023.

⁶⁵ *Alberto News* X account (@AlbertoRodNews) [February 2, 2023](#); IPYS, “[Diosdado Cabello emitió descalificativos contra Alberto Rodríguez Palencia](#),” February 6, 2023.

⁶⁶ *Efecto Cocuyo*, “[Por qué la alcaldesa de Upata amenazó a periodistas locales](#),” March 1, 2023; Espacio Público, “[Alcaldesa oficialista amenazó a seis periodistas por cubrir denuncias en Upata](#),” March 1, 2023.

⁶⁷ Sebastiana Barráez X account (@SebastianaB), [May 20, 2023](#); *Efecto Cocuyo*, “[Periodista Sebastiana Barráez denuncia que juez amenazó con detenerla](#),” May 22, 2023.

⁶⁸ *Táchira Noticias* Instagram account (@tachiranoticias), [June 15, 2023](#); Espacio Público, “[Gobernador de Táchira amenaza con demandar a quienes denuncien problemas en la entidad](#),” June 16, 2023.

⁶⁹ *El Carabobeño*, “[Periodista Gustavo Azócar fue citado a fiscalía por denuncia formulada a través de redes sociales](#),” May 5, 2023; *Monitoreamos*, “[El periodista Gustavo Azócar acudió a la Fiscalía tras una denuncia anónima en su contra](#),” May 5, 2023.

⁷⁰ IACHR, *2022 Annual Report. Report of the Office of the Special Rapporteur for Freedom of Expression*, OEA/Ser.L/V/II Doc. 50, March 6, 2023, para. 1379.

⁷¹ IACHR, Press Release No. 031/20, “IACHR Grants Precautionary Measures in Favor of Relatives of Journalist Roberto Deniz de Armando,” February 7, 2020.

⁷² IPYS, “[Un anárquico paisaje sonoro. Condiciones de la radio en Venezuela para las coberturas electorales](#),” February 13, 2023.

is the case of *Radio Caracas Radio*, the oldest radio station in the country, which ceased operations permanently in June.⁷³

65. According to Espacio Público, radio stations continued to be shut down in 2023. Five stations closed in the states of Portuguesa (2), Táchira (1), Anzoátegui (1) and Bolívar (1) pursuant to orders issued by the CONATEL.⁷⁴ In addition, the information provided shows that four programs were cancelled in March of this year: three of them were broadcasted on the radio and the remaining one on social media.⁷⁵

66. The Atlas de Silencio study shows that at least 21 percent of the population lives in “news deserts,” that is, areas in which access to local information is inadequate.⁷⁶ This situation is compounded by the deliberate closure of radio stations.⁷⁷ Most of the “deserts” are located in small and medium-sized municipalities.⁷⁸ The states of Táchira, Zulia and Sucre are reportedly the most affected by the “information drought.”⁷⁹ Furthermore, the study warns that precarious infrastructure conditions, border areas and socioeconomic conditions also have an impact on the existence of “news deserts.”⁸⁰

67. Along the same lines, Espacio Público published a report which concluded that “there are at least 13 silenced zones,” referring to 13 states in the country with little or no access to information sources from diverse and independent publishers.⁸¹

68. The Commission underscores that intimidation and threats against journalists strongly restrict freedom of expression and that it is the duty of the State to prevent and investigate said acts.⁸² In this regard, the Commission noted that Carlos Germán Debiais, a graphic reporter, was released on June 6, 2023. Debiais had been under arrest since November 12, 2021, for taking drone shots of the Amuay refinery in the state of Falcón.⁸³

69. Finally, the Commission considers that attacks against journalists and media outlets are intended to silence them; therefore, in addition to violating the individual rights of journalists to express and disseminate their ideas, opinion and information, they also affect a society’s right to have free access to information.⁸⁴ An independent and critical press is fundamental to ensuring respect for other liberties that form part of a democratic system of government and the Rule of Law.⁸⁵

Transparency and access to public information

70. Although the Law of Transparency and Access to Information of Public Interest was enacted in September 2021, the Commission observed a context of state opacity in 2023.⁸⁶ Espacio Público reported

⁷³ *Efecto Cocuyo*, “[Radio Caracas Radio cesa definitivamente sus transmisiones.](#)” June 29, 2023; Espacio Público, “[RCR cesa sus transmisiones tras 93 años de labor ininterrumpida.](#)” June 29, 2023.

⁷⁴ IPYS, “[Onda 97.3 FM en Puerto Ordaz confirmó cierre por parte de Conatel.](#)” June 14, 2023.

⁷⁵ Espacio Público, “[Mayo: Crítica bajo acecho.](#)” June 6, 2023.

⁷⁶ IPYS, “[Atlas del silencio.](#)” June 8, 2023.

⁷⁷ IPYS, “[Atlas del silencio.](#)” June 8, 2023.

⁷⁸ IPYS, “[Atlas del silencio.](#)” June 08, 2023.

⁷⁹ IPYS, “[Atlas del silencio.](#)” June 08, 2023.

⁸⁰ IPYS, “[Atlas del silencio.](#)” June 08, 2023.

⁸¹ Espacio Público, “[Zonas silenciadas: 13 estados de Venezuela.](#)” May 3, 2023.

⁸² IACHR, Declaration of Principles on Freedom of Expression, 2000.

⁸³ *Tal Cual*, “[Autoridades excarcelan al reportero gráfico Carlos Debiais.](#)” June 6, 2023; Espacio Público, “[Excarcelan al reportero gráfico Carlos Debiais.](#)” June 7, 2023.

⁸⁴ IACHR, [Background and Interpretation of the Declaration of Principles](#); IACHR, Office of the Special Rapporteur for Freedom of Expression, [Violence Against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators](#), 2013, OEA/Ser.L/V/II.

⁸⁵ IACHR, [Background and Interpretation of the Declaration of Principles](#); IACHR, [Report on the Situation of Human Rights in Mexico](#), OEA/Ser.L/V/II.100 Doc 7 rev.1, September 24, 1998, para. 649.

⁸⁶ IACHR, 2022 Annual Report. [Report of the Office of the Special Rapporteur for Freedom of Expression](#), OEA/Ser.L/V/II Doc. 50, March 6, 2023, para 1386.

that 28 requests for information had been submitted to state bodies, out of which three had been rejected straightforwardly without legal justification and the rest had not been answered.⁸⁷

71. The Commission reiterates that access to information held by the State is a fundamental right of every individual, and that 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.⁸⁸ The State's actions should be governed by the principles of disclosure and transparency in public administration that enable all persons subject to its jurisdiction to exercise the democratic control of those actions.⁸⁹

Restrictions on the freedom of expression and association of human rights defenders and organizations

72. In 2023, the Commission received information about alleged monitoring and surveillance actions by state agents against union leaders and members of the National Trade Union Coalition of Workers (CSNT). These actions were reportedly related to the demonstrations that had been called for and held in different parts of the country to protest against an instruction issued by the National Budget Office (ONAPRE) and to demand better working conditions.⁹⁰

73. The Commission granted precautionary measures in favor of seven CSNT members on April 1, 2023, because it considered that they were at serious and imminent risk of suffering violations of their rights to life and integrity, and requested the State to adopt the necessary protection measures so that the beneficiaries could continue to carry out their union leadership activities without being subject to threats, intimidation, harassment or acts of violence.⁹¹ In addition, in May, Diosdado Cabello, a member of the National Assembly, used TV show *Con El Mazo Dando*, which is broadcasted by the state channel, to attack 10 civil society organizations by questioning their actions and international funding.⁹²

74. In this context, the Commission highlights the arrest of Javier Tarazona, a human rights defender and director of Fundaredes, who, as of July 2023, had been imprisoned for two years while suffering from health conditions.⁹³ Tarazona has been a beneficiary of precautionary measures granted by the Commission since June 18, 2020. In 2023, the Supreme Court of Justice revoked the jurisdiction of the Third Court of Caracas that hears cases involving terrorism. According to media reports, this was detrimental to the case of Mr. Tarazona.⁹⁴

75. In view of the above, the Commission reiterates that human rights defenders play a fundamental role in the consolidation of both a democratic society and the Rule of Law, therefore the State has the obligation to guarantee an enabling environment for their work.⁹⁵ In addition, the Commission recalls that

⁸⁷ Espacio Público, "[Situación general del derecho al acceso a la información pública: enero-junio 2023.](#)" July 10, 2023.

⁸⁸ IACHR, Declaration of Principles on Freedom of Expression, 2000.

⁸⁹ IAHR Court, *Claude Reyes et al. v. Chile*. Merits, reparations and costs. Judgment of September 19, 2006, Series C No. 151, para. 86.

⁹⁰ IACHR, [Resolution 15/2023](#), Precautionary Measure No. 66-23, Carlos Eduardo Salazar Ojeda *et al.* (Trade Union Leaders of the Civil Society Organization National Trade Union Coalition of Workers) regarding Venezuela, April 1, 2023.

⁹¹ IACHR, [Resolution 15/2023](#), Precautionary Measure No. 66-23, Carlos Eduardo Salazar Ojeda *et al.* (Trade Union Leaders of the Civil Society Organization National Trade Union Coalition of Workers) regarding Venezuela, April 1, 2023.

⁹² Centro de Justicia y Paz, [Monitoreo de persecución y criminalización en Venezuela](#), May 2023; CDJ, [Situation of human rights defenders in Venezuela, First semester of 2023](#), July 2023.

⁹³ UN News, "[Venezuela debe garantizar unas elecciones transparentes e inclusivas.](#)" July 5, 2023; Acceso a la Justicia, "Cronología del caso de la ONG Fundaredes," July 3, 2023.

⁹⁴ *Efecto Cocuyo*, "[Juicios de presos políticos como Roland Carreño, Javier Tarazona y Darío Estrada comenzarán de cero.](#)" July 15, 2023; Transparencia Venezuela, "[TSJ despoja a juzgado Penal de Caracas de Competencias sobre Terrorismo.](#)" July 18, 2023.

⁹⁵ United Nations, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association* [A/74/349](#), September 11, 2019, para. 25; United Nations Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai [A/HRC/20/27](#), May 21, 2012, paras. 12 and 13.

the freedom of association is an essential tool for human rights defenders to be able to perform their work fully and comprehensively.⁹⁶

The “Anti-Hate Law” as a tool to criminalize public interest speech

76. During this year, criminal law offenses, such as “incitement to hatred” and “boycott,” among others, were defined in broad and ambiguous terms, used as an instrument to intimidate, and punish those who criticize the government. A cardiologist was arrested on June 14 in Valera, a city in the state of Trujillo, under alleged charges of boycott and treason to the homeland, among others, after she had reported irregularities in the fuel supply for a gas station allegedly owned by her family.⁹⁷

77. The Attorney General informed on June 18 and June 20 that two farmers had been arrested in the state of Mérida under boycott charges.⁹⁸ According to the information received, these individuals had been arrested for posting videos on social media in which they could be seen discarding their crops and throwing them into a river as a protest over the shortage of fuel they needed to transport and market their products.⁹⁹ Both persons were subsequently released.¹⁰⁰

78. In addition, the Anti-Hate Law continues to be used to censor individuals and even public officials. Servando Marín, a columnist of the website *Aporrea*, was arrested on May 1 by state agents in Cumaná, a city in the state of Sucre, under charges of incitement to hatred after he had allegedly expressed critical opinions on environmental and architectural affairs.¹⁰¹ The co-founder of *Aporrea* reported on May 7 that Mr. Marín had been conditionally released under the obligation to appear periodically before the court.¹⁰² The Attorney General announced on May 4 that an arrest warrant had been issued against Ernesto Paraqueima, the former mayor of the municipality of El Tigre, in the state of Anzoátegui, for incitement to hatred. This action was taken after the official had made several comments against a mural that had been painted in his town to raise awareness about autism spectrum disorder.¹⁰³

79. Since 2017, the Commission has called for the Anti-Hate Law to be repealed on the grounds that it is contrary to international standards on freedom of expression.¹⁰⁴ Restrictions imposed by this law severely impact the exercise of the right to freedom of expression in Venezuela, which is against the principles of a democratic society. In particular, the Commission notes that this legislation includes vague concepts and exorbitant penalties that are subject to no statute of limitations in order to criminalize statements on matters of public interest; it imposes burdensome obligations on all media outlets, including the suppression and

⁹⁶ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas* OEA/Ser.L/V/II, December 31, 2011, paras. 157 and 163; IACHR Court, *Baena Ricardo et al. v. Panama*. Merits, reparations and costs. Judgment of February 2, 2001, Series C No. 72, para. 158.

⁹⁷ *Efecto Cocuyo*, “[Trujillanos exigen libertad para médica Mariana Barreto, detenida por denunciar irregularidades en gasolinera.](#)” June 18, 2023; Espacio Público, “[Detienen a ciudadana que denunció irregularidades con combustible en Trujillo.](#)” June 20, 2023.

⁹⁸ Attorney General of Venezuela X account (@TarekWilliamSaab), [June 19, 2023](#); *Finanzas Digital*, “[Agricultor de Trujillo será imputado por el Ministerio Público tras ‘destruir una gran cantidad de alimentos.’](#)” June 20, 2023.

⁹⁹ Transparencia Venezuela, “[¿Cuál es el delito cometido por los agricultores detenidos?](#)” June 20, 2023; Human Rights Observatory of the University of Los Andes (ULA), “[Estado venezolano viola derechos humanos de agricultores, incluido su derecho al trabajo.](#)” June 25, 2023.

¹⁰⁰ *Infobae*, “[Liberan dos agricultores venezolanos detenidos por protestar por la falta de gasolina.](#)” June 21, 2023; Espacio Público X account (@espaciopublico), [June 21, 2023](#).

¹⁰¹ Espacio Público, “[Detienen y excarcelan a arquitecto Servando Marín por opinar y denunciar irregularidades.](#)” May 8, 2023; *Aporrea*, “[Encarcelan a Servando Marín Lista, Presidente de la Fundación Ramón Badaracco y columnista de Aporrea.](#)” June 6, 2023.

¹⁰² Gonzalo Gómez Freire X account (@GonzaloAporrea), [May 7, 2023](#).

¹⁰³ Office of the Public Prosecutor of Venezuela X account (@MinpublicoVEN), [May 4, 2023](#), May 4, 2023; *Runrunes*, “[Alcalde de El Tigre violó ley para atención de personas dentro del espectro autista al ofender a niños con Asperger.](#)” May 3, 2023.

¹⁰⁴ IACHR Office of the Special Rapporteur for Freedom of Expression, Press Release No. R179/17, “[Office Of The Special Rapporteur For Freedom Of Expression Expresses Serious Concern Over The Enactment Of The ‘Anti-Hate Law’ In Venezuela And Its Effects On Freedom Of Expression And Freedom Of The Press.](#)” November 10, 2017; IACHR Office of the Special Rapporteur for Freedom of Expression, Press Release No. R169/22, “[SRFOE condemns the increase of censorship in Venezuela and reaffirms its support and commitment to the full enjoyment of press freedom in the country.](#)” July 29, 2022.

deletion of information of public interest; and it grants broad power to the State to use media outlets and impose content.¹⁰⁵ The OHCHR has also expressed its concerns over the consequences of this law.¹⁰⁶

Social protest

80. During 2023, the Commission received reports on the disproportionate use of public force to disperse protests. According to the Venezuelan Observatory of Social Conflict, 3,900 peaceful demonstrations took place in the country during the first five months of 2023, out of which 86 percent had been triggered by demands for economic, social, cultural and environmental rights. The remaining demonstrations had been reportedly organized by unions and their leaders who protested for their labor rights, especially for their right to receive fair wages.¹⁰⁷ The Venezuelan Education Action Program on Human Rights (PROVEA) reported that 18 workers of the Venezuelan Corporation of Guayana had been detained and prosecuted in January for demanding better working conditions.¹⁰⁸

81. On June 10, workers Juan Cabrera, Leonardo Azocar and Daniel Romero were reportedly arrested by officials of the Department of Military Counterintelligence (DGCIM), and the latter two were prosecuted by a court in Caracas under charges of boycott, criminal conspiracy and incitement to hatred, after leading a protest in one of the SIDOR plants.¹⁰⁹ On June 14, it was reported that a trial court with competence over labor matters in the state of Bolívar had granted a precautionary measure requested by the Venezuelan Corporation of Guayana, which allegedly restricted the right to strike and to freedom of expression of 22 SIDOR workers.¹¹⁰

82. The Commission reiterates that social protest, which involves the rights to freedom of peaceful and unarmed assembly, freedom of association and freedom of expression, is an essential tool for the defense of democracy and human rights. Therefore, the State has the obligation to respect, protect and guarantee these rights.¹¹¹ With regard to the obligation to protect and facilitate said rights, the Commission states that the application of criminal law to conducts related with the exercise of protests constitutes a serious restriction with far-reaching consequences for freedom of expression, as well as the rights of assembly, association and political participation.¹¹²

Freedom of online expression

83. The reported incidents include the hacking of the Facebook page of *El Tubazo Digital* on January 6. This outlet, which reports news in the state of Guárico and in Venezuela, was forced to create a new

¹⁰⁵ IACHR Office of the Special Rapporteur for Freedom of Expression, Press Release No. R179/17, [“Office Of The Special Rapporteur For Freedom Of Expression Expresses Serious Concern Over The Enactment Of The ‘Anti-Hate Law’ In Venezuela And Its Effects On Freedom Of Expression And Freedom Of The Press.”](#), November 10, 2017.

¹⁰⁶ OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights [A/HRC/53/54](#), July 4, 2023, para. 65.

¹⁰⁷ Venezuelan Observatory of Social Conflict, [“Situation of the civic space in Venezuela.”](#) side event to the 53rd session of the United Nations Human Rights Council, June 28, 2023.

¹⁰⁸ Venezuelan Education Action Program on Human Rights, [“Represión y detenciones arbitrarias: el saldo de seis días de protesta en SIDOR.”](#) June 13, 2023.

¹⁰⁹ Venezuelan Education Action Program on Human Rights, [“Represión y detenciones arbitrarias: el saldo de seis días de protesta en SIDOR.”](#) June 13, 2023; Espacio Público, [“Tribunal de Primera Instancia criminaliza la protesta de 22 trabajadores de Sidor.”](#) June 14, 2023.

¹¹⁰ Espacio Público, [“Tribunal de Primera Instancia criminaliza la protesta de 22 trabajadores de Sidor.”](#) June 14, 2023; Venezuelan Education Action Program on Human Rights, [“Represión y detenciones arbitrarias: el saldo de seis días de protesta en SIDOR.”](#) June 13, 2023.

¹¹¹ IACHR Office of the Special Rapporteur for Freedom of Expression, [Protest and Human Rights](#), OEA/Ser.L/V/II CIDH/RELE/INF.22/19, September 2019, foreword and paras. 1-46.

¹¹² IACHR Office of the Special Rapporteur for Freedom of Expression, [Protest and Human Rights](#), OEA/Ser.L/V/II CIDH/RELE/INF.22/19, September 2019, foreword and para. 185.

Facebook profile since it was reportedly impossible to recover its page.¹¹³ In addition, journalist Luis Olavarrieta reported on June 14 that his YouTube channel had been hacked.¹¹⁴

84. In addition, media outlets indicated that they had been impersonated online.¹¹⁵ This is the case of *Diario Panorama*, which reported that third parties had impersonated them and posted information on their website.¹¹⁶ Likewise, the visual identity and name of *Alertas 24*, an online media outlet, were used to disseminate false information.¹¹⁷ On May 15, Joel Dullroy and Laura Clisánchez, journalists from the newspaper *Correo del Caroní*, denounced that their names and images had been used in false emails to ask for money.¹¹⁸

85. Furthermore, the internet infrastructure in Venezuela remains deficient, which is a consequence of the socioeconomic crisis in the country. VE Sin Filtro, an internet observatory, reported several cases of internet connection downtime in several regions of the country, with different durations.¹¹⁹ In addition, high internet access costs have been a trend across the country.¹²⁰ In this context, the country faces a considerable digital divide, considering that, by March 2023, more than half (50.6 percent) of the individuals surveyed by the Venezuelan Observatory of Public Utilities (OVSP) in 12 Venezuelan cities declared that they had no internet service at home.¹²¹

86. In addition, the Commission continued to receive reports according to which news websites perceived as opponents of the government, including websites of media outlets and civil society organizations, had been blocked.¹²² The VE Sin Filtro Observatory reported that, as of March 12, 2023, 97 blocked domains remained blocked by the Telephones of Venezuela National Public Company (CANTV), as well as by different private service providers, such as Digitel, Inter, NetUno and Movistar, out of which 62 reportedly belonged to media websites.¹²³ These numbers reportedly amounted to “the near-total blocking of the news outlets reporting critical news in Venezuela.”¹²⁴

87. Four new blocking incidents against websites belonging to news media and organizations, such as media outlets *El Diario*¹²⁵ and *Mundo Oriental*,¹²⁶ the Finance Observatory¹²⁷ and the Living Wage for Venezuela initiative of the Venezuelan Union Network,¹²⁸ were reported during 2023. As of June 20, CANTV, a State-owned company, was still the operator with the highest number of restricted domains, using

¹¹³ IPYS, [“Hackean página de Facebook de El Tubazo Digital.”](#) January 19, 2023.

¹¹⁴ *Nueva Prensa Digital*, [“Luis Olavarrieta informó que su canal de Youtube fue hackeado.”](#) June 14, 2023; *La Verdad de Monagas*, [“Hackean el canal de Youtube del periodista Luis Olavarrieta.”](#) June 14, 2023.

¹¹⁵ IPYS, [“Desconocidos suplantarón la identidad de El Pitazo para pedir información a lectores.”](#) June 7, 2023.

¹¹⁶ *Diario Panorama* Instagram account (@diariopanorama), [May 3, 2023](#); IPYS, [“Diario Panorama denunció suplantación de identidad en su dominio web.”](#) May 16, 2023.

¹¹⁷ IPYS, [“Suplantan identidad de medio digital para difundir información falsa.”](#) April 26, 2023.

¹¹⁸ IPYS, [“Dos periodistas fueron objeto de suplantación de identidad en plataformas digitales.”](#) May 18, 2023; Espacio Público, [“Periodista Laura Clisánchez alerta que está siendo acusada de extorsión por una cuenta anónima.”](#) June 22, 2023.

¹¹⁹ Venezuela Sin Filtro X account (@Vesinfiltro), [February 8, 2023](#); [February 15, 2023](#); [February 23, 2023](#); [February 28, 2023](#); [March 1, 2023](#); [March 8, 2023](#); [March 17, 2023](#); [March 22, 2023](#); [March 27, 2023](#); [April 13, 2023](#); [April 21, 2023](#); [April 24, 2023](#); [May 8, 2023](#); [May 11, 2023](#); [June 28, 2023](#).

¹²⁰ *Finanzas Digital*, [“Consulte las tarifas de los planes de ABA de CANTV para julio de 2023.”](#) July 10, 2023; *Bloomberg Línea*, [“Empresas de telefonía en Venezuela ajustan tarifas mientras enfrentan debilidad en el servicio.”](#) July 11, 2023.

¹²¹ Venezuelan Observatory of Public Utilities, [“OVSP: La mitad de los encuestados no cuenta con servicio de internet en el hogar.”](#) April 24, 2023.

¹²² Espacio Público, [Informe 2022: Situación del derecho a la libertad de expresión e información en Venezuela](#), May 3, 2023; IPYS, [Derechos fuera de línea. Reporte Anual Derechos Digitales 2022](#), May 24, 2023.

¹²³ Venezuela Sin Filtro X account (@Vesinfiltro), [March 12, 2023](#).

¹²⁴ *NTN24*, [“Lo que más se bloquea en Venezuela son páginas web de medios digitales.”](#) Andrés Azpúrua, director de la ‘Ve Sin Filtro.’ March 13, 2023.

¹²⁵ Venezuela Sin Filtro X account (@Vesinfiltro), [May 3, 2023](#); *Efecto Cocuyo*, [“Ve Sin Filtro: Hay 62 medios de comunicación bloqueados en Venezuela.”](#) March 12, 2023.

¹²⁶ IPYS, [“Cuatro medios de comunicación fueron vulnerados en El Tigre tras detención del exalcalde.”](#) May 11, 2023; Espacio Público, [“Mayo: Crítica bajo acecho.”](#) June 6, 2023.

¹²⁷ Venezuelan Finance Observatory X account (@observafinanzas), [May 8, 2023](#).

¹²⁸ Espacio Público, [“Operadoras aplicaron bloqueo DNS a portal web de la Red Sindical Venezolana.”](#) May 11, 2023; *Efecto Cocuyo*, [“Ve Sin Filtro registra cuatro bloqueos a sitios informativos en lo que va de mayo.”](#) May 17, 2023.

HTTP/HTTPS and DNS blocking as the most frequent methods.¹²⁹ Some organizations have claimed that the blocking phenomenon was closely related to misinformation in Venezuela because people, instead of accessing the full news article, only reviewed the headline or summary they received via WhatsApp unless they used tools for circumventing blocking, such as virtual private networks (VPNs).¹³⁰

88. In addition to the blocking incidents, there were complaints about distributed denial-of-service (DDoS) attacks and alleged copyright infringement against news and opinion websites. On May 7, *Aporrea*, a news website, reported that it had suffered a DDoS attack, which allegedly recurred on May 8.¹³¹ It was recorded that media outlets *El Nacional* and *Qué Pasa en Venezuela* had faced obstacles to remain online due to alleged copyright infringement. The websites of these outlets were restricted between May 4 and 6 for more than 13 and 26 hours, respectively, following plagiarism complaints related to a report they had published on the export of Venezuelan gas to Colombia. According to the information available, the requests for removal of the report due to copyright issues were addressed to the companies that hosted the servers of those websites.¹³²

89. There is consensus in international human rights law about the fundamental role that access to the internet plays for the effectiveness of a wide range of human rights, including the freedom of expression, freedom of association and freedom of assembly, the right to participate in social, cultural and political life, the rights to health, education and work, among others.¹³³ In this regard, the Commission recalls that, as part of the positive obligation to promote and facilitate the enjoyment of human rights, States should take all measures within their power to ensure that all individuals have meaningful access to the Internet. In addition, as part of the obligation to respect, authorities should refrain from interfering with internet access and digital communications platforms unless said interfering is in full compliance with the requirements of the applicable human rights instruments.¹³⁴

Restrictions on academic freedom

90. Finally, according to the information received, university autonomy in Venezuela continued to face significant challenges, including budget restrictions, attacks and interventions in university facilities, limited opportunities for students to participate in the development of public policies impacting them, as well as harassment, arrests and an environment of indirect pressure that stands in the way of full academic freedom in the conduct of research.¹³⁵

91. For instance, on January 27, María Fernanda Rodríguez, a human rights defender and university professor, was arrested at the Universidad Metropolitana in Caracas a day after having participated as a representative of civil society organizations in a meeting with the United Nations High Commissioner for Human Rights, Volker Türk, during his visit to Venezuela. The professor was subsequently released.¹³⁶

92. Within this adverse context, information showing a steep decline in both the number of university professors and students was published in 2023. According to estimations, approximately 3,500

¹²⁹ Venezuela Sin Filtro X account (@Vesinfiltro), [June 20, 2023](#).

¹³⁰ NTN24, "[Lo que más se bloquea en Venezuela son páginas web de medios digitales](#)," Andrés Azpúrua, director de la 'Ve Sin Filtro,'" March 13, 2023; Center for International Media Assistance, "[Digital rights and democracy: online censorship in Venezuela](#)," March 24, 2022.

¹³¹ *Aporrea* X account (@aporrea), [May 7, 2023](#); Espacio Público, "[Portal de Aporrea sufrió un ataque DDoS](#)," May 9, 2023.

¹³² IPYS, "[Portales de El Nacional y Qué Pasa en Venezuela fueron limitados tras falsa denuncia por plagio](#)," May 17, 2023.

¹³³ United Nations Human Rights Council, Resolution 47/16, The promotion, protection and enjoyment of human rights on the Internet [A/HRC/RES/47/16](#), July 26, 2021; UN, OSCE, OAS and ACHPR, Joint Declaration on Freedom of Expression and the Internet, June 1, 2011.

¹³⁴ OHCHR, *Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights*. Report of the Office of the United Nations High Commissioner for Human Rights [A/HRC/50/55](#), May 13, 2022, para. 8.

¹³⁵ Human Rights Observatory of the University of Los Andes, [Monthly reports on the situation of universities in Venezuela](#), 2023.

¹³⁶ Human Rights Observatory of the University of Los Andes, [Situación de las Universidades en Venezuela](#), January 2023; *El Nacional*, "[Liberaron a la defensora de derechos humanos María Fernanda Rodríguez](#)," January 27, 2023.

professors resigned from their positions in 2022, specifically at the Universidad Central de Venezuela.¹³⁷ In addition, the enrollment rate at that university decreased by 54.23 percent between 2016 and 2022.¹³⁸ This situation also had a significant impact on the country's contribution to the overall academic research activities conducted in Latin America and the Caribbean, which have decreased significantly, from 4.7 percent in 1996 to less than 0.6 percent in 2023.¹³⁹

93. The Commission highlights the paramount role that universities play as centers that foster critical thinking and the exchange of ideas. At the same time, the Commission underscores the close relationship between academic freedom and the construction and consolidation of a democratic society.¹⁴⁰ The State of Venezuela must respect and guarantee university autonomy. In particular, the Commission stresses that any interference with academic freedom must meet the requirements of legality, legitimate aim, suitability, necessity and proportionality in accordance with the precepts of a democratic society.¹⁴¹ In addition, the State has the obligation to prevent and investigate all acts of intimidation, assault, harassment or threats against individuals because of their participation in the academic community.¹⁴²

C. Situation of economic, social, cultural and environmental Rights (ESCERs)¹⁴³

94. Within the framework of a complex, serious and multidimensional humanitarian crisis, Venezuela continued to experience high rates of poverty, inequality and food insecurity, in addition to a collapse of the healthcare system and significant limitations to guarantee economic, social, cultural and environmental rights. According to the information available, most of the protests in the country this year were related to demands to guarantee these rights.¹⁴⁴

Decrease in poverty and increase in inequality

95. With regard to the statistics on poverty in the country, the 2022 National Living Conditions Survey (ENCOVI) found that 50.5 percent of households lived under the poverty line, which constituted a 15-percent decrease against 2021 and the first decline in the poverty rate since 2014. Nevertheless, the data shows that inequality in the country has worsened in parallel to this improvement. In addition, poverty has worsened across the country.¹⁴⁵

96. Hum Venezuela informed that poverty continues to be a widespread problem in the country and that the income of most households was insufficient to cover their essential needs. In this regard, according to a community survey performed between July and August 2023, low income was the main problem of 86.3 percent of the households surveyed, and 56.5 percent were most concerned about the lack of livelihood, considering that the estimated price of the consumer basket in August was 372 US dollars, while the average monthly household income was only 102.5 US dollars per month in the 20 states of the country where the survey was conducted.¹⁴⁶

¹³⁷ *The Conversation*, "[Venezuela: sin recursos, sin profesores y sin alumnos, las universidades públicas luchan por sobrevivir.](#)" July 6, 2023.

¹³⁸ *Últimas Noticias*, "[En 54.23% cayó matrícula estudiantil de la UCV.](#)" April 26, 2023.

¹³⁹ *The Conversation*, "[Venezuela: sin recursos, sin profesores y sin alumnos, las universidades públicas luchan por sobrevivir.](#)" July 6, 2023.

¹⁴⁰ IACHR, [Inter-American Principles on Academic Freedom and University Autonomy](#), 2021.

¹⁴¹ IACHR, [Inter-American Principles on Academic Freedom and University Autonomy](#), 2021.

¹⁴² IACHR, [Inter-American Principles on Academic Freedom and University Autonomy](#), 2021.

¹⁴³ This section was prepared by the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights.

¹⁴⁴ Venezuelan Observatory of Social Conflict, "[Conflictividad social en Venezuela en agosto 2023.](#)" September 2023.

¹⁴⁵ Universidad Católica Andrés Bello (UCAB) Economic and Social Research Institute, [Condiciones de vida de los venezolanos. ENCOVI 2022](#), November 2022; Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, [El aparato estatal, sus mecanismos de represión y las restricciones al espacio cívico y democrático](#) A/HRC/54/CRP.8, September 18, 2023.

¹⁴⁶ Hum Venezuela, [Community Diagnostics, July-August 2023](#), October 2023, p. 2.

97. Therefore, although Venezuela left behind the hyperinflation cycle¹⁴⁷ and experienced economic growth in 2022, the economy contracted by 8.5 percent during the first semester of 2023.¹⁴⁸ As a result, no improvement was observed in the quality of life of the population,¹⁴⁹ and households remain largely dependent on state aid, although insufficient.¹⁵⁰

Deficiencies of the healthcare system

98. In this complex scenario, millions of individuals are unable to access adequate health care and face food insecurity.¹⁵¹ According to the information available, the country continues to be mired in the collapse of its healthcare system, characterized by persistent shortages and deficiencies in the supply of medicines, supplies, equipment and medical treatments. In addition, it was observed that healthcare workers work under precarious conditions and that numerous medical devices and medical centers were out of service.¹⁵²

99. In this regard, the public health system responsiveness was found to be dramatically lower, with an estimate loss of 70 percent of its capacity since 2016.¹⁵³ In addition, it was reported that 82.2 percent of healthcare centers have structural and operational deficiencies, out of which 50.1 percent are severe.¹⁵⁴ In parallel, according to estimations, 90 percent of public laboratories are inoperative.¹⁵⁵ The shortage of operating room supplies in public hospitals has reached 72 percent.¹⁵⁶ As of August 2023, the shortage of medications stood at 26.3 percent, with diabetes (31.7 percent), seizures (31.9 percent) and acute respiratory infections (32.6 percent) being the three main causes of morbidity with the highest medication shortage rates.¹⁵⁷

100. This has resulted in approximately 9.3 million people living with chronic medical conditions and facing the possibility of not being able to receive their treatment due to medication and supply shortages.¹⁵⁸ As of August 2023, 88.9 percent of households reported inoperative services in public health centers due to their inability to provide care, reduced and limited opening hours, or services shutdown. This impacted the services provided by means of assistance program Barrio Adentro (97.8 percent), community clinics (97.3 percent), comprehensive care centers (90.1 percent), outpatient treatment centers (87.8 percent) and hospitals (74.3 percent).¹⁵⁹

101. In addition, the current crisis sparked the resurgence of preventable and infectious diseases.¹⁶⁰ This situation was compounded by the opacity of information and the lack of transparency of the

¹⁴⁷ DW, “Venezuela: la mayor tasa mundial de inflación en alimentos.” September 6, 2023.

¹⁴⁸ Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, [El aparato estatal, sus mecanismos de represión y las restricciones al espacio cívico y democrático](#) A/HRC/54/CRP.8, September 18, 2023, para. 48.

¹⁴⁹ Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, [El aparato estatal, sus mecanismos de represión y las restricciones al espacio cívico y democrático](#) A/HRC/54/CRP.8, September 18, 2023; *New York Times*, “Ferrari, Prada y hambre: la visión socialista de Venezuela se tambalea,” March 21, 2023.

¹⁵⁰ Hum Venezuela, *Community Diagnostics, July-August 2023*, October 2023, p. 2.

¹⁵¹ Human Rights Watch (HRW), “Venezuela. Events of 2022.” 2023.

¹⁵² IACHR, [Resolution 11/2022, Precautionary Measure No. 150-19, Concepción Palacios Maternity Hospital regarding Venezuela \(Follow-up\)](#), February 27, 2022; REDESCA, *V Annual Report of the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA) of the Inter-American Commission on Human Rights (IACHR)*, 2021, para. 1579.

¹⁵³ *El País*, “La salud pública en Venezuela redujo en 70% su capacidad de respuesta desde 2016.” May 15, 2023.

¹⁵⁴ Hum Venezuela, *Community Diagnostics, July-August 2023*, October 2023, p. 9.

¹⁵⁵ *El Nacional*, “90% de los laboratorios públicos del país están inoperativos.” June 16, 2023.

¹⁵⁶ *Voz de América*, “La odisea de parir en un hospital público en Venezuela.” May 22, 2023.

¹⁵⁷ Convite, “Boletín 73: Agosto 2023 cierra con 26.3% de escasez de medicinas para las morbilidades que monitorea Convite.” September 28, 2023.

¹⁵⁸ *El País*, “La salud pública en Venezuela redujo en 70% su capacidad de respuesta desde 2016.” May 15, 2023.

¹⁵⁹ Hum Venezuela, *Community Diagnostics, July-August 2023*, October 2023, p. 6.

¹⁶⁰ HRW, “Venezuela. Events of 2022.” 2023.

State, which has not published the annual epidemiological bulletin for more than seven years.¹⁶¹ In this context, the Commission notes that the State has not complied with the precautionary measures granted to patients in the Maternity Hospital Concepción Palacios and to children waiting for transplants and services at the J. M. de los Ríos Hospital.¹⁶² The collapse of these hospitals resulted in the death of at least 79 children who were awaiting transplants in the nephrology department over the last six years, while 14 adolescents and 25 children are still awaiting a response from the hematology department.¹⁶³

102. Deprivation in access to the right to health also arise from the fact that the basic and social determinants of health are not guaranteed. According to estimations, during 2022, at least 6.5 million persons were not able to purchase enough food to cover basic daily food energy needs for at least one year.¹⁶⁴ In addition, 12.3 million Venezuelans faced food insecurity in 2023.¹⁶⁵ This problem was compounded by the fact that, as of July 2023, Venezuela was ranked first within the 10 countries with the highest nominal inflation rate for food in the world, reaching 414 percent.¹⁶⁶

Deficiencies in access to basic services

103. Similarly, the country faced significant problems to meet the basic needs of a large portion of its population. Power supply deficiencies not only had a negative impact on the quality of life of the population in general, but also caused the death of patients in several medical centers, according to the information available. In particular, Médicos por la Salud reported that, only in 2022, 261 persons had lost their lives due to power outages in hospitals.¹⁶⁷

104. In addition, the population faced growing challenges to access water and sanitation since the water supply is not continuous, and the quality of water has deteriorated. According to estimations, between 80 and 90 percent of the population has no access to water due to problems in its distribution and the condition of water basins in the country.¹⁶⁸ According to the information available as of August 2023, approximately 74.3 percent of households had no regular access to water, including 18.1 percent of households with no access to aqueducts, 10.6 percent suffering occasional failures and 45.8 percent experiencing frequent failures.¹⁶⁹

Precarious working conditions

105. Furthermore, with regard to labor and trade union rights, the Commission noted that most of the persons who are employed are not able to enjoy a decent life due to low wages and precarious working conditions, especially in the public sector. According to the Venezuelan Observatory of Social Conflict (OVCS), as of August 2023, their labor rights were still the main cause for peaceful demonstrations, representing 40 percent of the claims.¹⁷⁰

¹⁶¹ *Efecto Cocuyo*, “[Enfermedades crónicas se agravaron en Venezuela en dos años de pandemia.](#)” March 17, 2022.

¹⁶² Provea, “[Los niños del Hospital J. M. de los Ríos ‘siguen muriendo’ y se mantienen a la espera de que garanticen sus derechos.](#)” July 9, 2023; *Efecto Cocuyo*, “[Bancos de leche y lactarios disminuyen sus servicios en Caracas.](#)” August 15, 2023; *Costa del Sol*, “[Parir en Venezuela, ‘Una vecina me quitó los puntos de la cesárea’, 18 de julio de 2023.](#)” July 18, 2023; IACHR, [2022 Annual Report, Chapter IV.B, Venezuela](#), para. 140. For reference, see: IACHR, Resolution No. 13/19, Precautionary Measure No. 150/19, Maternity Hospital Concepción Palacios regarding Venezuela, Venezuela, March 18, 2019; IACHR, Resolution No. 43/19, Precautionary Measure No. 1039-17, [Children and adolescents patients in thirteen services of the José Manuel de los Ríos Hospital regarding Venezuela](#), August 21, 2019; IACHR, Resolution No. 11/22, Precautionary Measure No. 150-19, [Maternity Hospital Concepción Palacios regarding Venezuela](#), February 27, 2022.

¹⁶³ Provea, “[Los niños del Hospital J. M. de los Ríos ‘siguen muriendo’ y se mantienen a la espera de que garanticen sus derechos.](#)” July 9, 2023.

¹⁶⁴ Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, [El aparato estatal, sus mecanismos de represión y las restricciones al espacio cívico y democrático](#) A/HRC/54/CRP.8, September 18, 2023, para. 50.

¹⁶⁵ *Euronews*, “[Crisis humanitarias de Venezuela y Haití podrían empeorar, dice Comité Internacional de Rescate.](#)” January 24, 2023.

¹⁶⁶ *DW*, “[Venezuela: la mayor tasa mundial de inflación en alimentos.](#)” September 6, 2023.

¹⁶⁷ *El Nacional*, “[Provea advierte que apagones ponen en riesgo a pacientes hospitalarios.](#)” September 17, 2023.

¹⁶⁸ Hum Venezuela, [Community Diagnostics, July-August 2023](#), October 2023, p. 14.

¹⁶⁹ Hum Venezuela, [Community Diagnostics, July-August 2023](#), October 2023, p. 14.

¹⁷⁰ OVCS, “[Conflictividad social en Venezuela en agosto 2023.](#)” September 2023.

106. In this regard, the Commission reiterates its deep concern over the complaints involving forced labor in the country, according to which 49 cases of labor exploitation and unsafe conditions were recorded between May and December 2022.¹⁷¹ Similarly, the Commission has closely monitored the impact of extractive activities in the south part of the country which, in addition to causing deforestation, water contamination and the displacement of indigenous communities, has reportedly resulted in harsh working conditions and in terrible abuses against the population, including amputations, armed attacks and murders, at the hands of groups who control illegal gold mines and who allegedly operate with the acquiescence of the government.¹⁷²

Sanctions against sectors and unilateral coercive measures

107. In this context of democratic backsliding, several countries of the American continent and the European Union have adopted different sanctions in response to the serious and mass human rights violations in Venezuela. On one hand, there are specific sanctions in place aimed at public officials and persons associated with the government and the United Socialist Party of Venezuela (PSUV). On the other, sectoral sanctions have been imposed against industries and sectors.

108. According to the information available, specific sanctions were imposed before sectoral ones. According to the president of the Venezuelan National Assembly, 962 sanctions of different nature were imposed from 2015 to 2023.¹⁷³

109. The information available to the IACHR indicates that the serious economic situation preceded the imposition of sanctions and was caused by different factors. Among these are the fall in oil prices,¹⁷⁴ the policy of privatization and expropriations,¹⁷⁵ poor public management characterized by excessive public spending,¹⁷⁶ widespread corruption,¹⁷⁷ among others;¹⁷⁸ however, it takes note of the findings of the UN special rapporteur on unilateral coercive measures and human rights, who, after visiting the country, pointed out that sectoral sanctions have no normative basis in international law and have worsened the situation of people in a vulnerable situation¹⁷⁹. For this reason, the IACHR reiterates its call for them to be lifted¹⁸⁰ and highlights that the imposition of sanctions does not exempt the Venezuelan State from fulfilling its international obligations regarding human rights.

V. IMPACT ON GROUPS IN VULNERABLE SITUATIONS AND DISCRIMINATION

110. The dire human rights situation in Venezuela has affected the entire population; however, it has differentiated impacts on those persons who have been subjected to structural and historic discrimination, such as women, boys, girls and adolescents, lesbian, gay, bisexual, trans and intersex (LGBTI) persons, Afro-descendants and indigenous peoples, persons with disabilities, refugees, migrants and persons in need of international protection. For this reason, the Inter-American Commission examines the following elements in relation to these specific groups.

¹⁷¹ Movimiento Vinotinto, "[Movimiento Vinotinto registra 49 casos de trabajo forzoso entre los estados Táchira, Lara y Zulia](#)," March 15, 2023.

¹⁷² HRW, "[Venezuelan Tainted Gold](#)," April 29, 2022; HRW, "Venezuela. Events of 2022," 2023.

¹⁷³ National Assembly of Venezuela, "De 962 sanciones contra Venezuela 756 fueron firmadas por Donald Trump," March 9, 2023.

¹⁷⁴ *El País*, "[La caída del precio del petróleo agrava la crisis económica de Venezuela](#)," October 16, 2014.

¹⁷⁵ Acceso a la justicia, "[El trágico legado de las expropiaciones y nacionalizaciones](#)," February 14, 2018.

¹⁷⁶ Reuters, "[Venezuela says inflation slows, economy grew 1.6 pct in 2013](#)," December 30, 2013.

¹⁷⁷ Transparencia Venezuela, "[70 por ciento de los gobiernos no establecen controles anti-corrupción en materia de Defensa](#)," February 9, 2013.

¹⁷⁸ Reuters, "[Economía venezolana se desacelera en 3er trimestre 2013 y crece sólo 1.1 pct](#)," November 26, 2013.

¹⁷⁹ UN News, "[Rapporteur asks the United States and the European Union to lift sanctions on Venezuela due to their devastating effect on the population](#)," February 12, 2021.

¹⁸⁰ IACHR, *2021 Annual Report. Chapter IV.B. Venezuela*, OEA/Ser.L/V/II. Doc. 5, May 26, 2022, para. 166; IACHR, *2021 Annual Report, Chapter IV.B. Venezuela*, OEA/Ser.L/V/II. Doc. 5, May 26, 2022, para. 166.

Women

111. With regard to the human rights situation of women, the Commission notes that the State adopted minor measures to improve the protection of rights and the access to justice in gender-based violence cases. Among these measures, the Commission notes Resolution No. 98 of the Office of the Public Prosecutor, which expanded the competence of the 95th Office of the Public Prosecutor so as to include cases of women trafficking, thus becoming the National Office of the Public Prosecutor Specialized in Women Trafficking;¹⁸¹ a resolution adopted by the Plenary Chamber of the Supreme Court of Justice which approved the creation of three new courts with competence over crimes involving violence against women in the states of Barinas, La Guaira and Trujillo;¹⁸² and the announcement of the creation of Gran Misión Mujer Venezuela, a governmental body responsible for articulating policies and social programs to promote the development of women in the educational, labor, social and political spheres.¹⁸³

112. In terms of gender equality in public positions, the Commission verified the progress made in achieving equality in the composition of the Supreme Court of Justice, which was presided by a woman in 2023 and whose members were 45 percent female. However, women were still underrepresented in the other branches of the State, such as the National Assembly (31 percent), the national government (27 percent), governorships (8.3 percent) and mayorships (19 percent).¹⁸⁴

113. With regard to the prevention, investigation and punishment of gender-based violence, the Commission identified challenges related to the implementation of public policies related to the Organic Law on the Right of Women to a Life Free of Violence (LODMVLV), whose reform, published in 2022, represented a step forward in the protection of women in the country.¹⁸⁵ Among these challenges, the Commission highlights the absence of information on the budget allocation necessary for the implementation of the Law,¹⁸⁶ the failure of the State to appoint members to the National Commission to Guarantee the Right of Women to a Life Free from Violence and to make it operational,¹⁸⁷ as well as the insufficient number of shelters for victims of gender-based violence.¹⁸⁸ These challenges were also compounded by the absence of gender equality legislation, the lack of plans or policies to eradicate gender-based violence, the absence of protocols to investigate these cases with a gender perspective and the limited training programs available for public officials.¹⁸⁹

114. Similarly, there were still no official data and statistics records on gender-based violence against women, which could have been used for the development and implementation of prevention policies.¹⁹⁰

¹⁸¹ Office of the Public Prosecutor of Venezuela, Resolution No. 98, January 27, 2023.

¹⁸² *El Universal*, “TSJ aprueba la creación de tres nuevos tribunales en materia de Delitos de Violencia Contra la Mujer en Barinas, La Guaira y Trujillo.” September 27, 2023.

¹⁸³ Bolivarian Government of Venezuela, “Gobierno Nacional crea la Gran Misión Mujer Venezuela.” March 8, 2023. This measure was also welcomed by the OHCHR. See: OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights A/HRC/53/54, July 4, 2023, para. 30.

¹⁸⁴ Human Rights Committee, Replies of the Bolivarian Republic of Venezuela to the list of issues in relation to its fifth periodic report [CCPR/C/VEN/RQ/5](#), June 7, 2023, para. 33; Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 29.

¹⁸⁵ IACHR, *2022 Annual Report. Chapter IV.B. Venezuela*, para. 92.

¹⁸⁶ OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights A/HRC/53/54, July 4, 2023, para. 30.

¹⁸⁷ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 17.

¹⁸⁸ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 25; Human Rights Committee, Replies of the Bolivarian Republic of Venezuela to the list of issues in relation to its fifth periodic report, [CCPR/C/VEN/RQ/5](#), June 7, 2023, para. 43.

¹⁸⁹ OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights A/HRC/53/54, July 4, 2023, para. 30; CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, paras. 15 and 25; Amnesty International, *Amnesty International Report 2022/23: The state of the world's human rights*, 2023, pp. 473 and 474.

¹⁹⁰ IACHR, *2021 Annual Report. Chapter IV.B. Venezuela*, para. 179; IACHR, *2022 Annual Report. Chapter IV.B. Venezuela*, para. 92. The Office of the United Nations High Commissioner for Human Rights and the CEDAW have expressed similar concerns. See: OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights A/HRC/53/54, July 4, 2023, para. 31; CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela

According to data published by the Attorney General on social media, since 2018, at least 628 women have been murdered by men with whom they had had a close relationship. One thousand two hundred and eight indictments for these crimes were issued during the same period, and 340 requests for arrest warrants were filed.¹⁹¹ In addition, according to data gathered by the civil society, it is estimated that 184 femicides and 100 attempted femicides were committed between January 1 and August 31, 2023.¹⁹²

115. The situation of violence faced by women and girls in rural areas near the borders with Brazil and Colombia, in particular in the states of Zulia, Bolívar and Amazonas, was worsened by the actions of armed and criminal groups present in the region and involved in drug trafficking and illegal extraction activities. Reports showed that these persons, in particular indigenous women and residents of rural areas, were victims of femicides, disappearances, sexual violence and contemporary forms of slavery, such as sexual and labor exploitation by human trafficking networks.¹⁹³

116. In addition, women who live near mining areas, especially indigenous women, are at risk of contamination by heavy metals used in extractive activities, such as gold and cyanide mining, which jeopardizes their health.¹⁹⁴

117. Furthermore, deficiencies in the healthcare system have led to high mortality rates in the country.¹⁹⁵ This is caused by the lack of access to sexual and reproductive health goods and services¹⁹⁶ and by the limitations on the access to contraceptives and essential drugs for pregnant women,¹⁹⁷ as well as by insufficient health services and menstrual hygiene products for women deprived of liberty.¹⁹⁸

118. In the same vein, the persistent and almost absolute criminalization of persons who seek to voluntarily terminate a pregnancy, which is only allowed exceptionally in cases where the life of the pregnant woman is at risk,¹⁹⁹ together with the lack of abortion and post-abortion medical protocols,²⁰⁰ created significant risks to the life and health of persons with gestational capacity. Additionally, the challenges for the implementation of comprehensive sexual education and gender equality programs in schools persisted, which is linked to the high dropout rates of girls and adolescents due to pregnancies.²⁰¹

[CEDAW/C/VEN/CO/9](#), May 31, 2023, para 25.d). See also: Amnesty International, *Amnesty International Report 2022/23: The state of the world's human rights*, 2023, pp. 473 and 474.

¹⁹¹ Office of the Public Prosecutor of Venezuela X account (@MinpublicoVEN), [July 31, 2023](#).

¹⁹² CEPAZ National Femicide Observatory, [Monitoreo de femicidios enero-julio 2023](#), n/d, and [Monitoreo de femicidios agosto 2023](#), retrieved on October 1, 2023. In addition, UTOPIX, a non-governmental organization, recorded 139 femicides during the same period. Utopix, ["agosto de 2023: Son 18 femicidios en Venezuela para un total de 139 casos en ocho meses."](#) September 21, 2023.

¹⁹³ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, paras. 19 and 27; OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights [A/HRC/53/54](#), July 4, 2023, paras. 23 and 27; Fundaredes, ["Mujeres indígenas y de zonas rurales son víctimas de violencia por grupos armados irregulares en territorio venezolano."](#) Bulletin No. 45, July 20, 2023; *Noticia al Día*, ["Con mayor incidencia de homicidios en Zulia: Denuncian aumento de acciones delictivas en estados fronterizos."](#) March 16, 2023.

¹⁹⁴ OHCHR, *Situation of human rights in the Bolivarian Republic of Venezuela*. Report of the United Nations High Commissioner for Human Rights [A/HRC/53/54](#), July 4, 2023, para. 13; CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela, [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 37.

¹⁹⁵ According to the most recent report published by the United Nations Population Fund (UNFPA), Venezuela was among the eight countries and territories with the largest maternal mortality rate increase in the world between 2000 and 2020. UNFPA, *State of World Population 2023*, n/d, pp. 16 and 39.

¹⁹⁶ IACHR, *2021 Annual Report. Chapter IV.B. Venezuela*, paras. 158 and 184; IACHR, *2022 Annual Report. Chapter IV.B. Venezuela*, para. 94.

¹⁹⁷ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 37; Amnesty International, *Amnesty International Report 2022/23: The state of the world's human rights, 2023*, p. 473.

¹⁹⁸ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 49.

¹⁹⁹ IACHR, *2021 Annual Report. Chapter IV.B. Venezuela*, para. 184.

²⁰⁰ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 37; Amnesty International, *Amnesty International Report 2022/23: The state of the world's human rights, 2023*, p. 473.

²⁰¹ CEDAW, Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela [CEDAW/C/VEN/CO/9](#), May 31, 2023, para. 33.

Refugees, migrants and persons from Venezuela in need of international protection

119. In line with the foregoing, the Commission noted that the main factors that triggered the unprecedented forced displacement of the Venezuelan population within and outside the Americas remain unchanged. According to the most recent figures from the Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V Platform), as of August 2023, there were 7,710,887 refugees, migrants and asylum seekers from Venezuela, out of which 6,527,064 were in Latin America and the Caribbean.²⁰²

120. The main receiving countries for Venezuelan nationals in human mobility were Colombia, which recorded 2.89 million persons in 2023; Peru, with 1.54 million; and Brazil, with 477,500. In addition, according to the most recent figures from the United Nations High Commissioner for Refugees (UNHCR), by the end of 2022, there were 230,393 Venezuelan refugees in the world, as well as 1,137,162 asylum seekers and a total of 5,217,456 persons in need of international protection.²⁰³

121. According to the R4V Platform, the impact of the Covid-19 pandemic and the global cost of living are among the factors that have contributed to an environment in which Venezuelan nationals have limited access to livelihoods and to integration opportunities, despite the efforts of the countries of destination to grant international protection to refugees and implement migratory regularization and socio-economic integration processes.²⁰⁴ This was compounded by a price growth acceleration process in Venezuela: according to the Venezuelan Finance Observatory, the interannual inflation rate was 422 percent as of August 2023.²⁰⁵

122. This mass migration cycle which, in the case of persons with fewer economic resources, took place by land, was combined with challenges during transit. As a result of the barriers imposed by other States to discourage the entry to their territories, Venezuelans increasingly turned to human smuggling networks and irregular routes to avoid stricter border control measures, which exponentially increased risks and promoted potential human rights violations.²⁰⁶

123. Once in the countries of destination, Venezuelan nationals reported food insecurity and lack of access to employment. They also recounted their need for adequate housing, since many of them were reportedly living in overcrowded conditions, with limited access to water, sanitation and hygiene. Children and adolescents also faced difficulties to access education.²⁰⁷ Furthermore, they reported challenges related to discrimination, xenophobia, violence and the failure to mitigate learning gaps due to low literacy and numeracy levels. In addition, language barriers represent a significant challenge in some countries in the region.²⁰⁸

124. Access to a regular migratory status in the countries of destination constituted an additional challenge for migrants. According to 2023 figures, one out of every three refugees and migrants in the region were living irregularly, which subjected them to exclusion and vulnerability, as well as to situations of precariousness, discrimination and insecurity.²⁰⁹ In particular, this resulted in an exponential risk of statelessness for children and adolescents who were born in transit or in countries of destination, especially in States whose regulations impose legal and/or practical barriers to naturalization.²¹⁰

125. In addition to these challenges, Venezuelan nationals faced difficulties in accessing identification and/or travel documents proving their nationality, which created practical obstacles to obtaining a regular migratory status. Changes in bureaucratic procedures, supply shortages, the suspension of consular

²⁰² R4V Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela, [R4V Latin America and the Caribbean. Venezuelan Refugees and Migrants in the Region](#), August 31, 2023.

²⁰³ UNHCR, Refugee Data Finder, "[Venezuela statistics](#)," December 31, 2022.

²⁰⁴ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 14.

²⁰⁵ Venezuelan Finance Observatory, "[August 2023: la inflación fuera de control](#)," September 5, 2023.

²⁰⁶ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 17.

²⁰⁷ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 26.

²⁰⁸ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 36.

²⁰⁹ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 26.

²¹⁰ UNHCR and Facultad de Derecho Alberto Hurtado, [El riesgo de apatridia en movimientos mixtos sucesivos](#), August 2023.

services in some countries and the inability to run errands from abroad, caused by the political crisis, economic instability and the lack of resources, have hindered the possibility to obtain or renew essential documents.²¹¹

126. Although various regularization and documentation initiatives had been implemented which have guaranteed access to vital rights and services for these people, the International Organization for Migration (IOM) emphasized that the international community needed to continue protecting them and investing in their host communities.²¹² Similarly, the UNHCR and the IOM have called upon ensuring access to regularization mechanisms for Venezuelan refugees and migrants, and they have underscored that said mechanisms were the best way to foster inclusion in host countries, as well as to ensure access to documentation, promote their integration and prevent the increase of movements along dangerous migratory routes in the Americas.²¹³

127. The aforementioned challenges in host countries have led to an increase in the mass and continuous movements of Venezuelan nationals from one country to the other in search of asylum or settlement.²¹⁴ Although these movements had been first observed at the end of 2020, they escalated in an unprecedented and multidirectional manner during 2023, and with an increasing tendency towards the north, mainly aimed at Central and North America.²¹⁵

128. The Inter-American Commission emphasizes that the State needs to address the causes of migration and, in particular, to reestablish democracy and the Rule of Law. Furthermore, the Commission urges other States in the region to coordinate efforts to protect Venezuelan nationals moving through their territories. Finally, the Commission reiterates the need to adopt a complementary approach between the mechanisms for legal status regularization (migratory statutes) and international protection statutes, based on access to rights and comprehensive and durable solutions for Venezuelan nationals in the context of human mobility.²¹⁶

Persons deprived of liberty

129. The situation of persons deprived of liberty in Venezuela stands out as one of the most serious in the region. In particular, this is a result of the persistent lack of updated official statistics, the existence of two prison systems, overcrowding and the excessive use of preventive detention. In addition, deplorable detention conditions have been reported, as well as acts of torture and ill-treatment. This situation has led to an increase in the risks faced by LGBTI persons and those detained for political reasons, as detailed previously, especially considering the complete deterioration of the Rule of Law and the persecution carried out by the State.

Duality of prison systems

130. One of the main challenges faced by persons deprived of liberty in Venezuela is the existence of a dual prison system. The official system, which, by the end of 2022, housed 33,558 people in 45 detention centers run by the Ministry of Popular Power for the Penitentiary Service (MPPSP),²¹⁷ and a parallel system,

²¹¹ IACHR, [2022 Annual Report](#). Chapter IV.B. Venezuela.

²¹² International Organization for Migration, [“Venezuelan Refugees, Migrants, and Their Hosts Need Help to Chart a Brighter Future.”](#) March 14, 2023.

²¹³ UNHCR and IOM, Joint Press Release, [“Regularization and integration are key to addressing human mobility in the Americas.”](#) May 31, 2023.

²¹⁴ UNHCR and Facultad de Derecho Alberto Hurtado, [El riesgo de apatridia en movimientos mixtos sucesivos](#), August 2023.

²¹⁵ R4V, [RMNA 2023 Refugee and migrant needs analysis](#), September 2023, p. 14.

²¹⁶ IACHR, [Guía Práctica Protección internacional y regularización de la condición legal en el contexto de movimientos mixtos a gran escala en las Américas](#), April 1, 2023.

²¹⁷ Venezuelan Prison Observatory (OVP), [Informe Anual 2022](#), 2023, p. 20.

composed of approximately 500 preventive detention spaces or *calabozos*,²¹⁸ which allegedly housed 35,000 people as of March 2022.²¹⁹

131. The Commission emphasizes that it has repeatedly been unable to access official data on the population deprived of liberty in 2023. However, the civil society reported that there had been no significant changes in data compared to 2022 and that the State continued its practice of holding persons in pretrial detention spaces. In some cases, people had been detained for more than 10 years in facilities which are not suitable to house persons for more than 48 hours.²²⁰

132. In this regard, the Commission recalls that the State must adopt the necessary legislative measures and structural reforms so that detention at police facilities is used as little as possible, only until a judicial authority determines the legal situation of the person under arrest.²²¹

Overcrowding

133. Although the number of persons detained decreased by 4.5 percent,²²² according to the most recent information of the Venezuelan Prison Observatory (OVP), there were 33,558 people detained in prisons in 2022, while the capacity of prison facilities is 20,438 people.²²³ These figures indicate that the level of overpopulation reaches 64 percent. This situation is more serious in the Penitentiary Center of the state of Aragua, the Anzoátegui Judicial Confinement Center, the Rodeo II Capital Region Judicial Confinement Center and the Rodeo III Capital Region Judicial Confinement Center, where overpopulation levels have reached 281 percent, 230 percent, 220 percent and 202 percent, respectively.²²⁴

134. The Commission reiterates that overcrowding of persons deprived of liberty in itself could constitute a form of cruel, inhuman or degrading treatment, and therefore a violation of the right to personal integrity and other internationally recognized human rights.²²⁵ In this regard, the Commission urges the State of Venezuela to adopt urgent measures to reduce overcrowding in detention centers across the country, starting with those whose overpopulation levels are higher than 200 percent.

The use of pretrial detention

135. One of the causes of the increased levels of overcrowding is the excessive use of pretrial detention as a precautionary measure in the country. According to information provided by the civil society, out of the 33,558 people in detention centers, 17,825 were in pretrial detention, representing 53 percent of the detained population.²²⁶

136. In addition to this, according to the most recent report of the Independent International Mission, there were several instances in which people had been held in pretrial detention in the headquarters of the Bolivarian National Intelligence Service and the General Directorate of Military Counterintelligence, as well as in other places of detention across the country, for longer periods than those permitted by law. Likewise, the information gathered showed that, even after a judge had ordered the immediate release of individuals, prison directors had refused to do so on the grounds that authorizations from the MPPSP were pending. This

122. ²¹⁸ IACHR, [2021 Annual Report. Chapter IV.B. Venezuela](#), para. 202, and IACHR, [2022 Annual Report. Chapter IV.B. Venezuela](#), para. 122.

²¹⁹ World Prison Brief, [World Prison Brief data – Venezuela](#), 2023.

²²⁰ Venezuelan Prison Observatory, [Informe Anual 2022](#), 2023, p. 102.

²²¹ IACHR, [Report on the Use of Pretrial Detention in the Americas](#), para. 257.

²²² Specifically, there were 33,710 people in detention centers in 2021, a figure that decreased to 33,558 persons in 2022. See, in this regard: Venezuelan Prison Observatory, [Informe Anual 2022](#), 2023, p. 20.

²²³ Venezuelan Prison Observatory (OVP), [Informe Anual 2022](#), 2023, p. 35.

²²⁴ See, in this regard: Venezuelan Prison Observatory, [Informe Anual 2022](#), 2023, p. 36.

²²⁵ IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II, Doc. 46/13, approved on December 30, 2013, para. 290 (hereinafter “the report on the use of pretrial detention in the Americas.”)

²²⁶ Venezuelan Prison Observatory, [Informe Anual 2022](#), 2023, p. 27.

pattern has disproportionately affected persons deprived of their liberty for having opposed the government.²²⁷

137. Accordingly, the Commission recalls that the application of pretrial detention must be based on consideration of the right to presumption of innocence and must take into account the exceptional nature of this measure. Moreover, it should be applied in keeping with the criteria of legality, necessity and proportionality.²²⁸ In addition, a person must not be held in pretrial detention for longer than the State can appropriately justify its need; otherwise, the denial of liberty becomes arbitrary.²²⁹

Other problematic issues

138. In general, detention conditions faced by persons deprived of liberty in Venezuela have been marked by overcrowding, self-government, corruption, intraprison violence, food shortages, lack of trained staff and lack of access to drinking water and medical care. The lack of updated information (except for the limited information received on the detention of women and LGBTI persons, and on those deprived of liberty for political reasons) makes it impossible for the Commission to determine whether these issues improved or worsened in 2023.

139. According to a report published by the OVP, prison conditions for women in Venezuela showed significant problems in 2023. Among the 2,560 women who are deprived of liberty in the country, there are 82 foreigners who are detained in spaces described as “improvised” and without an adequate gender approach. Most women’s facilities are annexes within prisons for men, which impacts the welfare and specific needs of incarcerated women. Critical overcrowding, which has reached 187.14 percent, is one of the main issues, together with the lack of medical care, especially for women with children, and the absence of adequate maternity spaces inside prisons.²³⁰

140. During the 187th regular period of sessions held in July 2023, the Commission held a hearing on the human rights situation of LGBTI persons deprived of liberty. The organizations that requested the hearing reported that these persons were in a situation of extreme vulnerability due to the precariousness of their detention conditions, which are compounded by structural discrimination based on their sexual orientation, identity and/or gender expression.²³¹

141. According to the information provided by the civil society, no detailed statistics on LGBTI persons had been prepared during that year. The absence of information prevents the creation of policies and specific records, resulting in discrimination against LGBTI persons and in their exclusion from official data, and in the persistence of discriminatory practices in the prison system. In addition, as a consequence of the lack of information, no adequate regulations were implemented to protect LGBTI persons. For example, they were not placed in separate areas. As a result, trans women have been placed next to men and gay men in punishment cells, thus aggravating their situation of vulnerability.²³²

142. In particular, trans, non-binary and gender-diverse individuals face significant challenges in detention centers since prison facilities are not adequately prepared to accommodate people according to their gender identities. Trans persons are frequently assigned to centers based on the sex stated in their identity documents, without considering their gender identity. In addition, the Commission received information about

²²⁷ United Nations Human Rights Council, [Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela](#) A/HRC/54/57, September 18, 2023, paras. 37 and 38.

²²⁸ IACHR, [Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#) OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 231. Recommendation A “General measures related to matters of state policy,” para. 1 (hereinafter “the report on measures aimed at reducing the use of pretrial detention in the Americas.”)

²²⁹ IACHR, [Report on the Use of Pretrial Detention in the Americas](#), para. 159.

²³⁰ Venezuelan Prison Observatory, [“Las mujeres en prisión son discriminadas desde su detención.”](#) April 12, 2023.

²³¹ IACHR, 187th regular period of sessions, public hearing [“Human rights situation of LGBTIQ+ persons deprived of liberty in Venezuela.”](#) held on July 14, 2023. Information provided by the Venezuelan Prison Observatory.

²³² IACHR, 187th regular period of sessions, public hearing [“Human rights situation of LGBTIQ+ persons deprived of liberty in Venezuela.”](#) held on July 14, 2023. Information provided by the Venezuelan Prison Observatory.

the grim reality faced by these individuals who need to hide their sexual orientation or gender identity to avoid attacks and stigmatization from other inmates and from prison authorities.²³³

143. The challenges that LGBTI persons face in accessing respectful health services are evidenced by the obstacles they encounter to receive hormone therapy and medical care for specific diseases such as the human immunodeficiency virus (HIV). Even those persons who had previously benefited from HIV antiretroviral drugs stopped receiving their treatment during the Covid-19 pandemic and currently have no access to services to assess their health condition. In addition, LGBTI persons faced an increased risk of physical and verbal violence from other inmates. With regard to conjugal visits, although every detained person is entitled to them, the LGBTI population encountered obstacles to the exercise of this right due to the context of discrimination and lack of awareness among prison staff,²³⁴ as well as absence of regulations protecting their relationships.²³⁵

Lesbian, gay, bisexual, trans and intersex (LGBTI) persons

144. LGBTI persons do not only face challenges related to discrimination based on sexual orientation and/or gender identity in the prisons across the country. These persons experienced high levels of violence and discrimination in 2023, which, according to public information, resulted in at least 60 cases of attacks against LGBTI persons during the first three months of the year.²³⁶ At the same time, the preliminary report of País Plural showed that, out of a sample of 555 LGBTI persons, 28.11 percent reported that they had been subjected to violence by state agents, 25.89 percent stated that they had been excluded from employment opportunities, and 20.27 recounted that they had faced discrimination by health professionals.²³⁷

145. For instance, on July 23, 2023, the Bolivarian National Police (PNB) carried out an operation in a private venue frequented by LGBTI persons in the state of Carabobo and arrested 33 gay and sexually diverse men. During the operation, the detainees were photographed, and pictures of them and their identity cards were published in various media outlets. Thirty of these individuals were released under the condition that they appeared periodically before a court, while three remained in custody for 10 days.²³⁸

146. Although the operation was allegedly prompted by noise-related complaints from neighbors, human rights defenders claimed that the arrests had been motivated by prejudice and discrimination against these persons based on their sexual orientation. The operation took place in a context of great vulnerability of LGBTI people in Venezuela, who are at the mercy of arbitrary measures or abuses of authority from state security agents based on prejudice against their non-normative sexual orientation or gender identity.²³⁹

147. The Commission recalls that criminalizing sexual relations between consenting adults of the same sex, whether through laws or the actions of security and justice bodies, runs counter to inter-American and universal human rights standards. Similarly, the principles of due diligence require that information relating to the sexual orientation, gender identity and/or gender expression of people under investigation be handled with strict control of their privacy to ensure respect for the dignity and rights of all people involved.²⁴⁰

²³³ See, in this regard: IACHR, [2022 Annual Report. Chapter IV.B. Venezuela](#), paras. 121, 127-133. In addition, see: IACHR, 187th regular period of sessions, public hearing [“Human rights situation of LGBTIQ+ persons deprived of liberty in Venezuela.”](#) held on July 14, 2023. Information provided by the Venezuelan Prison Observatory.

²³⁴ IACHR, 187th regular period of sessions, public hearing [“Human rights situation of LGBTIQ+ persons deprived of liberty in Venezuela.”](#) held on July 14, 2023. Information provided by the Venezuelan Prison Observatory.

²³⁵ IACHR, 187th regular period of sessions, public hearing [“Human rights situation of LGBTIQ+ persons deprived of liberty in Venezuela.”](#) held on July 14, 2023. Information provided by the Venezuelan Prison Observatory.

²³⁶ *Infobae*, [“Denuncian que Venezuela está rezagada en materia de derechos de la comunidad LGBTQ+.”](#) June 29, 2023.

²³⁷ Venezuelan Observatory of LGBTIQ+ Violence, [“Nuestra Comunidad presentó datos preliminares sobre las condiciones de vida de las personas LGBTQ+ en Venezuela.”](#) September 27, 2023; Tu País Plural, [“Nuestra Comunidad comparte datos preliminares de personas LGBTQ+ en Venezuela.”](#) September 22, 2022.

²³⁸ Washington Office for Latin America (WOLA), [“Justicia para los 33 en Venezuela: ser LGBTI+ no es delito.”](#) August 3, 2023.

²³⁹ Washington Office for Latin America (WOLA), [“Justicia para los 33 en Venezuela: ser LGBTI+ no es delito.”](#) August 3, 2023.

²⁴⁰ IACHR, Press Release No. 176/23, [“IACHR Urges Venezuela to Refrain from Criminalizing LGBTI People.”](#) August 7, 2023.

148. In this regard, the Inter-American Commission urges Venezuela to respect human rights and cease criminalizing LGBTI people, in strict compliance with the principles of equality and nondiscrimination. The Commission also calls on the State to guarantee the principle of legality and to ensure that people are released if no crime was committed and no charges were brought against them. Finally, the Commission urges the authorities to refrain from publicly humiliating the accused and to ensure strict compliance with due diligence standards.²⁴¹

149. Moreover, Article 565 of the Organic Code of Military Justice, which criminalized same-sex relations, was repealed this year.²⁴² This development improves the lives of LGBTI people, since the existence of said laws contributes to preserving a social environment in which discrimination and violence against LGBTI persons are understood to be tacitly permitted or tolerated.

Indigenous peoples

150. The Inter-American Commission remains concerned about the human rights situation of indigenous peoples, in particular with regard to the guarantee of their ESCERs, as well as to the impact of illegal mining on their territories and to the military operations to dismantle this practice. According to estimations, illegal mining practices affected 38 Venezuelan indigenous peoples in 2023.²⁴³

151. The situation of the Yanomami people, who live both in the Brazilian and the Venezuelan territories, is of particular concern. According to information provided by the State of Brazil, 570 Yanomamis have died in the last four years and at least 30,400 have suffered from malaria. In addition, the people who are part of this indigenous group and move repeatedly between the borders of Brazil and Venezuela are constantly at risk of suffering from food insecurity and medical conditions.²⁴⁴

152. Various indigenous peoples have historically practiced artisanal mining in states such as Amazonas. However, since the Covid-19 pandemic, there has been an increase in illegal mining both by persons who invade their territories and by foreign gangs from Colombia and Brazil (known as *garimpeiros*) engaged in this practice.²⁴⁵ As of August 2023, 70 illegal mining hotspots had been identified, and 934 hectares had been deforested in lands belonging to the Yek'wana people.²⁴⁶

153. In September 2023, the State of Venezuela conducted large-scale military operations to dismantle gangs involved in illegal mining. According to information provided by civil society organizations, three indigenous persons died during this operation, reportedly as a result of the action of the armed forces.²⁴⁷ In addition, according to the information available to the Commission, the State has promoted the militarization of the south part of the country as a measure to strengthen state control over mining activities in the area. As a result of this policy, the levels of violence in the region have increased and clashes, acts of corruption²⁴⁸ and murders have been recorded, particularly in the municipality of Gran Sabana, Bolívar.²⁴⁹

²⁴¹ IACHR, Press Release No. 176/23, "[IACHR Urges Venezuela to Refrain from Criminalizing LGBTI People](#)," August 7, 2023.

²⁴² OHCHR, "[UN High Commissioner for Human Rights Volker Türk concludes official mission to Venezuela](#)," January 28, 2023.

²⁴³ Foro Penal, "[Venezuela: en los estados de Amazonas y Bolívar, 38 pueblos indígenas son afectados por la minería ilegal](#)," September 15, 2023.

²⁴⁴ IACHR, Press Release No. 015/23, "[IACHR and Its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Stress That Brazil Must Ensure the Survival of the Yanomami People](#)," February 8, 2023.

²⁴⁵ Mongabay, "[Venezuela: monitoreo satelital detecta 70 focos de minería ilegal y 934 hectáreas deforestadas en territorio ye'kwana y sanema](#)," August 1, 2023.

²⁴⁶ Foro Penal, "[Venezuela: en los estados de Amazonas y Bolívar, 38 pueblos indígenas son afectados por la minería ilegal](#)," September 15, 2023.

²⁴⁷ Foro Penal, "[Venezuela: en los estados de Amazonas y Bolívar, 38 pueblos indígenas son afectados por la minería ilegal](#)," September 15, 2023.

²⁴⁸ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela* [A/HRC/51/43](#), September 20, 2022, para 85.

²⁴⁹ United Nations Human Rights Council, *Detailed findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela: The human rights situation in the Arco Minero del Orinoco region and other areas of the Bolívar state*

154. The Commission reiterates the State's obligation to investigate and punish acts of violence against indigenous peoples with a culturally responsive approach. It also underscores the importance of taking decisive measures to address the risk and threat factors they face, especially in relation to the guarantee and protection of their lands and territories within the context of the activities, plans or projects they carry out therein.

155. Finally, the Commission reiterates that, in accordance with the international obligations of the State, both in terms of the inter-American²⁵⁰ human rights system and the universal²⁵¹ human rights system, the presence of military forces in indigenous territories must be agreed upon in advance with the indigenous peoples in question through effective consultations and appropriate procedures with their representative institutions.

Afro-descendant persons

156. The State has recognized the contributions of Afro-descendant persons in international entities, such as the United Nations Permanent Forum on People of African Descent.²⁵² However, the Commission observes that there is no public detailed information about the situation of Afro-descendant persons in Venezuela and the challenges to their rights.

157. A study prepared by the civil society and published in 2023 revealed a lack of attention to the specific experiences of Venezuelan Afro-descendant migrants from a rights-based and intersectional perspective. Out of a sample of 3,285 migrants in Colombia, six percent identified themselves as Afro-descendant, mainly in the cities of Cúcuta (10.5 percent), Santa Marta (4 percent) and Barranquilla (3.5 percent). This sample included a considerable proportion of women between 27 and 35 years of age.²⁵³ The study found that racism, gender discrimination and xenophobia in the workplace are closely related, and that this has a differentiated impact on migrant Afro-descendant women and has exposed them to gender-based violence in the workplace.²⁵⁴

158. The Commission reaffirms the need for the State of Venezuela to implement public policies with an intersectional perspective, including factors such as ethnic-racial origin, age, gender, migratory status, socioeconomic condition, among others, in order to eradicate structural patterns of racial discrimination.

VI. CONCLUSIONS AND RECOMMENDATIONS

159. The Inter-American Commission has emphasized that, during 2023, Venezuela continued to face significant challenges in respecting and ensuring human rights. The main obstacle to solving the serious crisis in the country is the lack of a democratic institutional framework guided by the separation and balance of the branches of government.

160. The continued absence of a system of checks and balances, as well as the deterioration of the Rule of Law, has led the Venezuelan government to impose a systematic state policy of repression and intimidation against persons or organizations that express their disagreement with the government or are perceived as opponents.

A/HRC/51/CRP.2, September 20, 2022, para. 165; United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, [A/HRC/51/43](#), September 20, 2022, paras. 91-102.

²⁵⁰ IACHR, Right to self-determination of Indigenous and Tribal Peoples, 2021, para. 187; Cf. [American Declaration on the Rights of Indigenous Peoples AG/RES.2888 \(XLVI-O/16\), 2016, art. XXX.4.5.](#)

²⁵¹ [United Nations Declaration on the Rights of Indigenous Peoples](#), 2017, art. 30.

²⁵² *Prensa Latina*, "Venezuela ratifica defensa de pueblos afrodescendientes," May 10, 2023.

²⁵³ Race and Equality, Report: [Situación de la población afrovenezolana en contextos migratorios en Colombia: Análisis y recomendaciones para la aplicación del enfoque étnico-racial](#), 2023, p. 29.

²⁵⁴ Race and Equality, Report: [Situación de la población afrovenezolana en contextos migratorios en Colombia: Análisis y recomendaciones para la aplicación del enfoque étnico-racial](#), 2023, p. 83.

161. With regard to the structured repression policy, the State has failed to adopt effective measures to guarantee that victims of serious human rights violations, such as extrajudicial executions, torture and forced disappearances, have access to justice. The impunity for serious violations committed in previous years, especially since 2017, has persisted and created major accountability gaps.

162. In addition to the systematic persecution against the opposition, state institutions have implemented discriminatory procedures to access public office. The incumbent authorities have benefited from the absence of a system of checks and balances to implement administrative disqualifications and criminal proceedings to prevent members of the opposition from running for public office. These restrictions against political rights infringe the American Convention on Human Rights and other international treaties and standards.

163. In addition, the civic space continued to shrink as a result of the restrictions to the freedoms of expression, association and peaceful assembly, which has limited the involvement of human rights defenders, social movements and political parties that are critical of the government in matters of public interest. This policy has been designed to discourage any expression of political opposition, whether real or perceived.

164. Institutional deterioration has resulted in limited access to economic, social, cultural and environmental rights (ESCERs), causing a mass displacement of people on an unprecedented scale in the region. According to estimations, 7,320,225 persons have abandoned Venezuela since 2015 seeking to protect fundamental rights, such as the rights to food and health.

165. The Commission has closely monitored the dialogue initiatives between the government and the Unity Platform, a coalition of several opposition parties. Although the Commission welcomes these efforts to reach agreements, it underscores the need for concrete measures to ensure the political participation of all sectors, with gender parity and free from discrimination, as well as accountability for the human rights violations committed.

166. The Inter-American Commission reiterates its offer to collaborate with the State and the Venezuelan society as a whole in order to ensure effective compliance with the recommendations contained in this report and thus contribute to strengthening the defense and protection of human rights.

167. Additionally, the Commission reaffirms its interest and willingness to visit Venezuela, and it therefore formally requests the consent of the State.

Position of the State vis-à-vis the inter-American system

1. Fully comply with the decisions and recommendations of the inter-American human rights system, including those set out in the 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022 annual reports. In addition, comply with the recommendations put forward in reports such as *Democratic Institutions, the Rule of Law and Human Rights in Venezuela* (2017), *Democracy and Human Rights in Venezuela* (2009) and *Report on the Situation of Human Rights in Venezuela* (2003).

Democratic institutions

2. Restore the constitutional order, guaranteeing:
 - i. the independence of powers and a system of checks and balances for the branches of government

- ii. political participation of the entire population without repression or discrimination and
 - iii. effective citizen control over the actions of the different branches of the State.
- 3. Ensure that the provisions relating to the state of emergency are used in situations of extreme seriousness and exceptional nature and are rigorously and reasonably adapted based on the needs of the situation in question.
- 4. Promote mechanisms of dialogue between different political stakeholders and the civil society aimed at urgently reconstructing the democratic institutions of the country.

Administration of justice and judicial independence

- 5. Adopt urgent measures to:
 - i. significantly reduce the number of provisional judges and increase the number of tenured judges
 - ii. ensure that judges can only be removed through a disciplinary process that respects the guarantees of due process of law and that is duly grounded and
 - iii. provide guarantees for the stability of judges in office, especially through public selection processes with transparent appointment procedures.
- 6. Take the necessary measures, including legislative measures, so that civilians are not investigated, prosecuted and/or tried by the military criminal jurisdiction, and, if necessary, redirect the ongoing proceedings to the ordinary courts.

Political rights and participation in public life

- 7. Overturn the administrative measures that restrict political rights, including those imposed by the Office of the Comptroller General of the Republic.
- 8. Adapt the domestic regulatory framework to ensure that the Office of the Comptroller General of the Republic cannot institute proceedings or impose removal or disqualification sanctions against persons holding elected office in accordance with governing inter-American standards on the subject.
- 9. Refrain from making illegal or arbitrary detentions, and, in the event that a person is deprived of liberty, ensure that all due process of law guarantees are met, including that persons are to be brought promptly before an independent judicial authority, so as to avoid enforced disappearances, torture and other cruel and inhuman treatment.
- 10. Remove regulatory obstacles to the legitimate exercise of the right to protest, in particular by eliminating the requirement to obtain prior authorization to hold demonstrations.
- 11. Grant journalists the maximum degree of guarantees so that they are not detained, threatened or assaulted, and so that their working materials and tools are not confiscated for practicing their profession.
- 12. Promote the amendment of ambiguous or vague criminal laws that limit freedom of expression in a disproportionate manner, such as those designed to protect the honor of ideas or institutions, or those that seek to protect national security or public peace.

13. Eliminate the use of criminal proceedings to inhibit free democratic debate on matters of public interest and the full exercise of political rights.
14. Refrain from placing restrictions on the operation of websites, blogs, applications or any other system for the dissemination of information on the Internet, electronic systems or the like, including support systems, such as ISPs, or search engines.

Violence and citizen security

15. Ensure that the use of force is in strict compliance with the principles of exceptionality, legality, necessity, proportionality, nondiscrimination and accountability.
16. Start, *ex officio* and without delay, a serious, impartial, and effective and open to public scrutiny investigation into facts related to the potentially excessive use of force.
17. Immediately and decisively adopt measures to exclude the military, armed forces and armed civilian groups from performing citizen security functions.

Poverty and ESCERs

18. Implement economic and fiscal policies with a human rights approach to combat poverty and extreme poverty, and to guarantee the ESCERs of the population, paying special attention to the most vulnerable populations and refraining from discriminatory practices.
19. Take the necessary measures to ensure that boys, girls and adolescents have access to quality health services, which include the provision of medicines, especially considering the situation of boys, girls and adolescents suffering from chronic diseases.
20. Refrain from any action or conduct that may limit the autonomy of universities, and study, review and amend any legislation or practice that undermines it.

Women

21. Adopt the necessary measures to comply with the State's obligation of due diligence in the prevention, protection, investigation, punishment, and reparation of all forms of violence against women.
22. Urgently adopt all necessary measures to ensure that a varied, accessible, and acceptable range of contraceptive and family planning methods are available, both for men and women, across the country.
23. Review domestic legislation on the voluntary termination of pregnancy, so as to ensure the effective exercise of sexual and reproductive rights of girls, women and pregnant women of all ages.

Persons deprived of liberty

24. Release all political prisoners and individuals who have been arbitrarily detained immediately.
25. Adopt the penitentiary policies necessary to:
 - i. allow sufficient access to drinking water and food in adequate quantity, quality and conditions of cleanliness, as well as access to light and appropriate ventilation, and

- ii. Guarantee adequate medical care for women and LGBTI persons, with a gender sensitive approach.
26. Ensure that detention conditions are compatible with human dignity and respect for human rights to guarantee the dignified treatment of persons in custody.

Lesbian, gay, transsexual, bisexual, intersex (LGTBI) persons

27. Implement measures to prevent violence against LGBTI persons, including effective and independent procedures to report violations.
28. Investigate and prosecute crimes against LGBTI persons with due diligence, especially when state agents, such as the police, may be responsible for the acts of violence.

Migrants, asylum seekers, refugees, beneficiaries of complementary protection, internally displaced persons and victims of human trafficking

29. Annul all measures that hinder the right of all persons to leave Venezuelan territory.
30. Guarantee the rights to legal personality and identity through the timely and unhindered issuance of identity documents (including passports, ID cards, civil registration records, as well as criminal background certificates).

Human rights defenders

31. Cease all acts of harassment and criminalization against human rights defenders.
32. Refrain from approving bills that may disproportionately restrict the right of association of civil society organizations.

Indigenous peoples

33. Produce disaggregated information on the right to health of cross-border indigenous peoples and guarantee equitable and culturally appropriate access to quality health services through health care policies and programs that respect and value the traditional practices and ancestral health care knowledge of these communities.
34. Implement all necessary measures to launch or strengthen the supervision and oversight mechanisms for relevant extractive, exploration, or development activities.
35. Ensure that every security operation aimed at dismantling illegal mining practices complies with standards concerning the use of force.

Afro-descendant persons

36. Design and publish statistical records with disaggregated data on the Afro-descendant population.

REASONED VOTE OF COMMISSIONER CARLOS BERNAL PULIDO ON CHAPTER IV.B - VENEZUELA OF THE 2023 ANNUAL REPORT

With all due respect for my colleagues and in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Commission on Human Rights ("the Commission" or "the IACHR"), I hereby submit a partial reasoned vote on certain points raised by the majority of the plenary of the Commission in Chapter IV.B-Venezuela ("the Chapter") of the 2023 Annual Report (the "Report" or the "Annual Report"). Although in this document I present my disagreements, I cannot fail to mention that I support the Commission's monitoring of the human rights situation in Venezuela.

Regarding the discrepancies, I will state in particular that Chapter IV-A on Venezuela: (i) contains considerations that pose a risk to pregnant women and ignore the integral needs of women; (ii) raises requirements not derived from the Convention, regarding so-called gender identity; (iii) openly ignores the views that the ACHR incorporated on marriage; (iv) requires more information and academic and scientific rigor regarding gender affirmation therapies and hormone treatments; and (v) has significant gaps regarding the right of parents to choose the education of their children.

1. Chapter IV-A contains considerations that pose a risk to pregnant women and ignore women's overall needs (*necesidades integrales de las mujeres*)

Paragraph 118 of the Report mentions that: "Along the same lines, the persistent almost absolute **criminalization** of persons seeking to voluntarily terminate a pregnancy, allowing exceptions only in cases where the life of the pregnant person is at risk, together with the lack of medical protocols for the provision of abortion services and postabortion care, represented greater risks to the life and health of **persons capable of becoming pregnant (with gestational capacity)**." (Bold added)

The recommendations also included "**Reviewing domestic legislation on the voluntary interruption of pregnancy, so as to guarantee the effective exercise of the sexual and reproductive rights** of girls, women, and pregnant women of all ages." (Bold added).

As regard these assertions, I will address the following issues: (i) the non-existence of the right to abortion and the State's leeway with respect to the criminalization of abortion; (ii) the lack of protection for the unborn derived from the considerations of the report; and (iii) the inadequate curtailment of women's rights.

1.1. The non-existence of the right to abortion and state leeway with respect to the criminalization of abortion

I reiterate that there are no binding sources in international law -and especially in the American Convention or other treaties that make up the inter-American system- that contemplate (i) the so-called right to abortion or (ii) alleged duties related to the decriminalization of abortion. Under this framework, states have a wide margin of configuration - by virtue of the principles of subsidiarity or complementarity and representative democracy - to take measures to protect prenatal life - which is indeed protected by the American Convention²⁵⁵- including, although it is not the only means, the use of criminal law.

Regarding the non-existence of the right to abortion, former I/A Court H.R. Judge Eduardo Vio Grossi (R.I.P.), established in his partially dissenting opinion in the judgment in the case of *Manuela et al. v. El Salvador* that:

²⁵⁵ ACHR. Article 4

"In this regard, it is indisputable that (...) **there is no inter-American or international legal norm**, whether conventional, international custom, or general principle of law, **that recognizes abortion as a right** There are only resolutions of international bodies, most of which are made up of international officials and not representatives of States, decisions which, in addition to not being binding, are not interpretative of current international law but rather reflect aspirations for it to change in the direction they suggest."²⁵⁶ (Bold added)

I emphasize that this leeway derived from the non-existence of a right to abortion and the convergence of competing rights is increased thanks to the fact that it is incumbent upon States to define punishable conducts and their consequences, and to the automatic referral that, according to the IACHR Court, Article 7.2 of the American Convention makes to domestic law in matters related to deprivation of liberty -legal exception principle (*principio de reserva de ley*).²⁵⁷

In addition, I also emphasize that the sections in which such assessments are formulated do not sufficiently support derivation of the indisputable existence, in the Inter-American System, of a clear and binding parameter that could serve as a basis for assessing abortion criminalization as negative. The conventional parameter that does exist and that is mandatory is Article 4 of the ACHR which, as I have said on other occasions, contemplates protection of the right to life from conception and demands the existence of regulatory frameworks that do not leave a fetus totally unprotected.

This is relevant if one bears in mind that, from a systematic reading of Articles 31, 76, and 77 of the American Convention, it is only through consensus -which the States express by signing and ratifying amendments or treaties- that international obligations can arise for all States, different from those already contemplated in the ACHR.

In this sense, I conclude that, in the absence of a right to abortion in the IHRS and the absence of clear rules regarding criminalization models, States have considerable leeway in this regard. I emphasize that the challenges of the States and the concerns of the Commission should reflect a more comprehensive approach that allows for the protection of the unborn child and the pregnant woman. In this sense, these discussions should lead to the revision of policies on sexual and reproductive education; support and protection for pregnant women; security, and health.

1.2. Lack of protection for the unborn derived from the report's considerations

I emphasize that the references to abortion in the Report on Venezuela ignore the other person whose right to life is also conventionally protected: the unborn person and ignore the necessary balancing that must exist between these competing rights (*derechos en tensión*). In this regard, it should be noted that pregnant women are also subjects of law and holders of the right to life.

A pronouncement on abortion always implies a position on a practice that necessarily implies the termination of the life of a dignified human being and that Article 4 of the ACHR protects, so it is necessary to expressly recognize the rights of the unborn person as part of the weighing up of considerations required in any case of abortion.

In this regard, I emphasize that Article 1.2 of the ACHR clearly establishes that, for the purposes of the Convention, a "person" is every human being.²⁵⁸ Thus, in light of the Convention, human rights are not only recognized for persons who have already been born, but must be protected for all individuals from conception, who are to be considered human beings. Moreover, the I/A Court H.R. itself, in its advisory opinion 22,

²⁵⁶ Partially Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-American Court of Human Rights, Case of Manuela et al. v. El Salvador, Judgement of November 2, 2021, (Preliminary Objections, Merits, Reparations, and Costs). Paragraph 13

²⁵⁷ I/A Court H.R. Case of Romero Feris v. Argentina. Merits, Reparations, and Costs. Judgment of October 15, 2019. Series C No. 391. Par. 77.

²⁵⁸ ACHR. Article 1.2 "For the purposes of this Convention, person means every human being."

indicated that, without being a matter open to interpretation, the term "person" is equivalent to the term "human being."²⁵⁹

In view of this, it is clear that the unborn person (*persona en gestación*) is a human being.²⁶⁰ Furthermore, the Universal Declaration on the Human Genome and Human Rights states that "the human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity. In a symbolic sense, it is the heritage of humanity."²⁶¹

The consequence of recognizing the unborn as a person as a human being is that he/she becomes a holder of rights. Thus, the ACHR establishes in the articles that develop rights the formula "Everyone (...)"²⁶². Likewise, the instruments for the protection of human rights generally recognize the ownership of rights by members of the human species, especially the right to life.²⁶³

Furthermore, in the Artaviara Murillo judgment, the I/A Court H.R. determined that "the protection of the right to life is not absolute, but gradual and incremental as the development of the fetus progresses" Which implies that without prejudice to the concepts of gradualness and incrementality (with which I take issue), the Court has already established that persons in gestation must be protected by the State in their "right to life." In the same vein, in the Cuscul Pivaral case,²⁶⁴ the I/ A Court H.R. applied the ACHR to a fetus (*persona en gestación*) and also applied Article 19 of the ACHR, thus recognizing the legal status of the fetus as a child.

In the same vein, I emphasize that the preamble of the Convention on the Rights of the Child states that the child needs protection and care both before and after birth. This implies that in light of the Convention on the Rights of the Child (CRC), the unborn child is a child in need of special care. This was reiterated in the preparatory work for the International Covenant on Civil and Political Rights²⁶⁵

In conclusion, this Chapter completely ignores the rights of the unborn, especially their right to life, recognized not only in the IHRS but also in multiple instruments of international law.

1.3. Inadequate curtailment of women's rights

I call attention to the importance of not limiting so-called sexual and reproductive rights to access to abortion. This is not only because there is no law that establishes abortion as a guarantee of those rights, but also because this vision simplifies and detracts attention from the problems faced by women in the region and, in so doing, discourages debates that promote the formulation of comprehensive and integral proposals to address the structural problems faced by women in the region.

In addition, I call attention to the fact that the report refers to "persons capable of becoming pregnant" (with

²⁵⁹ I/A Court H.R. OC-22/16. Ownership of rights of legal persons in the Inter-American Human Rights System. Advisory Opinion of February 26, 2016. Series A. No. 22, Par. 48.

²⁶⁰ Kaluger, G., and Kaluger, M., Human Development: The Span of Life, The C.V. Mosby Co., St. Louis, 1974, pp. 28-29.

²⁶¹ Universal Declaration on the Human Genome and Human Rights. Article 1.

²⁶² American Convention on Human Rights, Articles 4, 5, 7, 8, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 24, and 25.

²⁶³ International Covenant on Civil and Political Rights. Preamble, par. 3; American Convention on Human Rights, par. 3. Preamble; African Charter on Human and Peoples' Rights: Preamble, par. 6; on the Geneva Declaration Rapporteur on the Rights of Children. Preamble, par. 1; American Declaration of the Rights and Duties of Man. Article 1; Universal Declaration of Human Rights. Preamble, par. 1; Declaration of the Rights of the Child. Preamble, par. 2 European Convention on Human Rights. Preamble, par. 2

²⁶⁴ I/A Court H.R. Case of Cuscul Pivaral v. Guatemala. Judgment of August 23, 2018. "That said, the Court has indicated that extreme poverty and the lack of adequate medical care for women during pregnancy and postpartum are causes of high maternal mortality and morbidity. Therefore, States must implement appropriate health policies that allow it to provide assistance with suitably qualified personnel during births; policies to prevent maternal mortality by providing adequate prenatal and postpartum controls, and legal and administrative instruments relating to health policies that record cases of maternal mortality adequately. Thus, the Court has recognized that, by virtue of article 19, the State must assume its special position of guarantor with greater care and responsibility and take special measures focused on the principle of the best interest of the child."

²⁶⁵ "The main reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death penalty should not be applied to pregnant women was to save the innocent life of the unborn child." United Nations. General Assembly Report of the Third Committee on the Draft International Covenants on Human Rights. A/3764. P. 40.

gestational capacity), thereby defining a whole category of human beings solely by their reproductive function, generating an even more reductionist vision drawing attention away from women's rights.

On this point, I would like to take advantage of this explanation of my vote to make an appeal not only to my other colleagues on the Commission, but also to different international bodies: we cannot fall into reductionist narratives that, under the protection of women's rights -a completely legitimate and necessary purpose- end up, in fact, affecting those rights.

In this regard, I find it very troubling that the Commission focuses its efforts on scrutinizing the regulation of **States in the area of abortion**, where they have leeway and must necessarily be consistent with the protection of the right to life of the unborn child, and omits, for example, the barriers faced by women in the exercise of their maternity -conditions that in practice may be affecting their ability to make free decisions-.

2. Absence of basic requirements for recognition of the adequacy of gender identity documents.

Paragraph 142 states that "trans persons are often assigned to facilities according to the sex marked on their identity documents, rather than their gender identity."

In this regard, **on the one hand**, the American Convention does not expressly contemplate a right to gender identity, nor is there a binding instrument in the inter-American system that establishes an obligation to adapt identification documents to gender identity.

As I have indicated, recognizing new rights that are not in the Convention through an interpretation that does not follow the procedures established in the Convention itself would undermine Articles 31, 76, and 77, ignoring the original will of the States that ratified the Convention.

Therefore, any pronouncement in which any of the organs of the IHRS applies a right that is not established in the binding instruments of international law that govern its activity will be an act violating the literal meaning of the American Convention and will exceed the scope of the competencies of the IACHR or the I/A Court H.R., as the case may be. Such an irregular constitutive act would also undermine the principles of good faith and *pacta sunt servanda*.²⁶⁶

On the other hand, although I am not unaware that OC-24/17 asserted the existence of the so-called "right to gender identity" and of the obligation to adapt identification documents to gender identity in the terms indicated in this Chapter, I emphasize that the Advisory Opinions of the I/A Court H.R. are not binding in international law nor do they have the capacity to contemplate rights or obligations other than those expressly contemplated by the American Convention.²⁶⁷

I point this out, first, because Article 68 of the Convention is clear in stating that the States are obliged to comply with the decisions rendered by the Court, "in any case in which they are parties." **[TRANSLATOR: correct Spanish "hayan sean"]** This provision is of great relevance in that (i) it is the only one that refers to the legal value of the Tribunal's pronouncements and (ii) it limits the binding nature of its decisions expressly for the States party to a case, thus limiting the addressee of the obligations -the State party to a case- and the context in which the pronouncement is issued -that is, the litigation-. This position has also been supported by some doctrinal sectors (*sectores de la doctrina*) also based on the principle of State consent as the basis of conventional law.²⁶⁸

²⁶⁶ Vienna Convention on the Law of Treaties. Article 26.

²⁶⁷ I/A Court H.R. Gender identity, and equality and non-discrimination of same-sex couples. State obligations in relation to name change, gender identity, and rights derived from a same-sex relationship (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18, and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17, November 24, 2017. Series A, No. 24.

²⁶⁸ Systematization of the criticisms in: González Domínguez, p. (2017). The doctrine of conventionality control in light of the principle of subsidiarity. *Constitutional Studies* 15(1), 55-98.

Second, there is no provision establishing an extent to which the Tribunal's interpretations in the framework of the Advisory Opinions are binding. This is reinforced when Article 64 of the ACHR limits the competence of the Court to issue advisory opinions regarding the Convention or treaties of the inter-American system. Thus, if a pronouncement derived from an AO is not binding in itself, much less could it be one that addresses so-called rights or obligations not contemplated in the Convention or interpretations that are also contrary to its text.

Third, to derive obligations or so-called rights not contemplated in the Convention, based exclusively on an advisory opinion, would be, as I have already said, contrary to the principle of *pacta sunt servanda* that governs international treaty law, by virtue of which States are only bound to comply with that to which they have expressed their consent.²⁶⁹

Fourth, although the I/A Court H.R. has affirmed that advisory opinions are parameters of conventionality control,²⁷⁰ I emphasize that an open and transparent inter-American dialogue is still necessary to further discuss this position, which is not expressly derived from the American Convention. I call attention to the fact that there is still no consensus on the matter, neither in the States of the region nor in academic circles; thus, important constitutional courts still refrain from invoking the notion of conventionality control and from incorporating advisory opinions as a parameter.²⁷¹

Likewise, I note that some authors have indicated that the extension of the effects of advisory opinions could contribute to a disruption of the functions of the inter-American system and, thus, weaken it, since (i) it results in equating the decisions issued in the advisory function of the Court with the text of the convention itself,²⁷² and (ii) it blurs the differences between the jurisdictional and advisory functions of the Court. Some have even indicated that these interpretations by the Court generate legal uncertainty, since there is no certainty as to the impacts associated with the issuance of advisory opinions.²⁷³

In light of the above, given that there is no conventional right to gender identity that is binding on States, it is possible to affirm that there are no correlative obligations to recognize this right either. Hence, the non-existence of conventional law leads to one conclusion: it is not possible to require States to ensure that identity documents match gender identity.

Furthermore, I reiterate that international human rights law should not erase the biological sexes, and therefore should not erase categories with special inter-American protection, such as women. Therefore, I insist that the criterion of self-perception or self-determination of gender identity requires further debate, and that it is associated with a risk of disproportionate impacts to the detriment of persons with special protection in the inter-American system.

In this sense, it is important that the protection of women (in terms of their biological sex) also be promoted, since, as has been demonstrated in several comparative experiences, women may also run risks to their life and integrity if they do not have separate facilities for them in prisons: a rule reiterated by international human rights law. Thus, Article 5.5 of the American Convention establishes the principle of separation of places of detention for men and women and the Court has considered, based on the Convention and the pronouncements of other human rights bodies, "that all women deprived of their liberty should be housed physically separate

²⁶⁹ Vienna Convention on the Law of Treaties. Article 26.

²⁷⁰ I/A Court H.R. Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, Advisory Opinion OC-21/14 of August 19, 2014. Series A No. par. 41. 31.

²⁷¹ Ramírez, F. G. (2023). A critical look at the conventionality control Journal of Law and Social Sciences, (28), 101-142; Palacios, D. L. (2017). Inter-American conventionality control at the national level: a notion still under construction. Revista Direito e Práxis, 8, 1389-1418.

²⁷² Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. Omnia. Law and Society, 5 (1), pp. 83-116.

²⁷³ Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. Omnia. Law and Society, 5 (1), pp. 83-116.

from men and, in addition, in less restrictive and less secure wards or sections that take into account the low level of risk they represent and with sufficient space in which to meet their specific needs."²⁷⁴

3. Same-sex couples: disregard for the ACHR's views on marriage

Paragraph 143 of the report states that "with respect to conjugal visits, despite the right of detainees to receive these visits, the LGBTI population encounters obstacles to exercising this right due to the absence of regulations that protect their relationships, **such as the recognition of equal marriage**" (Bold added).

In this regard, I reiterate that there is no conventional provision that obliges States to recognize same-sex marriages. As I have mentioned on several occasions, the treaties that are part of the inter-American human rights system and grant jurisdiction to the Inter-American Commission to address contentious cases do not contemplate any obligation with respect to the recognition of marriage between same-sex couples. This lack of obligation derives from the literal wording of the American Convention, which clearly establishes that marriage is a right reserved for "men and women":

Section 2) provides, "**The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of nondiscrimination established in this Convention.**"²⁷⁵ (Bold added).

Therefore, in accordance with the hermeneutic principle that calls for a literal and good faith interpretation,²⁷⁶ the State is only obliged to recognize the right to marriage for the couples specifically mentioned in Article 17(2) of the American Convention.

It is essential to underline that, according to the jurisprudence of the International Court of Justice, the good faith interpretation of a treaty should not result in changes to the literal wording of the treaties or in inferring what is not expressly contained in the text. This approach implies that the interpreter must assume that the parties intended what is apparent from the ordinary meaning of the terms used in the international agreement.²⁷⁷ The text-centric approach to treaty interpretation is not only accepted in the field of international law, but is also highly recommended, as it is based on the only empirically verifiable evidence of state intentions: the text of the treaty itself.²⁷⁸

Following these rules of interpretation, the European Court of Human Rights has considered the conception of marriage as that concluded between a man and a woman - as established in the European Convention on Human Rights, in a provision similar to that of the ACHR.²⁷⁹ In this sense, the European Court supports the idea that there is no binding obligation for States to recognize marriage between same-sex couples, which leaves a wide margin for States to regulate on this matter.²⁸⁰ Likewise, in the words of the European Court of Human Rights:

"The Court reiterates that, according to Article 14 in conjunction with Article 8, States are free to restrict marriage only to opposite-sex couples and have some leeway ("a certain margin of

²⁷⁴I/A Court H.R. Advisory Opinion OC-29 of 2022; Bangkok Rules, supra, Rules 12 and 41.d., and Report of the United Nations Special Rapporteur on Violence against Women, Rashida Manjoo, Pathways to, conditions and consequences of incarceration for women, A/68/340, supra, par. 85.

²⁷⁵American Convention on Human Rights, Article 17.1.

²⁷⁶Vienna Convention on the Law of Treaties. Article 31.

²⁷⁷International Court of Justice. Case concerning rights of nationals of the United States of America in Morocco. France v. United States of America. ICJ Reports 1952, pp. 196-199. International Court of Justice. Interpretation of peace treaties with Bulgaria, Hungary, and Romania (Second Phase). ICJ Reports 1950, pp.229 -230.

²⁷⁸International Court of Justice. Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia), Preliminary Objections, Judgment, I.C.J. Reports 2016, pp.116-123, paras. 34-38, 46. Although the International Court of Justice did not rely exclusively on the literal criterion of interpretation, this was one of the first criteria taken into account by the Court to reject the interpretation of the Colombian party.

²⁷⁹European Convention on Human Rights. Article 12. "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

²⁸⁰ECHR. Oliari et al. v. Italy. July 21, 2015, Par. 193.

configuration”) to decide the exact nature of the legal status granted by other means of legal recognition.”²⁸¹

On this point, it is worth noting that this same approach is supported by the European Court in the cases *Orlandi v. Italy*²⁸² and *Fedotova et al. v. Russia*.²⁸³ Indeed, in both cases, the European Court held that, although States must provide mechanisms for the protection of same-sex unions, this protection does not necessarily derive from the recognition of same-sex marriages.

Within this framework, I fully agree that the leeway available to the States in this regard concerns both the form of recognition and the content of the protection to be granted to same-sex couples, **which cannot be translated into an absolute absence of protection.**

4. The need for more information and academic and scientific rigor regarding gender affirming therapies and hormonal treatments

Paragraph 143 mentioned that “Challenges in accessing respectful health services for LGBTI people **are evidenced in the obstacles to obtaining hormone treatments**” (Bold added).

In this regard, I reiterate that there is a need for the Commission to deepen these discussions with scientific arguments in order to address them comprehensively. In particular, there are studies that indicate the harm that may result from having undergone hormone treatments in adolescence.²⁸⁴

In addition, in the case of children and young people, it is essential that their capacity to consent to hormone treatments be taken into account and assessed. Indeed, it is necessary to have an in-depth discussion on the negative effects linked to these treatments and to align this information with the statements made by the Commission.

Indeed, scholars argue that there are long-term studies that show - in individuals who have undergone gender affirming or hormonal treatments - an increase in morbidity and mortality and a risk of suicide after transition.²⁸⁵

These elements cannot be ignored by the Commission; especially when this body has the mandate to promote and defend human rights in the region, including the right to health.

5. Gaps regarding parents' rights to choose their children's education

Paragraph 118 mentions “In addition to the above, challenges remained in the implementation of comprehensive sexual education and gender equality programs in schools, which is linked to the high dropout rates of girls and adolescents due to pregnancies.”

²⁸¹ ECHR. *Chapin and Charpentier vs. France*. September 9, 2016. Par. 48.

²⁸² ECHR. *Orlandi v Italy*. “The Court reiterates that States are still free, under Article 12 of the Convention as well as under Article 14 taken in conjunction with Article 8, to restrict access to marriage to different sex. The same holds for Article 14 taken in conjunction with Article 12 (see *Oliari and Others* cited above, § 193).” (Spanish text: El Tribunal reitera que **los Estados siguen siendo libres**, de acuerdo con el Artículo 12 de la Convención, así como con el Artículo 14 en conjunción con el Artículo 8, **de restringir el acceso al matrimonio a parejas de distinto sexo**. Lo mismo se aplica al Artículo 14 en conjunción con el Artículo 12.) Par. 192.

²⁸³ In this case, the Court analyzed -only- the possible violation of Article 8 of the ECHR, which refers to the right of individuals not to be subjected to arbitrary interference by the State in their private life. In the case of same-sex couples, the Court established that the lack of a legal framework allowing same-sex couples to have their relationship recognized and protected under national law may generate significant obstacles in the daily lives of these couples. Without prejudice to the foregoing, it established that the State may enjoy some leeway to determine the way in which same-sex unions are registered, which implies that this registration need not necessarily involve the notion of marriage.

²⁸⁴ “Trust the Experts’ Is Not Enough: U.S. Medical Groups Get the Science Wrong on Pediatric ‘Gender Affirming’ Care. <https://media4.manhattan-institute.org/sites/default/files/how-to-respond-to-medical-authorities-claiming-gender-affirming-care-safe.pdf>.

²⁸⁵ Levine, S.B., Abbruzzese, E. Current Concerns About Gender-Affirming Therapy in Adolescents. *Curr Sex Health Rep* 15, 113-123 (2023). <https://doi-org.ez.unisabana.edu.co/10.1007/s11930-023-00358-x>.

In this regard, I draw attention to the wording of Article 12.4 of the ACHR, which states that "**[p]arents and, where appropriate, guardians, have** the right to ensure that their children or wards **receive a religious and moral education** in accordance with their own convictions." (Bold added)

Within this framework, the content of Article 12.4, which guarantees parents the right to ensure that their children receive a moral education in accordance with their convictions, cannot be overlooked. Thus, parental disagreement with certain content should not be seen as a threat in itself, in as much as it represents a materialization not only of Article 12 of the Convention, but also, for example, of the right to freedom of expression: fundamental element of any democratic system.

According to the ECHR, the right of parents to choose their children's education, including sex education, is an aspect of the right to respect for private and family life protected by the ECHR.²⁸⁶ Therefore, sex education, like any other type of education, must be framed within the scope of protection of conventional law, recognized by international human rights law, which grants parents the right to choose the religious and moral education of their children, in accordance with Article 12.4 of the Convention.

²⁸⁶ ECHR, Kjeldsen, Busk Madsen and Pedersen, par. 53; Dojan et al, cited above, paras. 78-83.