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**VOLUME II**

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

Pedro Vaca Villarreal

Special Rapporteur for Freedom of Expression



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

**2022**

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## TABLE OF ACRONYMS AND REFERENCES

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

## CHAPTER I: GENERAL INFORMATION

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

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

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

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

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

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

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<sup>1</sup> In the area of freedom of expression, the OAS General Assembly adopted resolutions in different years reaffirming the right to freedom of expression and recognizing the important contributions of the Office of the Special Rapporteur for Freedom of Expression, as well as calling on the States to follow the recommendations of the Office expressed in the annual reports. In 2005, it adopted resolution 2149 (XXXV-O/05); in 2006, resolution 2237 (XXXVI-O/06); in 2007, resolution 2287 (XXXVII-O/07); in 2008, resolution 2434 (XXXVIII-O/08); resolution 2523 (XXXIX-O/09); in 2011, resolution 2679 (XLI-O/11). With respect to the right of access to public information, the OAS General Assembly has made several statements supporting the work of the Office of the Special Rapporteur and has urged the adoption of its recommendations. In 2003, it approved resolution 1932 (XXXIII-O/03); in 2004, resolution 2057 (XXXIV-O/04); in 2006, resolution 2252 (XXVI-O/06); in 2007, resolution 2288 (XXXVII-O/07); in 2008, resolution 2418 (XXXVIII-O/08); in 2009, resolution 2514 (XXXIX-O/09). In this resolution, the General Assembly instructed the Department of International Law to draft, with the cooperation of the Office of the Special Rapporteur, the Inter-American Juridical Committee, the Department of State Modernization and Good Governance, and with the cooperation of the member states and civil society, a Model Law on Access to Public Information and a Guide for its implementation, in accordance with international standards on the subject. In addition, in 2011, it approved resolution 2661 (XLI-O/11); in 2012, resolution AG/RES. 2727 (XLII-O/12); in 2013, resolution AG/RES. 2811 (XLIII-O/13); in 2014, resolution AG/RES. 2842 (XLIV-O/14); in 2016, it approved resolution AG/RES. 2885 (XLVI-O/16). In this resolution, it instructed the Office of the Special Rapporteur for Freedom of Expression to develop and disseminate the content of the inter-American legal framework on the right of access to information, including the Model Inter-American Law on Access to Public Information, by preparing reports on the scope of the right and the application of its principles. It also recommended that the Office of the Special Rapporteur assist member states and organize and participate in training programs for officials of national access to information authorities and justice operators.

<sup>2</sup> Summit of the Americas. Lima Commitment. "[Democratic Governance in the face of Corruption](#).". April 14, 2018.

<sup>3</sup> IACHR. Resolution 1/18. [Corruption and Human Rights](#). March 16, 2018.

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

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

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

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

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

10. The OAS General Assembly, through resolution 2991 (LII-O/22) on "Promotion and Protection of Human Rights", mandated the Office of the Special Rapporteur to prepare, within existing resources and taking into account the contributions of multiple actors and rights holders, such as States, the private sector, academia, civil society and the technical community, an inter-American report on international standards, challenges and best practices on accessibility and digital inclusion, including a component on literacy in digital civic competencies and moderation of online content, in order to guarantee and promote free and equal access, use and appropriation of the Internet and new information and communication technologies by all persons, in accordance with international obligations and norms.<sup>7</sup>

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

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

12. This part of the report summarizes in a very general way the tasks accomplished in 2022:

### **1) Individual Case System**

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

14. The proper promotion of individual petitions, in addition to providing justice in the specific case, makes it possible to call attention to paradigmatic situations that affect freedom of thought and expression, and to create important jurisprudence applicable both by the inter-American system for the protection of human

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<sup>4</sup> OAS. Resolution AG/RES. 2928 (XLVIII-O/18). [Promotion and Protection of Human Rights](#).

<sup>5</sup> IACHR. Periods of sessions. Available for consultation at: <https://www.oas.org/en/iachr/sessions/default.asp>

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

<sup>7</sup> OAS. Resolution AG/RES. 2991 (LII-O/22). [Promotion and Protection of Human Rights](#).



rights and by the courts of the countries of the region. Likewise, the system of individual cases constitutes an essential factor in the comprehensive strategy for the promotion and defense of freedom of thought and expression in the region, a strategy that the Office of the Special Rapporteur develops through the different work mechanisms offered by the inter-American system for the protection of human rights.

15. Likewise, the Office of the Special Rapporteur has advised the IACHR in the presentation before the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of important individual cases on freedom of expression<sup>8</sup>.

16. The cases decided in 2022 by the IACHR Court are the following:

**Moya Chacón et al. v. Costa Rica. Judgment of May 23, 2022.** The Inter-American Court of Human Rights issued a judgment declaring the international responsibility of the State of Costa Rica for the violation of the right to freedom of thought and expression, to the detriment of journalists Ronald Moya Chacón and Freddy Parrales Chaves.

On December 17, 2015, the journalists published an article in the newspaper "La Nación" in which they reported on alleged irregularities in the control of liquor imports to Costa Rica in the border area with Panama. One of the police officers involved in the investigation filed a complaint for libel and "defamation by means of the press", as well as a civil action for damages against the journalists, due to the alleged existence of falsehood regarding the information published. Although the journalists were not criminally convicted for the commission of a crime due to the absence of malice, they were ordered to pay, jointly and severally, five million colones as civil indemnity for moral damages. It is alleged that article 145 of the Penal Code and article 7 of the Printing Press Law, which establish the criminal offense of "libel through the press", are incompatible with the principle of strict criminal legality and the right to freedom of expression, since they do not establish clear parameters that make it possible to foresee the prohibited conduct and its elements. Although there was no criminal conviction in the specific case, it is argued that it is appropriate to analyze its legality given that the victims were subjected to a process based on said legislation and it is currently in force in Costa Rica. It is also alleged that the application of Article 1045 of the Costa Rican Civil Code, which regulates tort liability, was not in accordance with Inter-American standards.

In its ruling, the Court determined that "for the press to be able to develop its role of journalistic control, it must not only be free to impart information and ideas of public interest, but it must also be free to gather, collect and evaluate such information and ideas". The court determined that, when faced with information based on an official source, "it is not possible to oblige journalists to carry out additional verifications", nor to impose "a preferential source, according to the judge's criteria". This ruling is highly relevant because of the value given to the protection of sources and the prohibition of preferential or obligatory sources. On the other hand, the Court determined that "an excessively rigorous control over journalistic methods can produce an inhibiting effect on the work of the press".

On the other hand, the Court emphasized that the Court affirmed that, for investigative journalism to exist in a democratic society, it is necessary to leave journalists "room for error", since without this margin of error there can be no independent journalism and, therefore, no possibility of the necessary democratic scrutiny that flows from it. In addition, the Court also considered that no one may be subjected to subsequent liability for the

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<sup>8</sup> Among the cases, Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile. Judgment of February 5, 2001; Case of Ivcher Bronstein v. Peru. Judgment of February 6, 2001; Case of Herrera Ulloa v. Costa Rica. Judgment of July 2, 2004; Case of Ricardo Canese v. Paraguay. Judgment of August 31, 2004; Case of Palamara Iribarne v. Chile. Judgment of November 22, 2005; Case of Claude Reyes et al. v. Chile. Judgment of September 19, 2006; Case of Kimel v. Argentina. Judgment of May 2, 2008; Case of Tristán Donoso v. Panama. Judgment of January 27, 2009; Case of Ríos et al. v. Venezuela. Judgment of January 28, 2009; Case of Perozo et al. v. Venezuela. Judgment of January 28, 2009; Case of Usón Ramírez v. Venezuela. Judgment of November 20, 2009; Case of Manuel Cepeda Vargas v. Colombia. Judgment of May 26, 2010; Case of Gomes Lund et al. v. Brazil. Judgment of November 24, 2010; Case of Fontevecchia and D'Amico v. Argentina. Judgment of November 29, 2011; Case of González Medina and Family Members v. Dominican Republic. Judgment of February 27, 2012; Case of Vélez Restrepo and Family Members v. Colombia. Judgment of September 3, 2012; Case of Uzcátegui et al. v. Venezuela. Judgment of September 3, 2012; Case of Norin Catriman et al. (leaders, members and activist of the Mapuche indigenous people) v. Chile. Judgment of May 29, 2014; Case of Granier et al. (Radio Caracas Televisión) v. Venezuela. Judgment of June 22, 2015; Case of López Lone et al. v. Honduras. Judgment of October 5, 2015; Case of I.V. v. Bolivia. Judgment of November 30, 2016; Case of Lagos del Campo v. Peru. Judgment of August 31, 2017.

dissemination of information related to a public matter and based on material that is accessible to the public or that comes from official sources. Finally, it stressed the need that, should it be deemed appropriate to grant reparation to the person whose honor has been damaged, the purpose of such reparation should not be to punish the issuer of the information, but to restore the affected person. In this regard, States should exercise the utmost caution in imposing reparations so that they do not dissuade the press from participating in the discussion of matters of legitimate public interest.

**Flores Bedregal et al. v. Bolivia. Judgment of October 17, 2022.** The Inter-American Court of Human Rights issued a judgment declaring the international responsibility of the State of Bolivia for the forced disappearance of Juan Carlos Flores Bedregal and the violation of his rights to recognition as a person before the law, to life, to personal integrity and liberty, as well as for the violations of the rights to judicial guarantees, to access to information, to judicial protection, and to personal integrity to the detriment of Olga Beatriz, Verónica, Eliana Isabela and Lilian Teresa, family members of Juan Carlos Flores Bedregal.

On July 17, 1980, in the context of a coup d'état in Bolivia led by General Luis García Meza Tejada, military and paramilitary forces attacked and occupied the building of the Central Obrera Boliviana ("COB"). Juan Carlos Flores Bedregal was there at the time along with other people. Those present were forced to descend the stairs and leave the place with their hands up, among them Mr. Flores Bedregal, who was hit by a burst of gunfire. The representative argued that since then there has been no certain news of his whereabouts or the location of his remains. The State alleged that his death was verified. Since July 17, 1980, the Flores Bedregal sisters began the search for their brother. In the development of the process, the Flores Bedregal sisters requested information, they requested the declassification of documents from the archives of the Armed Forces, this information would have been partially declassified, but it was not delivered in a timely manner, the judicial authorities did not have access to the information at the time of issuing the sentence in October 2010. In addition, the information was sent under the warning that "the documentation is secret and inviolable", thus restricting the use that could be made of it by the judicial authorities.

The Court concluded that: (a) there was a lack of observance of due diligence with respect to the development of the investigation and criminal proceedings; (b) there was an excessive and unjustified delay in the processing of the proceedings to investigate, try and, if applicable, punish those responsible for the facts; (c) the autonomous criminal type of forced disappearance was not applied; (d) after more than four decades since the beginning of the forced disappearance of Juan Carlos Flores Bedregal, the trial and eventual punishment of those responsible is still pending; e) the State failed to comply with its duty to adopt domestic provisions or measures to protect and ensure the enforcement of the rights violated as a result of the victim's forced disappearance; and f) not all necessary efforts have been made to clarify the whereabouts of the victim or to locate his remains, in violation of the right to truth of his next of kin.

Regarding the right of access to information, the Court found that the Flores Bedregal sisters reiterated in several instances their request for access to information, without it being provided. Over several decades, the State prevented the next of kin of Juan Carlos Flores Bedregal from accessing information relevant to the clarification of his forced disappearance in the context of the coup d'état of July 17, 1980, and restricted the judicial proceedings related to such information. The Court concluded that the restriction of Article 98 of the Organic Law of the Armed Forces affects the right of access to information of the relatives of the disappeared persons, hindering their search and thus prolonging their suffering. The State did not guarantee access to information in accordance with Ministerial Resolution No. 316/09, thus affecting the right to truth.

**Leguizamón Zaván et al. v. Paraguay. Judgment of November 15, 2022.** The Inter-American Court of Human Rights issued a judgment declaring the international responsibility of the State of Paraguay for the violation of the rights to life and freedom of thought and expression to the detriment of Mr. Santiago Leguizamón Zaván and the rights to personal integrity, judicial guarantees and judicial protection to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, wife, daughter and sons of Santiago Leguizamón Zaván, respectively. The State acknowledged its international responsibility for the violation of the rights identified by the Inter-American Commission in the merits report.

On April 26, 1991, Santiago Leguizamón Zaván, a journalist with a long career in Paraguay, was murdered because of his journalistic work, he received threats on different occasions. The murder occurred in Pedro Juan

Caballero, near the border with Brazil, and an ex officio investigation was initiated that day, but the homicide remains unpunished. The Commission found that the investigation and the criminal process did not meet the standards of due diligence and reasonable time, nor did they follow a logical line of investigation. It also found a lack of due diligence and unwarranted delays in the requests for international cooperation addressed to Brazil, due to the fact that the homicide occurred in a border area and that several of the alleged perpetrators were allegedly located in that country.

In the judgment, the Court determined that the State was aware of the situation of risk in which Mr. Leguizamón Zaván found himself and did not adopt the necessary measures of protection, within the scope of its competence, to prevent that risk from being consummated. On the other hand, it found that the homicide had an individual impact on Mr. Leguizamón Zaván's right to freedom of expression, in that it prevented him from continuing to exercise his journalistic work; and that the homicide and the impunity in which the case remains had an impact on the right to freedom of expression in its collective facet, in that they had a chilling or intimidating effect on other journalists and affected society's right to be informed.

According to the Court, because Mr. Leguizamón Zaván covered news of great public interest, referring, among others, to the actions of the authorities and businessmen on issues related to the environment, timber smuggling, the situation of peasants and indigenous peoples, corruption, drug trafficking, crime and violence in the border area, the impact on the right of Paraguayan society to be informed was particularly serious. In this regard, the Court recalled that freedom of expression, especially in matters of public interest, is a cornerstone of democratic societies and that, without it, the democratic system is weakened, pluralism and tolerance are undermined, control mechanisms and citizen complaints can become inoperative and, ultimately, a fertile ground for authoritarian regimes is created. Thus, according to the Judgment, to guarantee the pluralism inherent to democratic societies, a greater circulation of reports and opinions on matters of public interest is required, guaranteeing the right of citizens to access information and ideas from a diversity of positions.

In addition, it found that the State is responsible for the violation of judicial guarantees and judicial protection, due to its failure to investigate and prosecute those responsible for the homicide within a reasonable period, and its failure to comply with its obligation to act with due diligence in the investigation.

## ***2) Precautionary Measures and Request for Provisional Measures***

17. During 2022, the Office of the Special Rapporteur collaborated in the study of 39 cases of precautionary measures, including 31 new requests for precautionary measures and 9 studies of requests in the framework of cases already open. Of this universe, 2 new precautionary measures were granted. Precautionary measures were also extended to new beneficiaries in 3 cases. Likewise, this office has collaborated with the preparation of 1 request for the extension of Provisional Measures before the Inter-American Court of Human Rights.

18. In MC 449-22 ([Resolution 24/2022](#) of June 11, 2022), the IACHR granted precautionary measures for the protection of journalist Dom Phillips and indigenous activist Bruno de Araújo Pereira in Brazil, following their disappearances on June 5, 2022, while they were conducting information and advocacy work for the rights of indigenous peoples in the Amazonian forest region of Vale do Javari, State of Amazonas. Exceptionally and as authorized by Article 25.5 of its Rules of Procedure, the IACHR granted these measures without a prior request for information from the State on the case, since the Commission considered that the immediacy of the potential harm to the rights to life and personal integrity of the beneficiaries did not admit delay.

19. In November, the IACHR extended MC 449-22 in favor of 11 members of the *União dos Povos Indígenas do Vale de Javari* in Brazil ([Resolution 59/22](#) of October 27, 2022). The IACHR identified that the beneficiaries had been harassed and threatened with death due to their work to protect the indigenous peoples of the Vale do Javari and their territory, as well as for actively participating in the search for Bruno Araújo Pereira and Dom Phillips and the demand for justice for their murders.

20. MC 652-22, were granted to detained journalist Juan Lorenzo Holmann Chamorro and his immediate family in Nicaragua ([Resolution 49/2022](#) of September 29, 2022). The precautionary measures granted to

independent journalists in Nicaragua are framed in the context of repression and restrictions on press freedom imposed in the country since the protests of April 2018. The IACHR considered the existence of inadequate conditions of detention, lack of necessary, timely and adequate medical care for the health of the beneficiary and restrictions on the right to visit; it also highlighted its concern about the violations of the right to freedom of expression and a series of events against the newspaper La Prensa - of which the beneficiary is part -; and observed retaliation, harassment and harassment against the journalist and his family.

21. The Rapporteurship also collaborated with the preparation of a request for the extension of Provisional Measures, presented by the IACHR on December 28, 2022 before the Inter-American Court of Human Rights, in favor of 11 persons deprived of liberty and their families in Nicaragua. The request includes as beneficiaries Juan Lorenzo Holmann Chamorro and his family, in addition to all the beneficiaries of precautionary measures granted by the IACHR between 2020 and 2022 and who are detained in the country. The IACHR has appealed to the IACHR Court due to the lack of response on measures adopted to address the situation of risk identified in these measures and the consideration that the beneficiaries remain in a situation of extreme gravity and urgency of irreparable damage to their rights.

22. In the context of Nicaragua, MC 693-18 was also extended in favor of journalist Katya Milady Reyes Ortiz ([Resolution 64/2022](#) of November 14, 2022). The journalist, a member of Radio Dario, has been subjected to threats and harassment for her work as an independent journalist, facts that are related to the elements that the Commission considered at the time of granting precautionary measures in 2018 in favor of other members of the Radio Dario team.

23. At the same time, it extended the measures of MC 1051-20, with respect to El Salvador, in favor of 3 other journalists from the Digital Newspaper El Faro ([Resolution 32/2022](#) of July 8, 2022). On the same occasion, the IACHR also followed up on the situation of another 28 journalists, who were already beneficiaries of these precautionary measures. Among other elements, in the framework of the complaints about the use of the *Pegasus* software, the IACHR considered that "the extraction of personal information or information related to the journalistic work of the beneficiaries, in the terms presented in this procedure, is an element to consider in the situation of vulnerability in which they are placed, and that ends up impacting the security of the beneficiaries".

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

25. In this regard, it is also emphasized that the IACHR periodically evaluates the precautionary measures in force and the measures adopted by the State with respect to the recommendations, in order to maintain, modify or lift them. In 2022, follow-up resolutions were published, maintaining the precautionary measures in force, with respect to MC 264-13, granted in 2013 in favor of members of the organization Damas de Blanco in Cuba. At the same time, the IACHR may request the adoption of provisional measures by the Court in situations of extreme gravity and urgency and when necessary to avoid irreparable harm to persons. The consideration that any precautionary measures granted have not been effective is one of the criteria for presenting such a request.

### **3) Public hearings**

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

27. The following is a summary of the hearings in which the Office of the Special Rapporteur participated in 2022:

State / Regional	Session	Title of the Hearing	Date / Place
Nicaragua	183rd Regular Period of Sessions of the Inter-American Commission on Human Rights	The human rights situation in the context of impunity in Nicaragua	March 14, 2022
Uruguay	183rd Regular Period of Sessions of the Inter-American Commission on Human Rights	Human Rights Situation of Afro-descendants in Uruguay	March 14, 2022
Cuba	183rd Regular Session of the Inter-American Commission on Human Rights	RELE Hearing: Human Rights Situation in the Context of Social Protests in Cuba	March 15, 2022
El Salvador	183rd Regular Session of the Inter-American Commission on Human Rights	RELE Hearing: The Human Rights Situation in the Context of Cyber Surveillance in El Salvador	March 16, 2022
Honduras	183rd Regular Session of the Inter-American Commission on Human Rights	The human rights situation of LGBTI people in Honduras	March 16, 2022
Guatemala	184th Regular Session of the Inter-American Commission on Human Rights	Human Rights Situation of Human Rights Defenders, Justice Operators and the Rule of Law in Guatemala	June 22, 2022
Venezuela	184th Regular Session of the Inter-American Commission on Human Rights	RELE Hearing: Situation of freedom of expression in Venezuela	June 22, 2022

<b>El Salvador</b>	184th Regular Session of the Inter-American Commission on Human Rights	Human rights situation and rule of law in El Salvador	June 23, 2022
<b>Regional</b>	184th Regular Session of the Inter-American Commission on Human Rights	Situation of the human rights of women defenders of sexual and reproductive rights	June 24, 2022
<b>Guatemala</b>	185th Regular Session of the Inter-American Commission on Human Rights	RELE Hearing: The situation of freedom of expression in Guatemala	October 24, 2022
<b>Ecuador</b>	185th Regular Period of Sessions of the Inter-American Commission on Human Rights	Social protests and indigenous peoples in Ecuador	October 24, 2022
<b>El Salvador</b>	185th Regular Period of Sessions of the Inter-American Commission on Human Rights	Arbitrary detentions and the situation of persons deprived of liberty during the State of Emergency in El Salvador	October 25, 2022
<b>Mexico</b>	185th Regular Period of Sessions of the Inter-American Commission on Human Rights	Militarization of public security in Mexico	October 25, 2022
<b>Bolivia</b>	185th Regular Session of the Inter-American Commission on Human Rights	Status of the right to gender identity and the recognition of same-sex family ties in Bolivia	October 27, 2022

<b>Nicaragua</b>	185th Regular Session of the Inter-American Commission on Human Rights	RELE Hearing: The situation of freedom of association in Nicaragua	October 27, 2022
<b>Colombia</b>	185th Regular Period of Sessions of the Inter-American Commission on Human Rights	Implementation of precautionary measures for defenders in Colombia	October 27, 2022
<b>Regional</b>	185th Regular Period of Sessions of the Inter-American Commission on Human Rights	The situation of religious freedom in the region	October 28, 2022

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

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

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

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

31. The following is a summary of the main seminars and workshops held by the Office of the Special Rapporteur during the year 2022.

<b>No.</b>	<b>Date/ Country</b>	<b>Name</b>	<b>Organizers</b>	<b>Description</b>
<b>1</b>	January 7, 2022	Commission workshop on the challenges of the future: "draft law on digital platforms"	Senate of Chile	Special Rapporteur Pedro Vaca participated in a workshop at the invitation of the Future Challenges Commission of the Chilean Senate in a workshop to evaluate improvements and modifications to the "Digital Platforms Bill". The objective of this law

				would be to regulate the situation of digital service platforms in Chile, as well as that of its users.
2	January 13, 2022	Training course on "Human rights defenders and journalists".	Office of the Ombudsman for Human Rights Defenders and Journalists of the Human Rights Ombudsman's Office of Guatemala	The Special Rapporteur prepared a video interview as part of the course on human rights defenders and journalists offered to PDH staff. During the segment, topics of interest were addressed such as: Who are the holders of the right to freedom of expression? What are the main challenges for the exercise of freedom of expression in Latin America?
3	January 18, 2022	Presentation of the report on Cuba: Paper Democracy.	Article 19	Special Rapporteur Pedro Vaca was invited to participate as a panelist in the launch of the report on Cuba prepared by Article 19, which aims to show the different types of violence and obstacles faced in Cuba to exercise the right to freedom of expression.
4	February 9, 2022	Workshop IGO 'Light Touch' Taskforce for the Safety of Journalists - Side event and private (closed-doors activity) of the III Global Conference for Media Freedom	UNESCO (workshop); Media Freedom Coalition and Estonian Institute of Human Rights	Participation of Paula Roko, lawyer, and Giovanni Padovani Ferreira, Orlando Sierra Fellow, moderating the two panels of the workshop, where they discussed best practices and challenges in promoting the safety of journalists (panel 1) and in the implementation of national mechanisms for the protection of journalists (panel 2). During the event, Paula Roko and Giovanni Ferreira pointed out the Inter-American standards on the subject, the challenges identified by RELE over the years in various thematic reports and the latest Joint Declaration, which focuses, among others, on the role of the speeches of the authorities to ensure the safety of journalists.
5	February 22, 2022	Launching of the report "Low risk: How to overcome the shortcomings of journalist protection programs in Latin America and how to protect journalists in Latin America?"	Reporters Without Borders	The Special Rapporteur participated in the launch of the project entitled Under Risk, a broad investigation led by the organization Reporters Without Borders that analyzes the protection mechanisms for human rights defenders and journalists in Latin America, specifically studying the programs in Brazil, Colombia, Mexico and Honduras. The objective of the activity was to address the issue of violence against journalists and the mechanisms for their protection in the region. The activity was attended by representatives of the United Nations High Commissioner for Human Rights,



				<p>UNESCO and each of the countries studied.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
6	March 4, 2022	"Connected citizenship: digital literacy and the role of civil society and academia."	Office of the Special Rapporteur for Freedom of Expression (RELE) together with EducaDigital	<p>The Special Rapporteur organized a webinar with civil society organizations and academics as part of the Dialogue of the Americas on Freedom of Expression Online, an initiative led by the Office that addresses the challenges between technology and human rights. This meeting was a space to reflect on the evolution and conceptual differences between digital literacy for the development of civic competencies and other terms such as digital inclusion, digital fluency and data literacy. Issues such as legal and social obstacles in the region were discussed, i.e. the digital divide in all its manifestations, the lack of adequate infrastructure and the training of public education administrators, from a human rights perspective.</p> <p>See more details of the event at the following <a href="#">link</a> [ESP-PRT] .</p>
7	March 23, 2022	Academic Freedom in the Americas: Challenges and Opportunities	University of Ottawa Centre for Human Rights Research and Education, University of Monterrey, Scholars at Risk and The Coalition for Academic Freedom in the Americas.	<p>The Special Rapporteur was invited to participate as a panelist to discuss the challenges and opportunities related to academic freedom in the Americas region due to the publication of the Inter-American Principles on Academic Freedom and University Autonomy on December 9, 2021 by the Inter-American Commission on Human Rights (IACHR) in conjunction with the Office of the Special Rapporteur for Freedom of Expression (RELE), and the Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights (REDESCA). The purpose of this meeting was to strengthen the protection and guarantee of academic freedom in the region.</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>

8	March 24, 2022	Fifteenth public lecture "Academic freedom and university autonomy, premises of the rule of law".	Instituto de Investigaciones Jurídicas de la Universidad Autónoma de México (UNAM), through the Observatory of the Inter-American System of Human Rights	<p>The Special Rapporteur was invited to participate as a panelist in a virtual seminar organized by the Universidad Autónoma de México (UNAM) on the Inter-American Principles on Academic Freedom and University Autonomy, to discuss their relevance in the Mexican context and scope. This space served to present the scope of the right to academic freedom and the duties of the State for its protection and guarantee, as a preamble to a reflection on the relevance of these standards in the Mexican context.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
9	March 31, 2022	Twitter space: "For everyone to be able to: access bility, inclusion and digital literacy".	Office of the Special Rapporteur for Freedom of Expression (RELE) and the Asociación para los Derechos Civiles (ADC)	<p>The Office of the Special Rapporteur for Freedom of Expression organized a meeting through Twitter Space as part of the series of events in the framework of the Dialogue of the Americas on Freedom of Expression Online.</p> <p>Understanding that the Internet is an indispensable instrument for the full enjoyment of human rights, in this space the different panelists discussed the positive actions of multiple actors to facilitate the conditions of access, use and exploitation of technologies. This, from a cross-cutting approach that addresses the vulnerabilities and particular requirements of historically discriminated groups and incorporates accessibility criteria that allow all people to access in an autonomous and inclusive manner.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

10	April 5, 2022	Presentation of annual report 2021 "Denial".	Article 19 Mexico	Special Rapporteur Pedro Vaca was invited to participate as a panelist in the presentation of the annual report of the organization Article 19 Mexico "Denial". The report presented analyzes problems that affect freedom of expression in the country such as practices of ignorance and selective absence of the State that translate into mechanisms of official (mis)information, public stigmatization, discretion in the allocation of official advertising, shortcomings in the transparency system, violence against the press, digital divide, lack of mechanisms to guarantee information for communities and indigenous peoples, restrictions on Internet rights and the lack of truth in cases of serious human rights violations.
11	April 25, 2022	Continental Meeting of Community, Feminist and Indigenous Communication : "Freedom of Expression and Defense of Territory".	Basque Government Basque Agency for Development Cooperation Community Press Guatemala Mayan Association Mugarik Gabe	Journalists from Guatemala, Bolivia, Mexico, El Salvador, Honduras, Colombia, Brazil and Argentina met at this event to discuss the current challenges in the continent to practice journalism from the territories with community, feminist and indigenous approaches. Special Rapporteur Pedro Vaca was in charge of opening the event where he had the opportunity to present the Commission's protection mechanisms and the concrete actions taken in specific cases of journalists threatened, persecuted and harassed by criminal actors, political and economic powers or governments.

12	April 26, 2022	Hearing of the Permanent Peoples' Tribunal on Mexico.	Free Press Unlimited, the Committee to Protect Journalists and Reporters without Borders	Special Rapporteur Pedro Vaca was invited by Free Press Unlimited, the Committee to Protect Journalists and Reporters Without Borders to participate in the Permanent Peoples' Tribunal hearing on Mexico on April 26-27. The hearing discussed the case of the murder of journalist Miguel Angel Lopez Velasco and analyzed the Mexican government's conduct in the case and the government's alleged responsibility for the lack of protection for Lopez Velasco and the continued impunity following his murder. During the hearing, the judges and invited experts heard from witnesses about impunity for crimes against journalists in Mexico. Statements were made about specific groups of journalists at risk, about impunity for crimes against journalists, and about the role of the state in preventing and investigating these crimes.
13	April 28, 2022	Conference on freedom of expression and the right to regroup in the media in Panama.	National Council of Journalism (CNP) OAS Embassy in Panama	The Special Rapporteur, Pedro Vaca, held a discussion with Panamanian authorities and media representatives during his academic visit to Panama. The meeting was organized by the National Council of Journalism (CNP) and the OAS Embassy in Panama and took place as part of the celebration of World Press Freedom Day. The Rapporteur highlighted the work of journalists and the media in their role as disseminators of public debate and stressed that the press is the cornerstone on which any democracy is based and, therefore, must be protected. The event was also attended by Judge Eduardo Valdés Escoffery as special guest, authorities from the three government agencies, the Diplomatic Corps, civil society and journalists from different media outlets in the country. See more details of the event here: <a href="#">LINK</a> , <a href="#">LINK</a> , <a href="#">LINK</a> .

14	May 2, 2022	10th Anniversary of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity - Achievements and Challenges in Latin America and the Caribbean	UNESCO, the Government of Uruguay and the Office of the United Nations High Commissioner for Human Rights (OHCHR) at the World Conference on World Press Freedom Day Uruguay 2022	<p>The Special Rapporteur was invited as a panelist to discuss the importance of ensuring that journalists and media workers can work freely, independently and safely, without hindrance, threats or violent reprisals. This event was a reminder of how vital the information they provide is to democracy, the promotion and protection of human rights, the fight against corruption, sustainable development and the preservation of international peace and security.</p> <p>In particular, commemorating the tenth anniversary of the UN Plan of Action this year, the panel took stock of governments that have made the safety of journalists a priority, within and beyond their borders; highlighted the contribution of civil society organizations that are committed to advancing media freedom and safety; identified challenges such as the high levels of impunity for crimes against journalists, the rise in the number of journalists in detention and increased harassment against them, online violence, the use of surveillance tools to hinder the safety of journalists, and the use of surveillance tools to impede journalists' freedom of expression; identified challenges such as the high levels of impunity for crimes against journalists, the increase in the number of journalists in detention and the increase in harassment against them, online violence, the use of surveillance tools to hinder the work of journalists, the increase in attacks against women journalists, and the increase in murders in non-confrontational environments.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
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15	May 2, 2022	Regional Event: Transparency of Internet Platforms - An agenda for Latin America and the Caribbean	UNESCO, the Government of Uruguay and the Observatorio Latinoamericano de Regulación y Convergencia de Medios (OBSERVACOM) at the World Press Freedom Day Global Conference in Uruguay 2022	<p>The Special Rapporteur participated as a panelist in the activity co-organized by OBSERVACOM and UNESCO, in the framework of World Press Freedom Day. The session addressed the need for Internet platforms to be more transparent, the rights of users, as well as possible strategies to promote a free and open Internet.</p> <p>This session was attended by organizations actively working on this issue from journalism, academia and civil society in Latin America and the Caribbean. The event served as a platform for sharing best practices and defining commitments and initiatives to promote transparency on Internet platforms. At the same time, an attempt was made to establish a roadmap to serve as a reference for the region during the year 2022.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
16	May 2, 2022	High-level interventions and ministerial statements	UNESCO and the Government of Uruguay at the World Press Freedom Day Global Conference in Uruguay 2022	<p>The Office of the Special Rapporteur supported the participation of the President of the Inter-American Commission on Human Rights, Julissa Mantilla, in her speech as a guest at the High-Level Opening Ceremony of the Global Conference for World Press Freedom Day. The opening ceremony was attended by high-level leaders and representatives of States. The ceremony addressed the impact of the digital age on freedom of expression, the safety of journalists, access to information and privacy, as well as concrete recommendations to address these challenges.</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>

17	May 3, 2022	"Freedom of expression and public order: how to reconcile them?"	Foundation for Freedom of the Press (FLIP) and Geneva Center for Security Sector Governance (DCAF)	Special Rapporteur Pedro Vaca, together with Paula Roko, consultant to the Office of the Special Rapporteur, participated in a discussion at the World Press Freedom Day Global Conference in Uruguay. Participants shared the lessons learned in the dialogues between journalists and members of the Colombian national police led by FLIP and DCAF at the national level, to reflect on how this experience can be replicated and contribute at the regional level. This conversation was a space to discuss and promote practices and policies that can contribute to strengthen the role of law enforcement in the defense of freedom of expression and access to information for greater respect for the rule of law.
18	May 3, 2022	Launching of the Friends of Freedom of Expression and Journalism Core Group of the Organization of American States	Office of the Special Rapporteur for Freedom of Expression (RELE) at the World Press Freedom Day Global Conference in Uruguay 2022	<p>The Special Rapporteur, Pedro Vaca, together with Paula Roko, consultant to the Office of the Special Rapporteur, led a panel where the formal presentation and launch of the Grupo Núcleo was made. The OAS Core Group of Friends of Freedom of Expression and Journalism is a voluntary group of OAS Member States committed to act together to strengthen the exercise of and respect for the right to freedom of expression, information and thought and to reaffirm that free and independent media are fundamental to democracy, to the promotion of pluralism, tolerance and freedom of thought and expression, and to facilitate dialogue and free and open debate among all sectors of society, without discrimination of any kind.</p> <p>The Core Group seeks to coordinate efforts to protect and promote the fundamental right to freedom of expression within the framework of the OAS through, among other things, the promotion of political dialogue, cooperation and the exchange of best practices among member states. It is also committed to ensuring that advances in freedom of expression at the regional and multilateral levels are reflected in the work and activities of the OAS.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

19	May 3, 2022	SILENCED - Democracy, journalism and censorship in the digital era	UNESCO, the Government of Uruguay, IBAHRI and the High-Level Group of Legal Experts on Press Freedom at the World Press Freedom Day Global Conference in Uruguay 2022	<p>The Special Rapporteur was invited to participate as moderator to lead the session "Democracy, Journalism and Censorship in the Digital Age". During this event, members of the High Level Group of Legal Experts on Freedom of the Media discussed the role of international law in finding solutions to the threats posed by digital surveillance. During the session they reflected on threats to press freedom, censorship, public debate and how the Internet enters into this equation with an impact on the legal structures of freedom of expression and the civic culture of those who express themselves.</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>
20	May 3, 2022	Launch of the 2022 Joint Declaration of Special Mandates on Freedom of Expression and Gender Justice	Office of the Special Rapporteur for Freedom of Expression (RELE) at the World Press Freedom Day Global Conference in Uruguay 2022	<p>This year, the Office of the Special Rapporteur organized the launch of the Joint Declaration 2022 as part of World Press Freedom Day in Uruguay. The panel began with the intervention of the Mexican journalist Carmen Aristegui, and the table was composed of the Special Rapporteur, Pedro Vaca, and the other special rapporteurs for freedom of expression of the human rights protection systems, who addressed the issue of freedom of expression and gender justice, given the growing threats faced by women in the exercise of their freedom of expression, particularly those imposed by the digital context and reinforced by specific technological aspects such as the gender digital divide, the amplification of hate speech and disinformation. This was a space to reflect on equal opportunities for freedom of expression as an essential requirement for democracy, comprehensive security and sustainable development.</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>



21	May 3, 2022	Newsroom responses to online violence against women journalists	UNESCO, the Government of Uruguay and the International Center for Journalists (ICFJ) at the World Press Freedom Day Global Conference Uruguay 2022	<p>The Office of the Special Rapporteur supported the participation of the President of the Inter-American Commission on Human Rights, Julissa Mantilla, who was invited to participate as a panelist to discuss the most recent study published by UNESCO and ICFJ called "The Chilling: Trends in Online Violence against Women Journalists". The focus of the discussion was on newsrooms, which are among the key actors that can help find solutions to the current crisis. However, women journalists are reluctant to report incidents to their employer. The questions addressed during the panel were: what can newsrooms do to prevent online violence and to protect women journalists from attacks when they occur? What can newsroom managers do to gain their trust?</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>
22	May 4, 2022	Regional event: Latest jurisprudence of the Inter-American Court of Human Rights on freedom of expression, freedom of the press and the safety of journalists	Columbia Global Freedom of Expression, the UNESCO Chair in Freedom of Expression of the Universidad de los Andes, OBSERVACOM and UNESCO at the World Press Freedom Day Global Conference in Uruguay 2022	<p>The Office of the Special Rapporteur was invited as a panelist in the session focused on judicial trends and rulings of the Inter-American Court of Human Rights related to freedom of expression, freedom of the press and the safety of journalists. The experts on the panel discussed and analyzed trends in the context of the evolution of the Court's jurisprudence related to freedom of expression, with special emphasis on decisions adopted in recent years.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

23	May 9, 2022	Twitter Space - Digital Siege in the Americas: Human Rights Mechanisms in the Region to Address Digital Surveillance	Amnesty International - Americas Regional Office	The Special Rapporteur was invited as a panelist to participate in a session through the Twitter Space. The main objective of this event was to make visible the challenges of journalists and defenders who are under cyber surveillance in the Americas and how to address them with existing mechanisms in the region such as the Inter-American Commission on Human Rights (IACHR). It also sought to analyze the main points that were highlighted during the conference in Uruguay in relation to this issue, and to see how to advance in the protection of journalists and defenders from cyber-surveillance in the Americas, in particular on limiting the use of spyware and investigations of those affected and victims.
24	May 11, 2022	Forum for the construction of a comprehensive public policy for the protection of human rights defenders and journalists.	ARTICLE 19 - Regional Office for Mexico and Central America, Casa del Migrante Saltillo (CMS), and Communication and Information for Women (CIMAC), with the support of the European Union.	The Office of the Special Rapporteur was invited as a panelist to discuss the elements to be considered in a public protection policy, as well as the actions that the IACHR considers indispensable to generate safer environments for journalists and human rights defenders. The objective of the forum was to analyze the main challenges and progress made by the Mexican State to guarantee safe conditions for journalists and human rights defenders to carry out their work from the perspective of the States' obligations of prevention, protection and justice.  See more details of the event in the following <a href="#">link</a> [ESP].

25	May 18, 2022	Varandas #119: Registration and Dialogue: Human Rights and Freedom of Expression Online	Office of the Special Rapporteur for Freedom of Expression (RELE) together with ITSRio - Brazil	<p>Giovanny Padovam represented the Office of the Special Rapporteur as a panelist in the framework of the Dialogue of the Americas on Freedom of Expression Online. In this space, the participants discussed the Dialogue of the Americas, the contributions obtained by the different actors in the consultative stage and the main conclusions on human rights and the challenges of the Internet. In particular, the lack of compatibility of content moderation practices with democratic and human rights standards was discussed as one of the main challenges that exist in terms of freedom of expression and the Internet. Issues of discrimination, accessibility and inclusiveness of the virtual civic space, transparency and due process issues, responsibilities of platforms and intermediaries, and how this relates to issues of deterioration of public debate and digital literacy were discussed.</p> <p>See more details of the event in the following <a href="#">link</a> [PRT].</p>
26	May 19, 2022	Disinformation, democracy and the inter-American system	The Jack D. Gordon Institute for Public Policy and the Kimberly Green Latin American and Caribbean Center, both part of the Steven J. Green School of International and Public Affairs at Florida International University.	<p>Paula Roko represented the Office of the Special Rapporteur as a panelist in the debate held at the Hemispheric Security Conference (HSC), where experts from academia, governmental organizations, non-governmental organizations and private sectors converge to examine the most pressing security challenges facing the Western Hemisphere. The objective of the panel was to discuss and reflect on the phenomenon of disinformation from the perspective of the Inter-American human rights system, and how this phenomenon affects the exercise of fundamental rights such as freedom of expression, the right of access to information and participation in political life. Participants discussed how disinformation sometimes encourages violent discourse against certain groups, which leads to a deterioration in the quality of public debate and, consequently, of democratic institutions.</p> <p>See more details of the event in the following <a href="#">link</a> [ENG].</p>

27	May 24, 2022	48th General Assembly of the International Association of Broadcasting (AIR).	National Association of Broadcasters - NAB of the United States.	<p>On Tuesday, May 24, the Inaugural Session of the AIR General Assembly took place, to which Special Rapporteur Pedro Vaca was invited to participate as a panelist. The event counted with the presence and participation of speakers such as the President of the NAB and host of the event, Mr. Curtis LeGeyt, the President of the AIR, Mr. Eugenio Sosa Mendoza, among others.</p> <p>During the event, Rapporteur Vaca had the opportunity to refer to different topics of vital importance for the health of democratic systems, such as the deterioration of public debate, media sustainability, education in the use of social networks and algorithms, as well as the mechanisms for indexing content in the digital ecosystem.</p>
28	May 31 to June 4	23rd Program of Advanced Studies in Human Rights and International Humanitarian Law	American University	<p>Special Rapporteur Pedro Vaca was invited to teach for the summer course on Freedom of Expression for the Advanced Studies Program in Human Rights and International Humanitarian Law at American University. During the program, Rapporteur Vaca was in charge of 4 classes that addressed topics such as challenges to freedom of expression in the Americas, access to public information, protest and human rights, and freedom of expression on the Internet.</p>

29	June 6, 2022	TechRights: Intertwining the links between technology and human rights from an inter-American perspective	Special Rapporteurship for Freedom of Expression of Human Rights of the Inter-American Commission on Human Rights (IACHR/RELE) at RightsCon 2022 organized by Access Now	<p>The Dialogue of the Americas on Freedom of Expression Online is an initiative led by the IACHR/RELE that addresses the impacts of digital technologies and decisions on the exercise of human rights and democratic debate. During the second half of 2021, a consultation stage was carried out with different actors in the region to identify the main challenges and possible recommendations in this area. This session will focus on the analysis and discussion of three main challenges, which constitute the three thematic axes of the Dialogue of the Americas, namely: (i) the deterioration of public debate, (ii) the deficit of digital literacy programs in the region, (iii) and the lack of compatibility between content moderation practices with democratic and human rights standards. We hope that at the end of the session, the representatives of the multiple sectors involved will have identified concrete solutions and lines of action that can be taken up by the participants and various actors at the regional level in the coming years to address these issues.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
30	June 7, 2022	Event: Peaceful Demonstrations in Latin America: Reflections on Cuba one year after 9/11	International Institute on Race, Equality and Human Rights	<p>Special Rapporteur Pedro Vaca was invited to participate as a speaker at the event Peaceful Demonstrations in Latin America: Reflections on Cuba one year after 11J organized by the International Institute on Race, Equality and Human Rights. The event addressed the events that took place during the protests of July 11, 2021 in Cuba, where thousands of Cubans spontaneously and peacefully took to the streets in more than twenty localities of the country to demonstrate against the regime and the ineffectiveness of the system.</p>

31	June 7, 2022	Digital transformation: human rights and the Internet	Special Rapporteurship for Freedom of Expression of Human Rights of the Inter-American Commission on Human Rights (IACHR/RELE) in the framework of the IX Summit of the Americas in Los Angeles, United States.	The session will be made up of specialists from the different sectors involved, who will share their perspectives on the challenges of digital transformation for the strengthening of human rights and democracy, including (i) the deterioration of public debate, (ii) accessibility and digital inclusion, (iii) moderation of internet content from a multi-sectoral perspective, and (iv) the use of digital surveillance tools, from hacking to facial recognition, and their impact on the exercise of human rights of activists, racial and ethnic minorities, and media workers; and will identify actions along these lines to follow up on the commitments of the States derived from the IX Summit, as well as complementary actions and the establishment of strategic alliances. See more details of the event in the following <a href="#">link</a> [ESP].
32	June 7, 2022	Building the future of Internet Governance: Contributions from Latin America	The Association for Progressive Communications (APC), Derechos Digitales and the Asociación Latinoamericana de Internet (ALAI)	The concept of Internet governance has generated debates since the World Summit on the Information Society. The evolution of factors such as automation and the inclusion of a wide range of new actors in Internet governance discussions has generated tensions around the spaces and ways in which decision-makers agree on the principles, rules and procedures that shape the Internet. Traditional multi-stakeholder spaces for debate on Internet governance have become vacuous or largely influenced by private interests, while historical challenges persist in relation to inclusiveness and respect for human rights. In this context, a number of disputes have arisen over the future of Internet governance, so the session set out to review the evolution of Internet governance processes in Latin America, as well as its participation in regional and global forums, seeking to set the path for a common agenda to use global influence to strengthen local efforts. The objective of this session was to review the evolution of Internet governance processes and debates in Latin American countries, laying the groundwork for the construction of a common regional strategy to influence global governance.

33	June 8, 2022	On surveillance technologies and the fight against hate and online violence	Access Now in the framework of RightsCon 2022 and the Office of the Special Rapporteur for Freedom of Expression of Human Rights of the Inter-American Commission on Human Rights (IACHR/RELE).	<p>The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, Pedro Vaca Villarreal, spoke in a one-on-one interview with Agustina del Campo, Director of the Center for Studies on Freedom of Expression and Access to Information (CELE) at the University of Palermo and Human Rights Consultant, as part of RightsCon's new studio concept, with the purpose of sharing perspectives and positions on safeguarding freedom of expression in digital spaces. This format constitutes a unique opportunity to contribute and offer perspectives on critical issues, as well as a joint vision of current developments and issues related to human rights in the digital age.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
34	June 9, 2022	The road to (co)regulation of content governance in Latin America	Inter-American Dialogue (El Diálogo) and the Special Rapporteurship for Freedom of Expression of the IACHR	<p>The Special Rapporteur was invited to participate in the closed session "The path towards (co-)regulation of content governance in Latin America" within the framework of RightsCon 2022. During the session, representatives of various sectors involved participated, who were divided into three rooms to discuss and advance on points of agreement in relation to the following three thematic axes: (i) transparency and accountability (obligations for States and platforms), (ii) Co and Self-Regulation (how to articulate State regulation and self-regulation), (iii) Institutional space to build a regional instrument (what space and what ISHR instrument can be useful to model standards in content moderation). The rapporteurs for each of the rooms were Gustavo Gómez, Raúl Echeverría and Edison Lanza, respectively.</p>

35	June 21, 2022	Migrants and Freedom of Expression	Special Rapporteurship for Freedom of Expression of the IACHR Institute for Press and Freedom of Expression (IPLEX) International Association of Broadcasting (AIR) University of Costa Rica	The Office of the Special Rapporteur for Freedom of Expression of the IACHR organized a closed event at the University of Costa Rica with the Special Rapporteur, Pedro Vaca, which aimed to provide a space to reflect on the rights of migrants and their relationship and importance for the guarantee of the right to freedom of expression in the region.
36	June 29, 2022	"Thematic session "Democracy, Digital Platforms and Freedom of Expression" at the Regional Forum of the Americas Electoral Democracy Summit".	Department of Cooperation and OAS Electoral Observation	The Special Rapporteur, Pedro Vaca, was invited to participate by means of a pre-recorded video in the Regional Forum of the Americas of the Electoral Democracy Summit. The session was moderated by Mexican journalist Carmen Aristegui, and its objective was to contribute to clarify the panorama of the effects, challenges and risks posed by the complex relationship and interaction between the rights to freedom of expression and information and the extraordinary capacities and possibilities of use offered by digital platforms and social networks in the framework of representative democracies, especially for political-electoral purposes.  See more details of the event in the following <a href="#">link</a> [ESP].



37	July 11, 2022	Opportunities and Challenges of Digital Democracy in the Americas	Department for Effective Public Management of the Secretariat for Hemispheric Affairs, on the initiative of the Permanent Mission of Peru to the OAS	<p>The Special Rapporteur, Pedro Vaca, participated in the event organized by the Department for Effective Public Management of the Secretariat for Hemispheric Affairs, at the initiative of the Permanent Mission of Peru to the OAS. The meeting was a space for reflection on the impact of the opportunities and challenges of digital democracy in the face of the digital divide in the Americas, as well as the threat posed by the phenomenon of disinformation and stigmatizing online discourse to the stability of democratic institutions and the quality of public debate.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
38	July 29, 2022	Who regulates public debate in social networks? Presentation of the report "Freedom of expression online: challenges, opportunities and trends in Latin America".	Universidad Centroamericana José Simeón Cañas (El Salvador) and the Regional Alliance for Freedom of Expression and Information.	<p>The Special Rapporteur, Pedro Vaca, personally participated in the launch of the report "Freedom of expression online: challenges, opportunities and trends in Latin America" prepared by the organizations ACIJ and Alianza Regional por la Libre Expresión e Información. The session analyzed the problems related to freedom of expression online in Latin America, the traditional threats that have been amplified on the network and those arising from the private moderation of content by large Internet platforms. The event was attended by journalists and civil society organizations, who identified the daily threats to freedom of expression in the region based on the cases presented in the report.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

39	August 2, 2022	Freedom of expression in Venezuela: situation and lines of action.	Rights Center Universidad Católica Andrés Bello (UCAB) and Espacio Público (Public Space).	<p>The Special Rapporteur, Pedro Vaca, participated in this meeting organized by the Human Rights Center of the Universidad Católica Andrés Bello (UCAB) and Espacio Público. During his intervention, the restrictions and state of freedom of expression in Venezuela, particularly the state of freedom of the press and communication, were made known. The meeting included the participation of Judith Arenas, from the Office of the United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression; and Venezuelan journalists, who recounted experiences of harassment and persecution against media workers and independent media, analyzed the restrictive Venezuelan regulatory framework on the matter and proposed some lines of action to face these challenges.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
40	August 12, 2022	I International Youth Forum - Commemoration of International Youth Day	Unesco Office in Peru	<p>The Special Rapporteur, Pedro Vaca, participated in the first International Youth Forum on the occasion of International Youth Day, which is commemorated every year on August 12. This session was organized by the UNESCO Office in Peru with the aim of promoting intergenerational solidarity, broadening the message and acting in a coordinated manner with all generations to achieve the United Nations Sustainable Development Goals. During the session, the Special Rapporteur spoke about the right to freedom of expression of children and adolescents based on the thematic report "Children, freedom of expression and media" aligned with the concepts of employment, entrepreneurship, sustainable development and human rights.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

41	August 17, 2022	"Freedom of expression in times of authoritarianism" as part of the Podcast El Diván del Periodismo.	Gabo Foundation	<p>Special Rapporteur Pedro Vaca Villarreal participated as a special guest on the Gabo Foundation Podcast. During the session, the Special Rapporteur spoke with Yolanda Ruiz, Colombian journalist, about the current situation of freedom of expression in the Americas, the importance of the right to freedom of expression from the journalistic profession and its relationship with the right of access to information.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
42	September 1, 2022	Commemoration of Freedom of Expression Day in Costa Rica and presentation of the new website of the Institute of Press and Freedom of Expression (IPLEX).	Institute for Press and Freedom of Expression (IPLEX)	<p>During the Commemoration of Freedom of Expression Day in Costa Rica, the new website of the Institute of Press and Freedom of Expression (IPLEX) was officially launched as an educational tool in defense of democracy and freedom of expression. The Special Rapporteur, Pedro Vaca Villarreal, was invited to give opening remarks in which he referred to the limitations that exist for the effective exercise of the right to freedom of expression in the Americas and the indirect ways to undermine democracy.</p>

43	September 1, 2022	Specialized Course on Human Rights and Freedom of Expression for Central American Journalists	Cycles of Updating for Journalists (CAP) and the Mesoamerica Program of the Center for Justice and International Law (CEJIL)	<p>The Special Rapporteur, Pedro Vaca Villarreal, was invited to lead the training session on freedom of expression as part of the training cycles led by Ciclos CAP and CEJIL. During the session, the threats facing the right to freedom of expression and independent journalism in Central America were presented.</p> <p>The purpose of the course was to contribute to the professional updating and strengthening of independent journalism in the countries of Central America; to provide tools to journalists for the better development of their work; and to promote a space for dialogue and exchange on the challenges they face in the exercise of their work, in addition to providing them with tools and knowledge on the protection mechanisms available in the Inter-American Human Rights System (IAHRS).</p>
44	September 7 and 8, 2022	10th edition of the CELE Workshop, City of Buenos Aires - Argentina.	Center for Studies on Freedom of Expression and Access to Information (CELE)	<p>Special Rapporteur Pedro Vaca and Tech4Rights Fellow attended the discussions of the 10th edition of the CELE workshop in Buenos Aires, Argentina. During the workshop, the Office of the Special Rapporteur had the opportunity to present the next steps of the Dialogue of the Americas on Freedom of Expression. Likewise, the Rapporteurship actively participated in the different discussions developed during the event that addressed relevant topics on freedom of expression on the Internet such as regulation, moderation and transparency of Internet platforms, regulation and use of artificial intelligence, among others.</p>

45	September 13, 2022	International Seminar for magistrates, prosecutors, operators of the Judicial System, journalists and social communicators on Freedom of Expression.	Directorate of Transparency and Access to Public Information (DTAIP), the International Center for Judicial Studies (CIEJ) of the Supreme Court of Justice, the Institute of Environmental Law and Economics (IDEA) and the Roundtable for the Safety of Journalists with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Association of Judges of Paraguay (AJP).	Special Rapporteur Pedro Vaca was invited to lead a seminar for magistrates, prosecutors, judges and journalists of Paraguay. During the presentation, the Rapporteur addressed issues related to freedom of expression, access to public information and the protection of journalists from the Standards and Guarantees in the Inter-American Human Rights System.
46	September 19, 2022	"Exiled, not silenced: Journalism under siege."	The Center for Media Integrity in the Americas	The Special Rapporteur, Pedro Vaca Villarreal, was invited to participate as moderator of the discussion entitled "Exiled, not silenced: Journalism under siege" which was held in person at the premises of the Organization of American States (OAS). The purpose of the conversation was to discuss the main challenges and difficult conditions that journalists in exile must face in order to continue freely exercising their profession of informing. See more details of the event in the following <a href="#">link</a> [ESP].

47	September 21, 2022	Ninth meeting of the Integrated Network of civil society organizations on the human rights situation in Cuba	Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA) IACHR	Special Rapporteur Pedro Vaca was invited to participate in the ninth meeting of the Integrated Network of civil society organizations regarding the human rights situation in Cuba. The meeting addressed issues such as the situation of freedom of association, freedom of expression and freedom of association in the Cuban labor context. Specific topics discussed included the main challenges in terms of access to employment and hiring, business reactions to the exercise of freedom of expression and access to justice, the right to protest and freedom of association, and the defense and promotion of labor rights, among others.
48	September 26, 2022	Public political violence: gender and human rights	Ni Unx Menos San Juan, Las Hilarias - Socorristas en Red and the Permanent Assembly for Human Rights (APDH)	The Special Rapporteur, Pedro Vaca Villarreal, participated as a panelist along with IACHR Commissioner Joel Hernández in the session "Public Political Violence: Gender and Human Rights". The session served as a space for reflection on the scope and limitations to freedom of expression in the context of public protests. The session aimed to encourage institutions and allies to take a position; to learn about the duties of the States of the American continent to mitigate the risks of human rights defenders and to know the scope assigned by the Commission and the Inter-American Court of Human Rights to freedom of expression in the context of public protests.  See more details of the event in the following <a href="#">link</a> [ESP].

49	October 11, 2022	"Civic Space; its deterioration and impact on the guarantee and protection of human rights in general and of children and adolescents in particular".	Network for Children and Adolescents (RIA) of El Salvador	<p>The purpose of the session was to analyze the reduction of civic space at the regional level, particularly in the countries of Central America, and its impact on the guarantee of human rights in general and the rights of children and adolescents in particular, in order to jointly identify possible strategies for the protection and expansion of civic space that contribute to the guarantee of human rights. The Special Rapporteur, Pedro Vaca Villarreal, was invited as a panelist to reflect on the situation of the reduction of civic space in Central America and its impact on human rights, from the perspective of the IACHR.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
50	October 19, 2022	Launching event of the report: "Women Journalists and Newsrooms: advances, challenges and recommendations to prevent violence and fight discrimination".	The Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR), the Inter American Press Association (IAPA) and the Alianza de Medios Mx.	<p>The Special Rapporteur, Pedro Vaca Villarreal made the presentation and official launch of the latest thematic report of the Office of the Special Rapporteur for Freedom of Expression on "Women Journalists and Newsrooms". The panel included the participation of women journalists from the region, who discussed some of the main advances and challenges registered in recent years in relation to patterns of discrimination and violence against women journalists and media workers in newsrooms. In addition to analyzing the report, strategic measures and actions that have been or should be adopted by companies to address this issue were presented.</p>

51	October 20, 2022	Internet rights and the regulatory balance for their promotion: VR/AR, metaverses and AI in the framework of DigiEcon Latam 2022.	Latin American Internet Association (ALAI)	<p>The Special Rapporteur, Pedro Vaca Villarreal was invited to participate as a panelist in the second edition of DigiEcon Latam 2022. This exchange included representatives from the technology industry, civil society organizations and the Inter-American human rights system, who discussed how the implementation of Artificial Intelligence solutions and the development of the metaverse can contribute to the generation of opportunities for Latin America. The session aimed to discuss the best options for its promotion, always maintaining the commitment to human rights, and individual and collective freedoms. See more details of the event in the following <a href="#">link</a> [ESP].</p>
52	October 21, 2022	Latin American Journalism Forum within the framework of the Gabo Festival	Foundation for Press Freedom FLIP	<p>This meeting was organized by the Gabo Foundation and the Foundation for Press Freedom (FLIP) as part of the Gabo 2022 Festival. Around 50 journalists from Ibero-America participated in this session with the purpose of sharing experiences, points of view and experiences to generate a series of recommendations in order to maintain the free development of journalism. As part of an interactive activity, the main threats, challenges and gaps for the protection of journalists in the region were identified.</p>



53	October 22, 2022	Emerging journalism in Latin America's political and social turmoil at the Gabo 2022 Festival	Gabo Foundation	<p>The Special Rapporteur, Pedro Vaca Villarreal was invited to participate as moderator of this space on the occasion of the Gabo 2022 Festival. The panel took as its starting point the movements in the political systems, economic reforms, corruption and impunity that overflowed the growing discontent, and generated deep social questioning, collective action in mobilizations and violent responses by the States. The panel aimed to explain the emergence of new media and emerging journalism, which sought to explain the facts and show them live, and that sometimes is affected by the oppression of institutions, which question their credibility.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>
54	October 23, 2022	Women journalists, a challenge for their safety and against discrimination	The Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR) and the Gabo Foundation	<p>As part of the events to launch its most recent report on "Women Journalists and Newsrooms", the Office of the Special Rapporteur in collaboration with the Gabo Foundation organized a panel of women journalists and representatives of civil society organizations who discussed the particular challenges faced by women journalists in the exercise of their work and the specific actions that should be taken by newsrooms in order to promote safe and respectful environments for the right to freedom of expression. The discussion was informed by the most recent report of the Office of the Special Rapporteur on "Women Journalists and Newsrooms", which addresses the main advances and challenges registered in recent years in relation to patterns of discrimination and violence against women journalists and media workers in newsrooms.</p> <p>See more details of the event in the following <a href="#">link</a> [ESP].</p>

55	October 27, 2022	OAS Diploma Course: Governance, Management and Public Leadership in the Inter-American System	OAS School of Government	The Special Rapporteur, Pedro Vaca Villarreal, participated in the Diploma on Governance, Management and Public Leadership in the Inter-American Human Rights System organized by the School of Government of the Organization of American States (OAS). The session was addressed to a group of 75 participants from 20 countries in the region and aimed to give a brief introduction of the Inter-American Commission on Human Rights (IACHR) and its Special Rapporteurship for Freedom of Expression (RELE), as well as explain the mechanisms available to the ISHR, the importance of country reports and the human rights situation in the region of the Americas.
56	October 28, 2022	Panel presentation of the book "Use of force in the context of social protests: practical contributions from a comparative analysis of national regulations".	Center for Justice and International Law (CEJIL), the Center for Human Rights of the University of Buenos Aires (UBA), Konrad Adenauer Stiftung (KAS) and American University	The Special Rapporteur, Pedro Vaca Villarreal, participated in a meeting at the American University to launch the book "Use of force in the context of social protests: practical contributions based on a comparative analysis of national regulations". This space was attended by various actors of the Inter-American Human Rights System. This project aimed to study the international and local context on the use of force in the context of social protests in Argentina, Brazil, Chile, Colombia, Honduras and Mexico.  See more details of the event in the following <a href="#">link</a> [ESP].

57	November 2, 2022	"Memoria y Voz: A Tribute to Journalism in the Americas in the Deadliest Year for the Press."	The Special Rapporteurship for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR)	On the International Day to End Impunity for Crimes against Journalists, the Office of the Special Rapporteur for Freedom of Expression organized an exhibition at the Museum of the Americas with photographs of the journalists murdered in 2022, the deadliest year for the press in the last 24 years according to reports documented by the Office of the Special Rapporteur. The event was attended by the Executive Secretary, Tania Reneaum and the Commissioners of the IACHR.
58	November 3, 2022	Virtual conference "Prevention and justice to end impunity: International Day to End Impunity for Crimes against Journalists - IDEI".	UNESCO Office in Peru	On the occasion of the International Day to End Impunity for Crimes against Journalists, Paula Roko, Consultant of the Office of the Special Rapporteur for Freedom of Expression participated in a webinar on prevention and justice to end impunity. The session addressed the critical challenges facing the exercise of the right to freedom of expression in the Americas, the particular violence against women journalists and protection mechanisms for human rights defenders, in light of the jurisprudence and inter-American standards on the subject. See more details of the event in the following <a href="#">link</a> [ESP].

59	November 4, 2022	High-Level International Multilateral Conference to commemorate the 10th anniversary of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity	Federal Ministry for European and International Affairs of the Republic of Austria	The Special Rapporteur, Pedro Vaca Villarreal, participated in the Vienna Conference, which aimed to reinforce the commitment to the implementation of the United Nations Plan of Action during the next decade. The meeting took stock of the institutional framework, discussed various issues including digitization and judicial harassment, and studied strategies to improve the safety of journalists and the coordination between the different mechanisms for the protection of human rights in this area.
60	November 7 & 8, 2022	Dialogues on "Freedom of artistic expression in the Latin American context".	Article 19 Brazil and MOBILE	The Special Rapporteur, Pedro Vaca Villarreal, was invited to participate in this dialogue to discuss the scenario of violation of artistic rights in Brazil and Latin America and its close relationship with other rights such as freedom of expression. The session focused on censorship and persecution of various expressions based on the findings of the study and comparative analysis conducted by the Brazilian Integrated Movement for Artistic Freedom of Expression.

61	November 9, 2022	Colpin 2022 Forum "Freedom of expression: repression and solidarity networks in Latin America".	Instituto de Prensa y Sociedad (IPYS) and Article 19	The Special Rapporteur, Pedro Vaca Villarreal, participated in the fourth edition of the Colpin Forum. On this occasion, various civil society organizations, media outlets and journalists participated and discussed the various threats to those who practice journalism in a context of further democratic regression. Also discussed were the repressive actions against independent journalism; the use and access to digital technologies; and the actions for the defense and promotion of freedom of expression through regional and national solidarity networks. The meeting included various panels and group workshops to collectively reflect on the threats and opportunities in the regional context.
62	November 11, 2022	First Conference on Academic Freedom in the Americas	Coalition for Academic Freedom in the Americas  University of Monterrey	Special Rapporteur Pedro Vaca was invited to participate as a speaker at the First Conference on Academic Freedom in the Americas where he had the opportunity to present on the Inter-American principles of academic freedom developed by the IACHR and their implementation in the region.

63	November 24, 2022	Meeting of OHCHR Civic Space Focal Points in Latin America.	Office for South America of the Office of the United Nations High Commissioner for Human Rights (OHCHR)	The Rapporteur's lawyer Paula Roko participated on behalf of the office in the Meeting of Focal Points of Civic Space of OHCHR in Latin America. The meeting was a space to address issues on the situation of journalists in the region in order to promote the exchange of information, tools and good practices developed by the office, as well as partnerships and work done in the countries. The session was attended by OHCHR focal points from Mexico, Honduras, Colombia, Guatemala, Panama, Bolivia, Venezuela, Peru and Chile.
64	November 28 to 30, 2022	Joint Meeting between the UNSR FoAA, Regional Mechanisms and Civil Society: Strengthening global and regional cooperation on the rights to freedom of peaceful assembly and of association	UN Special Rapporteur on freedom of association, Clément Voule	The Office of the Special Rapporteur and Commissioner Joel Hernández participated in the joint meeting organized by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Voule. During the meeting, emerging trends were discussed, and priorities for collaboration among regional mechanisms were identified to address new restrictions, preserve civic space and increase protection in the context of peaceful protests, including in crisis and emergency situations.

65	November 30	Closed consultation on the state of civic space in the Americas	The Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR)	On the occasion of the thematic report being prepared by the Office of the Special Rapporteur for Freedom of Expression (RELE) on the closure of civic space in the Americas, a closed meeting was held with the participation of experts to identify the current state of civic space in the region; the possible causes of its decline and the fundamental freedoms that accompany it; as well as the impact of social networks and the Internet. The inputs from academia served to complement the contributions received from the States and civil society through a public consultation held in June and July 2022.
66	December 5, 2022	The shrinking of civic space in Central America and approaches to address this challenge.	U.S. Department of State and USAID	The Special Rapporteur, Pedro Vaca Villarreal, participated in a panel to discuss the closing of civic space in Central America and its impact on the exercise and enjoyment of the right to freedom of expression. The panel was co-hosted by the Wilson Center, and included consideration of issues under the U.S. government's Voices initiative, dedicated to promoting digital democracy and freedom of expression; strengthening independent media; and countering criminalization.  See more details of the event in the following <a href="#">link</a> [ENG].

67	December 5, 2022	Summit of the Center for the Study of Telecommunications and Information Society Development Access to the Information Society in Latin America (CERTAL)	The Secretariat of the Inter-American Telecommunication Commission of the Organization of American States (CITEL/OAS)	The Office of the Special Rapporteur for Freedom of Expression (RELE) participated in a panel on freedom of expression within the framework of the Latin American Communications Summit. During her intervention, she addressed some jurisprudential advances in this area, the need to promote greater diversity and plurality in the media, the growing violence and attacks online and offline against journalists and media workers, some regulatory initiatives and legislative projects that could limit or affect the exercise of the right to freedom of expression, and digital access and literacy.
68	December 6, 2022	"Journalism and democracy in the Americas, standards and challenges" at the V Forum of the Inter-American Human Rights System.	The Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR)	The Special Rapporteur for Freedom of Expression, Pedro Vaca Villarreal, participated as moderator of this session, within the framework of the V Forum of the Inter-American System. In this space, he reflected on the current situation of journalism in the region, the challenges related to the criminalization of journalistic work and the sustainability of the media. During the discussion, previous pronouncements of the Inter-American Human Rights System (IAHRS) and the Inter-American Court of Human Rights were taken into account, in addition to the participation of representatives of civil society, the media and the judges of the Inter-American Court of Human Rights Ricardo C. Pérez Manrique and Humberto Antonio Sierra Porto.



69	December 8 and 9, 2022	International Forum for Democratic Studies "Countering Authoritarian Influence in International Institutions: How to Revive and Advance Democratic Standards".	International Forum for Democratic Studies and the National Endowment for Democracy (NED)	The Special Rapporteur for Freedom of Expression, Pedro Vaca Villarreal, was invited to give opening remarks on the weakening and lack of capacity of international human rights institutions to hold accountable for violations of freedom of expression as a result of the escalation of authoritarian regimes in the region. During the interventions, participants shared insights on possible new forms of social action and institutional reforms to strengthen and protect regional human rights mechanisms, including the OAS.
70	December 15, 2022	Hearing of the PEGA Committee of the European Parliament.	European Parliament	<p>Special Rapporteur Pedro Vaca participated in the PEGA hearing, organized on December 15 in association with the AFET Commission. The hearing examined whether the use of the surveillance spy program Pegasus or equivalent, involving directly or indirectly entities linked to the EU, contributed to the illegal spying on journalists, politicians, diplomats, lawyers, business people and civil society actors in third countries, and whether it led to human rights violations of serious concern in relation to the EU's common foreign and security policy objectives.</p> <p>During his presentation, Rapporteur Vaca referred to the various cases of surveillance against journalists and human rights defenders through software such as Pegasus and insisted on the importance of States intensifying their efforts to fully clarify the facts reported and effectively punish those responsible. The SR also noted with concern that progress in judicial investigations into the use of Pegasus in the region has been scarce and, in some cases, non-existent. Stating that, since the first Pegasus findings in 2017, civil society representatives have expressed concern about the lack of impartial and autonomous investigations. Based on the public hearings held by the Inter-American Commission on Human Rights, as well as closed-door meetings held with various actors, the Rapporteurship</p>

				remains concerned about the lack of significant progress in the pursuit of justice, as well as the opacity that prevails with respect to the processes of contracting equipment and systems for the intervention of communications, data collection and processing.
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### ***5) Official and working visits***

32. The following is a summary of the official and working visits carried out by the Office of the Special Rapporteur during 2022:

Country	Date/ Place	Institution	Description
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1.	Peru	May 16 to 20	Official Visit of the Office of the Special Rapporteur for Freedom of Expression to Peru	<p>The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) conducted an official visit to Peru to assess the situation of freedom of expression in the country. The Rapporteurship visited the country between May 16 and 20, traveling to Lima and Ayacucho.</p> <p>During the visit, Special Rapporteur Pedro Vaca and his technical team met with high-level State officials, including President Pedro Castillo, the Foreign Minister, the Minister of Justice and Human Rights, the Vice Ministers of the Interior, Transportation, Communications and the Attorney General. The delegation also met with representatives of various entities, including the Secretariat of Management and Social Dialogue, the Tribunal of Transparency and Access to Information, the Directorate of Democratic Security, the board of the National Institute of Radio and Television of Peru (IRTP), the President of Congress and other members of the legislature, the Acting Ombudsman and the President of the National Jury of Elections. The Rapporteurship also received valuable information from journalists, media executives, representatives of journalistic unions, representatives of civil society organizations and academia, victims and relatives of victims of violations of freedom of expression.</p> <p>In Ayacucho, the Rapporteurship met with local journalists and representatives of journalistic associations from the interior of Peru, family members, witnesses and victims of violence, and visited the Museum of Memory "So that it does not happen again". Finally, meetings were also held with officials of the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as with representatives of the embassies of various member states of the Media Freedom Coalition.</p>
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2.	Paraguay	September 12 and 13	Academic visit of the Office of the Special Rapporteur for Freedom of Expression of the IACHR to Paraguay.	<p>The Office of the Special Rapporteur for Freedom of Expression of the IACHR conducted an academic visit to Paraguay on September 12 and 13.</p> <p>The Special Rapporteur and his technical team met with representatives of the Roundtable for the Safety of Journalists of Paraguay and human rights defenders. During the meeting they discussed issues such as the current situation of the protection of journalists, challenges, progress and recommendations, and the security situation in the practice of journalism. On the other hand, the Special Rapporteur led a conference and international panel at the Faculty of Law and Social Sciences of the National University of Asuncion in the company of national speakers on freedom of expression issues such as Santiago Ortiz, executive secretary of the Union of Journalists of Paraguay (SPP); Ezequiel Santagada, executive director of the Institute of Environmental Law and Economics (IDEA); and Maricarmen Sequera, co-founder of TEDIC and Jose Maria Costa, coordinator of the Legal Clinic for Freedom of Expression, of the Faculty of Law UNA. As part of the Rapporteur's academic visit, on Tuesday 13, the international seminar and colloquium "Free Expression, Public Information and Safety of Journalists. Standards in the Inter-American Human Rights System", aimed at judges, magistrates, lawyers, journalists and operators of the judicial system. Finally, the Office of the Special Rapporteur had the opportunity to attend a meeting with the Vice Minister of Justice Edgar Taboada and authorities of the executive branch where they had the opportunity to discuss issues related to the right to freedom of the press and violence against journalists, the right of access to public information, literacy, democracy and technology in Paraguay, among others. They also discussed the possibility of promoting the progress made by the country, with technical collaborations between the IACHR Special Rapporteurship and the Human Rights Network of the Executive Branch of Paraguay.</p>
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3.	Peru	December 19 to 23, 2022	Technical preparation mission to Peru.	The Office of the Special Rapporteur for Freedom of Expression accompanied the Inter-American Commission on Human Rights (IACHR) on a preparatory visit to Peru in the context of the institutional crisis and the social protests that have been taking place in the country since the first days of December 2022.
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## 6) Annual report and production of expert knowledge

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

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

35. In 2022, in the framework of the 184th and 185th Period of Regular Sessions, the Inter-American Commission on Human Rights approved, respectively, the Documents Disinformation and Pandemics, and the Document and Index on Access to Information in Pandemics<sup>9</sup>. The first one analyzes the phenomenon of disinformation in the more general framework of the restrictions to fundamental rights adopted in the context of the pandemic by most of the States of the region. In this regard, the first part of the document recalls the strict legal standards required by the Inter-American system for restrictions on fundamental rights to be legitimate, even in emergency situations. The report assumes a legal approach to disinformation, adopted by the Office of the Special Rapporteur in 2019 in its document on disinformation in the electoral context; subsequently, these general principles are projected to the current situation of pandemics and states of emergency. Positive, non-restrictive approaches to rights are addressed, such as state obligations to guarantee access to public information, which in this context acquires certain characteristics and particularities, and the obligation to promote "digital literacy" measures. On the other hand, the document and Access Index proposes an index of criteria for transparency and access to public information, which expands the existing guidelines for risk communication in public health emergencies. The document arises from the challenges faced by national transparency and access to information agencies in responding to requests for information, publishing unofficial information, preparing and providing health and scientific information. In addition, the Office monitored an increase in the risks of misuse of public funds supported by states of emergency that allowed states to execute funds without accountability. The process of preparing the document included an expert meeting with representatives of National Access to Information Bodies, who offered their experience during the pandemic, and with CSOs and journalists, who also offered their comments on requests for information, and on possible irregularities in public spending.

36. Likewise, in the framework of attention to the pandemic, the Office of the Special Rapporteur provided expert advice to the IACHR for the elaboration of Resolution 1/20 - Pandemic and Human Rights and Resolution 4/20 - Human Rights of Persons with IDVID-19 in the sections related to the right of Access to Information, including the prohibition of censorship, and the guarantee of access to the Internet; the special care to be taken in statements by public officials; the fight against disinformation; the role of journalism; the right to privacy and protection of personal data; and safeguards to surveillance activities.

<sup>9</sup> The report "Women Journalists and Newsrooms: Progress, Challenges and Recommendations to Prevent Violence and Fight against Discrimination", as well as the documents "Disinformation and Pandemic" and "Index on Access to Information in Pandemic" are an integral part of this Annual Report 2022 of the Office of the Special Rapporteur for Freedom of Expression, and can be consulted through the website of the Office of the Special Rapporteur, in the section of thematic reports: <https://www.oas.org/en/iachr/expression/reports/thematic.asp>.

37. In October 2022, the IACHR Office of the Special Rapporteur for Freedom of Expression published the thematic report: [Women Journalists and Newsrooms: Progress, Challenges and Recommendations to Prevent Violence and Combat Discrimination](#), which analyzes some of the main advances and challenges that persist in relation to patterns of discrimination and forms of gender-based violence against women journalists and media workers within their newsrooms and in the exercise of their profession<sup>10</sup>. Recognizing the decisive role that newsrooms play in eradicating and addressing these facts, the report presents a set of guidelines and recommendations that have been or should be implemented by media companies to promote environments that are increasingly safe and free from any form of discrimination and violence.

## **7) Special Statements**

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

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

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

41. Joint statements are a fundamental working tool for the Office of the Special Rapporteur. In previous years, these statements have dealt with various topics related to freedom of expression depending on the context and time<sup>11</sup>.

42. On January 28, 2022, in response to the third murder of a journalist in Mexico in less than a month (November), the Inter-American Commission on Human Rights (IACHR), its Special Rapporteurship for Freedom of Expression (RELE) and the Office in Mexico of the United Nations High Commissioner for Human Rights (UN-HCHR) issued a [joint press release](#) condemning the murder of journalist Lourdes Maldonado López.

43. On January 30, 2022, the IACHR, its Office of the Special Rapporteur and the OHCHR Regional Office issued a [joint press release](#) in which they expressed their concern about new evidence of the use of the Pegasus malware for the illegal surveillance of journalists and civil society organizations that investigate and report on matters of public interest in El Salvador. In the statement these institutions urge the State of El Salvador to clarify what happened, punish those found guilty in relation to these events and provide guarantees of non-repetition, modifying the rules of electronic surveillance and ensuring compliance with the country's obligations under international human rights law.

44. On May 3, 2022, the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression,

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<sup>10</sup> The report "Women Journalists and Newsrooms: Progress, Challenges and Recommendations to Prevent Violence and Fight against Discrimination", as well as the documents "Disinformation and Pandemic" and "Index on Access to Information in Pandemic" are an integral part of this Annual Report 2022 of the Office of the Special Rapporteur for Freedom of Expression, and can be consulted through the website of the Office of the Special Rapporteur, in the section of thematic reports: <https://www.oas.org/en/iachr/expression/reports/thematic.asp>.

<sup>11</sup> Available at: <https://www.oas.org/en/iachr/expression/docListCat.asp?catID=16&IID=>

launched their [Joint Declaration 2022 on Freedom of Expression and Gender Justice](#). The Declaration sets out important recommendations for States, technology companies, the media and other stakeholders. In their Joint Statement, the Special Rapporteurs offer key recommendations on how the protection of the right to freedom of expression and gender equality should be jointly promoted, taking into account the essential role these rights play in ending inequality and other forms of gender discrimination around the world. The Joint Declaration provides guidance on how to address gender inequalities in relation to freedom of expression by taking into account biases rooted in existing narratives and patriarchal conventions that have created structural and systemic barriers that actively exclude women and other marginalized communities from expressing themselves. Finally, the statement offers a series of recommendations to all key stakeholders - states, private sector, media and civil society - on how to promote gender equity and justice both online and offline to ensure the full and effective exercise of the right to freedom of expression. The Joint Declaration hopes to establish itself as an intersectional tool to encourage all stakeholders to address the issue of gender inequality.

45. On August 30, 2022, Special Rapporteurs Irene Khan (UN) and Pedro Vaca (OAS) issued a [Joint Declaration](#) in which they express their concern about the worrying limitations to the exercise of freedom of expression in Venezuela, marked by the harassment and persecution of dissenting voices, in particular journalists, media workers and independent media, as well as social leaders and human rights defenders. Of particular concern, according to the Rapporteurs, is the use of criminal law against the media, including the crimes of treason or terrorism, and the repeated application of the 2017 Anti-Hate Law.

46. On World Democracy Day, September 15, 2022, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, together with the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, expressed concern about the increasing use of crisis situations and the declaration of states of emergency to suppress peaceful assemblies around the world. [The Joint Declaration](#) reaffirms the essential role of peaceful assembly in promoting peace, security and development, and condemns attempts by some governments to suppress peaceful assembly during emergency situations, including through the imposition of blanket bans or disproportionate restrictions on peaceful assembly. The declaration includes American, African and UN standards and sets out principles to ensure political pluralism and the independence of civil society and the media. The declaration recommends that states respect, protect and facilitate assemblies in emergency situations, and ensure accountability and redress for human rights violations in the context of assemblies, as well as dialogue and public participation. The Joint Declaration was signed by Clément Voule, UN Special Rapporteur on the rights to freedom of assembly and association, Pedro Vaca, Special Rapporteur on freedom of expression of the Inter-American Commission on Human Rights, and Remy Ngoy Lumbu, Special Rapporteur on human rights defenders and focal point for reprisals in Africa and Chairperson of the African Commission on Human and Peoples' Rights.

47. On September 28, 2022 and in the face of serious allegations regarding the closure of civic spaces in Nicaragua, the United Nations (UN) Special Rapporteur for Freedom of Peaceful Assembly and Association and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), issued a [Joint Declaration](#) urging the State authorities to comply with their international obligations to respect and guarantee fundamental freedoms in Nicaragua. In light of the grave situation observed, the Rapporteurs expressed their strong rejection of these actions and reminded the State of its obligation to immediately cease judicial persecution of all dissenting voices, release those imprisoned for political reasons, and ensure prompt, impartial and thorough investigations into allegations of human rights violations. Refrain from arbitrary and selective use of the law and abusive government practices to hinder or restrict citizen participation and freedom of expression. The rapporteurs also made an urgent appeal to the State to guarantee the life and integrity of persons deprived of liberty and to provide protection and humanitarian assistance to the various actors of Nicaraguan civil society who are forced into exile as a result of the social, political and human rights crisis. Finally, within the framework of their mandates and functions, the Rapporteurs emphasized their commitment to continue promoting and defending the reestablishment of the rights to freedom of assembly, association and expression of Nicaraguan society and expressed their willingness to visit the country and offer technical advice.

48. During 2022, the Office of the Special Rapporteur issued several press releases to draw attention to facts related to freedom of thought and expression. These pronouncements highlight facts of particular concern



and local best practices, and explain the respective regional standards. The press releases issued during 2022 can be consulted on the *website* of the IACHR Office of the Special Rapporteur for Freedom of Expression<sup>12</sup>.

#### Press Releases 2022:

Country	Topics	Number	Title	Place / Date
Haiti	Violence against journalists	R9/22	The Office of the Special Rapporteur condemns the murder of journalists John Wesley Amady and Wilguens Louissaint in Haiti and urges the State to diligently investigate those responsible.	Washington D.C., January 10, 2022
Peru	State regulations	R12/22	RELE is concerned about the conviction for defamation for the publication of the journalistic book "Plata como cancha" in Peru, and warns about its potential intimidating effect.	Washington D.C., January 11, 2022
Mexico	Violence against Journalists	R16/22	The Office of the Special Rapporteur condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico.	Washington, D.C., January 21, 2022
Venezuela	Violence against Journalists	R19/22	The Office of the Special Rapporteur is concerned about stigmatizing statements, media closures and judicial proceedings against journalists in Venezuela.	Washington D.C., January 28, 2022
Regional	Advertisement	N/A	Call for the second edition of its "TECH4RIGHTS" scholarship.	Washington, D.C., February 18, 2022
Brazil	Violence against Journalists	R43/22	The Office of the Special Rapporteur condemns the murder of journalist Givanildo Oliveira in Brazil, and calls on the State to investigate the facts in relation to his journalistic activity.	Washington D.C., March 2, 2022
Haiti	Violence against Journalists in Protests	R44/22	RELE condemns the use of firearms against a protest in Haiti that resulted in the death of a journalist and several people injured.	Washington D.C., March 2, 2022
Regional	Advertisement	N/A	The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) has opened the call for applications for the ninth edition of its "Orlando Sierra" 2022/2023 scholarship.	Washington D.C., March 4, 2022
Mexico	Violence against Journalists	R62/22	The Rapporteurship warns about the normalization and worsening of violence against journalists in Mexico and urges the authorities to activate complementary measures.	Washington D.C., March 24, 2022

<sup>12</sup> Available at: <https://www.oas.org/en/iachr/expression/artListCat.asp?year=&countryID=&IID=1&catID=1>



<b>Guatemala</b>	Violence against Journalists	R73/22	The Office of the Special Rapporteur condemns the murder of journalist Orlando Villanueva in Guatemala and calls on the State to investigate the facts and determine their link to the practice of journalism.	Washington D.C., April 8, 2022
<b>El Salvador</b>	LEX Criminalization/ Legislative Reforms	R80/22	The Office of the Special Rapporteur warns of the risk of criminalization of legitimate exercises of freedom of expression in El Salvador as a result of legislative reforms.	Washington, D.C., April 13, 2022
<b>Regional / International</b>	Joint declarations	R95/22	Joint Declaration on freedom of expression and gender justice of the thematic special rapporteurships of regional organizations in the Americas, Africa and Europe.	Washington, D.C., May 9, 2022
<b>Regional</b>	N/A	R96/22	The IACHR and its RELE presented the creation of the Core Group of Friends of Freedom of Expression and Journalism of the OAS.	Washington, D.C., May 9, 2022
<b>Peru</b>	Visit	R100/22	The Office of the Special Rapporteur for Freedom of Expression announces official visit to Peru.	Washington, D.C., May 10, 2022
<b>Mexico</b>	Violence against journalists	R102/22	RELE condemns the persistence of murders of journalists in Mexico.	Washington, D.C., May 11, 2022
<b>Chile</b>	Violence against journalists	R106/22	The Office of the Special Rapporteur condemns the murder of journalist Francisca Sandoval during a protest and calls on the State of Chile to investigate the facts.	Washington, D.C., May 17, 2022
<b>Peru</b>	Visit	R124/22	The Special Rapporteurship for Freedom of Expression of the IACHR concludes its visit to Peru and presents its preliminary observations and conclusions on freedom of expression in the country.	Washington, D.C., June 2, 2022
<b>Regional</b>	Reports	R129/22	The Office of the Special Rapporteur for Freedom of Expression presents its 2021 Annual Report.	Washington, D.C., June 7, 2022
<b>Regional</b>	Announcements	N/A	The IACHR and RELE publish a consultation questionnaire for the preparation of the thematic report on the closure of civic space in the Americas.	Washington, D.C., June 9, 2022
<b>Brazil</b>	Violence against journalists	R138/22	RELE condemns the murders of the beneficiaries of precautionary measures, journalist Dom Phillips and indigenous peoples expert Bruno Araújo Pereira in Brazil.	Washington, D.C., June 17, 2022

<b>Mexico</b>	Violence against journalists	R157/22	Mexican authorities must stop violence against journalists and guarantee their right to practice their profession freely and safely.	Washington D.C., July 12, 2022.
<b>Honduras</b>	Violence against journalists	R156/22	RELE condemns the murder of journalist Ricardo Ávila in Honduras.	Washington D.C., July 12, 2022.
<b>Nicaragua</b>	Violence against journalists	R163/22	Nicaragua must cease persecution of the independent press and be held accountable for its actions.	Washington D.C., July 15, 2022
<b>Venezuela</b>	Censorship	R169/22	RELE condemns the increase of censorship in Venezuela and reaffirms its support and commitment to the full freedom of the press in the country.	Washington D.C., July 29, 2022.
<b>Ecuador</b>	Violence against journalists	R175/22	RELE condemns the murder of journalist Mike Cabrera in Ecuador and calls on the State to take measures for the prevention and protection of the press.	Washington D.C., August 3, 2022
<b>Mexico</b>	Violence against journalists	R180/22	The Rapporteurship condemns the murder of journalist Ernesto Méndez in Mexico and notes that 2022 marks the highest number of crimes against the press in the country in the last 24 years.	Washington D.C., August 16, 2022
<b>Ecuador</b>	Violence against journalists	R186/22	RELE condemns the murder of journalist Gerardo Delgado Olmedo in Ecuador and urges the authorities to redouble their efforts to contain violence against journalists.	Washington D.C., August 24, 2022
<b>Brazil</b>	Elections and Freedom of Expression	R192/22	Authorities and candidates for public office in Brazil are called upon to protect public debate and freedom of expression.	Washington D.C., August 30, 2022
<b>Guatemala</b>	Judicial harassment / attacks on journalists	R196/22	The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press.	Washington D.C., September 2, 2022
<b>Colombia</b>	Violence against journalists	R199/22	The State of Colombia must investigate the murder of journalists Leiner Enrique Montero and Dilia Contreras and punish those responsible.	Washington D.C., September 7, 2022
<b>Regional</b>	Joint declarations	R202/22	UN and regional experts call on States to protect peaceful assemblies during emergencies.	Washington D.C., September 15, 2022

<b>Paraguay</b>	Violence against journalists	R211/22	RELE condemns the murder of journalist Humberto Coronel in Paraguay and calls on the State to strengthen prevention and protection measures for the press.	Washington D.C., September 22, 2022
<b>Haiti</b>	Violence against journalists	R213/22	RELE condemns the murder of journalists Frantzsen Charles and Tayson Lartigue in Haiti and calls on the State to provide security guarantees to the press.	Washington D.C., September 23, 2022
<b>Regional</b>	Access to information	R217/22	On the International Day of the Universal Right of Access to Information, RELE reiterates the importance of the autonomy of the guarantor bodies.	Washington D.C., September 28, 2022
<b>Nicaragua</b>	Joint declarations	R218/22	Faced with serious allegations of the closure of civic spaces in Nicaragua, UN and IACHR rapporteurs urge the authorities to comply with their international obligations to respect and guarantee fundamental freedoms.	Washington D.C., September 28, 2022
<b>Regional</b>	Projects	R225/22	RELE - UNESCO project to strengthen freedom of expression and the safety of journalists in the Americas.	Washington D.C., October 5, 2022
<b>Regional</b>	Reports	R232/22	"Women Journalists and Newsrooms," a report on the situation faced by women journalists in the Americas.	Washington D.C., October 19, 2022
<b>United States</b>	Academic freedom	R235/22	RELE calls on the U.S. authorities to create the conditions for a broad, plural and robust deliberation in school and academic spaces.	Washington D.C., October 20, 2022
<b>Colombia</b>	Violence against journalists	R237/22	The Rapporteurship urges the State of Colombia to investigate and punish those responsible for the murder of journalist Rafael Emiro Moreno Garavito, as well as to examine the mechanism for the protection of journalists.	Washington D.C., October 20, 2022
<b>Honduras</b>	Violence against journalists	R240/22	RELE condemns the kidnapping and murder of journalist Edwin Josué Andino Canaca and calls on the State of Honduras to provide security guarantees to the press.	Washington D.C., October 27, 2022
<b>Regional</b>	Violence against journalists	R245/22	RELE has recorded the highest number of murders of journalists in the Americas since 1998, and calls on the States of the region to promote comprehensive policies for prevention, protection and justice.	Washington D.C., November 2, 2022

<b>Haiti</b>	Violence against journalists	R253/22	RELE condemns the murder of journalists Romelo Vilsaint, Garry Tess and Fritz Dorilas, and the attack against journalist Roberson Alphonse in Haiti, and calls on the State to clarify the facts.	Washington D.C., November 10, 2022
<b>Regional</b>	Commemorations	R264/22	On the International Day for the Elimination of Violence against Women, RELE calls on the States of the region to promote, protect and guarantee the right to freedom of expression of women.	Washington D.C., November 25, 2022
<b>Colombia</b>	Violence against journalists	R268/22	The Office of the Special Rapporteur condemns the murder of journalist Wilder Alfredo Córdoba and urges the State of Colombia to redouble its efforts to prevent violence against the press.	Washington D.C., December 2, 2022
<b>Regional</b>	Advertisement	N/A	RELE and UNESCO invite you to participate in the consultative phase of a project that seeks to identify recurring challenges and best practices for the participation of the different stakeholders of the Americas in the United Nations Universal Periodic Review (UPR).	Washington D.C., December 20, 2022.

### C. Financing

49. The Office of the Special Rapporteur would especially like to thank the OAS member states, observer countries and international cooperation agencies for their contributions. In 2022, the Office of the Special Rapporteur highlights the projects successfully implemented thanks to contributions from the States of Costa Rica, the United States of America, the Kingdom of the Netherlands, as well as the Swedish International Development Cooperation Agency, the Swiss Confederation, the Open Society Foundations, the National Endowment for Democracy (NED), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Ford Foundation, Google Inc. and META Inc. This funding has allowed the Office of the Special Rapporteur to fulfill its mandate and continue its work of promoting and defending the right to freedom of expression. Once the official OAS figures on the resources received and executed by this office have been issued, they will be published in the audited financial statements available on the organization's website<sup>13</sup>.

<sup>13</sup> All financial information is available for consultation on the OAS website in the [External Audit Reports](#) section: OAS Board of External Auditors. Report to the Permanent Council 2013. Annual Audit of accounts and Financial Statements for the years ended December 31, 2013 and 2012. Section II. Specific Funds. Pp 62-64; OAS Board of External Auditors. Report to the Permanent Council 2012. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2012 and 2011. Section II. Specific Funds. Pp 75-77; OAS Board of External Auditors. Report to the Permanent Council 2011. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2011 and 2010. Section II. Specific Funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2010. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2010 and 2009. Section II. Specific Funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2009. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2009 and 2008. Section II. Specific Funds. Pp 71-73; OAS Board of External Auditors. Report to the Permanent Council 2008. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2008 and 2007. Section II. Specific Funds. Pp 73-74; OAS Board of External Auditors. Report to the Permanent Council 2007. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2007 and 2006. Section II. Specific Funds. Pp 85-86; OAS Board of External Auditors. Report to the Permanent Council 2006. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2006 and 2005. Section II. Specific Funds. Pp 73; OAS Board of External Auditors. Report to the Permanent Council 2005. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2005 and 2004. Section II. Specific Funds. Pp 63-64; OAS Board of External Auditors. Report to the Permanent Council 2004. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2004 and 2003. Section II. Specific Funds. Pp 41-42; Board of External Auditors. OAS General Secretariat. Report to the Permanent Council 2003. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2003 and 2002. Section

#### **D. Workforce**

50. The Special Rapporteur's Office has operated under the coordination of the Special Rapporteur, with a team of two or three lawyers with expertise in freedom of expression issues and one person who assists with projects and administrative tasks. Since July 2009, the Rapporteurship has had a person in charge of project management and resource mobilization. The additional resources obtained have served to provide greater stability and better working conditions for the members of this team. The Special Rapporteurship has also benefited from the presence of interns who have been a fundamental part of the work team. At different times during 2022, the following interns contributed very constructively to the Special Rapporteurship with their work and enthusiasm: Agustín Perez Aledda (Argentina), Carla Bonella (Canada), Daniel Corredor (Colombia), Laura Piperno (Uruguay), Olivia Arana (Bolivia) and Renzo Diaz (Peru). The Special Rapporteurship has also been supported during 2022 by fellows Alvaro Montenegro Muralles (Guatemala) (Orlando Sierra Fellowship, 2022), Juliana Fonteles (Brazil) (Tech4Rights Fellowship 2022) and Ricardo Rosales (Venezuela) (Tech4Rights Fellowship 2022).

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II. Specific Funds. Pp 41-42; OAS Board of External Auditors. Report to the Permanent Council 2002. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2002 and 2001. Section II. Specific Funds. Pp 53; OAS Board of External Auditors. Report to the Permanent Council 2001. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2001 and 2000. Section II. Specific Funds. Pp 52; OAS Board of External Auditors. Report to the Permanent Council 2000. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2000 and 1999. Section II. Specific Funds. Annex 4. Page 4.

## CHAPTER II: SITUATION OF FREEDOM OF EXPRESSION IN THE HERMISPHERE

1. This chapter describes some of the most important aspects of the situation of freedom of expression in the hemisphere during 2022. Its objective is to foster a constructive dialogue with the Member States of the OAS, calling attention to the reported advances as well as the problems and challenges that have required action during this year. The Office of the Special Rapporteur has confidence in the will of the OAS Member States to promote resolutely the right to freedom of expression and, to that end, publicizes their best practices, reports some serious problems observed, and offers viable and practical recommendations rooted in the Declaration of Principles.

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

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

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

5. In preparing this chapter of its 2022 Annual Report, the Office of the Special Rapporteur generally took into account information received until December 31, 2022, and, to the extent relevant, considered information received before 2022. Information regarding cases that occurred after the closing date of the 2022 Annual Report can be consulted in the press release section of the websites of the Office of the Special Rapporteur for Freedom of Expression (<http://www.oas.org/en/iachr/expression/index.asp>) and the IACHR (<http://www.oas.org/en/iachr/expression/index.asp>).

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

## ANTIGUA AND BARBUDA

7. In 2022, the Office of the Special Rapporteur received reports regarding the tension between the press and the government. This tension was reportedly accentuated by the alleged salary debts to employees of public media outlets, which reportedly resulted in protests and legal disputes. This Office also followed up on the progress of criminal proceedings against demonstrators who protested the mandatory vaccination in the country in the second semester of 2021. On the other hand, the Office of the Rapporteur welcomes information related to the development of technical skills through workshops, seminars, and training for journalists in Antigua and Barbuda. Likewise, the IACHR and its Office of the Special Rapporteur followed up on judicial decisions that represent progress in terms of freedom of expression and the fight against discrimination and exclusion, such as decriminalization in laws that criminalize the consensual sexual activity of LGBTI persons. This Office also salutes the celebrations surrounding Emancipation Day, commemorating 188 years since the abolition of slavery. In terms of connectivity and Internet access, the Office of the Special Rapporteur observed that, despite the high variation in the region, the cost of mobile telephony in Antigua and Barbuda is reportedly among the most affordable in the Caribbean.

### A. Journalism and Democracy

8. On March 5, 2022, the Office of the Special Rapporteur received information about an alleged confrontation between the Prime Minister's administration and the radio station *Observer Radio*. According to the information available, the station's director, Algernon "Serpent" Watts, allegedly accused the Chief of Staff of spreading false information, and allegedly suggested that the official should not return to the radio station. Subsequently, the director of *Observer Radio* reportedly clarified that his presence in the station would not be prohibited<sup>14</sup>. The public official had a radio space, every Monday, in prime time, to report on the work of the government.

9. According to public information, on March 9, 2022, the Prime Minister's administration took action against *Observer Radio*, arguing that the aforementioned acts by the director of the radio station constituted acts of censorship against the entire government party<sup>15</sup>. Cabinet members reportedly voted to refuse any appearances on *Observer Radio* and to avoid *Observer Radio* reporters. The Prime Minister reportedly accused Algernon Watts of having "declared war on the ABLP [*Antigua and Barbuda Labor Party*] government" and pointed out that *Observer Radio* intends to "undermine freedom of expression and democracy." Other cabinet members reportedly urged the communicator to refute the cabinet chief's assertions instead of removing his weekly radio intervention.

10. On March 12, Gemma Handy, Managing Editor of the *Observer Media Group*, parent company of *Observer Radio*, reportedly asked the chief of staff directly not to extend the government boycott to all reporters associated with the outlet<sup>16</sup>. According to public information, Handy affirmed that reporters would be affected by the lack of access to official sources, which would also have a negative impact on citizens. Likewise, she said she did not agree "with censorship in principle" for which she rejected the statements of Algernon Watts and the current administration. In her petition, the managing editor assured that the *Observer* reporters are "decent, honorable and hard-working young people", who cover the news in a "fair and balanced" manner, so they should not be affected by a "political dispute"<sup>17</sup>.

11. The Office of the Special Rapporteur recalls that, in accordance with principle 5 of the IACHR Declaration of Principles on Freedom of Expression, "[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of

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<sup>14</sup> Antigua Breaking News. March 8, 2022. [Hurst was never banned from the Observer - Serpent](#); Loop Caribbean News. March 6, 2022. Antigua: [PM Browne vows to bar Cabinet from speaking to Observer Media](#).

<sup>15</sup> Antigua Observer Newspaper. March 10, 2022. [Cabinet unanimously votes to boycott Observer Radio](#); Dominica News Online. March 7, 2022. [Observer Radio faces possible boycott by Antigua Cabinet](#).

<sup>16</sup> Antigua Breaking News. March 12, 2022. [Observer editor begs cabinet to reconsider boycott](#).

<sup>17</sup> Antigua Breaking News. March 12, 2022. [Observer editor begs cabinet to reconsider boycott](#).



ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression”<sup>18</sup>.

12. On the other hand, the Office of the Special Rapporteur was informed of a workshop for journalists on news coverage on climate change and the responsibility of journalists and media in this context, held between March and April 2022 by the Media Institute of the Caribbean (MIC).<sup>19</sup> According to the information received by this Office, the workshop had the participation of at least 40 journalists from 26 countries. The panelists and participants reportedly addressed the concept of "solutions journalism" so that reporters can, for example, make visible actions in favor of reducing the carbon footprint. Likewise, the meeting addressed challenges around denial expressions on climate change, as well as strategies to identify "greenwashing policies" activities and projects that do not contribute to the climate emergency.

13. Likewise, this Office received information about a workshop for journalists organized by High Media Group, on April 4, 2022. The workshop was designed to contribute to the training of a group of journalists in reporting techniques, writing articles, photography, videography, editing and production, as well as social media management. The workshop reportedly had the participation and moderation of the journalist and broadcaster Orin Gordon, who was part of the *BBC* in the Caribbean<sup>20</sup>.

14. The Office of the Special Rapporteur salutes the efforts of Caribbean media institutions and associations and journalists to facilitate workshops that seek to contribute to the quality of journalism in the region. This Office considers that seminars, workshops, and training constitute a fundamental tool to create capacities and promote standards on the right to freedom of the press; and encourages the States to generate the necessary conditions so that these training instances can develop and be accessible to all journalists.

15. On March 30, 2022, the Office of the Special Rapporteur received reports alleging that *Antigua & Barbuda Broadcasting Services* (ABS), a public media outlet, owed overtime pay to several of its employees<sup>21</sup>. That day, ABS workers reportedly went on strike to protest the outstanding payments since 2014. According to public information, ABS management refused to accept responsibility, which led to legal action before the Industrial Court by the workers.<sup>22</sup> According to the information available, the court's panel of judges were requested to recuse themselves for an alleged lack of impartiality and competence in the case. The Minister of Information reportedly assured that ABS employees and management would be seeking a resolution to the ongoing dispute, which would also include determining overtime and holiday payments owed to workers<sup>23</sup>.

16. In view of the foregoing, the Office of the Special Rapporteur recalls that the rights to freedom of expression, assembly and association, in relation to freedom of association, collective bargaining, and strike, constitute fundamental rights for workers and their representatives to organize and express specific demands about their working conditions, and participate in issues of public interest with a collective voice<sup>24</sup>. Likewise, the Inter-American Human Rights System has established that States have the duty to respect and guarantee these rights, which make it possible to level the unequal relationship that exists between workers and employers and access to fair wages and safe working conditions<sup>25</sup>.

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

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<sup>18</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Declaration on Freedom of Expression](#). Principle 5.

<sup>19</sup> Antigua Observer Newspaper. March 30, 2022. [Dozens of regional journalists participating in media series on climate change](#); Media Institute of the Caribbean. March 4, 2022. [Climate Justice and Journalistic Perspectives](#).

<sup>20</sup> Antigua Breaking News. April 1, 2022. [Journalists and commentators to benefit from 3-day workshop](#).

<sup>21</sup> Antigua Breaking News. March 30, 2022. [ABS staff protest for overtime pay owed to them for several years](#); Antigua Observer Newspaper. April 5, 2022. [ABS workers report another setback in payment resolution](#).

<sup>22</sup> Antigua Breaking News. March 31, 2022. [Gov't takes ABS workers' case to Appeal Court, stalling matter at Industrial Court and prompting protest](#); Antigua Observer Newspaper. April 4, 2022. [ABS workers pressured to cease industrial action](#).

<sup>23</sup> Antigua Observer Newspaper. April 5, 2022. [ABS workers report another setback in payment resolution](#).

<sup>24</sup> I/A Court HR. Rights to freedom to organize, collective bargaining, and strike, and their relation to other rights, with a gender perspective. Advisory Opinion OC-27/21 of May 5, 2021. Series A No. 27. Para 141.

<sup>25</sup> I/A Court HR. Rights to freedom to organize, collective bargaining, and strike, and their relation to other rights, with a gender perspective. Advisory Opinion OC-27/21 of May 5, 2021. Series A No. 27. Para 141.

17. In 2022, the Office of the Special Rapporteur continued to observe legal processes related to protests that occurred in August 2021. These protests, mostly led by the group called Freedom Fighters of Antigua & Barbuda (FFAB), demanded the elimination of measures against COVID-19, including mandatory vaccination for certain sectors of society<sup>26</sup>. According to public information, the police used tear gas and rubber bullets during these demonstrations to disperse the demonstrators, who did not have prior authorization to congregate. Due to the foregoing, several people were reportedly arrested and charged with violations of the Public Order Act<sup>27</sup>. One year after these events, the Office of the Special Rapporteur learned that the current government had defended its actions to dissolve demonstrations without official approval.<sup>28</sup> According to available information, the protesters had requested permission from the Police to carry out the protest. Faced with claims from the opposition, which argued that the police response to the protests had not taken into account the presence of minors and the elderly, Cabinet members reportedly asserted that the Police acted responsibly and that an investigation into the matter was not necessary<sup>29</sup>.

18. In this context, the Office of the Special Rapporteur also received various reports on the progress in the trial against Donette Simon of Tindale Road and Shenel Williams of Villa, two women arrested for their participation in the August 2021 protests<sup>30</sup>. The two women would be accused of "organizing a prohibited public meeting" and participating in said event. In addition, Williams would also face charges related to incitement and encouraging unlawful behavior, which constitute criminal offenses under the Public Order Act. In 2022 she would have started the trial. According to what SRFOE was able to learn, in March, the two women would have declared their innocence; and between August and October 2022, different witnesses would have testified the same.

19. Additionally, on April 27, this Office was informed about a series of demonstrations by personnel employed by the Central Board of Health (CBH) that occurred on April 27. According to the information received, there were at least three protests in which dozens of workers demanded that they be paid overtime and delayed wages<sup>31</sup>. The workers argued that the cost of living has risen significantly, so they urgently need the money due. For their part, the authorities reportedly ensured that the pending payments had already been authorized by the Treasury.

20. The Office of the Special Rapporteur recalls that protests are a manifestation of the right to freedom of expression, so the authorities must facilitate its exercise and must not consider them a threat to public order or internal security<sup>32</sup>. The Office of the Special Rapporteur emphasizes that States must protect the legitimate exercise of social protest and prevent the use of disproportionate restrictions that can be used to inhibit or restrict critical or dissident expressions. In accordance with international human rights standards, protesters have the freedom to choose the modality, form, place, and message to carry out the peaceful protest. The IACHR's report on protest and human rights indicates that the State must avoid the use of generalizing and prohibitive approaches to the various forms of protest in the exercise of the right to protest, inasmuch as some of them are modalities of protest that channel the social listening of some voices that would otherwise hardly enter the public agenda<sup>33</sup>. In this regard, the Office of the Special Rapporteur recalls that any measure that may affect the right to social protest must comply with the requirements of legality, necessity, and proportionality. Likewise, the protection of the right to freedom of expression requires that the authorities ensure the necessary

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<sup>26</sup> Antigua Observer Newspaper. March 3, 2022. [Alleged protest organisers plead not guilty, first witness takes the stand](#); St. Vincent Times. August 8, 2022. [Antigua government defends teargas use during anti-vaxx protests](#).

<sup>27</sup> Antigua Observer Newspaper. March 3, 2022. [Alleged protest organisers plead not guilty, first witness takes the stand](#); St. Vincent Times. August 8, 2022. [Antigua government defends teargas use during anti-vaxx protests](#).

<sup>28</sup> Caribbean Loop News. August 8, 2022. [Antigua Govt defends use of teargas to breakup anti-vaxx protest](#).

<sup>29</sup> St. Vincent Times. August 8, 2022. [Antigua government defends teargas use during anti-vaxx protests](#); Caribbean Loop News. August 8, 2022. [Antigua Govt defends use of teargas to breakup anti-vaxx protest](#); Antigua Observer Newspaper. August 7, 2022. [UPP reaffirms its commitment to freedom of choice and calls for a full investigation into Teargas Sunday](#).

<sup>30</sup> Antigua Observer Newspaper. March 3, 2022. [Alleged protest organisers plead not guilty, first witness takes the stand](#); Antigua Observer Newspaper. June 23, 2022. [Trial to continue in August for alleged protest organisers](#); Antigua Observer News. August 24, 2022. [Trial of alleged protest organisers](#).

<sup>31</sup> Antigua Observer Newspaper. April 27, 2022. [CBH workers to continue protest today despite 'approval' of outstanding payments](#); Nationwide 90 FM. April 29, 2022. [CBH Protest Continue For Third Day](#).

<sup>32</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 18.

<sup>33</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II CIDH/RELE/INF. 22/19. September 2009, para. 10-13.

conditions so that journalists can cover events of notorious public interest such as those related to social protests<sup>34</sup>.

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

21. On July 5, 2022, the High Court of Justice of the Eastern Caribbean Supreme Court held that the crimes known as buggery and serious indecency are unconstitutional in the extent to which they violate the rights of LGBTI persons with the legal capacity to consent to sexual activity.<sup>35</sup> In its ruling, the Superior Court of Justice found that the law in question violated rights to freedom of expression, protection of personal privacy, and protection against discrimination based on sexual orientation. In this sense, the Inter-American Commission on Human Rights (IACHR) welcomed the Court's decision as it "analyzed international jurisprudence, with a human rights approach, and inter-American standards that protect the rights of LGBTI persons"<sup>36</sup>.

22. According to the information available, the aforementioned decision of the High Court of Justice of the Eastern Caribbean Supreme Court would be the result of efforts by civil society to challenge anti-LGBTI legislation in jurisdictions of the Eastern Caribbean. These efforts, as this Office learned, were spearheaded by the Eastern Caribbean Alliance for Diversity and Equality - ECADE<sup>37</sup>.

23. The Office of the Special Rapporteur, like the Inter-American Commission on Human Rights (IACHR), welcomes the decriminalization in laws that criminalize the consensual sexual activity of LGBTI persons. Likewise, this Office celebrates the work of civil society and human rights activists in the Caribbean who contributed to this judicial decision. As the IACHR Merits Report No. 401/20 pointed out, the criminalization of consensual relationships violates the principle of equality, non-discrimination, and the right to privacy<sup>38</sup>. Additionally, the Commission pointed out that these types of laws promote an environment of discrimination, stigmatization, violence, and social control over LGBTI persons, since they have been used to justify arbitrary arrests, detentions, and even torture<sup>39</sup>.

24. On the other hand, the Office of the Special Rapporteur welcomed the information on the commemorative celebrations of Emancipation Day, held between July 29 and August 12, 2022<sup>40</sup>. This Office salutes the efforts behind all public gatherings and cultural activities that commemorated 188 years since the end of slavery.

25. In September, as part of the new school year, this Office registered with concern the case of a five-year-old student in Antigua who was reportedly denied access to school for having dreadlocks (locs). According to public information, the school institution had a policy that prohibited this type of hairstyle, for which reason the school's rector informed the student's mother that, unless she cut her daughter's hair, she could not return to the institution<sup>41</sup>. Although the family does not identify as "Rastafarian", the government of Antigua and Barbuda reportedly expressed a "strong condemnation" of schools that discriminate against this minority group. In a statement, the government explained that the country's constitution protects "freedom of religion, freedom of association, and the freedom to have a system that differs from the majority"<sup>42</sup>. The statement also

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<sup>34</sup> OAS, UN. Joint declaration on violence against journalists and communicators in the context of social demonstrations. 2013.

<sup>35</sup> The Eastern Caribbean Supreme Court in the High Court of Justice Antigua and Barbuda. July 5, 2022. [Orden David et al v. The Attorney General of Antigua and Barbuda](#); Antigua Observer Newspaper. July 5, 2022. [Antigua court rules 'anti-buggery' law unconstitutional](#).

<sup>36</sup> Inter-American Commission on Human Rights. July 15, 2022. [IACHR celebrates Court ruling on colonial-era laws that criminalized consensual sexual activity of LGBTI persons in Antigua and Barbuda](#).

<sup>37</sup> Human Rights Watch. July 11, 2022. [Antigua and Barbuda: High Court Decriminalizes Gay Sex](#); Global Voices. July 13, 2022. [Antigua & Barbuda is the latest Caribbean country where 'anti-buggery' laws have been deemed 'unconstitutional'](#)

<sup>38</sup> IACHR. December 31, 2020. Report No. 401/20.

<sup>39</sup> IACHR. December 31, 2020. Report No. 401/20.

<sup>40</sup> WIC News. August 2, 2022. Antigua and Barbuda: [PM Gaston Browne extends warm wishes on Emancipation Day](#); Antigua Observer Newspaper. July 14, 2022. [Emancipation celebrations to kick off with African Dress Day](#); Antigua Observer Newspaper. July 20, 2022. [Renewed calls for Emancipation Day to be a national holiday](#).

<sup>41</sup> Caribbean Loop News. September 7, 2022. [Antigua govt condemns discrimination against Rastafarians at schools](#). Dominica News Online. September 10, 2022. [Antigua Govt prepared to legislate the wearing of locs at school](#);

<sup>42</sup> Dominica News Online. September 10, 2022. [Antigua Govt prepared to legislate the wearing of locs at school](#); Caribbean Loop News. September 7, 2022. [Antigua govt condemns discrimination against Rastafarians at schools](#).

said that schools in the country cannot discriminate against members of the Rastafarian community or pupils who choose to wear their hair in the same way as Rastafarians<sup>43</sup>.

26. Regarding this incident, the Office of the Special Rapporteur recalls that, as indicated by the Inter-American Principles on Academic Freedom, academic freedom must be promoted, protected, and guaranteed equal opportunities without discrimination for any reason, whether it be based on political opinions, ethnic-racial origin, nationality, age, gender, sexual orientation, gender identity and expression, language, or of any other nature<sup>44</sup>.

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

27. According to the conclusions of a study carried out by a telecommunications company that analyzes the cost of mobile telephony in the Caribbean, Antigua and Barbuda is the country with the third most affordable data plan after Haiti and Trinidad and Tobago.<sup>45</sup> The study included the participation of 31 Caribbean countries. However, according to public information, the cost of mobile telephony in the Caribbean continued to be in the range of the relatively most expensive worldwide, although with large variations within the region<sup>46</sup>.

28. This Office reiterates that it is essential that States adopt progressive measures aimed at guaranteeing universal access to the Internet, in order to reduce the digital divide. For this, the States are called upon to promote infrastructure development policies, protecting the quality and integrity of the service at all times, and establishing explicit prohibitions regarding arbitrary, partial, or total blockages and slowdowns<sup>47</sup>. Likewise, as the IACHR and its Office of the Special Rapporteur have already stated, it is important to ensure that the costs of the service are inclusive, so as not to hinder access; that connectivity be extended to the entire territory, to effectively promote access for rural users and marginal communities; that communities have access to community information and communication technology centers and other public access options; and that training and education efforts be reinforced, especially in poor, rural sectors and among the elderly population<sup>48</sup>.

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<sup>43</sup> ABS. September 7, 2022. [Government crafts draft policy on student's hair and grooming; condemns discrimination](#).

<sup>44</sup> IACHR. Inter-American Principles on Academic Freedom and University Autonomy. 2021. Principle No. 3.

<sup>45</sup> ICT Pulse. August 5, 2022. [Snapshot: Updated price of 1 GB of Mobile Data Across the Caribbean in 2022](#); BN Americas. August 9, 2022. [Where mobile internet is cheapest - and most expensive](#).

<sup>46</sup> ICT Pulse. August 5, 2022. [Snapshot: Updated price of 1 GB of Mobile Data Across the Caribbean in 2022](#); BN Americas. August 9, 2022. [Where mobile internet is cheapest - and most expensive](#).

<sup>47</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 32.

<sup>48</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 16

## ARGENTINA

29. During 2022, the Office of the Special Rapporteur has received reports of threats, violent acts and intimidation against journalists, particularly against journalists covering drug trafficking issues in the city of Rosario, Santa Fe province. The Rapporteurship also observed the increase of judicial actions against journalists and media outlets. Likewise, this Office received reports on alleged disproportionate use of public force in the context of social protests; and reports from various actors on a deterioration of public debate, particularly an increase in hate speech. This Office also highlights the decision of the Supreme Court of Justice of the Nation in the case of Natalia Denegri, in which a request for de-indexation of content based on the “right to be forgotten” was analyzed, finding that there were no constitutional or legal grounds to support such a claim; and that any sanction or limitation to freedom of expression, widely guaranteed in the National Constitution, must be of restrictive interpretation. The Rapporteurship thanks the Permanent Mission of Argentina to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

30. During 2022, this Office recorded numerous physical aggressions and intimidations against journalists, as well as threats in coverage related to organized crime. According to the information received, on July 29, in San Martín de los Andes, a demonstrator shot at least twice at Federico Soto, photographer of *LMNeuquén*, and Patrio Rodríguez, of *Río Negro*. This attack took place while the journalists were covering a protest by demonstrators of the *Asociación de Trabajadores del Estado* (ATE).<sup>49</sup>

31. Particularly, this Office has observed an increase in violence in the city of Rosario, where attacks, threats and intimidations against several journalists and media outlets have been reported, especially those who carry out investigations related to organized crime and drug trafficking. In this regard, the Rapporteurship learned that on October 11 a poster was hung in front of the *Telefé Noticias* facilities in Rosario, which read: “To all the media of Rosario... stop dirtying and condemning the kids with your tongue because we are going to kill journalists. Don’t mess with the mafia”.<sup>50</sup> The Secretary of Human Rights of the Nation repudiated these actions and expressed its concern.<sup>51</sup> For his part, the Minister of Security warned that this was a 20 year old problem that was not easy to solve.<sup>52</sup> Weeks earlier, according to what the Rapporteurship was able to learn, a lawyer had written on social networks “The world will be a livable place when every day a journalist is executed; they are the cancer of humanity” and called for the “execution of one journalist per day”.<sup>53</sup> The post was subsequently removed. Several press organizations spoke out against this and demanded that it be sanctioned by the Bar Association.<sup>54</sup> On October 4, a prosecutor dismissed the complaint filed by the Rosario Press Union against the lawyer<sup>55</sup> but another prosecutor, on December 30, decided that the case should be reopened for incitement to violence.<sup>56</sup>

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<sup>49</sup> La Nación. July 29, 2022. [The moment a state employee shoots a photographer: the assailant is on the run](#); Diario Crónica. July 29, 2022. [Energetic repudiation of shooting attack on photographers in San Martín de los Andes](#).

<sup>50</sup> La Nación. October 12, 2022. [“We are going to kill journalists”: the strong threat from a narco group that appeared on the door of a Rosario TV channel](#); El Día. October 11, 2022. [“We are going to kill journalists”: the threat left on a Rosario TV station](#).

<sup>51</sup> Twitter account of the National Secretariat of Human Rights (@SDHArgentina). [October 11, 2022](#).

<sup>52</sup> Rosario 3. October 12, 2022. [Aníbal Fernández on threats to journalists: “It is not easy, it has been 20 years that this issue has been installed in Rosario”](#); La Capital. October 12, 2022. [Aníbal Fernández: on the threat to journalists: No magic solutions can be expected](#).

<sup>53</sup> Redacción Rosario. September 26, 2022. [The SPR denounced the person who called for “killing a journalist per day”](#); FOPEA Twitter account. [September 26, 2022](#).

<sup>54</sup> FOPEA Twitter account. [September 26, 2022](#); La Capital. September 26, 2022. [The Press Union repudiated statements made by a lawyer who incited to kill journalists](#).

<sup>55</sup> La Capital. October 4, 2022. [For the prosecutor, to say that a journalist is executed every day is not a crime](#); Algo en Común. September 26, 2022. [Rosario Press Union will file a criminal complaint for incitement to kill one journalist per day](#).

<sup>56</sup> El Ciudadano. December 30, 2022. [Prosecutor Iribarren ordered to investigate Leopoldo Monteil who said: “We must kill a journalist a day”](#); Página 12. December 31, 2022. [They reopen investigation against a lawyer based on a denunciation of the Press Union](#).



32. Likewise, on December 12 and 29, 2022, the facilities of *Televisión Litoral de Rosario (TVL)*, where *Channel 3*, *Radio 2*, *Rosario 3* and *FM Vida and Plus* operate, were reportedly the target of armed attacks.<sup>57</sup>

33. In May, journalists Germán de los Santos, of the media *La Nación* and *Aire de Santa Fe*, Roberto Caferra, of *Radio Mitre* and *Radio Dos*, Hernán Lascano, of the newspaper *La Capital*, among others, received threats allegedly from criminal groups. The letter stated that “The media are the fundamental part in stoking everything that is happening. Some media are to blame for so many deaths, for so much corruption. They report with weeds, evil, and meanwhile the prisons are filled with lazybones”.<sup>58</sup> In 2017, Lascano and de los Santos had received threats and aggressions while presenting their book on the criminal gang *Los Monos*.<sup>59</sup>

34. This Office learned that after the increase of these threats in the city of Rosario, media outlets decided to protect their journalists by providing them with bulletproof vests to prevent attacks.<sup>60</sup> The Rapporteurship notes that this escalation of violence has generated a climate of self-censorship in the press, and therefore considers it essential that the authorities take the necessary measures to create the conditions for journalists to exercise their work freely and safely.

35. On the other hand, journalists from the province of Santa Fe, Rodrigo Miró, of the *Redboing* portal, and Mauro Yasprizza, of *Radio Mitre Rosario* and *CNN Rosario* reported having been intimidated by the relatives of a financier under investigation for money laundering who is facing criminal proceedings.<sup>61</sup>

36. According to the information available, on January 3, police forces detained two journalists from the *Tiempo de San Juan* media outlet for approximately one hour without bringing them before a judge or informing them of the charges against them.<sup>62</sup> The police officers reportedly detained the journalists in compliance with an order issued by a prosecutor, who reportedly called one of the journalists to tell him “either you put the drone down or I’ll put you in jail”.<sup>63</sup> This situation occurred in the middle of the coverage of the murder and rape of a minor in the department of Sarmiento, in the Province of San Juan, in which a photojournalist from *Tiempo de San Juan* reportedly took photographs of the investigation from a drone.<sup>64</sup> The police officers allegedly forced the reporters to erase the photographs.<sup>65</sup> Subsequently, another prosecutor announced an investigation into the possible aggression against the journalists.<sup>66</sup>

37. Likewise, this Office received information on aggressions against journalists during public demonstrations following the attack against the vice-president of Argentina. For example, on August 27,

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<sup>57</sup> La Nación. December 29. [Concern over repeated narco attacks with bullets against media outlets in Rosario](#); Telenueve. December 29. [Another attack on Rosario media: 8 shots fired at studios](#).

<sup>58</sup> Aire de Santa Fe. May 7, 2022. [FOPEA and Adepa warn of threats to AIRE journalist Germán de los Santos and other colleagues from Rosario](#); La Voz. January 30, 2022. [Lorena Verdún, the city of the leader of Los Monos that does not remain behind the scenes](#).

<sup>59</sup> El País. October 12, 2017. [Argentina: Argentina's most famous drug traffickers prevent the presentation of a book investigating them](#); La Voz. October 12, 2017. [Threats: the city of "Pájaro" Cantero stormed the presentation of a book on "Los Monos"](#).

<sup>60</sup> Perfil. October 25, 2022. [Due to threats from drug traffickers, Rosario journalists go to work wearing bulletproof vests](#); MDZ Argentina. October 25, 2022. [The strong measure taken by Rosario journalists in the face of death threats](#).

<sup>61</sup> FOPEA Twitter account. [August 29, 2022](#); Voces del Sur. August 29, 2022. [Argentina: we stand in solidarity with Rosario journalists Rodrigo Miró and Mauro Yasprizza](#).

<sup>62</sup> Tiempo de San Juan. January 3, 2022. [Serious censorship of the press by a prosecutor: illegal detention and forced to erase photos of a journalist](#); Diario Huarpe. January 3, 2022. [San Juan media denounced that its photographer was illegally detained and forced to erase photos of the Yoseli case](#).

<sup>63</sup> Tiempo de San Juan. January 3, 2022. [Serious censorship of the press by a prosecutor: illegal detention and forced to erase photos of a journalist](#); Diario Huarpe. January 3, 2022. [San Juan media denounced that its photographer was illegally detained and forced to erase photos of the Yoseli case](#).

<sup>64</sup> Tiempo de San Juan. January 3, 2022. [Serious censorship of the press by a prosecutor: illegal detention and forced to erase photos of a journalist](#); Diario Huarpe. January 3, 2022. [San Juan media denounced that its photographer was illegally detained and forced to erase photos of the Yoseli case](#).

<sup>65</sup> Tiempo de San Juan. January 3, 2022. [Serious censorship of the press by a prosecutor: illegal detention and forced to erase photos of a journalist](#); Diario Huarpe. January 3, 2022. [San Juan media denounced that its photographer was illegally detained and forced to erase photos of the Yoseli case](#).

<sup>66</sup> Tiempo de San Juan. January 3, 2022. [Justice will investigate prosecutor Grassi's censorship and intimidation of journalists](#); FOPEA Twitter account (@FOPEA). [January 3, 2022](#).

journalist Ezequiel Guazzora, from *AM 1300*, was allegedly assaulted by police officers during a protest in front of the vice-president's house.<sup>67</sup>

38. This Office also learned of aggressions against the press in the context of sporting events. Reporter Diego Pablo Fernández and cameraman Martín Fiotto of channel *C5N*, and other journalists of the media *A24* and *TN* were assaulted on July 22 at a protest in Avellaneda where supporters of the soccer club *Independiente* were demonstrating denouncing irregularities in the team's budget, which had been approved that day.<sup>68</sup> This Office was also informed of the attack suffered by *TyC Sports* cameraman Fernando Rivero, who was injured while covering a soccer match on October 6, following clashes between groups of fans outside the stadium. Rivero was recording the incidents and was allegedly shot by a police officer. "I was recording. They were repressing and a policeman turned around and gave me three rubber bullets in the groin", said the cameraman on a radio program, and claimed that the policeman shot him "so that I would not continue recording the events".<sup>69</sup>

39. According to public information, the *Infobae* columnist and specialist in international terrorism, George Chaya, has been the target of an attempted attack by a terrorist group.<sup>70</sup> After learning of the threat, the National Ministry of Security informed the journalist of the information. The head of the Buenos Aires government expressed his solidarity and called for an investigation into the facts.<sup>71</sup>

40. On the other hand, this Office learned about alleged espionage actions against Nahuel Caputto, the majority shareholder of the newspaper *La Litoral*, in the province of Santa Fe, following the revelation of a telephone recording in which the former minister of security of Santa Fe gave orders to "profile" the owner of the media outlet and insinuated the possibility of a criminal case being created against him.<sup>72</sup> Caputto described these practices as "extortion".<sup>73</sup>

41. This Office recalls that Principle 9 of the Declaration of Principles on Freedom of Expression states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation".<sup>74</sup> Commission has asserted that attacks on journalists are intended to silence them, and therefore also constitute violations of society's right to have free access to information. 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.<sup>75</sup>

42. The Rapporteurship is also concerned about the stigmatizing remarks made by authorities or public officials against journalists in Argentina. In this regard, this Office recorded that the Government spokeswoman described the press as a "national disgrace" after a series of media publications.<sup>76</sup> The spokeswoman also asked not to generate "terrorism" through the media.<sup>77</sup> Likewise, the Rapporteurship learned that on September 1,

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<sup>67</sup> El Destape. August 27, 2022. [Journalist injured amid police crackdown](#); Perfil. August 27, 2022. [A militant injured in the mobilization for Cristina Fernández de Kirchner](#).

<sup>68</sup> La Nación. July 22, 2022. [Crisis at Independiente: journalists covering fan protest viciously assaulted](#); Infobae. 22 July 2022. [Savage aggression against journalists from C5N, TN and A24 who were covering the Independiente fans' protest](#).

<sup>69</sup> Infobae. October 6, 2022. [A cameraman ended up injured with three rubber bullet impacts during the serious incidents at Gimnasia-Boca Juniors](#); TyC Sports. 6 October 2022. [The testimony of Fernando Rivero, the TyC Sports cameraman injured by the Police](#).

<sup>70</sup> Infobae. June 20, 2022. [Messages from politicians and leaders in support of Infobae journalist George Chaya for a possible attack against him](#); Memo. June 20, 2022. [A Hezbollah threat against an Infobae journalist was intercepted](#).

<sup>71</sup> Infobae. June 20, 2022. [Messages from politicians and leaders in support of Infobae journalist George Chaya for a possible attack against him](#); Memo. June 20, 2022. [A Hezbollah threat against an Infobae journalist was intercepted](#).

<sup>72</sup> La Nación. September 27, 2022. [Adepta condemnation of spying and criminalization of a journalistic editor](#); Ahora. September 27, 2022. [Nahuel Caputto: It is a kind of extortion to intimidate the media](#).

<sup>73</sup> La Nación. September 27, 2022. [Adepta condemnation of spying and criminalization of a journalistic editor](#); Ahora. September 27, 2022. [Nahuel Caputto: It is a kind of extortion to intimidate the media](#).

<sup>74</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#). Principle 9.

<sup>75</sup> 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; IACHR. Case No. 11.739. Héctor Felix Miranda with respect to Mexico. Report No. 5/99. April 13, 1999.

<sup>76</sup> Adepta. July 15, 2022. [Government intolerance against the press again](#); Análisis. July 9, 2022. [Strong support from Adepta and FOPEA to a journalist from La Nación](#).

<sup>77</sup> Adepta. July 15, 2022. [Government intolerance against the press again](#); Análisis. July 9, 2022. [Strong support from Adepta and FOPEA to a journalist from La Nación](#).

through his Twitter account, the president criticized the “decrepitude exhibited by a haughty part of Argentine journalism”, in reference to the work of the newspaper *La Nación*.<sup>78</sup> On the other hand, journalist Daniel Enz, of the media *Análisis* from the province of Entre Ríos, was accused during a court hearing by the former governor of Entre Ríos and current Argentine ambassador to Israel and Cyprus, of being the author of a “persecution operation” against him.<sup>79</sup> In addition, this Office learned that a deputy of the party *La Libertad Avanza* had reportedly accused the journalist of *La Nación* Laura Serra before the Chamber of Deputies of “harassment” and held her responsible for “distorting” his words.<sup>80</sup> That same day, the deputy refused to give statements to Serra, arguing that *La Nación* “misrepresents his words”.<sup>81</sup>

43. The Rapporteurship recalls that public officials have a duty to ensure that their statements are not damaging the rights of those who contribute to the public debate through the expression and circulation of their thoughts, such as journalists, media outlets, and human rights organizations, and must pay attention to the context in which they express themselves in order to ensure that their expressions do not constitute “forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute [to] public deliberation through the expression and [dissemination] of their thoughts”.<sup>82</sup>

44. The Rapporteurship also received information on alleged indirect restrictions to freedom of expression, for example, through the cancellation of official advertising. For example, this Office received information on the complaint made by journalist Vanessa Escudero, of *Canal 13 San Luis* and radio *FM Latina 103.9*, in which she reported that the Communications Secretariat of the government of San Luis had notified her by telephone that she would no longer receive official advertising for the radio station where she works.<sup>83</sup> Likewise, *Canal 13* notified her that she would no longer receive any more material, without explaining the reasons for this decision.<sup>84</sup>

45. In addition, this Office learned that on October 14, the new representative of the state-owned television station *Canal 10* de Tucumán, upon taking over the management of the station, said that they would place “great emphasis on the control of content”.<sup>85</sup>

46. The Rapporteurship recalls that Article 13(3) of the American Convention prohibits restrictions on freedom of expression through indirect mechanisms, such as “the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions”. Likewise, Principle 13 of the Declaration of Principles on Freedom of Expression establishes that “[t]he exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out

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<sup>78</sup> Twitter account of Alberto Fernández (@aferdez). [September 1, 2022](#).

<sup>79</sup> FOPEA Twitter account (@FOPEA). [February 7, 2022](#); Twitter account of the Association of Argentine Journalistic Entities (@ADEPA). [February 8, 2022](#); Elentrerios. February 10, 2022. [Urribarri's remarks against Enz reached the spokeswoman of the Presidency](#).

<sup>80</sup> Yahoo News. September 3, 2022. [Javier Milei's mistreatment of a journalist of La Nación](#); Página 12. September 5, 2022. [Javier Milei is accused of mistreating a journalist in Congress](#).

<sup>81</sup> La Nación. September 3, 2022. [Javier Milei's mistreatment of a journalist of La Nación](#); Página 12. September 4, 2022. [Javier Milei is accused of mistreating a journalist in Congress](#).

<sup>82</sup> 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. OEA/Ser.L/V/II. IACHR/RELE/INF. 12/13, December 31, 2013, para. 39. IACHR. Annual Report 2012. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. para. 198-215.

<sup>83</sup> FOPEA Twitter account @FOEPA. [August 8, 2022](#); La Posta de San Luis Noticias. August 1, 2022. [The Government of San Luis censured a well-known journalist from San Luis](#).

<sup>84</sup> FOPEA Twitter account @FOEPA. [August 8, 2022](#); La Posta de San Luis Noticias. August 1, 2022. [The Government of San Luis censured a well-known journalist from San Luis](#).

<sup>85</sup> FOPEA Twitter account (@FOPEA). [October 14, 2022](#); Sucesos Tucumanos. October 12, 2022. [Channel 10: Lausberg promised order and content review](#).



their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.”<sup>86</sup>

47. On the other hand, this Office has continued to monitor the judicial processes against journalists and media outlets linked to their informative work. In 2022, this Office followed with particular concern the criminal proceedings against the journalist of *La Gaceta* of Tucumán province, Irene Benito, who was accused in 2020 of alleged fraud and threats against the authority by a lawyer and public official of the provincial government.<sup>87</sup> According to the information available, the complaint was based on the journalist's failure to deliver a book that the Bar Association had commissioned from her, arguing that said engagement had been used to “buy” the journalistic services of Irene Benito, in order to favor certain political interests.<sup>88</sup> The journalist was reportedly summoned to a deposition hearing, which was held on December 21, 2021 behind closed doors and without authorization for press coverage.<sup>89</sup> Although the journalist had a favorable judicial decision by the Criminal Chamber in July, the Public Prosecutor's Office filed an appeal before the Supreme Court of Justice of Tucumán.<sup>90</sup> Several human rights organizations described these events as judicial harassment and criminalization of Irene Benito's journalistic work, which has focused mainly on the coverage of alleged acts of corruption and irregularities in the actions of the Judiciary in Tucumán in cases of high public interest.<sup>91</sup>

48. Additionally, this Office learned that a deputy of the *La Libertad Avanza* party filed a civil lawsuit claiming 5 million pesos for alleged “injury to honor” and “moral damage”, against journalists Débora Plager, Pablo Duggan, Fabián Doman, Paulo Vilouta and Martín Candalaft.<sup>92</sup>

49. Likewise, according to public information, journalists Luis Majul and Daniel Santoro, as well as the producer of the television program *La Cornisa* and *América TV* channel, were sentenced by a Civil Court. The Court ruled that the journalists had to pay two million pesos plus interest for six years to a witness for disclosing his name on air. The witness had provided information for the arrest of a businessman convicted of drug trafficking.<sup>93</sup> The judge who examined the case pointed out that the witness had been included in a

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<sup>86</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>87</sup> Information sent by lawyers of the Argentine Journalism Forum (FOPEA). August 10, 2022. Attacks on Argentine journalists. Violations of freedom of expression in Argentina. Archive of the Office of the Special Rapporteur for Freedom of Expression;

<sup>88</sup> Information sent by lawyers of the Argentine Journalism Forum (FOPEA). August 10, 2022. Attacks on Argentine journalists. Violations of freedom of expression in Argentina. Archive of the Office of the Special Rapporteur for Freedom of Expression;

<sup>89</sup> El Tucumano. December 11, 2022. [Journalist and former president summoned to court for alleged fraud to the Bar Association](#); La Voz. December 21, 2021. [Tucumán: legal action against journalist who investigated Manzur moves forward](#); La Gaceta. December 22, 2021. [Prosecutor refused to question journalist who subpoenaed and to publicize the act](#); Periódico Movil. December 21, 2022. [Last minute: police prevent the press from entering the courts to cover the questioning of Tucumán journalist Irene Benito](#); La Gaceta. December 21, 2022. [Videos: Press prevented from covering the questioning of a journalist from LA GACETA in the criminal courts](#); Telefé Tucumán. December 21, 2021. [Journalist Irene Benito from the Courts: "In Tucumán being innocent has become dangerous"](#).

<sup>90</sup> FOPEA. August 10, 2022. [In the face of a new judicial attack against Tucumán journalist Irene Benito, FOPEA warns that it will reinforce its repudiation and denunciation of this harassment before international courts](#); La Gaceta. July 9, 2022. [A ruling stops the criminalization of a journalist](#); Information sent by lawyers of the Argentine Journalism Forum (FOPEA). August 10, 2022. Attacks on Argentine journalists. Violations of freedom of expression in Argentina. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>91</sup> Information sent by lawyers of the Argentine Journalism Forum (FOPEA). August 10, 2022. Attacks on Argentine journalists. Violations of freedom of expression in Argentina. Archive of the Office of the Special Rapporteur for Freedom of Expression; Inter American Press Association (IAPA). April 2022. [Report to the Mid-Year Meeting, Argentina](#); Swissinfo. April 19, 2022. [IAPA warns of judicial harassment and stigmatization of journalists in Argentina](#); Voces del Sur. December 7, 2022. [We stand in solidarity with La Gaceta de Tucumán journalist Irene Benito](#); FOPEA. August 10, 2022. [In the face of a new judicial attack against Tucumán journalist Irene Benito, FOPEA warns that it will strengthen its repudiation and denunciation of this harassment before international courts](#); Primera Fuente. December 16, 2020. [APT repudiates and supports Irene Benito's professionalism](#); INECIP. September 16, 2022. [Inecip filed as Amicus Curiae in the case against journalist Irene Benito](#); La Gaceta. December 16, 2021. [Reactions to the court summons to a journalist of LA GACETA](#).

<sup>92</sup> FOPEA. June 1, 2022. [FOPEA expresses its concern about the lawsuit filed by national congressman Javier Milei against journalists](#). Clarín. May 27, 2022. [Javier Milei sued five journalists and claims \\$5 million from them](#).

<sup>93</sup> FOPEA. July 18, 2022. [FOPEA expresses its concern over the conviction of journalists Daniel Santoro and Luis Majul](#); Palabras del Derecho. July 12, 2022. [Two journalists were sentenced to pay compensation for moral damages for mentioning a protected witness on the air](#).

confidential file; however, the journalists stated that they had access to the file through legal channels and the name of the person was not redacted, as happens in cases of protected witnesses.<sup>94</sup>

50. This Office registered with concern that the Auditor General of the Public Prosecutor's Office of the province of Santa Fe made a request to the journalist Maximiliano Duffort, of the media *AIRE*, to hand over personal information that was contained in a WhatsApp conversation between Duffort and a prosecutor.<sup>95</sup> The conversation reportedly referred to the relationship between the president of the Supreme Court of Santa Fe and a senator, whom the prosecutor requested to be disqualified for being "organizer of a criminal organization". The Santa Fe Press Association denounced that this action of the Public Prosecutor's Office was "a violation of Article 43 of the National Constitution and Article 11 of the Provincial Constitution and puts at risk the protection of journalistic sources, which extends to the files and material and digital supports on which press workers base their investigations".<sup>96</sup>

51. The Rapporteurship also welcomes the resolution of the Supreme Court of Justice that suspended the court order ordering the seizure of recordings of an interview that journalist Santiago O'Donnell had conducted with the brother of former President Mauricio Macri. The interview was conducted as part of the investigation for his book *"Hermano. La confesión de Mariano Macri sobre la trama de poder, política, negocios y familia de su hermano Mauricio"*<sup>97</sup>. In its last annual report, this Office emphasized that orders to obtain the journalist's recordings contravene national and international standards on the protection of the secrecy of news sources, and that it could pose a risk to his personal integrity.<sup>98</sup>

52. This Rapporteurship recalls that, according to Principle 8 of the Declaration of Principles on Freedom of Expression, "[e]very social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential".<sup>99</sup> One of the primary bases of the right to reserve sources is based on the fact that journalists, in their work, render an important public service by gathering and disseminating information that otherwise, without the secrecy of sources, could not be known. Likewise, RELE has pointed out that "it has to do with granting legal guarantees to ensure anonymity and preventing possible reprisals that may result from having disclosed certain information".<sup>100</sup>

53. On the other hand, the Rapporteurship continued monitoring the judicial process against journalist Diego Masci, director of *ZBol* media.<sup>101</sup> In this regard, this Office welcomes the decision of the Supreme Court of Justice of the Nation that annulled the decision of the Superior Court of Justice of the Province of San Luis, which had condemned the journalist to pay a fine of \$90,000 for having broadcasted a video of the Minister of Education of San Luis consuming marijuana.<sup>102</sup> The Supreme Court understood that the Superior Court of Justice had not carried out "a broad and comprehensive review of the conviction, in particular of the offense

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<sup>94</sup> FOPEA. July 18, 2022. [FOPEA expresses its concern over the conviction of journalists Daniel Santoro and Luis Majul](#); Palabras del Derecho. July 12, 2022. [Two journalists were sentenced to pay compensation for moral damages for mentioning a protected witness on the air](#).

<sup>95</sup> Página 12. March 3, 2022. [Asked journalist to hand over his sources](#); AIRE de Santa Fe. March 2, 2022. [Press Association stands in solidarity with AIRE journalist Maximiliano Duffort](#); Adepa Twitter account (@AdepaArgentina). [March 3](#), 2022.

<sup>96</sup> Santa Fe Press Association. March 2, 2022. [Solidarity with Maximiliano Duffort](#).

<sup>97</sup> Judicial Information Center. February 27, 2022. [Resolution of the Supreme Court of Justice in case CIV 67732-2-RH2 Macri, Mariano v. O'Donnell, Santiago s/diligencias preliminares](#); La Nación. February 17, 2022. [The Court suspended the seizure of the records of the interview that a journalist made to a brother of Mauricio Macri](#); Perfil. February 18, 2022. [The Supreme Court suspended the ruling that forced Santiago O'Donnell to hand over recordings to Mariano Macri](#).

<sup>98</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 26.

<sup>99</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>100</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 2000. [Background and interpretation of the Declaration of Principles](#).

<sup>101</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 28; IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 57.

<sup>102</sup> Clarín. August 12, 2022. [The Court annulled a conviction against a journalist who broadcast a private video of a former minister of San Luis](#); Infobae. August 12, 2022. [The Supreme Court vacated the conviction against a journalist for broadcasting a video of an official smoking marijuana](#).

related to the exemption from liability provided for in Article 155 of the Criminal Code in light of the right to freedom of expression”, and annulled the conviction and ordered that a new judgment be issued.<sup>103</sup>

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

55. The Inter-American jurisprudence indicates that the exercise of the right to freedom of expression may not be subject to prior censorship but to subsequent liability, which will be legitimate as long as it complies with the requirements of legality, legitimate objective, necessity and proportionality. Likewise, the Inter-American Court has held that “criminal prosecution is the most restrictive measure to freedom of expression, therefore its use in a democratic society must be exceptional and reserved for those eventualities in which it is strictly necessary to protect fundamental juridical goods from attacks that damage or endanger them, since the contrary would imply an abusive use of the punitive power of the State”. Therefore, according to the Court “in the case of a speech protected by its public interest (...), the punitive response of the State through criminal law is not conventionally appropriate to protect the honor of the official”. Furthermore, the Court has stated that the use of criminal law can produce “a deterrent, chilling and inhibiting effect on all those who practice journalism. This, in turn, obstructs public debate on issues of interest to society.”<sup>104</sup>

56. The Inter-American Court has also pointed out, with regard to possible civil liability, that civil convictions in matters of freedom of expression must be strictly proportionate so that they do not have an inhibiting effect on this freedom, since “the fear of a civil sanction, considering the claim [...] for a very steep civil reparation, may be, in any case, equally or more intimidating and inhibiting for the exercise of freedom of expression than a criminal punishment, since it has the potential to attain the personal and family life of an individual who accuses a public official, with the evident and very negative result of self-censorship both in the affected party and in other potential critics of the actions taken by a public official”.<sup>105</sup>

57. The Office recalls that, according to Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR, “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “desacato laws,” restrict freedom of expression and the right to information”.<sup>106</sup>

58. Finally, the Rapporteurship reiterates its call to the Argentine State to strengthen guarantees for the press throughout the country, and particularly in those provincial territories that face particular obstacles, as shown by the cases mentioned in this report. Likewise, as mentioned in its last annual report, this Office observes that a considerable part of the respect for and guarantee of the exercise of freedom of expression and press freedom in Argentina is deposited in the courts, so it insists in its call to the State to take into account the standards of the Inter-American human rights system.<sup>107</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

59. In 2022, this Office became aware of various questions about the deterioration of the public debate in Argentina, particularly in the days following the armed attack against the vice president by an unknown subject on September 1.<sup>108</sup> The Special Rapporteurship observes that there are allegations of an increase in

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<sup>103</sup> Clarín. August 12, 2022. [The Court annulled a conviction against a journalist who broadcast a private video of a former minister of San Luis](#); Infobae. August 12, 2022. [The Supreme Court vacated the conviction against a journalist for broadcasting a video of an official smoking marijuana](#).

<sup>104</sup> I/A Court H.R., Case of Herrera Ulloa v. Costa Rica. *Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 2, 2004. Series C No. 107. Para. 133.

<sup>105</sup> I/A Court H.R., *Case of Tristán Donoso v. Panama. Preliminary Objection, Merits, Reparations and Costs*. Judgment of January 27, 2009. Series C No. 193. Para. 129.

<sup>106</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>107</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 39.

<sup>108</sup> Deutsche Welle. September 2, 2022. [Attack on Cristina Kirchner: tension and hate speech](#); El País. September 2, 2022. [Attack on Cristina Kirchner pushes political polarization in Argentina to the limit](#); El País. September 2, 2022. Attack on Cristina [Kirchner pushes](#)

hate speech in the social and political sphere and in the media ecosystem, which together are generating an environment conducive to the perpetration of acts of violence on political, racial, religious and gender grounds, among others.<sup>109</sup>

60. In this context, a *communiqué* signed by 110 civil society organizations made a joint call “to the entire leadership and society as a whole” to “stop the advance of political violence and hate speech that threaten the peaceful coexistence that has been built during these 40 years of democracy”.<sup>110</sup>

61. In a message broadcast on national television hours after the attack against the vice-president, the President of Argentina condemned the events and called for “recovering democratic coexistence, which has been broken by hate speech, which has been spread from different political, judicial and media spaces in Argentine society”.<sup>111</sup> Likewise, it emphasized that “in a democratic society, speeches that promote hatred cannot have a place because they engender violence”.<sup>112</sup> Likewise, the Office of the Public Defender of Audiovisual Communication Services warned that “hate speeches that are reproduced in the media and social networks also generate violence in real life” and therefore “recommended journalists and communicators to be attentive to the new formats in which hate is expressed, when reporting and expressing public opinion”.<sup>113</sup> The State also made a statement through its National Institute against Discrimination, Xenophobia and Racism (INADI) of the Ministry of Justice and Human Rights, which considered that this event “should not be analyzed as an isolated event but as part of a growing context of hatred”, “which endangers the democratic life of Argentina” and “should generate (...) a deep reflection on how violence escalates from the installation of hate speeches”.<sup>114</sup>

62. As noted in a report of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, “[u]nder international human rights law, the limitation of hate speech seems to demand a reconciliation of two sets of values: democratic society’s requirements to allow open debate and individual autonomy and development with the also compelling obligation to prevent attacks on vulnerable communities and ensure the equal and non-discriminatory participation of all individuals in public life (...). Freedom of expression, the rights to equality and life and the obligation of non-discrimination are mutually reinforcing”.<sup>115</sup>

63. Article 13.5 of the American Convention prohibits “propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin...”. In this regard, this Office emphasizes that the application of any restrictions on such speech under international human rights law must include an assessment of the six factors identified in the UN Rabat Plan of

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[political polarization in Argentina to the limit](#); Euronews. September 2, 2022. [Argentina | Hate speech blamed for assassination attempt against Cristina Kirchner](#); The Washington Post. [Opinion The 'limit' should have come long before the attack against Cristina Fernández de Kirchner](#); La Nación. September 2, 2022. ["Magnicide". "assassination attempt", "hatred": officialism pointed out responsible for the attack on Cristina Kirchner](#); Sudestada. September 17, 2022. [Chronology of an assassination attempt: Lawfare and hate speeches in the hegemonic media](#).

<sup>109</sup> Deutsche Welle. September 2, 2022. [Attack on Cristina Kirchner: tension and hate speech](#); El País. September 2, 2022. [Attack on Cristina Kirchner pushes political polarization in Argentina to the limit](#); El País. September 2, 2022. [Attack against Kirchner pushes political polarization in Argentina to the limit](#); Euronews. September 2, 2022. [Argentina | Hate speech blamed for assassination attempt against Cristina Kirchner](#); The Washington Post. [Opinion The 'limit' should have come long before the attack against Cristina Fernández de Kirchner](#); La Nación. September 2, 2022. ["Magnicide". "assassination attempt", "hatred": officialism pointed out responsible for the attack on Cristina Kirchner](#); Sudestada. September 17, 2022. [Chronology of an attempted assassination: lawfare and hate speeches in the hegemonic media](#); La Nación. September 4, 2022. [Sign of the times. Political polarization is not always hate speech](#).

<sup>110</sup> ELDiario.ar. September 2, 2022. [Civil society organizations called to stop the advance of political violence and hate speech](#); Amnesty International. September 2, 2022. [In Defense of Democracy](#).

<sup>111</sup> Casa Rosada Twitter account (@CasaRosada). [September 1, 2022](#).

<sup>112</sup> Casa Rosada Twitter account (@CasaRosada). [September 1, 2022](#).

<sup>113</sup> Government of Argentina, Ombudsman on Audiovisual Communication Services. September 2, 2022. [Hate speeches and the attempt on the life of the Vice President](#).

<sup>114</sup> Government of Argentina. National Institute against Discrimination, Xenophobia and Racism. September 1, 2022. [INADI communiqué on the attack on Cristina Fernández de Kirchner](#).

<sup>115</sup> UN. October 9, 2019. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/74/486. Para. 4.

Action.<sup>116</sup> This instrument establishes a contextual - rather than semantic - test of the speech, based on: (1) the social and political context; (2) the category of the speaker; (3) the intent to incite the audience against a particular group; (4) the content and form of the speech; (5) the extent of its dissemination; and (6) the likelihood of harm, including imminent harm of speech alleged to incite violence.<sup>117</sup>

64. On the other hand, in 2022, this Office became aware of allegations of human rights violations in the context of social protests in the province of Jujuy.<sup>118</sup> According to public information, on March 3, at least seven demonstrators were allegedly detained by the police in the context of a demonstration demanding food for soup kitchens, and charged with the alleged crime of minor and serious injuries against the police, assault and resistance to authority and obstruction of transport and services.<sup>119</sup> The individuals were released a week later and, according to public complaints, allegedly suffered cruel, inhuman and degrading treatment while in detention.<sup>120</sup> The reports also indicated that several people, both demonstrators and police officers, were injured in the violent clashes during the protests.<sup>121</sup>

65. In connection with the above-mentioned events, on April 6, the courts reportedly issued a warrant for the search, arrest and seizure of the cell phones of the social leaders Sebastián Copello, of the Polo Obrero, and Juan Manuel Chorolque, of the *Movimiento Teresa Rodríguez* (MTR)-12 de Abril, accused of the alleged crimes of “hindering transport and services” and “disobedience to authority”.<sup>122</sup> Representatives of various local human rights organizations expressed their concern over the conditions of detention of the two social leaders, and the opening of criminal proceedings against them.<sup>123</sup> On April 12 and 13, Copello and Chorolque were released, and as far as this Office was able to learn, the criminal proceedings against them continue their judicial course.<sup>124</sup>

66. In this matter, this Office also took note of a study published in 2022 by the Center for Justice and International Law (CEJIL), the Human Rights Center of the University of Buenos Aires and the Konrad Adenauer Foundation, which concluded that Argentina has no national regulations to guide or orient security forces in their actions in social protest, nor related to the facilitation of protest or the regulation of the use of force.<sup>125</sup>

67. This Office recalls that social protest, which includes the rights of peaceful and unarmed assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights and therefore it is the duty of the State to guarantee its free exercise.<sup>126</sup> In its report “Protest and Human Rights”, the IACHR emphasized that the holding of meetings, demonstrations and protests is a central activity of many associations and organizations and, in this regard, States have the duty to facilitate the necessary means for them to freely carry out their activities and to refrain from imposing obstacles that hinder the

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<sup>116</sup> UN. January 11, 2013. Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred. A/HRC/22/17/Add.4.

<sup>117</sup> UN. January 11, 2013. Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred. A/HRC/22/17/Add.4.

<sup>118</sup> Página 12. August 12, 2022. [Massive mobilization in Jujuy against Gerardo Morales's pressures](#); Infobae. March 9, 2022. [Gerardo Morales denounced for serious human rights violations in Jujuy](#).

<sup>119</sup> Página 12. August 12, 2022. [Massive mobilization in Jujuy against Gerardo Morales's pressures](#); Infobae. March 9, 2022. [Gerardo Morales denounced for serious human rights violations in Jujuy](#).

<sup>120</sup> Infobae. March 10, 2022. [Jujuy: the seven activists who had been detained after demanding food at a social protest were released](#); Somos Jujuy. March 9, 2022. [Jujuy: they ordered the release of the protesters who were detained](#).

<sup>121</sup> Jujuy al momento. March 3, 2022. ["Piquetazo" in Jujuy: 15 arrested, protesters and police injured](#); Somos Jujuy. March 9, 2022. [Jujuy: detained protesters ordered released](#); Jujuy al día. March 4, 2022. [Thirteen policemen injured for avoiding roadblocks](#).

<sup>122</sup> ANRed. April 7, 2022. [Escalating repression intensifies: protesters detained in Jujuy for participating in demonstrations](#); Página 12. 7 de abril de 2022. [Social leaders detained in Jujuy](#); Jujuy Dice. April 6, 2022. [In Jujuy you can't protest: Morales' Justice raided and arrested social leaders for demonstrating](#).

<sup>123</sup> Jujuy al momento. April 11, 2022. [National human rights organizations on the detained Jujuy leaders: "It is illegal"](#); Radio Nacional. April 11, 2022. [The detention of Jujuy leaders is illegal](#).

<sup>124</sup> Jujuy Dice. April 13, 2022. [After a week, Juan Chorolque of the MTR 12 de Abril was released](#); La Voz de Jujuy. 12 April 2022. [After the massive mobilization in Jujuy, Sebastián Copello is released and Chorolque will continue to be detained](#).

<sup>125</sup> Romero, María Luisa. Center for Human Rights, UBA; Center for Justice and International Law (CEJIL); Konrad Adenauer. 2022. [Use of force in the context of social protests: practical contributions based on a comparative analysis of national regulations](#).

<sup>126</sup> 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. Para. 12.



performance of their work.<sup>127</sup> Likewise, the Inter-American Commission has considered that the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that hinder its realization.<sup>128</sup>

68. Likewise, this Office reiterates that, in the framework of the Inter-American Human Rights System, the use of force is understood as “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the State’s reaction”.<sup>129</sup> Within this framework characterized by exceptionality, both the Commission and the Inter-American Court have agreed that “for the use of force to be justified one must satisfy the principles of legality, absolute necessity, and proportionality”.<sup>130</sup> Likewise, regarding any detentions carried out by security forces in the context of public demonstrations, the IACHR has emphasized that they must comply with all the requirements imposed by domestic laws and international standards.<sup>131</sup> The IACHR and its Rapporteurship have also held that “the application of criminal law to the acts of participants in a demonstration constitutes a serious restriction with far-reaching consequences for freedom of expression, as well as the rights of assembly, association, and political participation, which under the principles developed above can only be used on a very exceptional basis and is subject to a heightened level of scrutiny”. In this regard, the Rapporteurship stresses that “should stop applying criminal definitions that characterize conduct commonly observed in protests as criminal acts, such as roadblocks or disorderly acts that, in themselves, do not affect interests such as the life, safety, or freedom of persons; in the context of protests, these acts constitute forms of exercising the rights to freedom of expression, assembly, and association”.<sup>132</sup>

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

69. According to the information received, the Government of the Autonomous City of Buenos Aires issued a resolution in which it established that “in the exercise of their functions, teachers in educational establishments at the initial, primary and secondary levels, both state and privately managed, must develop teaching activities and carry out institutional communications in accordance with the rules of the Spanish language, its grammatical norms and the official guidelines for its teaching”.<sup>133</sup> The head of government stated that the measure aims to “simplify” the way in which students learn.<sup>134</sup> According to the information available, this measure would seek to discourage the use of expressions used for inclusive language, such as “e”, “x” and “@”, and received criticism<sup>135</sup> from various sectors of civil society for considering it a measure that undermines inclusion and diversity in educational environments.<sup>136</sup> The Minister of Education of the City of Buenos Aires

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<sup>127</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 157.

<sup>128</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 56.

<sup>129</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 102.

<sup>130</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 102.

<sup>131</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 128.

<sup>132</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 208.

<sup>133</sup> Government of the City of Buenos Aires. June 9, 2022. [RESOLUTION NO. 2566/MEDGC/22](#).

<sup>134</sup> Cronista. June 10, 2022. [Horacio Rodríguez Larreta explained why he banned inclusive language in CABA schools: controversy grows](#); Forbes. June 10, 2022. [Buenos Aires bans teachers from using some forms of inclusive language in schools](#).

<sup>135</sup> UBA, Faculty of Philosophy and Letters. June 14, 2022. [What does linguistics say about inclusive language?](#); Telam. June 10, 2022. [Criticism of the Buenos Aires government's decision to ban inclusive language in schools](#).

<sup>136</sup> Akahatá. June 24, 2022. Report on the prohibition of inclusive language in schools in the Autonomous City of Buenos Aires. Archive of the Office of the Special Rapporteur for Freedom of Expression; Página 12. June 11, 2022. [Inclusive language: criticism and repudiation of the ban in Buenos Aires schools](#); Cronista. June 10, 2022. [Horacio Rodríguez Larreta explained why he banned inclusive language in CABA schools: controversy grows](#); Forbes. June 10, 2022. [Buenos Aires bans teachers from using some forms of inclusive language in schools](#); Perfil. June 11, 2022. [Inclusive language: not all are critical, who supports restricting its use in schools](#); Télam. June 10, 2022. [Critics of the Buenos Aires Government's decision to ban inclusive language in schools](#); Agencia Presentes. June 10, 2022. [What is behind the ban on the use of inclusive language in schools in the City of Buenos Aires](#).

stated that “this type of distortions generate difficulty in learning the grammatical and basic rules of the language”.<sup>137</sup>

70. According to the information available, the National Institute against Discrimination, Xenophobia and Racism (INADI) of the national Ministry of Justice and Human Rights filed an “amicus curiae”<sup>138</sup> in a case initiated by a civil society organization that works in defense of the rights of LGBT+ people.<sup>139</sup> INADI considered that the decree of the Government of the City of Buenos Aires “discriminates against those who do not self-perceive themselves within the male-female binomial and excludes the identities recognized by the Gender Identity Law No. 26,743 and Decree No. 476/21, which recognizes non-binary identities in the National Identity Card”.<sup>140</sup>

71. The Argentine State reported that, through the National Institute against Discrimination, Xenophobia and Racism (INADI), it has developed programs for the eradication of discrimination, racism and xenophobia. On the one hand, they indicated that they are carrying out, from a prevention approach, a guide of recommendations and eradication of hate speech, and a series of reports that analyze its impact on social networks.<sup>141</sup> Likewise, individual cases are being accompanied by means of formal complaints related to this issue.<sup>142</sup>

72. The State further reported that the Commission for the Historical Recognition of the Afro-Argentine Community-INADI carried out in March 2022 the “Conference on Memory, Racism and Hate Speeches” to reflect from an “ethnic-racial perspective” on the consequences of crimes against humanity on the identity of Latin America.<sup>143</sup> As part of the activities, three conferences were held: “Crimes against humanity, memory processes and restorative justice”, “Economic power, hate speech and forms of domination”, and “Intersectionality and anti-racism, for a politics of love and equality”.<sup>144</sup>

73. This Office considers it essential that States adopt positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women, LGBT+ persons, indigenous peoples, among others. The Inter-American system grants reinforced protection to those speeches that express constitutive elements of the personal identity or dignity of those who express themselves.<sup>145</sup> In this sense, the Rapporteurship invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to align institutional practices with the enhanced protection of this type of speech. As noted in the IACHR Compendium on Equality and Non-Discrimination, States are obliged to “adopt positive measures to reverse or change existing discriminatory situations in their societies, based on the notion of equality and the principle of non-discrimination”.<sup>146</sup>

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

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<sup>137</sup> El Dínamo. June 13, 2022. [Buenos Aires government bans use of inclusive language in schools](#); Infobae. June 9, 2022. [No more “chiques” or “todxs”: the Buenos Aires government banned inclusive language in schools](#).

<sup>138</sup> Government of Argentina, Ministry of Justice and Human Rights, INADI. July 6, 2022. [INADI filed in the case for the prohibition of the use of inclusive language](#); Ambito. July 6, 2022. [Inclusive language: INADI filed as Amicus Curiae against the government of Buenos Aires](#).

<sup>139</sup> Government of Argentina, Ministry of Justice and Human Rights, INADI. July 6, 2022. [INADI filed in the case for the prohibition of the use of inclusive language](#); Ambito. July 6, 2022. [Inclusive language: INADI filed as Amicus Curiae against the government of Buenos Aires](#).

<sup>140</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>141</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>142</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>143</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>144</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>145</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework regarding the Right to Freedom of Expression. OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 53-56.

<sup>146</sup> IACHR. Compendium on equality and non-discrimination. Inter-American Standards. OEA/Ser.L/V/II.171 Doc. 31. 12 February 2019. Para. 8

74. On June 28, the Argentine Supreme Court of Justice overturned a ruling of the Civil Chamber related to the “right to be forgotten”. As this Office pointed out in its 2020 annual report, the Court had ordered Google to unindex images, videos and content linked to the words “Natalia Denegri”, “Natalia Ruth Denegri” or “Natalia Denegri caso Cóppola” and “any possible image or video, obtained twenty years ago or more”.<sup>147</sup> Natalia Denegri, Argentine actress and TV host, had requested the urgent application of the “right to be forgotten”, stating that, although she was the protagonist of this event that in 1996 had high media attention, more than twenty years later the information continues to appear in the search results, which causes her harm. She pointed out that such information “belongs to a past that she wishes to forget” and that “it is old, irrelevant, unnecessary and obsolete, without any informative and journalistic importance”.<sup>148</sup>

75. On this occasion, the Supreme Court rejected the claim because it “considered that there was no constitutional or legal basis to support the claim”.<sup>149</sup> In addition, the highest court emphasized that the National Constitution guarantees broad protection to freedom of expression, “which has a preeminent place in the framework of constitutional freedoms and which includes the right to transmit ideas, facts and opinions through the Internet”.<sup>150</sup> Therefore, “any restriction, sanction or limitation to such freedom must be of restrictive interpretation and that an eventual judicial decision to de-index certain addresses with respect to a result would imply a limitation that would interrupt the communicational process”.<sup>151</sup> In the resolution, the Supreme Court affirmed that Denegri became notorious for her connection with the so-called “Coppola case”, that she continues to be a public person and therefore, disregarding the information already published would “seriously jeopardize history as well as the exercise of social memory”.<sup>152</sup> Likewise, the Court left open the possibility of a “preventive tutelage to request the blocking of content, on an absolutely exceptional basis”.<sup>153</sup> This Office noted that, within the framework of this judicial decision, the Supreme Court of Justice of the Nation convened two public hearings where different points of view were examined in this regard.<sup>154</sup>

76. In the report “Standards for a Free, Open and Inclusive Internet”, the Rapporteurship pointed out that the application in the Americas of a system of private removal and de-indexing of online content with limits in the terms in which the “right to be forgotten” has originated in the Court of Justice of the European Union (CJEU) could be problematic “in light of the wide regulatory margin of the protection of freedom of expression provided by article 13 of the American Convention on Human Rights”.<sup>155</sup> In this regard, the Office of the Special Rapporteur considered that the removal and de-indexing of content on the Internet “constitute a clear interference with the right to freedom of expression, in both its individual and social dimensions, as well as the right of access to information by the people (...) Both have a limiting effect on the right to freedom of expression because they restrict the possibility to seek, receive and impart information and ideas regardless of national frontiers”.<sup>156</sup> This Office reiterates that any State measure based on the “right to be forgotten”, or aimed at regulating the “right to be forgotten”, must take into consideration inter-American standards on freedom of expression, particularly those that provide enhanced protection for matters of general interest, and linked to public officials or persons involved in matters of public interest.<sup>157</sup>

77. In addition, the Argentine State sent information to this Rapporteurship on two reports by the “Observatory of Discrimination on the Internet” of the National Institute against Discrimination, Xenophobia

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<sup>147</sup> IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 55.

<sup>148</sup> IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 55.

<sup>149</sup> Supreme Court of Justice of the Nation. June 28, 2022. [Denegri, Natalia Ruth v. Google Inc. s/ personal rights](#); Red en Defensa de los Derechos Digitales. June 30, 2022. [Supreme Court of Argentina overturns ruling on the so-called right to be forgotten](#); Diario Constitucional. July 5. [Information contained on the Internet regarding a public person in relation to an event of public interest, even if it occurred many years ago, must be freely accessible to the public](#).

<sup>150</sup> Supreme Court of Justice of the Nation. June 28, 2022. [Denegri, Natalia Ruth v. Google Inc. s/ personal rights](#).

<sup>151</sup> Supreme Court of Justice of the Nation. June 28, 2022. [Denegri, Natalia Ruth v. Google Inc. s/ personal rights](#).

<sup>152</sup> Supreme Court of Justice of the Nation. June 28, 2022. [Denegri, Natalia Ruth v. Google Inc. s/ personal rights](#).

<sup>153</sup> Supreme Court of Justice of the Nation. June 28, 2022. [Denegri, Natalia Ruth v. Google Inc. s/ personal rights](#).

<sup>154</sup> The Nation. March 17, 2022. [Natalia Denegri vs. Google. The Supreme Court defines whether it applies the right to be forgotten on the Internet: the keys to the case](#); Judicial Information Center (CIJ). March 18, 2022. [The public hearing before the Supreme Court in the case Denegri v. Google has ended](#).

<sup>155</sup> Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive Internet. Para. 132.

<sup>156</sup> Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive Internet. Para. 133.

<sup>157</sup> Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive Internet. Para. 137.



and Racism (INADI), which investigate phenomena related to “trolling” activities and the impact of the propagation of hate speech online.<sup>158</sup> Among the recommendations, the Observatory proposes to deepen awareness campaigns as a way to prevent discriminatory speech.<sup>159</sup> The reports also call to denounce actions that could violate the policies of use of the various Internet platforms.<sup>160</sup> The State emphasized that this work is a starting point for studying these phenomena with a view to promoting an Internet environment free of discriminatory manifestations that affect the rights of individuals, groups, or communities.<sup>161</sup>

78. Likewise, the Office of the Special Rapporteur learned of the presentation of the “Olimpia Bill”, proposing to incorporate digital violence as a form of gender violence into Law 26.485. This is the Law on the comprehensive protection to prevent, punish and eradicate violence against women in the environments in which they develop their interpersonal relationships.<sup>162</sup> In addition, according to the information available, the “Belén Bill” project was presented.<sup>163</sup> This project would seek to incorporate crimes of non-consensual obtaining and dissemination of intimate material and/or nudity, pornographic montages and the crime of extortion with the dissemination of other materials into the Criminal Code.<sup>164</sup>

79. This Rapporteurship recalls that freedom of expression applies to the Internet in the same way as to all media.<sup>165</sup> This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognized under international law (the ‘three-part’ test).<sup>166</sup> In this regard, the Office of the Special Rapporteur reiterates the importance that any legislation regulating the Internet does not contain vague and sweeping definitions or disproportionately affect legitimate websites and services.<sup>167</sup>

80. Finally, this Office took note of the national government’s announcement of an investment of more than 289 million pesos (approximately \$2.24 million) in the distribution of digital connectivity to increase access to free Internet in regions that do not have this service.<sup>168</sup> Also, according to the National Entity of Communications (Enacom), in the next two years access to broadband networks will be guaranteed to more than 1 million inhabitants of the country.<sup>169</sup>

81. This Office also welcomes the initiative of the *Defensoría del Público de Servicios de Comunicación Audiovisual* that, together with UNESCO and the Ministry of Education of Argentina, held the teacher training sessions “Media and information literacy for the school of the present and the future”, which brought together 4,100 people.<sup>170</sup> According to the entity, they held three meetings in which they developed the conceptual bases

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<sup>158</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>159</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>160</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>161</sup> Permanent Mission of the Argentine Republic to the OAS. October 14, 2022. Information provided by INADI for the 2022 Annual Report of RELE. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>162</sup> Olympia Law for Latin America. 2022. [Olympia Bill](#); Government of Argentina. July 11, 2022. [Gómez Alcorta participated in the presentation of two bills on digital violence](#).

<sup>163</sup> Olympia Law for Latin America. 2020. [Belen Bill](#); Government of Argentina. July 11, 2022. [Gómez Alcorta participated in the presentation of two bills on digital violence](#).

<sup>164</sup> Infobae. June 7, 2022. [A survey of 714 female journalists revealed that 73 percent suffered digital violence related to their work](#); Telam Digital. August 10, 2022. [Ley Olimpia and Ley Belén: two projects to regulate digital violence](#).

<sup>165</sup> UN, OSCE, OAS, CADHP. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>166</sup> UN, OSCE, OAS, CADHP. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>167</sup> UN, OAS. January 20, 2012. [Joint Declaration](#).

<sup>168</sup> Government of Argentina. January 8, 2022. [The national government invests more than 289 million pesos to reduce the digital divide throughout the country](#).

<sup>169</sup> Government of Argentina, ENACOM. January 4, 2022. [More than 1 million citizens benefited by ENACOM’s connectivity policies](#); Zona Norte. January 8, 2022. [The national government invests more than 289 million pesos to reduce the digital divide throughout the country](#).

<sup>170</sup> Office of the Public Defender of Audiovisual Communication Services. July 15, 2022. [The Media and Information Literacy Workshops ended](#).

of media and information literacy and addressed experiences and pedagogical innovations on the use of digital tools and the design of institutional policies.<sup>171</sup>

82. As has been pointed out by the IACHR and its Rapporteurship on numerous occasions, access to the Internet is a condition sine qua non for the effective exercise of human rights today, especially including the rights to freedom of expression and opinion, association and assembly, education, health, and culture.<sup>172</sup> Internet access must be universally guaranteed by taking measures to bridge the digital divide, promoting infrastructure development policies, and protecting the quality and integrity of service at all times, establishing explicit prohibitions against arbitrary blocks (partial or total), and slow-downs.<sup>173</sup> Likewise, since its 2013 report “Freedom of Expression and the Internet”, the Rapporteurship has reiterated that “authorities should foment educational measures intended to promote the training of all individuals in the autonomous, independent and responsible use of the Internet and digital technologies”.<sup>174</sup>

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<sup>171</sup> Office of the Public Defender of Audiovisual Communication Services. July 15, 2022. [The Media and Information Literacy Workshops ended](#).

<sup>172</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17 March 15, 2017.

<sup>173</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17 March 15, 2017. Para. 32

<sup>174</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 December 2013. Para. 48.

## BAHAMAS

83. In 2022, the administration of the new prime minister reportedly sought to consolidate better relations with the Bahamian media. According to the information received by the Office of the Special Rapporteur, the new president is maintaining greater contact with the press, although there was criticism from the hiring of journalists in his government, as well as the challenges in implementing transparency policies, including the Freedom of Information Act (FOIA). During the year, civil society also reportedly promoted reforms and initiatives to improve accountability in the country, although these were not entirely successful, especially those concerning access to information. This Office welcomes the fact that, after five years, the State has started a pilot to implement the Freedom of Information Law in ten ministries. The Office of the Special Rapporteur registered with concern complaints about hate speech against people from the LGBTQ community, disseminated through the opinion space of a recognized media outlet. Finally, the Office of the Special Rapporteur learned of new initiatives to combat cybercrime and strengthen security in this area.

### A. Journalism and democracy

84. On February 1, 2022, the Office of the Special Rapporteur learned that multiple reporters from various media outlets had been prevented from interviewing cabinet ministers before their weekly meeting with the prime minister. According to public information, security devices from the prime minister's office placed orange cones at the entrance to prevent reporters from approaching, an allegedly unusual practice up to that time<sup>175</sup>.

85. In light of this incident, the Office of the Special Rapporteur emphasizes that the right of access to information is a critical tool for monitoring the functioning of the State and public management, as well as for the prevention of corruption. The right of access to information is a fundamental requirement to guarantee transparency and good public management of the government and the other state authorities. The full exercise of the right of access to information is an essential guarantee to avoid abuses by public officials, promote accountability and transparency in state management, and prevent corruption and authoritarianism<sup>176</sup>.

86. In February 2022, the Office of the Special Rapporteur learned that the prime minister's administration had appointed journalists and television presenters to public and diplomatic positions<sup>177</sup>.

87. On May 3, 2022, within the framework of World Press Freedom Day, the Office of the Special Rapporteur took note of various statements by the media on the state of freedom of expression and of the press in the Bahamas. Through some of these statements, this Office received information about alleged acts of intimidation and harassment against the media in the country. Likewise, the Office of the Special Rapporteur learned that the administration had decided to stop advertising in The Nassau Guardian newspaper for allegedly having carried out critical coverage of its policies<sup>178</sup>.

88. Regarding the complaints about the alleged manipulation of the government advertising, the Office of the Rapporteur reiterates that measures must be adopted to prevent government advertising from generating a dependency of the private audiovisual media—for or non-profit—with respect to public power.<sup>179</sup> Likewise, this Office emphasizes that States must adopt specific legal rules on government advertising at each of their levels of government. The lack of a specific and adequate legal framework for the definition of the objectives, the allocation, contracting, and control of the government advertising allows an arbitrary use of

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<sup>175</sup> The Nassau Guardian. February 2, 2022. [Reporters blocked from interviews outside OPM](#); Eyewitness News. February 2, 2022. [BLOCKED: Media told to submit advanced requests for interviews with ministers ahead of Cabinet](#).

<sup>176</sup> IACHR. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 5.

<sup>177</sup> The Nassau Guardian. February 23, 2022. [Is govt trying to gut media?](#); Eyewitness News. February 26, 2022. [PRESS CORPS DWINDLING?: Watson says govt not seeking to 'gut' media as several accept public appointments](#).

<sup>178</sup> The Nassau Guardian. May 5, 2022. [Freedom of the press](#); The Nassau Guardian. September 20, 2021. [How the Minnis administration punished the Nassau Guardian](#).

<sup>179</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OEA Ser.L/V/II. IACHR/RELEA/INF. 3/09. para. 132.

these resources to the detriment of freedom of expression<sup>180</sup>. Additionally, this Office further clarifies that States must adopt specific legal rules on government advertising at each of their levels of government. The lack of a specific and adequate legal framework for the definition of the objectives, the allocation, contracting, and control of the state advertising allows an arbitrary use of these resources to the detriment of freedom of expression<sup>181</sup>.

## **B. Freedom of expression, Rule of Law, and democratic institutions**

89. In January 2022, this Office received information about the public policy priorities for The Bahamas according to representatives of civil society. These priorities would include the full enactment and operation of the 2017 Freedom of Information Act (FOIA); full enactment and enforcement of the Public Procurement Act of 2019; amending the Fiscal Responsibility Act to strengthen the role of the Fiscal Responsibility Committee; the approval of anti-corruption legislation and the creation of a comprehensive public service reform program that includes legislation, evaluation, and training<sup>182</sup>.

90. The Office of the Special Rapporteur has received complaints about what would constitute a lack of transparency in conciliation agreements between the State and a series of plaintiffs who, in turn, are public figures. Since 2019, the Office of the Attorney General entered into conciliation agreements with different people with public responsibilities.<sup>183</sup> Faced with new claims for the alleged abuse of confidentiality clauses, the Attorney General assured that the value of these reconciliations would be exempt from the Freedom of Information Act - FOIA, which is why he would share said information with the public for now<sup>184</sup>.

91. Regarding access to information from public bodies, the Office of the Special Rapporteur reiterates that State bodies must be obliged to publish fundamental information, including: operational information on how the State body works, including costs, objectives, accounts audited, standards, achievements, etc., in particular, in cases where the body provides direct services to the public; information on any request, complaint, or other direct action that members of the public may take in relation to the State body; guidance on the procedures by which the public can contribute to major policy or legislative proposals; the types of information the body holds in its possession and the manner in which this information is retained, and the content of any decision or policy affecting the public, together with the reasons for the decision and important background information that constitutes the context of said decision<sup>185</sup>.

92. This Office wishes to clarify that certain information may legitimately be secret for reasons of national security or protection of other overriding interests. However, laws regulating secrecy must accurately define the concept of national security and clearly specify the criteria that must be used to determine whether or not certain information can be declared secret, in order to prevent abuse of the "secret" classification to prevent disclosure of information that is in the public interest. Laws regulating secrecy should clearly specify which officials are authorized to classify documents as secret and should also set general limits on the length of time documents can be kept secret. Such laws should be subject to public debate<sup>186</sup>.

93. On February 10, 2022, the Office of the Special Rapporteur received information indicating that the first Freedom of Information Commissioner of the Bahamas had announced that 10 government ministries and

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<sup>180</sup> IACHR. Principles on the regulation of government advertising in the inter-American system for the protection of human rights. 2011. Para. 34.

<sup>181</sup> IACHR. Principles on the regulation of government advertising in the inter-American system for the protection of human rights. 2011. Para. 34.

<sup>182</sup> The Nassau Guardian. January 26, 2022. [ORG policy wish list includes full enactment of FOIA, anti-corruption legislation](#).

<sup>183</sup> Eyewitness News. June 2, 2022. [AG defends confidentiality clauses in settlements](#); Eyewitness News. August 4, 2022. [PM: Confidential settlement agreements could eventually be exposed](#).

<sup>184</sup> Eyewitness News. June 2, 2022. [AG defends confidentiality clauses in settlements](#); Eyewitness News. August 4, 2022. [PM: Confidential settlement agreements could eventually be exposed](#).

<sup>185</sup> IACHR. Annual Report 2003. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. 2. Evaluation of access to information in the hemisphere. para. 3. 4.

<sup>186</sup> OAS, UN, OSCE. Joint Declaration on Access to Information and on Legislation Regulating Secrecy. 2004.

agencies would begin to implement the Freedom of Information Act - FOIA]<sup>187</sup>. In its last annual report, this Office had expressed its concern regarding the lack of progress in the implementation of this Law, sanctioned in 2017.<sup>188</sup> According to public information, the 10 agencies that would be in this pilot plan would be the Ministry of Finance, the Ministry of Health and Welfare, Ministry of Environment, Ministry of Public Service, Ministry of Public Works, Public Ministry, Bahamas Investment Authority, Department of Treasury, Bahamas Power and Light, and Department of Immigration. Commissioner Thompson reportedly clarified that, with the implementation of this pilot, the State's Freedom of Information Unit would be operational in 2023. The objective of the pilot plan would be to assess to what extent the 10 bodies can public respond to requests for information. Regarding the most effective technology to process the requests, the commissioner ensured that two systems are being studied, either to create their own or to buy a license for its use. Finally, the commissioner would have anticipated that his Office will begin an education campaign so that citizens know their right to information, although he would not have specified dates or further details.

94. On February 10, 2022, the Office of the Special Rapporteur also received information according to which the Deputy Information Commissioner reportedly assured that there are many reforms that must be carried out throughout the public sector to implement the Freedom of Information Act - FOIA. The Deputy Commissioner also assured that another challenge in the implementation of the law would be the lack of digitization and standardization of public document records. Additionally, the official anticipated that information managers will be trained and appointed in each of the 10 selected government ministries and agencies to implement the FOIA, although he did not mentioned dates. Finally, Miller reportedly suggested that the provision of public information would have a fee and that the requests would ideally be dealt with within a period of 30 days, although the law contemplates conditions for extensions. In the event that the applications are rejected, the Deputy Commissioner indicated that there will be an application process before the Office of the Commissioner and, ultimately, before the Supreme Court.

95. On May 4, 2022, the Office of the Special Rapporteur was informed that not all public officials were complying with the transparency obligations established by the Public Disclosure Act. According to public information, this law would be a legal anti-corruption mechanism, under the Public Disclosure Commission (PDC), which would require each member of parliament to provide a declaration of assets, income, and liabilities for the past year until the beginning of March. According to the complaints received by this Office, there are several public servants who have not provided their statements, even after the 30-day extension allowed by law, for which they could face fines of up to \$10,000 Bahamian dollars and imprisonment for up to two years<sup>189</sup>.

96. The Office of the Special Rapporteur reiterates that the specialized entity for the supervision and enforcement of access to information laws must be capable of generating uniform policies on public information for all the organizations bound by the regulations and must have the power to coordinate the efforts of different areas. Therefore, it must have the capacity to monitor compliance with the obligation of active transparency of the regulated entities<sup>190</sup>. In this sense, this Office emphasizes that in order to continue making progress in its obligation to implement a culture of transparency and guarantee the right of access to information, it is essential to persist in building robust supervision entities with sufficient power to give life and meaning to the transparency mandates of the respective laws on access to information and adapt international jurisprudence to state practices.<sup>191</sup> Finally, the Office of the Special Rapporteur points out that it is important that the entities responsible for defending the right to information have a budget and human resources that allow them to fulfill the important mission assigned. Without resources and without personnel,

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<sup>187</sup> Eyewitness News. February 11, 2022. [FOIA Advancing: 10 agencies and ministries first up in phased freedom of information implementation](#); The Tribune. February 11, 2022. [FOI trial to start with ten govt agencies](#); The Nassau guardian. February 18, 2022. [Information commissioner targeting access to information under FOIA within a year](#).

<sup>188</sup> SRFOE. Annual Report 2021. Bahamas.

<sup>189</sup> The Nassau Guardian. May 4, 2022. [Disclosure & transparency](#); Our News. May 5, 2022. [Watson: MP's Failure to Declare 'Simple Oversight'](#).

<sup>190</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The supervisory bodies of the right of access to public information. Chap. 1: Specialized entities for supervision and compliance 2016. OEA/Ser.L/V/II, CIDH/RELE/INF. 14/16. para. 69.

<sup>191</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The supervisory bodies of the right of access to public information. Chap. 1: Specialized entities for supervision and compliance 2016. OEA/Ser.L/V/II, CIDH/RELE/INF. 14/16. para. 88.

it is very complex to fulfill all the functions assigned to these bodies, such as disseminating regulations, exercising control over the rest of the state organization, and resolving appeals with the speed necessary to adequately guarantee the right of access to information<sup>192</sup>.

97. As of the publication date of this Annual Report, citizens cannot yet make requests through the Freedom of Information Act (FOIA) as the pilot plan has not been fully implemented.

98. In terms of implementation, the Office of the Special Rapporteur recalls that State has the duty to adequately implement the rules on access to information.<sup>193</sup> Therefore, the State must design a plan that allows the real and effective satisfaction of the right of access to information in a reasonable period of time. This obligation implies the duty to allocate the necessary budget to be able to progressively satisfy the demands that the right of access to information will generate.<sup>194</sup> Likewise, the State must adopt norms, policies, and practices that allow the conservation and adequate administration of the information<sup>195</sup>. Finally, the State must adopt a systematic policy of training public officials aimed at satisfying, in each of its facets, the right of access to public information, as well as the training of the bodies, authorities, and public agents in charge of respond to requests for access to information under the control of the State on the regulations governing this right. Likewise, this obligation implies the training of public officials in relation to the laws and policies on the creation and custody of files related to the information that the State is obliged to safeguard, manage, and produce or capture<sup>196</sup>.

99. Additionally, this Office points out that the State has the obligation to adapt its domestic legal system to international standards regarding access to information, in the sense of: (a) implementing an adequate legal framework for such purposes; (b) removing legal or administrative obstacles that hinder access to information; (c) promoting the implementation of the right of access within all the entities and authorities that make it up—through the adoption and execution of standards, procedures, and training for the authorities in matters of custody, administration, filing, and provision of information—; and (d) in general terms, adopting a public policy favorable to the full exercise of this right<sup>197</sup>.

100. The Office of the Special Rapporteur encourages The Bahamas to continue investing resources and joining efforts for the full implementation of the Freedom of Information Act (FOIA). It is important that the State of The Bahamas continue with its plans to bring into force all relevant legislation to promote transparency and accountability in the country. Likewise, this Office also encourages the government to commit to include more government agencies in the FOIA to guarantee citizen access to public information.

101. On March 4, 2022, this Office received information indicating that hundreds of residents and business owners in Grand Bahama held a march to protest the state of the economy on the island; the protesters were reportedly concerned about unemployment, inflation, and lack of investment<sup>198</sup>.

102. Between March 23 and 26, 2022, this Office was informed about a series of demonstrations in the framework of the visit of the now Prince of Wales, William, and his wife, Princess Catherine of Wales, to the Bahamas<sup>199</sup>. On March 31, this Office received reports indicating that the Prime Minister, Phillips Davis, would

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<sup>192</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The supervisory bodies of the right of access to public information. Chap. 1: Specialized entities for supervision and compliance 2016. OEA/Ser.L/V/II, CIDH/RELE/INF. 14/16. para. 89.

<sup>193</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 39.

<sup>194</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 40.

<sup>195</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 41.

<sup>196</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 42.

<sup>197</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. para. 43.

<sup>198</sup> Eyewitness News. March 5, 2022. [Taking A Stand: GB residents and business owners protest economic state of second city](#); The Tribune. March 4, 2022. [Concerned Grand Bahama businesspeople, residents march to GBPA](#).

<sup>199</sup> Bloomberg. March 23, 2022. [Bahamas Committee Urges William and Kate to Acknowledge Slavery and Support Reparations](#); The Independent. March 24, 2022. [Prince William and Kate face more protests in Bahamas](#); The Guardian. March 28, 2022. [Royal tour is 'in sharp opposition' to needs of Caribbean people, says human rights group](#).



have assured that the visit of the members of the British royal family had an impact on the public debate on the role of the monarchy in the Bahamas, and that his administration would be willing to listen and participate in discussions about it<sup>200</sup>.

103. On July 18, this Office also received reports of another wave of protests, this time from the Bahamas Unified Bus Drivers Union.<sup>201</sup> According to public information, the drivers would have protested to demand an increase in the bus fares since the drivers would be affected by the inflation levels.

104. In this sense, the Office of the Special Rapporteur reiterates that protest is a form of individual or collective action aimed at expressing ideas, visions, or values of dissent, opposition, complaint, or claim. Examples include the expression of political, social, or cultural opinions, visions, or perspectives; the vocalization of support or criticism related to a group, party, or the government itself; the reaction to a policy or the denunciation of a public problem; the affirmation of the identity or visibility of the situation of discrimination and marginalization of a group<sup>202</sup>. In this sense, the Office of the Special Rapporteur highlights that there is a strong interconnection between the right to protest and the right to freedom of expression and the right of assembly. It is also strongly associated with activities in defense of human rights, including demands for recognition, protection, or exercise of a right, as well as the promotion and defense of democracy<sup>203</sup>. Finally, the Office of the Special Rapporteur emphasizes that the protest as a form of participation in public affairs is especially relevant for groups of people historically discriminated against or in conditions of marginalization<sup>204</sup>.

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

105. In July 2022, the Office of the Special Rapporteur received complaints about the dissemination of stigmatizing comments against the LGBTIQ population through a recognized media outlet in the Bahamas. According to public information, a citizen would have used an opinion space of said medium to express stigmatizing and discriminatory messages, accusing the LGBTIQ population of allegedly victimizing themselves, seeking preferential treatment, and discriminating against heterosexual Bahamians<sup>205</sup>. The opinion column would respond to claims by the LGBTIQ population to be included in the government plan of Prime Minister Phillip Davis.

106. Regarding the foregoing, the Office of the Special Rapporteur affirms, once again, that it is of particular importance that States adopt actions to guarantee the exercise of the right to freedom of expression of LGBTI persons and that they empower affected and invisibilized persons<sup>206</sup>. Likewise, this Office reiterates that the censorship of the debate on controversial issues will not attack the structural inequalities and prevalent prejudices that affect LGBTI persons in America. On the contrary, as a principle, instead of restricting them, States should promote preventive and educational mechanisms and promote broader and deeper debates, as a measure to expose and combat negative stereotypes<sup>207</sup>.

### D. Freedom of expression and the internet

107. In August 2022, the Office of the Special Rapporteur was informed of an alleged increase in digital threats and malicious cyber activities. According to the information received, this increase would be due to new

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<sup>200</sup> The Nassau Guardian. March 31, 2022. [‘We will listen to discussions about future role of the monarchy’](#); Radio Jamaica News. September 12, 2022. [Bahamas: PM says citizens will decide if country should transition to republic](#); Caribbean National Weekly. September 13, 2022. [PM hints at referendum to decide if The Bahamas becomes a republic](#).

<sup>201</sup> Eyewitness News. July 19, 2022. [JUST THE START: Bus drivers warn strike could be next after protest](#); Our News. July 18, 2022. [‘We Will Strike for as Long as it Takes’](#).

<sup>202</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 1.

<sup>203</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 2,3,4.

<sup>204</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 23.

<sup>205</sup> The Tribune. July 13, 2022. [PM asked: ‘How are you going to take care of queer Bahamians?’](#); The Nassau Guardian. July 25, 2022. [Resisting oppression of LGBT+ community](#).

<sup>206</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI people in the Americas. 2015. Para. 22.

<sup>207</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI people in the Americas. 2015. Para. 14.

data breaches against public infrastructure, losses due to digital fraud, and illicit financial flows, among other causes<sup>208</sup>. The alert would have been shared within the framework of the first national symposium of the Computer Incident Response Team (CIRT), which in turn would be part of The Bahamas National Cybersecurity Project launched in 2021<sup>209</sup>. Prime Minister Phillip Davis reportedly asserted that the development of cybersecurity would be part of the country's digital transformation, noting that the CIRT "will serve as a focal point to coordinate cybersecurity incident response to cyberattacks, providing support services of cybersecurity to the government, private organizations, and citizens of The Bahamas, particularly those in critical infrastructure and essential services to defend against malicious cyber activity." The current administration would have designated cybersecurity and cyber resilience as fundamental elements to develop a digital society in which every citizen is protected.

108. The Office of the Special Rapporteur reiterates that in order to avoid a broad concept that could lead to the criminalization of the use of the Internet, the concept of cybersecurity must be reduced to the protection of a series of legal assets, such as infrastructure and information stored or managed in any way through the Internet, but not to the technological means used to commit an offense of any nature<sup>210</sup>. The response of States in terms of security in cyberspace must be limited and proportionate, and seek to comply with precise legal purposes, which do not compromise the democratic virtues that characterize the network. In this sense, governments should refrain from privileging the concentrated and centralized use of criminal law as a fundamental instrument to face all possible threats that may threaten online security<sup>211</sup>. When taking initiatives to protect security in cyberspace, States must include explicit safeguards in the standard to ensure that regular behaviors or behaviors inherent to the use of the Internet are not criminalized. It must also require that the defined acts entail effective damage and that the harmful behaviors are committed with the intention of committing a crime<sup>212</sup>.

109. Additionally, this Office emphasizes that public policies on cybersecurity must be proportional to the risk they face and, in any case, must balance the objective of security and the protection of fundamental rights<sup>213</sup>. The Office of the Special Rapporteur highlights that States must report, among other things, on the general guidelines of the policies and on the agencies in charge and their responsibilities. In the face of attacks or imminent risks, States must be held accountable or order investigations that allow knowing the dimension of what happened<sup>214</sup>.

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<sup>208</sup> Caribbean National Weekly. August 25, 2022. [Bahamian Government warns of increase in digital threats and malicious cyber activities](#); The Tribune. August 24, 2022. [David speaks at cybersecurity symposium](#); ZNS Network Bahamas. August 24, 2022. [Cybersecurity at the foundation of dramatic digital transformation](#).

<sup>209</sup> ITU: The UN Specialized Agency for ICTs. March 25, 2021. [The Bahamas strengthens its cybersecurity space](#).

<sup>210</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 119.

<sup>211</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 120.

<sup>212</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 123.

<sup>213</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 124.

<sup>214</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 127.



## BARBADOS

110. In 2022, the Office of the Special Rapporteur documented positive steps forward on freedom of expression and the media in the country, such as training workshops for journalists, technology donations to the media, and recognition of journalists and communicators for their work in 2021. This Office also received information on a series of demonstrations over the reopening of educational institutions and the labor demands of healthcare workers; no demonstration was repressed, and on the contrary, State authorities have been receptive to these demands. With regard to the rights to association, the Office of the Special Rapporteur observe significant progress on guaranteeing the labor union rights of penitentiary workers. Regarding the rights of historically-marginalized minorities, such as the LGBTI population, this year also saw greater visibility of the barriers they face and progress toward access to justice following sexual abuse between persons of the same gender. Lastly, this Office learned that the emergence of debates and conversations over public policy around cybersecurity.

### A. Journalism and democracy

111. On February 5, the Office of the Special Rapporteur was informed of an incident in which the Chief Medical Officer of Barbados asked a journalist to keep his distance while giving a statement.<sup>215</sup> Subsequently, according to the information available, the Ministry of Health and Wellness issued a release indicating that because of COVID-19, all interviews with officials must be conducted "six feet away from the individual who is speaking at the time." The measure was supposed to protect biosecurity in these circumstances.

112. The Office of the Special Rapporteur reiterates that the right to access information entails obligations for all public authorities in all branches of government and autonomous bodies, at all levels of public administration. This right also binds those who perform public functions, provide public services, or execute public resources on behalf of the State. Regarding the latter, the right to access requires that information be provided exclusively on the management of public resources, the performance of the services entrusted, and compliance with the aforementioned public functions.<sup>216</sup>

113. The Office of the Special Rapporteur was pleased to note a 4-day training course for Caribbean journalists that concluded on March 4, 2022. As this Office learned, the Foreign, Commonwealth and Development Office's (FCDO) International Communications Skills Course attracted 20 professionals from Barbados, Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, and the Grenadines.<sup>217</sup> Participants benefited from training on effective writing for print and broadcast media, visual journalism, mastering interviews, podcasting, and using digital tools to advance one's career. According to publicly-available information, the course was based on previous cross-regional media training, which was facilitated by the UK Government prior to the start of the COVID-19 pandemic in January 2020.

114. This Office learned that on April 29, 2022, in anticipation of World Press Freedom Day, the Embassy of the United States donated six computers to the Caribbean Broadcasting Corporation (CBC).<sup>218</sup> The CBC is the only national outlet in Barbados and is a vital source of information on many local, regional, and international events. The Rapporteurship also documented the participation of the diplomatic mission of the United States in the Virtual Caribbean Media Summit organized by the Media Institute of the Caribbean (MIC). The summit addressed the theme of "journalism under digital siege," raised by UNESCO.

115. The Office of the Special Rapporteur welcomes the bilateral and multilateral efforts in the framework of international cooperation to plan and execute courses for journalists in the Caribbean.

### B. Freedom of expression, the Rule of Law and democratic institutions

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<sup>215</sup> *Caribbean Loop News*. February 5, 2022. [Media warned: Not so close, six-foot distance for interviews](#).

<sup>216</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework with regard to the Right to Access to Information 2010. OEA/SER.L/V/II. CIDH/RELE/INF. 1/09. Para. 19

<sup>217</sup> *CARICOM Today*. March 14, 2022. [UK Funds Prestigious Training Course For Caribbean Media Professionals](#).

<sup>218</sup> Caribbean Broadcasting Corporation. April 29, 2022. [US Embassy donates iMac computers to CBC](#); *Bajan Reporter*. May 2, 2022. [B'town US Embassy Marks World Press Freedom Day With Support to Bajan TV Station](#).

116. At the beginning of February 2022, the Rapporteurship was informed of demonstrations demanding the reopening of schools in Barbados. This Office welcomes the fact that the protests have been peaceful and that Kay McConney, the Minister of Education, Technological and Vocational Training, has expressed her support for citizens exercising "their democratic right" and feeling that they can "freely express what their concerns are."<sup>219</sup> According to official information, the phased opening of schools in Barbados began on February 21 of this year.

117. This Office also documented protests in January 2022 by nurses who were members of the United Workers Union (UWU), demanding better working conditions and a solution to staff shortages on the island. As the Office of the Special Rapporteur has reported, close to 300 nurses and nurses aides went on strike, allegedly causing interruptions at the two main hospitals in Barbados: Queen Elizabeth, in Bridgetown, and Bayview, in Bayville.<sup>220</sup> The strike was criticized for coinciding with an increase in cases of COVID-19, putting greater pressure on the health system. The Barbados Nurses Association (BNA) estimates the country's staff shortfall at 552 starting in 2021, given that compensation is better in other countries and the workload lighter.

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

119. With respect to labor rights, the Office of the Special Rapporteur reiterates that the rights to freedom of expression, assembly, and association as they pertain to the freedom to unionize, collectively bargain, and strike constitute fundamental rights for workers and their representatives to organize and express specific grievances regarding their working conditions in order to effectively represent their interests before employers, including by participating in matters of public interest with a collective voice. States have a duty to respect and guarantee these rights, which balance out existing inequality between workers and employers to provide access to fair pay and safe working conditions.<sup>221</sup>

120. In April 2022, the Office of the Special Rapporteur received reports indicating that the right of penitentiary officials to join unions had been reestablished. According to public information, a High Court judge ruled that the entire Prison Amendment Act of 1982 was "unconstitutional" and was therefore "null and void." This law made it unlawful for prison officers to join trade unions, limiting their ability to issue demands and bargain collectively.<sup>222</sup> In his ruling, the judge found that the "substantial intent" of the amendment act was to significantly restrict prison officers' freedom of association, which was unconstitutional given that the right to free association is enshrined in Section 21(1) of the Constitution. In May, Prime Minister Mia Mottley announced that her government would not appeal the High Court decision granting prison officers the right to join trade unions in Barbados.

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<sup>219</sup> Barbados Government Information Service. February 7, 2022. [Education Minister: No Issue With Saturday's Protest](#); *Caribbean Loop News*. February 8, 2022. [Parents protesting for reopening of school not an issue, says Minister](#); Barbados Government Information Service. February 15, 2022. [Phased Reopening of Schools Start Monday, February 21](#); *Nation News*.

<sup>220</sup> *The Voices*. January 7, 2022. [Nurses in Barbados Take to the Streets in Protest](#); *Nation News*. January 6, 2022. [Protesting nurses take their message to the people](#); *Barbados Today*. January 17, 2022. [Nurses stage second protest in the city](#); *Nationwide Radio Jamaica*. January 7, 2022. [Nurses in Barbados Protest Working Conditions and Late Pay](#).

<sup>221</sup> Inter-American Court. Advisory Opinion OC-27/21. Right to Freedom of Association, Right to Collective Bargaining, and Right to Strike, and Their Relation to Other Rights, with a Gender Perspective May 5, 2021. Series A No. 27. Para. 141.

<sup>222</sup> *Barbados Today*. April 2, 2022. [Judge rules legislation restricts freedom of association enshrined in Constitution](#); *Barbados Today*. May 2, 2022. [Prison Officer's right to freedom of association will not be challenged, says PM](#); *Caribbean Life*. June 13, 2022. [Caribbean Round-up](#).

121. Additionally, also in April 2022, the Office of the Special Rapporteur was informed that the police and fire officers of Barbados were also demanding that they be granted the same freedom of association that prison officers now enjoy. According to what this Office learned, these workers' demands were receiving the support of the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) since the freedom of association of police and fire officers operate under legislation similar to that of prison officials. According to public information, police and fire officials were seeking to be able to join freely and benefit economically from the trade unions.<sup>223</sup>

122. The IACHR has found that protest is often an important means of action used by organizations and groups to pursue legitimate objectives, and is therefore protected by the right to freedom of association. The legal and legitimate aims of freedom of association include public demonstrations and social protests.<sup>224</sup>

123. As established in Article XXII of the American Declaration of the Rights and Duties of Man, "Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature." Likewise, the Office of the Special Rapporteur reiterates that the exercise of fundamental freedoms like freedom of expression and association cannot be conditioned on political ideas of one party or subjected to the absolute control of State power. In this regard, the Office of the Special Rapporteur welcomes the ruling of the High Court guaranteeing the rights of association—and therefore to form a union—of penitentiary officers. The ruling in favor of the workers establishes a precedent for the full guarantee of the rights to association of public employees in Barbados.

124. In August 2022, the Office of the Special Rapporteur welcomed the holding of the 53rd general assembly of the Caribbean Broadcasting Union (CBU). The CBU held its assembly in Trinidad and Tobago, although its main headquarters are in St. Michael, Barbados. During the assembly, the association of 37 regional media outlets highlighted the work of press professionals with the Caribbean Media Awards (CMA).<sup>225</sup> There were 231 nominations from 16 CBU members and 27 nominations from 9 non-member media houses, for a total of 258 nominations in 46 categories. Some of the radio and television categories included best documentary programme; best news item; best investigative report; best public service spot; best coverage of the COVID-19 pandemic; best responsible coverage of children's issues; best coverage of disaster risk reduction; best coverage of people with disabilities; best health education journalism; and best financial literacy journalism, among others.

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

125. On May 17, in the framework of the International Day Against Homophobia, Biphobia, and Transphobia, the Office of the Special Rapporteur received a report from the Open for Business coalition of companies, entitled "The Economic Case for LGBT+ Inclusion in the Caribbean." The investigation looked at the systemic legal and institutional barriers that pose significant challenges to LGBTI persons within their families, their educational institutions, the labor market, and the justice system. These factors incentivized emigration from the members of this community in the Caribbean and reduced the likelihood of international tourists choosing to visit the region.<sup>226</sup> As the Office of the Special Rapporteur was able to learn, the investigation into the economic impact of discrimination against LGBTI persons is the largest ever conducted in the Caribbean. The report suggests that in addition to being an imperative for guaranteeing human rights in the region, eliminating structural discrimination against this population would also bring economic benefits.

126. It is the Office of the Special Rapporteur's view that it is especially important for States to take action to guarantee the exercise of the right to freedom of expression by LGBTI persons and empower those who are

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<sup>223</sup> *Barbados Today*. April 8, 2022. [Police, fire officers want same freedom to join unions as prison officers](#).

<sup>224</sup> 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 of 2019. Para. 20, 21.

<sup>225</sup> *Caribbean Loop News*. August 18, 2022. [Media professionals shine at CBU Caribbean Media Awards](#); Caribbean Broadcasting Union. August 17, 2022. [Caribbean Media Awards 2021 Winners Announced](#).

<sup>226</sup> Open For Business. June 2021. [The Economic Case for LGBT+ Inclusion in the Caribbean](#); *Barbados Today*. May 18, 2022. [LGBT discrimination costly for Barbados](#).

impacted and made invisible.<sup>227</sup> This Office also wishes to reiterate that the IACHR calls on authorities to contribute decisively to building a climate of tolerance and respect in which all individuals, including LGBTI persons and those defending their rights, can express their thoughts and opinions without fear of being attacked, punished, or stigmatized for doing so.<sup>228</sup>

127. In February 2022, the Inter-American Commission on Human Rights (IACHR) and its Office of the Special Rapporteur were pleased to receive the decision of the Caribbean Court of Justice (CCJ) finding that rape as defined by the Sexual Offences Act is not restricted by the gender of the victim of the attacker.<sup>229</sup> Therefore, the court concluded that both men and women can be victims of rape, expanding the State's capacity to protect members of the LGBTI population. The case *Commissioner of Police v. Stephen Alleyne* arose from the decision of Barbados courts to dismiss the case of a man accused of rape on the grounds that a man cannot be accused of rape when the victim is another man, since the applicable charge would only be the so-called crime of "sodomy," which is still in force in domestic law.

128. The IACHR resolutely reaffirms that the mere existence of laws criminalizing consensual relationships between adults of the same-sex is harmful to LGBTI persons and society as a whole, including by obstructing effective access to justice. Additionally, the fact that these laws remain in force creates an environment of tolerance for discrimination against persons of real or perceived diversity in terms of their sexual and gender identities.<sup>230</sup> The IACHR therefore urges the States that still have this legislation in place to repeal it immediately. The Commission also urges these States to continue taking measures to guarantee the right to a life free of all types of violence and discrimination, including by providing protection from sexual violence.

#### **D. Internet and freedom of expression**

129. In terms of connectivity, the government has set up Wi-Fi hotspots in some areas of Bridgetown, such as the Fairchild Street and Princess Alice bus terminals and around the Treasury building. According to public information, these zones will be extended to other locations as part of the Smart City initiative, including Cheapside Market, Jubilee Gardens, around the Parliament building, Swan Street, and Suttle Street.<sup>231</sup> The government is also working on digitizing thousands of files from multiple ministries as part of an online platform enabling management of documents and public service records.<sup>232</sup>

130. In June 2022, this Office learned of new efforts by the Ministry of Industry, Innovation, Science and Technology to strengthen information technology and communications departments within government. The efforts come after a ransomware attack three months earlier that forced the government to shut down all of its platforms.<sup>233</sup> State authorities are holding talks on restructuring the departments in charge of cybersecurity monitoring, regulation, verification, training and facilitation.

131. Given the rising number of cyber attacks, this Officer urges authorities in the Caribbean to intensify their efforts to introduce and implement robust legislation on data protection and cybercrime prevention. This task is particularly important given the rapid digitization of government services in the region. Likewise, this

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<sup>227</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate Speech and Incitement to Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas 2015. Para. 22.

<sup>228</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate Speech and Incitement to Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas 2015. Para. 33.

<sup>229</sup> Caribbean Court of Justice - Appellate Jurisdiction. February 1, 2022. [Commissioner of Police v. Stephen Alleyne](#). Jamaica Observer. February 1, 2022. [CCJ rules men could be victims of rape in Barbados](#). Jamaica Gleaner. February 2, 2022. [Men can be raped by men, CCJ rules in Barbados case](#).

<sup>230</sup> IACHR. February 23, 2022. Press Release 38/22. [IACHR takes note of the decision of the Caribbean Court of Justice concerning rape](#).

<sup>231</sup> Barbados Government Information Service. April 5, 2022. [Digitisation of Public Service Moving Ahead](#); Barbados Today. June 10, 2022. [Govt's digitalization drive gathers momentum](#).

<sup>232</sup> Barbados Government Information Service. April 5, 2022. [Digitisation of Public Service Moving Ahead](#); Barbados Today. June 10, 2022. [Govt's digitalization drive gathers momentum](#).

<sup>233</sup> Barbados Today. June 23, 2022. [Cybersecurity on the Government's radar](#).

Office welcomes the private sector and civil society efforts to offer and participate in spaces for discussing how to protect personal information and civil liberties in the digital age.<sup>234</sup>

132. The Office of the Special Rapporteur wishes to state that in order to avoid broad definitions that could lead to criminalization of the use of the Internet, the concept of cybersecurity narrowly refers to protection of a series of legal rights like infrastructure and information that is stored or in any way administered over the Internet, but not the technological means used to commit a crime of any kind.<sup>235</sup> To the extent that governments legislate on cybercrimes, the Office of the Special Rapporteur notes that the State response in terms of security in cyberspace must be limited and proportionate and seek to pursue specific legal purposes that do not compromise the democratic virtues that characterize the network. In this sense, governments should refrain from preferring concentrated and centralized use of criminal law as the basic tool for addressing all possible threats to online safety.<sup>236</sup> Likewise, when taking the initiative to protect security in cyberspace, States should include specific safeguards in the law to ensure that normal conduct inherent to the use of the Internet is not criminalized. States also must ensure that the acts defined cause actual harm, and that the harmful conduct is committed with criminal intent.<sup>237</sup> Lastly, public policies on cybersecurity must be proportionate to the risk in question, and in all cases the security objective must be balanced with the protection of fundamental rights.<sup>238</sup> Authorities must report and be held accountable with respect to the cybersecurity measures taken, both the measures implemented directly and the measures implemented by private intermediaries engaged by the State.<sup>239</sup>

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<sup>234</sup> *Barbados Today*, June 23, 2022. [Cybersecurity on the Government's radar](#); *Caribbean Loop News*, November 26, 2022. [200 Barbadians to be trained for cybersecurity sector](#).

<sup>235</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression and the Internet*. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 119.

<sup>236</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression and the Internet*. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 120.

<sup>237</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression and the Internet*. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 123.

<sup>238</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression and the Internet*. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 124.

<sup>239</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression and the Internet*. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 126.



## BELIZE

133. In 2022, the Office of the Special Rapporteur received reports of multiple tensions between media outlets and State authorities, including public figures and politicians. According to what the Office of the Special Rapporteur was able to learn, these tensions emerged from a failure to investigate the murder of a producer from the US, the expulsion of a journalist from a multilateral summit of regional leaders, and the broadcasting of allegedly slanderous comments against the country's prime minister. Specifically, this Office learned of a lawsuit involving at least two news outlets seeking the broadcasting of an apology and possibly compensation to the Prime Minister for broadcasting the apparently false accusations of the leader of the opposition. Over the course of the year, the Office of the Special Rapporteur also learned that an update to the country's defamation legislation had been presented, leading to a series of criticisms from the journalism association. Additionally, the national police opened a center against cybercrime with an enhanced ability to intercept communications in the country. As in other Caribbean States, the visit by members of the British monarchy in 2022 led to protests, especially by historically marginalized groups. Lastly this year, the Office of the Special Rapporteur was pleased to receive reports of workshops aimed at training future journalists in the country, especially on fact checking.

### A. Journalism and democracy

134. On January 17, 2022, the Office of the Special Rapporteur received information indicating that six years after the murder of American producer Anne Swaney, of ABC7, the whereabouts of her remains were still unknown. Additionally, information received by this Office indicates that no progress has been made on identifying and punishing the perpetrators and masterminds of the crime.<sup>240</sup> The Federal Bureau of Investigation (FBI) reportedly offered a reward to anyone with information about the crime.<sup>241</sup> Although the original lines of investigation indicated that the journalists had been strangled by assailants while on vacation in the western part of the country, the authorities had no additional information as of the publication of this annual report.<sup>242</sup>

135. The Office of the Special Rapporteur reiterates that violence against journalists in general and the murder of journalists over their work specifically is the most serious violation of freedom of expression, not only because it endangers the lives and safety of victims but because these crimes are multifaceted offenses. That is, they affect a series of legally protected rights, including: i) the right of victims to express themselves and express their ideas; ii) the chilling effect on journalists working in the same area, region, or country; and iii) effects on the right of freedom of expression in its collective dimension by depriving society as a whole of its right to be informed. Consequently, democratic debate is also affected, as the kind of free and open debate necessary for a healthy and robust democracy is restricted or suppressed.<sup>243</sup> Additionally, this Office emphasizes that States are required to adopt adequate measures to put an end to the climate of impunity. Among other things, they must allocate sufficient resources and attention to prevent attacks on journalists and other persons to exercise their right to freedom of expression, investigate these attacks when they take place, prosecute those responsible, and provide compensation to the victims.<sup>244</sup>

136. Toward the beginning of March 2022, this Office received reports alleging that Cherisse Halsall, a journalist with Channel 7, had been expelled from a supposedly restricted area of the 33rd Inter-Sessional Meeting of the Heads of Government of the Caribbean Community, held in San Pedro Town. According to the

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<sup>240</sup> ABC. January 15, 2022. [Murder of ABC7 producer Anne Swaney in Belize remains unsolved 6 years later](#); *Love FM Belize*. January 18, 2022. [FBI Investigations Continue into the Murder of ABC Journalist, Anne Swaney](#).

<sup>241</sup> U.S. Embassy Belize. January 30, 2017. [U.S. Federal Bureau of Investigation \(FBI\) reward in the case of U.S. Citizen, Anne Swaney](#); *Breaking Belize News*. January 16, 2022. [Six years on, murder of Anne Swaney still not solved](#).

<sup>242</sup> ABC. January 17, 2016. [Autopsy Released After TV Producer Found Dead in Belize](#); *Breaking Belize News*. January 16, 2022. [Six years on, murder of Anne Swaney still not solved](#); ABC7. January 15, 2022. [Murder of ABC7 producer Anne Swaney in Belize remains unsolved 6 years later](#).

<sup>243</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression*. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 330.

<sup>244</sup> OAS, UN, OSCE. *Joint Declaration on Censorship by Killing and Defamation*. 2000.

information received by the Office of the Special Rapporteur, the reporter was removed for having broken a protocol denying access to the media; her removal was captured by a cameraperson.<sup>245</sup>

137. This Office also learned that the journalist had accused the Belizean government of having supposedly granted an “all-access pass” to Channel 5 in an alleged display of favoritism.<sup>246</sup> According to public information, the Chief Executive Officer for the Ministry of Foreign Affairs, Foreign Trade, and Immigration served as CEO of Channel 5 until February 2021, despite having been appointed to her new position in November 2020.<sup>247</sup>

138. In a press release, the Ministry of Foreign Affairs, Foreign Trade, and Immigration rejected the journalist’s accusations of censorship and favoritism, stating that all media were informed on multiple occasions of restricted access areas, and it therefore accused Channel 7 of “blatantly ignor[ing]” the protocol.<sup>248</sup> The press release expressed regret at “the decision by Channel 7 to play victim and cry foul with extreme sensationalism.”

139. The Office of the Special Rapporteur recalls that government transparency and accountability—both national and multilateral—strengthen democratic systems. Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Also, as has been noted, this right is even more important because it is intimately related to the principle of government transparency and the public nature of a government’s actions. The State “is a vehicle for ensuring the common good. In this context, the owner of the information is the individual who has delegated the management of public affairs to his or her representatives.”

140. The Office of the Special Rapporteur wishes to underscore that the right to access information is a critical tool for citizen oversight of State operations and public administration, and for controlling corruption. The right to access to information is a fundamental requirement for guaranteeing transparency and good public administration of the government and other State authorities. The full exercise of the right to access to information is crucial for preventing abuses by public officials. It fosters the rendition of accounts and transparency in State administration and prevents corruption and authoritarianism.<sup>249</sup>

141. As regards the comments from State entities and representatives against journalists, the IACHR has recommended that public officials be careful to ensure that their comments are accurate, avoid stigmatizing and discrediting the media by labeling them in a way that implies “fake news” or other descriptions that discredit the media, and do not threaten journalists or undermine respect for the independence of the media.<sup>250</sup> Politicians and public officials should also refrain from taking actions that undermine the independence of the media, such as politically interfering in operations, assuming commercial control of regulatory bodies or commercial, community, or public media, or pressuring online platforms to regulate content.<sup>251</sup>

142. The Office of the Special Rapporteur was pleased to learn that on March 9, 2022, a group of 50 young people from Belize and Trinidad and Tobago gathered to participate in a virtual journalism program called

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<sup>245</sup> 7 News Belize. March 1, 2022. [The Moment When The 7News Team Was Ejected From CARICOM Inter-sessional](#); *Breaking Belize News*. March 1, 2022. [Channel 7’s Cherisse Halsall ejected as controversy erupts over coverage of CARICOM summit; Opposition issues condemnation](#).

<sup>246</sup> *Love FM Belize*. March 2, 2022. [Channel 7’s Cherisse Halsall booted from no access area at CARICOM summit. Ministry of Foreign Affairs says her report is false](#); *Breaking Belize News*. February 17, 2021. [Channel 5 welcomes new CEO Merleni Cuellas as Amalia Mai exits](#).

<sup>247</sup> *Breaking Belize News*. February 17, 2021. [Channel 5 welcomes new CEO Marleni Cuellar as Amalia Mai exits](#); Channel 5. November 17, 2020. [New C.E.O.s Appointed to Briceño Administration](#).

<sup>248</sup> Government of Belize Press Office. March 1, 2022. [Press Release](#).

<sup>249</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework with regard to the Right to Access to Information 2010. OEA/SER.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

<sup>250</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Pg. 38.39.

<sup>251</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on Media Independence and Diversity in the Digital Age. 2018. Part 4.a.

“Fact Check: Critical Journalism for Youth.”<sup>252</sup> According to the information received by this Office, the program lasted two weeks and was sponsored by the Embassy of the United States. The Office of the Special Rapporteur welcomes the efforts to train future journalists in the region. This Office also welcomes training on fact checking in the midst of an increase in disinformation and false news in the Caribbean and the Americas.

143. On April 1, 2022, this Office was informed that a law firm representing Prime Minister John Briceño sent a letter to Channel 7 and opposition leader Moses Barrow for having made allegedly defamatory statements against Barrow during a television program.<sup>253</sup> According to public information, the letter asked the network to issue a retraction and an apology on television and on all the digital platforms where the media outlet had a presence. The attorneys also said they were seeking compensation of \$100,000 from Channel 7 and Barrow for damaging the prime minister's reputation. The letter was also received by Channel 5 even though it had neither broadcast nor commented on Barrow's on-air statements.

144. On April 4, 2022, the Office of the Special Rapporteur received information indicating that Channel 7 had apologized during its evening broadcast that day.<sup>254</sup> In its retraction, available to the public, the network said it wished for “all its viewers in Belize and abroad” to know that the statements made by opposition leader Barrow on air were “untrue and without any factual basis whatsoever.” Additionally, the media outlet apologized for any negative impact the comments may have on the prime minister and his family committing to refrain from disseminating the statements in question on television or any other digital form. The information received by this Office indicates that the opposition leader refused to apologize to the prime minister.

145. Regarding these facts, the Office of the Special Rapporteur recalls that States must guarantee that civil defamation laws are adjusted to provide greater protection for speech about politics and other matters of public interest, including by requiring politicians and public officials to tolerate a higher level of criticism than ordinary citizens; ensure that damages awards are proportionate taking into account all of the circumstances and are not so large as to exert a chilling effect on freedom of expression; ensure that courts have the power, either at the request of the defendant or on their own motion, to dismiss, in a summary fashion at an early stage of the proceedings, defamation lawsuits involving statements on matters of public interest that do not have a realistic chance of success; and ensure that appropriate defenses are available to defendants in defamation cases involving statements on matters of public interest so that they do not bear strict liability for inaccurate statements of fact.<sup>255</sup>

146. That said, this Office underscores that the State's obligation to protect the rights of others is fulfilled by providing for statutory protection from intentional attacks on honor and reputation via civil action and enacting laws guaranteeing the right to rectification or response.<sup>256</sup>

147. On July 13, 2022, the Office of the Special Rapporteur was informed of a decision by the administration of the Prime Minister to hire a media activist as an advisor to the government press office. According to public information, the prime minister had to explain to citizens and media the reasoning justifying the hiring of this individual to explore the best ways in which the press office can “operate in a more modern day of almost instant news.”<sup>257</sup>

148. Regarding public scrutiny, the Office of the Special Rapporteur reiterates that the types of information relevant for State control—such as information on public procurement, contracting, budgets, and

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<sup>252</sup> Channel News 5. March 9, 2022. [Youths Take Part in Virtual Journalism Program](#); U.S. Embassy in Belize. March 9, 2022. [U.S. Embassies Belmopan and Port of Spain Partner on Youth Media Literacy Program](#).

<sup>253</sup> Channel News 5. April 1, 2022. [Lawyers Send Letter to Leader of the Opposition Regarding Comments Made About Prime Minister](#); PlusTV Belize. April 1, 2022. [PM threatens legal action after LOO accuses him of cartel affiliation](#); *Breaking Belize News*. April 10, 2022. [Opposition Leader maintains he was not directly referring to Prime Minister in 'Uncut' statement](#).

<sup>254</sup> Channel 7 News Belize. April 4, 2022. [Apology For Hon. Shyne Barrow's Remarks on Uncut](#). *Amandala Newspaper*. April 7, 2022. [Channel 7 apologizes to PM Briceño for Hon. Shyne's comments](#).

<sup>255</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on Politicians and Public Officials and Freedom of Expression. 2021. Part 1.b.iv.

<sup>256</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Report on the Compatibility of “Desacato” laws with the ACHR. OEA/Ser. L/V/II.88, doc. 9. February 17, 1995. Section V.

<sup>257</sup> *Love FM Belize*. July 13, 2022. [PM John Briceño Defends Hiring of Giovanni Brackett](#); Channel 5 Belize. July 13, 2022. [Geovanni Brackett, the 'Saving Grace' of the Government Press Office](#).



other information—must not be subject to classification but instead disclosed proactively.<sup>258</sup> This Office likewise emphasizes that democratic control of public administration through public opinion fosters transparency for State activities and holds public officials responsible for their actions, along with representing a means of achieving the highest level of citizen participation. Hence, the proper development of democracy requires greater circulation of reports, opinions, and ideas on matters of public interest.<sup>259</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

149. On February 4, 2022, the Office of the Special Rapporteur was informed that the cabinet of Prime Minister John Briceño had tabled the Defamation Bill. According to what this Office was able to establish, the bill would repeal the Libel and Defamation Act and strike a new balance between freedom of expression and citizens' right to their good name.<sup>260</sup> According to public information, the Libel and Defamation Act, effective December 31, 2000, allows criminal prosecution by order of a judge if it is found that "any proprietor, publisher, editor or any person responsible for the publication of" the information has committed defamation.<sup>261</sup> Although the original law does not define defamation, the Supreme Court of Belize has defined it as the publication of defamatory words about an individual which may impugn or injure a person's reputation. Additionally, the Libel and Defamation Act also defines seditious libel as another criminal offense, punishable with up to two years in prison. It defines it as "the publication, by print, writing, painting or by any means otherwise than solely by gestures, spoken words or other sounds, of any matter with a seditious purpose." A "seditious purpose" is defined as "a purpose to excite any of Her Majesty's subjects to the obtaining by force or other unlawful means of an alteration in the laws or in the form of Government."

150. This Office was also informed that the Attorney General, Magali Marin-Young, had stated in February that the Defamation Bill would modernize the Libel and Defamation Act.<sup>262</sup> According to the Attorney General, the new bill would simplify the lawsuit and defense by combining the crimes of defamation and seditious libel. According to the information received by this Office, the reform would extend defamation and slander to include social media, whereas the original law focused solely on material published in traditional media, including newspapers, television, and the radio. Likewise, the statements of the Attorney General indicate that both the media and members of the general public would be responsible for moderating supposedly defamatory content online.

151. The Office of the Special Rapporteur also took note of the reactions to the Defamation Bill by the media and members of journalism associations. In particular, some journalism houses expressed disappointment at having not been consulted during the process to draft the law in question.<sup>263</sup> There was also clear frustration at the lack of a national media and journalist association in Belize. This Office learned that the new law is up to three times longer in terms of the number of clauses than its predecessor, meaning the ground it covers is far wider, including images, photographs, maps, drawings, audio recordings, and film, both print and digital.

152. On February 21, 2022, in response to criticisms of the first draft of the Defamation Bill, the Constitution and Foreign Affairs Committee met with representatives of the leading media outlets.<sup>264</sup> According to the reports received by this Office, the media representatives argued that the new law must include greater protection for journalists and the media, distributing the duties and responsibilities among all parties equitably. The representatives therefore asked that they not be required to moderate the comment sections on digital platforms, as this would also be required of social networks. Lastly, the representatives expressed

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<sup>258</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/SER.L/V/II. Doc. 236. 2019. Para. 237.

<sup>259</sup> IACHR. The Inter-American Framework regarding the Right to Freedom of Expression. 2010. OEA/SER.L/V/II. CIDH/RELE/INF. 2/09. Para. 33.

<sup>260</sup> *Love FM Belize*. February 3, 2022. [GOB to Table Defamation Bill in the House of Representatives](#); Breaking Belize News. February 3, 2022. [The Defamation Bill, 2022: How will it impact the free press in Belize?](#).

<sup>261</sup> Committee to Protect Journalists. 2014. [Criminal Defamation Laws in Central America](#).

<sup>262</sup> *Amandala Newspaper*. February 2, 2022. [GoB to update defamation bill](#); Channel 5 News. January 27, 2022. [Libel and Defamation Law to be Replaced](#).

<sup>263</sup> *Love FM Belize*. February 24, 2022. [Major media houses team up to voice their concerns over the government's defamation bill](#). *Breaking Belize News*. February 28, 2022. [Media colleagues address perils of journalistic work and defamation](#).

<sup>264</sup> Channel 5 News. February 21, 2022. [Amendment to Defamation Bill. Channel Five CEO Says Public Discourse Must Be Preserved](#); *Amandala Newspaper*. February 23, 2022. [GoB meets with media on new defamation law](#).

concern at the possibility that the law, like its predecessor, would be used for legally harassing journalists and media outlets, especially by public figures and high-profile persons to intimidate and silence the media. The Office of the Special Rapporteur was informed that following a meeting between the sector and the Constitution and Foreign Affairs Committee, the Defamation Bill would be sent back to the Attorney General's ministry for additional adjustments. This Office also received information indicating that new individual comments on the bill would be received until March 15, 2022. In July 2022, the bill was submitted to the Senate following its passage by the House of Representatives. The House Committee reportedly proposed a significant number of amendments, most of which were included; the Senate made no objection.<sup>265</sup>

153. The Office of the Special Rapporteur recalls that all State members must revise their legislation on defamation to ensure it does not restrict the right to freedom of expression and is compatible with their international obligations.<sup>266</sup> Therefore, States must consider the possibility of repealing criminal defamation laws and adopting civil laws in their place, in keeping with the pertinent international guidelines. Defamation laws must reflect the importance of an open debate on matters in the public interest, as well as the principle that public figures are required to submit themselves to more intense scrutiny by private citizens. In particular, laws that provide special protection to public figures—like *desacato* laws—must be repealed. Civil penalties for defamation must not be so large as to have a chilling effect on freedom of expression and must be designed to reestablish the reputational damage, rather than indemnify the plaintiff or punish the defendant. In particular, pecuniary sanctions must be strictly proportional to the real damage caused, and the law should prioritize the use of a range of nonpecuniary reparations.

154. With regard to restrictions on social media, this Office reiterates that Internet restrictions based on content, applied to either the dissemination or receipt of information, must be imposed only in strict compliance with the guarantee of freedom of expression, in view of the special nature of the Internet.<sup>267</sup> Persons must not be held responsible for Internet content that they have not authored unless they have adopted it as their own or refused to obey a court order to remove it. Jurisdiction on cases related to the Internet must be restricted to States where authors have established themselves or where the content is specifically directed. A State must not have jurisdiction simply because the content was downloaded there.

155. As the Office of the Special Rapporteur has indicated previously, journalism is a primary unprincipled manifestation of freedom of expression, and States have a positive obligation to provide a safe working environment for the media. The Office of the Special Rapporteur has also indicated on previous occasions that fear of criminal sanctions necessarily discourages and inhibits citizens from expressing themselves on matters of public interest. The IACHR has held that “[t]he sort of political debate encouraged by the right to free expression will inevitably generate some speech that is critical of, and even offensive to those who hold public office or are intimately involved in the formation of public policy.” Additionally, Principle 5 of the IACHR's Declaration of Principles on Freedom of Expression indicates that, “Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

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

156. July 2022, this is received reports alleging that the new representative of the media before the People's Constitutional Commission (PCC), from *Plus TV*, was accused of participating in events described as stigmatizing and misogynist.<sup>268</sup> The PCC is preparing a draft constitutional reform for Belize. Although the media have been excluded from the initial meetings on drafting a new Constitution, they were offered the

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<sup>265</sup> *Amandala Newspaper*. July 20, 2022. [Efforts to modernize Belize's legislation continue](#).

<sup>266</sup> OAS, UN, OSCE. Joint Declaration on Censorship by Killing and Defamation. 2000.

<sup>267</sup> OAS, UN, OSCE. Joint Statement on Internet and on Anti-Terrorist Measures. 2005.

<sup>268</sup> *Amandala Newspaper*. July 27, 2022. [Louis Wade to be media rep on PC](#); *The Reporter Belize*. July 26, 2022. [Media continues to support Plus TV's Louis Wade as rep. on Constitutional Commission](#); Channel 5 News. July 25, 2022. [LGBT Community Says No to Louis Wade's Appointment to Constitutional Commission](#); *Breaking Belize News*. July 25, 2022. [LGBT activist groups tell media to "reflect" on Louis Wade's appointment on Constitutional Commission](#); Channel 7 News. July 25, 2022. [LGBT Slams Media For Choosing Louis Wade](#).

opportunity to select a representative to participate in the conversations. The representative was eventually chosen by 6 of the 11 independent media outlets in the country.

157. The Office of the Special Rapporteur recalls that it is especially important for States to take action to guarantee the exercise of the right to freedom of expression by LGBTI persons and empower those who are impacted and made invisible.<sup>269</sup> This Office also underscores that promoting and protecting the right to freedom of expression must be joined with efforts to combat intolerance, discrimination, hate speech, and incitement to violence, and especially with promoting proactive public policies on social inclusion in the media and to ensure that LGBTI persons and communities can effectively exercise their right to freedom of expression without discrimination. All these efforts must, in general, adhere strictly to international human rights law and, in particular, to standards on freedom of expression.<sup>270</sup>

158. Toward the end of August, this Office documented with concern reports from a number of students that they were being refused entry to their educational institutions because they did not comply with school policy on hairstyles.<sup>271</sup> The Office of the Special Rapporteur welcomes that in response to this, the Ministry of Education, Culture, Science, and Technology expressed its rejection of the measure, referring to the country's Constitution and the guarantees set forth therein on freedom of expression, conscience, and nondiscrimination.

#### **D. Internet and freedom of expression**

159. On February 22, 2022, the Office of the Special Rapporteur learned that the Police Department had established a new center for fighting cybercrime. Additionally, the police had received training from the United Nations Office on Drugs and Crime (UNODC) to combat these illegal activities.<sup>272</sup> According to public information, the training and new equipment for the police enables them to penetrate cellular phones, computers, and other devices to detect and prevent cybercrime. As corroborated by this Office, the Commissioner of Police said that thanks to the UNODC's support, the police would be able to "unmask those fake accounts" that "defame the character of people" on social media, especially on Facebook.

160. The Office of the Special Rapporteur recalls that public policies on cybersecurity must be proportionate to the risk in question, and in all cases the security objective must be balanced with the protection of fundamental rights. In this regard, the State response in terms of security in cyberspace must be limited and proportionate and seek to pursue specific legal purposes that do not compromise the democratic virtues that characterize the network. When taking the initiative to protect security in cyberspace, States should include specific safeguards in the law to ensure that normal conduct inherent to the use of the Internet is not criminalized. States also must ensure that the acts defined cause actual harm, and that the harmful conduct is committed with criminal intent. In general, States must provide information on the general policy guidelines, the agencies in charge of them, and their responsibilities. In the event of attacks or imminent risks, States must be held accountable or order investigations to gauge the extent of what happened. Official programs and public policies on cybersecurity must have mechanisms for supervision and control overseen by a judge.

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<sup>269</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate Speech and Incitement to Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas 2015. Para. 22.

<sup>270</sup> IACHR. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate Speech and Incitement to Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas 2015. Para. 9.

<sup>271</sup> *Caribbean Loop News*. August 31, 2022. [Belize: Education Min shuts down discriminatory school hair policies](#); *Caribbean National Weekly*. September 3, 2022. [Belize Government concerned at school children being denied entry into classrooms because of hairstyles](#).

<sup>272</sup> *Amandala Newspaper*. February 28, 2022. [Police Department gets Crime Cyber Center](#); *Breaking Belize News*. February 22, 2022. [Police inaugurate new Cyber Crime Center in Belmopan](#).

## BOLIVIA

161. The challenges to the guarantees for the exercise of the right to freedom of expression are framed in a context of tension, the fragmentation of the social fabric shows serious signs of deterioration of public debate and is rooted in processes of discrimination and racism. The conflicts surrounding the Civic Strike in Santa Cruz are examples of these social tensions, where both the excessive use of force and acts of violence by some individuals in the context of demonstrations are reported. The stigmatization by political leaders of different sectors towards voices considered as opposition is another constant element in the deterioration of public debate, where the use of social networks by people who exercise public functions to disseminate content without due verification also stands out. Journalistic work is often considered part of these voices and one of the main actors to whom stigmatizing speeches are directed, which are often repeated by citizens and lead to aggressions against them, especially in events where polarization and conflict are exhibited. In 2022, the Rapporteurship recorded a tendency to prosecute journalists who report matters of public interest and warned of an increase in complaints about threats as well as institutional challenges to guarantee the confidentiality of sources. RELE observes that there are important challenges for the guarantee of the right of access to public information in Bolivia, which include the lack of a detailed and comprehensive legislative framework on this right. Building consensus and a sense of common destiny in the diversity of the Plurinational State also requires the adoption of measures against intolerant speeches, based on prevention and education, aimed at combating structural discrimination.

### A. Journalism and democracy

162. The Rapporteurship received reports on the alleged persistence of episodes of violence against the press in Bolivia, framed in a context of high social polarization. The main aggressions were reportedly recorded in demonstrations, with particular escalation in the context of the Santa Cruz Civic Strike and protests related to the operation of ADEPCOCA and the coca leaf market in Bolivia. Journalistic coverage of incidents related to this context in different circumstances has been hindered by stigmatizing statements, threats, harassment and even physical violence<sup>273</sup>. Likewise, the Rapporteurship has noted with concern threats to the confidentiality of sources and the activation of lawsuits against journalists covering matters of public interest.

163. The Office has learned of the aggression against Vladimir Rojas Ramos, a journalist of the Unitel television network, who was assaulted during a news coverage by groups protesting against the mandatory vaccination card for Covid-19. Rojas Ramos received blows, shoves and a stone that injured his head in January 2022<sup>274</sup>, in a context where journalists from different media also reported acts of threats and harassment against him while trying to cover the protests against the mandatory vaccination card<sup>275</sup>. On January 4, 2022, anti-vaccine protesters stood in front of the headquarters of the newspaper *El Deber* and threatened to violently enter the building.<sup>276</sup>

164. Subsequently, a group of workers from one company reportedly held for more than three hours a team of journalists who were covering, outside the company's headquarters, events related to lawsuits over the ownership of its machinery<sup>277</sup>. The team was only released on the condition that the recorded material would not be disseminated. The Rapporteurship was also informed of aggressions against a Unitel team when they were trying to carry out their work in the context of a demonstration organized in Santa Cruz in March

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<sup>273</sup> For example: ANP-Bolivia. [Relatives of two detainees assaulted](#) journalists; Asociación Nacional de la Prensa de Bolivia. August 1, 2022. [Shock group injures journalist and commits attempted homicide](#); Inter American Press Association. Documents of the 78th General Assembly. [Bolivia](#). October 2022.

<sup>274</sup> Unitel. January 19, 2022. [La Paz prosecutor's office investigates attack on Unitel journalist](#); Erbol. 19 January 2022. [Prosecutor's office investigates anti-vaccine attack on journalist in El Alto](#).

<sup>275</sup> Opinión Bolivia. January 18, 2022. de [Grupo antivacuna amedrenta a equipos de prensa con petardos](#); Agencia Noticias Fides. January 18, 2022. [Antivaccine group pushes back police and mass protests in Cochabamba](#).

<sup>276</sup> National Press Association of Bolivia. January 5, 2022. ["Antivaccine" activists threaten violent takeover of the newspaper El Deber](#). *El Deber*. January 4, 2022. [Antivaccine activists protest at the doors of EL DEBER and accuse it of being 'pro-vaccine'](#).

<sup>277</sup> United Southern Voices. February 19, 2022. [In Bolivia press team suffered coercion while reporting a news story](#). ATB Digital Cochabamba Facebook account. [February 9, 2022](#).

2022<sup>278</sup>. In June, while attempting to cover a demonstration in support of the government in the vicinity of the presidential building and an episode of confrontations between demonstrators and persons questioning the protest in which a journalist was allegedly physically assaulted by persons participating in the demonstration.<sup>279</sup>

165. Between August and September, in the context of escalating tension in the mobilizations over the management of the coca market in La Paz, the Rapporteurship also received reports of aggressions against journalists and obstructions to their right to document the facts and report.<sup>280</sup> For example, on August 2, a journalist reportedly suffered injuries to an arm while covering demonstrations between police and sectors linked to coca leaf production, according to information received.<sup>281</sup> Also, on August 9, a journalist and a cameraman were reportedly physically assaulted by persons allegedly participating in the demonstrations while covering live events in the Villa Fatima area.<sup>282</sup> This Office also received information that a man not involved in the demonstrations, who was filming the events from his vehicle, was reportedly beaten and detained by people allegedly demonstrating and released only after a transport leader confirmed his identity.<sup>283</sup>

166. On October 12, the Ombudsman's Office condemned the aggression suffered by a journalist of the *Cadena A'* television network, who was stoned while covering the clashes between El Alto drivers and neighbors. The clashes reportedly took place in the context of a demonstration against a Transport Summit called by the La Paz City Hall<sup>284</sup>. Different teams of journalists covering the events also reportedly suffered physical and verbal aggressions and damage to their cameras and microphones<sup>285</sup>. On December 8, a journalist from *El Deber* was hit in the head with a stone, beaten and stripped of his belongings and work equipment when he tried to do his work in a confrontation between neighbors and people occupying property belonging to third parties<sup>286</sup>.

167. During the Civic Strike in Santa Cruz, the press has also faced challenges to the exercise of its work<sup>287</sup>. The episodes of violence and aggressions against the press include acts attributable to police agents, as well as alleged pro and anti Civic Strike demonstrators, in addition to the actions of groups known as "shock groups"<sup>288</sup>. The reports include verbal and physical aggressions, attempts to damage equipment, theft of equipment, threats to journalists to erase material, among others<sup>289</sup>. The Rapporteurship has recorded with

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<sup>278</sup> National Press Association of Bolivia. March 14, 2022. [Press team was assaulted while covering the civic strike](#); Agencia de Noticia Fides. 5 May 2022. [UNITAS Observatory: In four months 61 violations of press freedom have been registered | ANF - Agencia de Noticias Fides](#).

<sup>279</sup> El Deber. June 20, 2022. [MAS supporters attack EL DEBER journalist a few meters from the Casa Grande del Pueblo](#); National Press Association of Bolivia. June 24, 2022. [At least four norms were violated in aggression against journalist](#).

<sup>280</sup> Some of the cases reported in the alert mechanism of the National Press Association of Bolivia were: [Amid clashes journalist Nicolás Sanabria was injured](#) (August 3, 2022); [Coca growers beat journalists from Tv Red Uno](#) (August 10, 2022) [Coca growers in conflict restricted journalists' work](#) (September 8); [Journalist is harassed and pushed out of coca growers' meeting](#) (September 19); [IACHR Rapporteur calls for guarantees for the press in Bolivia](#) (September 22).

<sup>281</sup> Agencia Noticia Fides. August 2, 2022. [Police gas Adepcoca coca growers again and a journalist is injured](#). Página Siete. August 2, 2022. [Journalist Nicolás Sanabria was injured in the Adepcoca conflict](#).

<sup>282</sup> National Association of Journalists of Bolivia. August 10, 2022. [Coca growers beat journalists from TV Red Uno](#); El Potosí. 10 August 2022. [Coca growers beat journalists from Tv Red Uno](#).

<sup>283</sup> Office of the Ombudsman. August 10, 2022. [The Ombudsman's Office verifies 11 polycontusions among the 25 people who were arrested for the mobilizations of Adepcoca](#).

<sup>284</sup> Office of the Ombudsman. October 12, 2022. [The Ombudsman's Office condemns aggression against journalists and demands that the government guarantee the work of the press](#).

<sup>285</sup> The Journal. October 14, 2022. [A journalist is hit by a stone thrown by public service drivers](#); Ombudsman's Office. October 12, 2022. [The Ombudsman's Office condemns aggression against journalists and demands that the government guarantee the work of the press](#).

<sup>286</sup> National Press Association of Bolivia. December 8, 2022. [ANP condemns attack by land grabbers against El Deber journalist](#); El Deber. December 9, 2022. [Public Prosecutor's Office opens investigation into land grabbers' attack on EL DEBER journalist](#).

<sup>287</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia](#).

<sup>288</sup> ABI. November 11, 2022. [Journalists from state media are attacked by shock groups linked to Governor Luis Fernando Camacho](#); Europa Press. November 12, 2022. [Aggressions against journalists denounced during "civic" strike in Santa Cruz, Bolivia](#); Asociación Nacional de Periodistas. October 22, 2022. [ANP rechaza ataques a periodistas durante la cobertura de paro cívico](#); Agencia de Noticia Fides. November 19, 2022. [In Santa Cruz demand police cease attacks on journalists](#); ABI. November 24, 2022. [Violence and aggressions against journalists escalate in blockades in Santa Cruz](#).

<sup>289</sup> Journalism Foundation. December 5, 2022. [Civic strike reactivated violence against the press and put limits to access to information](#).

Some of the cases reported in the alert mechanism of the National Press Association of Bolivia in this context were: [ANP rejects attacks on journalists during coverage of civic strike](#) (October 22, 2022); [Photojournalist was forced to delete images under threat of beating](#) (October



concern the case of a UNITEL journalist who was hospitalized on November 2 after being attacked with kicks, punches, stones and other objects during his work<sup>290</sup>. On November 16, a UNITEL journalist was injured after being hit by a tear gas grenade<sup>291</sup>. In November, the state-owned public media Bolivia TV reported an attempt to take over its facilities and aggressions against its personnel, in addition to the fact that the media had received threats from a group of demonstrators to lower the signal<sup>292</sup>. Weeks later, according to a report by the Vice-Minister of Communication of the Ministry of Justice, the fear of "constant threats, siege and harassment to the physical and psychological integrity of journalists, presenters and their families" led Bolivia TV's Santa Cruz branch to "not broadcast its signal" for at least 9 days<sup>293</sup>. The Rapporteurship also learned that on November 11 a cameraman of *Villanas News* was arrested for aggravated robbery and criminal association and that on November 25, 2022 a court of second instance would have determined the continuity of his detention, in preventive mode, for 30 days<sup>294</sup>. According to the National Press Association of Bolivia, the case is based on a "simulation of a crime", since the police allegedly tried to "incriminate him by implanting a homemade explosive to justify his arrest"<sup>295</sup>.

168. The attention of this Office is drawn to the cases in which journalists were prevented from carrying out journalistic work in relation to matters of public interest, public events, or other activities promoted by the State<sup>296</sup>. In this regard, RELE highlights that on April 4, 2022, by decision of judicial authorities, journalistic coverage of a virtual hearing of the trial against former President Jeanine Añez was prevented, based on the lack of accreditation<sup>297</sup>. This Office has also monitored reports of other actions against the work of the media by agents working under the control of the judiciary, including the seizure of equipment and the removal of recordings when attempting to cover hearings in cases related to matters of public interest<sup>298</sup>. Similarly, according to the information available, different teams of journalists were allegedly pushed by security agents and prevented from covering the events held to commemorate the 213th anniversary of the liberation of the country against the Spanish colony.<sup>299</sup> Likewise, a cameraman was reportedly assaulted by a security guard while trying to cover the raid by the Attorney General's Office on the offices of the Santa Cruz Governor's Office<sup>300</sup>.

169. The Rapporteurship notes that, on different occasions, episodes of violence and harassment against journalists are accompanied by stigmatizing speeches by the people who perpetrate the violence. In this

23, 2022); [A journalist is stripped of cell phone and beaten](#) (October 28, 2022); [ANP denounces attempted murder of a journalist during conflict](#) (November 2, 2022); [TV journalists endure aggression before the passive gaze of police](#) (November 7, 2022); [Santa Cruz: Pro-government sectors attacked journalists](#) (Nov. 11, 2022); [Police fire tear gas projectile at point-blank range at journalist](#) (Nov. 17, 2022); [Santa Cruz: State-run Bolivia Tv denounces attempted takeover of its facilities during civic strike](#) (Nov. 29, 2022).

<sup>290</sup> Unitel. November 2, 2022. [New aggression against journalist in confrontations in Plan 3,000](#); La Razón. 2 November 2022. [Unitel journalist was assaulted by protesters in La Guardia and is hospitalized](#).

<sup>291</sup> National Press Association. [Police fire tear gas canister at point blank range at journalist](#); El Deber. November 17, 2022. [Plan Tres Mil, epicenter of violence: four journalists attacked by police and shock groups in one night](#).

<sup>292</sup> National Press Association of Bolivia. November 29, 2022. [Santa Cruz: State-run Bolivia Tv denounces attempt to take over its facilities during civic strike](#); ABI. November 24, 2022. [Violence and aggressions against journalists escalate during blockades in Santa Cruz](#); ABI. November 10, 2022. [Bolivia Tv denounces that group related to Camacho threatens to "lower its signal"](#).

<sup>293</sup> ABI. January 11, 2023. [Gobierno condena agresiones a periodistas y denuncia que trabajadores de Bolivia Tv en Santa Cruz suspenden emisiones por amenazas](#); Asociación Nacional de la Prensa de Bolivia. January 13, 2023. [Vice minister denounces harassment and the suspension of broadcasts in regional BoliviaTv](#).

<sup>294</sup> National Press Association of Bolivia. November 14, 2022. [Santa Cruz: Camarógrafo de prensa permanece bajo arresto y acusado con simulación de delito](#); Agencia de Noticia Fides. 26 de noviembre de 2022. [Justice sends to jail cameraman accused with false evidence denounces his medium](#).

<sup>295</sup> National Press Association of Bolivia. November 14, 2022. [Santa Cruz: Press cameraman remains under arrest and charged with criminal simulation](#).

<sup>296</sup> For example, National Press Association of Bolivia. March 23, 2022. [Restriction of journalists' work during central act of the Day of the Sea](#); Asociación Nacional de la Prensa de Bolivia. [Photographs of the public building of the Casa de Correos de Oruro are prohibited](#); Asociación Nacional de la Prensa de Bolivia. May 19, 2022. [Journalist from state-owned Bolivia Tv denounces exclusion from press conference](#); Asociación Nacional de la Prensa de Bolivia. June 2, 2022. [Security personnel of state university assaulted journalists of TvF10](#).

<sup>297</sup> Página Siete. April 4, 2022. [ANP protests the court's decision to exclude journalists from the trial against Añez](#); Los tiempos. 4 April 2022. [Trial against Añez resumes amid obstacles to the press](#).

<sup>298</sup> National Press Association of Bolivia. May 11, 2022. [ANP denounces censorship and judicial abuse of journalistic work](#); El Potosí. May 11, 2022. [Judge directing hearing of detainees in avalanche case impedes transmission of El Potosí](#).

<sup>299</sup> Southern Mail. July 20, 2022. [Journalists denounce mistreatment during coverage of protocol acts for the anniversary of La Paz: El Ju Tv](#); July 20, 2022. [ANP Claims for Aggressions to Journalists in the Parade of Teas in La Paz](#).

<sup>300</sup> National Press Association of Bolivia. September 11, 2022. [State channel cameraman assaulted during raid](#); El Diario. September 21, 2022. [IACHR Rapporteur calls for guarantees for the press in Bolivia](#).

context, RELE rejects the stigmatization of the press by political leaders and people who exercise public functions in Bolivia. The Vice President of the Republic affirmed that "licensed" journalists could only teach "how to steal" to unlicensed journalists ("What are they going to teach us? They are going to teach us how to steal!")<sup>301</sup>. After receiving criticism for his pronouncement, the vice-president pointed out that the media had disseminated his message in a decontextualized manner with the objective of "making us fight among ourselves" and "confuse"<sup>302</sup>. At the same time, after the publication of newspaper articles questioning the public management of ambulance purchases in the State of Potosí, the governor of Potosí publicly stated that he did not care what the media said<sup>303</sup>. Despite this, two days later the governor publicly retracted his statement, arguing that his "elocution was wrong and offensive to the people who work in the media"<sup>304</sup>.

170. The Rapporteurship has also learned of stigmatizing statements made by political leaders who, although they do not currently hold public office<sup>305</sup>, their speeches have a significant impact on public debate. Thus, for example, a former president stated that some media "are worse than the atomic bomb, worse than NATO (North Atlantic Treaty Organization), they destroy the people"<sup>306</sup>. Likewise, a former governor reportedly used the expression "good afternoon, sexual harassers" to greet journalists who tried to interview him about judicial proceedings and investigations opened by the Attorney General's Office against him<sup>307</sup>.

171. The Rapporteurship is also concerned about the constant filing of lawsuits - or threats of lawsuits - against journalists who cover matters of public interest, based on the alleged abusive exercise of freedom of expression. For example, this year the president of the Departmental Legislative Assembly (ALD) of Potosí threatened to file lawsuits against the media that published that he had not finished high school. The parliamentarian said that he did have that school degree and that he was collecting the certificates to prove it<sup>308</sup>. At the same time, on January 27, 2022, the 13th Criminal Sentencing Judge of the city of La Paz determined, under the reasoning that the content broadcast was based on false data, that three journalists should take off the air and suspend the broadcasting of informative material with videos in which a sports leader allegedly acted in an irregular negotiation of votes in favor of the president of the Bolivian Soccer Federation during his candidacy for reelection<sup>309</sup>.

172. Throughout 2022, the Rapporteurship has become aware of different judicial processes that have not observed the right to confidentiality of journalistic sources. In general, the Rapporteurship has observed subpoenas, summons and summons to hearings addressed to journalists who had covered various topics of public interest (such as public health, food in public schools, possible acts of corruption, police actions in social protests, prison conditions and damage to public buildings), with the aim of providing information on the reported issues and their sources<sup>310</sup>. In some cases, it was reportedly stressed that failure of journalists to

<sup>301</sup> Unitel. April 11, 2022. ["A robar nos van a enseñar", el vicepresidente habló sobre los profesionales licenciados](#); Agencia de Noticia Fides. 9 April 2022. [Choquehuanca: Los licenciados a robar nos van a enseñar, bien flojos son.](#)

<sup>302</sup> ABI. June 26, 2022 [President calls for unity of social organizations in the face of the opposition's attempted onslaught](#). Unitel. April 11, 2022. ["A robar nos van a enseñar", vice president spoke about licensed professionals.](#)

<sup>303</sup> Opinión February 3, 2022. [Governor of Potosí: 'I don't give a fuck what the media says!'](#); El Potosí. 3 February 2022. [The governor of the 41 ambulances says he doesn't give a "fuck" what the media says.](#)

<sup>304</sup> Southern Mail. February 4, 2022. ["My elocution was wrong and offensive": Governor of Potosí now apologizes to media](#); Erbol. 4 February 2022. [Governor of Potosí apologizes for his remarks to the media.](#)

<sup>305</sup> Fides News Agency. March 3, 2022. [ANP rechaza expresiones autoritarias de Evo y García Linera sobre trabajo de la prensa](#); Asociación Nacional de la Prensa de Bolivia. March 3, 2022. [Frente a agresión verbal: periodistas reclaman respeto a exgobernador.](#)

<sup>306</sup> Fides News Agency. March 1, 2022. [Evo Morales: Unitel, Red Uno, El Deber and Página Siete are worse than the atomic bomb](#); Opinión. March 1, 2022. [Evo in allusion to Unitel, Red Uno and El Deber: "They are worse than the atomic bomb".](#)

<sup>307</sup> Eju TV. April 15, 2022. ["Good afternoon, sexual harassers": Rubén Costas' greeting that generates controversy](#); Red Uno. April 15, 2022. ["Good afternoon sexual harassers": the controversial greeting of former governor Rubén Costas.](#)

<sup>308</sup> National Press Association of Bolivia. March 6, 2022. [President of Legislative Assembly of Potosí threatens media with lawsuits](#); El Diario. March 8, 2022. [President of Legislative Assembly of Potosí threatens media with lawsuits.](#)

<sup>309</sup> National Press Association of Bolivia. January 29, 2022 [Judge ordered to remove content and journalists qualify the fact as "clear prevarication"](#); El Potosí. January 30, 2022. [It is reported that a judge ordered the removal of content and journalists call this a "clear prevarication".](#)

<sup>310</sup> National Press Association of Bolivia. September 12, 2022. [Mayor ceases legal action against journalist amid protests](#); National Press Association of Bolivia. March 4, 2022. [ANP demands respect for press confidentiality and rejects legal action against journalism](#); Asociación Nacional de la Prensa de Bolivia. September 28, 2022. [Procurador protagoniza cuarto pedido para levantar el secreto de fuente](#); Asociación Nacional de la Prensa de Bolivia. September 25, 2022. [Journalist ratifies defense of source in second police request](#). Ombudsman's Office. September 10, 2022. [Ombudsman's Office urges political, judicial and civil society authorities to respect freedom of the press and the](#)

appear voluntarily could result in their arrest<sup>311</sup>. However, the Rapporteurship has also observed that, as a result of complaints from journalists and trade organizations against such acts, the injunctions have been cancelled by the prosecutorial authorities<sup>312</sup>. In this context, the Rapporteurship highlights the case of journalists who were summoned as witnesses in order, according to information provided by the State, to collaborate with the work of the Public Prosecutor's Office investigating the aforementioned human rights violations<sup>313</sup>. The State reported that the aforementioned subpoenas were without effect<sup>314</sup>. The State has also reported that the municipal mayor of Yacuiba, Tarija, has requested that the court request for journalists to disclose the source of complaints about the alleged poor state of food in the school breakfast at one of the local schools<sup>315</sup>. The Rapporteurship also welcomes that the Minister of Justice and the Vice Minister of Communication have reiterated their commitment to respect and guarantee the confidentiality of sources as a fundamental element of the right to freedom of expression<sup>316</sup>.

173. The Rapporteurship has also recorded other serious incidents of threats and acts of violence against the press. The Rapporteurship has continued to receive information about threats against cartoonist Abel Bellido Córdova (Abecor), of *Página Siete*, including threats against his life. During 2022, Abel Bellido Córdova denounced that the threats now extend to his family<sup>317</sup>.

174. RELE has also learned of reports of the seizure of a property where *Radio Panamericana* is said to keep transmission equipment, with damages estimated at US\$25,000 for the destruction of electronic equipment and antennas, in the context of an occupation of agrarian properties<sup>318</sup>.

175. Finally, the Rapporteurship has become aware of the context of crisis that the newspaper *Los Tiempos* is going through, which was defined as a scenario of "economic asphyxiation"<sup>319</sup>. According to information reported by the Inter-American Press Association, the newspaper has been subject to "disproportionate and periodic fiscal and administrative audits against the media and the hostility of a businessman who is allegedly close to the Government and the official party, who would be exerting pressure on the shareholders of *Los Tiempos* to take over the company at a derisory price"<sup>320</sup>. At the same time, in the case of *El Diario*, the Inter-American Press Association has reported a "tax persecution" that "extended to its advertisers, whom the government is threatening not to advertise in its pages".<sup>321</sup>

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Printing Press Law; Report of the Chapultepec Index of Freedom of Expression and Press. *Bolivia: journalism under judicial siege*. August 2022; Sumando Voces. September 16, 2022. *In Culpina, the police demand that a journalist reveal the source of information*.

<sup>311</sup> Los Tiempos. September 10, 2022. *Fiscalía cita a periodista por caso Huayllani, advierte con detenerlo si no se presenta*; Eju TV. July 28, 2022. *Prosecutor's Office calls journalists as witnesses and then corrects the mistake*.

<sup>312</sup> Southern Mail. September 15, 2022. *Huayllani Case: Prosecutor's Office assures that all subpoenas to journalists were without effect*; Asociación Nacional de Prensa de Bolivia. September 12, 2022. *Mayor ceases legal action against journalist amid protests*; Asociación Nacional de Prensa de Bolivia. July 28, *2022 Prosecutor's office calls journalists as witnesses and then corrects the mistake; National Press Association* of Bolivia.

<sup>313</sup> Listening Session with representative of the Press Workers Union Federation of Cochabamba. September 12, 2022.

<sup>314</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>315</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>316</sup> Fides News Agency. September 10, 2022. *Gobierno cuestiona presión judicial contra periodista de Yacuiba para revelar fuentes*; Los Tiempos 10 de septiembre de 2022. *Gobierno cuestiona presión judicial contra periodista de Yacuiba para revelar fuentes*; Los Tiempos 10 de septiembre de 2022.

<sup>317</sup> Página Siete. November 18, 2022. *Abecor, after threats against him: "Sigo tajando el lápiz"*; Asociación Nacional de la Prensa de Bolivia. November 21, 2022. *Death threats against cartoonist "Abecor" extend to his family*.

<sup>318</sup> El Deber. January 6, 2022. *"Ellos querían hacer volar las torres": denuncian que avasalladores tomaron el predio de Radio Panamericana*; Página Siete. 6 January 2022. *Radio Panamericana denounces that avasalladores took their land*.

<sup>319</sup> Los Tiempos. September 11, 2022. *Los Tiempos turns 79 amid economic and political asphyxiation*; Voces del Sur Unidas. August 11, 2022. *Red Voces del Sur rejects economic asphyxiation against Los Tiempos newspaper*; Cochabamba; IFEX. August 16, 2022. *IFEX - LAC network calls on Bolivian government to protect independent journalism and cease economic pressure against 'Los Tiempos' of Cochabamba*.

<sup>320</sup> Inter American Press Association. August 10, 2022. *Concern and alert from the IAPA for economic asphyxiation against Bolivian newspaper*.

<sup>321</sup> Inter-American Press Association. Documents of the 78th General Assembly. *Bolivia*. October 2022.



176. Freedom of expression is a cornerstone in the very existence of a democratic society and journalism is the primary and main manifestation of freedom of expression and thought<sup>322</sup>. RELE reiterates that attacks and aggressions committed against journalists and the press violate the right to freedom of expression in both its individual and collective dimension and should not be tolerated in a democratic society<sup>323</sup>. Likewise, this Office has previously pointed out that the fear of judicial sanctions, especially criminal sanctions, discourages and inhibits citizens from expressing themselves on matters of public interest<sup>324</sup>. The lack of transparency and accountability of public authorities has a negative impact on the strengthening of democratic systems<sup>325</sup> and, as a general rule, the media should be allowed to cover events of public interest, without discrimination based on editorial line<sup>326</sup>. RELE highlights that in contexts of social protests, the right to freedom of expression protects the right to record and broadcast any incident<sup>327</sup>.

177. Therefore, the practice of journalism, as a privileged channel for public debate, needs the State to provide guarantees for its work, fulfilling both its obligations of respect and its obligations of guarantee -which implies preventing, protecting and investigating, judging and punishing acts of violence and threats against the press and undue hindrance to its deployment<sup>328</sup>, in addition to respecting the right of journalists to reserve their sources of information, notes and personal and professional archives<sup>329</sup>. In this sense, the duty of States to prevent violence against the press implies that public officials and political leaders adopt a public discourse that contributes to prevention and that, on the contrary, does not encourage violence against journalists<sup>330</sup>. Finally, although the right to freedom of expression may be subject to subsequent responsibilities, these must meet the requirements of legality, legitimate objective, necessity and proportionality<sup>331</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

178. Throughout the year, the Rapporteurship learned of violent confrontations in the context of protests and social demands that demonstrate the need to rebuild the social fabric in Bolivia. On the one hand, as highlighted by the IACHR, this is rooted in historical social tensions that can lead to acts of violence<sup>332</sup>. On the other hand, it is related to the increase in social conflict and the deployment of the State under the assumption of preventing serious disturbances to public order and maintaining social peace. The Rapporteurship has received communications that have reported episodes of detentions described as arbitrary and possible attempts to disrupt and disperse marches<sup>333</sup>. In this context, in 2022 the Rapporteurship has followed the demonstrations related to the management of the coca market, especially between August and September, in La Paz, and the self-styled civic strike in Santa Cruz, during the months of October and November. At the same time, the Rapporteurship has recorded challenges to guarantees of academic freedom in a public university in

<sup>322</sup> IACHR Court. Compulsory Membership in an Association of Journalists (Arts. 13 and 29 American Convention on Human Rights). [Advisory Opinion OC-5/85](#) of November 13, 1985. Series A No. 5. 70 y 71

<sup>323</sup> 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](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 12/13. December 31, 2013. para. 1.

<sup>324</sup> IACHR Court. Case of Fontevecchia and D'Amico v. Argentina. Merits, Reparations and Costs. Judgment of November 29, 2011. Series C No. 238. para. 74.

<sup>325</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 159.

<sup>326</sup> Mutatis mutandis: IACHR. Resolution No. 1/20. [Pandemic and human rights in the Americas](#). April 10, 2020. Paras. 29 and 32; IACHR. Office of the Special Rapporteur for Freedom of Expression. March 19, 2020.

<sup>327</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 355.

<sup>328</sup> IACHR. [Declaration of Principles on Freedom of Expression](#). Principle 9. 2000.

<sup>329</sup> IACHR. RELE. [Zonas Silenciadas: Regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 163.

<sup>330</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: Regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. para. 158 et al.

<sup>331</sup> IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II ([Inter-American Legal Framework on the Right to Freedom of Expression](#)). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 67.

<sup>332</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia](#).

<sup>333</sup> Communication sent by a group of National Parliamentarians of Bolivia. Ref. Denounces criminalization of protest in the Department of Santa Cruz in Bolivia attributable to the Government. August 9, 2022. Archives of the Rapporteurship

the country and, although it welcomes some progress regarding the right of access to information, it emphasizes that the country still lacks a comprehensive and integral regulation in this area.

179. The Rapporteurship learned that, since July 25 and, with particular intensity since August 1, some sectors of the Departmental Association of Coca Producers have carried out days of protests in the area of Villa El Carmen and in the area of Villa Fatima, in the city of La Paz, with the objective of making visible different claims and demands related to the current management of the coca market in Bolivia<sup>334</sup>. The Rapporteurship takes note of episodes of particular conflict during the month of August<sup>335</sup>. This Office has received information on alleged detentions of demonstrators; aggressions against police and demonstrators; obstructions to the work of journalists and media; and disproportionate use of public force to disperse protests and generate destruction to the facilities of Adepcoca's headquarters<sup>336</sup>. According to information provided by the Ombudsman's Office, the indiscriminate use of "dynamite sticks" and firecrackers by demonstrators was reported, as well as the use of tear gas by police officers to disperse those participating in various demonstrations<sup>337</sup>. They also reported cases of demonstrators seriously injured by the detonation of dynamite and the impact of gas grenades<sup>338</sup>. As reported by the State of Bolivia, at least 28 people were treated in hospitals in La Paz for events related to the social conflict; and another 22 police officers needed to be treated in health institutions<sup>339</sup>. Likewise, the IACHR and the Rapporteurship learned that a policewoman had been detained by demonstrators on August 9 and subsequently released<sup>340</sup>. At the same time, the Ombudsman's Office reported on 8 schools that had been seriously affected because they were located in the vicinity of the Adepcoca markets, both in Villa Fatima and Villa El Carmen<sup>341</sup>. In addition, the deterioration in the quality of life of the citizens and an affectation to the rights of education and health, due to the lack of timely and effective response of the authorities to resolve the confrontations<sup>342</sup>.

180. According to information provided by the State, between June and September 2022, at least 45 people were detained for acts related to the demonstrations and the social conflict, despite the fact that most of them had been granted house arrest or release<sup>343</sup>. The State also reported that "most of the persons arrested or detained were found in flagrante delicto with explosives, dynamite and devices that, if they had not been detained and confiscated by the competent authorities, could have affected the life and integrity of the

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<sup>334</sup> DW. 20 September 2022. [Bolivian government invites coca growers to set "route" to solve crisis | The most important news and analysis in Latin America](#); Swissinfo. 9 September 2022. [Coca growers' conflict in Bolivia worsens amidst demands and announcement of trial...](#)

<sup>335</sup> Office of the Ombudsman. August 24, 2022. [Ombudsman's Office warns that the State fails to fulfill its duty to guarantee education, health, quality of life, transportation and integrity of the residents of the areas where the ADEPCOCA conflict is taking place](#); Ombudsman's Office. August 23, 2022. [Defensoría del Pueblo evidences that the ADEPCOCA conflict affects the development of educational activities](#); Defensoría del Pueblo. August 22, 2022. [Ombudsman's Office observes indiscriminate use of chemical agents by police and dynamite sticks by mobilized coca growers](#); August 18, 2022. [Ombudsman's Office urges authorities and actors in the Adepcoca conflict to resume dialogue to find a peaceful solution](#); Ombudsman's Office. August 9, 2022. [Ombudsman's Office verifies 11 polycontusions among the 25 people arrested for Adepcoca mobilizations](#); Defensoría del Pueblo. August 8, 2022. [The Ombudsman's Office verifies one seriously injured in the Adepcoca mobilizations and calls for dialogue with both sectors of this coca growers' organization](#);

<sup>336</sup> Office of the Ombudsman. September 28, 2022. [Ombudsman's Office investigates police excesses allegedly committed in the apprehension of coca grower leader](#); Defensoría del Pueblo. September 8, 2022. [Ombudsman's Office condemns excesses during the march of coca leaf producers in La Paz](#); Ombudsman's Office. August 8, 2022. [The Ombudsman's Office verifies a serious injury in the Adepcoca demonstrations and calls for dialogue with both sectors of this coca growers' organization](#).

<sup>337</sup> Ombudsman's Office, October 10, 2022. [Ombudsman's Office urges actors mobilized by ADEPCOCA market to put aside radical attitudes](#); Ombudsman's Office, 22 August 2022. [Ombudsman's Office observes indiscriminate use of chemical agents by Police and dynamite sticks by mobilized coca growers](#); Ombudsman's Office. September 8, 2022. [Ombudsman's Office condemns excesses during the march of coca leaf growers in La Paz](#).

<sup>338</sup> Ombudsman's Office, October 10, 2022. [Ombudsman's Office urges actors mobilized by ADEPCOCA market to put aside radical attitudes](#); Ombudsman's Office, 22 August 2022. [Ombudsman's Office observes indiscriminate use of chemical agents by Police and dynamite sticks by mobilized coca growers](#); Ombudsman's Office. September 8, 2022. [Ombudsman's Office condemns excesses during the march of coca leaf growers in La Paz](#).

<sup>339</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>340</sup> Network One. August 9, 2022. [Cocaleros detain policewoman: police gas and try to rescue her](#); Ombudsman's Office. August 9, 2022. [The Ombudsman's Office verifies 11 polycontusions among the 25 people arrested for the Adepcoca mobilizations](#).

<sup>341</sup> Office of the Ombudsman. August 23, 2022. [Ombudsman's Office shows that the ADEPCOCA conflict affects the development of educational activities](#).

<sup>342</sup> Office of the Ombudsman. August 24, 2022. [The Ombudsman's Office warns that the State is failing in its duty to guarantee education, health, quality of life, transportation and integrity of the residents of the areas where the ADEPCOCA conflict is taking place](#).

<sup>343</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

surrounding population"<sup>344</sup>. On August 9, during a press conference in which 24 arrests were reported, the Bolivian Minister of Government affirmed that certain sectors of the Departmental Association of Coca Producers hire people to generate "terror and anxiety"<sup>345</sup>. Likewise, the persons detained were allegedly publicly exhibited<sup>346</sup>. In this context, the Mission in Bolivia of the Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that "excessive use of force and public exhibition of detainees are of concern, contrary to human rights obligations"<sup>347</sup>. According to information from the Ombudsman's Office, at least 11 of the detainees had signs that they may have been beaten during their detention<sup>348</sup>.

181. The State has informed the Rapporteurship that the executive branch, through the Ministry of Rural Development and Lands, the Vice-Ministry of Coca and Rural Development, the Ministry of the Presidency, as well as the legislative branch, has repeatedly called for dialogue with the coca-producing sectors<sup>349</sup>. Between August and September, the summons were reiterated on at least 8 occasions. The State particularly emphasized the organization of the Working Group "Dialoguing for Peace in the Yungas", with the objective of formulating strategies to solve the conflict, identifying demands, agreements and defining mechanisms to solve the problem<sup>350</sup>. The proposed methodology would include technical representatives of the State, representatives of ADEPCOCA and the full board of directors, representatives of COFECA, and representatives of producers and retailers. In this regard, the Rapporteurship takes note of the challenges for the establishment of spaces for dialogue on the part of the Government, for example, because some of the parties have requested the fulfillment of certain preconditions for the installation of dialogue tables and because of the momentary rejection of attempts at dialogue<sup>351</sup>. The Rapporteurship emphasizes that, according to the State, the result of the conflict is also related to "the intransigent will of the parties" not to heed calls for dialogue and to avoid conflict<sup>352</sup>.

182. The IACHR and its RELE have monitored the citizen protests that resulted in a Civic Strike in Santa Cruz, which began last October 21 due to the disagreement of some social sectors with the Decree of the Executive Branch, which postponed the National Population and Housing Census to 2024<sup>353</sup>. The strike would have lasted 36 days and, since day one, there have been multiple confrontations between sectors that support the strike and those who reject it.<sup>354</sup>

183. The IACHR and its RELE regretted the death of a person on October 22 after receiving physical aggressions, and called on the State to investigate the facts and promote a broad dialogue with all sectors of society, prioritizing human rights<sup>355</sup>. On November 2, the Ombudsman's Office reported confrontations between civilians and police in the municipality of La Guardia<sup>356</sup>. According to what the IACHR and its RELE were able to learn, at least 8 people were reportedly detained there, now under investigation for crimes of

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<sup>344</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>345</sup> Erbol. August 10, 2022. [Gobierno exhibe a cocaleros aprehendidos y los llama 'delincuentes', 'vándalos' y 'organización criminal'](#); Notimerica. August 10, 2022. [Bolivia: Bolivia accuses a sector of the coca growers' union of paying "people" to confront the police.](#)

<sup>346</sup> Erbol. 10 August 2022. [Gobierno exhibe a cocaleros aprehendidos y los llama 'delincuentes', 'vándalos' y 'organización criminal'](#); Notimerica. August 10, 2022. [Bolivia: Bolivia accuses a sector of the coca growers' union of paying "people" to confront the police.](#)

<sup>347</sup> OHCHR - Bolivia Twitter account (@Oacnudh\_BO). [August 11, 2022/](#)

<sup>348</sup> Office of the Ombudsman. August 11, 2022. [The Ombudsman's Office verifies 11 polycontusions among the 25 people who were arrested for the mobilizations of Adepcoca.](#)

<sup>349</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>350</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>351</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>352</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>353</sup> Deutsche Welle (DW). November 26, 2022. [Santa Cruz lifts strike after 36 days of mobilizations](#); ABI. November 30, 2022. [Santa Cruz has been destroyed after 36 days of strike by a "shameful" governor, assesses analyst.](#)

<sup>354</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia.](#)

<sup>355</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia.](#)

<sup>356</sup> Ombudsman's Office. November 2, 2022. [The Ombudsman's Office investigates 18 cases of violation of rights registered during the civic strike in Santa Cruz.](#)

destruction and deterioration of State property, serious and light injuries and criminal association.<sup>357</sup> On the other hand, the Ombudsman's Office expressed its concern regarding discriminatory expressions and threats of eviction against the Ayoreo people in the municipality of Concepción.<sup>358</sup>

184. At the same time, on November 9, the Ombudsman's Office reported the death of a person in a traffic accident, when his motorcycle collided with a cable in a place where there was a road blockade<sup>359</sup>. Between November 16 and 17, RELE received information on constant confrontations between demonstrators and security agents with indiscriminate use of chemical agents, which reportedly affected an 11-month-old girl<sup>360</sup>. Likewise, this Office was informed of a report of a fire at the Federation of Peasants, as well as the looting of the building of the Central Obrera Departamental (Central Obrera Departamental)<sup>361</sup>. During the strike, the Ombudsman's Office documented at least 71 complaints of violations of human rights, life, freedom of expression, freedom of information, health, violence against women, education, personal integrity and indigenous peoples.<sup>362</sup>

185. In response to the claims, the State informed that it had set up a technical commission to define the date for the census. The Commission concluded that the census could be brought forward to March 2024 and, subsequently, the President issued a decree setting this date for the census<sup>363</sup>. However, according to available information, on November 24, the political leaders of Santa Cruz recommended acceptance of the census in 2024, considering the unsustainability of the process in 2023, but a regional strike was still called pending a law on the census process<sup>364</sup>. The Ombudsman's Office has stressed the importance of such a law in order to "give certainty to the population so that it can recover peace".<sup>365</sup> On November 30, the National Assembly approved the Law for the Application of Census Results, published on December 2.<sup>366</sup>

186. Additionally, in December, the IACHR and its Special Rapporteurship followed the development of a series of demonstrations that began in Santa Cruz de la Sierra on December 28, following the arrest of the Governor of that department, Luis Fernando Camacho.<sup>367</sup> According to public information, in the context of these demonstrations, confrontations between civilians and police officers were reported, resulting in injuries and complaints of possible cases of excessive use of police force, including against journalists and social communicators, according to information from the National Association of the Bolivian Press and the Inter-American Press Association.<sup>368</sup> The Ombudsman's Office reported that, according to its records, during the 13 days of protests, there were "25 cases of alleged human rights violations, including excessive use of police force, attacks on journalists, injuries, burning of property and vehicles (private and public), among others".<sup>369</sup> In

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<sup>357</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia](#).

<sup>358</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 3, 2022. Press Release 247/2022. [IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia](#).

<sup>359</sup> Southern Mail. November 9, 2022. [Santa Cruz: Motorcyclist loses his life after being cut by a cable at a blockade point](#); Defensoría del Pueblo. 22 October 2022. [The Ombudsman's Office regrets the death of a person at the beginning of the indefinite strike in Santa Cruz and asks for urgent clarification](#).

<sup>360</sup> Office of the Ombudsman. November 17, 2022. [The Ombudsman's Office warns that social protests in Santa Cruz make cases of gender violence invisible and leave them unpunished](#).

<sup>361</sup> Office of the Ombudsman. November 13, 2022. [The Ombudsman's Office registers 42 cases of violation of rights during the indefinite strike and demands urgent pacification of the country](#).

<sup>362</sup> Ombudsman's Office. [Preliminary Report. Situation of Human Rights Violations during the Census Strike in Santa Cruz](#). January 2023.

<sup>363</sup> RFI. 10 November 2022. [Crisis in Bolivia: Mesa técnica establece censo nacional para marzo de 2024](#); Estado de Bolivia. Presidency of the Republic. [DS 1824](#). November 12, 2022.

<sup>364</sup> Deutsche Welle (DW). November 24, 2022. [Largest Bolivian region accepts census in 2024 but maintains strike](#); Swisinfo. 24 November. [Relative calm on day 24 of the indefinite strike in Bolivia's largest region](#).

<sup>365</sup> Office of the Ombudsman. October 22, 2022. [The Ombudsman's Office regrets the death of a person at the beginning of the indefinite strike in Santa Cruz and asks for urgent clarification](#).

<sup>366</sup> State of Bolivia. [Law n. 1492](#). Law of December 02, 2022.

<sup>367</sup> IACHR. January 17, 2023. Press Release No. 005/23. [Protests in Bolivia: IACHR and its Special Rapporteurship for Freedom of Expression Monitor Events in Santa Cruz de la Sierra, Bolivia](#).

<sup>368</sup> Asociación Nacional de la Prensa. January 3, 2023. [Police beat two workers of a television station in Santa Cruz](#); Inter American Press Association. January 6, 2023. [IAPA condemns violence against the press in Bolivia](#).

<sup>369</sup> Plurinational State of Bolivia, Ombudsman's Office. January 10, 2023. [Ombudsman issues five exhortations to guarantee the exercise of human rights and presents cases of Santa Cruz and La Paz](#).



addition, the IACHR received reports of violent actions committed by organized groups against public and private property, including the house of a Minister of State.<sup>370</sup>

187. The State reported cases of violence against public officials. In addition, it reported damages to 44 vehicles and 27 infrastructures, including fires in state institutions, as well as attempts to take over police facilities.<sup>371</sup> Regarding these events, the Ministry of Government reported that 76 people were apprehended for destruction or damage to state property, among other crimes, of which 24 have already been sentenced.<sup>372</sup>

188. In this context, the IACHR and its Office of the Special Rapporteur are concerned about the threats made by violent groups against human rights defenders and members of the media through social networks. This situation generates a serious violation of freedom of expression and the right to defend human rights, with detrimental consequences for the exercise of these activities.<sup>373</sup>

189. As reported by the State in 2022, the right to freedom of expression and the right to protest have constitutional status in Bolivia and therefore the State affirms its respect and guarantee for freedom of expression "as a fundamental element on which the existence of a democratic society is based, recognizing among its state obligations the respect for public demonstrations and protests, as well as the relationship of the same with other rights"<sup>374</sup>. It also emphasized that it observes the principles of proportional, legal and absolute necessity of the use of force and that police deployment is used in contexts where the physical integrity of demonstrators and police officers has been affected and that, in some cases, there are non-peaceful events in the marches, such as the indiscriminate use of "dynamite sticks", firecrackers and other explosive materials that would lead to the need for political intervention with chemical agents and dispersal of the mobilization<sup>375</sup>. The State highlighted the normative framework that evidences the obligation to respect and guarantee human rights during the use of force, which evidences the need for its planned use in accordance with the principle of last resort and under the prior need for the agents to exhaust mechanisms of dialogue, prevention and persuasive resources<sup>376</sup>. This normative framework would include the Constitution itself, the Organic Law of the National Police, a Manual of Basic Techniques of Police Intervention in the Context of Human Rights, the Code of Police Conduct of the Bolivian Police, the Manual for Police Operations for the Maintenance and Restoration of Public Order, among others<sup>377</sup>.

190. RELE reiterates that the rights of assembly and association are essential elements for the existence and functioning of democracy<sup>378</sup>. The IACHR and the Rapporteurship have stressed that while the right to protest does not protect acts of violence committed by individuals in the context of demonstrations, the State must take measures to identify those involved in acts of violence and must consider that the fact that some groups or individuals exercise violence in a demonstration does not, per se, make the entire protest violent<sup>379</sup>. RELE rejects the excessive use of force, since the deployment of security forces must be governed by principles

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<sup>370</sup> IACHR. January 17, 2023. Press Release No. 005/23. [Protests in Bolivia: IACHR and its Special Rapporteurship for Freedom of Expression Monitor Events in Santa Cruz de la Sierra, Bolivia.](#)

<sup>371</sup> Plurinational State of Bolivia, Ministry of Government. January 5, 2023. [Wave of violence by criminal groups in Santa Cruz caused damage to 27 properties and the burning of 44 vehicles.](#)

<sup>372</sup> Plurinational State of Bolivia, Ministry of Government. January 5, 2023. [Wave of violence by criminal groups in Santa Cruz caused damage to 27 properties and the burning of 44 vehicles.](#)

<sup>373</sup> Plurinational State of Bolivia, Ministry of Government. January 5, 2023. [Wave of violence by criminal groups in Santa Cruz caused damage to 27 properties and the burning of 44 vehicles.](#)

<sup>374</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>375</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>376</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>377</sup> Permanent Mission of Bolivia to the OAS. November 07, 2022. MPB-OEA-NV 195-22. Response to the request for information IACHR/RELE/Art.41/09-2022/343. Archive of the Rapporteurship.

<sup>378</sup> IACHR. RELE. [Protesta y Derechos Humanos: Estándares sobre los derechos involucrados en la protesta social y las obligaciones que deben guiar la respuesta estatal.](#) OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. para. 330.

<sup>379</sup> IACHR. RELE. [Protesta y Derechos Humanos: Estándares sobre los derechos involucrados en la protesta social y las obligaciones que deben guiar la respuesta estatal.](#) OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. para. 83.

of legality, necessity and proportionality and be characterized by exceptionality<sup>380</sup>. Human rights violations and acts of violence must be investigated, prosecuted and punished in accordance with due process.<sup>381</sup>

191. Likewise, RELE reiterates that the exercise of the right to protest assumes different forms and the choice of a roadblock as a form of protest is not sufficient to declare the protest as illegitimate. The IACHR has pointed out that when the possible disruption of daily life during protests extends over time and reaches the point of seriously compromising the guarantee of other rights, the State's duty to facilitate all possible mechanisms for dialogue and the coexistence of all rights in tension is accentuated, with the use of force as a last resort<sup>382</sup>. In this line, RELE recalls that the spaces for dialogue must be open, plural and inclusive and that the stigmatization of protest by public authorities hinders all efforts of dialogue as a mechanism to reach solutions to social conflict<sup>383</sup>.

192. At the same time, regarding the situation of academic freedom in Bolivia, the Rapporteurship recorded Resolution No. 144/2022, issued by the Rector of the Universidad Mayor de San Andrés (UMSA), which "institutionally establishes as grounds for university proceedings defamation and slander carried out by any means whether written or digital in abuse of information and communication technologies through digital platforms, social networks or computer systems", also providing for the hiring of a "computer expert" to "identify possible aggressors in order to initiate the corresponding disciplinary or jurisdictional actions"<sup>384</sup>. According to the information available, the University Council rescinded the Resolution<sup>385</sup>. The Rapporteurship has also learned that the Third Chamber of the University Processes Commission of the same university issued a Resolution that sanctioned two students with definitive expulsion and three others with temporary suspension for three years for facts related to participation in a university protest in November 2021, when an occupation of a building of the institution was carried out to denounce alleged irregularities in elections of the Local University Federation of the UMSA<sup>386</sup>.

193. Regarding guarantees for access to information and strengthening the culture of transparency in the State, the Rapporteurship welcomes the decision of the Plurinational Constitutional Tribunal of Bolivia (TCP) that ruled in favor of attorney Henry Pinto Dávalos, who requested reports on the contracting of legal services in the State University Social Security (SSU) of the city of Cochabamba and received a refusal from the Social Security Management<sup>387</sup>. The judgment of December 2, 2021 establishes that the right of access to information is part of freedom of expression, and implies the prerogative of every person to request information from public entities<sup>388</sup>. The Rapporteurship also welcomes the approval and publication of the Law on Transparency in the Public Service, which establishes the creation of a digital platform "Transparency in the Public Service" and guidelines for the processing, generation and payment of payrolls in public entities<sup>389</sup>.

194. However, despite the announcement by the Minister of Justice in 2021 about the ongoing work on a draft Law on Access to Information, which had been sent for analysis to the National Anti-Corruption Council, the Rapporteurship did not receive information on any progress in this area. On the contrary, the

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<sup>380</sup>IACHR. RELE. *Protesta y Derechos Humanos: Estándares sobre los derechos involucrados en la protesta social y las obligaciones que deben guiar la respuesta estatal*. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. para. 102.

<sup>381</sup>IACHR. RELE. *Protesta y Derechos Humanos: Estándares sobre los derechos involucrados en la protesta social y las obligaciones que deben guiar la respuesta estatal*. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. para. 251 et. al.

<sup>382</sup>IACHR. *Observations and recommendations: working visit to Colombia*. Visit: June 2021. para. 157.

<sup>383</sup>IACHR. RELE. Press Release 247/2022. November 3, 2022. *IACHR and RELE call for effective dialogue to prevent violence in the context of social protests in Bolivia*. IACHR. *Observations and recommendations: working visit to Colombia*. Visit: June 2021. para. 8.

<sup>384</sup>Office of the Ombudsman. May 19, 2022. Ombudsman's Office *observes that Resolution issued by the Rector of UMSA violates freedom of expression*.

<sup>385</sup>Universidad Mayor de San Andrés Facebook account. *May 19, 2022*; EL Potosí. May 20, 2022. *UMSA backs down and annuls resolution that intended to sanction those who insult* Quelali.

<sup>386</sup>Universidad Mayor San Andrés Facebook account. *May 30, 2022*; Ombudsman's Office. October 5, 2022. *The Ombudsman claims that UMSA violates the right to education by expelling students who participated in a mobilization*.

<sup>387</sup>National Press Association of Bolivia. March 10, 2022. *Access to public information wins its first battle in the Bolivian justice system*; Guardian. March 9, 2022. *Maximum guardian sets precedent for citizens to access information*.

<sup>388</sup>Plurinational Constitutional Tribunal. *Case 38163-2021-77-AAC*. Plurinational Constitutional Ruling 0920/2021-S2. Sucre, December 2, 2021.

<sup>389</sup>State of Bolivia. *Law n. 1451*. Law of August 15, 2022.

Rapporteurship has learned of challenges regarding the absence of comprehensive legislation on access to information<sup>390</sup>.

195. Although Article 21 of the Political Constitution of the Plurinational State of Bolivia establishes that the right to "access information, interpret it, analyze it (...)" and that Supreme Decree 28168/2005 "guarantees access to information as a fundamental right of every person", RELE reiterates the importance for the State to move towards a legal framework that regulates access to public information in Bolivia, according to the standards of the Inter-American human rights system and especially taking into account the guidelines of the OAS Model Law and the standards issued by the Inter-American Commission and the Inter-American Court of Human Rights.

196. In this context, it urges Bolivia to comply with the reparation measures set forth in the recent judgment of the IACHR Court in the case of Flores Bedregal et al. v. Bolivia, of October 17, 2022, as well as to observe its standards<sup>391</sup>. As defined by the IACHR Court, "the right to access to information requires the active participation of all authorities involved"<sup>392</sup>. Likewise, the IACHR Court has highlighted the importance that in contexts of serious human rights violations, such as cases of forced disappearance of persons, "it is essential to declassify and access documents of the security forces, in order to ensure a transparent investigation."<sup>393</sup>

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

197. The Rapporteurship expresses its concern regarding the report of a case of non-consensual sterilization in a clinic located in La Paz. According to information reported by the Ombudsman's Office, on February 23, 2022, the 3rd Judge of Anticorruption and against violence against women of La Paz determined the preventive detention of the gynecologist allegedly responsible for directing the delivery of a child of the victim approximately two years ago, when the salpingoclasia procedure would have been performed without the consent of the alleged victim<sup>394</sup> a. The RELE recalls that in the case of I.V. vs. Bolivia, the Inter-American Court of Human Rights has recognized that the right to informed consent in cases of health procedures is protected, among others, by Article 13 of the ACHR -which includes the right to seek, receive and impart information and ideas of all kinds and therefore protects the right of access to information, including information related to the health of individuals-<sup>395</sup>.

198. Likewise, on March 30, the Ombudsman's Office published the report "Absence of State Guarantees for the Exercise of the Right to Gender Identity in Bolivia", in which it exposes the challenges for transgender people to use their own name and carry out the adaptation of their records in different institutions in the country<sup>396</sup>. The Rapporteurship also highlights incidents of violence against LGBTI people in Bolivia, which included the death of a trans woman and physical aggression against a homosexual man<sup>397</sup>. RELE recalls that, according to the IACHR Court, "the right to identity, and in particular the manifestation of identity, is also

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<sup>390</sup> Fides News Agency. December 6, 2022. [Congressman Roca: MAS avoids an Access to Information law to hide its "crooked things"](#); Fundación Periodismo. September 18, 2022. [Access to information in Bolivia is fictitious: on the other hand, 16 countries set deadlines for the delivery of documents](#); Agencia de Noticia Fides. 30 de noviembre de 2022. [Acceso a la información, entre normas incumplidas e improvisación funcionaria](#); IACHR RELE. Annual Report 2021. OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. para. 99.

<sup>391</sup> IACHR Court. Case of Flores Bedregal et al. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 17, 2022. Series C No. 467.

<sup>392</sup> IACHR Court. Case of Flores Bedregal et al. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 17, 2022. Series C No. 467. para. 136.

<sup>393</sup> IACHR Court. Case of Flores Bedregal et al. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 17, 2022. Series C No. 467. para. 136.

<sup>394</sup> Office of the Ombudsman. February 24, 2022. [Ombudsman's Office highlights the judge's decision to send the gynecologist accused of having performed a non-consensual sterilization to preventive detention.](#)

<sup>395</sup> IACHR Court. Case of I.V. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 329.

<sup>396</sup> Ombudsman's Office. [Informe Defensorial: Absencia de Garantías Estatales para El Ejercicio del Derecho a la Identidad De Género En Bolivia: un Análisis sobre el Cumplimiento De La Ley N.º 807 De Identidad de Género.](#) May 2022.

<sup>397</sup> Office of the Ombudsman. March 5, 2022. [Ombudsman's Office urges Public Prosecutor's Office and Bolivian Police to clarify the death of a trans woman in Puerto Quijarro](#); Opinion. December 1, 2022. [Ombudsman's Office follows up on case of alleged homophobic violence.](#)



protected by Article 13, which recognizes the right to freedom of expression. From this perspective, arbitrarily interfering in the expression of the different attributes of identity may imply a violation of that right".<sup>398</sup>

199. In this context, the Rapporteurship's attention is drawn to the campaigns against the exhibition "Pride Revolution" at the El Altillo Beni Museum in the city of Santa Cruz de la Sierra, an institution dependent on the municipal government, during the celebrations of LGBTI diversity month. The Rapporteurship learned that a councilwoman sent a minute to the municipal government recommending the withdrawal of the exhibition for containing images "not appropriate for all audiences"<sup>399</sup>. Also, a group calling itself "La Pesada Subversiva" (The Subversive Heavy) allegedly burst into the exhibition space on June 14 with shouts of homophobic expressions<sup>400</sup>. The Office of the Special Rapporteur considers that these events have a negative impact on the right to freedom of artistic expression and the right of citizens to access information, ideas and opinions of all kinds. The right to artistic or symbolic expression, to the dissemination of artistic expression, and to access to art in all its forms are explicitly protected by Article 13 of the ACHR. In addition, speech that expresses essential elements of personal identity or dignity and speech that relates to the expression of one's sexual orientation and gender identity are considered specially protected in the inter-American legal framework<sup>401</sup>.

200. The RELE also recognizes the challenges present in Bolivian society towards consensus building for the recovery of the social fabric and to overcome social tensions, which often find structural causes in elements of discrimination. In this sense, the final report of the GIEI recognized that racism and contempt for indigenous elements and gender violence are important factors in analyzing historical, recent or longer-standing events in the country<sup>402</sup>. The RELE emphasizes, as the IACHR has done on previous occasions, the need for the State to "promote dialogues that aim to generate spaces of consensus that allow to work a sense of common destiny in diversity and deepen the process of analysis and mutual understanding Bolivian society to promote dialogues that aim to generate spaces of consensus that allow to work a sense of common destiny in diversity and deepen the process of analysis and mutual understanding"<sup>403</sup>. This implies not only that social leaders and people in public office refrain from and reject the use of hate speech, stigmatization or violence, but also that such rejection is also publicly assumed by the leadership of the media.

201. RELE stresses the importance for the State to heed the recommendation of the GIEI to develop an educational policy for citizens to understand themselves as part of a diverse and plural society and to reject hate speech, intolerance, racism and all forms of discrimination. These types of measures are crucial because they target the cultural roots of discrimination, and as such, can be valuable instruments to encourage the development of a society based on the principles of diversity, pluralism and tolerance<sup>404</sup>.

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

202. While Bolivia needs to continue advancing to meet the challenges of universal access to the Internet for its population -which, according to data from the *Data Reportal's Digital* initiative has a penetration of

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<sup>398</sup> IACHR Court. Gender identity, and equality and non-discrimination of same-sex couples. State obligations in relation to the change of name, gender identity, and rights derived from a bond between same-sex couples (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to Article 1 of the American Convention on Human Rights). [Advisory Opinion OC-24/17 of November 24, 2017](#). Series A No. 24, para. 96.

<sup>399</sup> Office of the Ombudsman. June 15, 2022. [Ombudsman's Office requests action by the Committee against Racism and Discrimination for incitement to discriminate against the LGBTQ+ population in Santa Cruz](#).

<sup>400</sup> Southern Mail. June 14, 2022. [Atacan muestra cultural de diversidades LGBTQ+: afectados denuncian homofobia](#); Erbol. 14 June 2022. [Activists attack LGBTQ+ diversities cultural show: affected denounce homophobia](#); Erbol.

<sup>401</sup> IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Inter-American Legal Framework on the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009, paras. 54-57; I/A Court H.R., Case of López-Álvarez v. Colombia. Case of López-Álvarez v. Honduras. Merits, Reparations and Costs. Judgment of February 1, 2006. Series C No. 141, para. 53-56.

<sup>402</sup> GIEI-Bolivia. [Informe Final Sobre los hechos de violencia y vulneración de los derechos humanos ocurridos entre el 1 de septiembre y 31 de diciembre de 2019](#). July 23, 2021.

<sup>403</sup> IACHR. Press Release 311/2021. [IACHR calls for the strengthening of dialogue processes to generate consensus in Bolivia](#). November 19, 2021.

<sup>404</sup> IACHR. [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#). OAS/Ser.L/V/II.rev.2 Doc. 36, 12 November 2015. Para. 248.

55.1% of the total population<sup>405</sup> --, the country must advance in mechanisms to address the deterioration of public debate in the digital environment. For example, faced with the increase in anti-vaccine campaigns, the Ombudsman's Office called on the government to prioritize and take positive alternative measures in the face of refusals to vaccinate<sup>406</sup>.

203. The Rapporteurship recalls that access to the Internet is a sine qua non condition for the effective exercise of human rights<sup>407</sup>. However, efforts to increase Internet connectivity must be made in conjunction with the promotion of "educational measures aimed at promoting the ability of all people to make autonomous, independent and responsible use of the Internet and digital technologies", a set of processes known as digital literacy<sup>408</sup> and that should be oriented towards the development of civic skills in the perspective of democratic coexistence and with a human rights approach<sup>409</sup>.

204. The Rapporteurship notes with concern that, according to an investigation carried out by the Latin American Center for Investigative Journalism, the Director of Biofuels at the National Hydrocarbons Agency and the Director of Marketing at the Administration of Port Services Bolivia had shared, on their social networks, images with quotes attributed to opposition political figures and with the logos of media outlets<sup>410</sup>. In the cases, news checkers were unable to locate neither the notes attributed to the newspapers nor to verify that the statements attributed in the quotes had been made by the referenced political figures<sup>411</sup>. In response to the facts, the director of Biocombustibles reportedly replied that he "did not realize" the possibly misleading content of the publications and that regardless of the exercise of his public function, he was a citizen with the right to free expression" and to "communicate on a platform that is in the public domain"<sup>412</sup>. For her part, the marketing director reportedly thanked the alert and stated that "her page was not a press medium, but a medium for public debate" and pointed out that "the media lie every day by telling half-truths or outright lies"<sup>413</sup>.

205. This Office urges that political leaders and persons exercising public functions refrain from making statements that may promote intolerance, discrimination or misinformation and, instead, should take responsibility for their leadership positions to counteract these social harms and promote intercultural understanding and respect for diversity<sup>414</sup>. Likewise, as the Inter-American Court of Human Rights has established, persons exercising public functions must reasonably, though not necessarily exhaustively, ascertain the facts on which they base their opinions, and should do so with even greater diligence than that employed by private individuals<sup>415</sup>.

206. The Rapporteurship has also learned that the Executive President a.i. of the National Tax Service sent a letter requesting the removal of a publication, under the possibility of legal action before the Public

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<sup>405</sup> Data Reportal. February 15, 2022. [Digital 2022: Bolivia - DataReportal - Global Digital Insights](#)

<sup>406</sup> Office of the Ombudsman. January 17, 2022. [Office Ombudsman's suggests procesosprocesses information and that prioritized in positive alternative measures rejection of COVID-19 vaccines.](#)

<sup>407</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet.](#) OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 32.

<sup>408</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 December 2013. Para. 48.

<sup>409</sup> IACHR. February 5, 2021. Press Release 226/2021. [IACHR warns of a turning point for freedom of expression on the Internet and calls for dialogue in the region.](#)

<sup>410</sup> Latin American Center for Investigative Journalism. November 30, 2022. [The officials of disinformation in Bolivia.](#)

<sup>411</sup> Latin American Center for Investigative Journalism. November 30, 2022. [The officials of disinformation in Bolivia.](#)

<sup>412</sup> Latin American Center for Investigative Journalism. November 30, 2022. [The officials of disinformation in Bolivia.](#)

<sup>413</sup> Latin American Center for Investigative Journalism. November 30, 2022. [The officials of disinformation in Bolivia.](#)

<sup>414</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and Access to Information, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration 2021 on Political Leaders, Public Officials and Freedom of Expression.](#) October 20, 2021.

<sup>415</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. [Case of Ríos et al. v. Venezuela.](#) Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139.

Prosecutor's Office, to an influencer of the social network TikTok for a publication in which he made critical references to the entity.<sup>416</sup>

207. Likewise, RELE learned that the 5th Court for the Fight against Corruption and Violence against Women ordered the preventive imprisonment for a period of 4 months of a journalist after the publication of a meme on social networks, following a lawsuit filed by the director of the Mining Administrative Jurisdictional Authority who alleged that such publication was discriminatory to her detriment.<sup>417</sup>

208. The Rapporteurship recalls that freedom of expression applies to the Internet in the same way as to all media. This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards which provide, inter alia, that they must be provided for by law and pursue a legitimate aim recognized by international law and be necessary to achieve that aim (the "tripartite" test).<sup>418</sup>

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<sup>416</sup> Office of the Ombudsman. June 28, 2022. Ombudsman's [\*Office warns that the National Tax Service censors the freedom of expression of a tiktokker\*](#).

<sup>417</sup> La Patria. April 2, 2022. [\*Journalist sent to jail for meme against AJAM director\*](#); Erbol. April 1, 2022. [\*Communicator is sent to jail denounced by AJAM director; Defensoría expresses concern\*](#).

<sup>418</sup> United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights (ACHPR). [\*Joint Declaration on Freedom of Expression and the Internet\*](#). 2011.

## BRAZIL

209. In 2022, at least 3 journalists were murdered in Brazil, including journalist Dom Philips – murdered together with the indigenous expert Bruno Pereira – event which had great international repercussion and triggered warnings about the risks that the Amazon region, especially the border region, could become a silenced zone. Attacks, threats and aggressions against journalists are framed in a context of stigmatization of the press and fear of prosecution, which includes both criminal lawsuits that could end in imprisonment and high economic sanctions. Progress is still required in the fight against impunity concerning murders and judicial protection of journalistic work, whether by modifying decisions contrary to freedom of expression standards or through actions for collective protection of rights. In the electoral year, tension grew between the presidency of the Republic and the Electoral Power, which, in addition to the constant questioning of the role of judicial authorities and the electoral system, has generated risks of rupture of the social fabric, a deep discontent among citizens, and the fear of political violence – which even took the form of assassinations. The electoral campaign was also marked by the judicialization of cases of alleged deliberate disinformation, including online content, possible artistic productions and journalistic platforms and content. Electoral and judicial authorities have faced a great challenge to respond in time to speeches that, for example, questioned the legitimacy of the elections, attacked candidates based on untruthful information or that sustained statements aimed at deliberately eroding confidence in democratic institutions. Both the judiciary and the legislature have made progress with respect to initiatives that would respond to the challenges to freedom of expression online. In this regard, this Office highlights the follow-up of the “Fake News Bill” and proposals for the regulation of artificial intelligence. The Rapporteurship has also received with concern complaints about the deterioration of guarantees for the exercise of freedom of artistic expression in Brazil and the persecution against women journalists who covered relevant cases on access to reproductive rights in 2022. Finally, the Rapporteurship thanks the Permanent Mission of Brazil to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

210. The practice of journalism in Brazil continued to be framed by stigmatizing speeches, intimidation and attacks, especially by public authorities and in contexts associated with political issues, which resulted in an escalation of violence in 2022. According to reports from civil society organizations, there were at least 376 attacks against the press, including threats, harassment, arbitrary detentions and attacks, in all of which the key actors were state agents.<sup>419</sup> The family members of former President Jair Bolsonaro were reportedly involved in 157 episodes (53.9%), of which 60 involved the participation of the former president.<sup>420</sup> Despite the drop in the number of attacks with respect to 2021, the number of violent attacks has grown.<sup>421</sup> On February 1, some reports noted that 4 journalists from SBT’s *Aruatu TV* were assaulted, including with gunshot attempts, and that their equipment was damaged during the coverage of a murder in Salvador.<sup>422</sup> On March 3, a *TV Globo* cameraman was reportedly intimidated and injured by a man while producing a report in São Paulo and had to undergo surgery on his hand due to the attack.<sup>423</sup> On May 10, two female journalists of *Globo News* were reportedly insulted and attempted to be run over while filming a report.<sup>424</sup> On June 4, a journalist from

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<sup>419</sup> Fenaj. 23 January 2023. [Brazil registers one aggression against journalists per day in 2022](#); Abraj. 2022. [Gender Violence Against Journalists](#).

<sup>420</sup> Abraj. August 15, 2022. [Serious violence against journalists increased 69.2% in 2022](#).

<sup>421</sup> Fenaj. January 23, 2023. [Brazil registers one aggression against journalists per day in 2022](#); Abraj. 15 August 2022. [Serious violence against journalists increased 69.2% in 2022](#).

<sup>422</sup> CPJ. February 7, 2022. [Brazilian news crews attacked while covering death in police clash with gang](#); Abert. 2022. [Violations to freedom of expression](#).

<sup>423</sup> Abraj. May 13, 2022. [Abraj repudiates attempt to run over journalists in SP](#); Abert. 2022. [Violations of freedom of expression](#).

<sup>424</sup> Abraj. May 13, 2022. [Abraj repudiates attempt to run over journalists in SP](#); Uol. May 12, 2022. [GloboNews team is insulted and reporter almost gets run over live on TV](#).

the website *Congresso em Foco* was reportedly the victim of *doxxing*, following the publication of a report on the tactics of an anonymous forum to produce false news in favor of President Jair Bolsonaro.<sup>425</sup>

211. This Office was informed of the death of journalist Givanildo Oliveira after being shot and killed by an unknown assailant on February 7 near his home in the Pirambu neighborhood in the city of Fortaleza. Oliveira was a reporter for the *Pirambu News* portal – and also its founder – which covers local general interest issues, including the police agenda. According to reports, the journalist had previously received threats, allegedly linked to his coverage of criminal issues in the city. In this context, the Office learned that the murder occurred after the publication of a report on the arrest of a man allegedly suspected of a double homicide.<sup>426</sup> The IACHR and its Rapporteurship maintain that the lack of sanctions for those responsible for these crimes can send a permissive message of violence, encouraging the occurrence of new crimes and contributing to self-censorship. In this regard, the Office is concerned that another media outlet in the city of Fortaleza that reports on issues of local interest has announced that it will stop covering the police agenda in order to preserve the integrity of its team.<sup>427</sup>

212. Subsequently, this Office learned of the murder of journalist Dom Phillips and indigenous peoples' defender and expert Bruno Araújo Pereira, beneficiaries of precautionary measures from the IACHR.<sup>428</sup> According to the information available, they were on a work and investigative journalistic trip related to alleged illegal fishing and hunting activities in the state of Amazonas. According to information received, they were last seen on June 5, 2022 in the community of São Rafael, while they were on a boat heading to the municipality of Atalaia do Norte to visit the Indigenous Surveillance team and conduct interviews. Dom Phillips was recognized for his specialized work covering environmental issues, land conflicts and the situation of indigenous peoples in Brazil. Bruno Araújo Pereira was a recognized expert on indigenous peoples and accompanied Dom Phillips as a guide and facilitator due to his extensive knowledge of the region. On June 11, the IACHR granted precautionary measure No. 449-22 in their favor, after considering that they were in a serious and urgent situation of risk of irreparable harm to their rights. Likewise, the Special Rapporteurship learned about the detention of three alleged perpetrators in Atalaia do Norte. At least two of them confessed their participation in the disappearance of Dom Phillips and Bruno Pereira.<sup>429</sup>

213. The Rapporteurship was informed of the murder of journalist Luiz Carlos Gomes on August 12 in the municipality of Italva, Rio de Janeiro, after his vehicle was shot at by unknown persons driving a motorcycle. Luiz Carlos Gomes was the owner of the newspaper *Tempo News* and host of the program *Quinta no Ar* ("Thursday on the Air") on *Rádio Oásis FM*, a community media outlet in Italva. On the program, the journalist reported on issues of local public interest, including events related to the municipality's public administration and personnel management. In his last program, he announced that he was going to disclose data on appointments and secret payments of the Ceperj Foundation (State Foundation Center for Statistics, Research and Training of Public Servants of Rio de Janeiro).<sup>430</sup>

214. The Rapporteurship recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation".

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<sup>425</sup> Congresso em Foco. 06 June 2022. [AFTER REPORTER, EDITOR IS THREATENED WITH DEATH AND RAPE](#); Correio Braziliense. 09 June 2022. [Publisher is threatened after exposing Bolsonaro's fake news scheme](#).

<sup>426</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 02 March 2022. Press Release R43/22. [The Office of the Special Rapporteur condemns the murder of journalist Givanildo Oliveira in Brazil, and calls on the State to investigate the facts in relation to his journalistic activity](#).

<sup>427</sup> Portal de Fortaleza. February 08, 2022. [Official Statement](#).

<sup>428</sup> IACHR. CP 133/2022. [IACHR Grants Precautionary Measures in Favor of Indigenous Rights Defender Bruno Araújo Pereira and Journalist Dom Phillips in Brazil](#). June 11, 2022.

<sup>429</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 18, 2022. Press Release R138/22. [SRFOE condemns the murders of the beneficiaries of precautionary measures, journalist Dom Phillips and indigenous peoples expert Bruno Araújo Pereira in Brazil](#).

<sup>430</sup> Abrajil. 15 August 2022. [Police search security camera footage to identify newspaper owner's killers](#); ABI. 15 August 2022. [Journalist is shot to death in Italva \(RJ\). ABI calls for rigorous prosecution and punishment of the culprits](#).



215. On the other hand, the Rapporteurship welcomes that on December 9, 2022, a popular jury convicted four people for the intellectual and material authorship of the murder of sports journalist Valério Luiz de Oliveira. Two of the defendants were sentenced to 14 years in prison and the others to 16 years.<sup>431</sup> Valério Oliveira was killed on July 5, 2012, when a motorcyclist fired several shots at the journalist as he was leaving Radio Jornal, the radio station where he worked. Valério Luiz was considered a critical voice in sports journalism in his region and had recently received death threats.<sup>432</sup> The Rapporteurship urges Brazil to continue to make progress in the pursuit of justice in cases of violence and murder of journalists, as the persistence of aggressions and murders in different regions of the country, together with the situation of impunity for many of these crimes, can lead to censorship.<sup>433</sup>

216. For its part, the Rapporteurship notes that attempts to censor journalistic work are present in investigations and civil and criminal judicial proceedings, with at least one arrest for crimes against honor,<sup>434</sup> defamation and indemnification suits against journalists who report on matters of public interest,<sup>435</sup> particularly matters linked to public figures.<sup>436</sup> This Office learned that on June 9 journalist Juliana Dal Piva was sentenced to pay US\$ 2,000 for publishing a threatening message sent by President Jair Bolsonaro's lawyer, following the publication of a report on alleged corruption involving Bolsonaro and members of his family.<sup>437</sup>

217. In 2022, a penalty of approximately R\$ 300,000 (US\$ 60,000) was enforced against the journalist Rubens Valente and the publisher *Geración Editorial*, for publishing a book on the investigations of a well-known case of money laundering, diversion of public funds and corruption in Brazil. In the book, the author criticized the judicial actions of a minister of the Federal Supreme Court in the context of some of the proceedings related to the investigation, for which the minister initiated a civil law suit against him, as well as against the publisher of the book.<sup>438</sup>

218. In addition, this Office has taken cognizance of decisions that could affect the dissemination of information on matters of public interest in the electoral context. For example, the Court of Justice of the Federal District and Territories issued a decision to censor a report on the alleged cash acquisition of 51 properties of the family of the President of the Republic, then candidate for reelection.<sup>439</sup> The Rapporteurship welcomes the Federal Supreme Court's ruling to suspend the decision to censor and thus allow the dissemination of the report.<sup>440</sup>

219. The Rapporteurship also learned that the Superior Electoral Court had granted rights of reply to a presidential candidate, ruling that a media outlet should refrain from "promoting new insertions and

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<sup>431</sup> Public Prosecutor's Office of the State of Goiás. November 10, 2022. [MPGO obtains conviction of defendants for the execution of journalist Valério Luiz](#).

<sup>432</sup> IACHR. Special Rapporteur on Freedom of Expression. [Freedom of expression in Brazil](#). Compilation of reports from 2005 to 2015 Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. OAS/Ser.L/V/II. CIDH/RELE/INF.15/16. December 2015. paras. 4 and 103.

<sup>433</sup> IACHR. Special Rapporteur on Freedom of Expression. [Freedom of expression in Brazil](#). Compilation of reports from 2005 to 2015 Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. OAS/Ser.L/V/II. CIDH/RELE/INF.15/16. December 2015. para. 2.

<sup>434</sup> CPJ. Mar 11, 2021. [Brazilian sports blogger faces 5 months in prison in 2016 defamation case](#); CONJUR. September 28, 2021. [ABJ repudiates the arrest of a journalist from Paulinho's blog](#).

<sup>435</sup> El País. June 9, 2021. [Police investigation against journalist from 'The Intercept' adds to offensive to intimidate the press](#); CPJ. 22 de julio de 2021. [Police investigate the editor of The Intercept Brasil, Leandro Demori, for reporting on police killings](#); The Intercept. 9 May 2022. [Denounce a judge in the press and go bankrupt \(if you don't go to jail\)](#); Abraj. 13 October 2022. [Abraji expresses concern over criminal complaint filed against Fábio Leite and Guilherme Amado](#); CONJUR. June 11, 2022. [MPF defends acquittal of journalist accused of slandering Congressman](#); Abraj. 02 September 2022. [Abraji rejects sentence that condemns journalists to indemnify judge in MT](#).

<sup>436</sup> Abraj. October 13, 2022. [Abraji expresses concern over criminal complaint filed against Fábio Leite and Guilherme Amado](#); CPJ. February 23, 2022. [Attorney general in Brazil files criminal defamation complaint against journalist Thiago Herdy](#); CPJ. October 24, 2022. [Brazilian state assembly investigates journalists, outlets reporting on abortion case](#).

<sup>437</sup> CPJ. June 15, 2022. [Brazilian court orders journalist Juliana Dal Piva to pay damages to Bolsonaro lawyer](#); Abraj. June 11, 2022. [Abraji repudiates court decision that condemns journalist to indemnify Bolsonaro family lawyer](#).

<sup>438</sup> Public Agency. May 6, 2022. [Rubens Valente case reveals new censorship and puts press freedom at risk](#); CNN. May 14, 2021. [Moraes determines that journalist publishes conviction in new edition of book](#).

<sup>439</sup> Uol. September 23, 2022. [Justice censors UOL and orders it to delete reports on Bolsonaro's real estate](#); Brasil de Fato. September 23, 2022. [Court censors reports on real estate bought with cash by Bolsonaro family](#).

<sup>440</sup> G1. September 23, 2022. [Mendonça releases UOL reports on real estate purchases in cash by Bolsonaro family](#); Gaucha ZH. September 23, 2022. [André Mendonça releases publication of report in portal on purchase of real estate in live money by the Bolsonaro family](#).

statements” on “facts known to be false” against said candidate.<sup>441</sup> The Court applied a fine of R\$ 25,000 for the failure to comply with the order. Several press entities expressed concern about such orders.<sup>442</sup> The Rapporteurship also learned of decisions based on the failure to comply with court rulings on this issue and based on the alleged risk of disclosure of “false” information in the electoral process.<sup>443</sup> The Superior Electoral Court admitted an action requesting an electoral judicial investigation against this same media outlet, arguing that one of the candidates would have received a “privileged treatment” “resulting from the production and transmission of disinformative contents (knowingly false or seriously decontextualized)” attacking the other candidacy, the STF, the TSE and the electoral process.<sup>444</sup>

220. Nevertheless, the Rapporteurship recorded important decisions of the Judiciary for the protection of freedom of the press and access to information by citizens at different levels, including addressing issues for which the Rapporteurship had expressed its concern in the 2021 Annual Report.<sup>445</sup>

221. This Rapporteurship also continued monitoring alleged editorial pressures at *Empresa Brasileira de Comunicação* (EBC), responsible for *TV Brasil*, *Rádio Nacional* and *MEC* and *Agência Brasil*. According to a report prepared by the Union of Journalists of the Federal District, based on anonymous surveys with EBC staff, 64 cases of censorship were reported between August 2021 and July 2022, particularly on human rights issues, indigenous issues and conflicts in the countryside. Additionally, 228 cases of “*gobernalismo*” were reported, concerning instances of favoring the government, and 245 cases labelled as irrelevant news, which do not present significant public interest.<sup>446</sup>

222. At the same time, stigmatizing speeches and harassment of journalists by public officials continued to be reported. This would have worsened in the electoral context. On August 16, journalist Alexandre Megale, owner of the *Sul de Minas* website, was allegedly attacked with stones in the head by councilman Luiz de Cantuária in the city of Ouro Fino, Minas Gerais. The case allegedly occurred after the journalist published a report on a criminal conviction of the councilman.<sup>447</sup> In the context of election campaigns, the newspaper *Radar Amazônico*, in the city of Manaus, reported that its team suffered reprisals by the municipality in the coverage of events and that the mayor threatened to ban the portal from press conferences after the newspaper published a report on the mayor’s alleged association with a criminal organization.<sup>448</sup> On August 28, then President Jair Bolsonaro reportedly attacked journalist Vera Magalhães, claiming that she would be a “disgrace to Brazilian journalism”, during an electoral debate after she asked him and another candidate a question about disinformation in the context of Covid-19. On September 13, in another electoral debate, a bolsonarista federal deputy reportedly reproduced the president and candidate’s statement, indicating that the journalist would be a disgrace to Brazilian journalism.<sup>449</sup>

223. The Rapporteurship recorded an important court decision for the protection of the press against attacks by President Jair Bolsonaro, which has a positive effect in preventing attacks against the exercise of journalism with respect to investigating and holding accountable public officials. In a civil suit filed by the São Paulo State Professional Journalists Union Organization, Bolsonaro was ordered to compensate journalists in the amount of R\$ 100,000 for collective moral damages.<sup>450</sup> The Rapporteurship welcomes this decision and recalls that speeches by high-ranking authorities with a stigmatizing effect may “constitute forms of direct or

<sup>441</sup> Superior Electoral Court. [Recurso 0600922-17.2022.6.00.0000](#). Decisão. October 18, 2022; Tribunal Superior Electoral. [Recurso 0600906-63.2022.6.00.0000](#). Decisão. October 18, 2022; Superior Electoral Court. [Recurso 0601035-68.2022.6.00.0000](#). Decisão. October 18, 2022.

<sup>442</sup> Jovem Pan. October 19, 2022. [Entities repudiate and condemn censorship imposed by the TSE](#); Poder 360. October 20, 2022. [Radio and TV Association criticizes decisions against broadcasters](#).

<sup>443</sup> Justiça Eleitoral. October 23, 2022. [TSE does not censor Jovem Pan radio station](#).

<sup>444</sup> Superior Electoral Court. Investigation Action 0601483-41.2022.6.00.0000. [Admissibility Decision](#). October 15, 2022.

<sup>445</sup> Gauchazh. January 11, 2022. [STF injunction overturns prior censorship of RBS TV reportage](#); Abraji. 26 August 2022. [Abraji condemns prior censorship of RBS](#).

<sup>446</sup> EBC Employee Commission. August 2022. [Dossier on Censorship at EBC](#).

<sup>447</sup> Abraji. May 18, 2022. [Abraji repudiates stoning attack by journalist in MG](#). G1. May 16, 2022. [Journalist is beaten with stones in rural Ouro Fino: suspect is a city councilman](#).

<sup>448</sup> Abraji. 21 November 2022. [Portal Radar Amazônico, of Manaus, affirms that it has been harassed in events of the city hall](#); Fenaj. 01 November 2022. [Public Note from the Amazonas Journalists Union](#).

<sup>449</sup> Correio Braziliense. August 28, 2022. [Bolsonaro attacks Vera Magalhães during debate: “Shame for journalism”](#); Congresso em Foco. September 20, 2022. [VIDEO JOURNALIST VERA MAGALHÃES IS ATTACKED BY CONGRESSMAN BOLSONARISTA IN DEBATE](#).

<sup>450</sup> Fenaj. June 08, 2022. [Bolsonaro is condemned for collective moral damage to the journalists’ category after SJSP action](#); Jota. June 7, 2022. [Bolsonaro is condemned for collective moral damage to the category of journalists](#).



indirect interference or harmful pressure on the rights of those who seek to contribute with public deliberation through the expression and diffusion of their thoughts”.<sup>451</sup>

224. With respect to press freedom in the context of social protests, obstacles to press coverage were reported through violent attacks on journalists. This Office received information that on March 9, during a protest by the Minas Gerais police in the city of Belo Horizonte, unidentified members threw explosive devices at journalists covering the protest.<sup>452</sup> The Rapporteurship also observed that in 2022, protests in support of the President of the Republic would have been particularly hostile environments for journalistic coverage, especially after the first round of elections and the victory of Luiz Inácio Lula da Silva in November.<sup>453</sup> According to civil society reports, more than 40 journalistic teams and 70 professionals suffered attacks while covering protests between October 30 and November 6.<sup>454</sup> In one of the cases, some demonstrators allegedly surrounded and intimidated a reporter and a cameraman from the SBT media company because of the terms used in the report.<sup>455</sup>

225. The Rapporteurship is also concerned about attacks against media outlets in retaliation for journalistic coverage, especially in response to criticism of the protests. This includes, among other documented incidents, a fire outbreak at the local radio station *Rondoniaovivo* following threats sent to its owner.<sup>456</sup>

226. The escalation of online violence against the press, which has been used to amplify threats and narratives discrediting journalism and has contributed to the deterioration of public debate in Brazil, is also of concern. On April 3, federal deputy Eduardo Bolsonaro reportedly posted on his Twitter account that he regretted the snake, in reference to the torture carried out with a snake against journalist Míriam Leitão during the dictatorship, following the journalist’s statement that Jair Bolsonaro “is the enemy of democracy”.<sup>457</sup> According to reports from Reporters Without Borders, who monitored the election period between 16 August and 30 October, there were at least 2.8 million posts with offensive and aggressive content against journalists, including 264 different hashtags used in the attacks. Also, among the 10 most targeted journalists, 88% of the aggressive content posted on networks in the monitored period would have been directed at female journalists. The reports noted that journalists who covered the decisions of the Superior Electoral Court in the fight against disinformation became targets of aggressions.<sup>458</sup>

227. This Office welcomes the vote of the Federal Supreme Court’s Justice Carmen Lúcia in an action seeking to declare unconstitutional all acts of the federal government to monitor the activities of journalists and parliamentarians on social networks. In the decision, Justice Carmen Lúcia stressed that the monitoring violates the constitutional principle of public morality and the fundamental rights of those monitored, such as the free expression of thought.<sup>459</sup> The action is currently suspended following a request for a hearing by one of the Ministers of the Court.<sup>460</sup>

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<sup>451</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>452</sup> CPJ. March 18, 2022. [Brazilian journalists injured by explosive devices at police protest.](#)

<sup>453</sup> Folha do Sul. December 20, 2022. [A councilwoman from Vilhenense is in solidarity with a reporter from Folha who had her cell phone snatched by a demonstrator during a protest.](#)

<sup>454</sup> Abraji. November 10, 2022. [Organizations linked to freedom of the press speak out against aggression during the election period.](#); Folha de S. Paulo. November 10, 2022. [Acts of coup have escalated attacks against the press.](#)

<sup>455</sup> GauchaZH. 02 November 2022. [Reporting crews from Band, TV Record and SBT are assaulted and intimidated by Bolsonaroists in downtown Porto Alegre.](#); SBT news. 02 de novembro de 2022. [SBT Rio Grande do Sul team harassed by protesters in Porto Alegre.](#)

<sup>456</sup> Rondoniaovivo. November 24, 2022. [Vandal: criminals set fire to radio that was against anti-democratic protests.](#); Bnews. 24 November 2022. [Video: Radio is torched and owner believes Bolsonaroists are responsible](#)

<sup>457</sup> Congresso em Foco. 03 April 2022. [EDUARDO BOLSONARO SAYS HE HAS SNAKE FEATHER USED IN MIRIAM LEITÃO’S TORTURE.](#) Poder 360. April 03, 2022. [Eduardo Bolsonaro ironizes torture suffered by Miriam Leitão.](#)

<sup>458</sup> Repórteres sem Fronteiras. August 25, 2022. [Press under pressure in Brazil - RSF analyzes online attacks on journalists during the presidential elections.](#)

<sup>459</sup> Migalhas. February 7, 2022. [STF: Mendonça asks for hearing in action on government to monitor journalists.](#); G1. 04 February 2022. [STF rapporteur votes to prohibit the government from monitoring journalists and parliamentarians on social networks.](#)

<sup>460</sup> Migalhas. February 7, 2022. [STF: Mendonça asks for hearing in action on government to monitor journalists.](#); G1. 04 February 2022. [STF rapporteur votes to prohibit the government from monitoring journalists and parliamentarians on social networks.](#)

228. This Rapporteurship also became aware of a 9.5% reduction in the number of municipalities considered news deserts in Brazil. According to reports, 5 out of 10 Brazilian cities do not produce local journalistic information. In Brazil, 2,968 cities qualified as news deserts in 2022 with a total of 29.3 million inhabitants, which corresponds to 13.8% of the Brazilian population. In 2022, three cities would have returned to news desert status compared to the previous year.<sup>461</sup> According to the *Atlas da Notícia* project, “online journalism is diversifying as it manages to explore new formats, experiment with other financing models, obtain remuneration on social platforms and also use them as a means of distributing its content”.<sup>462</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

229. The year 2022 was marked by the tension between the Government and the judiciary and its electoral justice, as well as its political opponents. Ministers Luiz Edson Fachin, Roberto Barroso and Alexandre de Moraes, who in recent years exercised functions in both the Supreme Federal Court and the Superior Electoral Court - including the presidency of the latter - were targets of criticism and accusations of abuse of authority by former President Jair Bolsonaro.<sup>463</sup> In August, during a state visit to England, Bolsonaro stated that “If we did not win in the first round, then something unusual has happened inside the TSE [Superior Electoral Court]”.<sup>464</sup> On Independence Day, several demonstrations took place in Brazil in support of then President Bolsonaro. The president made speeches to the demonstrators in Brasília and Rio de Janeiro. On both occasions, he stressed the obligation for “everyone to play within the 4 lines of the Constitution” and that “today the people know what the Supreme Federal Court is”.<sup>465</sup> Previously, in July, during the launch of his electoral campaign, the former president stated that on September 7, 2022 “we will take the streets” so that “those few deaf men in black coats [referring to the Federal Supreme Court Justices]” will have to understand “the people’s voice”. On this occasion, he also affirmed that the Army and the Armed Forces would not admit “frauds”.<sup>466</sup> Likewise, the former president called a meeting with different ambassadors where he raised questions about the security and credibility of the electronic voting system in Brazil.<sup>467</sup>

230. The Rapporteurship highlights that, despite the fact that on several occasions the former president has affirmed the existence of fraud in the electoral process, the president was repeatedly summoned by the electoral authorities to present evidence of his affirmations and did not do so.<sup>468</sup> In this context, the former president’s party, following the election results of the second round, filed a lawsuit questioning the counting of votes in part of the electronic ballot boxes. The former president’s accusations against the electronic ballot boxes during the electoral period would have motivated the opening, in December, of an electoral justice investigation for alleged abuse of economic power.<sup>469</sup> However, the party did not respond to the summons from the Superior Electoral Court to amend its initial petition and include the first round and the legislative elections in the object of the lawsuit, since the ballot boxes had also been used.<sup>470</sup> The lawsuit was rejected by the electoral justice, which considered it “inconsistent with the purpose of promoting criminal and anti-democratic movements” and applied a fine of R\$ 22.9 million against the party.<sup>471</sup> In said lawsuit, the party had cited a

<sup>461</sup> Atlas da Notícia. February 23rd, 2022. [Atlas da Notícia identifies the reduction of newsfeed and leadership of online journalism in Brazil](#).

<sup>462</sup> Atlas da Notícia. February 23rd, 2022. [Atlas da Notícia identifies the reduction of newsfeed and leadership of online journalism in Brazil](#).

<sup>463</sup> Culture. May 20, 2022. [Bolsonaro says Fachin, Barroso and Moraes “make Brazil hell”](#); Correio Braziliense. March 31, 2022. [In campaign tone, Bolsonaro repeats onslaught of criticism of TSE](#).

<sup>464</sup> Extra. September 18, 2022. [In London, Bolsonaro again attacks electoral system without evidence](#); BBC. September 18, 2022. [In London for the Queen’s funeral, Bolsonaro makes campaign speech and talks about victory in the first round](#).

<sup>465</sup> Uol. September 7, 2022. [September 7: Read Bolsonaro’s full speech in Rio](#); Gazeta do Povo. September 7, 2022. [Check out Bolsonaro’s full speech in Copacabana, Rio de Janeiro](#).

<sup>466</sup> Poder 360. July 24, 2022. [Read and watch Bolsonaro’s speech at the PL convention](#); SBT News. July 24, 2022. [Live: PL officializes Bolsonaro’s candidacy for the presidency](#).

<sup>467</sup> Poder 360. July 18, 2022. [Read the full text of what Bolsonaro said to ambassadors](#); Jota. 28 July 2022. [Bolsonaro’s defense tells TSE that attack on ballot box is ‘debate of ideas’](#).

<sup>468</sup> Uol. February 11, 2022. [Bolsonaro says Army detected vulnerabilities in ballot boxes: TSE denies it](#); Poder360. August 4, 2021. [Bolsonaro responds to TSE request, but presents no evidence of fraud](#); Conjur. 4 August 2021. [Bolsonaro responds to TSE on fraud without presenting evidence](#).

<sup>469</sup> Folha de São Paulo. December 15, 2022. [TSE opens investigation against Bolsonaro for attack on ballot boxes and abuse of economic power](#); Exame. December 15, 2022. [TSE opens investigation against Bolsonaro for abuse of political and economic power](#).

<sup>470</sup> Migalhas. 22 November 2022. [Election: Bolsonaro asks TSE to nullify votes from part of ballot boxes](#); Poder360. 22 November 2022. [Bolsonaro’s party asks TSE to invalidate more than half of the votes](#).

<sup>471</sup> Superior Electoral Tribunal. December 15, 2022. [TSE confirms fine of R\\$ 22.9 million to the PL for má-fé litigation](#); Conjur. November 23, 2022. [Alexandre rejects PL’s request and fines the party R\\$ 22 million](#).

dossier prepared by the *Instituto Voto Legal* pointing out the existence of “serious and irremediable inconsistencies in the operation of part of the electronic ballot boxes”.<sup>472</sup> The institute would have been hired by the party itself against payment of approximately R\$ 450.000. The Superior Electoral Court qualified the dossier as “false”, both the preparation and financing of said dossier is being investigated by the Court and by the Federal Supreme Court as part of the “Fake News Investigation”.<sup>473</sup>

231. This Office emphasizes that the worsening of the tension between the government and the judiciary must be analyzed together with the decisions taken by both the Superior Electoral Court and the Federal Supreme Court, which would impose the limitation of certain online content. This is especially true in Investigations 4.781, 4.828, 4.874, 4.879211, which the Federal Supreme Court would be advancing, as reported by the Rapporteurship in its Annual Report 2021.<sup>474</sup> The President stated, for example, that his government “did not admit any control of social networks”<sup>475</sup> and has publicly criticized decisions that impose suspensions, demonetization and other restrictions on content and users that “would be on our [his] side”.<sup>476</sup>

232. In this framework, in April 2022, the Federal Supreme Court sentenced a federal congressman to 8 years and 9 months of prison and payment of a fine of R\$ 212.000 for the crime of attempted incitement to the violent abolition of the rule of law and coercion in the course of criminal proceedings.<sup>477</sup> This after the disclosure, between November 2020 and February 2021, of videos of the congressman on social networks making statements with respect to: acts of violence that could be committed against public authorities, especially ministers of the Federal Supreme Court; the role of the armed forces as a “moderating power” to intervene and “close” the Federal Supreme Court; the possibility of removing all Supreme Court judges from their positions and convene new members; and to the alleged fraud in electoral processes; among others.<sup>478</sup> After the conviction, the President of the Republic granted a pardon (“*graça constitucional*”) to the congressman, emphasizing that “freedom of expression is an essential pillar of society in all its manifestations” and that the congressman “only made use of his freedom of expression”.<sup>479</sup> Several actions were filed against the pardon decree, which are awaiting a decision by the Federal Supreme Court.<sup>480</sup> Until the Court analyzes the constitutionality of the pardon decree, the Court decided to maintain the precautionary measures against the convicted congressman, such as the prohibition to use social networks.<sup>481</sup>

233. In August 2022, the social networks of the congressman’s wife, who was then also a candidate for federal congresswoman, were suspended by order of the Federal Supreme Court. Although this person was not part of any process or investigation in the Court, the judicial body considered that the congressman used his wife’s networks to circumvent the observance of the precautionary measures against him<sup>482</sup> which are in force until the Court resolves the constitutionality of the pardon. In May, the congressman was fined more than R\$ 400.000 for failing to comply with the precautionary measures.<sup>483</sup>

234. In June, the Federal Supreme Court did not grant the request for a provisional injunction to suspend the effects of a decision of the Superior Electoral Court in the case involving a federal congressman for serious

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<sup>472</sup>Leading Party. November 15, 2022. [Technical Report: Invalid Logs of the Electronic Ballot Boxes: Supervision of the 2022 Elections at the TSE](#).

<sup>473</sup> Superior Electoral Tribunal. September 28, 2022. [Note to the press - Superior Electoral Court](#); Uol. October 11, 2022. [TSE orders PL to indicate origin of verbs that banked the report against the polls](#).

<sup>474</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Annual Report 2021. OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. para. 139-141.

<sup>475</sup> Uol. September 7, 2022. [September 7: Read Bolsonaro's full speech in Rio](#); Poder360. September 7, 2022. [Read Bolsonaro's full speech during the event in Rio](#).

<sup>476</sup> R7. October 19, 2022. [Bolsonaro criticizes decisions against the press in elections: 'Potentialization of censorship'](#); CNN. 20 October 2022. [There is an interest of the Judiciary for a candidate, says Bolsonaro](#).

<sup>477</sup> Federal Supreme Court. Plenary. Criminal Action 1044. [Trial](#). April 20, 2022.

<sup>478</sup> Federal Supreme Court. Plenary. Criminal Action 1044. [Trial](#). April 20, 2022.

<sup>479</sup> Federative Republic of Brazil. Published on 04/21/2022, Issue: 75 -D, Section 1, Extra D. [Decree of April 21, 2022](#).

<sup>480</sup> Federal Supreme Court. April 22, 2022. [Parties question Bolsonaro's grace to Congressman Daniel Silveira](#); Migalhas. 23 April 2022. [Rosa Weber is rapporteur of the action requesting annulment of Silveira's pardon](#); Poder 360. 25 May 2022. [Indulto de Bolsonaro a Silveira é constitucional, diz PGR](#).

<sup>481</sup> Federal Supreme Court. Minister Alexandre de Moraes. Criminal Action 1044. [Decision](#). April 26, 2022.

<sup>482</sup> Poder 360. August 30, 2022. [Daniel Silveira's wife's social networks are blocked](#); Uol. August 30, 2022. [Daniel Silveira's wife has social networks blocked after Moraes' order](#).

<sup>483</sup> Federal Supreme Court. May 3, 2022. [Minister Alexandre de Moraes fines Daniel Silveira R\\$ 405 thousand for breach of injunction](#).

damages in the 2018 electoral process. The congressman had allegedly made live transmissions, on the election day, claiming that the electronic ballot boxes were not correctly computing the votes for the presidency of the Republic. The congressman had requested the suspension of the effects of the decision until the final phase of an appeal filed before the Federal Supreme Court.<sup>484</sup>

235. Likewise, a former federal congressman and former president of the Brazilian Labor Party, fired more than 50 shots and threw 3 grenades against Federal Police officers who were serving a prison sentence signed by Minister Alexandre de Moraes, of the Federal Supreme Court.<sup>485</sup> The politician is a defendant in a criminal action heard by Federal Supreme Court for incitement to crime, attempting to impede the free exercise of Powers with violence or serious threat, slander and homophobia.<sup>486</sup> The politician had previously been investigated in proceedings brought by the Federal Supreme Court.<sup>487</sup>

236. At the same time, the Rapporteurship notes the existence of various provisions in the Brazilian institutional and legal framework that would allow the Superior Electoral Court to justify and impose restrictions on the exercise of freedom of expression to prevent the dissemination of false news that may negatively impact the electoral processes. For example, Court Resolutions prohibit the “dissemination or sharing of facts known to be false or seriously out of context that affect the integrity of the electoral process, including voting, counting and voting results”.<sup>488</sup> The Court also considers that “the use of digital instant messaging applications aimed at promoting mass shootings containing disinformation and falsehoods to the detriment of opponents and to the benefit of the candidate can be constitute abuse of economic power and misuse of social media”.<sup>489</sup> Likewise, among other electoral crimes is that of “revealing, in electoral propaganda or during the electoral campaign period, facts that are known to be false in relation to parties or candidates and that may influence the electorate”.<sup>490</sup>

237. The Rapporteurship recognizes that “in the case of the dissemination of misinformation, it does not always seek to damage the reputation of one of the participants of public life or an election, but to affect a more diffuse interest such as democratic public order, involved in the integrity of the electoral process. In these cases, it is clear that the civil responsibilities provided would not be suitable for safeguarding that interest and electoral law could develop specific responses to this kind of phenomena”.<sup>491</sup> However, the Rapporteurship notes the need, even in these cases, to take into account inter-American standards on freedom of expression, such as the legality, legitimacy, necessity and proportionality of the restriction and the prohibition of prior censorship.<sup>492</sup>

238. This Office notes that the Superior Electoral Court in a precautionary order suspended, prior to its dissemination, the release of an audiovisual work produced by *Brasil Paralelo* about the attack against the then presidential candidate that took place in 2018. The decision also determined the demonetization of the production company’s social media profiles. The decision mentions that the company produced audiovisual content ideologically oriented to endorse support for a candidacy, with the aim of providing journalistic appearance and objectivity to these ideologically oriented contents, despite the fact that it would have repeatedly used “fake news” against the main opposition candidate. In voting in favor of upholding the decision,

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<sup>484</sup> Brazil Agency. June 7, 2022. [STF overturns decision that returned congressman Francischini to office](#); Jota. June 7, 2022. [STF overturns decision of Nunes Marques and maintains cassation of pro-Bolsonar deputy](#).

<sup>485</sup> CNN. 24 October 2022. [In testimony, Jefferson says he fired 50 times at police officers](#); Poder 360. 24 October 2022. [Jefferson fired 50 rifle shots and threw 3 grenades, says PF](#).

<sup>486</sup> Federal Supreme Court. June 27, 2022. [Supreme Court receives accusation against Roberto Jefferson for incitement to crime](#).

<sup>487</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Annual Report 2021. OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. para. 139-141.

<sup>488</sup> Superior Electoral Court. [Resolution 23.714](#). October 20, 2022.

<sup>489</sup> Superior Electoral Tribunal. August 11, 2022. [TSE judges actions against Jair Bolsonaro and Hamilton Mourão inadmissible](#).

<sup>490</sup> Federative Republic of Brazil. [Electoral Code](#). "Art. 323. To divulge, in electoral propaganda or during the electoral campaign period, facts known to be untrue in relation to parties or candidates and capable of exerting influence on the electorate: **Penalty** - detention from two months to one year or payment of 120 to 150 days-fine".

<sup>491</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). OEA/Ser.G CP/CAJP/INF.652/19. October 2019. p. 24.

<sup>492</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). OEA/Ser.G CP/CAJP/INF.652/19. October 2019. p. 25-26.



a member of the Superior Electoral Court pointed out that the decision was of great concern to her, because there is jurisprudence “preventing any form of censorship”.<sup>493</sup>

239. At the same time, the IACHR and its Rapporteurship have been informed, throughout 2022, about the self-censorship and the increasing dissuasive effects for demonstrations, especially those organized for the demand of rights by vulnerable groups and by human rights defenders, due to the fear of acts of violence against them.<sup>494</sup> The IACHR learned about the use of flying devices (drones) to drop human excrement on people participating in political elections on June 15.<sup>495</sup> Likewise, as reported in previous sections of this report, there are reports of stigmatization and aggressions against journalists covering social protests, particularly in the context of protests supporting the government in power and linked to the distrust of democratic institutions in Brazil.<sup>496</sup>

240. In 2022, political violence claimed several fatalities in Brazil. On July 9, 2022, Marcelo Aloizio de Arruda, municipal guard and treasurer of the Workers’ Party (PT), was murdered by a federal police officer, who broke into his celebration and shot him for political reasons.<sup>497</sup> The perpetrator has precautionary measures against him, including the use of an electronic anklet and house arrest.<sup>498</sup> In addition, Claudinei Coco Esquarcini, the private security guard of the recreational area where the celebration was held and responsible for the surveillance cameras of the place where the crime was committed, was found dead on July 17, 2022.<sup>499</sup> The Rapporteurship also learned of at least killings in the context of political discussions, with at least five victims who supported different political candidacies.<sup>500</sup> On the eve of the second round of voting, a deputy from São Paulo killed a man of African descent at gunpoint for alleged political differences.<sup>501</sup> On the day of the second round, an Afro-descendant girl was murdered in a shooting that was allegedly politically motivated, in Belo Horizonte, a situation in which a man also died and a woman was wounded.<sup>502</sup> On the same day, a child fainted due to asphyxiation caused by a military policeman after expressing his political preference.<sup>503</sup>

241. For its part, in 2022, decisions of the Federal Supreme Court determined that security forces should adopt all necessary measures to guarantee access to roads in the face of roadblocks carried out by protesters after the results of the 2022 elections and – according to decisions of the Federal Supreme Court itself<sup>504</sup> – the demonstrators would support claims against the integrity and legitimacy of the Brazilian electoral system.<sup>505</sup> Since October, the use of tear gas and other allegedly non-lethal devices against demonstrators obstructing

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<sup>493</sup> CNN. October 20, 2022. [Decision that postponed documentary “can be poison or remedy”, says Cármen Lúcia](#); O Antagonista. October 20, 2022. [Poison or remedy?](#).

<sup>494</sup> IACHR. [Press Release 171/22](#). IACHR calls on Brazil to prevent, investigate and punish acts of violence in the context of the upcoming electoral process. July 29, 2022.

<sup>495</sup> IACHR. RELE. July 29, 2022. Press Release 171/2022. [IACHR calls on Brazil to prevent, investigate and punish acts of violence in the context of the upcoming electoral process](#).

<sup>496</sup> IACHR. Annual Report 2021. [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. para. 117; IACHR. Annual Report 2020. [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. para. 180; OEA/Ser.L/V/II. Doc. 5. par. 180; IACHR. Annual Report 2019. [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OAS/Ser.L/V/II. Doc. 5 24 February 2020. Para. 220.

<sup>497</sup> IACHR. RELE. July 29, 2022. Press Release 171/2022. [IACHR calls on Brazil to prevent, investigate and punish acts of violence in the context of the upcoming electoral process](#).

<sup>498</sup> Poder 360. August 10, 2022. [Justice grants house arrest to officer who killed petista](#); G1. August 11, 2022. [Criminal police officer who killed the victim in Foz do Iguaçu is taken home with an electronic lathe](#).

<sup>499</sup> IACHR. RELE. July 29, 2022. Press Release 171/2022. [IACHR calls on Brazil to prevent, investigate and punish acts of violence in the context of the upcoming electoral process](#).

<sup>500</sup> G1. October 6, 2022. [Petista who killed Bolsonaro on São Paulo coast is ‘very sorry,’ says delegate](#); O Globo. 2 October 2022. [Politically motivated murder cases mark final stretch of the election: remember](#).

<sup>501</sup> IACHR. December 2, 2022. Press Release 266/2022. [IACHR and SRFOE reject the escalation of tension, intolerance and violence following the presidential elections in Brazil](#).

<sup>502</sup> IACHR. December 2, 2022. Press Release 266/2022. [IACHR and SRFOE reject the escalation of tension, intolerance and violence following the presidential elections in Brazil](#).

<sup>503</sup> IACHR. RELE. December 2, 2022. Press Release 266/2022. [IACHR and RELE reject the escalation of tension, intolerance and violence following the presidential elections in Brazil](#).

<sup>504</sup> Federal Supreme Court. ADPF 519. [Decision](#). October 31, 2022.

<sup>505</sup> Supreme Federal Court. [Minister Alexandre de Moraes orders immediate unblocking of highways](#); Poder 360. 1 November 2022. [Moraes authorizes Military Police to clear highways, including federal ones](#); G1. November 7, 2022. [Moraes orders PM of Acre to unblock roads blocked by pro-coup attacks, including the Army battle area in Rio Branco](#).

roads, highways or urban and local roads, has been recorded.<sup>506</sup> Likewise, the Rapporteurship has learned of judicial decisions that would have been motivated by sanctions or prevention requests, public calls for demonstrations, including by State officials. For example, Minister Alexandre de Moraes of the Federal Supreme Court, determined the temporary suspension of the mandate and functions of a mayor on the grounds that the mayor had instigated the breakdown of democratic order by encouraging demonstrations that raise questions about the outcome of the elections.<sup>507</sup>

242. This Office also notes that some of these blockades took place on roads near barracks and other military institutions, calling for the armed forces to “intervene” in order to guarantee the exercise of constitutional powers, law and order. During the year, military representatives reportedly sent letters to the Superior Electoral Tribunal, questioning the functioning of the electoral system, requesting changes, and suggesting the possibility of the armed forces conducting a parallel scrutiny and counting of votes.<sup>508</sup> The Superior Electoral Tribunal has provided technical responses to the consultation.<sup>509</sup> In this context, this Office was informed that on January 8, 2023 a camp was set up in front of the Brazilian Army headquarters in Brasília<sup>510</sup> as the starting point of a march that ended in the attacks, with the damage of buildings and the invasion of the headquarters.<sup>511</sup> In November, the Armed Forces published a note condemning “eventual restrictions to rights, by public agents, as well as eventual excesses in the demonstrations” indicating that “society should make use of the legal instruments of the democratic rule of law in the face of controversies”.<sup>512</sup> Likewise, a report confirming the security of the electronic ballot boxes used in the electoral process was published.<sup>513</sup>

243. In this context, through a joint press release, the IACHR and its Rapporteurship expressed their concern for the acts of violence registered in the context of demonstrations against the electoral results. It was reported that at least 40 journalists suffered physical or verbal aggressions, harassment by demonstrators since the proclamation of the election results; that children and adolescents, women and elderly people were allegedly used as shields against the security forces that freed the roads; an agent of the Federal Highway Police was assaulted while participating in an operation to free roads occupied by demonstrators; as well as the running over of people demonstrating in São Paulo.<sup>514</sup>

244. This Office recalls that protesters have the right to choose the content and messages of the protest, based on the general presumption of coverage of all expressions, except for speeches that, by virtue of express prohibitions set forth in international human rights law, do not enjoy such protection (Article 13.5 of the ACHR).<sup>515</sup> In this sense, the restrictions imposed on protests due to the possible disruption of daily life, such as roadblocks, must take into consideration the presumption of coverage ab initio and that, in the case of protected speech, the restrictions must be applied exceptionally, defined case by case, justified on the basis of the protection of individuals and take place only when the disruption of daily life extends over time and scales to

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<sup>506</sup> Uol. 31 October 2021. [Highway police use tear gas bomb to free road in GO](#); November 2, 2022. [SP Military Police use gas bombs and water jets to unblock Castello Branco](#); Agência Belem. November 16, 2022. [Belem's mayor determines to liberate sidewalks occupied by coup protesters](#); UOL. November 1, 2022. [Coup attempt is dispersed with rubber bullets and tear gas in PA](#).

<sup>507</sup> Federal Supreme Court. December 7, 2022. [Minister determines removal of the mayor of Tapurah \(MT\) for encouraging antidemocratic acts](#).

<sup>508</sup> Piauí. September 16, 2022. [Parallel counting is military disloyalty to the TSE](#); Conjur. September 12, 2022. [TSE denies that the Armed Forces will carry out parallel voting in the elections](#).

<sup>509</sup> Superior Electoral Court. August 8, 2022. [TSE sends technical answers to questions posed by the Armed Forces](#); Superior Electoral Court. February 16, 2022. [TSE discloses information provided to the Armed Forces on the electronic voting process](#).

<sup>510</sup> G1. December 29, 2022. [Army says it decided to postpone demobilization of Bolsonaroist camp in front of HQ in Brasília](#); R7. 30 December 2022. [DF Government monitors Army HQ after failed eviction attempt](#).

<sup>511</sup> IACHR. January 23, 2022. Press Release 6/2022. [The IACHR repudiates the attacks against democratic institutions in Brazil](#).

<sup>512</sup> G1.11 November 2022. [Armed Forces issuing a note condemning 'eventual excesses committed in demonstrations'](#) Uol. November 11, 2022. [Armed Forces say demonstrations are legitimate, but condemn excesses](#).

<sup>513</sup> Superior Electoral Tribunal. November 9, 2022. [Report from the Armed Forces confirms the safety of the electronic ballot boxes](#).

<sup>514</sup> IACHR. RELE. December 2, 2022. Press Release 266/2022. [IACHR and SRFOE reject the escalation of tension, intolerance and violence following the presidential elections in Brazil](#).

<sup>515</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF. 22/19. September 2019, paras. 66 and 67.

the point of seriously compromising the guarantee of other rights related to the life and personal integrity of individuals.<sup>516</sup>

245. The Rapporteurship emphasizes that, in this context, the former president did not publicly or explicitly acknowledge the electoral results. In his first public statement to the press after the electoral defeat, he affirmed that “the current popular movements are the result of indignation and a feeling of injustice for the way the electoral process was carried out” and that “as President of the Republic and citizen, [he] will continue to comply with all the commandments of our Constitution”.<sup>517</sup> On the day of the delivery of the election victory certificate to candidate Luiz Inacio Lula da Silva, demonstrators attempted to invade a Federal Police building in Brasília and cars and buses were set on fire.<sup>518</sup> At the same time, three people reportedly planned to fire a bomb outside the Brasília airport on December 24, allegedly motivated by political reasons and dissatisfaction with the election results.<sup>519</sup>

246. In relation to the right to access to information, the Rapporteurship has been informed of an investigation by *Transparency Brazil* that indicates that, between 2019 and 2022, the federal government would have denied access to information in at least 413 cases that could be related to matters of public interest and that should be public, by imposing a 100-year reservation for the protection of personal information or personal data.<sup>520</sup> The Rapporteurship has also been informed about challenges to the transparency of government budget management.<sup>521</sup> In December, the Federal Supreme Court declared the unconstitutionality of the extensive use of the mechanism of “rapporteur’s amendments”, which should be a mechanism intended to fix punctual errors or omissions in the budget law.<sup>522</sup>

247. Regarding the situation of academic freedom in Brazil, the IACHR has received reports produced by the Center for the Analysis of Freedom and Authoritarianism that report various challenges to this right in the country, including self-censorship motivated by fear of reprisals, such as judicial and administrative lawsuits. In some cases, teachers have reported fear of addressing certain topics, even for fear of complaints from other teachers or the student body.<sup>523</sup> The Rapporteurship has followed criminal lawsuits filed by high-ranking public authorities against a professor at the University of São Paulo and a columnist for *Folha de São Paulo*. In 2021, the Attorney General of the Republic and a Minister of the Federal Supreme Court filed criminal lawsuits against the professor for alleged crimes against the honor resulting of publications critical of their actions as public officials. Although last year a first instance court rejected the lawsuit filed by the Attorney General of the Republic, in 2022 the Federal Regional Court of the First Region annulled such decision.<sup>524</sup> An appeal filed by the Minister of the Federal Supreme Court against the first instance decision which also rejected his criminal complaint,<sup>525</sup> is still pending analysis by the Federal Regional Court. The Rapporteurship also learned that a professor at a public university had notified two of her students that she would no longer act as director of their doctoral research because of “leftist” ideologies.<sup>526</sup>

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<sup>516</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF. 22/19. September 2019, para. 71; IACHR. [Observations and recommendations of the working visit of the IACHR to Colombia carried out from June 8-10, 2021](#). July 2021, para. 157.

<sup>517</sup> G1. November 1, 2022. [Watch and read Bolsonaro's first speech after defeat in the runoff](#); Poder360. 1 Nov. 2022. [Bolsonaro spoke for 2min3s: read the full speech](#).

<sup>518</sup> CNN. December 12, 2022. [Brasília has riots and burned buses after attempted invasion of the PF headquarters](#); Poder360. 17 December 2022. [Facts of the Week: Lula's diplomacy and protests in Brasília](#).

<sup>519</sup> Metropoles. January 15, 2023. [Three suspects in bombing of Brasília Airport become defendants](#); Gazeta do Povo. December 25, 2022. [Arrested for planning bombing in Brasília says he wanted to provoke military intervention](#).

<sup>520</sup> Transparency Brazil. [“100 year-old Secrets”: the use of art. 31 of the LAI in negatives](#). December 2022.

<sup>521</sup> DW. December 20, 2022. [What is the secret budget, overturned by the Supreme Court](#); O Globo. 14 de outubro de 2022. [Secret budget has existed since 2020 and has this nickname because of the lack of transparency](#).

<sup>522</sup> Federal Supreme Court. December 19, 2022. [STF rules secret operation unconstitutional](#).

<sup>523</sup> LAUT. [Violations of academic freedom in Brazil - paths for a methodology](#). September 2022.

<sup>524</sup> Migalhas. 19 April 2022. [TRF-1 accepts Aras' appeal and will investigate Conrado Hübner Mendes](#); Jota. 20 April 2022. [TRF1 accepts Augusto Aras's appeal against USP professor, who criticized him in coluna](#).

<sup>525</sup> Folha de São Paulo. June 9, 2022. [Kassio Nunes says that the action against Conrado Hübner is illegal and files an appeal](#); O Antagonista. June 10, 2022. [Nunes Marques tries to retake inquiry about article by USP professor](#).

<sup>526</sup> Uol. November 3, 2022. [Amapá: Federal teacher refuses students who support Lula: 'Leftists'](#); G1. 29 November 2022. [Professor who called students 'leftists' and kicked them out of doctoral lab is dismissed from program for harassment](#).



## *Situation of Freedom of Artistic Expression in Brazil*

248. Based on the monitoring and reporting work carried out by the Brazilian Integrated Movement for Freedom of Artistic Expression (MOBILE), the Rapporteurship received various inputs about the challenges faced by artists in Brazil.<sup>527</sup> The Rapporteurship recognizes that this is one of the pioneering initiatives in the Americas in the systematized monitoring of issues dedicated to freedom of artistic expression.

249. In 2021, a public hearing took place in the framework of the 182nd Session of the IACHR. At the hearing, the civil society organizations that make up MOBILE presented their project “censorship map”,<sup>528</sup> which counts information on violations of freedom of artistic and cultural expression since 2019.<sup>529</sup> According to information collected in this initiative, between 2019 and 2022 at least 251 cases were reported in the “censorship map”, which include prior censorship measures, restriction on the circulation of works, measures of institutional weakening of state bodies responsible for cultural rights policies – including budget cuts and restriction of their autonomy – imposition of restrictions on policies aimed at the cultural sector justified on the basis of ideological or partisan criteria, lack of transparency, among others. The Federal Executive Branch was reported to be responsible for the restrictions in 71% of the cases. Works with LGBTQIA+ themes, related to the identity affirmation of groups in vulnerable situations and with political criticism, were particularly affected.<sup>530</sup>

250. During the year 2022, when MOBILE had registered at least 74 cases, in addition to organizing listening sessions with representatives of MOBILE and the artists’ movement in Brazil, this Office was invited to participate in working sessions as part of an academic visit to Brazil. On that occasion, the Rapporteurship was able to record a great effect of self-censorship, based on the accounts of artists, which included the fear of physical violence.<sup>531</sup>

251. Likewise, it was reported that cultural and artistic expressions that take place in favelas or on the outskirts of metropolises often suffer direct restriction by police agents who carry out operations that hinder the access of the population to these spaces, impose orders to close events and even destroy technical equipment used by artists arguing that it is part of the fight against crime and drug trafficking.<sup>532</sup> The Rapporteurship also rejects the destruction, by police officers, of a memorial to the 28 victims of a military operation that took place in Jacarezinho, Rio de Janeiro, in 2021, based on the justification that the space was an apology for drug trafficking.<sup>533</sup>

252. Among the cases reported in 2022, there is also the reduction of 50% of the maximum amount that can be contributed to projects and the reduction of 93% of the maximum amount paid per artist under the Culture Incentive Law.<sup>534</sup> This Law had been criticized by the former president throughout his term and which, as reported by the State at the public hearing held in the 182nd session, needed changes in its application so as not to privilege a “cultural elite”. In March, the Ministry of Justice published, as part of an informal administrative process, a decision ordering streaming platforms to suspend the exhibition of the movie “*Como se tornar o pior aluno da Escola*” in the name of child protection, despite being classified for those over 18 years

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<sup>527</sup> MOBILE. August 18, 2022. Brazil reaches 270 cases of censorship, authoritarianism, attacks on artists and dismantling of the cultural sector. Archive of the Rapporteurship; MOBILE. Data Analysis - Censorship Map in Numbers - Update August 15, 2022. Archive of the Rapporteurship.

<sup>528</sup> MOBILE. Undated. [Map of Censorship](#).

<sup>529</sup> IACHR. December 17, 2021. Press Release 344/2021. [The IACHR concludes its 182nd Period of Sessions](#).

<sup>530</sup> MOBILE. August 18, 2022. Brazil reaches 270 cases of censorship, authoritarianism, attacks on artists and dismantling of the cultural sector. Archive of the Rapporteurship; MOBILE. Data Analysis - Censorship Map in Numbers - Update August 15, 2022. Archive of the Rapporteurship.

<sup>531</sup> MOBILE. August 18, 2022. Brazil reaches 270 cases of censorship, authoritarianism, attacks on artists and dismantling of the cultural sector. Archive of the Rapporteurship; MOBILE. Data Analysis - Censorship Map in Numbers - Update August 15, 2022. Archive of the Rapporteurship.

<sup>532</sup> According to reports in the framework of the workshop on Freedom of Artistic Expression organized by MOBILE, Artículo 19 and partners with the Office of the Special Rapporteur on November 8, 2022. Archive of the Rapporteurship.

<sup>533</sup> MOBILE. 11 May 2022. [Civilian policemen tear down memorial to victims of Jacarezinho massacre](#); Metropoles. May 11, 2022. [Jacarezinho: police demolish memorial with names of those killed in operation](#).

<sup>534</sup> MOBILE. February 8, 2022. [Federal Government changes the Culture Incentive Law limiting the sector](#); Poder360. February 8, 2022. [Rouanet Law: government reduces fees and capitation limit](#); Poder360.

of age.<sup>535</sup> The decision was suspended by the 7th Federal Court of Rio de Janeiro.<sup>536</sup> At the same time, at least two municipalities imposed the prohibition of political manifestations in cultural events as a condition for artists to be hired by the municipality in the framework of one of the main popular festivals in Brazil.<sup>537</sup> In March, the courts reportedly banned political demonstrations at a major music festival in response to a request for injunctive relief in a lawsuit filed by President Jair Bolsonaro's political party based on alleged irregular electoral propaganda.<sup>538</sup> In September, the Legislative Assembly of Minas Gerais withdrew the exhibition "Deslocamentos", installed in one of its halls, due to pressure from deputies who criticized the use of Christian symbols in the works.<sup>539</sup> Likewise, the Municipality of Nova Friburgo reportedly decided the withdrawal of an art exhibition organized by the Municipal Secretariat of Culture for the International Women's Day on the grounds of child protection due to the presence of nudity.<sup>540</sup>

### C. Freedom of Expression and the fight against discrimination and exclusion

253. As this Office has reported throughout the year, in the context of allegations about the deterioration of guarantees to exercise the right to freedom of expression and citizen participation in Brazil, the Rapporteurship has received reports of an increase in politically motivated violence against groups in vulnerable situations, for instance with threats to the life and integrity of women who exercise parliamentary functions at different levels; in addition to a generalized environment of self-censorship, especially among vulnerable groups.<sup>541</sup> The Rapporteurship has also received complaints that, during the electoral period, there has been an increase in attacks against women journalists, especially those covering political events.<sup>542</sup>

254. The Rapporteurship notes that on August 1, 2022, the Superior Electoral Court and the Attorney General's Office of the Republic signed a Protocol for Joint Action in Confronting Political Gender Violence, which includes "combating political violence against women". The Protocol is framed in the context of the application of Law 14.192/2021, approved in August 2021, which prescribed "political violence against women" as a crime as well as other norms to prevent and combat said crime.<sup>543</sup> According to data from the Federal Public Prosecutor's Office, between August and November 2022 there were the opening of 112 investigation procedures related to the application of Law 14.192/2021.<sup>544</sup> In August, the Regional Electoral Court of Rio de Janeiro decided that the parliamentary immunity of deputies - which makes them inviolable for their words, opinions and votes in the exercise of their function - does not apply to "legitimize, cover up, or encourage" gender-based political violence and remove their responsibility for their speeches and opinions that may fall under this assumption.<sup>545</sup>

255. At the same time, the Rapporteurship highlights the granting of precautionary measures in favor of Councilwoman Benny Briolly Rosa da Silva Santos and members of her team, after the IACHR considered that they were in a serious and urgent situation of risk of irreparable harm for receiving death threats as a result of

<sup>535</sup> CNN. March 15, 2022. [Ministry of Justice orders removal of the movie 'How to become the worst student in school'](#); G1. [Ministry of Justice changes the indicative classification of the movie 'How to become the worst student in school'](#).

<sup>536</sup> G1. 6 April 2022. [Justice suspends censorship of the film 'How to become the worst student in school'](#); GZH. [Juiza suspends decision and Danilo Gentili's film will not need to be removed from streaming](#).

<sup>537</sup> O Povo. May 20, 2022. [São João de Caruaru prohibits political demonstrations by artists](#); Agencia de Noticias das Favelas. June 29, 2022. [Campina Grande prohibits political demonstration of artists in the June festivities](#).

<sup>538</sup> Conjur. March 26, 2022. [TSE Minister bans political demonstrations at Lollapalooza](#); Poder360. 27 March 2022. [TSE meets PL and bans political manifestation at Lollapalooza](#); SBT News. 27 March 2022. [After error in action, Lollapalooza is not subpoenaed to comply with decision](#); Conjur. March 29, 2022. [TSE accepts archiving and overturns censorship of Lollapalooza](#).

<sup>539</sup> MOBILE. September 19, 2022. [Parliament of Minas Gerais censors art exhibition due to pressure from Bolsonaroists](#); G1. September 19, 2022. [Art exhibition is banned in ALMG after criticism from deputies and religious groups](#).

<sup>540</sup> MOBILE. March 8, 2022. [Nova Friburgo City Hall censors work in International Women's Day exhibition](#); O Globo. March 13, 2022. [Nova Friburgo City Hall censors work with female nudes in an exhibition for International Women's Day](#).

<sup>541</sup> IACHR. July 29, 2022. Press Release 171/2022. [IACHR Asks Brazil to Prevent, Investigate, and Punish Violence in Its Upcoming Election Process the upcoming electoral process](#).

<sup>542</sup> Uol. October 11, 2022. [Election 2022: Attacks on women journalists increase 250% in September](#); Desinformante. 30 June 2022. [Violence Puts Women Out of Politics and Journalists Face Worst Attack](#).

<sup>543</sup> Superior Electoral Court. August 1, 2022. [TSE and Electoral Attorney General's Office sign agreement for joint action to combat gender-based political violence](#).

<sup>544</sup> National Council of Justice. December 7, 2022. [Political gender violence: Brazil registers seven cases every 30 days](#).

<sup>545</sup> Court of Justice of the State of Rio de Janeiro. Criminal Petition 0600472-46.2022.6.19.0000. [Judgment](#). August 23, 2022.

her identification as a black transvestite woman and her work as a politician and human rights defender.<sup>546</sup> In the context of her electoral campaign in 2022, federal deputy Duda Salabert, one of the first two trans women to be elected to the position of federal deputy in Brazil, also denounced various death threats received by email.<sup>547</sup>

256. In the context of worsening fractures in the Brazilian social fabric, the Rapporteurship takes note with concern of the reports on the use of discriminatory expressions against inhabitants of the northeastern region of the country, after the number of votes that the candidate Luiz Inácio Lula da Silva received in that region.<sup>548</sup> During a live broadcast on his social networks, the then president and candidate for reelection, Jair Bolsonaro, mentioned the victory of his opponent in most of the states of that region in the first round and highlighted the high illiteracy rate in the region.<sup>549</sup> During October 30, the day of the second round in Brazil, there were reports of problems in getting to the polling places due to the deployment of operations carried out by the Federal Highway Police against buses transporting voters from regions, especially in states in the northeastern region of the country.<sup>550</sup> Although the Superior Electoral Court reported that the operations did not prevent the vote,<sup>551</sup> the Superior Electoral Court would have suspended any operation of the Federal Highway Police related to public transportation made available to voters, in order to ensure broad access to the right to vote.<sup>552</sup>

257. At the same time, the Rapporteurship rejects the acts of intimidation and retaliation against journalistic work, in addition to acts that put at risk the confidentiality of sources of journalists of *Portal Catarinas* and *The Intercept Brasil* following the publication of a journalistic investigation related to restrictions on access to the voluntary termination of pregnancy of a 10-year-old girl victim of sexual violence.<sup>553</sup> This investigation helped raise public awareness about the case and, in the end, ensure the girl's access to this medical procedure.<sup>554</sup> Among the intimidating acts, in addition to statements that could have a stigmatizing impact on the defense of women's rights,<sup>555</sup> this Office was informed about the installation of a Parliamentary Commission of Inquiry by the Legislative Assembly of Santa Catarina. The Commission, after an extraordinary session to accelerate the procedure and without guaranteeing the right to access to information for the reserved nature of the sessions to protect children's rights,<sup>556</sup> made public only a limited version of its final report concluding the existence of "evil and institutionalized engineering articulated with digital media portals the propagation of false news and subject to the protection of judicial secrecy"<sup>557</sup>. The report also concludes

<sup>546</sup> IACHR, July 13, 2022. Press Release 159/2022. [IACHR grants precautionary measures to Benny Briolly Rosa da Silva Santos, transvestite councilwoman of IACHR Grants Precautionary Measures to Benny Briolly Rosa da Silva Santos, Transvestite Councilwoman of African Descent, in Brazil.](#)

<sup>547</sup> G1, August 17, 2022. [Duda Salabert receives new death threats and prejudiced content in her office at the BH Chamber](#); Uol, October 2, 2022. [After threats, Duda Salabert votes to run for president in Minas Gerais.](#)

<sup>548</sup> BBC, October 2, 2022. [Bolsonaro supporters fire offenses at northeasterners for Lula votes](#); Congresso em Foco, October 21, 2022. [Offenses on social networks reinforce misogyny and xenophobia against Northeastern candidates.](#)

<sup>549</sup> Yahoo! News, 6 October 2022. [Bolsonaro links illiteracy to Lula's victory in the Northeast: 'lack of culture'](#); Correio Braziliense, 30 October 2022. [Bolsonaro links Lula's high performance to illiteracy in the Northeast.](#)

<sup>550</sup> Veja, October 30, 2022. [President of TSE says PRF actions won't stop voters from casting ballots](#); G1, October 30, 2022. [PRF disregards TSE order and stops at least 610 buses of voters in blitzes; Moraes subpoenas director-general.](#)

<sup>551</sup> Folha de São Paulo, October 30, 2022. [No voter was prevented from voting by PRF blitzes, says Moraes](#); Terra, 30 October 2022. [Moraes says that 'no one was prevented from voting' and rules out extending voting hours.](#)

<sup>552</sup> Superior Electoral Tribunal, October 30, 2022. [TSE restricts PRF operations on public transportation and disclosure of PF actions.](#)

<sup>553</sup> The Intercept Brazil, June 20, 2022. [Video: at a hearing, SC judge induces 11-year-old girl pregnant after rape to give up legal abortion](#); Porta Catarinas, 20 June 2022. [Video: in hearing, SC judge induces 11-year-old pregnant girl after rape to desist from abortion.](#)

<sup>554</sup> Brazil Agency, June 23, 2022. [Girl raped in Santa Catarina can terminate pregnancy](#); Folha de São Paulo, June 23, 2022. [11-year-old girl raped in SC gets abortion - 06/23/2022.](#)

<sup>555</sup> Poder 360, June 24, 2022. [Bolsonarist congressman calls legal abortion "infanticide"](#); Yahoo!Noticias, 23 June 2022. [Bolsonaro ignores law and says that those who support abortion of raped children want 'dictatorship'](#); G1, 15 July 2022. [Government tries to open investigation on doctors who performed legal abortion on child rape victim.](#)

<sup>556</sup> News Agency of the Legislative Assembly of the State of Santa Catarina, October 11, 2022. [CPI on Abortion defines president, vice-president, reporter and adopts secrecy character](#); Agência de Notícias da Assembleia Legislativa do Estado de Santa Catarina, July 19, 2022. [Abortion PCI will be installed in the Legislative Assembly.](#)

<sup>557</sup> News Agency of the Legislative Assembly of the State of Santa Catarina, December 15, 2022. [CPI on Abortion delivers final report](#); Assembleia Legislativa do Estado de Santa Catarina, Abortion CPI, December 6, 2022. [ABORTION CPI FINAL REPORT: PUBLIC VERSION](#)

that there would be “strong indications” that the report made by *The Intercept Brasil* and *Portal Catarinas* on 20 June 2022 “was produced through a lawyer’s publication of confidential information”.<sup>558</sup>

258. The Rapporteurship believes that this case is part of the debate on issues of high public interest in Brazil, which has been brought to light by the performance of investigative journalism by women journalists. In covering cases of sexual violence from a gender perspective, women journalists contribute decisively to eradicate violence and discrimination against women because of their gender and bring about changes in the customs, attitudes and stereotypes of the general population.<sup>559</sup> Likewise, this Office emphasizes that the right to freedom of expression includes the right of access to information by the public. In the fight against gender violence, it is a duty of the State to guarantee the right of access to information on sexual and reproductive matters, with the State’s obligation to provide it in a timely, complete, accessible, reliable and informal manner.<sup>560</sup>

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

259. The Rapporteurship learned that a judge of the Court of Justice of São Paulo rejected the implementation of a system for capturing and processing biometric data of the city’s subway users for use in facial recognition systems, on the grounds that it would have the “potential to affect the fundamental rights of citizens”. However, the judge would have authorized the installation of the system. In the decision, the judge reportedly emphasized that the subway company “has not provided information on the criteria, conditions, implementation purposes”. The lawsuit was filed by civil society organizations and the Public Defender’s Office, which reportedly emphasized the surveillance nature of the measure in the public space. They also argued that “even the best algorithms have little accuracy in recognizing black and transgender people”.<sup>561</sup> As part of the mobilization around the issue, the Rapporteurship noted the initiative “Get my face out of your sight” created by Brazilian civil society to ban the use of facial recognition in public security<sup>562</sup> and launched the guide “Facial recognition: what happens when the machine makes a mistake?”.<sup>563</sup>

260. In addition, this Office followed the country’s mobilizations to route a proposal for the regulation of artificial intelligence. In March 2022, the Senate installed a commission of jurists, which developed discussions and public hearings throughout the year and presented a regulation proposal that will be debated in Congress. The objective of the text would be to reduce the impacts of artificial intelligence on fundamental rights and freedoms, including the impacts of the recommendations of Internet advertising content. Likewise, the document would propose the creation of a regulatory authority, a liability system according to the risk of the artificial intelligence system and prohibits an excessive risk systems.<sup>564</sup> The Rapporteurship learned that Brazilian civil society attended the hearings and was directly involved in the issue since the contributions to the public consultation of the National Strategy of Artificial Intelligence in 2020 based on concerns about algorithmic bias and the applicability of automated systems.<sup>565</sup>

261. In the context of the 2022 elections, the Rapporteurship observed risks to the exercise of the right to freedom of expression, particularly on social media. Reports received indicate allegations of a proliferation of disinformation content and hate speech on social media platforms aimed at attacking the electoral process and

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<sup>558</sup> News Agency of the Legislative Assembly of the State of Santa Catarina. December 15, 2022. [Abortion CPI delivers final report](#); Legislative Assembly of the State of Santa Catarina. Abortion CPI. December 6, 2022. [ABORTION CPI FINAL REPORT: PUBLIC VERSION](#)

<sup>559</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women Journalists and Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 61. November 22, 2011. para. 153.

<sup>560</sup> IACHR. [Access to reproductive information from a human rights perspective](#). OAS Ser.L/V/II. Doc.61. November 22, 2021.

<sup>561</sup> G1. March 22, 2022. [Justice of SP determines that Metro stops implementation of facial recognition system](#); Jota. 23 March 2022. [Justice stops facial recognition system in São Paulo subway](#).

<sup>562</sup> Tire meu rosto da sua mira. March 8, 2022. [OPEN LETTER FOR THE TOTAL BANNING OF THE USE OF DIGITAL FACIAL RECOGNITION TECHNOLOGIES IN PUBLIC SECURITY](#).

<sup>563</sup> Tire meu rosto de sua mira. December 2022. [Facial recognition: what happens when the machine fails?](#).

<sup>564</sup> Senate News. Agência Senado. December 06, 2022. [Committee concludes text on regulation of artificial intelligence in Brazil](#).

<sup>565</sup> InternetLab. March 3, 2020. [InternetLab’s Contributions to the National Strategy for Artificial Intelligence](#); Lapin. January 5, 2020. [CONTRIBUTIONS TO THE BRAZILIAN ARTIFICIAL INTELLIGENCE STRATEGY](#); Instituto de Tecnologia e Sociedade (ITS). March 2020. Contributions to the Brazilian Artificial Intelligence Strategy.



political candidates, particularly on the basis of race and gender.<sup>566</sup> The Electoral Court reportedly signed agreements with digital platform companies (TikTok, Kwai, Google, Meta and Telegram) in order to combat electoral disinformation based on three axes: provide quality information, promote training and act in the control of behavior.<sup>567</sup> The platforms would have established mechanisms to denounce and promote official sources, such as the Court's website. By adopting a policy of content promotion, some platforms have promoted disinformation content on voting day.<sup>568</sup>

262. In electoral context, the Electoral Tribunal issued Resolution 23714/2022, which allows the removal of content “knowingly false or seriously out of context that would affect the integrity of the electoral process” and allows the Court to extend the removal order to other “identical” content.<sup>569</sup> Although the resolution does not define “integrity of the electoral process”, the text includes the voting, counting and tallying processes and reports show that the expression also refers to candidates’ campaign content.<sup>570</sup>

263. In addition, the Rapporteurship took note that the Electoral Tribunal promoted the suspension of accounts and the removal of content indicated as disinformative and linked to the electoral process on digital platforms. In one of the decisions, the judge would have determined the removal of publications from Facebook, Twitter and TikTok and pointed out that the publications constitute a “strategy of disinformation, with an evident and serious distortion of facts that are known to be untrue” with the objective of “demonstrating that the electronic voting system is subject to fraud”.<sup>571</sup> In a decision, the judge would have determined the suspension of the account of a deputy and held that she “encourages anti-democratic acts in apology of the crime against democracy”. It would also prohibit the creation of new accounts on social networks until the diplomacy of President-elect Lula (PT).<sup>572</sup>

264. In addition, this office received reports of bills that would criminalize the removal of content or hold digital platforms accountable for their operations and tools. Bill 2,782/2022 would criminalize as an abuse of authority the act of “determining the unjustified removal of a publication, page or profile on the internet of a deputy or senator, violating the parliamentary immunity of his or her opinions and words”.<sup>573</sup> In addition, the Bill 2821/2022 intends to change the Civil Internet Framework to establish that social network and search application providers implement solutions to prevent search results that direct users to content that incites hate and discrimination as well a solutions to mitigate algorithmic biases that induce discriminatory decision-making or behavior.<sup>574</sup>

265. In 2022, discussions continued on Bill 2630/2020 – the “Fake News Bill” – which culminated in the presentation of a substitute bill by the rapporteur, Congressman Orlando Silva. The regulation would apply to providers of social networks, search engines and instant messaging that offer services to the Brazilian public, including companies based abroad, whose number of registered users in the country exceeds 10 million. The proposal was based on the text proposed by the Working Group for the Improvement of Brazilian Legislation on the Internet – GTNET of the Chamber of Deputies, which led to public hearings with experts throughout the processing of the bill, and incorporated substantive modifications. In the new proposal, the equivalence of social networks to social media was included, especially for the purpose of complying with Article 22 of the Electoral Disqualification Law, which allows the request for the opening of an investigation in the Electoral

<sup>566</sup> Business period. October 20, 2022. [YouTube and Facebook have enabled the spread of electoral disinformation in Brazil, says NGO](#); Revista Piauí. December 2022. [The Jair Show. How the PT stood up to the Bolsonaroist digital militia](#).

<sup>567</sup> Superior Electoral Court. February 14, 2022. [TSE and digital platforms sign agreement this third-february \(15\)](#).

<sup>568</sup> Agência Pública. October 11, 2022. [On Brazilian election day, disinformation thrived - sponsored by Google](#); G1. September 17, 2022. [Elections: TSE agreement with social networks is a step forward, but does not solve the problem of fake news, say specialists](#).

<sup>569</sup> Superior Electoral Court. October 20, 2022. [RESOLUTION Nº 23.714, OF OCTOBER 20, 2022](#).

<sup>570</sup> Superior Electoral Court. October 13, 2022. [TSE determines withdrawal of propaganda offensive to Bolsonaro and Lula](#); Folha de S. Paulo. October 9, 2022. [TSE orders removal of Lula's advertisements that associate Bolsonaro with cannibalism](#); G1. October 24, 2022. [TSE orders removal of Janones posters associating Bolsonaro with Roberto Jefferson](#).

<sup>571</sup> Conjur. October 28, 2022. [TSE orders removal of fake news from bolsonarista blogger about ballot boxes](#); Valor Econômico. October 28, 2022. [Cármén Lúcia determines that bolsonarista blogger removes lie about polls from the networks](#).

<sup>572</sup> G1. December 5, 2022. [Moraes keeps Carla Zambelli's social networks blocked and asks the Electoral MP for action](#); CNN. 5 December 2022. [Moraes denies request that Carla Zambelli's social networks be reactivated](#).

<sup>573</sup> Câmara dos Deputados. November 11, 2022. [PL 2782/2022](#).

<sup>574</sup> Federal Senate. November 22, 2022. [PL 2821/2022](#); Jota. November 22, 2022. [Senator presents project against 'algorithmic discrimination' on networks](#).

Tribunal on the improper use of social media for the benefit of a candidate or party. The Rapporteur's Office draws the attention to the permanence of the deputies' proposals to establish parliamentary immunity with respect to the deputies' opinions in social networks and to remunerate the use of journalistic contents by internet providers.<sup>575</sup> The first one establishes that they are criminally and civilly inviolable for their "opinions, words and votes", issued as representatives inside or outside the formal spaces of politics. According to experts and civil society organizations – including the Internet Rights Coalition and the Institute for Technology and Society – such a regulation would lead to the interpretation that these actors would be above the content moderation rules of digital platforms, thus hindering the fight against disinformation. Regarding journalistic remuneration, they emphasized the risk that unreliable media that disseminate disinformation are paid or that the distribution of resources privileges large media corporations.<sup>576</sup>

266. The Rapporteurship followed the trial of an action that questioned the constitutionality of resolution 305/2019 of the National Council of Justice that sets rules for the use of social networks by members of the judiciary. The judge-rapporteur's decision would have rejected the plaintiffs' argument that the Council usurped the competence of the Federal Supreme Court to legislate on the judiciary and that the resolution violates the principles of freedom of thought and expression. According to the judicial decision, the resolution would simply be "a deployment of a positive rule of the Code of Ethics of the Judiciary, which provides for the relationship of the magistrate with the media in general". It further noted that the right to freedom of expression would be subject to limitations in case of conflict with other fundamental principles such as to "maintain the authority, impartiality and transparency of the Judiciary". The resolution would include the prohibition of the expression of opinion or public criticism of a political party, candidate and political leadership.<sup>577</sup>

267. The Rapporteurship recalls that public officials are subject to special duties in the exercise of freedom of expression because of their status as State officials, including the special duty to reasonably establish the facts on which their statements are based and the duty to ensure that their statements do not violate human rights violations. This Office also notes that any restriction on the right to freedom of expression must meet the requirements of the tripartite test.

268. Likewise, this office monitored the Judiciary's decision related to political demonstrations on social networks. In March, Judge Alexandre de Moraes suspended Telegram's activities in Brazil on the grounds that the company had failed to comply with repeated decisions to suspend the account and the monetization of blogger Allan dos Santos, as well as to report the measures adopted by the platform to combat disinformation. According to Moraes, Santos would have "used the reach of his profile on the Telegram app (with more than 121 thousand subscribers) as part of the structure aimed at propagating attacks against the Democratic Rule of Law, the Supreme Federal Court, the Superior Electoral Court and the Federal Senate, in addition to authorities linked to these bodies". In the decision, the judge emphasizes that the company would have no legal representative in Brazil and that the lack of respect for Brazilian law is incompatible with the constitutional order.<sup>578</sup> Two days later, the decision was revoked, after Telegram appointed a legal representative in Brazil and filed actions to combat disinformation. Telegram would have made several commitments, such as monitoring the 100 most popular channels in the country; establishing working relationships with content checking agencies; restricting publication to users banned for spreading misinformation; as well as updating terms of service and promoting verified information.<sup>579</sup> The blocking measures of digital platforms in Brazil are monitored by the initiative Bloqueios.info created by InternetLab.<sup>580</sup>

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<sup>575</sup> Câmara dos Deputados. March 31, 2022. [Rapporteur presents new version of the project on fake news: know the text.](#)

<sup>576</sup> Coalizão Direitos na Rede. April 6, 2022. [Alert from civil society organizations about Bill 2630/2020](#); Folha de São Paulo. April 6, 2022. [Parliamentary immunity against Parliament - PL of fake news pushes legal aberration against political competition](#); Desinformante. 13 April 2022. [The fake news bill will not be voted on urgently. Now what?](#); Instituto de Tecnologia e Sociedade. March 31, 2022. [9 points to watch about the PL of Fake News \(PL 2630/20\).](#)

<sup>577</sup> Migalhas. 18 November 2022. [In vote, Moraes validates rules for members of the judiciary on social networks](#); O antagonista. November 28, 2022. [Resolution that limits the use of social networks by judges goes to plenary at the STF.](#)

<sup>578</sup> Federal Supreme Court. March 18, 2022. [Minister Alexandre de Moraes suspends Telegram operation in Brazil.](#)

<sup>579</sup> Federal Supreme Court. March 20, 2022. [Minister Alexandre de Moraes revokes blockade after Telegram complies with STF determinations.](#)

<sup>580</sup> Bloqueios.info. April 29, 2022. [TELEGRAM CASE.](#)

269. In August 2022, Moraes ordered raid operations and violation of telematic and banking secrecy of 8 businessmen who exchanged private messages in a WhatsApp group. In his decision, Moraes highlighted “the presence of strong and significant indications that point to the existence of a real criminal organization, with strong digital presence and with production, publication, financing and political nuclei with the clear purpose of attacking Democracy and the Rule of Law”. The legal action was instituted from a report in which it was informed that the entrepreneurs, in a WhatsApp group called “WhatsApp Entrepreneurs & Politics” would be defending “a coup d’état”.<sup>581</sup> One of them allegedly wrote that he would prefer a coup d’état if Luiz Inácio Lula da Silva (PT) won the 2022 presidential elections. According to the information available, the conversation did not present indications of the development of concrete activities to attack democracy.<sup>582</sup>

270. In addition, the Rapporteurship is concerned about media reports in 2022 indicating that the Army purchased forensic software that would allow the extraction of data from cell phones, even if they are blocked. According to the reports, this type of software is used for investigations only under judicial determination. The media stressed that the contracts do not specify which cell phones would be accessed nor what is the legal basis for this type of access to private data.<sup>583</sup>

271. However, the National Congress approved a bill that establishes the National Digital Education Policy. The policy seeks to promote inclusion, training, research and digital school education. The approved Bill establishes the sources of resources to finance this policy, “including budget allocations from the Union, states, Federal District and municipalities; public or private donations; a Fund for the Universalization of Telecommunications Services (Fust) as of January 1, 2025; and a Fund for the Technological Development of Telecommunications (Funttel)”.<sup>584</sup>

272. The Rapporteurship also welcomes the initiative of the Technical Group of the communications area of the transitional government regarding the Plan for the Universalization of Broadband Internet Services. According to media reports, the objective of the plan is to promote Internet access in regions without coverage or of low quality and for families in situations of socio-economic vulnerability and includes measures to improve Internet infrastructure, education programs for the population and differentiated rates for low-income families.<sup>585</sup>

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<sup>581</sup> Poder 360. August 29, 2022. [Action against businessmen used reportage and previous evidence](#); Jota. 29 August 2022. [Moraes' rationale for ordering searches against Bolsonaroist businessmen](#).

<sup>582</sup> Poder 360. August 29, 2022. [Action against businessmen used reportage and previous evidence](#); Jota. 29 August 2022. [Moraes' rationale for ordering searches against Bolsonaroist businessmen](#).

<sup>583</sup> Folha de S. Paulo. August 3, 2022. [Army buys equipment to access cell phones and is silent as to why](#); Metrôpoles. August 3, 2022. [Army has program to unlock cell phones and access data](#).

<sup>584</sup> Câmara dos Deputados. December 22, 2022. [House approves bill creating the National Digital Education Policy](#).

<sup>585</sup> Folha de S. Paulo. December 10, 2022. [Transition government will provide 'internet bag' to cheapen broadband access](#). Telesíntese. December 13, 2022. [GT PRIORITIZES FIXED BROADBAND AND EXPLAINS 'INTERNET EXCHANGE' TO EXPAND ACCESS](#).



## CANADA

273. In previous annual reports, the Office of the Special Rapporteur has indicated that the rights to freedom of expression and association are broadly guaranteed in Canada. However, 2022 was a particularly complex year due to severe impacts to public order and an increase in threats to and attacks on the media and journalists in the country. The first two months of the year were characterized by mass demonstrations against COVID-19 vaccinations and pandemic restrictions; Ottawa, the Canadian capital, was the epicenter of these protests for three weeks. The impact on public order led the federal government to declare a state of emergency for the first time in history. In the framework of the demonstrations, the Office of the Special Rapporteur received reports indicating that multiple journalists had been threatened and harassed while reporting in Ottawa, as well as in other parts of the country. Additionally, this Office continues to observe with concern a pattern of intimidation against journalists through social networks, especially against minority women. Additionally, the Office of the Special Rapporteur learned of a dispute between the Canadian Radio-television and Telecommunications Commission (CRTC) and the CBC/Radio-Canada over the use of the term considered racist. With respect to exclusion and discrimination, this Office learned of reports of the alleged deterioration of the mental health of journalists in the country, particularly members of the media who identify with minority groups due to their gender, sexual identity, and ethnicity. Lastly, the Office of the Special Rapporteur continued to document new bills that would directly and indirectly impact the exercise of freedom of expression and freedom of the press in the country.

### A. Journalism and democracy

274. In 2022, the Office of the Special Rapporteur learned of multiple verbal and physical attacks on members of the media as they were reporting during protests against COVID-19 restrictions during January and February 2022. Additionally, this Office registered instances in which the authorities prevented a number of media professionals from entering areas where the gatherings were taking place.

275. This Office learned that *Global News* journalist Rachel Gilmore alleged that one day prior to the first Freedom Convoy demonstration, she received a series of stigmatizing messages over social media for writing an article detailing the presumably extremist characteristics of the organizers of these protests.<sup>586</sup> The journalist posted a number of these messages on her Twitter account, stating that her romantic partner and her sister had also received similar comments.

276. Additionally, this Office received information indicating that Dale Manudoc, a journalist of African descent with *CBC Toronto*, had been called a “slave blooded traitor” by a representative of the Freedom Convoy in Toronto after he requested an interview in anticipation of the protests that were to begin in the following days.<sup>587</sup> The Office of the Special Rapporteur learned that photojournalist Frank Gunn alleged on his Twitter account that several Freedom Convoy participants had shoved him, shouted, and spit on him.<sup>588</sup> Additionally, the Office of the Special Rapporteur was alerted that journalist Evan Solomon of CTV News had been attacked with a can of beer seconds before broadcasting live from Ottawa on January 29.<sup>589</sup>

277. In February, this Office learned that a demonstrators shouted at *Global News* journalist Sean O’Shea that he “should be embarrassed to be a journalist” as he was surrounded by a crowd.<sup>590</sup> On February 2, the Office of the Special Rapporteur learned that journalist Yves Poirier, with *TVA nouvelles*, had been intimidated by demonstrators as she broadcast live; the police, who were behind the reporter when the incident took place, did not act promptly.<sup>591</sup> On the same day, this Office received a complaint from *Global News* journalist Abigail Bimman alleging that she had received a threatening e-mail of an anti-Semitic nature from an anonymous

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<sup>586</sup> Twitter account of Rachel Gilmore (@atRachelGilmore). [January 26, 2022](#); *Global News*. January 25, 2022. [‘Far-right groups hope trucker protest will be Canada’s ‘January 6th.’](#)

<sup>587</sup> Twitter account of Dale Manudoc (@DaleManudoc). [January 27, 2022](#). DH News. January 28, 2022. [Canadian reporters warned of harassment, racist threats, violence at “Freedom Convoy.”](#)

<sup>588</sup> Twitter account of Frank Gunn (@frankgunnphoto). [January 27, 2022](#).

<sup>589</sup> Twitter account of Evan Solomon (@EvanLSolomon). [January 29, 2022](#).

<sup>590</sup> Sean O’Shea Twitter account (@ConsumerSOS). [February 1, 2022](#).

<sup>591</sup> Twitter account of TVA nouvelles (@tvanouvelles). [February 2, 2022](#).

person.<sup>592</sup> Lastly, this Office received reports on February 3 of at least four threats against journalist Brandi Morin for her coverage of the protests after she reported that white supremacists were participating.<sup>593</sup>

278. As the Freedom Convoy protests dragged on and tension increased between demonstrators, the police, and members of the media, the Office of the Special Rapporteur registered a new wave of attacks on journalists and camerapersons between February 18 and 20, especially in the capital and in British Columbia.

279. On February 18, the Office of the Special Rapporteur received reports indicating that journalist Raymond Filion, with *TVA*, had been violently shoved while covering the protests that night in Ottawa.<sup>594</sup> One day later, on February 19, this Office was alerted to how *Global News* reporter Kamil Karamali and his cameraperson had been surrounded by demonstrators who chased them, insulted them, and spit on them after they interviewed a representative of the police in Surrey, British Columbia. According to the information received, the journalists had to be escorted by the police and had a difficult time leaving the area.<sup>595</sup> On that same day, this Office registered that *CBC News* reporter Dan Burritt had been insulted while doing his work.<sup>596</sup> On February 21, this Office was also informed that demonstrators had harassed and spit on journalists Yasmin Grandham while she covered protests in Osoyoos, British Columbia.<sup>597</sup> According to public information, the Royal Canadian Mounted Police (RCMP) of Surrey open an investigation into the attacks on Karamali and Burritt and their camerapersons.<sup>598</sup>

280. In parallel to the aforementioned attacks, this Office was also informed that security forces had blocked a number of journalists from accessing gatherings of demonstrators in Ottawa, even though they had presented the documentation that was supposedly required, such as their press credentials.<sup>599</sup> The Office of the Special Rapporteur learned that *The Globe and Mail* journalist Marieke Walsh had attempted to cover the rollover of a truck on February 19, but the police blocked her from covering what happened.<sup>600</sup> That same day, the Office of the Special Rapporteur learned that *Global News* journalist Mercedes Setphenson had alleged that police officials had threatened to arrest her if she entered a supposedly restricted area.<sup>601</sup> This Office was also informed that *CTV News* journalists Annie Bergeron-Oliver and Rachel Aiello were not able to report for their network because the parliament building was closed by police and they did not grant her access.<sup>602</sup> Lastly, the Office of the Special Rapporteur learned that on February 20, independent photojournalist Carlos Osorio reported that a police official had asked him not to take pictures even though he was a journalist and had his credentials with him.<sup>603</sup> Another photojournalist, Scott Olson of Getty Images, reported something similar: A policeman also approached him to tell him that because it was a restricted area, news photography was not allowed.<sup>604</sup>

281. Regarding the journalists and camerapersons who were doing their work during a public demonstration, the Office of the Special Rapporteur recalls that they must not be hassled, detained, transported, or have their rights limited in any way for exercising their professions. On the contrary, any action intended to obstruct their work must be avoided, as long as the rights of third parties are not at risk.<sup>605</sup> Likewise, this Office reiterates that communicators must not be detained for doing their work, nor should they be harassed or attacked by security forces. On the contrary, security forces have a duty to protect them when they are the

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<sup>592</sup> Twitter account of Abigail Batman (@AbigailBimman). [February 2, 2022](#).

<sup>593</sup> Twitter account of Brandi Morin (@Songstress28). [February 3, 2022](#).

<sup>594</sup> Twitter account of Mylene Crete (@MyleneCrete). [February 18, 2022](#).

<sup>595</sup> Twitter account of Kamil Karamali (@KamillKaramali). [February 19, 2022](#).

<sup>596</sup> Twitter account of Dan Burritt (@DanBurritt). [February 19, 2022](#).

<sup>597</sup> Twitter account of Yasmin Graham (@YasminGrandham). [February 19, 2022](#).

<sup>598</sup> Twitter account of Kamil Karamali (@KamillKaramali). [February 19, 2022](#).

<sup>599</sup> Canadian Association of Journalists (CAJ). February 21, 2022. [Open letter to Ottawa Police regarding press freedom violations](#).

<sup>600</sup> Twitter account of Marieke Walsh (@MariekeWalsh). [February 19, 2022](#).

<sup>601</sup> Twitter account of Mercedes Stephenson (@MercedesGlobal). [February 19, 2022](#).

<sup>602</sup> Twitter account of Annie Bergeron-Oliver (@AnnieClaireBO). [February 19, 2022](#).

<sup>603</sup> Twitter account of Carlos Osorio (@carlososorio). [February 20, 2022](#).

<sup>604</sup> Twitter account of Scott Olson (@olsongetty). [February 20, 2022](#).

<sup>605</sup> IACHR. Annual Report 2005. RELE, Chapter V. Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly. 2005. Para. 101.

victims of acts of violence at the hands of third parties. Their equipment and materials cannot be confiscated, seized, or destroyed.<sup>606</sup>

282. This Office recalls that violence against journalists compromises the rights to personal integrity, life, and freedom of thought and expression. Likewise, the lack of due diligence in the investigation, pursuit and punishment of all those responsible can result in an additional violation to the rights to access to justice and judicial guarantees of those affected and their family members.<sup>607</sup>

283. The Office of the Special Rapporteur notes that it is important for the media to adopt protocols for protecting journalists and providing them with opportunities to receive training on tools for protecting themselves, both physically and online.<sup>608</sup> Likewise, the Office of the Special Rapporteur emphasizes that communicators have the right to receive State protection in circumstances where their safety, integrity of person, or lives could be threatened due to the exercise of their profession.<sup>609</sup>

284. During the second half of 2022, following the protests toward the beginning of the year, the Office of the Special Rapporteur continued to observe with concern further attacks on the media in Canada. According to the information received by this Office, the new attacks on the media were directed toward women journalists, particularly ethnic and racial minorities, and included death threats and threats of sexual violence.

285. In August, the Office of the Special Rapporteur was advised of an online campaign to harass, silence, and commit gender-based violence against Pakistani-Canadian journalist Saba Eitizaz and her colleagues, Rachel Gilmore and Erica Ifill, via encrypted email services.<sup>610</sup> According to Eitizaz, one of the threats she posted on her Twitter account was part of a "clear, sustained and extremely organized hate campaign" against Canadian journalists, particularly people who are vulnerable due to their gender and racial background. Gilmore posted a video on her Twitter account in which a leader of an far-right group insults her and severely stigmatizes her for her work.<sup>611</sup> The journalist also said on Twitter that a person who was possibly armed threatened and harassed her and her family directly.<sup>612</sup> Also, journalist Erica Ifill took to Twitter to describe the most recent death threats and threats of sexual violence she and her colleagues had received.<sup>613</sup>

286. This Office was also informed that reporter Graeme Frisque, who expressed support for her threatened colleagues, denounced that she had also been threatened via encrypted email.<sup>614</sup>

287. This Office received reports indicating that in the days after Eitizaz and Gilmore were threatened, the police in Toronto and Ottawa—where they live, respectively—had not taken measures to protect their safety. On August 8, Eitizaz reported having to wait hours to communicate with the police.<sup>615</sup> She also stated that the officer who responded had not opened a new case file into threats but had added the complaint to a report from the previous year.<sup>616</sup> The same officer told her that he needed to verify the credibility of the threats and the country of origin, even though Eitizaz insisted that the death threats against her and her colleagues were

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<sup>606</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 356.

<sup>607</sup> IACHR. Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 147.

<sup>608</sup> IACHR. Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 320.

<sup>609</sup> IACHR. The Inter-American Framework regarding the Right to Freedom of Expression. 2010. OEA/SER.L/V/II. CIDH/RELE/INF. 2/09. Para. 178.

<sup>610</sup> Twitter account of Saba Eitizaz (@sabaetitizaz). [August 4, 2022](#). *The Toronto Star*. September 4, 2022. [Death threats. Racist taunts. Vows of violence. Inside the increasingly personal attacks targeting Canadian female journalists](#); *The Toronto Star*. August 29, 2022. [Death threats for doing your job: Journalists discuss being on the receiving end](#).

<sup>611</sup> Twitter account of Rachel Gilmore (@atRachelGilmore). [August 24, 2022](#).

<sup>612</sup> Twitter account of Rachel Gilmore (@atRachelGilmore). [August 20, 2022](#).

<sup>613</sup> Twitter account of Erica Ifill (@EricaIfill). [August 4, 2022](#); Women in Journalism. August 23, 2022. [Canada: Online violence Against Women Journalists Of Color Rages On, Erica Ifill Latest Target of Organized Trolls](#).

<sup>614</sup> Twitter account of Graeme Frisque (@GraemeFrisque). [August 5, 2022](#).

<sup>615</sup> Twitter account of Saba Eitizaz (@sabaetitizaz). [August 8, 2022](#).

<sup>616</sup> Twitter account of Saba Eitizaz (@sabaetitizaz). [August 8, 2022](#).

intensifying.<sup>617</sup> Gilmore, for her part, accused the police of failing to listen to her in detail and interrupting her while she described the facts.<sup>618</sup>

288. On August 18, the Office of the Special Rapporteur received with concern reports of death threats against journalists, in this case against Anna Junker, a reporter with the *Edmonton Journal* and the *Edmonton Sun*. Junker posted emails on her Twitter account indicating a coordinated campaign against ethnic-minority women journalists.<sup>619</sup> The threats posted by Junker included racist, anti-Semitic comments and calls for sexual violence.<sup>620</sup>

289. The Office of the Special Rapporteur learned that after they recorded a podcast about the threats, journalists Saba Eitizaz, Rachel Gilmore, and Anna Junker again received threats in their e-mail.<sup>621</sup>

290. This Office learned that in response to the wave of threats against ethnic-minority women journalists, the Canadian Association of Journalists and representatives of the *Toronto Star*, *The Hill Times*, and *Global News*, sent a letter to federal ministers, the Royal Canadian Mounted Police (RCMP), and police in Toronto and Ottawa asking if the media could provide police with reports of multiple incidents and patterns of harassment; requesting that the police commit to regularly updating complainants on the progress of investigations and the action taken; and asking them to give media organizations an opportunity to file complaints of threats on behalf of journalists.<sup>622</sup> These same requests were sent to the Prime Minister, Justin Trudeau, through an additional letter signed by dozens of journalism associations and media outlets.<sup>623</sup> The Office of the Special Rapporteur learned that the Prime Minister of Canada, Justin Trudeau, urged the authorities to take action in response to the pattern of hatred and harassment against journalists and public figures.<sup>624</sup>

291. The Office of the Special Rapporteur reiterates that the safety of journalists is a prerequisite for the exercise of freedom of expression and freedom of the press.<sup>625</sup> Likewise, the Office of the Special Rapporteur emphasizes that online violence against women journalists must also be addressed from a gender perspective that guarantees that this group of women is able to exercise the right to freedom of expression both off-line and online.<sup>626</sup> The obligations to prevent, protect, and investigate violence against journalists must be met not only regarding journalists who work for traditional media outlets but also for journalists who work for online media or on the various platforms that the Internet provides.<sup>627</sup>

292. This Office underscores that all actions taken by States to comply with their obligations to prevent, protect, and investigate, try, and criminally punish those responsible for crimes against journalists must take into account the differentiating effect of crimes against journalists who are women.<sup>628</sup> In this regard, the measures of protection for journalists and media workers must include a gender perspective that takes into account both the specific forms of violence suffered by women and the specific ways in which the protective measures are implemented that may be necessary or adequate for women journalists.<sup>629</sup>

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<sup>617</sup> Twitter account of Saba Eitizaz (@sabaeitizaz). [August 8, 2022](#).

<sup>618</sup> Twitter account of Rachel Gilmore (@atRachelGilmore). [August 9, 2022](#).

<sup>619</sup> Twitter account of Anna Junker (@JunkerAnna). [August 18, 2022](#).

<sup>620</sup> Twitter account of Anna Junker (@JunkerAnna). [August 18, 2022](#).

<sup>621</sup> Twitter account of Saba Eitizaz (@sabaeitizaz). [August 30, 2022](#).

<sup>622</sup> Canadian Association of Journalists. August 11, 2022. [Letter to Ottawa and Toronto Police Officers](#).

<sup>623</sup> Canadian Association of Journalists. September 1, 2022. [Open letter to PM Justin Trudeau concerning the online hate and harassment of journalists](#).

<sup>624</sup> *Global News*. September 1, 2022. [Trudeau says police must take threats, harassment against journalists seriously](#); *CTV News*. September 1, 2022. [Police must take online threats and harassment against journalists seriously](#); Office of the Prime Minister. September 5, 2022. [Letter](#).

<sup>625</sup> IACHR, Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 72.

<sup>626</sup> IACHR, Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 78.

<sup>627</sup> IACHR. Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 303.

<sup>628</sup> IACHR. Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 154.

<sup>629</sup> IACHR. Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 173.

293. The Office of the Special Rapporteur reiterates that the special risks to which women journalists are exposed must be taken into account in order to prevent the intimidation or fear that may arise from an attack or the risk of one from leading to women journalists self-censoring.<sup>630</sup> This Office recalls that the media outlets must prepare self-defense guides and seek to properly train women journalists on security to help minimize the risk of gender-based violence—especially sexual violence and online violence—during the exercise of their journalism work, assignments, and on the ground reporting, as well as provide protective equipment.<sup>631</sup>

294. In August 2022, the Office of the Special Rapporteur received reports indicating that veteran journalist Lisa LaFlamme, the lead anchor of *CTV National News*, was fired, possibly because she clashed with an executive of Bell Media, *CTV News*' parent company.<sup>632</sup> After 35 years with the media outlet, LaFlamme was informed on June 29 that due to a "business decision" and "changes to the habits of viewers," her labor relationship with the media outlet had been terminated.<sup>633</sup> According to multiple reports, LaFlamme had clashed with the vice president over the budget that *CTV News* had allocated for covering the war in Ukraine.<sup>634</sup> However, the Rapporteurship was also informed of other possible reasons for her departure, such as her physical appearance and the decision to not dye her hair.<sup>635</sup>

295. The Office of the Special Rapporteur reiterates that the importance of the exercise of the right to freedom of expression for women derives from, among other things, the role this right plays in securing effective gender equality and strengthening democracy. At the same time as gender equality is inherent to freedom of expression as a fundamental right, the exercise freedom of expression is, in turn, a key instrument for promoting gender equality.<sup>636</sup> This Office recalls that States are under an obligation to adopt positive measures aimed at guaranteeing the substantive equality of women in the exercise of freedom of expression and the transformation of the institutions, systems, roles, and stereotypes that perpetuate inequality and their exclusion from the public debate.<sup>637</sup>

## **B. Freedom of expression, the Rule of Law and democratic institutions**

296. In 2022, the Office of the Special Rapporteur registered a series of protests and roadblocks against COVID-19 mandates and pandemic restrictions, known together as the Freedom Convoy. The movement was additionally started to protest the vaccine mandates required for crossing the U.S. border, but later turned into a mass demonstration against pandemic restrictions in general.<sup>638</sup> Starting on January 22, 2022, hundreds of vehicles gathered in different parts of the country and set off toward Ottawa. From January 29 onward, the demonstrators occupied the center of the city and declared that they would not leave until all the COVID-19 restrictions and mandates were repealed.<sup>639</sup>

297. The Office of the Special Rapporteur was informed that more than 3000 trucks and 15,000 demonstrators participated during the first day of protests in Ottawa on January 29.<sup>640</sup> Over the following three weeks, this Office received reports indicating that hundreds of demonstrators and trucks had taken over the

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<sup>630</sup> IACHR. *Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression*. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 302.

<sup>631</sup> IACHR, *Women Journalists and Freedom of Expression*. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 135.

<sup>632</sup> *City News*. August 15, 2022. [Longtime CTV News anchor Lisa LaFlamme 'blindsided' after being fired by Bell Media](#).

<sup>633</sup> Twitter account of Lisa LaFlamme (@LisaLaFlamme.). [August 15, 2022](#); *The Guardian*. August 19, 2022. [Anger as Lisa LaFlamme dropped as Canada TV anchor after going grey](#).

<sup>634</sup> *The Globe and Mail*. August 18, 2022. [Lisa LaFlamme 'going grey' questioned by CTV executive, says senior company official](#); *The Guardian*. August 19, 2022. [Anger as Lisa LaFlamme dropped as Canada TV anchor after going grey](#).

<sup>635</sup> *The Globe and Mail*. August 18, 2022. [Lisa LaFlamme 'going grey' questioned by CTV executive, says senior company official](#); *The Guardian*. August 19, 2022. [Anger as Lisa LaFlamme dropped as Canada TV anchor after going grey](#).

<sup>636</sup> IACHR, *Women Journalists and Freedom of Expression*. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 65

<sup>637</sup> IACHR, *Women Journalists and Freedom of Expression*. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 69

<sup>638</sup> *The Guardian*. January 28, 2022. [Canada truckers' vaccine protest spirals into calls to repeal all public health rules](#); *Al Jazeera*. January 29, 2022. [Truckers protest in Ottawa against Canada's vaccine mandate](#).

<sup>639</sup> *Toronto Star*. February 22, 2022. [Timeline of the 'Freedom Convoy'](#); *CTV News*. February 23, 2022. ['Freedom Convoy' protest: How did we get here?](#)

<sup>640</sup> *Toronto Star*. February 22, 2022. [Timeline of the 'Freedom Convoy'](#); *CTV News*. February 23, 2022. ['Freedom Convoy' protest: How did we get here?](#)



center of Canada's capital city.<sup>641</sup> Although according to public information, the demonstrations started over the introduction of a requirement for cross-border truckers to be vaccinated, the Office of the Special Rapporteur learned that the initial demands expanded to oppose all provincial and federal COVID-19 restrictions.<sup>642</sup> This Office thus also received reports of other demonstrations in Quebec City, Toronto, Victoria, Halifax, and New Brunswick.<sup>643</sup>

298. Over several days of demonstrations, this Office received information on increasing accusations of hate speech, along with physical and verbal attacks, in several cases of a racist nature, against medical staff, members of the media, and passersby wearing surgical masks.<sup>644</sup>

299. According to the information provided by the State, the protests in January and February 2022 constituted a threat to the rights enshrined in the Canadian Charter of Rights and Freedoms. According to the authorities, the threat “comprised the blockades themselves, the continuing threats to oppose measures to remove the blockades, including by force, and the related activities directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure”.<sup>645</sup> The State informed this Office that “protestors adopted a number of tactics that were threatening, causing fear, disrupting the peace, impacting the Canadian economy, and feeding a general sense of public unrest”.<sup>646</sup> Such practices included “harassing and berating citizens and members of the media, slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protestors bringing children to protest sites”.<sup>647</sup>

300. On February 14, 2022, the Office of the Special Rapporteur learned that the federal government had invoked the Emergencies Act over the Freedom Convoy blockades and protests.<sup>648</sup> Prime Minister Justin Trudeau's decision to invoke this law for the first time in history gave the federal government sweeping new powers to control public order in Ottawa.<sup>649</sup> According to the information received by this Office, the measure was lifted on February 23 once the protests were dispersed.<sup>650</sup> The State reported that the measures permitted under the law were “necessary to to supplement existing municipal, provincial and federal powers”.<sup>651</sup> The State also indicated that the measures had been “proportionate in the circumstances” and the declaration was

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<sup>641</sup> Canadian State response to request of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights under Article 41 (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>642</sup> *Toronto Star*. February 22, 2022. [Timeline of the 'Freedom Convoy'](#); CTV News. February 23, 2022. [Him 'Freedom Convoy' protest: How did we get here?](#)

<sup>643</sup> CTV News. February 5, 2022. [21 infractions and one arrest on third day of Quebec City version of 'freedom convoy' protests](#); CBC. February 4, 2022. [Toronto police shut down roads, plan to limit disruption as convoy protesters arrive in city](#); Global News. March 11, 2022. [Victoria braces for 'Freedom Convoy' COVID-19 mandate protest](#); CTV News. February 6, 2022. [Hundreds of vehicles ride through Halifax in 'Freedom Convoy'](#); The Globe and Mail. February 15, 2022. [Commissioner says Fredericton COVID-19 protest included racist symbolism and imagery](#).

<sup>644</sup> *Toronto Star*. February 22, 2022. [Timeline of the 'Freedom Convoy'](#); CTV News. February 23, 2022. ['Freedom Convoy' protest: How did we get here?](#)

<sup>645</sup> Permanent mission of Canada to the OAS. Response of the State of Canada to request for information of the Inter-American Commission on Human Rights (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>646</sup> Permanent mission of Canada to the OAS. Response of the State of Canada to request for information of the Inter-American Commission on Human Rights (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>647</sup> Permanent mission of Canada to the OAS. Response of the State of Canada to request for information of the Inter-American Commission on Human Rights (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>648</sup> *CNN en Español*. February 14, 2022. [Gobierno de Canadá invoca Ley de Emergencias por bloqueos y protestas por medidas por el COVID-19](#); CBC. February 14, 2022. [Federal government invokes Emergencies Act for first time ever in response to protests, blockades](#).

<sup>649</sup> *CNN en Español*. February 14, 2022. [Gobierno de Canadá invoca Ley de Emergencias por bloqueos y protestas por medidas por el COVID-19](#); CBC. February 14, 2022. [Federal government invokes Emergencies Act for first time ever in response to protests, blockades](#).

<sup>650</sup> Government of Canada. February 23, 2022. [The Emergencies Act in Canada](#).

<sup>651</sup> Permanent mission of Canada to the OAS. Response of the State of Canada to request for information of the Inter-American Commission on Human Rights (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.



revoked “as soon as those additional powers were no longer deemed to be required to manage the situations”.<sup>652</sup>

301. Starting on February 14, and as a consequence of the Emergencies Act, the Office of the Special Rapporteur began receiving reports indicating the possible escalation of tensions between police, demonstrators, and members of the media.<sup>653</sup> This Office received information suggesting the arrest of demonstrators had picked up and that dozens of demonstrators had tried to assault officers and take their weapons.<sup>654</sup> Likewise, according to public information, the police had used tear gas, antiriot weapons, nightsticks, smoke grenades, flashings, and bulletproof vests to disperse crowds. Additionally, the Office of the Special Rapporteur received information indicating that the financial resources supposedly linked to the protests had been frozen, amounting to 206 bank accounts, 306 entities, 253 Bitcoin requests, and an account worth \$3.8 million.<sup>655</sup>

302. During the three weeks of protests, the Office of the Special Rapporteur received reports indicating that authorities had arrested more than 200 demonstrators in the provinces of Ontario, Alberta, and British Columbia.<sup>656</sup> This Office also learned that nearly 400 charges had been laid against members of the Freedom Convoy for obstruction and assault of police officers.<sup>657</sup> The State has said it is difficult to compile information on the status of all the ongoing legal processes given that its judicial system is not “designed, either institutionally or technologically, to rapidly produce aggregate data”.

303. In response to two incidents in which demonstrators were injured by the police, the Office of the Special Rapporteur was informed that the Special Investigations Unit of the Ontario Police had launched an investigation on February 20, 2022.<sup>658</sup> On June 20, 2022, this Office was informed that the unit had absolved at least two police officers of any irregularity after concluding that they had fired “less lethal” weapons.<sup>659</sup>

304. On April 25, 2022, the Office of the Special Rapporteur learned that the federal government had established a Public Order Emergency Commission to investigate the circumstances leading to the issuance of the state of emergency that was in place February 14-23, 2022.<sup>660</sup> The commission's final report, with findings and recommendations, will be presented before the Canadian House of Commons and Senate in February 2023.<sup>661</sup> The public hearings began on Thursday, October 13, 2022, and concluded on Friday, December 2, 2022. As of the publication date of this annual report, Prime Minister Justin Trudeau was the last official to testify before the commission on November 25, 2022.<sup>662</sup> The prime minister defended his government's decision to invoke the Emergency Law for the first time since its creation 34 years ago.<sup>663</sup>

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<sup>652</sup> Permanent mission of Canada to the OAS. Response of the State of Canada to request for information of the Inter-American Commission on Human Rights (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>653</sup> *The Globe and Mail*. February 16, 2022. [Police issue order for Ottawa convoy protesters to leave immediately](#); *Toronto Star*. February 16, 2022. [Full text of Ottawa police notice to convoy protesters](#); *Ottawa Police Services*. February 16, 2022. [Notice to Demonstrators](#).

<sup>654</sup> *Global News*. February 21, 2022. [Ottawa police say nearly 400 charges laid in operation to clear convoy blockade](#); *Toronto Star*. October 20, 2022. [Ottawa police laid more than 500 charges - including for assault and threats - during 'Freedom Convoy' occupation, inquiry told](#).

<sup>655</sup> *CNN*. February 20, 2022. [Canadian authorities freeze financial assets for those involved in ongoing protests in Ottawa](#); *CTV News*. February 23, 2022. [‘Freedom Convoy’ protest: How did we get here?](#)

<sup>656</sup> Canadian State response to request of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights under Article 41 (CIDH/SE/Art. 41/03-2022/245). April 5, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>657</sup> *CTV News*. February 23, 2022. [‘Freedom Convoy’ protest: How did we get here?](#); *Global News*. February 21, 2022. [Ottawa police say nearly 400 charges laid in operation to clear convoy blockade](#)

<sup>658</sup> *Times Colonist*. February 20, 2022. [Vancouver police officers being investigated for actions at Ottawa protest](#); *Global News*. June 20, 2022. [Ontario watchdog clears VPD officers who fired riot weapons at Ottawa protesters](#).

<sup>659</sup> *Times Colonist*. February 20, 2022. [Vancouver police officers being investigated for actions at Ottawa protest](#); *Global News*. June 20, 2022. [Ontario watchdog clears VPD officers who fired riot weapons at Ottawa protesters](#)

<sup>660</sup> Public Order Emergency Commission. April 25, 2022. [Commission Mandate](#).

<sup>661</sup> Public Order Emergency Commission. April 25, 2022. [Final Report](#).

<sup>662</sup> Public Order Emergency Commission. April 25, 2022. [Public Hearings](#).

<sup>663</sup> *CBC*. November 25, 2022. [Trudeau ‘serene’ about invoking Emergencies Act, says police plan to clear protest ‘wasn’t a plan at all’](#); *CTV News*. November 25, 2022. [‘What if the worst had happened’: Trudeau explains why he invoked Emergencias Act when did](#).

305. Social protest, which includes the exercise of the right to freedom of peaceful, unarmed assembly, freedom of association, and freedom of expression is a fundamental tool for the defense of democracy and human rights, and the State is required to respect, protect, and guarantee these rights.<sup>664</sup> As regards the obligation to respect, the IACHR and its Office of the Special Rapporteur have indicated that “the right of assembly through social protest must not be subject to the requirement of obtaining authorization from authorities or excessive requirements that make them difficult to carry out.”<sup>665</sup> Likewise, regarding the obligation to protect and facilitate, the Commission has underscored that “The social interest imperative associated with the right to participate in public demonstrations is such that there is a general presumption in favor of its exercise.”<sup>666</sup> As indicated in the IACHR’s report on protest and human rights, States must act with the assumption that public protests and demonstrations are legal and not a threat to public order, even when they are held without prior notice.<sup>667</sup> Lastly, with respect to the obligation to guarantee, the IACHR has established that it “entails the duty to investigate and punish all violations that take place in the context of a public demonstration.”<sup>668</sup>

306. This Office also reiterates that the use of force in the context of protests should be understood as “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the state’s reaction,” and that, within this framework of exceptionality, the State must satisfy the principles of legality, absolute necessity, and proportionality.<sup>669</sup> Lastly, this Office of the Special Rapporteur recalls that “in principle, criminalization per se of demonstrations in public thoroughfares is inadmissible,”<sup>670</sup> and States must refrain from conducting mass, collective, or indiscriminate detentions at public demonstrations.<sup>671</sup>

307. This Office reiterates that States have a duty to adopt the measures necessary to prevent acts of violence, guaranteeing the safety of persons and public order. However, when using force in these contexts, States must adopt proportional measures to achieve these objectives and not arbitrarily block the exercise of the rights in play during protests.<sup>672</sup>

308. Likewise, in contexts of social protest, States must refrain from carrying out mass, collective, or indiscriminate arrests.<sup>673</sup> An arrest based exclusively on the act of participating in a public protest or demonstration does not meet the requirements of reasonableness and proportionality established by international standards.<sup>674</sup>

309. Additionally, with respect to declaring states of exception, the Office of the Special Rapporteur recalls that “Measures taken by States, particularly those that may result in restrictions on rights or guarantees, should follow the *pro persona* principle, and the principles of proportionality, and temporary basis, and should have as their legitimate purpose strict compliance with comprehensive public health and protection objectives, such as proper, timely care for the population, over and above any other consideration or interests of a public or private nature.”<sup>675</sup> In the same sense, the Commission has held that states of exception must be reserved

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<sup>664</sup> 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.

<sup>665</sup> 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. Para. 91.

<sup>666</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 91.

<sup>667</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 93.

<sup>668</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 246.

<sup>669</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 102.

<sup>670</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 187.

<sup>671</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. Para. 138.

<sup>672</sup> IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 12.

<sup>673</sup> IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 138, 229.

<sup>674</sup> IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 228.

<sup>675</sup> IACHR. [Pandemic and Human Rights in the Americas](#). Resolution 1/2020. April 10, 2020.

exclusively for truly exceptional cases, situations of extreme gravity that endanger the life of a nation. For all other situations, standard administrative measures must be taken.<sup>676</sup>

310. Likewise, as indicated in the report on social protest and human rights, “public protests and demonstrations, as legitimate and protected forms of the exercise of various rights and a fundamental instrument of democratic coexistence—even when they express social unrest—cannot be used as a justification for declaring states of emergency or for suspending rights in other ways. Many of the nuisances caused by these events are inherent to the exercise of the rights involved in protest, and any violent events that may occur in the context of demonstrations should be prevented, investigated, and punished as they normally would, without the need to resort to the suspension of rights.”<sup>677</sup>

311. Additionally, during the second half of 2022, the Office of the Special Rapporteur received reports of tensions between the Canadian Radio-television and Telecommunications Commission (CRTC) and the CBC/Radio-Canada over the use of a term considered racist. On June 30, the Office of the Special Rapporteur was informed that the CRTC had ordered CBC/Radio-Canada to issue a public apology for the use of a racist term on air.<sup>678</sup> According to public information, the decision was the result of an episode of “15-18” broadcast on August 17, 2020, during which host Annie Desrochers and columnist Simon Jodoin discussed a petition seeking the firing of a professor at Concordia University who had cited a book with the “N-word” in its title. Desrochers and Jodoin used the N-word repeatedly, prompting a black listener to file a complaint. The Office of the Special Rapporteur learned that the CRTC ruling ordered CBC/Radio-Canada to “indicate how it intends to mitigate the impact of the ‘N-word’ in this segment of the program” and publish a report “on internal measures and programming best practices that it will put in place to ensure that it better addresses similar issues in the future.”<sup>679</sup>

312. On July 13, the Office of the Special Rapporteur was informed that CBC/Radio-Canada had apologized for repeatedly using the word, as required by the CRTC ruling. This Office was also informed that the group intended to appeal the CRTC decision, arguing that the regulator had overstepped its authorities.<sup>680</sup> In a statement, CBC/Radio-Canada said the CRTC’s decision demonstrated an attempt to “give itself the power to interfere with journalistic independence.” This Office learned that in its public apology, the outlet acknowledged that although the N-word was used in a journalistic context, it was hurtful to some members of the audience and employees. “Some of our journalists have expressed the view that this is solely an issue of free speech, but we all know that words can wound and need to be used with care.” CBC/Radio-Canada added that “The use of this word is hurtful to many in our audience and to our own employees and for that, we are deeply sorry.”<sup>681</sup>

313. The Office of the Special Rapporteur recalls that broadcasting regulation must aspire to promote and expand the scope of the right to freedom of expression, not restrict it. To this extent, the legal framework must ensure that the media can serve as a vehicle for the free, vigorous, open, plural, and diverse exercise of freedom of expression.<sup>682</sup> Likewise, this Office recalls that the Inter-American system for human rights protection, States are only required to prohibit hate speech under limited circumstances—that is, when the speech constitutes insight into violence or any similar legal action against any person or group of persons based on their race, color, religion, language, or national origin, among other things.<sup>683</sup>

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

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<sup>676</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 322.

<sup>677</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 324.

<sup>678</sup> *National Post*. June 30, 2022. [Radio-Canada must apologize for repeated use of N-word on program: CRTC](#); *Global News*. July 4, 2022. [Radio-Canada personalities urge broadcaster to fight CRTC N-word decision](#).

<sup>679</sup> Canadian Radio-television and Telecommunications Commission. June 29, 2022. [Broadcasting Decision CRTC 2022-175](#).

<sup>680</sup> *City News*. July 13, 2022. [Radio Canada to appeal CRTC N word decision and apologize to complainant](#); *Toronto Star*. July 13, 2022. [Radio-Canada to appeal CRTC N-word decision and apologize to complainant](#).

<sup>681</sup> *CBC*. July 13, 2022. [CBC/Radio-Canada apologizes for using N-word, but says CRTC 'overstepped' authority](#).

<sup>682</sup> IACHR. Freedom of Expression Standards for Free and Inclusive Broadcasting. 2010. OEA Ser.L/V/II. CIDH/RELE/INF. 3/09. Para. 24.

<sup>683</sup> IACHR. Hate Speech and Incitement to Violence against LGBTI Persons in the Americas 2015. Para. 13.

314. In 2022, the Office of the Special Rapporteur registered with concern reports of discrimination against journalists and members of civil society based on their gender, sexual orientation, and ethnicity. However, this Office also received information on progress made on raising the profile of the country's indigenous communities.

315. In February 2022, the Office of the Special Rapporteur received a report based on a talk about journalism and hate on digital platforms in Canada. The report indicated that in the media industry, women, members of ethnic minorities, and 2SLGBTQ+ persons are the main targets of attacks on social media.<sup>684</sup> This Office noted with concern the assertion that these messages of hate are part of broader campaigns to harass and intimidate journalists, many of which are allegedly coordinated by trolls, politicians, and even other members of the media. This Office was also dismayed at the possibility that the trauma caused by the selective harassment campaigns has moved the most vulnerable journalists to abandon the profession completely, depriving Canadian media of a more representative diversity of perspectives.<sup>685</sup>

316. In May 2022, the Office of the Special Rapporteur learned of a study morning of the high levels of stress and trauma experienced by media workers.<sup>686</sup> According to the 1,252 people interviewed, only 19 percent of journalists in Canada are members of ethnic minorities. According to the information in the study, Asian, black, and Arab workers have reported harassment—both online and in person—more frequently than their white colleagues, concluding that journalists of non-Caucasian origin therefore have worse mental health.<sup>687</sup> The Office of the Special Rapporteur was informed that at least a third of media workers deal with online harassment, something made clear by the reports discussed in other sections of this annual report.

317. The Office of the Special Rapporteur reiterates that, where local circumstances require, States must place a special focus on combating—including by designing programs to counteract—historical discrimination, prejudice, and bias from preventing certain groups from the equitable exercise of the right to freedom of expression.<sup>688</sup> The Office of the Special Rapporteur recalls that States must adopt affirmative measures (legislative, administrative, or in any other nature), in a condition of equality and non-discrimination, to reverse or change existing discriminatory situations that may compromise certain groups' effective enjoyment and exercise of the right to freedom of expression.<sup>689</sup>

318. Additionally, this Office recalls that States and non-State actors must guarantee the highest degree of protection to journalists.<sup>690</sup> In this regard, the Office of the Special Rapporteur recalls that all the measures taken must take into account the intersectional forms of discrimination against certain groups of women journalists. In particular, labor protections must be offered to women from groups that face exclusion or vulnerability.<sup>691</sup>

319. The Office of the Special Rapporteur welcomes the information received indicating that the country's public media commemorated National Indigenous History Months with special audiovisual programming on First Nations, Métis, and Inuit peoples showing their cultures, perspectives, and experiences.<sup>692</sup> According to public information, during the month of June, they broadcast documentaries, movies, and series with indigenous protagonists; shared playlists of indigenous music; and launch podcasts to raise awareness on the system of residential schools and confront the perpetrators of abuse.

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<sup>684</sup> Canadian Association of Journalists. February 9, 2022. [Online hate is damaging journalists and democracy, according to a new report released by the CAJ and CJE](#); Canadian Association of Journalists. February 9, 2022. [Poisoned Well: The results of a roundtable on journalists and online hate](#).

<sup>685</sup> Canadian Association of Journalists. February 9, 2022. [Online hate is damaging journalists and democracy, according to a new report released by the CAJ and CJE](#); Canadian Association of Journalists. February 9, 2022. [Poisoned Well: The results of a roundtable on journalists and online hate](#).

<sup>686</sup> CPAC. May 25, 2022. [Researchers Present Report on Mental Health of Media Workers](#).

<sup>687</sup> Taking Care Survey. May 2022. [A Report on Mental Health, Well-being & Trauma Among Canadian Media Workers](#).

<sup>688</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on Universality and the Right to Freedom of Expression. 2014. Part 1.g

<sup>689</sup> IACHR. The Inter-American Framework regarding the Right to Freedom of Expression. 2010. OEA/SER.L/V/II. CIDH/RELE/INF. 2/09. Para. 238.

<sup>690</sup> OAS, UN, OSCE, ACHPR. International Rapporteurs urge stronger measures of protection for journalists who cover conflicts. 2014

<sup>691</sup> IACHR, Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 151.

<sup>692</sup> CBC. June 15, 2022. [Celebrating National Indigenous Peoples Day](#). APTN. June 18, 2022. [APTN Indigenous Day Live 2022](#).

320. At the same time, during 2022, the Office of the Special Rapporteur also received reports of discrimination based on sexual orientation against members of civil society, especially minors. In January 2022, the Office of the Special Rapporteur received reports that the Waterloo Region District School Board meeting had expelled Carolyn Burjoski, a grade school teacher, for her stance on LGBTQ+ books. On January 17, 2022, during a school board meeting about the library collection, Burjoski questioned whether two books—one with an asexual protagonist and one with a transgender protagonist—were appropriate for her students.<sup>693</sup> The board cut off her presentation, arguing that her comments violated the Ontario Human Rights Code, which provides protections for gender identity and expression. The board reportedly removed her from the virtual meeting and, a day later, suspended her from the school. This Office was informed that Burjoski had requested a judicial review of the facts, arguing that the school board had violated her right to freedom of expression. Burjoski said she was concerned about the alleged abuse of power to silence anyone who questions their policies, adding that boards must respect the rights of parents and teachers to free expression.<sup>694</sup>

321. In July 2022, the Office of the Special Rapporteur received with concern reports that a 2SLGBTQ+ activist and organizer had been threatened online for helping to plan a drag show for teens. According to public information, Seth Compton, the founder of Outloud North Bay, received violent messages via email and social media accounts after Libs of TikTok—a U.S.-based TikTok account—learned that his organization was planning an event for 2SLGBTQ+ young people to freely express themselves in a safe environment.<sup>695</sup> The account is known for taking videos and social media posts primarily from 2SLGBTQ+ people to disseminate them and spark outrage in its homophobic followers.<sup>696</sup>

322. The Office of the Special Rapporteur recalls that it is especially important for States to take action to guarantee the exercise of the right to freedom of expression by LGBTI persons and empower those who are impacted and made invisible.<sup>697</sup> As the IACHR and its Office of the Special Rapporteur have expressed previously, promoting and protecting the right to freedom of expression must be joined with efforts to combat intolerance, discrimination, hate speech, and incitement to violence, and especially with promoting proactive public policies on social inclusion in the media and to ensure that LGBTI persons and communities can effectively exercise their right to freedom of expression without discrimination. All these efforts must, in general, adhere strictly to international human rights law and, in particular, to standards on freedom of expression.<sup>698</sup>

323. Regarding alleged instances of racial discrimination by State authorities, the Office of the Special Rapporteur learned of at least one incident in Québec in June 2022. On June 24, the Office of the Special Rapporteur received reports indicating that the police in Montréal had harassed members of the Caribbean community who were holding an open-air event to raise funds. According to public information, the city's police received a noise complaint and proceeded to send approximately 15 officers to the event, including members of SQ, RCMP, and Eclipse, who normally handle organized crime.<sup>699</sup> Witnesses there said that the unusual presence of the police at a cultural event, where they issued no order or citation, was racially biased. This Office

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<sup>693</sup> *National Post*. January 21, 2022. [‘No dissent is allowed’: School board bars teacher from raising concerns over transgender books](#); *CBC*. June 20, 2022. [Teacher ejected from school board meeting asks Ontario court to let her finish delegation](#); *City News*. May 6, 2022. [Retired teacher who faced transphobia accusations files defamation suit against WRDSB, chair](#); *CBC*. August 4, 2022. [Ex-teacher’s \\$1.75M defamation suit against school board meant to silence them, WRDSB and chair say](#).

<sup>694</sup> *City News*. May 6, 2022. [Retired teacher who faced transphobia accusations files defamation suit against WRDSB, chair](#); *CBC*. August 4, 2022. [Ex-teacher’s \\$1.75M defamation suit against school board meant to silence them, WRDSB and chair say](#).

<sup>695</sup> *CBC*. July 12, 2022. [North Bay, Ont., group for LGBTQ youth gets death threats for planning drag show](#); *CTV News*. July 15, 2022. [North Bay 2SLGBTQ youth hub postponing drag show after threats](#); *CTV News*. July 8, 2022. [U.S. TikTok account directs hate toward OutLoud North Bay for youth drag show](#).

<sup>696</sup> *CBC*. July 12, 2022. [North Bay, Ont., group for LGBTQ youth gets death threats for planning drag show](#); *CTV News*. July 15, 2022. [North Bay 2SLGBTQ youth hub postponing drag show after threats](#); *CTV News*. July 8, 2022. [U.S. TikTok account directs hate toward OutLoud North Bay for youth drag show](#).

<sup>697</sup> IACHR. Hate Speech and Incitement to Violence against LGBTI Persons in the Americas 2015. Para. 22.

<sup>698</sup> IACHR. Hate Speech and Incitement to Violence against LGBTI Persons in the Americas 2015. Para. 9.

<sup>699</sup> *Global News*. June 29, 2022. [Organizers of a popular Montreal Caribbean Festival speak out about “racial profiling”](#); *CTV News*. July 14, 2022. [Montreal’s Caribbean community seeks answers after 15 officers interrupt BBQ](#).



was informed that the Montreal police said there was a noise complaint and that the Eclipse unit—accompanied by SQ and RCMP—made periodic visits to bars and restaurants in the city.<sup>700</sup>

324. This Office recalls that persons who perform public functions are called upon to maintain a discourse that is respectful of the right to freedom of expression and avoid messaging that feeds intolerance, discrimination, or hostility against certain persons or groups.<sup>701</sup>

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

325. In 2022, the Rapporteurship continued to monitor bills that would affect freedom of expression and the media in the country, just as it did in its 2021 annual report.<sup>702</sup>

326. As reported by this Office in its last annual report, on June 22, 2021, the House of Commons passed Bill C-10 to amend the Broadcasting Act, with the aim of placing the activities of online platforms under the jurisdiction of the Canadian Radio-television and Telecommunications Commission.<sup>703</sup> However, the bill failed to pass the senate before parliament was dissolved for a federal election.<sup>704</sup> The federal government then reintroduced the bill, with amendments, as the Online Streaming Act, or Bill C-11.<sup>705</sup> According to the information received by this Office, the bill was passed by the House of Commons on June 21, 2022. As of the publication date of this annual report, its passage by the Senate remained pending.<sup>706</sup>

327. Like the previous version, Bill C-11, would amend the Broadcasting Act to give the Canadian Radio-television and Telecommunications Commission (CRTC) more authority to regulate digital broadcasting.<sup>707</sup> According to the Senate of Canada, it is difficult to determine the precise effects that the initiative would have due to the ambiguity of its wording.<sup>708</sup> Likewise, according to criticisms of it, the bill would place the majority of online audiovisual content at risk of regulation by the CRTC.<sup>709</sup> The companies providing intermediary services in the country would have to make financial contributions to the funds that support the creation of "Canadian Content" (CanCon) and broadcast a certain quantity of it.<sup>710</sup> The bill would also implement discoverability requirements for audiovisual content on digital platforms, which could force them to manipulate playlists, sources, and algorithmic recommendations to comply with Canadian content quotas.<sup>711</sup>

328. The Office of the Special Rapporteur recalls that because they are ultimately responsible for protecting and respecting the right to freedom of opinion and expression, States must not require or pressure private entities to disproportionately and unnecessarily interfere with the right to freedom of expression.<sup>712</sup> This Office also reiterates that the intermediaries remain private entities with economic, social, and individual interests that are distinct of those of the State. Demanding they perform a jurisdictional exercise to balance the

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<sup>700</sup> *Global News*. June 29, 2022. [Organizers of a popular Montreal Caribbean Festival speak out about "racial profiling"; CTV News](#). July 14, 2022. [Montreal's Caribbean community seeks answers after 15 officers interrupt BBO](#).

<sup>701</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression](#).

<sup>702</sup> IACHR. Annual Report 2021. Office of the Special Rapporteur for Freedom of Expression. Para. 184-186.

<sup>703</sup> IACHR. Annual report for 2021. Office of the Special Rapporteur for Freedom of Expression. Para. 185.

<sup>704</sup> Parliament of Canada. August 15, 2021. [C-10: An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts](#).

<sup>705</sup> Parliament of Canada. November 27, 2022. [C-11: Online Streaming Act](#).

<sup>706</sup> Parliament of Canada. November 27, 2022. [C-11: Online Streaming Act](#); *CBC*. June 15, 2022. [MPs rush over 150 amendments to streaming bill. Senate says it won't be pressured](#); *City News*. November 25, 2022. [What is Bill C-11 and what will it do?](#); *National Post*. November 23, 2022.

<sup>707</sup> Senate of Canada. November 18, 2022. [News: The Online Streaming Act in the Senate](#).

<sup>708</sup> Senate of Canada. November 18, 2022. [News: The Online Streaming Act in the Senate](#).

<sup>709</sup> Michael Geist. November 21, 2022. [The Law Bytes Podcast, Episode 147: Canada's Battle over Internet Streamers – A Cancon Story of Freedom of Expression, Algorithms and Cultural Policy](#); Open Media. September 28, 2022. [What's wrong with Bill C-11? An FAQ](#).

<sup>710</sup> Michael Geist. November 21, 2022. [The Law Bytes Podcast, Episode 147: Canada's Battle over Internet Streamers – A Cancon Story of Freedom of Expression, Algorithms and Cultural Policy](#); Open Media. September 28, 2022. [What's wrong with Bill C-11? An FAQ](#).

<sup>711</sup> Michael Geist. November 21, 2022. [The Law Bytes Podcast, Episode 147: Canada's Battle over Internet Streamers – A Cancon Story of Freedom of Expression, Algorithms and Cultural Policy](#); Open Media. September 28, 2022. [What's wrong with Bill C-11? An FAQ](#).

<sup>712</sup> IACHR. Standards for a free, open, and inclusive Internet. March 2017. OEA/SER.L/V/II. CIDH/RELE/INF.17/17. Para. 101.



rights of their users exceeds the scope of their powers and could generate and encourage abuses to the detriment of freedom of expression and access to information.<sup>713</sup>

329. Additionally, the Office of the Special Rapporteur learned of the submission of a new legislative initiative in April 2022 called Bill C-18 or the Online News Act. As of the date of publication of this annual report, the bill was before the Standing Committee on Canadian Heritage.<sup>714</sup> According to the information received by this Office, the bill's purpose is to establish a new regulatory framework to guarantee equity in the Canadian digital news market and "fair compensation" for media outlets and journalists in the country. In this regard, like Bill C-11, the initiative would expand the mandate and authority of the Canadian Radio-television and Telecommunications Commission (CRTC).

330. According to critics of the initiative, the bill would ban "undue preference" in search engines and would therefore prevent platforms from prioritizing trustworthy sources of information over lower-quality sources.<sup>715</sup> In addition, the bill would define "news businesses" in an allegedly broad way, so a media outlet would not be required to follow basic journalistic standards; this, according to critics, would increase the proliferation of misinformation on the internet.<sup>716</sup> Additionally, the bill would establish "payment for links," which, according to the information received by this Office, would encourage low-quality content and favor large media houses for having more content to link to.<sup>717</sup> Lastly, as documented by this Office, the initiative lacks equity, since a smaller media outlet would not be able to shoulder the regulatory cost.<sup>718</sup>

331. The Office of the Special Rapporteur recalls that the exercise of freedom of expression requires conditions that foster user access to a plurality and diversity of media and that does not discourage such access.<sup>719</sup> In this regard, and in order to ensure that all relevant points of view can be adequately taken into account, States must guarantee the equitable participation of all actors relevant to Internet governance, thereby fostering robust cooperation between authorities, academia, civil society, technical experts, and the private sector, among other actors, both nationally and internationally.<sup>720</sup>

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<sup>713</sup> IACHR. Standards for a free, open, and inclusive Internet. March 2017. OEA/SER.L/V/II. CIDH/RELE/INF.17/17. Para. 112.

<sup>714</sup> Parliament of Canada. November 27, 2022. [C-18: An Act respecting online communications platforms that make news content available to persons in Canada](#).

<sup>715</sup> Google Canada. October 18, 2022. [Google Canada's testimony on Bill C-18, the Online News Act](#); Michael Geist. November 7, 2022. [The Law Bytes Podcast, Episode 145: Why Bill C-18's Mandated Payments for Links is a Threat to Freedom of Expression in Canada – My Appearance Before the Heritage Committee](#).

<sup>716</sup> Google Canada. October 18, 2022. [Google Canada's testimony on Bill C-18, the Online News Act](#); Michael Geist. November 7, 2022. [The Law Bytes Podcast, Episode 145: Why Bill C-18's Mandated Payments for Links is a Threat to Freedom of Expression in Canada – My Appearance Before the Heritage Committee](#).

<sup>717</sup> Google Canada. October 18, 2022. [Google Canada's testimony on Bill C-18, the Online News Act](#); Michael Geist. November 7, 2022. [The Law Bytes Podcast, Episode 145: Why Bill C-18's Mandated Payments for Links is a Threat to Freedom of Expression in Canada – My Appearance Before the Heritage Committee](#).

<sup>718</sup> Google Canada. October 18, 2022. [Google Canada's testimony on Bill C-18, the Online News Act](#); Michael Geist. November 7, 2022. [The Law Bytes Podcast, Episode 145: Why Bill C-18's Mandated Payments for Links is a Threat to Freedom of Expression in Canada – My Appearance Before the Heritage Committee](#).

<sup>719</sup> IACHR. Freedom of Expression and the Internet. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 174.

<sup>720</sup> IACHR. Freedom of Expression and the Internet. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 178.

## CHILE

332. In 2022, this Office of the Special Rapporteur recorded the murder of a journalist who was covering a public demonstration taking place on Workers' Day. In addition, this Office has continued to receive information on the alleged disproportionate use of public force against reporters covering social protests. In this regard, this Office welcomes the progress in the pursuit of justice in a case of police abuse committed against two journalists in the context of the 2019 social outburst. Likewise, this Office became aware of new findings on alleged actions of surveillance by the Army of private communications, which would have taken place in the same context as the spying on journalist Mauricio Weibel. Additionally, in 2022, this Office followed the process to reform the Constitution of Chile. In particular, the Office offered contributions on freedom of expression to the Constitutional Convention and the Coordination of the Commission on Fundamental Rights, with the intention of providing input on international and inter-American human rights standards. Likewise, the Special Rapporteur welcomes Chile's accession to the Escazú Agreement and encourages the State to continue promoting best practices in the area of access to information. Finally, this Office thanks the Permanent Mission of Chile to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to acting together to strengthen the exercise of and respect for the right to freedom of expression, information and thought, and to reaffirm that free and independent media are fundamental to democracy.

### A. Journalism and democracy

333. In 2022, this Office received information on various acts of violence against journalists covering social protests in Santiago de Chile. On May 1, journalist Francisca Sandoval of the local community media outlet *Señal 3 La Victoria*, was shot in the face by an individual while covering a Workers' Day protest in Barrio Meiggs, in the center of the Chilean capital.<sup>721</sup> The journalist died on May 12, after being hospitalized following the attack. During the protest, *Radio 7* reporter Fabiola Moreno and *Prensa Piensa* community media reporter Roberto Caro were also shot and wounded.<sup>722</sup>

334. On May 2, the Ministry of the Interior reported the arrest of the alleged perpetrator of the homicide and announced that he was being charged for frustrated homicide, illegal carrying of a firearm and unjustified shooting.<sup>723</sup> In July, the charges against the perpetrator were changed to consummated homicide.<sup>724</sup> The Rapporteurship also learned that the President of Chile visited the journalist's family in the hospital and publicly expressed his rejection of violence.<sup>725</sup> Additionally, according to the information received, the Minister of Government spokesperson stated that "there will be no impunity" in this case, and highlighted the commitment of the authorities to "guarantee greater security conditions for press workers".<sup>726</sup> By way of background, according to available information, the journalist and the community media for which she worked for had denounced continuous attacks.<sup>727</sup> In 2012, Francisca Sandoval was allegedly intentionally run over by

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<sup>721</sup> BBC. May 13, 2022. [Francisca Sandoval: the tragic death of a journalist at a demonstration causes shock in Chile](#); Deutsche Welle (DW). May 12, 2022. [Chilean journalist shot dead while covering May Day march](#); El Diario.es. May 13, 2022. [Journalist shot during May Day demonstrations in Chile dies](#); El País. May 12, 2022. [Chilean journalist shot in the head during march in Santiago dies](#).

<sup>722</sup> CPJ. May 6, 2022. [Three journalists are injured by gunfire at Labor Day protest in Chile and one of them is in serious condition](#); Colegio de Periodistas de Chile. May 2, 2022. [Public Statement by the Chilean Association of Journalists](#); Télam. May 1, 2022. [Bullet wounded during demonstration](#); T13. May 1, 2022. [Report of injuries during demonstration](#); Europa Press. 01 May 2022. [Several people shot and wounded in an attack on a May Day demonstration in Chile](#).

<sup>723</sup> Government of Chile, Ministry of the Interior and Public Security. May 3, 2022. [Minister Izkia Siches gave details on the arrest of the alleged perpetrator of frustrated homicide of journalist](#); Twitter account of the Ministry of Interior (@min\_interior). May 13, 2022.

<sup>724</sup> DNA. July 11, 2022. [Francisca Sandoval case: accused of murder of communicator in Meiggs neighborhood reformatizan por homicidio consumado a imputado por asesinato de comunicadora en barrio Meiggs](#); Biobiochile. July 8, 2022. [The accused will be reformatized for the consummated homicide of journalist Francisca Sandoval in Meiggs](#).

<sup>725</sup> Biobiochile. May 3, 2022. [President Boric visited injured journalist in Meiggs: group insulted him outside ex Posta](#); ADN. May 3, 2022. [President Boric met with family of shot reporter and was insulted by protesters at Posta Central](#); Cooperativa. May 12, 2022. [President Boric after death of journalist Francisca Sandoval: "We will not allow impunity"](#).

<sup>726</sup> Página 12. May 12, 2022. [Chile: Boric lamented the death of the journalist shot on Workers' Day](#);

<sup>727</sup> Cooperativa. May 12, 2022. [Camila Vallejo and the murder of Francisca Sandoval: "We will not rest until there is justice"](#); Radio Uchile. May 12, 2022. ["Violence harms democracy": death of Francisca Sandoval generates commotion in all political sectors](#).

<sup>727</sup> ANRed. May 13, 2022. [The murder of Francisca Sandoval and the historic struggle of Señal Tres La Victoria](#); La voz de los que sobran. [The outrage suffered in 2012 by journalist Francisca Sandoval at the hands of Carabineros](#); Telesur TV. June 13, 2020. [Chile: The courageous trajectory of struggle of Canal 3 La Victoria](#).

a police vehicle, which left her with serious injuries.<sup>728</sup> Regarding the apparent police brutality, the Undersecretary of the Interior announced an internal investigation.<sup>729</sup>

335. On May 17, this Office issued a *communiqué* in which it condemned the murder of the journalist and urged the State of Chile to investigate the facts in a complete, effective and impartial manner and to punish those responsible.<sup>730</sup> The Special Rapporteur recalls that the murder of journalists is the most extreme form of censorship and it is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure adequate reparation to the victims.<sup>731</sup> The IACHR and its Rapporteurship have argued that investigations into violations of the right to life and physical integrity that occur in the context of social protests are crucial, since the contrary could generate “an intimidating effect that is particularly serious because of the impact it has on the exercise of the rights to assembly, freedom of expression, and association”.<sup>732</sup>

336. A report by the University of Chile presented in July 2022, highlighted that aggressions against the press by state agents continues to be a widespread trend.<sup>733</sup> In this regard, the report documented 127 aggressions committed against journalists by State agents during 2021.<sup>734</sup> Also, according to the report, there was an increase in attacks with pepper spray on photojournalists, with 25 cases, and acts of harassment of the press, with 53 cases, to prevent or hinder the exercise of their work.<sup>735</sup> Likewise, according to the report, “more than 86 percent of the records correspond to the Metropolitan Region and refer - for the most part - to aggressions produced in the context of the news coverage of the protests held on Fridays in Plaza Baquedano and surrounding areas, in which the resignation of President Sebastián Piñera and the release of the so-called ‘prisoners of the revolt’ were demanded”.<sup>736</sup>

337. In this context, this Office learned that the Association of International Press Correspondents in Chile (ACPI) denounced the escalation of violence and intimidation by certain groups against journalists, including photographers from *EFE* and *AFP* agencies, in the context of social protests.<sup>737</sup>

338. This Office also followed up on the trial for police abuse committed on October 23, 2019 against journalists Patricia Torres Basualdo and Estefani Carrasco Rivera in the context of the social outburst.<sup>738</sup> On September 23, the Criminal Trial Court of Arica sentenced a former police officer to 541 days in prison for the crime of unlawful coercion against the journalists.<sup>739</sup>

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<sup>728</sup> ANRed. May 13, 2022. [The murder of Francisca Sandoval and the historic struggle of Señal Tres La Victoria](#); La voz de los que sobran. [The outrage suffered in 2012 by journalist Francisca Sandoval at the hands of Carabineros](#); Telesur TV. June 13, 2020. [Chile: The courageous trajectory of struggle of Canal 3 La Victoria](#).

<sup>729</sup> Government of Chile, Ministry of the Interior and Public Security. May 3, 2022. [Minister Izkia Siches gave details on the arrest of the alleged perpetrator of frustrated homicide of journalist](#); Twitter account of the Ministry of Interior (@min\_interior). May 13, 2022.

<sup>730</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 17, 2022. Press Release R106/22. [The Office of the Special Rapporteur condemns the murder of journalist Francisca Sandoval during a protest and calls on the State of Chile to investigate the facts](#).

<sup>731</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Silenced Zones: Highly dangerous areas for the exercise of freedom of expression](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 2.

<sup>732</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 246.

<sup>733</sup> Faculty of Communication and Image of the University of Chile / YouTube. July 14, 2022. [Freedom of expression in Chile. Report 2021](#); University of Chile. July 14, 2022. [Report "Freedom of expression in Chile" exposes repeated aggressions against the press by State agents](#).

<sup>734</sup> Faculty of Communication and Image of the University of Chile / YouTube. July 14, 2022. [Freedom of expression in Chile. Report 2021](#); University of Chile. July 14, 2022. [Report "Freedom of expression in Chile" exposes repeated aggressions against the press by State agents](#).

<sup>735</sup> Faculty of Communication and Image of the University of Chile / YouTube. July 14, 2022. [Freedom of expression in Chile. Report 2021](#); University of Chile. July 14, 2022. [Report "Freedom of expression in Chile" exposes repeated aggressions against the press by State agents](#).

<sup>736</sup> Universidad de Chile. July 14, 2022. [Report "Freedom of expression in Chile" exposes repeated aggressions to the press by State agents](#).

<sup>737</sup> El Nuevo Diario. September 22, 2022. [Agresions against journalists are denounced](#); Swissinfo. September 22. [Foreign correspondents in Chile denounce intimidation during protests](#); Diario USACH. September 23, 2022. [Foreign correspondents in Chile denounce intimidation during protests](#).

<sup>738</sup> Twitter account of Pedro Vaca (@PVacaV). [August 31, 2022](#).

<sup>739</sup> Judicial Branch Republic of Chile. September 23, 2022. [TOP of Arica sentenced to 541 days of imprisonment for illegitimate harassment in police station in the city](#); El Dínamo. October 20, 2022. [The story of the ruling that sentenced a police officer in Arica and the](#)

339. As the rapporteurs for freedom of expression of the UN and the OAS stated in a Joint Declaration, attacks against journalists covering social protests “violate both the individual aspect of freedom of expression—insofar as they prevent journalists from exercising their right to seek and disseminate information, and creates a chilling effect—as well as its collective aspect—in that they deprive society of the right to know the information that journalists obtain.”<sup>740</sup> For this reason, “given the importance of the work done by journalists who cover these events, the State must afford them the highest degree of protection in order for them to perform their duties. This obligation is not limited to granting specific protective measures to journalists; it also includes the duty to create the necessary conditions to mitigate the risks of practicing their profession in such situations.”<sup>741</sup>

340. On the other hand, according to information documented by this Office, on March 5, Roberto Rivas, journalist and editor of the newspaper *El Ovallino*, was arrested.<sup>742</sup> The journalist was reportedly arrested by the police in his own office after a person identified by the initials G.B., allegedly annoyed at having been mentioned in a newspaper article, rebuked him and threatened him to delete the publication and then denounced him.<sup>743</sup>

341. Likewise, this Office received information on alleged restrictions to freedom of expression by indirect means. According to the information available, in January, the program *Café Cargado*, which was broadcasted on Sundays on private signal,<sup>744</sup> was cancelled. This occurred after its host, the humorist Sergio Hirane, made a call during his radio program to businessmen to “put all kinds of obstacles” to the Government.<sup>745</sup> The television station *La Red* confirmed the decision in a statement indicating that the host’s statements would have caused distrust in the editorial production of the program and thus the decision to remove it from its program schedule.<sup>746</sup> However, Hirane accused the broadcaster of censorship.<sup>747</sup>

342. This Office also received reports of alleged violations of labor rights following the dismissal of 45 journalists, communicators and collaborators of the radio station *La Red*, owned by Albavisión.<sup>748</sup> According to the information available, the employees had remained on strike for three months without receiving any salary or explanations from the company.<sup>749</sup> In the midst of this uncertainty, workers from different areas of the television station denounced the lack of clarity from the directors of the television station about the situation of the company.<sup>750</sup>

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[300 complaints that the prosecutor’s office is investigating](#); Arica Mía. September 23, 2022. [TOP of Arica sentenced to 541 days imprisonment for illegitimate harassment in police station in the city](#).

<sup>740</sup> UN, OAS. September 13, 2013. [Joint Declaration on violence against journalists and media workers in the context of protests](#).

<sup>741</sup> UN, OAS. September 13, 2013. [Joint Declaration on violence against journalists and media workers in the context of protests](#).

<sup>742</sup> El Filtrador.com. March 5, 2022. [The Police arrests journalist in Ovalle after confusing incident](#); El Día. March 4, 2022. [Unusual: Editor of El Ovallino is detained after being threatened in his own office](#); Mato Rosales Gutiérrez Twitter account (@matorosales). [4 March 2022](#).

<sup>743</sup> El Filtrador.com. March 5, 2022. [The Police arrests journalist in Ovalle after confusing incident](#); El Día. March 4, 2022. [Unusual: Editor of El Ovallino is detained after being threatened in his own office](#); Mato Rosales Gutiérrez Twitter account (@matorosales). [4 March 2022](#).

<sup>744</sup> BioBioChile. January 17, 2022. [La Red cancels Checho Hirane’s program after calling businessmen to “put obstacles” to Boric](#); The Clinic. January 18, 2022. [Checho Hirane reveals alleged reason of La Red after cancellation](#).

<sup>745</sup> BioBioChile. January 17, 2022. [La Red cancels Checho Hirane’s program after calling businessmen to “put obstacles” to Boric](#); The Clinic. January 18, 2022. [Checho Hirane reveals alleged reason of La Red after cancellation](#).

<sup>746</sup> BioBioChile. January 17, 2022. [La Red cancels Checho Hirane’s program after calling businessmen to “put obstacles” to Boric](#); The Clinic. January 18, 2022. [Checho Hirane reveals alleged reason of La Red after cancellation](#).

<sup>747</sup> Twitter account of Checho Hirane (@hiranechecho). [January 17, 2022](#); BioBio Chile. 17 January 2022. [Checho Hirane accuses La Red of censorship after Café Cargado is suspended from the air: “I am sad because I was naïve”](#); Tvd al Día. January 18, 2022. [The replacement of Café Cargado is confirmed, after its early departure from the air](#).

<sup>748</sup> Publimetro. July 21, 2022. [Dismissal of communicators announced](#); Diario UChile. July 22, 2022. [La Red workers demand a statement from the station’s top management for regularization of salaries](#); La Hora. July 21, 2022. [Dismissals at La Red: 45 employees were reportedly dismissed during this day](#); Interferencia. July 22, 2022. [Dismissals at La Red: 45 workers are dismissed with a view to a new -and unknown- stage in the channel](#).

<sup>749</sup> Publimetro. July 21, 2022. [Dismissal of communicators announced](#); Diario UChile. July 22, 2022. [La Red workers demand a statement from the station’s top management for regularization of salaries](#); La Hora. July 21, 2022. [Dismissals at La Red: 45 employees were reportedly dismissed during this day](#); Interferencia. July 22, 2022. [Dismissals at La Red: 45 workers are dismissed with a view to a new -and unknown- stage in the channel](#).

<sup>750</sup> Publimetro. July 21, 2022. [Dismissal of communicators announced](#); Diario UChile. July 22, 2022. [La Red workers demand a statement from the station’s top management for salary regularization](#); La Hora. July 21, 2022. [Dismissals at La Red: 45 employees were](#)

343. On the other hand, according to available information, the Supreme Court accepted the appeal for protection filed against a former official of the Presidency for facts reported in the Special Rapporteur's 2021 annual report, with respect to the alleged governmental pressures to hinder the free exercise of journalism.<sup>751</sup> According to the information received in 2021, the former presidential advisor had telephonically contacted the owner of the holding *Albavisión* -to which the television station *La Red* belongs- expressing her annoyance and requesting it to modify its "leftist" editorial line and not to continue broadcasting news that "divide the country" and "damage democracy".<sup>752</sup> This year, the Supreme Court upheld the action, considering that the conduct of the former advisor constituted "an arbitrary and illegal threat to the guarantee of freedom of opinion and freedom to inform" and that given her position, it constitutes an interference that inhibits journalistic activity and freedom of expression.<sup>753</sup> The highest court stated that "the meaning of interference in the informative process encompass those active, omissive, direct or indirect conducts, which amount to obstacles to the free flow of information; impositions of information and direct or indirect pressures aimed at silencing the informative work of social communicators".<sup>754</sup>

344. The IACHR and its Rapporteurship have pointed out that journalism represents one of the most important manifestations of freedom of expression in democratic societies. An independent and critical press is a fundamental element for the validity of the other freedoms that make up the democratic system.<sup>755</sup> In this context, the Rapporteurship recalls that, according to Principle 5 of the Declaration of Principles of the IACHR, "[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression".<sup>756</sup>

345. This year, the Office of the Special Rapporteur continued to follow up on the criminal investigation for alleged interceptions by the Army of journalist Mauricio Weibel, who in 2015, published in the newspaper *The Clinic* a series of reports on possible embezzlement of funds within the Army.<sup>757</sup> According to the information reported, in 2022, there has been no progress in the judicial investigations.

## **B. Freedom of expression, Rule of Law and democratic institutions**

346. In January, the Inter-American Commission on Human Rights issued the report "Situation of Human Rights in Chile" which addresses the findings of the Commission's *on-site* visit, conducted from January 25 to 31, 2020, with the purpose of learning about the underlying causes and consequences of the social protests that began on October 18, 2019.<sup>758</sup> The report stressed that the actions of democratic states should consider that protests do not constitute a threat to public order, but rather strengthen political participation and the

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[reportedly dismissed during this day](#); Interferencia. July 22, 2022. [Dismissals at La Red: 45 workers are dismissed with a view to a new -and unknown- stage in the channel](#).

<sup>751</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 201; Enestrado. July 29, 2022. [Chilean Supreme Court upheld the writ of protection](#); El Mostrador. July 30, 2022. [Supreme Court accepts appeal for protection for telephone call from presidential advisor of Sebastián Piñera to owner of TV channel](#); ADN. July 29, 2022. [Supreme Court accepts appeal for protection for phone call from advisor of former president Piñera to owner of La Red](#).

<sup>752</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 201.

<sup>753</sup> Enestrado. July 29, 2022. [Chilean Supreme Court accepted the appeal for protection](#); El Mostrador. July 30, 2022. [Supreme Court accepts appeal for protection for telephone call from presidential advisor of Sebastián Piñera to owner of TV channel](#); ADN. July 29, 2022. [Supreme Court accepts appeal for protection for phone call from advisor of former president Piñera to owner of La Red](#).

<sup>754</sup> Enestrado. July 29, 2022. [Chilean Supreme Court accepted the appeal for protection](#); El Mostrador. July 30, 2022. [Supreme Court accepts appeal for protection for telephone call from presidential advisor of Sebastián Piñera to owner of TV channel](#); ADN. July 29, 2022. [Supreme Court accepts appeal for protection for phone call from advisor of former president Piñera to owner of La Red](#).

<sup>755</sup> IACHR Court. Advisory Opinion OC-5/85. Compulsory Membership in an Association prescribed by the law for the practice of journalism (Arts. 13 and 29 American Convention on Human Rights). Series A No. 5. Para. 71; IACHR. Report on the Situation of Human Rights in Mexico. OEA/Ser.L/V/II.100. Doc 7 rev.1. 24 September 1998. Para. 649; IACHR. Case No. 11,739. Report No. 5/99 Héctor Félix Miranda.

<sup>756</sup> IACHR. [Declaration of Principles on Freedom of Expression](#). 2000.

<sup>757</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 199.

<sup>758</sup> IACHR. January 25, 2022. Press Release No. 018/22. [IACHR releases report on the Human Rights Situation in Chile](#).



construction of higher levels of citizen participation.<sup>759</sup> It also recommended adopting measures to ensure that those in positions of responsibility within the State guarantee the freedom of the press and the work of the media.<sup>760</sup> The report also recommended that the State give its consent for a working visit by the IACHR's Office of the Special Rapporteur for Freedom of Expression to monitor and gather information directly on the situation of the right to freedom of expression in Chile.<sup>761</sup>

347. On the other hand, in 2022 the Rapporteurship was informed of Chile's accession to the Escazú Agreement.<sup>762</sup> The Agreement was approved on May 31 by the Senate, and includes the "interpretative declaration" proposed by the Chamber that aims at the application of the agreement in relation to domestic law; it recognizes the country's progress in terms of access to information, participation and access to environmental justice, among others, as reported by the Senate.<sup>763</sup> The Minister of Foreign Affairs and the Minister of Environment thanked the support given by the Senate and valued the implications that the approval of this international instrument has for Chile, pointing out that it is a "historic vote".<sup>764</sup> This Office welcomes the incorporation of Chile to this agreement and highlights that such commitment represents a step forward in favor of the right to information in the country.

348. The Escazú Agreement recognizes access to environmental information as a citizen's right. According to this instrument, the exercise of the right of access to environmental information includes: a) requesting and receiving information from the competent authorities without the need to mention any special interest or justify the reasons for the request; b) being promptly informed whether or not the requested information is in the possession of the competent authority receiving the request; and c) being informed of the right to challenge and appeal the non-delivery of information and the requirements to exercise this right.<sup>765</sup>

349. Likewise, this Rapporteurship recorded the signing of an agreement between the Government of Chile and three universities to strengthen communication rights, freedom of expression and freedom of the press.<sup>766</sup> The objective of the agreement is to promote a broad and diverse media ecosystem, with decentralized and deconcentrated media to strengthen democracy.<sup>767</sup> According to the information available, the first step will be the creation of a working group that will gather the discussions held in recent years regarding the current Chilean media system, and the diagnosis made by the various actors in the world of communications.<sup>768</sup>

350. This Office also followed up on the constituent process in Chile, and the different initiatives related to freedom of expression that were proposed as a result of the work of the Commission on Fundamental Rights and the Commission on Knowledge Systems, Cultures, Science, Technology, Arts and Heritage.<sup>769</sup> In a letter sent to the State on March 8, this Office valued the work of the Constituent Convention and expressed its availability to provide specialized technical support, and highlighted the challenges that constitutional coherence and compatibility with international and Inter-American human rights criteria could pose. According to publicly

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<sup>759</sup> IACHR. [Situation of Human Rights in Chile](#). OEA/Ser.L/V/II. Doc. 1/22. January 24, 2022. Para. 153.

<sup>760</sup> IACHR. [Situation of Human Rights in Chile](#). OEA/Ser.L/V/II. Doc. 1/22. January 24, 2022. Recommendation No. 47.

<sup>761</sup> IACHR. [Situation of Human Rights in Chile](#). OEA/Ser.L/V/II. Doc. 1/22. January 24, 2022. Recommendation No. 48.

<sup>762</sup> Senate of the Republic of Chile. May 31, 2022. [Chile accedes to the Escazú Agreement](#); Deutsche Welle (DW). June 1, 2022. [Escazú Agreement is ratified by the Senate of Chile](#).

<sup>763</sup> Senate of the Republic of Chile. May 31, 2022. [Chile accedes to the Escazú Agreement](#); Deutsche Welle (DW). June 1, 2022. [Escazú Agreement is ratified by the Senate of Chile](#).

<sup>764</sup> Senate of the Republic of Chile. May 31, 2022. [Chile accedes to the Escazú Agreement](#); Government of Chile, Ministry of Foreign Affairs. May 31, 2022. [Minister Antonia Urrejola on approval of the Escazú Agreement in Congress: "Chile returns with strength to multilateralism"](#).

<sup>765</sup> ECLAC. 2022. [Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean](#).

<sup>766</sup> Government of Chile. July 15, 2022. [Government confirms agreement to strengthen right to access to information and press freedom](#); Universidad de Chile. July 15, 2022. [U. de Chile will be part of a working group on freedom of press and media](#).

<sup>767</sup> Government of Chile. July 15, 2022. [Gobierno firma convenio para fortalecer el derecho a la información y libertad de prensa](#); Universidad de Chile. July 15, 2022. [U. de Chile will be part of a working group on freedom of press and media](#).

<sup>768</sup> Government of Chile. July 15, 2022. [Gobierno firma convenio para fortalecer el derecho a la información y libertad de prensa](#); Universidad de Chile. July 15, 2022. [U. de Chile will be part of a working group on freedom of press and media](#).

<sup>769</sup> La Neta. March 31, 2022. [What happened this Thursday, March 31 at the Constitutional Convention](#); La Tercera. March 31, 2022. [Plenary of the Convention enshrines freedom of expression, religion and right to identity in the draft of the new Constitution](#).



available information, in the September 4 plebiscite, the proposal for a new constitution was rejected by more than 60% of voters.<sup>770</sup>

351. Finally, this Office learned of new allegations of espionage in Chile.<sup>771</sup> According to available information, the Army Intelligence Directorate (DINE), as part of the same military operation through which the spying on journalist Mauricio Weibel was allegedly ordered, would have tapped cell phones of Army agents between 2016 and 2018.<sup>772</sup> Public reports indicate that the communications of an officer began to be tapped after he reported Army irregularities to the press.<sup>773</sup>

352. This Office recalls that it is imperative that States limit the use of any type of technology that may interfere with private communications in accordance with international human rights standards.<sup>774</sup> The eventual use of surveillance technologies must be clearly and precisely delimited in the law, be exceptional and operate on a strictly necessary basis; in addition, it must have prior judicial authorization and constant supervision by the relevant State agencies.<sup>775</sup> As has been previously pointed out by the Rapporteurship, surveillance practices and the unlawful or arbitrary interception and collection of personal data not only affect the right to privacy and freedom of expression but can also be contrary to the tenets of a democratic society.<sup>776</sup>

### C. Freedom of expression and the Internet

353. On April 11, the Supreme Court sent to the Senate a report regarding the bill that seeks to “regulate digital services platforms in Chile, as well as the users of them”, following a request made in September 2021 by the President of the Senate to the Supreme Court.<sup>777</sup> Among the points mentioned in the report, the Supreme Court raised the need to clarify the scope of application of the rule, as it considered that it would not be possible to know exactly which digital platforms are intended to be regulated.<sup>778</sup> The document also raised the need to establish a local contact point of the platforms or a local representative.<sup>779</sup> Likewise, the Court mentioned that the project is silent on intermediation services and data hosting.<sup>780</sup> The highest court emphasized the need to

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<sup>770</sup> CNN. September 5, 2022. [The reasons behind the rejection of Chile's new constitution and what's next](#); France 24. September 5, 2022. [Chile rejects new constitution: the reasons for the 'No' and constituent alternatives](#).

<sup>771</sup> CIPER. October 9, 2022. [The Army tapped phones of military personnel for accusations of lack of loyalty and for denouncing abuses in the press](#); The Clinic. 12 October 2022. ["Mayordomos", whistleblowers and "disloyal" military: Reveal that Army "tapped" cell phones of officials during Operation Topographer](#); BioChile. October 12, 2022. [Army spied on "disloyal" officials and on plaintiff of labor harassment case](#).

<sup>772</sup> CIPER. October 9, 2022. [The Army tapped phones of military personnel for accusations of lack of loyalty and for denouncing abuses in the press](#); The Clinic. 12 October 2022. ["Mayordomos", whistleblowers and "disloyal" military: Reveal that Army "tapped" cell phones of officials during Operation Topographer](#); BioChile. October 12, 2022. [Army spied on "disloyal" officials and on plaintiff of labor harassment case](#).

<sup>773</sup> CIPER. October 9, 2022. [The Army tapped phones of military personnel for accusations of lack of loyalty and for denouncing abuses in the press](#); The Clinic. 12 October 2022. ["Mayordomos", whistleblowers and "disloyal" military: Reveal that Army "tapped" cell phones of officials during Operation Topographer](#); BioChile. October 12, 2022. [Army spied on "disloyal" officials and on plaintiff of labor harassment case](#).

<sup>774</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 210 et seq.

<sup>775</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 210 et seq.

<sup>776</sup> United Nations. General Assembly. The right to privacy in the digital age. UN Doc. A/RES/68/167. 21 January 2014. Para. 4; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II.149. Doc. 50. 31 December 2013. Para. 23.

<sup>777</sup> Chamber of Deputies. [Bill: Regulates digital platforms](#). Oficio N° 74-2002. Supreme Court Response. April 11, 2022; Judicial Branch of Chile. April 11, 2022. [OFICIO N° 74- 2022 REPORT OF BILL THAT REGULATES "DIGITAL SERVICES PLATFORMS IN CHILE, AS WELL AS ITS USERS"](#).

<sup>778</sup> Judicial Branch of Chile. April 11, 2022. [OFICIO N° 74- 2022 REPORT OF BILL THAT REGULATES "DIGITAL SERVICES PLATFORMS IN CHILE, AS WELL AS ITS USERS"](#); Diario Constitucional. April 12, 2022. [Supreme Court sends to the Senate a report on the bill that regulates digital services platforms as well as their users](#).

<sup>779</sup> Judicial Branch of Chile. April 11, 2022. [OFICIO N° 74- 2022 REPORT OF BILL THAT REGULATES "DIGITAL SERVICES PLATFORMS IN CHILE, AS WELL AS ITS USERS"](#); Diario Constitucional. April 12, 2022. [Supreme Court sends to the Senate a report on the bill that regulates digital services platforms as well as their users](#).

<sup>780</sup> Judicial Branch of Chile. April 11, 2022. [OFICIO N° 74- 2022 REPORT OF BILL THAT REGULATES "DIGITAL SERVICES PLATFORMS IN CHILE, AS WELL AS ITS USERS"](#); Diario Constitucional. April 12, 2022. [Supreme Court sends to the Senate a report on the bill that regulates digital services platforms as well as their users](#).

safeguard due process when initiating legal actions derived from non-compliance with the regulation, if it were to be approved.<sup>781</sup>

354. As far as the Rapporteurship was able to learn, some civil society organizations considered that the manner in which bill addresses the phenomenon of disinformation is disconnected from the international experience in this area, damaging the guarantees of freedom of expression and information without prior censorship; and that it contains provisions, such as the establishment of objective responsibility of the platforms, which directly contravene the recommendations of human rights organizations to ensure and promote a free and open Internet, and guarantee freedom of expression.<sup>782</sup> In view of these considerations, the Special Rapporteur offered his availability to provide technical support, due to the importance of the debate on the exercise of freedom of expression on the Internet.<sup>783</sup>

355. In April 2022, this Office learned that the Electoral Service (Servel) had uploaded to its web page a database with the personal information of almost fifteen million voters, corresponding to the list of people eligible to participate in the municipal elections of May 2022.<sup>784</sup> The information would have included, among other aspects, the *Rol único Tributario* (RUT) numbers associated to each name, gender, age, data of belonging to native peoples, militancy in political parties, data of having voted in the previous municipal elections and on which day (May 15 or 16).<sup>785</sup> The organization *Derechos Digitales* described it as “public cases of violation of data rights”.<sup>786</sup> In this regard, the Rapporteurship states that personal data can only be processed in the cases and conditions determined by law, under a specific legal provision or with prior, free and informed consent of the data owner, in order to protect privacy and the broadest exercise of civil, political, economic and social rights against possible abuses of public and private power.<sup>787</sup>

356. This Office recalls that the guarantees of freedom of expression apply to the Internet in the same way as to all media. In this regard, this Office has emphasized that restrictions to freedom of expression on the Internet are only admissible under the American Convention when they meet the “tripartite test”, which provides that restrictions must be provided for by law and pursue a legitimate aim recognized by international law and be necessary and proportionate to achieve that aim.<sup>788</sup> In this sense, the Office of the Special Rapporteur reiterates the importance that any legislation regulating the Internet does not contain vague and general definitions or disproportionately affect the free flow of information.<sup>789</sup>

357. According to available information, the discussion in Congress of the law that “regulates the protection and processing of personal data and creates the Personal Data Protection Agency” continued during 2022. At the closing date of this report, the bill continues its course under the Constitution, Legislation, Justice and Regulation Committee of the Chamber of Deputies in the framework of the second constitutional

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<sup>781</sup> Judicial Branch of Chile. April 11, 2022. [OFICIO N° 74- 2022 REPORT OF BILL THAT REGULATES "DIGITAL SERVICES PLATFORMS IN CHILE, AS WELL AS ITS USERS"](#); Diario Constitucional. April 12, 2022. [Supreme Court sends to the Senate a report on the bill that regulates digital services platforms as well as their users](#).

<sup>782</sup> IFEX. November 24, 2021. [International civil society warns about the dangers for the exercise of rights of the bill to regulate digital platforms presented in Chile](#); Derechos Digitales. September 24, 2021. Bill to [regulate digital platforms threatens human rights](#); El Mostrador. October 1, 2021. [Groups expressed disagreement with bill that regulates digital platform and recommend not to continue with its approval](#); Global Network Initiative. 27 October 2021. [GNI Letter and Analysis: Draft Digital Platform Regulation in Chile](#).

<sup>783</sup> Official Twitter account of Pedro Vaca (@PVacaV). November 25, 2022.

<sup>784</sup> CIPER. April 28, 2022. [Servel discloses sensitive data of eligible voters for the 2021 municipal elections, such as militancy, address, gender and whether or not they voted](#); La Tercera. April 29, 2022. [Leakage of personal data: Servel discloses information on the participation of 15 million citizens in 2021 municipal elections, including RUT, age and political militancy](#); Servicio Electoral de Chile. May 10, 2022. [President of Servel goes to Congress for publication of personal data](#).

<sup>785</sup> Ciper Chile. May 6, 2022. [Violation of personal data: the private, in public](#).

<sup>786</sup> Digital Rights. December 23, 2022. [A final look at digital rights in 2022](#).

<sup>787</sup> General Assembly of the Organization of American States. Updated principles on privacy and the protection of personal data. Resolution AG/RES. 2974 (LI-O/21). November 11, 2021.

<sup>788</sup> Chamber of Deputies. December 23, 2022. [Bill regulating the protection and processing of personal data and creating the Personal Data Protection Agency](#).

<sup>789</sup> Chamber of Deputies. December 23, 2022. [Bill regulating the protection and processing of personal data and creating the Personal Data Protection Agency](#).

procedure.<sup>790</sup> The Special Rapporteur is following this debate and offers its technical support to ensure that the articles are consistent with Inter-American human rights standards.<sup>791</sup>

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<sup>790</sup> Chamber of Deputies. December 23, 2022. [Bill regulating the protection and processing of personal data and creating the Personal Data Protection Agency.](#)

<sup>791</sup> Chamber of Deputies. December 23, 2022. [Bill regulating the protection and processing of personal data and creating the Personal Data Protection Agency.](#)

## COLOMBIA

358. In 2022, the Rapporteurship recorded the murder of four journalists in Colombia. It also received reports of espionage, attacks, threats, harassment and stigmatizing statements against journalists, especially those who investigate public administration and cover armed clashes and organized crime. Since this was an election year, the Office also followed up on reports of intimidation by candidates against journalists from different media outlets. As the Rapporteurship was able to observe, these facts would have contributed to the deterioration of the public debate. Finally, RELE was also aware of judicial resolutions that protected the right of access to information.

### A. Journalism and democracy

359. Journalistic work continues to face risks in Colombia. In 2022, this Office received reports of attacks, threats, reports of espionage and illegal interception of communications, harassment and violence against journalists motivated by the exercise of their profession, particularly against those who cover violence, crime, armed groups, drug trafficking and elections.

360. In 2022, the Rapporteurship documented the murder of four journalists in Colombia. On August 28, journalists Leiner Enrique Montero Orga and Dilia Contreras Cantillo<sup>792</sup> were murdered. According to the information received, two unknown individuals intercepted the vehicle in which both journalists were driving, who were returning from a coverage in the village of Santa Rosa de Lima, Bolívar<sup>793</sup>. Also injured in the incident was cameraman Joaquín Alberto Gutiérrez, who was traveling in the back seat of the car, who was shot twice in the arm<sup>794</sup>.

361. Leiner Enrique Montero was director of the radio station *Sol Digital Stéreo* in the municipality of Fundación and published news on the page *Leiner Montero Historias*, and Dilia Contreras worked with Montero on his news page and had worked as a reporter and announcer for several media outlets in Bogotá and Santa Marta<sup>795</sup>. According to what the Rapporteurship learned, hours before the murder, Montero had been part of a discussion in which he had received a threat from a person who was in the place where the journalists were covering<sup>796</sup>. On September 2, the Attorney General's Office identified and captured a person as the alleged perpetrator of the murders, according to public information<sup>797</sup>.

362. The Rapporteurship also learned of the murder of journalist Rafael Moreno, which occurred on October 16 in Montelíbano, Córdoba<sup>798</sup>. According to available information, two unknown individuals on a motorcycle reportedly approached and shot journalist Rafael Emiro Moreno Garavito when he was in a commercial establishment he owned, located on 4th Street in the 27 de Julio neighborhood, in the municipality of Montelíbano, in southern Córdoba department. According to what was reported to this Office, the National Protection Unit (UNP) would have assigned the journalist a protection scheme as a result of repeated threats received since 2019. It has also been reported that these threats were related to his journalistic investigations into corruption and armed groups, particularly in the Córdoba municipalities of San José de Uré, Ayapel, Buenavista, Puerto Libertador and Montelíbano, where he was murdered.

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<sup>792</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 7, 2022. Press Release R199/22. [The State of Colombia must investigate the murder of journalists Leiner Enrique Montero and Dilia Contreras and punish those responsible](#).

<sup>793</sup> El Colombiano. August 28, 2022. [Two journalists were murdered in Fundación, Magdalena, after covering some corrales; Fundación para la Libertad de Prensa. There are indications that the murder of Leiner Montero and Dilia Contreras is related to their journalistic work](#).

<sup>794</sup> El Universal. August 28, 2022. [Conmoción en el Caribe: sicarios asesinan a dos periodistas en un carro](#); International Federation of Journalists. 28 August 2022. [Dilia Contreras Cantillo, Leiner Moreno Ortega](#).

<sup>795</sup> El Universal. August 28, 2022. [Conmoción en el Caribe: sicarios asesinan a dos periodistas en un carro](#); International Federation of Journalists. 28 August 2022. [Dilia Contreras Cantillo, Leiner Moreno Ortega](#).

<sup>796</sup> Foundation for Press Freedom. [There are indications that the murder of Leiner Montero and Dilia Contreras is related to their journalistic work](#).

<sup>797</sup> Follow-up. September 2, 2022. [Carlos Mario Fonseca would be one of the murderers of the two journalists](#); El Universal. September 3, 2022. [One of the presumed killers of the journalists in Fundación goes to jail](#).

<sup>798</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 20, 2022. Press Release R237/22. [The Rapporteurship urges the State of Colombia to investigate and punish those responsible for the murder of journalist Rafael Emiro Moreno Garavito, as well as to examine the mechanism for the protection of journalists](#).

363. According to journalists' organizations, during 2022 there were numerous threats against journalists in the department of Córdoba<sup>799</sup>. In this regard, the Rapporteurship recalls that the duty of States to prevent violence against the press is accentuated in situations or areas where there is or has been detected a special risk for journalists working in the media<sup>800</sup>.

364. In a press release, the Rapporteurship condemned the facts and called on the State to carry out an investigation, as well as to prosecute and punish the perpetrators and masterminds of the murder, taking into consideration the journalistic work as a possible motive for the crime<sup>801</sup>. Likewise, RELE appreciated that the local authorities have publicly and timely condemned the murder of Rafael Emiro Moreno Garavito, requesting a "thorough investigation to clarify the facts and identify the perpetrators of this crime"<sup>802</sup>. The Rapporteurship also highlighted that other State bodies, such as the Ombudsman's Office, have followed up on the murder and joined the collective call for speedy investigations<sup>803</sup>. RELE received information that the Colombian Prosecutor's Office, through the Special Investigation Unit, "set up a team to carry out urgent actions and investigative activities to identify and prosecute those allegedly responsible for the murder of social leader and journalist Rafael Moreno"<sup>804</sup>.

365. The fourth journalist to be killed was Wilder Alfredo Córdoba, 35, who on November 28 was the victim of an armed attack by unknown assailants who shot him at least three times while he was riding his motorcycle in a rural area of La Unión<sup>805</sup>. According to the information received, Wilder Alfredo Córdoba was recognized locally for his coverage of insecurity and issues related to the municipal administration through the *La Unión TV* channel, which he directed, and his personal Facebook profile<sup>806</sup>. The Colombian Attorney General's Office reported that they had learned of the death of the journalist and social leader, and that the "Special Investigation Unit assigned a team of prosecutors and investigators to carry out urgent actions and clarify the facts"<sup>807</sup>. Likewise, the Secretary of Government of the Governor's Office of the Department of Nariño condemned the crime and urged the authorities to "expedite the investigative tasks to find, in a timely manner, the perpetrators of this event"<sup>808</sup>. On the other hand, the Municipal Mayor's Office of La Unión offered a financial reward in exchange for information that could lead to the identification of the persons responsible for the murder<sup>809</sup>.

366. This Office has found that all the murders reported this year are located in territories far from the capital, where the impact of these events on freedom of expression and press freedom is greater, as they

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<sup>799</sup> W Radio. October 26, 2022. [Seven journalists have denounced threats in Córdoba and Bajo Cauca Antioqueño](#); El Tiempo. November 17, 2022. [Murder of journalist Rafael Moreno in Córdoba remains unpunished](#).

<sup>800</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 155.

<sup>801</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 20, 2022. Press Release R237/22. [The Rapporteurship urges the State of Colombia to investigate and punish those responsible for the murder of journalist Rafael Emiro Moreno Garavito, as well as to examine the mechanism for the protection of journalists](#).

<sup>802</sup> El País. October 18, 2022. [Investigative journalist who had asked for more protection from the state murdered in Córdoba](#); El Espectador. October 17, 2022. [Journalist and social leader Rafael Moreno is murdered in Montelibano, Córdoba](#).

<sup>803</sup> Infobae. October 12, 2022. [Ombudsman's Office requested explanations for the murder of journalist Rafael Moreno: "He had received multiple threats"](#); Swissinfo. October 17, 2022. [Journalist murdered in the Colombian department of Córdoba](#).

<sup>804</sup> Twitter account of the Colombian Attorney General's Office (@FiscaliaCol). [October 17, 2022](#).

<sup>805</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. December 2, 2022. Press Release R268/22. [Special Rapporteurship condemns the murder of journalist Wilder Alfredo Córdoba and urges the State of Colombia to redouble its efforts to prevent violence against the press](#); CPJ. December 5, 2022. [Journalist Wilder Alfredo Córdoba shot to death in southern Colombia](#); El Heraldo. November 29, 2022. [Renowned journalist and social leader shot to death in La Unión, Nariño](#); RCN. November 29, 2022. [Well-known journalist and social leader murdered in La Unión, Nariño](#).

<sup>806</sup> CPJ. December 5, 2022. [Journalist Wilder Alfredo Córdoba shot to death in southern Colombia](#); El Heraldo. November 29, 2022. [Renowned journalist and social leader shot to death in La Unión, Nariño](#); RCN. November 29, 2022. [Well-known journalist and social leader murdered in La Unión, Nariño](#).

<sup>807</sup> Twitter of the Colombian Prosecutor's Office (@FiscaliaCol). [November 29, 2022](#).

<sup>808</sup> CNN. November 29, 2022. [Journalist and social leader murdered in southern Colombia](#); El Heraldo. November 29, 2022. [Well-known journalist and social leader shot to death in La Unión, Nariño](#).

<sup>809</sup> Blu Radio. November 29, 2022. [Journalist and social leader Wilder Córdoba murdered in La Unión, Nariño](#); Infobae. November 29, 2022. [Murder of Wilder Córdoba, social leader and regional journalist in Nariño](#).

significantly affect the subsistence of local and community journalism, and therefore the possibilities for society to receive information and stay informed on matters of public interest<sup>810</sup>.

367. The State has indicated that it is committed to respecting freedom of expression, freedom of the press and access to public information<sup>811</sup>. In this regard, it reported that it is strengthening the mechanisms for the prevention and protection of journalists, in coordination with civil society organizations<sup>812</sup>. In this regard, it indicated that the Ministry of the Interior is working on an emergency plan consisting of six axes, with short and medium term lines of action. Additionally, the State reported that between January and October 2022, the National Protection Unit (UNP) has protected 164 journalists<sup>813</sup>.

368. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that "the murder, kidnapping, intimidation, threats to social communicators, as well as the material destruction of the media, violate the fundamental rights of individuals and severely restrict freedom of expression. It is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure adequate reparation for the victims"<sup>814</sup>.

369. This Office has previously pointed out that "[t]he murder, kidnapping, intimidation, threats to social communicators, as well as the material destruction of the media have two specific objectives. On the one hand, it seeks to eliminate those journalists who investigate abuses, irregularities or illicit acts of any kind, carried out either by public officials, organizations or individuals in general, so that their investigations cannot be concluded, do not reach the public debate they deserve, or simply as a reprisal for them. On the other hand, it seeks to be a tool of intimidation, through which a clear message is sent to all those persons of the civil society who carry out investigation tasks on irregularities in the public administration. This practice seeks to make the press, as a control mechanism, keep silent or become an accomplice of those persons or institutions that carry out abusive or illegal acts or deeds. Ultimately, what is sought is to prevent society from being informed of these events"<sup>815</sup>.

370. In 2022, the Rapporteurship also received reports of physical attacks and stigmatizing statements against journalists. The department of Arauca, in eastern Colombia and bordering Venezuela, is currently experiencing a context of violence and aggressions directed against those who practice journalistic work, as a result of the reactivation of the dispute between the dissidents of the Rebel Armed Forces of Colombia (FARC) and the National Liberation Army (ELN)<sup>816</sup>. This situation has worsened in the last four years, which has hindered the exercise of the right to freedom of expression and has even caused forced displacements of journalists<sup>817</sup>. The dispute between the guerrilla of the National Liberation Army (ELN) and the Tenth Front of the dissidents of the extinct FARC has left 343 people murdered and 18,900 displaced so far this year, according to the Ombudsman's Office<sup>818</sup>.

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<sup>810</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. December 2, 2022. Press Release R268/22. [The Office of the Special Rapporteur condemns the murder of journalist Wilder Alfredo Córdoba and urges the State of Colombia to redouble its efforts to prevent violence against the press.](#)

<sup>811</sup> Permanent Mission of Colombia to the OAS. December 2, 2022. Comments of the State to the proposed press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>812</sup> Permanent Mission of Colombia to the OAS. December 2, 2022. Comments of the State to the proposed press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>813</sup> Permanent Mission of Colombia to the OAS. December 2, 2022. Comments of the State to the proposed press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>814</sup> IACHR. [Declaration of Principles on Freedom of Expression](#). 2000.

<sup>815</sup> IACHR. [Background and Interpretation of the Declaration of Principles](#). 2000.

<sup>816</sup> Anadolu Agency. March 1, 2022. [Arauca, el departamento colombiano que enfrenta 'en soledad' el recrudesimiento del conflicto armado](#); FLIP, January 20, 2022. [Attack in Saravena has serious consequences on local journalism.](#)

<sup>817</sup> Anadolu Agency. March 1, 2022. [Arauca, el departamento colombiano que enfrenta 'en soledad' el recrudesimiento del conflicto armado](#); FLIP, January 20, 2022. [Attack in Saravena has serious consequences on local journalism.](#)

<sup>818</sup> Office of the Ombudsman. December 6, 2022. [Since the beginning of the year, one person a day has been killed in Arauca as a result of the conflict and the territorial dispute between illegal armed groups.](#)



371. In 2020, RELE had already drawn attention to the situation in Arauca by reporting on the situation of Wilfer Moreno, a journalist from the *CNC Noticias* television channel, who had suffered threats allegedly from the ELN and was forced to flee the city<sup>819</sup>.

372. According to the information reported, the situation of violence and intimidation against the press in the department of Arauca has increased<sup>820</sup>. At least seven journalists have reportedly received threats, which has also generated a climate of self-censorship<sup>821</sup>. FLIP also denounced that the increase in attacks on journalists occurred after the signing of the Peace Accords<sup>822</sup>. In a report presented in February, FLIP recorded that 583 journalists suffered threats from 2017 to 2019, while in the previous three-year period (2014-2016) 257 were threatened<sup>823</sup>.

373. Additionally, RELE learned that on January 19 a car bomb exploded in the municipality of Saravena, Arauca, in front of the headquarters of the social organizations of the Center East, where the digital and print media *Trochando Sin Fronteras*<sup>824</sup> operates. This explosion also affected the facilities of *Sarare Stereo*, a community radio station<sup>825</sup>. As a result of the attack, the facilities were destroyed, antennas and production equipment were lost, and there was damage that altered their operation. According to available information, prior to the attack, on January 9, an early warning was issued following the circulation of an audio message in which members of the armed group threatened to kill community leaders and their media<sup>826</sup>. On January 20, the Minister of Defense affirmed having identified three of those responsible, who allegedly belong to FARC dissidents<sup>827</sup>.

374. The Rapporteurship has also learned of other acts of violence against journalists, presumably motivated by their work as journalists. Julián Martínez, a journalist with *La Nueva Prensa*, was the victim of an attack on February 22 at his home<sup>828</sup>. The journalist affirmed that his bodyguard repelled the attack and denounced that the police took more than an hour to arrive and "did not carry out the immediate exhaustive investigations that they have the legal duty to do at the site of the facts"<sup>829</sup>. According to the information available, the attack would be a consequence of his latest investigations related to a case of corruption with public health resources<sup>830</sup>. For its part, the Bogotá Police reported that the facts are being investigated under the hypothesis of attempted robbery and harm to the integrity of the journalist.<sup>831</sup> The media said that the

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<sup>819</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 378.

<sup>820</sup> Voice of America. January 26, 2022. [Journalists in Arauca, Colombia: "Every second that passes gets more difficult"](#); El Espectador. February 1, 2022. [Arauca: journalists at high risk](#).

<sup>821</sup> Voice of America. January 26, 2022. [Journalists in Arauca, Colombia: "Every second that passes gets more difficult"](#); El Espectador. February 1, 2022. [Arauca: journalists at high risk](#).

<sup>822</sup> El Tiempo. Feb. 9, 2022. [Threats to journalists increased after peace, says Flip](#); France 24. 10 February 2022. [Violence against journalists in Colombia increased since peace pact, says NGO](#).

<sup>823</sup> El Tiempo. Feb. 9, 2022. [Threats to journalists increased after peace, says Flip](#); France 24. 10 February 2022. [Violence against journalists in Colombia increased since peace pact, says NGO](#).

<sup>824</sup> Caracol News. January 23, 2022. [Arauca, la zozobra y la impotencia](#); Fundación para la Libertad de Prensa. January 20, 2022. [Attack in Saravena has serious consequences on local journalism](#); Voz de América. January 26, 2022. [Journalists in Arauca, Colombia: "Every second that passes gets more difficult"](#).

<sup>825</sup> Caracol News. January 23, 2022. [Arauca, la zozobra y la impotencia](#); Fundación para la Libertad de Prensa. January 20, 2022. [Attack in Saravena has serious consequences on local journalism](#); Voz de América. January 26, 2022. [Journalists in Arauca, Colombia: "Every second that passes gets more difficult"](#).

<sup>826</sup> Caracol News. January 23, 2022. [Arauca, la zozobra y la impotencia](#); Fundación para la Libertad de Prensa. January 20, 2022. [Attack in Saravena has serious consequences on local journalism](#); Voz de América. January 26, 2022. [Journalists in Arauca, Colombia: "Every second that passes gets more difficult"](#).

<sup>827</sup> El Tiempo. January 20, 2022. ["Attack in Saravena was planned and financed from Venezuela": Mindefensa](#); El País. January 20, 2022. [Saravena: New car bomb attack on Colombia's border with Venezuela leaves one dead and five wounded](#).

<sup>828</sup> Infobae. February 23, 2022. [Journalist Julián Martínez denounces attack against him in Bogotá](#); Committee to Protect Journalists. 2 March 2022. [Armed men attack the bodyguard of Colombian journalist Julián Martínez](#).

<sup>829</sup> Infobae. February 23, 2022. [Journalist Julián Martínez denounces attack against him in Bogotá](#); Committee to Protect Journalists. 2 March 2022. [Armed men attack the bodyguard of Colombian journalist Julián Martínez](#).

<sup>830</sup> Infobae. February 23, 2022. [Journalist Julián Martínez denounces attack against him in Bogotá](#); Committee to Protect Journalists. 2 March 2022. [Armed men attack the bodyguard of Colombian journalist Julián Martínez](#).

<sup>831</sup> El Colombiano. February 23, 2022. ["Periodista Julián Martínez denuncia atentado en Bogotá: Policía investiga intento de robo"](#) ([Journalist Julián Martínez denounces attack in Bogotá: Police investigate attempted robbery](#)). Bogotá Police official Twitter account. February 24, 2022.

police did not carry out the necessary immediate investigations, nor did they adequately collect the evidence<sup>832</sup>. The International Federation of Journalists condemned the incident and requested that it be investigated taking into account his role as a communicator and not only for "theft", since Martínez revealed cases where the Administrative Department of Security (DAS) was linked to allegations of espionage during a previous government administration<sup>833</sup>.

375. According to available information, on July 22 and 24, two journalists from *Radio Lumbí* received threats from a person who identified himself as a faction of the United Self-Defense Forces of Colombia (AUC) of the Northern Tolima Bloc<sup>834</sup>. In addition to the journalists, the text reportedly declared the secretary of government, the mayor of Mariquita and the captain of the police station<sup>835</sup> as military targets.

376. In addition, RELE learned of several attacks against journalists on September 26, in the context of protests against the tax reform promoted by the president. Journalists Marco Madrigal and Carlos Tamayó of *Telemedellín* were reportedly attacked in Medellín<sup>836</sup>; Gerald Bermúdez and photojournalist Luis Carlos Ayala in Bogotá; and Juan Pablo Alzate<sup>837</sup>, in Armenia.

377. Likewise, RELE became aware of a video, allegedly published by a criminal group where they insulted the media *Caracol Radio*, *Caracol TV*, *RCN Radio*, *RCN TV*, *El Tiempo*, *El Espectador* and *Semana*, calling them "information mercenaries" and pointing out that they "demonize those who think differently and deify their masters"<sup>838</sup>. Additionally, they accused the media of making "peace and reconciliation" impossible because they are "at the service of the rich and the war machines", and of "exacerbating hatred and war among Colombians"<sup>839</sup>.

378. On the other hand, RELE received information on stigmatizing statements by political leaders against journalists. For example, on October 12 and 13, the president described as "cizañero" the deputy editor of *Semana*, Yesid Lancheros, as a result of an opinion column on the president's relationship with the finance minister<sup>840</sup>. The newspaper *Semana* also denounced that, during the electoral campaign, a member of the president's campaign team had given orders to delegitimize this media as part of an electoral strategy<sup>841</sup>. Likewise, a senator of the ruling party Pacto Histórico described as "enemies" the media that have been critical of the current administration<sup>842</sup>.

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<sup>832</sup> Gonzalo Guillén's Twitter account. [February 23, 2022](#).

<sup>833</sup> Infobae. February 23, 2022. [Journalist Julián Martínez denounces attack against him in Bogotá](#); Committee to Protect Journalists. 2 March 2022. [Armed men attack the bodyguard of Colombian journalist Julián Martínez](#).

<sup>834</sup> FLIP Twitter account (@FLIP\_org). [July 26, 2022](#); El Nuevo Día. July 27, 2022. [Pamphlet in Mariquita: mayor, officials and two journalists threatened](#).

<sup>835</sup> FLIP Twitter account (@FLIP\_org). [July 26, 2022](#); El Nuevo Día. July 27, 2022. [Pamphlet in Mariquita: mayor, officials and two journalists threatened](#).

<sup>836</sup> Week. September 26, 2022. [Telemedellín journalist assaulted and threatened in marches against President Gustavo Petro's reforms](#); Infobae. September 27, 2022. [Video: FLIP published recording evidencing aggression against Telemedellín journalist in march against Petro](#).

<sup>837</sup> Twitter account of Gerald Bermudez (@Geraldbermudez\_). [September 26, 2022](#); Twitter account of 21N Informativo (@21informativo). [September 26, 2022](#).

<sup>838</sup> Week. July 10, 2022. [Here is the clear threat from Iván Márquez's criminal group against several media outlets and press freedom](#); Deutsche Welle (DW). July 11, 2022. ["Iván Márquez" survived attack in Venezuela, according to FARC dissidents](#).

<sup>839</sup> Week. July 10, 2022. [Here is the clear threat from Iván Márquez's criminal group against several media outlets and press freedom](#); Deutsche Welle (DW). July 11, 2022. ["Iván Márquez" survived attack in Venezuela, according to FARC dissidents](#).

<sup>840</sup> The Empty Chair. October 13, 2022. ["FLIP rechaza estigmatización a la prensa de Petro en Twitter"](#); Foundation for Press Freedom. October 12, 2022. [Rechazamos señalamientos y estigmatizaciones realizados por el presidente Petro y otros funcionarios](#); Radio Nacional de Colombia. October 13, 2022. ["The internal enemy is the accumulation of norms and steps made in the national administration": president Petro](#).

<sup>841</sup> Foundation for Freedom of the Press. June 9, 2022. [Political leaders accuse and stigmatize Semana for publishing videos of the Historic Pact](#); Semana. June 14, 2022. [Semana was able to check how Gustavo Petro's attack cellar works in the campaign](#).

<sup>842</sup> Infobae. October 14, 2022. [Gustavo Bolívar sent message to the media: he spoke of "lies and rigged editions"](#); Fundación para la Libertad de Prensa; La Silla Vacía. October 13, 2023. ["FLIP rechaza estigmatización a la prensa de Petro en Twitter"](#).

379. Additionally, in the context of the electoral campaign, the Inter American Press Association (IAPA) called on the current president and then presidential candidate to cease stigmatizing the RCN channel, which he had labeled as "neo-Nazi" due to its publications<sup>843</sup>.

380. Likewise, RELE received reports that the presidential hopeful for the National Salvation Movement had published messages in which he linked the media to drug trafficking after his reports on a military operation. In one of the messages he stated that the media has had "a hypocritical attitude" and "assumed the flags of drug trafficking to the detriment of the most vulnerable populations of the country..."<sup>844</sup>

381. This Office has also learned about alleged stigmatizing remarks made by the mayor of Aguachica against the local press in the department of Cesar. The mayor allegedly described journalists as "tabloids", "extortionists" and refused to give statements to the press<sup>845</sup>.

382. With respect to stigmatizing statements made by public officials to the press, the Rapporteurship also learned of the decision of the Public Prosecutor's Office to open a preliminary investigation against the mayor of Medellín, Daniel Quintero, for his comments on social networks in which he allegedly described the newspaper *El Colombiano* as a "pasquín"<sup>846</sup>.

383. As previously stated, the Office of the Special Rapporteur for Freedom of Expression recognizes that it is legitimate, and on certain occasions a duty, for State authorities to speak out on issues of public interest and to defend themselves against criticism or questioning by the press<sup>847</sup>. However, in doing so, they should not discredit or stigmatize those who question them, given their high office, the broad scope of their pronouncements, and the possible effects that their expressions may have on certain sectors of the population<sup>848</sup>. This implies that they must refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>849</sup>.

384. As the Inter-American Court of Human Rights has established, public officials must bear in mind that their status implies a position of guarantor of the fundamental rights of individuals and, therefore, "their statements may not disregard these rights or constitute forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts"<sup>850</sup>. This also means that they must refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>851</sup>.

385. On the other hand, according to reports received, journalist Claudia Julieta Duque withdrew the state protection mechanism after denouncing the violation of her privacy, since in the car she was using, granted by the state, a GPS device was found from which information on her movements was collected on a massive scale

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<sup>843</sup> Swissinfo. March 29, 2022. [IAPA asks Petro not to stigmatize RCN channel to avoid violence](#); El País. 29 March 2022. [IAPA condemns Petro's "stigmatizing" speech against RCN columnist David Ghitis](#).

<sup>844</sup> Enrique Gómez Twitter account. [April 8, 2022](#).

<sup>845</sup> La Calle Weekly. September 8, 2022. [Mayor of Aguachica systematically attacks the press: FLIP](#); Semana. September 9, 2022. [Everything ready for the recall of the mayor of Aguachica. Cesar: this is how it will proceed](#).

<sup>846</sup> El Colombiano. January 13, 2022. [Procuraduría abre indagación preliminar contra alcalde Quintero por señalamientos contra El Colombiano](#); W Radio. January 13, 2022. [For alleged censorship of the press, preliminary investigation is opened against Mayor Daniel Quintero](#).

<sup>847</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>848</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>849</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 24, 2022. Press Release No. R62/22. [The Rapporteurship warns about the normalization and worsening of violence against journalists in Mexico and urges the authorities to activate complementary measures](#).

<sup>850</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>851</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139; UN, OSCE, OAS, ACHPR. October 20, 2021. [Joint Declaration 2021 on political leaders, persons exercising public functions, and freedom of expression](#).

and without authorization<sup>852</sup>. The Superintendence of Industry and Commerce and the Attorney General's Office stated in a letter in response to the Special Rapporteur on Human Rights Defenders Mary Lawlor that they have guaranteed the fundamental rights of the journalist in terms of data protection, life and privacy<sup>853</sup>.

386. In terms of access to public information, the Rapporteurship is concerned that a judge has denied access to the media to a judicial hearing against three members of the Police, accused of aggravated homicide and injuries against demonstrators during a national strike in Siloé, Cali, in May 2021<sup>854</sup>. According to the information received, the judge allegedly expelled three journalists on technical grounds, and when it was proposed to her that the hearing could be observed by *streaming*, she did not agree<sup>855</sup>.

387. The Rapporteurship recalls that transparency and accountability of public authorities strengthen democratic systems, and that the guarantee of the right of access to information, on many occasions, is a necessary condition to guarantee the exercise of other rights<sup>856</sup>. In ruling on restrictions imposed on journalists or communicators for access to official sources of information at public acts or events, the Inter-American Court has determined that "[w]ith respect to accreditations or authorizations to the press media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive and impart information and ideas of all kinds, it must be demonstrated that their application is legal, pursues a legitimate objective and is necessary and proportional in relation to the objective pursued in a democratic society. The requirements for accreditation must be concrete, objective and reasonable, and their application transparent"<sup>857</sup>.

388. Likewise, journalists from *Rafael Poveda Televisión's* "Testigo Oculto" program reported that they were detained for 20 minutes near the area of Tuluá, Valle del Cauca, by two individuals carrying fragmentation grenades, who allegedly blocked their way and insulted them<sup>858</sup>. The crew was filming a program on children and adolescents<sup>859</sup>.

389. This Office registered with concern the complaint of journalist Cecilia Orozo Tascón, director of *Noticias Uno* and columnist for *El Espectador*, who reported having been the target of intimidating surveillance when leaving her work<sup>860</sup>. Journalist Orozco Tascón has faced four criminal proceedings in recent years, one of them stemming from a complaint by a former prosecutor for opinions issued in the radio program *Revelados* entitled "La Fiscalía espía a líderes políticos y periodísticos" (The Attorney General's Office spies on political and journalistic leaders)<sup>861</sup>. Among the judicial proceedings promoted related to these cases was an order to inspect the archives of the media where Orozco Tascón works, *Noticias Uno*<sup>862</sup>.

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<sup>852</sup> Infobae. February 9, 2022. [Journalist Claudia Julieta Duque resigns from her UNP security scheme](#); LatAm Journalism Review. March 30, 2022. ["This is a forced resignation in the face of a very serious situation": Colombian journalist Claudia Duque after returning protection scheme](#).

<sup>853</sup> UN, Office of the High Commissioner for Human Rights. January 24, 2022. [Letter from the Permanent Mission of Colombia to the Office of the United Nations High Commissioner for Human Rights](#).

<sup>854</sup> Twitter account of the Freedom of the Press Foundation (@FLIP\_org). [June 6, 2022](#); Civicus Monitor. August 18, 2022. [Colombia: defenders and local leaders affected by violence in rural areas](#).

<sup>855</sup> Twitter account of the Freedom of the Press Foundation (@FLIP\_org). [June 6, 2022](#); Civicus Monitor. August 18, 2022. [Colombia: defenders and local leaders affected by violence in rural areas](#).

<sup>856</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 64.

<sup>857</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346.

<sup>858</sup> Caracol. July 18, 2022. [Threat to reporters in Tuluá: Reporters from Rafael Poveda TV threatened in Tuluá](#); El Tiempo. July 18, 2022. [Television journalists threatened with grenade in Tuluá \(Valle\)](#).

<sup>859</sup> Caracol. July 18, 2022. [Threat to reporters in Tuluá: Reporters from Rafael Poveda TV threatened in Tuluá](#); El Tiempo. July 18, 2022. [Television journalists threatened with grenade in Tuluá \(Valle\)](#).

<sup>860</sup> News One. April 3, 2022. [Intimidating follow up with hearse "to tour a deceased", to director of Noticias Uno](#); El Espectador. April 5, 2022. ["Aumentan las tácticas de intimidación" \(Intimidation tactics increase\)](#).

<sup>861</sup> News One. April 3, 2022. [Intimidating follow up with hearse "to tour a deceased", to director of Noticias Uno](#); El Espectador. April 5, 2022. ["Aumentan las tácticas de intimidación" \(Intimidation tactics increase\)](#).

<sup>862</sup> News One. April 3, 2022. [Intimidating follow up with hearse "to tour a deceased", to director of Noticias Uno](#); El Espectador. April 5, 2022. ["Aumentan las tácticas de intimidación" \(Intimidation tactics increase\)](#).



390. RELE has also received reports of other actions by state agencies of unusual verification of media outlets. On August 3, *InSight Crime* co-director Jeremy McDermontt stated that the National Tax and Customs Directorate (DIAN) had reportedly visited the media outlet's offices as part of alleged investigations they were conducting<sup>863</sup>.

391. The Rapporteurship learned that the Attorney General's Office sent a request for an "inspection diligence" to *Revista Cambio* on June 30 to "collect the original" of an investigation in which a military chief was linked to possible ties with drug trafficking<sup>864</sup>. This publication would have led to the dismissal of the Army officer mentioned in the investigation<sup>865</sup>. After the request was made public, the Prosecutor's Office refrained from carrying out the investigation<sup>866</sup>.

392. Likewise, on August 6, *El Espectador* columnist Yohir Akerman was summoned to the Prosecutor's Office following a complaint filed by a former president, who allegedly claimed that Akerman committed libel and slander by stating in a column published on May 17 that during his administration he had benefited his family with a subsidy program<sup>867</sup>. In previous years, the former president had referred to Akerman with stigmatizing adjectives such as "faded ELN militant".<sup>868</sup>

393. Against the previous considerations, the Rapporteurship emphasizes that "States have a positive obligation to create an enabling environment for freedom of expression and the right to information, including by fostering the independence and diversity of the media as a fundamental means of promoting robust and open debate on matters of public interest, and by adopting standards that ensure public transparency and accountability of public agents"<sup>869</sup>. In this line, RELE recalls that, according to Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR, "the use of State power (...) with the aim of pressuring and punishing or rewarding and privileging social communicators and the media according to their informative lines, violates freedom of expression. Direct or indirect pressures aimed at silencing the informative work of social communicators are incompatible with freedom of expression"<sup>870</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

394. According to available information, in 2022 *Raya Magazine* published a report on alleged espionage activities by the Colombian Army against Joshua Goodman, an *Associated Press* journalist, independent photojournalist Gerald Bermúdez, and José Luis Mayorga, of *Reporters Without Borders*<sup>871</sup>. The monitoring of the journalists reportedly included interceptions with call records and photographic records<sup>872</sup>. FLIP rejected these actions and warned that they seriously affect their privacy, integrity and the confidentiality of the source<sup>873</sup>.

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<sup>863</sup> W Radio. August 3, 2022. [DIAN investigates Insight Crime, co-directed by Jeremy McDermontt, why?](#); La Silla Vacía. August 3, 2022. [Dian investigates Insight Crime offices](#).

<sup>864</sup> Change. June 29, 2022. [La fiscalía solicita inspección a Cambio por información sobre elección de general con narcotraficantes](#); El Tiempo. June 30, 2022. [Attorney General's Office responds to controversy over inspection of Cambio magazine](#).

<sup>865</sup> Change. June 29, 2022. [La fiscalía solicita inspección a Cambio por información sobre elección de general con narcotraficantes](#); El Tiempo. June 30, 2022. [Attorney General's Office responds to controversy over inspection of Cambio magazine](#).

<sup>866</sup> Change. June 29, 2022. [La fiscalía solicita inspección a Cambio por información sobre elección de general con narcotraficantes](#); El Tiempo. June 30, 2022. [Attorney General's Office responds to controversy over inspection of Cambio magazine](#).

<sup>867</sup> W Radio. June 30, 2022. [Prosecutor's Office will file accusation against Yohir Akerman for complaint by Álvaro Uribe](#); FLIP. June 30, 2022. [The Prosecutor's Office advances in an anomalous way in the process initiated by Álvaro Uribe against Yohir Akerman](#).

<sup>868</sup> El Espectador. March 30, 2016. ["Afirmaciones de Uribe en Twitter ponen en peligro a los periodistas": FLIP](#); Twitter account of Álvaro Uribe (@AlvaroUribeVel). [March 6, 2017](#).

<sup>869</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021.

[Joint Declaration 2021 on political leaders, public officials and freedom of expression](#).

<sup>870</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>871</sup> Raya Magazine. August 15, 2022. [International espionage: Target Cuba](#); FLIP. August 22, 2022. [At least three journalists have reportedly been targeted by Colombian intelligence](#).

<sup>872</sup> Raya Magazine. August 15, 2022. [International espionage: Target Cuba](#); FLIP. August 22, 2022. [At least three journalists have reportedly been targeted by Colombian intelligence](#).

<sup>873</sup> FLIP. August 22, 2022. [At least three journalists have reportedly been reported by Colombian intelligence](#).

395. According to available reports, there has been little progress on the part of the Attorney General's Office in the case of journalist Jineth Bedoya, who was kidnapped on October 25, 2000 and victim of torture and sexual violence<sup>874</sup>. This case has a sentence of the Inter-American Court of Human Rights issued on October 21, 2021 where it was established that the State of Colombia violated the rights to personal integrity, personal liberty, honor and dignity and freedom of thought and expression of Jineth Bedoya<sup>875</sup>. This Office learned that in the case of Jineth Bedoya, the State made progress in complying with some measures that should have been carried out within a year, such as the payment of compensation, publication of the summary of the sentence in the official gazette and on the web page of the Presidential Advisory Office for Human Rights<sup>876</sup>. However, on the other hand, the State did not comply with the measures related to the payment of rehabilitation, the fund for the prevention, protection and assistance of women journalists, and the system for collecting data and figures.<sup>877</sup>

396. This Office was informed of the media bill presented to the Legislative by the pro-government party Pacto Histórico, which would promote the "democratization" of the media<sup>878</sup>. The proposal proposes, among other things, a reallocation of the electromagnetic spectrum so that the institutional, public and private media have equal shares of 33.33%. The initiative also proposed the creation of a National Council of Public Policy for Community, Alternative and Popular Communication; and that *streaming platforms* pay a tax of 1% of their gross monthly income to the Single Fund for Information and Communication Technologies<sup>879</sup>.

397. This Office stresses the need for any legislative modification to be in accordance with international standards of freedom of expression and the criteria emanating from the jurisprudence of the Inter-American Court of Human Rights.

398. During the year, the Rapporteurship reported decisions of national courts that would have an impact on the right to freedom of expression. In this regard, the Rapporteurship welcomes the decision of the Constitutional Court of Colombia in which it established that journalists should not rectify a publication that is based on opinions, but only when it is informative<sup>880</sup>. The Court based its decision on the 1981 Constitution, which states that opinions are protected by the right to freedom of expression.<sup>881</sup>

399. In turn, the Rapporteurship welcomes the decision of the Council of State that confirmed in the second instance the responsibility of the State in the illegal surveillance of journalist Claudia Julieta Duque<sup>882</sup>. The ruling affirmed that this was a violation of human rights and that officials of the now defunct Administrative Department of Security (DAS) were involved<sup>883</sup>.

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<sup>874</sup> FLIP. October 14, 2022. [Fiscalía sigue incumpliendo su deber de investigar a los determinadores del crimen contra Jineth Bedoya](#); El Heraldó. October 18, 2022. [Journalist Jineth Bedoya denounces non-compliance with IACHR ruling in her case](#).

<sup>875</sup> FLIP. October 14, 2022. [Fiscalía sigue incumpliendo su deber de investigar a los determinadores del crimen contra Jineth Bedoya](#); El Heraldó. October 18, 2022. [Journalist Jineth Bedoya denounces non-compliance with IACHR ruling in her case](#).

<sup>876</sup> FLIP. October 14, 2022. [Fiscalía sigue incumpliendo su deber de investigar a los determinadores del crimen contra Jineth Bedoya](#); El Heraldó. October 18, 2022. [Journalist Jineth Bedoya denounces non-compliance with IACHR ruling in her case](#).

<sup>877</sup> FLIP. October 14, 2022. [Fiscalía sigue incumpliendo su deber de investigar a los determinadores del crimen contra Jineth Bedoya](#); El Heraldó. October 18, 2022. [Journalist Jineth Bedoya denounces non-compliance with IACHR ruling in her case](#).

<sup>878</sup> El Tiempo. October 7, 2022. [Ley de medios: polémica por borrador que se prepara en el Congreso](#); Semana. October 6, 2022. [Dangerous, proposal to "democratize" and "control" the media arrives to Congress: Pacto Histórico studies controversial project](#); Infobae. November 8, 2022. [A draft article was leaked that attempted against freedom of the press in Colombia: the Minister of Justice assured that it will never be presented](#).

<sup>879</sup> El Tiempo. October 7, 2022. [Ley de medios: polémica por borrador que se prepara en el Congreso](#); Semana. October 6, 2022. [Dangerous, proposal to "democratize" and "control" the media arrives to Congress: Pacto Histórico studies controversial project](#); Infobae. November 8, 2022. [A draft article was leaked that attempted against freedom of the press in Colombia: the Minister of Justice assured that it will never be presented](#).

<sup>880</sup> Follow-up. March 7, 2022. [Opinions of journalists do not require rectification: Constitutional Court](#); Constitutional Court of Colombia. March 4, 2022. [The thoughts and opinions that journalists express in the exercise of their profession are not subject to rectification: Constitutional Court](#).

<sup>881</sup> Follow-up. March 7, 2022. [Opinions of journalists do not require rectification: Constitutional Court](#); Constitutional Court of Colombia. March 4, 2022. [The thoughts and opinions that journalists express in the exercise of their profession are not subject to rectification: Constitutional Court](#).

<sup>882</sup> Council of State, Contentious-Administrative Chamber. [June 17, 2022](#); Infobae. July 6, 2022. [Nation condemned for persecution, threats and exile against journalist Claudia Julieta Duque](#); Claudia Julieta Duque Twitter account (@JulieDuque1). [July 6, 2022](#).

<sup>883</sup> Council of State, Contentious-Administrative Chamber. [June 17, 2022](#); Infobae. July 6, 2022. [Nation condemned for persecution, threats and exile against journalist Claudia Julieta Duque](#); Claudia Julieta Duque Twitter account (@JulieDuque1). [July 6, 2022](#).



400. This Office also The Administrative Court of Antioquia recognized the responsibility of the State in the homicide of journalist Edison Molina, which occurred on September 11, 2013 in Puerto Berrío, Antioquia<sup>884</sup>. Months before the homicide, the journalist had reported to the prosecutor's office the threats and aggressions of which he was being victim<sup>885</sup>.

401. Likewise, the Constitutional Court established that the mayor of Bogotá should retract public statements in which she attributed the increase in insecurity and crime figures to the Venezuelan migrant population<sup>886</sup>. The Court concluded that the right to freedom of expression of public officials "has greater limitations, so that racist or discriminatory statements targeting members of a certain social sector are prohibited"<sup>887</sup>. According to the Court, "even in the case of security as a matter of public interest, officials must foresee the risks associated with their pronouncements, so that these do not accentuate, aggravate or extend scenarios of intolerance or stigmatization"<sup>888</sup>.

402. In July, the Constitutional Court ruled that the creator of the series "Matarife" must rectify certain statements made both on social networks and in the series itself, against a former president<sup>889</sup>. According to the Court, the statements made by the creator of "Matarife" are not protected by freedom of expression as they do not satisfy the principles of truthfulness and impartiality since there is no evidence to support them<sup>890</sup>.

403. In addition, according to available information, on August 18, the Archdiocese of Medellín sent a video statement through their social networks in which they communicate their willingness to abide by the Constitutional Court's decision ordering them to hand over to journalist Juan Pablo Barrientos the private files on cases of possible pederasty allegedly committed by priests<sup>891</sup>.

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

404. According to public information, writer Carolina Sanín had a contract cancelled for the publication of two novels she had agreed with a Mexican publisher<sup>892</sup>. The cancellation of the agreement would have been due to "questioning of the identity politics" of the writer, according to her own statement<sup>893</sup>. Sanín considered this act as "censorship" and that it would have been motivated by comments that some would have considered aggressive towards the transsexual community<sup>894</sup>. This event gained notoriety in regional media and led to a

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<sup>884</sup> Administrative Court of Antioquia, Fifth Chamber of Decision. August 30, 2022. [Decision No. 101. Responsibility of the State for omission. Duty to protect](#); El Espectador. September 2, 2022. [Police and prosecutor's office ignored journalist Edison Molina before he was murdered](#); FLIP. [August 30, 2022](#).

<sup>885</sup> Administrative Court of Antioquia, Fifth Chamber of Decision. August 30, 2022. [Decision No. 101. Responsibility of the State for omission. Duty to protect](#); El Espectador. September 2, 2022. [Police and prosecutor's office ignored journalist Edison Molina before he was murdered](#); FLIP. [August 30, 2022](#).

<sup>886</sup> Constitutional Journal. January 7, 2022. [Constitutional Court of Colombia declared that public officials cannot use freedom of expression to make discriminatory or racist statements](#).

<sup>887</sup> Constitutional Journal. January 7, 2022. [Constitutional Court of Colombia declared that public officials cannot use freedom of expression to make discriminatory or racist statements](#).

<sup>888</sup> Constitutional Journal. January 7, 2022. [Constitutional Court of Colombia declared that public officials cannot use freedom of expression to make discriminatory or racist statements](#).

<sup>889</sup> El Colombiano. November 16, 2022. [It is definitive: creator of the series "Matarife" will have to rectify statements about Uribe](#); Semana. November 16, 2022. [This is how the Constitutional Court informed its decision to order Daniel Mendoza, mastermind of Matarife, to rectify infamies against Uribe](#); El Tiempo. November 17, 2022. [Matarife: creator of the series will have to rectify information about Uribe](#).

<sup>890</sup> El Colombiano. November 16, 2022. [It is definitive: creator of the series "Matarife" will have to rectify statements about Uribe](#); Semana. November 16, 2022. [This is how the Constitutional Court informed its decision to order Daniel Mendoza, mastermind of Matarife, to rectify infamies against Uribe](#); El Tiempo. November 17, 2022. [Matarife: creator of the series will have to rectify information about Uribe](#).

<sup>891</sup> Aciprensa. August 18, 2022. [Archdiocese to hand over information on allegations of sexual abuse in Colombia](#); Colombian Constitutional Court. June 2, 2022. [Reference: Case T-8.412.216](#).

<sup>892</sup> Infobae. November 6, 2022. [Carolina Sanín denounced censorship by a Mexican publishing house due to her political and ideological stances](#); El País. November 7, 2022. [Almadía publishing house's decision to terminate a contract with writer Carolina Sanín sparks debate on cancellation](#).

<sup>893</sup> Infobae. November 6, 2022. [Carolina Sanín denounced censorship by a Mexican publishing house due to her political and ideological stances](#); El País. November 7, 2022. [Almadía publishing house's decision to terminate a contract with writer Carolina Sanín sparks debate on cancellation](#).

<sup>894</sup> Infobae. November 6, 2022. [Carolina Sanín denounced censorship by a Mexican publishing house due to her political and ideological stances](#); El País. November 7, 2022. [Almadía publishing house's decision to terminate a contract with writer Carolina Sanín sparks debate on cancellation](#).

broad conversation on social networks and in the press regarding the limits of discourse on historically vulnerable populations, and what may or may not be classified as hate speech<sup>895</sup>.

405. On the other hand, this Rapporteurship observes that in Colombia the public discourse is permeated by stigmatizing speeches against women and groups in vulnerable situations. In the context of the electoral campaign, RELE received information on the circulation of discriminatory speeches against the vice-president, mainly on gender and racial grounds<sup>896</sup>. These comments are framed in a historic presidential election in terms of the diversity of the candidates, since for the first time there were five vice-presidential candidates from the Afro community. In the protests that took place, manifestations of racism and misogyny were also perceived against them<sup>897</sup>.

406. This Office acknowledges the decision of the Constitutional Court that called on judicial authorities to consider the gender perspective in cases where women are affected as victims of violence<sup>898</sup>. The resolution comes after rejecting a request from a member of the Colombian Communist Youth alleging violation of the right to a good name because three feminist collectives denounced a person for sexual assault<sup>899</sup>. The Court established that freedom of expression is protected beyond the criminal sphere, especially by acting as a mechanism of protection and support for women victims of violence in the face of the inaction of the competent authorities to effectively protect their right to a life free of violence<sup>900</sup>.

407. Likewise, in Ruling C-222, the Constitutional Court determined that the "truthfulness exception" is legitimate when they could have against them accusations of slander or libel based on accusations of sexual or gender violence<sup>901</sup>. This exception assumes that whoever is responsible for slander or libel would have the benefit of exemption from liability for compensation if it is proven that the facts of the alleged slander or libel are true<sup>902</sup>. This resolution is in favor of the freedom of expression of women who denounce gender or sexual violence, since the fact of being subject to a possible obligation to compensate could inhibit them from filing a complaint.<sup>903</sup>

408. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women, indigenous peoples, Afro-descendants, or LGBT+ persons. The Inter-American system particularly protects speech that expresses constitutive elements of the personal identity or dignity of the speaker. Therefore, the speech of women who denounce violence because of their status as women or of a sexual nature should be especially protected at present. In this regard, the Rapporteurship invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to align institutional practices with the enhanced protection of this type of speech.

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

409. The Rapporteurship recorded the decision of the Ombudsman's Office to create the Office of the Ombudsman Delegate for the Protection of Rights in Digital Environments and Freedom of Expression to protect the rights of citizens on the Internet, which has among its objectives to serve as a "bridge" between different entities<sup>904</sup>.

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<sup>895</sup> Infobae. November 6, 2022. [Carolina Sanín denounced censorship by a Mexican publishing house due to her political and ideological stances](#); El País. November 7, 2022. [Almadía publishing house's decision to terminate a contract with writer Carolina Sanín sparks debate on cancellation](#).

<sup>896</sup> RFI. April 1, 2022. [Racist fury after rise of Afro candidate in Colombia](#); Infobae. Oct. 5, 2022. [Francisca Marquez will not reconcile with woman who insulted her with racist phrases: "This does not prevent racial hatred"](#).

<sup>897</sup> RFI. April 1, 2022. [Racist fury after rise of Afro candidate in Colombia](#); Infobae. Oct. 5, 2022. [Francisca Marquez will not reconcile with woman who insulted her with racist phrases: "This does not prevent racial hatred"](#).

<sup>898</sup> Constitutional Court. June 21, 2022. [Court calls on judges to analyze cases of violence affecting women with a gender perspective](#).

<sup>899</sup> Constitutional Court. June 21, 2022. [Court calls on judges to analyze cases of violence affecting women with a gender perspective](#).

<sup>900</sup> Constitutional Court. June 21, 2022. [Court calls on judges to analyze cases of violence affecting women with a gender perspective](#).

<sup>901</sup> Constitutional Court. June 23, 2022. [Reference: Case D-14.496](#).

<sup>902</sup> Constitutional Court. June 23, 2022. [Reference: Case D-14.496](#).

<sup>903</sup> Constitutional Court. June 23, 2022. [Reference: Case D-14.496](#).

<sup>904</sup> Infobae. March 16, 2022. Ombudsman's Office creates office to take care of citizens' rights on the Internet; 360 Radio. March 15, 2022. [Launching of the Office of the Ombudsman Delegated for the Protection of Digital Rights and Freedom of Expression](#).

410. The National Electoral Council issued a resolution on April 5, 2022 in which it ordered a senator to delete within 24 hours a tweet that showed the image of a former president and a presidential candidate, and the message "no more ñeñes, no more narcotráfico"<sup>905</sup>. The resolution ruled that Barreras' publication would have exceeded the limits of the figure of electoral propaganda<sup>906</sup>. The decision of the National Electoral Council was taken under the argument that the publication would imply to accuse a person of carrying out and relating to illegal acts without providing evidence to justify statements of such magnitude, which goes beyond the tolerable limits of negative electoral propaganda, in that it affects the dignity of the citizen and his good name, thus exceeding the limits of freedom of expression<sup>907</sup>. The Senator complied with the decision and affirmed that it was an act of censorship and that his freedom of expression as a congressman was being violated<sup>908</sup>.

411. Likewise, the civic corporation of Caldas requested the Mayor of Manizales Carlos Mario Marín not to selectively block citizens on his Twitter account as this implies a lack of access to information that is of public interest; and based on the Constitutional Court's ruling T-244<sup>909</sup> filed a tutela against him<sup>910</sup>.

412. In addition, this Office has monitored the file T-8.764.298 of the Constitutional Court, regarding the removal of content and suspension of accounts in social networks. In the lawsuit started in 2021, the plaintiff reportedly stated that she is an actress and model and that several of the photographs shared on her Instagram were removed for allegedly violating the rules of "nudity and sexual activity" and "sexual services", and that her account was closed. According to reports, the model pointed out that her posts did not include adult sexual services, as they contained photographs of her in which she appeared in her underwear, as do other models and *influencers*, who have not had their accounts deactivated. On June 2022, the Court selected the tutela with radicado and would have based its decision under the criteria of novel matter and potential impacts on many other users of the social network. In November, the Court convened a technical session in order to obtain further evidence. In addition to the plaintiff and Meta, the Court reportedly convened a group of experts to present their perspectives on freedom of expression, gender and content curation in social networks; right to work, gender and social networks; and management and administration of social networks. The Court would have asked what it understands as promotion or inclusion of adult sexual services how many Instagram accounts it has removed for including or promoting adult sexual services in the last five years, and asks it to discriminate its response based on the gender or sex of the holders that were closed<sup>911</sup>.

413. The Rapporteurship also took cognizance of Constitutional Court Ruling T-280 of 2022, which requested the Congress of the Republic to legislate on digital gender-based violence in order to comply with international commitments to protect women<sup>912</sup>. The Court recognized that digital gender violence is a serious form of violence that occurs with the assistance of, or aggravated by, the use of information and communications technologies, and that produces psychological damage and self-censorship<sup>913</sup>. The decision determined that information mechanisms should be established, a budget should be allocated, training and

<sup>905</sup> Week. April 7, 2022. [CNE le ordena a Roy Barreras borrar trino ofensivo contra Fico Gutiérrez](#); Infobae. April 5, 2022. ["Narcotráfico": Roy Barreras deleted suggestive tweet against Federico Gutiérrez by order of the CNE](#).

<sup>906</sup> Week. April 7, 2022. [CNE le ordena a Roy Barreras borrar trino ofensivo contra Fico Gutiérrez](#); Infobae. April 5, 2022. ["Narcotráfico": Roy Barreras deleted suggestive tweet against Federico Gutiérrez by order of the CNE](#).

<sup>907</sup> Week. April 7, 2022. [CNE le ordena a Roy Barreras borrar trino ofensivo contra Fico Gutiérrez](#); Infobae. April 5, 2022. ["Narcotráfico": Roy Barreras deleted suggestive tweet against Federico Gutiérrez by order of the CNE](#).

<sup>908</sup> Week. April 7, 2022. [CNE le ordena a Roy Barreras borrar trino ofensivo contra Fico Gutiérrez](#); Infobae. April 5, 2022. ["Narcotráfico": Roy Barreras deleted suggestive tweet against Federico Gutiérrez by order of the CNE](#).

<sup>909</sup> Constitutional Court of Colombia. June 26, 2018. [Sentence T-244](#).

<sup>910</sup> El Tiempo. August 18, 2022. [Tutela contra alcalde de Manizales por bloquear usuarios en redes sociales](#); Infobae. August 19, 2022. [The mayor of Manizales was sued for blocking users on social networks](#).

<sup>911</sup> Karisma Foundation. December 23, 2022. [Intervention in the case of Esperanza Gómez against Meta Platforms Inc. and Facebook Colombia S.A.S](#); Constitutional Court of Colombia. November 8, 2022. [Court convenes technical session on freedom of expression in social networks in the framework of tutela filed by model against Instagram](#); El País. November 15, 2022. [Esperanza Gómez faces Instagram in the Constitutional Court](#).

<sup>912</sup> Karisma Foundation. December 23, 2022. [Intervention in the case of Esperanza Gómez against Meta Platforms Inc. and Facebook Colombia S.A.S](#); Constitutional Court of Colombia. November 8, 2022. [Court convenes technical session on freedom of expression in social networks in the framework of tutela filed by model against Instagram](#); El País. November 15, 2022. [Esperanza Gómez faces Instagram in the Constitutional Court](#).

<sup>913</sup> Karisma Foundation. December 23, 2022. [Intervention in the case of Esperanza Gómez against Meta Platforms Inc. and Facebook Colombia S.A.S](#); Constitutional Court of Colombia. November 8, 2022. [Court convenes technical session on freedom of expression in social networks in the framework of tutela filed by model against Instagram](#); El País. November 15, 2022. [Esperanza Gómez faces Instagram in the Constitutional Court](#).

prevention campaigns should be carried out, and suitable and effective justice mechanisms should be ensured<sup>914</sup>.

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<sup>914</sup> Karisma Foundation. December 23, 2022. [Intervention in the case of Esperanza Gómez against Meta Platforms Inc. and Facebook Colombia S.A.S](#); Constitutional Court of Colombia. November 8, 2022. [Court convenes technical session on freedom of expression in social networks in the framework of tutela filed by model against Instagram](#); El País. November 15, 2022. [Esperanza Gómez faces Instagram in the Constitutional Court](#).

## COSTA RICA

414. As this Office has noted before, Costa Rica maintains high standards for guaranteeing the right to freedom of expression. However, in 2022, this Office observed an increase in stigmatizing speech towards journalists and the media by public officials. This year, the Costa Rican Ministry of Health reported that it had approved the prohibition of mass activities in Parque Viva -an event center belonging to Grupo La Nación-, for preventive health and safety reasons. The measure was considered as an alleged retaliation against the publications critical to the Government of the media *La Nación*. In October, the Constitutional Chamber determined that this decision constituted "an indirect violation of freedom of the press, a freedom which is an essential element of our democratic system". This and other decisions of the judiciary show that in Costa Rica there is a robust democratic institutionalism and that the systems of checks and balances are functioning. The Rapporteurship thanks the Permanent Mission of Costa Rica to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

415. According to available information, in 2022, the president of Costa Rica reportedly referred to the press in a stigmatizing way, calling it "rogue press" and comparing it to animals: "People talk about the press, but that's like talking about fauna. There are rhinos, there are raccoons, there are rats, there are birds"<sup>915</sup>. He has said that certain media lend themselves to "petty interests" and therefore have contributed to a climate of confrontation between the government and some media<sup>916</sup>.

416. According to reports received, on July 6, during a press conference, the president questioned the economic solvency of the media company *La Nación*, using distorted data on bonds issued by the company in the stock market between 2013 and 2014<sup>917</sup>. According to available information, such payments would be up to date. In this regard, the CEO of the company stated that he did not understand the Government's concern since the company's equity "far exceeds the value of the bonds issued"<sup>918</sup>.

417. In the days following the press conference, on July 8, the Costa Rican Ministry of Health informed that it had endorsed the prohibition of mass activities in Parque Viva -an event center belonging to Grupo La Nación-, "under precautionary principle in order to protect the health and safety of the population"<sup>919</sup>. Likewise, the health authority indicated that the decision "responds to complaints and denunciations due to the problems caused by the enormous dams generated by the massive events that take place in Parque Viva (...) that directly affect the community, as well as the surrounding towns"<sup>920</sup>.

418. In this context, civil society actors alleged that the president's statements and administrative actions against one of the companies belonging to the media group were linked to its editorial position and journalistic coverage, and therefore would be an indirect means to curtail the media's freedom of information, imposing obstacles and generating a silencing effect on its journalists.

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<sup>915</sup> CR Today. August 3, 2022. [\[VIDEO\] President attacks the press again: Compares journalists to "rats"](#); LatAm Journalism Review. August 17, 2022. [Costa Rican President Rodrigo Chaves plays hardball with Central American press](#).

<sup>916</sup> LatAm Journalism Review. August 17, 2022. [Costa Rican President Rodrigo Chaves plays hardball with Central American press](#); Swissinfo. 13 July 2022. [Chaves attacks La Nación and says press freedom "in good health"](#).

<sup>917</sup> The Nation. July 7, 2022. [Chaves attacks 'La Nación' with distorted data](#); La Prensa Gráfica. July 8, 2022. [Costa Rican president attacks newspaper "La Nación" with distorted data](#).

<sup>918</sup> The Nation. July 7, 2022. [Assets of Grupo Nación far exceed bonds issued](#); El Financiero. July 8, 2022. [Government suspends sanitary permit for Parque Viva's operation](#).

<sup>919</sup> Ministry of Health of Costa Rica. July 8, 2022. [Ministry of Health endorses recommendation on the disqualification of activities massive en in Parque Viva](#).

<sup>920</sup> La Nación. July 9, 2022. [The Costa Rican government attacked one of the main media outlets in the country and then closed a stadium of that company](#); El Comercio. July 9, 2022. [Costa Rican government closes Parque Viva amid attacks by the president to the newspaper "La Nación"](#).



419. On July 13, the president affirmed that freedom of the press in the country "enjoys good health" and that "it has a government that will defend it at all costs"<sup>921</sup>. In turn, on July 12, the Association of Journalists and Professionals in Collective Communication Sciences of Costa Rica stated in a press release that "the business groups, owners of media outlets, have had to diversify their activities in order to have additional income and finance their media" and that "this is necessary"<sup>922</sup>. According to them, after a meeting held recently with the Head of State and the President of Grupo La Nación, they concluded that "the situation of Parque Viva must be approached from the principle of legality in which the public administration operates, for which there is a recourse to challenge the administrative act"<sup>923</sup>. In addition, after the meeting "the Presidency of the Republic reiterated its commitment to respect the mass media, regardless of their editorial line or the interests of the business group they represent, and reaffirmed the commitment to build a protocol governing press-government relations, to ensure access to sources, information and mutual respect with journalists and media"<sup>924</sup>.

420. Since the presidential campaign to date, this Office has received numerous reports indicating stigmatizing remarks against the press by the president and his staff. Among other documented facts, in the context of the presidential campaign, the then presidential candidate allegedly described certain media, including *La Nación*, as "defamation media", "corrupt structures" and "scoundrels", and that certain information disclosed by them was "hate, lies and slander"<sup>925</sup>. According to public reports, these statements were allegedly linked to reports by said media investigating the then candidate<sup>926</sup>.

421. According to public sources, in May, during a meeting with heads of Communications of ministries and decentralized institutions, the Minister of Communications allegedly alleged that the Government has "an enemy outside", supposedly referring to the press<sup>927</sup>. Likewise, in said meeting, the official allegedly insinuated the need to limit the number of questions that journalists can ask. The Rapporteurship learned that such reports were rejected and denied by the Government, which assured its mission to maintain "open and transparent" communication<sup>928</sup>.

422. Following a communication sent by the Office of the Special Rapporteur, in August of this year the State of Costa Rica reported that there has been no action intended to directly or indirectly censor *Grupo Nación*, which continues to operate normally, informing the Costa Rican people in accordance with its editorial line<sup>929</sup>. The State expressed its commitment to freedom of expression and assured that Costa Rica enjoys the best freedom of expression indexes in the hemisphere<sup>930</sup>. Likewise, the State sent a copy of a protocol of attention

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<sup>921</sup> Deutsche Welle (DW). July 13, 2022. [Costa Rican President Rodrigo Chaves assured that the newspaper La Nación "has defamed the country before the press"](#); El Nacional. July 13, 2022. [Costa Rican President Rodrigo Chaves launched an attack on Grupo Nación](#); El Mundo. July 5, 2022. [Gobierno analiza aumentar montos que pagan televisoras y radioemisoras por uso de frecuencias](#); Josué Alfaro Twitter account. August 3, 2022; CRHoy. August 3, 2022. [President again compared journalists to "rats"](#).

<sup>922</sup> El Mundo. July 13, 2022. [Colper calls for caution after Parque Viva case](#); Colper. July 14, 2022. [Colper calls for prudence: our freedoms and laws are sacred](#).

<sup>923</sup> El Mundo. July 13, 2022. [Colper calls for caution after Parque Viva case](#); Colper. July 14, 2022. [Colper calls for prudence: our freedoms and laws are sacred](#).

<sup>924</sup> El Mundo. July 13, 2022. [Colper calls for caution after Parque Viva case](#); Colper. July 14, 2022. [Colper calls for prudence: our freedoms and laws are sacred](#).

<sup>925</sup> Twitter account of Cristian Cambronero (@cambronero). July 8, 2022. Telemundo. August 23, 2022. [Costa Rica's new president lashes out at the press and calls it the enemy. "Never has anything like this ever happened before," warn journalists](#). CR Hoy. May 17, 2022. [Presidency summons officials to "urgent meeting" and demands them to restrict contact with the press](#).

<sup>926</sup> Twitter account of Cristian Cambronero (@cambronero). July 8, 2022. Telemundo. August 23, 2022. [Costa Rica's new president lashes out at the press and calls it the enemy. "Never has anything like this ever happened before," warn journalists](#). CR Hoy. May 17, 2022. [Presidency summons officials to "urgent meeting" and demands them to restrict contact with the press](#).

<sup>927</sup> La Nación. May 13, 2022. [Minister of Communication in reference to the press](#); Amelia Rueda. May 18, 2022. ["The media are trying to establish confrontational discourses", says Minister of Communication](#).

<sup>928</sup> Semanario Universidad. May 18, 2022. ["No entendemos", dice equipo de Comunicación de Rodrigo Chaves ante señalamientos por hermetismo](#); Swissinfo. 19 May 2022. [Chaves says that the press publishes "lies" and "rumors" about his government](#); Puro Periodismo. 19 May 2022. [Under wave of criticism, president denies restrictions to the press/Audio confirms "absolute discipline" with the media](#).

<sup>929</sup> The Nation. May 18, 2022. [Audio of presidency confirms demand of 'absolute discipline' to Communication chiefs](#); La Teja. May 18, 2022. [Audio from Presidency: "No siempre hay que atenderlos \(a los periodistas\)"; CR Hoy. May 10, 2022. \[Press begins to face first obstacles to report on Chaves' work\]\(#\)](#).

<sup>930</sup> Permanent Mission of Costa Rica to the OAS. Report of the Republic of Costa Rica. Request for information IACHR/RELE/Art. 41/07-2022/337. August 2022. File of the Office of the Special Rapporteur.



to the press and expressed its interest in requesting technical cooperation from this Office of the Special Rapporteur<sup>931</sup>.

423. Based on the aforementioned communication and various public statements regarding the increase in stigmatizing discourse and actions restricting freedom of expression, this Office perceived an improvement in this situation. The Rapporteurship trusts that the alerts mentioned above will contribute to consolidate a better climate for the practice of journalism in Costa Rica in 2023.

424. Likewise, in this context, RELE learned that the Minister of Communication was dismissed on September 2 after a series of criticisms for having described the press as an "enemy", the dismissal of workers of the previous administration, questioning of limitations on questions at press conferences, among other alleged accusations<sup>932</sup>.

425. On the other hand, in relation to the administrative decision to disqualify Parque Viva from operating, on October 21 the Constitutional Chamber of the Supreme Court of Justice accepted an injunction alleging an attack on freedom of the press, filed by journalists of that newspaper who considered the closure of Parque Viva as a way of affecting the newspaper after critical publications about the president and his government<sup>933</sup>. The Chamber determined that "for the majority of the court this constitutes an indirect violation of freedom of the press, a freedom that is an essential element of our democratic system"<sup>934</sup>. For his part, the president complied with the resolution, although he said that the initial decision had been taken "to save lives".<sup>935</sup>

426. The resolution of the Constitutional Chamber "annuls the sanitary order" issued on July 8 by the government and "condemns the State to pay the costs, damages and prejudices caused by the facts that serve as basis for this declaration, which will be liquidated in the execution of the administrative contentious sentence". The Constitutional Chamber ordered the authorities to carry out within a term of 18 months the coordination measures "in order to execute the remedial plan (...) with the purpose of providing an integral solution to the problem of road congestion"<sup>936</sup>.

427. This Rapporteurship welcomes this resolution and recalls that direct or indirect pressures from the State aimed at silencing the informative work of social communicators are incompatible with freedom of expression. As the cornerstone of a democratic society, freedom of expression is an essential condition for society to be sufficiently informed. As the IACHR and its Special Rapporteur have pointed out, "the free circulation of ideas and news is not conceivable without a plurality of sources of information and respect for the media"<sup>937</sup>. In this context, RELE also recalls that, according to Article 13(3) of the American Convention, "the right of expression may not be restricted by indirect means, such as the abuse of official or private controls (...) or by any other means designed to impede the communication and circulation of ideas and opinions"<sup>938</sup>. Similarly, Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that "the use of the power of the State and the resources of the public treasury (...) with the objective of pressuring and punishing or rewarding and privileging social communicators and the media according to their informative lines, violates freedom of expression and should be expressly prohibited by law. The social communication media have the right to carry out their work independently"<sup>939</sup>. RELE has also emphasized that "imposing direct or indirect pressures aimed at silencing the informative work of social communicators obstructs the full

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<sup>931</sup> Permanent Mission of Costa Rica to the OAS. Report of the Republic of Costa Rica. Request for information IACHR/RELE/Art. 41/07-2022/337. August 2022. File of the Office of the Special Rapporteur.

<sup>932</sup> Swissinfo. September 2, 2022. [Costa Rican president removes communication minister](#); Semanario Universidad. September 2, 2022. [Rodrigo Chaves ousts communication minister](#); El Financiero. September 2, 2022. [Government removes Patricia Navarro as Communication minister "immediately"](#); CR Hoy. September 2, 2022. [Why was she fired? Former Minister Patricia Navarro breaks her silence](#).

<sup>933</sup> Swissinfo. October 21, 2022. [Constitutional Chamber annuls Grupo Nación park closure and condemns State](#); Deutsche Welle (DW). October 22, 2022. [Costa Rican Justice annuls closure of "Parque Viva" and condemns the Executive](#).

<sup>934</sup> Swissinfo. October 21, 2022. [Constitutional Chamber annuls Grupo Nación park closure and condemns State](#); Deutsche Welle (DW). October 22, 2022. [Costa Rican Justice annuls closure of "Parque Viva" and condemns the Executive](#).

<sup>935</sup> Semanario Universidad. October 21, 2022. [Sala IV revierte cierre de Parque Viva por violar la libertad de prensa de "La Nación"](#); Mundo. October 26, 2022. [Court ruling criticized by president](#).

<sup>936</sup> Swissinfo. October 21, 2022. [Constitutional Chamber annuls Grupo Nación park closure and condemns State](#); Deutsche Welle (DW). October 22, 2022. [Costa Rican Justice annuls closure of "Parque Viva" and condemns the Executive](#).

<sup>937</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>938</sup> American Convention on Human Rights, Article 13.

<sup>939</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

functioning of democracy, since its consolidation is intimately related to the free exchange of ideas, information and opinions among people"<sup>940</sup>.

428. Likewise, on October 4, the Constitutional Chamber issued sentence 2022-23107 in which it declared partially admissible the amparo filed by journalist Vilma Ibarra Mata, director of the program "Hablando Claro" of *Radio Columbia*<sup>941</sup>. The journalist assured that five government sources had told her between July 8 and 9 that the Minister of Communication had sent by WhatsApp to the members of the Government Cabinet the order to urgently suspend all types of state advertising to the media *Amelia Rueda*, *La Nación*, *CRHoy* and *Canal 7*. In addition, the Minister of Communication reportedly ordered the officials not to attend interviews to the programs "Hablando Claro" and "Nuestra Voz"<sup>942</sup>. Journalist Vilma Ibarra Mata reportedly wrote to the minister to ask her about the veracity of this information on July 14, but the official did not answer her clearly. The resolution of the Constitutional Chamber argues that there are no elements to assure that this order existed, but it did ask the minister to answer Ibarra Mata's questions. Due to this omission to answer in a concrete manner the aspects consulted and to deliver the corresponding information, the Chamber found an injury to Ibarra's fundamental rights and declared the appeal on this matter admissible, ordering to give Ibarra an answer within the next five days and condemned the State to pay costs, damages and prejudices derived from the process<sup>943</sup>.

429. Also, according to available information, in 2022 the Minister of Health reportedly ordered in an official letter that ministry officials should not attend or provide information to the press without prior approval<sup>944</sup>. The official order would have been added to other actions of the minister that could indicate opacity towards the press, such as the refusal of interviews and press conferences<sup>945</sup>. The president of the College of Journalists of Costa Rica asked the Constitutional Chamber to annul the official notice issued by the Minister of Health<sup>946</sup>. The Constitutional Chamber, in resolution 2022-023075, issued on September 30, ruled in favor of freedom of expression by determining that the minister's order was illegal, and partially annulled the official communication N°MS-DM-6218-2022 of July 22, 2022, regarding the prohibition to provide statements or information without the prior approval of the Ministry of Health<sup>947</sup>.

430. These resolutions indicate that the checks and balances in Costa Rican democracy are in place and the institutions have functioned in defense of human rights and the decisions of the high courts have been complied with, which implies a commitment by the authorities to respect the rule of law. The Constitutional Chamber emphasized in the sentence of the Ibarra Mata case that it will not endorse "practices that hinder access to information, such as preventing the reporting of certain events or decisions, refusing to give interviews to various media".

431. The Office of the Special Rapporteur has pointed out that the right of access to information is a fundamental requirement to guarantee transparency in government management and on the part of state authorities, and a fundamental tool for citizen control of the functioning of the State and accountability<sup>948</sup>. As interpreted by the IACHR, Article 13 of the American Convention includes the positive obligation of the State

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<sup>940</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>941</sup> DelfinoCR. October 12, 2022. [Sala IV advierte a Presidencia que no avalará medidas de censura contra medios de comunicación](#); Hablando Claro Facebook account. 12 October 2022. [In a resounding endorsement of the freedoms and guarantees of press freedom](#).

<sup>942</sup> DelfinoCR. October 12, 2022. [Sala IV advierte a Presidencia que no avalará medidas de censura contra medios de comunicación](#); Hablando Claro Facebook account. 12 October 2022. [In a resounding endorsement of the freedoms and guarantees of press freedom](#).

<sup>943</sup> DelfinoCR. October 12, 2022. [Sala IV advierte a Presidencia que no avalará medidas de censura contra medios de comunicación](#); Hablando Claro Facebook account. 12 October 2022. [In a resounding endorsement of the freedoms and guarantees of press freedom](#).

<sup>944</sup> The World CR. August 1, 2022. [Never sought to silence anyone, affirms Health Minister](#); CRHoy.com. 1 Aug. 2022. [Health minister ordered to remain silent before the press](#); Delfino CR. Oct. 3, 2022. [Chamber condemns the State of Costa Rica](#).

<sup>945</sup> The World CR. August 1, 2022. [Never sought to silence anyone, affirms Health Minister](#); CRHoy.com. 1 Aug. 2022. [Health minister ordered to remain silent before the press](#); Delfino CR. Oct. 3, 2022. [Chamber condemns the State of Costa Rica](#).

<sup>946</sup> Delfino CR. August 22, 2022. [Costa Rican College of Journalists asked the Constitutional Chamber to annul the official letter issued by the minister](#); World Association of Journalists. August 22, 2022. [Colegio de Periodistas señala a ministra de salud Joselyn Chacón por "violar derecho de libertad de expresión y prensa"](#).

<sup>947</sup> Delfino CR. August 22, 2022. [Costa Rican College of Journalists asked the Constitutional Chamber to annul the official letter issued by the minister](#); World Association of Journalists. August 22, 2022. [Colegio de Periodistas señala a ministra de salud Joselyn Chacón por "violar derecho de libertad de expresión y prensa"](#).

<sup>948</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Paras. 4 and 5.

to allow citizens access to information in its possession<sup>949</sup>. In this sense, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression states that "[a]ccess to information [...] is a fundamental right of individuals. States are obliged to guarantee the exercise of this right"<sup>950</sup>. For its part, the Inter-American Court has established that Article 13 of the American Convention, by expressly stipulating the rights to "seek" and "receive" "information," protects the right of every person to access information under the control of the State, with the exceptions permitted under the strict regime of restrictions established in said instrument<sup>951</sup>.

432. Likewise, when ruling on restrictions imposed on journalists or communicators for access to official sources of information at public acts or events, the Inter-American Court has determined that "[w]ith respect to accreditations or authorizations to the press media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive and impart information and ideas of all kinds, it must be demonstrated that their application is legal, pursues a legitimate objective, and is necessary and proportional in relation to the objective pursued in a democratic society. The requirements for accreditation must be concrete, objective and reasonable, and their application transparent"<sup>952</sup>.

433. On the other hand, on September 6, the judgment of the Inter-American Court of Human Rights in the case of *Moya Chacón v. Costa Rica*, issued on May 23, 2022, was notified. In the judgment, the Court found that the State of Costa Rica violated freedom of expression to the detriment of journalists Freddy Parrales Chaves and Ronald Moya Chacón of the newspaper *La Nación*. The ruling refers to the fact that the two journalists were denounced for libel and defamation by a police officer after a note written by them in which they denounced illegalities. On January 10, 2007, a court acquitted them of the criminal charges but ordered them to pay civil damages on the grounds that they had to make other types of findings when investigating the published report. The Inter-American Court, on the other hand, considered that the court exceeded its authority in making this decision and in its judgment established that the monetary sanction should be eliminated and ordered reparation measures. Among the measures, it ordered the State to "annul the attribution of civil liability to Freddy Parrales Chaves and Ronald Moya Chacón imposed by the judgment issued on January 10, 2007 by the Criminal Court of the Second Judicial Circuit of San José, Goicochea, confirmed by the judgment issued on December 20, 2007 by the Third Chamber of the Supreme Court of Justice, in the terms indicated in paragraphs 102 and 103 of this Judgment"<sup>953</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

434. On July 21, the Minister of Science, Innovation, Technology and Telecommunications (Micitt) announced that the Government is working on the development of the necessary regulatory framework to update the fees paid by television and radio stations for the use of the radio spectrum frequencies granted by the State in concession. These concessions expire in 2024 and 2025 and the current Government is in charge of coordinating this process<sup>954</sup>.

435. The Rapporteurship calls for these concessions to be made in a transparent manner, taking into account the principles of plurality and diversity that ensure the full exercise of citizens' right to information.

436. Likewise, according to publicly available information, in 2022 the Attorney General's Office raided the facilities of *Diario Extra* on May 18, 2022, the house of its Director, Iary Gómez, and another property in

<sup>949</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151, para. 58 (a) and (b).

<sup>950</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>951</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. Paras. 76 and 78; I/A Court H.R., Case of López Álvarez v. Honduras. *Case of López Álvarez v. Honduras. Merits, Reparations and Costs*. Judgment of February 1, 2006. Series C No. 141. para. 77; I/A Court H.R., Case of Herrera Ulloa v. Honduras. *Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 2, 2004. Series C No. 107. para. 108.

<sup>952</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., Case of Perozo et al. v. Venezuela. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346.

<sup>953</sup> IACHR Court. *Case of Moya Chacón et al. v. Costa Rica*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 23, 2022. Series C No. 451.

<sup>954</sup> El País. July 21, 2022. [Gobierno estudia aumentar pago por uso espectro radioeléctrico en Costa Rica](#); El Periódico CR. July 21, 2022. [Colegio de Periodistas denies attack to freedom of expression by closure of Parque Viva; El Periódico CR](#).

Alajuela<sup>955</sup>. The public information also indicated that the proceedings would be related to a claim between the founders of the newspaper, and that they are aimed at gathering documentary evidence to be included in the case<sup>956</sup>. The controversy would deal with a complaint of 2021 for alleged fraudulent administration for a debt of \$6 million between shareholders of the media<sup>957</sup>.

437. On the other hand, the media *Universidad* accessed a document reporting an agreement signed in 2017 between the Neotropica Foundation, the intelligence section of the government and the United Nations Development Program (UNDP) where it was agreed to hire a "digital tool" that is part of the Early Warning and Response System (SART) that was acquired in 2017 by former President Luis Guillermo Solís. This program would serve to register "social conflicts and actors involved in them, with extensive details" and would have been an intelligence tool of the government. Social groups expressed that it could be a software dedicated to possible espionage<sup>958</sup>. This Special Rapporteurship recalls that any intrusive action of communication devices must be supported by a legal and transparent framework that is in accordance with international human rights norms and standards, guaranteeing the principles of necessity, proportionality, and an objective that is legitimate and in accordance with such norms.

438. Before leaving office on May 6, the former president partially vetoed the General Law on Access to Public Information and Transparency, which allegedly contained some articles restrictive of press freedom. The legislation was approved on April 26 by the Assembly and in its Article 8 contained elements that could be restrictive of the right to freedom of expression and access to public information. This norm would have been known as "gag law" for allegedly restricting the investigation of corruption cases<sup>959</sup>.

439. Likewise, the president reportedly said that a proposed law that seeks to make the sessions of the Council of Government public was "cosmetic"<sup>960</sup>. The bill would have sought to make the sessions of the Executive public as well as those of the Legislative Assembly and the Supreme Court<sup>961</sup>. The initiative proposed an amendment to Article 37 of the General Law of Public Administration to establish that the hearings would be public, "unless the president decides otherwise". This would eliminate the obligation for them to be secret, as is currently the case in the legislation.

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

440. This Office considers valuable the publication by the University of Costa Rica (UCR) in partnership with the UN of a study by the country's Observatory of Hate Speech and Discrimination during the first round of elections. This document was presented to the public in February, before the presidential elections, and addresses issues such as stigmatizing messages, and discrimination in social networks directed at journalists and media<sup>962</sup>.

441. This study established that after the presidential debates, a marked violent discourse against journalists was observed on social networks. For the analysis, more than 10,300 comments were observed on

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<sup>955</sup> CR Today. May 18, 2022. [Last Hour! Authorities raid facilities of Diario Extra](#); El Observador. May 18, 2022. [Prosecutors raid offices of Diario Extra and two houses in Alajuela](#).

<sup>956</sup> CR Today. May 18, 2022. [Last Hour! Authorities raid facilities of Diario Extra](#); El Observador. May 18, 2022. [Prosecutors raid offices of Diario Extra and two houses in Alajuela](#).

<sup>957</sup> CR Today. May 18, 2022. [Last Hour! Authorities raid facilities of Diario Extra](#); El Observador. May 18, 2022. [Prosecutors raid offices of Diario Extra and two houses in Alajuela](#).

<sup>958</sup> Semanario Universidad. [Neotrópica designed system to manage activist databases for the Presidency](#); Coeco Ceiba. February 8, 2022. [We condemn the acts of espionage against social activists](#).

<sup>959</sup> Divergent. May 6, 2022. [Before leaving, President Carlos Alvarado partially vetoes a "Gag Law" in Costa Rica](#); Swissinfo. 6 May 2022. [President vetoes article of law limiting press freedom in Costa Rica](#).

<sup>960</sup> The Nation. September 14, 2022. [President Chaves calls idea of transmitting sessions of Council of Government 'cosmetic'](#); Grupo de Diarios de América. September 14, 2022. [President Chaves labels as "cosmetic" idea of transmitting sessions of Council of Government, one of his campaign promises](#).

<sup>961</sup> The Nation. September 14, 2022. [President Chaves calls idea of transmitting sessions of Council of Government 'cosmetic'](#); Grupo de Diarios de América. September 14, 2022. [President Chaves labels as "cosmetic" idea of transmitting sessions of Council of Government, one of his campaign promises](#).

<sup>962</sup> Delfino. February 23, 2022. [UN and UCR study reveals aggressions in social networks against journalists and media](#); United Nations in Costa Rica. July 6, 2022. [UN investigation identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

Facebook. The results show that the highest number of violent interactions were against journalists and the media (31%); followed by the possibility of Costa Rica functioning as a secular state (22%); and the treatment of sexual harassment complaints (16%)<sup>963</sup>.

442. In 2021, an investigation by the United Nations and the firm COES concluded that there was a significant presence of hate speech and discrimination in social networks in Costa Rica<sup>964</sup>. According to public information, "the investigation found more than 548 thousand conversations containing hate speech and discrimination, from profiles and public pages on Facebook and Twitter, particularly targeting specific groups and populations"<sup>965</sup>. Of these expressions, "69% had a direct intention to offend while the remaining 31% were based on the emission of prejudices and stereotypes, which although they did not necessarily have such intention, they did generate discrimination towards certain populations"<sup>966</sup>. Likewise, the study determined that "the main issuers of these speeches were men (66% of the total)"<sup>967</sup>. The research also allowed to define that "the three topics that most often include hate speech and discrimination are: xenophobia (33.11%), gender discrimination (21.63%) and sexual orientation (18.04%)". Hate speeches related to politics, racism and generational clash were also registered"<sup>968</sup>.

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

443. According to available information, Meta blocked a group of 233 Facebook accounts, 84 pages, two words and 27 Instagram accounts in Costa Rica, allegedly for violating internal policies by using fake accounts to drive media pages, memes or comment on other people's content<sup>969</sup>. It was also engaged in amplifying content from political and business pages. Some of these accounts had AI-generated profile pictures. The accounts were suspended because they violated the policy against Coordinated Inauthentic Behavior (CIB). Meta discovered that hundreds of profiles disseminated information about presidential candidates prior to the election campaign.<sup>970</sup>

444. In view of the aforementioned facts, this Office recalls that the State must also preserve the unbeatable conditions that the Internet possesses to promote and maintain information pluralism<sup>971</sup>. Likewise, private actors must establish and implement service conditions that are transparent, clear, accessible and in compliance with international human rights norms and principles, including the conditions under which interference with the right to freedom of expression or privacy of users may occur<sup>972</sup>. In this sense, companies should ensure that any restrictions derived from the application of the terms of service do not illegitimately or disproportionately restrict the right to freedom of expression<sup>973</sup>.

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<sup>963</sup> Delfino. February 23, 2022. [UN and UCR study reveals aggressions in social networks against journalists and media](#); United Nations in Costa Rica. July 6, 2022. [UN investigation identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>964</sup> United Nations in Costa Rica. July 6, 2022. [UN research identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>965</sup> United Nations in Costa Rica. July 6, 2022. [UN research identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>966</sup> United Nations in Costa Rica. July 6, 2022. [UN research identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>967</sup> United Nations in Costa Rica. July 6, 2022. [UN research identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>968</sup> United Nations in Costa Rica. July 6, 2022. [UN research identifies more than half a million conversations linked to hate speech and discrimination in social networks from Costa Rica](#).

<sup>969</sup> The Nation. April 7, 2022. [Facebook uncovers troll network in Costa Rican elections and vetoes PR agency | La Nación \(nacion.com\)](#); Meta. April 2022. [Meta Quarterly Adversarial Threat Report](#).

<sup>970</sup> The Nation. April 7, 2022. [Facebook uncovers troll network in Costa Rican elections and vetoes PR agency | La Nación \(nacion.com\)](#); Meta. April 2022. [Meta Quarterly Adversarial Threat Report](#).

<sup>971</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 19.

<sup>972</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 112.

<sup>973</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 112.



## CUBA

445. The repression against journalists, artists, human rights defenders, and activists who question the government is an incessant pattern in Cuba. The opening of criminal proceedings as a means of inhibiting or punishing expressions and positions critical of the Government is a practice frequently used by the State. The SRFOE observed with particular concern the case of Lázaro Yuri Valle Roca, sentenced on July 28 by a People's Provincial Court of Havana to a sentence of five years in prison for the alleged commission of the crimes of resistance and enemy propaganda of a continuous nature. Likewise, according to the information received, 2022 was marked by a high number of journalists who decided to give up their reporting work due to the systematic actions of harassment, surveillance, and judicial persecution perpetrated by the authorities. On the other hand, one year after the massive protests that began on July 11, 2021, the Office of the Special Rapporteur was able to observe that a significant number of protesters remain in jail for exercising their right to freedom of expression. On May 15, the National Assembly approved a new Criminal Code whose objective would be to "modernize" criminal legislation and update it in accordance with the 2019 Constitution. In this regard, the IACHR and the Office of the Special Rapporteur expressed their concern about the creation of criminal offenses that could be used to criminalize the legitimate exercise of freedom of expression, assembly, and association. Finally, in 2022, the Office of the Special Rapporteur continued to receive reports on alleged deliberate internet outages in contexts of social protest, which are part of the official control strategy imposed by the State to censor dissident voices, according to the information collected.

### A. Journalism and democracy

446. The Cuban legal framework and government practices aimed at restricting any dissident voice or voice not aligned with government interests make it increasingly difficult to exercise independent journalism in Cuba and, consequently it affects the construction of a public opinion, accountability, and the scrutiny of public powers and authorities. The trends of harassment, intimidation, and criminalization of journalists identified by the Office of the Special Rapporteur in previous reports persist in 2022 and are based both on regulations that are still in force and on arbitrary state practices.

447. As has already been pointed out by this Office in previous reports, the arrests of journalists represent one of the main tactics used by the Government to intimidate them or as a form of reprisal for the exercise of their work; and are usually carried out without a court order or legal basis. Thus, for example, on April 30, 2022, the journalists Henry Constantín and Neife Rigau, director and photographer of the magazine *La Hora de Cuba* respectively, were detained in the city of Camagüey, when they were leaving a function at the main theater of the city<sup>974</sup>. According to the information available, the State Security agents did not present legal documents justifying the detention and did not identify themselves. The list of journalists who reported having been arbitrarily detained in 2022 includes, among others, Vladimir Turro Páez, who also reportedly received threats from agents of the Ministry of the Interior to be criminally charged for the crime of incitement to commit a crime if he continued practicing independent journalism<sup>975</sup>. The journalist was allegedly detained twice in August<sup>976</sup>.

448. Government repression strategies also include summons and interrogation for intimidating purposes and the application of fines based on Decree Law 370 on the computerization of society in Cuba. In 2022, this Office learned that State Security officers reportedly intimidated journalist Cynthia de la Cantera, demanding that she publicly announce that she would leave journalism and asking her to write a resignation by hand at the same police station. According to the information reported to the Office of the Special Rapporteur, during the interrogation, the State Security officer told her that she should understand "the

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<sup>974</sup> *La Hora de Cuba*. February 2, 2022. [Última Hora: desaparecidos en Camagüey los periodistas Henry Constantín y Neife Rigau](#); CiberCuba. February 3, 2022. [Periodistas independientes ratifican compromiso con su trabajo tras detención en Camagüey](#); Sociedad Interamericana de Prensa (SIP). May 5, 2022. [La SIP condena represión y detención de periodistas en Cuba](#); Instituto Cubano por la Libertad de Expresión y Prensa (ICLEP). August 16, 2022. [ICLEP registra récord represivo contra la prensa cubana en julio](#).

<sup>975</sup> Voces del Sur. August 29, 2022. [Periodista cubano amenazado con ser procesado por el delito de "instigación a delinquir"](#); CiberCuba. August 29, 2022. [Seguridad del Estado amenaza con iniciar proceso penal a periodista independiente cubano](#).

<sup>976</sup> CiberCuba. August 29, 2022. [Seguridad del Estado amenaza con iniciar proceso penal a periodista independiente cubano](#); Twitter account of Article 19 Mexico (@article19mex). [August 18, 2022](#); Cubanet. August 18, 2022. [Agreden y arrestan al periodista de CubaNet Vladimir Turro Páez](#).



magnitude of the matter in which she was involved”<sup>977</sup>. The journalist had already been questioned on previous occasions, in 2020<sup>978</sup>. The Office of the Special Rapporteur also learned of the summons to question journalists Jorge Enrique Rodríguez, from *Diario de Cuba*, and Ismarío Rodríguez, from *Periodismo de Barrio*<sup>979</sup>. In this last case, the reporter denounced having been threatened with going to prison by State Security officials, for allegedly “disseminating pernicious and counterrevolutionary information”<sup>980</sup>. Additionally, according to public information, on June 14, journalist Boris González Arenas, a contributor to *Diario de Cuba*, was reportedly fined by inspectors from the Ministry of Communications when attending a police summon at the Zapata y C unit, in La Havana. The fine of three thousand pesos would have been imposed based on publications made by the reporter on social networks<sup>981</sup>.

449. The Office of the Special Rapporteur has also identified the persistence of police sieges at journalists’ residences as a mechanism of control and intimidation. Camila Acosta, a reporter for *Cubanet*, Luzbely (Luz) Escobar, from *14ymedio*, and Boris González from *Diario de Cuba*, were targeted by police surveillance in 2022 on various occasions<sup>982</sup>. According to publicly available information, on August 5 the journalists remained under home surveillance by security forces in Havana, who prevented them from leaving their homes on the day commemorating the twenty-eighth anniversary of the 1994 anti-government protest, known as the “Maleconazo”<sup>983</sup>. Likewise, on March 25, several journalists denounced the presence of police cordon outside their homes on social networks<sup>984</sup>.

450. Likewise, in 2022 the SFROE was informed about attacks on journalists, in which state agents were allegedly involved. According to the information available, on April 1, two agents from the Department of State Security detained journalist Alberto Corzo, executive director of the Cuban Institute for Freedom of Expression and the Press (ICLEP), in the province of Matanzas, and demanded that he tell them where he was going and what he was doing. Given the journalist’s refusal, two unidentified individuals dressed in civilian clothes approached him and violently beat him. The journalist was later hospitalized. According to the journalist’s wife, while the reporter was in the hospital there was a significant presence of political police officers<sup>985</sup>.

451. The Office of the Special Rapporteur is concerned that, in Cuba, prison continues to be a frequent place for journalists who investigate and report on matters of public interest. On July 28, a People’s Provincial Court of Havana sentenced journalist Lázaro Yuri Valle Roca to five years in prison for the alleged commission of the crimes of resistance and enemy propaganda of a continuous nature, according to the information received<sup>986</sup>. In the judgment, the judges indicated that the journalist –along with other activists, who also received prison sentences– would be part of the non-governmental organization *Delibera*, which they describe as “illegal”; and that, within this framework, they held meetings “with the objective of carrying out actions contrary to the current social and political system in Cuba”<sup>987</sup>. The judgment also indicates that Lázaro Valle

<sup>977</sup> Yucabyte. May 9, 2022. [La Seguridad del Estado busca frenar el ejercicio de hacer periodismo](#); CiberCuba. May 9, 2022. [Periodista Cynthia de la Cantera denuncia amenazas de la Seguridad del Estado](#); ICLEP. May 10, 2022. [Periodista Cynthia de la Cantera acosada sistemáticamente por el régimen cubano](#).

<sup>978</sup> Facebook account of Cynthia de la Cantera. [May 9, 2022](#); Radio Televisión Martí. May 10, 2022. [Joven periodista denuncia dos años de intimidación y acoso de la Seguridad del Estado](#).

<sup>979</sup> Facebook account of Periodismo de Barrio. [September 15, 2022](#); Twitter account of ICLEP (@ICLEP). [September 16, 2022](#); ICLEP. September 19, 2022. [Régimen cubano amenaza al periodista Ismarío Rodríguez con encarcelarlo](#); Diario de Cuba. September 2, 2022. [El periodista de DIARIO DE CUBA Jorge Enrique Rodríguez, interrogado por una pintada contra el régimen](#).

<sup>980</sup> Twitter account of Ismarío Rodríguez Pérez (@IsmarioRodrguez). [September 16, 2022](#); Radio Televisión Martí. September 18, 2022. [Amenazan con prisión a otro periodista en Cuba por “difundir información perniciosa y contrarrevolucionaria”](#).

<sup>981</sup> Twitter account of Proyecto Inventario (@invntario). [June 22, 2022](#); ICLEP. July 4, 2022. [Multado por segunda ocasión periodista Boris González por Decreto Ley 370](#).

<sup>982</sup> CiberCuba. March 25, 2022. [Periodistas y activistas amanecen sitiados en Cuba por la policía](#); Cubanet. July 12, 2022. [Periodistas independientes se mantienen bajo vigilancia policial este 12 de julio](#); CiberCuba. September 26, 2022. [Seguridad del Estado impide salir de su domicilio al periodista independiente Boris González Arena](#).

<sup>983</sup> ICLEP. August 8, 2022. [Persiste asedio contra la prensa independiente en La Habana](#); Facebook account of Camila Acosta. [August 5, 2022](#); Facebook account of Luz Escobar. [August 5, 2022](#).

<sup>984</sup> CiberCuba. March 25, 2022. [Periodistas y activistas amanecen sitiados en Cuba por la policía](#); Radio Televisión Martí. March 25, 2022. [Bajo asedio policial amanecieron periodistas y activistas](#).

<sup>985</sup> CPJ. April 11, 2022. [Agreden al periodista independiente cubano Alberto Corzo después de que lo pararan agentes de la Seguridad del Estado](#); 14ymedio. April 4, 2022. [El director del Iclep acusa a la Seguridad del Estado de agresión](#).

<sup>986</sup> Deutsche Welle (DW). July 29, 2022. [Cuba condena a 5 años de cárcel al periodista Yuri Valle Roca](#); CPJ. August 3, 2022. [Condenan al periodista cubano Lázaro Yuri Valle Roca a una pena de cinco años de cárcel](#).

<sup>987</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [It contains the court judgment].

Roca and the rest of the members of the NGO filmed these meetings and then published them on their social networks "with the purpose of disclosing to the world an image of social and political instability within the country"<sup>988</sup>. Among other facts that led to the conviction, the judges mention that in June 2021, the journalist and the activists threw more than 500 leaflets from the roof of a building that had the text "Patria y vida" inscribed, and that "those aimed to confuse and incite the people to claim rights already achieved by the Cuban Revolution", such as "the people demand free elections, the people demand democracy", "freedom for political prisoners and prisoners of conscience", "no more repression, no more dictatorship"<sup>989</sup>. According to public information, the journalist's health deteriorated in prison, and he did not receive adequate medical attention<sup>990</sup>.

452. The systematic actions of harassment, surveillance, and judicial persecution perpetrated by the authorities against independent journalists result, in many cases, in their resignation from the exercise of informational work. In 2022, the Office of the Special Rapporteur received information that the journalist Nelson Julio Álvarez Mainata had resigned from his position at the *CubaNet* portal, as a result of the various actions of harassment undertaken by the Government against him, which included pressure to leave journalism under the threat of being subject to legal proceedings and even subpoenas to his mother. The reporter publicly denounced that since 2019 he has been subjected to "exhausting hours of interrogations, arrests, warning letters" and other intimidating acts, such as hacking into social networks to "mock his sexuality and gender identity"<sup>991</sup>. Similarly, the digital media *elTOQUE* publicly stated that at least nine members of its journalistic team had resigned "due to direct and indirect pressure from the Cuban State Security bodies"<sup>992</sup>, including Wimar Verdecia<sup>993</sup>, Aleiny Sánchez Martínez<sup>994</sup>, José Leandro Garbey<sup>995</sup>, Meilin Puertas Borrero<sup>996</sup>, and Mauro Roberto Díaz Vázquez<sup>997</sup>.

453. In addition to renouncing independent journalism, the Office of the Special Rapporteur views with extreme concern that the forced exile of communicators is, with increasing frequency, one of the main options to confront the escalating repression of the Government against the independent press. In 2022, the Office of the Special Rapporteur learned of the departure of several journalists from the country, including Orelvis Cabrera, a reporter for *CubaNet*<sup>998</sup>, who in 2021 spent 37 days in prison after covering the massive protests that began on July 11, 2021. According to the reporter, the pressures from the State increased after he launched the podcast "La Gusanera" in October 2021, a project developed together with the *CubaNet* medium<sup>999</sup>. Likewise, journalists Esteban Rodríguez and Héctor Luis Valdés Cocho –both beneficiaries of IACHR precautionary measures<sup>1000</sup>– were pressured by State Security to leave the country permanently in the first days of this year<sup>1001</sup>. In its last annual report, SFR0E alerted about the situation of journalist Esteban Rodríguez, arrested in April 2021, accused of committing the crimes of public disorder and resistance<sup>1002</sup>, and one of the

<sup>988</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [It contains the court judgment].

<sup>989</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [It contains the court judgment].

<sup>990</sup> Radio Televisión Martí. October 27, 2022. [Esposa de Lázaro Yuri Valle Roca exige su liberación a 488 días encarcelado](#).

<sup>991</sup> Facebook account of Nelson Julio Álvarez Mairata. [August 8, 2022](#); Cubanet. August 8, 2022. [Periodista de CubaNet Nelson J. Álvarez renuncia por acoso de la Seguridad del Estado](#).

<sup>992</sup> elTOQUE. August 31, 2022. [Editorial «La noche no será eterna»](#).

<sup>993</sup> ICLEP. September 12, 2022. [Cierra suplemento humorístico de El Toque por renuncia de su director](#); Twitter account of Wilmar Verdecia Fuentes (@Wimar Verdecia Fuentes). [September 8, 2022](#).

<sup>994</sup> Facebook account of Aleiny Sánchez Martínez. [August 30, 2022](#); LatAm Journalism Review. September 29, 2022. [Ola de renuncias de periodistas en Cuba producto del acoso de la Seguridad del Estado](#).

<sup>995</sup> Facebook account of José Leandro Garbey. [August 28, 2022](#).

<sup>996</sup> Facebook account of Meilin Puertas Borrero. [August 29, 2022](#); CiberCuba. August 29, 2022. [Otra periodista de El Toque renuncia debido al acoso de la Seguridad del Estado](#).

<sup>997</sup> Facebook account of Mauro Roberto Díaz Vázquez. [August 30, 2022](#); CiberCuba. August 30, 2022. [Periodista independiente renuncia por presiones de la Seguridad del Estado](#).

<sup>998</sup> Radio Televisión Martí. January 3, 2021. [Sale de Cuba el periodista independiente Orelvis Cabrera](#); Diario de Cuba. April 6, 2022. [Un periodista independiente cubano llega a EEUU tras una azarosa travesía](#).

<sup>999</sup> 14ymedio. January 3, 2021. [Amenazado por la Seguridad del Estado, el periodista cubano Orelvis Cabrera viajó a Rusia](#).

<sup>1000</sup> IACHR. February 11, 2021. [Resolution 14/2021](#). Precautionary measures No. 1101-20. 20 identified members of the San Isidro Movement (MSI) regarding Cuba; IACHR. December 1, 2021. Resolution 100/2021. Precautionary measures No. 705-21. Héctor Luis Valdés Cocho and "X" regarding Cuba.

<sup>1001</sup> ABC Internacional. January 30, 2022. [Exilio forzoso para silenciar la disidencia dentro de Cuba](#); 14ymedio. January 5, 2022. [Los periodistas cubanos Esteban Rodríguez y Héctor Luis Valdés son admitidos en El Salvador](#); ADN Cuba. January 5, 2022. [Reporteros de ADN Cuba varados en El Salvador tras exilio forzoso del castrismo](#).

<sup>1002</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 309.

six representative cases of prisoners of conscience in Cuba, according to Amnesty International<sup>1003</sup>. Until January 4, 2022, the date on which he was escorted by State Security agents to the Havana airport, Esteban Rodríguez had been in prison for around eight months awaiting trial, where he was reportedly subjected to cruel treatment, inhumane, and degrading<sup>1004</sup>.

454. Likewise, this year the Office of the Special Rapporteur learned of the forced exile of independent journalist Ricardo Fernández Izaguirre, who left the country with his family after receiving persistent threats from the police<sup>1005</sup>. The reporter said that the police reportedly had given him "the ultimatum that he had a month to leave the country"<sup>1006</sup>. Fernández Izaguirre has been threatened and imprisoned on several occasions in Cuba for reasons related to his work<sup>1007</sup>. Thus, for example, in its 2019 Annual Report, the SRFOE drew attention to the detention of the journalist for 29 hours in a cell in "Villa María Luisa", city of Camagüey, after he attended a police summons<sup>1008</sup>.

455. This Office reiterates that journalism is the primary and main manifestation of freedom of expression, since it is journalists and the media who keep society informed about matters of public interest and contribute to the existence of a public debate that is broad, robust, and plural<sup>1009</sup>. For this reason, States have the obligation to create the conditions so that journalists can exercise their function freely, independently, and safely<sup>1010</sup>.

456. As stated in Principle 9 of the IACHR Declaration of Principles on Freedom of Expression, the intimidation or threat of social communicators violates the fundamental rights of individuals and severely restricts freedom of expression<sup>1011</sup>. The IACHR and its Office of the Special Rapporteur have understood that this type of action is intended to restrict or hinder the work of those journalists who carry out investigations into outrages, abuses, irregularities or illicit acts of all kinds, carried out either by public officials or by private individuals<sup>1012</sup>. Likewise, they seek to be intimidation tools, through which a message is sent to all those people from civil society who carry out investigative tasks on irregularities in public management<sup>1013</sup>. The SRFOE has also maintained that this practice "seeks that the press remains silent, as a control mechanism," preventing society from being informed about events of public interest<sup>1014</sup>.

457. As the Special Rapporteurs for Freedom of Expression maintained in their 2013 Joint Declaration, the State "has the duty to guarantee that journalists and communicators [...] are not detained, threatened, assaulted, or limited in any way in their rights for practicing his profession."<sup>1015</sup> For all these reasons, the Office of the Special Rapporteur considers it imperative that the State of Cuba refrain from engaging in behaviors of threats, intimidation, and criminalization; and guarantee the exercise of the right to freedom of the press not

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<sup>1003</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 314.

<sup>1004</sup> 14ymedio. January 5, 2022. [El último detenido de la calle Obispo, Esteban Rodríguez, sale de Cuba "huyendo del terror"](#); ABC Internacional. January 30, 2022. [Exilio forzoso para silenciar la disidencia dentro de Cuba](#); SIP. April 9-22, 2022. [Informe ante la Reunión de Medio Año](#).

<sup>1005</sup> 14ymedio. September 1, 2022. [El periodista Ricardo Fernández pide asilo en Alemania junto a su familia](#); Diario de Cuba. September 2, 2022. [Semana negra para la prensa en Cuba: el periodista Ricardo Fernández se exilia en Alemania por presiones del régimen](#).

<sup>1006</sup> 14ymedio. September 1, 2022. [El periodista Ricardo Fernández pide asilo en Alemania junto a su familia](#); Diario de Cuba. September 9, 2022. ['Presiones y chantajes' de la policía política provocan el cierre del suplemento de humor gráfico cubano 'Xel2'](#).

<sup>1007</sup> CiberCuba. July 15, 2019. [Denuncian en La Habana desaparición del periodista independiente Ricardo Fernández Izaguirre](#); CiberCuba. November 13, 2019. [Cuba encarcela al periodista independiente Ricardo Fernández Izaguirre](#); Radio Televisión Martí. February 18, 2020. ["Me prohíben salir de mi país, donde vivo y del que soy ciudadano"](#).

<sup>1008</sup> IACHR. Annual Report 2019. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 437.

<sup>1009</sup> I/A Court H.R., [Advisory Opinion OC-5/85 of November 13, 1985](#). "Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights)", para. 71; IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1010</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 8 and para. 165 et seq.

<sup>1011</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1012</sup> IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1013</sup> IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1014</sup> IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1015</sup> UN Special Rapporteur for the Protection and Promotion of the Right to Freedom of Opinion and Expression, and IACHR Special Rapporteur for Freedom of Expression. [Joint declaration on violence against journalists and communicators in the context of social demonstrations](#). September 13, 2013.

only through formal and substantive law, but also through the implementation of measures for the prevention, protection, and investigation of attacks against journalists and the media.

## **B. Freedom of expression, Rule of Law and democratic institutions**

458. One year after the massive protests that began on July 11, 2021 in Cuba, a large number of protesters remain in jail for exercising their right to freedom of expression. In this sense, in 2022, the Office of the Special Rapporteur observes the persistence of state repression mechanisms against those who publicly demonstrate against the Government, in order to restrict and discourage citizen participation in civil and political affairs. In particular, this year the IACHR reported a wave of repression characterized by the criminalization of the people who participated in the mass protests of July 2021, against whom accusations of different crimes were filed, and which reportedly resulted in the request for long convictions by the Prosecutor's Office<sup>1016</sup>. As the Inter-American Commission pointed out, the activation of judicial mechanisms to punish and discourage participation in protests occurred, to a large extent, through trials without due process guarantees<sup>1017</sup>.

459. A report by the *Cubalex* organization and the *Justicia 11J* project, which compiles the impact and consequences of the 11J protests, indicates that, since then and to date, 1,484 arrests linked to social demonstrations have been documented. They also indicate that, up to July 2022, summary trials were held against 47 people and ordinary first instance trials against 622 people. Likewise, 62 people have a prosecutor's request in progress, and are pending trial -34 of them under pre-trial detention-, and around 250 have not yet received the provisional conclusions from the Prosecutor's Office to open the oral trial phase. In addition, they point out that three people reportedly left the country with pending legal proceedings<sup>1018</sup>.

460. For its part, the Attorney General of the Republic reported that, as of June 22, 2022, 76 judgments related to the protests of July 11, 2021, became final. In this regard, the State reported that 381 people were punished, including 16 young people between the ages of 16 and 18, mainly for crimes of sedition; sabotage; robbery with force and violence; attempt; contempt; and public disorder. They also indicated that 297 accused persons were imposed sanctions of deprivation of liberty, "according to the seriousness and circumstances in which the events occurred and personal behavior." Meanwhile, 84 people were substituted the penalty of deprivation of liberty for other alternative penalties that do not imply -in principle, under condition of good conduct-, going to prison. These people reportedly were provided with correctional work with without internment, and limitation of freedom; 15 young people between the ages of 16 and 18 would be included in this decision<sup>1019</sup>.

461. The Office of the Special Rapporteur highlights that the causes that motivated the protests of July 2021, which were linked to the lack of access to basic services such as electricity, the shortage of food and medicine, in addition to the demands for respect for civil and political rights, continued being the subject of citizen claims in 2022. Between July and October, the Office of the Special Rapporteur learned of various reports on police deployment to disperse protests, disproportionate use of force, arrests of protesters, and recurring internet outages<sup>1020</sup>. Additionally, at the end of September, within the framework of the protests as a result of the electricity outages that occurred after Hurricane Ian passed through the island, criminal proceedings were reportedly initiated against protesters<sup>1021</sup>. In this regard, the Attorney General of the Republic indicated that

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<sup>1016</sup> IACHR. July 11, 2022. [One Year After Historic Protests, IACHR Condemns Persistent Repression of Demonstrators in Cubav](#). Press release 153/22.

<sup>1017</sup> IACHR. July 11, 2022. [One Year After Historic Protests, IACHR Condemns Persistent Repression of Demonstrators in Cubav](#). Press release 153/22.

<sup>1018</sup> Cubalex y Justicia 11J. July 2022. [Un año sin justicia: patrones de violencia estatal contra manifestantes del 11J](#).

<sup>1019</sup> Fiscalía General de la República de la Cuba. October 14, 2022. [Nota informativa](#).

<sup>1020</sup> Radio Televisión Martí. October 2, 2022. [Con una "represión brutal", así acabó la protesta en la calle Línea \(VIDEO+FOTOS\)](#); Article 19. September 30, 2022. [ARTICLE 19 llama al Gobierno de Cuba garantizar el derecho a la protesta social en el contexto de los cortes de luz e internet](#); CiberCuba. October 2, 2022. [Tercera noche de protestas en La Habana termina con enfrentamientos con la policía](#); Radio Televisión Martí. October 3, 2022. [Confirman detención de 24 manifestantes en recientes protestas en Cuba \(VIDEO+Fotos\)](#); Infobae. October 11, 2022. [Luego de las intensas protestas por falta de luz, ascendió a 1.026 el número de presos políticos del régimen cubano](#); Article 19. August 22, 2022. [Autoridades agreden y detienen a manifestantes que protestan por apagones de luz en Cuba](#); Infobae. September 30, 2022. [Represión en Cuba: una organización de DDHH pidió a la UE que aplique sanciones para evitar "un baño de sangre"](#).

<sup>1021</sup> Radio Televisión Martí. September 29, 2022. ["Queremos luz": protestas en La Habana por apagones; abuchean a Díaz Canel en Batabanó](#); France 24. October 15, 2022 [Cuba abre procesos penales contra manifestantes que protestaron durante los apagones](#); CNN en



"acts that disturbed public order and citizen peace are being investigated," which would be related to "the burning of facilities, the execution of acts of vandalism, the closure of public roads for the purpose of to prevent the movement of vehicles and people, attacks and offenses against officials and law enforcement, and incitement to violence." The Prosecutor's Office affirmed that "the facts under investigation will receive the corresponding criminal legal response" and that the rights and constitutional guarantees of due process were guaranteed.

462. Social protest, which includes the exercise of the right to freedom of peaceful assembly and without weapons, freedom of association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and the State is obligated to respect, protect, and guarantee these rights<sup>1022</sup>. Regarding the obligation to respect, the IACHR and its Office of the Special Rapporteur have indicated that "the exercise of the right of assembly through social protest must not be subject to authorization by the authorities or to excessive requirements that make it difficult to do so"<sup>1023</sup>. Likewise, with respect to the obligation to protect and facilitate, the Commission has highlighted that "[t]he imperative social interest of the right to participate in public demonstrations means that there is a general presumption in favor of its exercise"<sup>1024</sup>. As the IACHR report on protest and human rights mentions, States must act on the basis of the legality of protests and public demonstrations and under the assumption that they do not constitute a threat to public order, even in cases in which they are carried out without notice<sup>1025</sup>. Finally, in relation to the obligation to guarantee, the IACHR has established that "it implies, first of all, the duties to investigate and punish any violation that occurred in the framework of a public demonstration"<sup>1026</sup>.

463. This Office also reiterates that the use of force in the context of protests must be understood as "a last resort that, qualitatively and quantitatively limited, seeks to prevent a more serious event than the one that provokes the state reaction" and that, within that exceptional framework, the State must satisfy the principles of legality, absolute necessity, and proportionality<sup>1027</sup>. Finally, this Office of the Special Rapporteur recalls that "in principle, the criminalization in itself of demonstrations on public roads is inadmissible"<sup>1028</sup>; and that States must refrain from incurring in practices of massive, collective, or indiscriminate arrests in public demonstrations<sup>1029</sup>.

464. On the other hand, the Office of the Special Rapporteur draws attention to the adoption of new norms that restrict the right to freedom of expression in Cuba, in contravention of international human rights standards. When examined in conjunction with the current regulations on which this Office has already ruled, and the challenges regarding democratic institutions in Cuba, the new criminal laws that entered into force in 2022 establish a coercive and repressive legal order of freedom of expression, assembly, and association.

465. On May 15, 2022, the National Assembly approved a new Criminal Code whose objective would be to "modernize" the criminal legislation and update it in accordance with the 2019 Constitution<sup>1030</sup>. In this regard, the IACHR and the Office of the Special Rapporteur expressed their concern about the creation of

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Español. October 15, 2022. [\*Después de que el huracán Ian dejara a Cuba en la oscuridad, los manifestantes salieron a las calles. Ahora el gobierno está listo para acusarlos.\*](#)

<sup>1022</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social protest and human rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Foreword and paras. 1-46.

<sup>1023</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 91.

<sup>1024</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 91.

<sup>1025</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 93.

<sup>1026</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 246.

<sup>1027</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 102.

<sup>1028</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 187.

<sup>1029</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social protest and human rights. OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019. Para. 138.

<sup>1030</sup> Fiscalía General de la República. September 1, 2022. [Publica Gaceta Oficial Código Penal y Ley de Ejecución Penal](#); Granma. May 15, 2022. [Cuba cuenta con un nuevo Código Penal, moderno y ajustado a su realidad](#).

criminal offenses that could be used to criminalize the legitimate exercise of freedom of expression, assembly, and association<sup>1031</sup>. The Commission and its Office of the Special Rapporteur specified that the new text intensifies penalties and maintains broad and imprecise language to classify crimes, such as sedition and crimes against the constitutional order<sup>1032</sup>. Likewise, they indicated their concern about the incorporation of a criminal offense that would impose custodial sentences for those who "support, encourage, finance, provide, receive, or have in their possession funds, material or financial resources, in order to pay for activities contrary to the State and its constitutional order", which could be used for criminalization purposes against journalists and media critical of the Government<sup>1033</sup>. Various human rights organizations and organizations linked to journalism and freedom of expression expressed their concern regarding the new criminal legislation<sup>1034</sup>. For his part, the president of the Supreme Court, Rubén Remigio Ferro, stated that the new regulations "classify as crimes the most serious and harmful acts for society" and that "protects the interests of the State and the people"<sup>1035</sup>.

466. Inter-American jurisprudence has established that any limitation to the exercise of freedom of expression –whether arising from laws, administrative, judicial, police, or any other type of decisions and acts– must meet the requirements of legality, legitimate objective, necessity, and proportionality<sup>1036</sup>. Likewise, the Court has declared in multiple decisions that those measures that seek to restrict expressions of public interest or that deal with public officials must be subject to a stricter and more demanding examination in order to be valid under the American Convention, since in democratic societies actions and omissions by the State and its officials are subject to rigorous scrutiny, not only by internal control bodies, but also by the press and public opinion<sup>1037</sup>.

467. In the case of Cuba, the Inter-American Commission and its Office of the Special Rapporteur have expressed their concern for certain criminal figures for decades and have warned about the existence of a legal framework that represses and sanctions the exercise of freedom of expression<sup>1038</sup>. The Office of the Special Rapporteur reiterates what was stated in its Special Report on the situation of freedom of expression in Cuba with respect to the fact that Cuban regulations –based on the Constitution of the Republic and including lower-level and different nature regulations– are in many cases contrary to inter-American standards, insofar as it criminalizes behaviors protected by the right to freedom of expression, it is incompatible with the principle of legality, it does not comply with the requirement of responding to a legitimate purpose or with the requirements of necessity and proportionality<sup>1039</sup>.

468. Violations of the right to freedom of expression in Cuba not only arise and are reflected in the formal law, but also originate from the application of these laws by the judiciary in an unnecessary and disproportionate manner. In 2022, the SRFOE recorded various convictions of people for reasons related to the exercise of freedom of expression.

469. Among other cases registered by the Office of the Special Rapporteur, in June, the Popular Municipal Court of Centro Habana sentenced the artists Luis Manuel Otero Alcántara and Maykel Castillo Pérez to five and

<sup>1031</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>1032</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>1033</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>1034</sup> CPJ. May 17, 2022. [El CPJ condena el nuevo Código Penal cubano y lo considera una amenaza para los medios independientes](#); WOLA. July 7, 2022. [5 preocupaciones sobre el nuevo Código Penal de Cuba](#); LatAm Journalism Review. May 20, 2022. [Reformas a Código Penal cubano recrudescen la represión contra el periodismo y criminalizan el financiamiento extranjero de medios independientes](#); Regional Alliance for Free Expression and Information. April 13, 2022. Draft of the new penal code in Cuba. Analysis and considerations. Information sent by email to the Office of the Special Rapporteur.

<sup>1035</sup> Deutsche Welle (DW). May 15, 2022. [Cuba endurece el Código Penal para evitar la disidencia](#); Euronews. May 16, 2022. [Cuba reforma el código penal contra la subversión entre críticas de la disidencia y el activismo](#).

<sup>1036</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 67.

<sup>1037</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 33 et seq.

<sup>1038</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Report on the situation of freedom of expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18. December 31, 2018. Para. 51.

<sup>1039</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Report on the situation of freedom of expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18. December 31, 2018. Para. 51.



nine years in prison, respectively<sup>1040</sup>. Luis Manuel Otero Alcántara, leader of the San Isidro Movement (MSI), was sentenced for the crimes of insulting the symbols of the country, contempt (desacato), and public disorder, in relation to an artistic performance in which he intervened in the public space using a Cuban flag as a garment. The Court based its decision on the existence of an “express intention, sustained over time, to offend the national flag, by publishing photos on social networks where it is used in demeaning acts, accompanied by notoriously offensive and disrespectful expressions, belittling the feelings of nationality and pride that the Cuban people profess to our homeland ensign”<sup>1041</sup>. Likewise, during the trial, the Prosecutor’s Office argued that Luis Manuel Otero made “contemptuous” use of the flag, “since he used it repeatedly as a towel, lay next to it lying on the sand, used it as a sheet, and covered with it while sitting on the toilet”<sup>1042</sup>.

470. On the other hand, the Court found Maykel Castillo Pérez guilty of the crimes of contempt (desacato), assault, public disorder, and defamation of institutions and organizations, heroes, and martyrs. The magistrates understood that “with the manifest purpose of outraging, affecting the honor and dignity of the country’s highest authorities, he used false digitally manipulated images of them, which he made public on social networks; and with the same purpose, he made direct interventions from his personal profile to dishonor the role that law enforcement officers play in society, which compromised social and collective coexistence and entails an affront towards them”<sup>1043</sup>.

471. Likewise, the SRFOE received information about a new conviction against the activist Aymara Nieto Muñoz, a member of the Ladies in White and UNPACU, who has been serving a 5-year sentence since May 2018<sup>1044</sup>. In February 2022, the Havana Provincial Court sentenced Aymara Nieto to another 5 years and 4 months in prison for committing the crime of public disorder in a prison. According to the information received, the activist was accused of being one of the organizers of a riot in 2020 at the Western Women’s Penitentiary Center, in El Guatao, where she was being held at the time<sup>1045</sup>. The reports received indicate that during the trial due process guarantees were violated and that her participation in the commission of said crime was not proven<sup>1046</sup>. They also indicate that Aymara Nieto has been in a punishment cell since February 25 of this year and is deprived of the possibility of making telephone calls to her family<sup>1047</sup>. According to public information, in September, the People’s Supreme Court dismissed an appeal filed in her favor<sup>1048</sup>.

472. The IACHR and the Inter-American Court have indicated that criminal law is the most restrictive and severe means to establish liabilities on behaviors related to the right to freedom of expression, particularly when custodial sentences are imposed<sup>1049</sup>; and that its application to criminalize speeches of public interest is incompatible with inter-American standards<sup>1050</sup>. In this sense, the Office of the Special Rapporteur reiterates that limiting the debate through criminal law has serious effects for democratic control and that, when it is

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<sup>1040</sup> Amnesty International. June 24, 2022. [Cuba: Amnistía Internacional condena las sentencias de Luis Manuel Otero Alcántara y Maykel “Osorbo” Castillo](#); ABC Internacional. June 24, 2022. [El régimen cubano condena a 5 años de cárcel al artista Otero Alcántara y a 9 años al rapero Osorbo](#); France 24. June 24, 2022. [Penas de prisión para artistas que participaron de protestas antigubernamentales en Cuba](#).

<sup>1041</sup> Fiscalía General de la República. June 24, 2022. [INFORMACIÓN DE LA FISCALÍA GENERAL DE LA REPÚBLICA SOBRE EL PROCESO PENAL DONDE FUERON JUZGADOS LOS CIUDADANOS LUIS MANUEL OTERO ALCÁNTARA, MAIKEL CASTILLO PÉREZ, FÉLIX ROQUE DELGADO, IUSLID JUSTIZ LAZO Y REINA SIERRA DUVERGEL](#).

<sup>1042</sup> Fiscalía General de la República. June 27, 2022. [Ni presos políticos ni de conciencia: un juicio por delitos comunes](#).

<sup>1043</sup> Fiscalía General de la República. June 24, 2022. [INFORMACIÓN DE LA FISCALÍA GENERAL DE LA REPÚBLICA SOBRE EL PROCESO PENAL DONDE FUERON JUZGADOS LOS CIUDADANOS LUIS MANUEL OTERO ALCÁNTARA, MAIKEL CASTILLO PÉREZ, FÉLIX ROQUE DELGADO, IUSLID JUSTIZ LAZO Y REINA SIERRA DUVERGEL](#).

<sup>1044</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of the Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>1045</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of the Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>1046</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of the Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>1047</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of the Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>1048</sup> Radio Televisión Martí. September 7, 2022. [Desestiman casación a favor de Aymara Nieto, condenada a más de 5 años de prisión](#); Diario de Cuba. September 8, 2022. [El régimen cubano ratifica los cinco años de prisión para la opositora cubana Aymara Nieto](#).

<sup>1049</sup> I/A Court H.R., *Case of Usón Ramírez v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207, para. 55.

<sup>1050</sup> I/A Court H.R., *Case of Álvarez Ramos v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2019. Series C No. 380, para. 121.

used unnecessarily and disproportionately, it leads to the abusive exercise of the punitive power of the State<sup>1051</sup>.

473. Likewise, in 2022, the Office observed a growing trend of restrictions and obstacles to entry and exit from the territory by the authorities against independent journalists and activists, with the alleged purpose of silencing opposition voices and hindering citizen participation in spaces linked to the human rights situation<sup>1052</sup>. Among other cases, the SRFOE learned that in February the government prohibited the activist Anamely Ramos, a member of the San Isidro Movement (MSI), from returning to Cuba from the United States. The Ministry of the Interior of Cuba, through its Directorate of Identification, Immigration and Aliens, notified the US airline American Airlines that "the entry into the national territory" of Anamely Ramos González was not allowed and that "in case of arrival she will be reboarded on the same flight"<sup>1053</sup>. Anamely Ramos is a beneficiary of precautionary measures from the IACHR, which in 2021 granted protection in favor of 20 identified members of the MSI, after considering that they were in a serious and urgent situation of risk of irreparable damage to their rights in Cuba<sup>1054</sup>.

474. Similarly, in June of this year, the art historian and activist Omara Ruiz Urquiola was prevented from returning to Havana from the United States by order of the Cuban authorities. The United Nations Special Rapporteur on the situation of human rights defenders ruled on the case and warned that she "must be allowed to return"<sup>1055</sup>.

475. This Office requested the United States of America to provide more information on the rules and procedures that airlines operating in the country must follow to authorize the boarding of foreign passengers returning to their country of nationality<sup>1056</sup>. In their response, the United States authorities indicated that "compliance with the entry requirements is based on Article 13 of the Convention on International Civil Aviation (Chicago Convention), which binds all 193 parties, including the United States and Cuba, to comply with the laws and regulations of a Contracting State regarding the admission or departure from its territory of passengers, crew or aircraft cargo, such as regulations relating to entry, clearance, immigration, passports, customs and quarantine. (...) US carriers must receive economic authority from the US Department of Transportation (DOT) in order to serve all international destinations. (...) The DOT requires US carriers to abide by the other country's entry, exit, and immigration laws and regulations, including the rules and procedures established for the entry of its own citizens. Failure to comply with the terms of DOT's grant of economic authority could result in civil penalties, suspensions, or revocation of US carriers' authority to operate internationally"<sup>1057</sup>. Likewise, the State indicated that they have urged the Cuban government "to put an end to this cruel and discriminatory policy of arbitrarily denying entry to their own people and to guarantee that Cuban citizens can enjoy the right to return to their country of origin"<sup>1058</sup>.

476. The Office of the Special Rapporteur also received information about the decision of the authorities of the Ministry of the Interior to prevent six young journalists from the media outlet *e!TOQUE* from boarding a

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<sup>1051</sup> I/A Court H.R., *Case of Tristán Donoso v. Panama*. Preliminary Objection, Merits, Reparations and Costs. Judgment of January 27, 2009. Series C No. 193, para. 119.

<sup>1052</sup> Twitter account of the IACHR's Office of the Special Rapporteur for Freedom of Expression (@RELE\_CIDH). [March 11, 2022](#).

<sup>1053</sup> Cuban Ministry of the Interior. Directorate of Identification, Immigration and Aliens. Notification to airlines about inadmissible passengers entering the national territory. February 26, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1054</sup> IACHR. February 11, 2021. [Resolution 14/2021](#). Precautionary measures No. 1101-20. 20 identified members of the San Isidro Movement (MSI) regarding Cuba.

<sup>1055</sup> Twitter account of Mary Lawlor, United Nations Special Rapporteur on Human Rights Defenders (@MaryLawlorhrds). [July 8, 2022](#).

<sup>1056</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Request for information on the rules and procedures for foreigners who embark on international flights to their country of nationality and the implications for their visa situation. IACHR/RELE/Art.18/04-2022/250. April 12, 2022.

<sup>1057</sup> Permanent Mission of the United States to the OAS. Response of the United States Government to the request for information CIDH/RELE/Art.18/04-2022/250. August 19, 2022.

<sup>1058</sup> Permanent Mission of the United States to the OAS. Response of the United States Government to the request for information CIDH/RELE/Art.18/04-2022/250. August 19, 2022.

flight from Havana to Argentina. The journalists were going to Buenos Aires, to participate in "Media Party", a conference on innovation in the media<sup>1059</sup>.

477. This Office emphasizes that the duty to guarantee civil and political rights includes the obligation of the State of Cuba to take the necessary measures to fully guarantee the right of all persons to leave the country, to circulate through its territory, to choose their place of residence, and to enter or re-enter the country of which they are nationals<sup>1060</sup>. This especially includes not impeding or hindering in any way the entry or exit of people to the country to participate in spaces related to the human rights situation in Cuba<sup>1061</sup>.

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

478. As the Office of the Special Rapporteur pointed out in its last annual report, women constitute a population especially affected by the restrictions on the exercise of freedom of expression in Cuba<sup>1062</sup>. These restrictions are related, on the one hand, to government harassment and pressure, which motivates many of them to abandon the profession and go into exile<sup>1063</sup>; and, on the other hand, to omissions by the State of the duty to guarantee labor rights, a problem that affects citizens in general, but especially women<sup>1064</sup>.

479. A report published by the organization Article 19 in January 2022 indicates that, among the different strategies used by the Cuban government to "intimidate, silence, and expel" women journalists, activists, human rights defenders, and artists in the public space, the "preferred method" is house arrest<sup>1065</sup>. This is because "it generates effects not only professionally, but also in their family environment", by preventing them or making it difficult for them to carry out the care tasks that they are usually responsible for<sup>1066</sup>. Likewise, the report mentions that many legal regulations are repeatedly used by State Security to threaten women journalists and the wives of journalists, activists, and artists, by "using children as an instrument of blackmail to achieve their mission and show their dominance over women"<sup>1067</sup>. Similarly, disqualification campaigns have a particular character when it comes to women journalists, to the extent that they not only stigmatize them because of their profession, in order to reduce their credibility, but also because they are women. This type of attack not only generates an effect of self-censorship, but also –according to some of them– affects their mental and physical health<sup>1068</sup>.

480. On the other hand, Cuban women journalists have denounced the precariousness of the employment situation in Cuba, and the differentiated impact that this problem has on women<sup>1069</sup>. On this point, they denounce the lack of guarantees for labor rights, for example with regard to maternity or retirement leave<sup>1070</sup>. The Office of the Special Rapporteur observes that these obstacles, added to the aforementioned pressures they receive from the Government, have a strong inhibitory effect, censorship, and exclusion of women from independent journalism and, consequently, from public debate.

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<sup>1059</sup> elTOQUE. August 25, 2022. [Gobierno cubano impide la participación de seis periodistas de elTOQUE en el Media Party, de Argentina](#); LatAm Journalism Review. September 29, 2022. [Ola de renuncias de periodistas en Cuba producto del acoso de la Seguridad del Estado](#).

<sup>1060</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Report on the situation of freedom of expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18. December 31, 2018. Para. 23.

<sup>1061</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Report on the situation of freedom of expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18. December 31, 2018. Para. 23.

<sup>1062</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 323.

<sup>1063</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. Democracia en papel. P. 26 and 27; Red Internacional de Periodistas. October 3, 2022. [Directo al exilio: la supervivencia de las periodistas independientes en el totalitarismo cubano](#).

<sup>1064</sup> IACHR. August 24, 2022. [IACHR and Its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Concerned About Precarious Working Conditions and Lack of Trade-Union Rights in Cuba](#). Press release 185/22; IACHR. June 6, 2022. [IACHR and Its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Concerned About Socioeconomic Conditions in Cuba and Their Effect on the Rights of Women and Other Groups](#). Press release 127/22.

<sup>1065</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. Democracia en papel. P. 26.

<sup>1066</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. Democracia en papel. P. 26.

<sup>1067</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. Democracia en papel. P. 26.

<sup>1068</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. Democracia en papel. P. 27.

<sup>1069</sup> elDiarioAR. February 12, 2022. [Casa Palanca, una iniciativa para dar refugio a mujeres periodistas en Cuba](#); elToque. January 28, 2022. [Casa Palanca: por un espacio seguro para mujeres periodistas en Cuba](#).

<sup>1070</sup> elDiarioAR. February 12, 2022. [Casa Palanca, una iniciativa para dar refugio a mujeres periodistas en Cuba](#); elToque. January 28, 2022. [Casa Palanca: por un espacio seguro para mujeres periodistas en Cuba](#).

481. In this context, in 2022 a group of 20 women journalists –who are inside and outside Cuba– launched a project to build a house-refuge for women journalists and communicators in Havana, in order for it to become “a space for bonding, protection, and emotional and psychological support”<sup>1071</sup>. To do this, at the beginning of the year they began a fundraising campaign to found “Casa Palanca”, which they describe as a safe place “of work, refuge, and leisure for all women linked to the world of journalism”<sup>1072</sup>. In their proposal, the founders state that “being an independent journalist in Cuba is a risky job” and, for women, the difficulties are additional for the mere fact of being women. In addition, they point out that “the lack of institutional protection for women in the face of any type of sexist violence, including political violence, is overreaching, with no shelters or adequate accompaniment processes to deal with cases of violence” and that “the accumulation of all tasks of care for women in an increasingly impoverished country hinders their personal and professional development”.

482. In its report on Women journalists and freedom of expression, the Office of the Special Rapporteur highlighted that women journalists and workers in the media face specific and additional risks in the exercise of their profession due to their gender and other intersecting factors of discrimination<sup>1073</sup>. In this regard, the report noted that “social norms and gender stereotypes still represent a huge challenge to women’s ability to start and carry out a career in journalism on an equal footing with men” and that “there is a persistent perception that journalism is not an ‘appropriate’ profession for women, which gives rise to great social pressures for women not to enter the profession or to leave it”<sup>1074</sup>. The SRFOE also noted that, in this context, “women journalists are also affected by inflexible working hours, limited or no access to quality and affordable childcare services, and deficient policies on maternity and paternity leave”<sup>1075</sup>.

483. In accordance with the aforementioned report, the SRFOE reiterates that women journalists have the right to practice journalism free of discrimination and gender-based violence; and that “legal and political measures to achieve this objective must form part of the broader framework of strategies aimed at guaranteeing the right to freedom of expression”<sup>1076</sup>. This involves not only the action of States, but the cooperation of the media, online platforms, civil society, and all other stakeholders<sup>1077</sup>.

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

484. The siege on Internet access imposed by the government constitutes one of the main obstacles to the exercise of the right to freedom of expression of Cuban citizens. In Cuba, the only official internet service provider is the Empresa de Telecomunicaciones de Cuba S.A. (ETECSA), a public entity belonging to the Ministry of Information Technology and Communications that, according to the evidence compiled by this Office, continues to use its powers for censorship purposes, especially in contexts of social and political conflict.

485. In 2022, the Office of the Special Rapporteur documented various reports on internet outages in contexts of social protest. On July 15, as this Office was able to learn, internet outages that could be linked to citizen demonstrations were detected, one of them in Los Palacios, in Pinar del Río; and another in the city of Havana.<sup>1078</sup>

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<sup>1071</sup> Verkami. No date. [#CasaPalanca - Comunidad de mujeres periodistas en Cuba](#); LatAm Journalism Review. January 19, 2022. [Colectivo de activistas y mujeres periodistas en Cuba recauda fondos para brindar refugio y protección a periodistas independientes acosadas](#).

<sup>1072</sup> Verkami. No date. [#CasaPalanca - Comunidad de mujeres periodistas en Cuba](#); Red Internacional de Periodistas. October 3, 2022. [Directo al exilio: la supervivencia de las periodistas independientes en el totalitarismo cubano](#);

<sup>1073</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women journalists and Freedom of Expression](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 163

<sup>1074</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women journalists and Freedom of Expression](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 16.

<sup>1075</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women journalists and Freedom of Expression](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 21.

<sup>1076</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women journalists and Freedom of Expression](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 165.

<sup>1077</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women journalists and Freedom of Expression](#). OEA/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 165.

<sup>1078</sup> Twitter account of Cloudflare Radar (@CloudflareRadar). [July 15, 2022](#); Twitter account of YucaByte (@YucaByte). [July 15, 2022](#).

486. Likewise, according to information exposed by Proyecto Inventario, on the night of September 30 an interruption to the internet service was reportedly detected, at a time of escalation of tensions as a result of citizen demonstrations complaining about electric power cuts throughout the island after the passage of Hurricane Ian on September 27<sup>1079</sup>. The internet blackout would have lasted more than seven hours. Different internet monitoring laboratories such as Netblocks, Internet Outage Detection and Analysis (IODA), and Cloudflare Radar reported a “total internet outage overnight” and “an almost total collapse of internet traffic from Cuba”<sup>1080</sup>. Although ETECSA did not provide an official response on the facts, the information reported by the journalist Luz Escobar indicates that a company employee reportedly had confirmed a “interruption of service at the national level”<sup>1081</sup>.

487. The SRFOE recalls that Internet access is a *sine qua non* condition for the effective exercise of human rights. In the 2011 joint declaration on freedom of expression and the Internet, the UN, OSCE, IACHR, and ACHPR Special Rapporteurs stated that “States have the obligation to promote universal access to the Internet to guarantee the effective enjoyment of the right to freedom of expression. Internet access is also necessary to ensure respect for other rights, such as the right to education, health care and work, the right to assembly and association, and the right to free elections”<sup>1082</sup>. Likewise, on that occasion they recalled that “[t]he mandatory blocking of entire websites, IP addresses, ports, network protocols, or certain types of uses (such as social networks) constitutes an extreme measure—analogous to the prohibition of a newspaper or a radio or television station—that could only be justified according to international standards”<sup>1083</sup>.

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<sup>1079</sup> Twitter account of Proyecto Inventario (@invntario). [September 30, 2022](#); Article 19. October 5, 2022. [ONG’s demandamos poner fin a la represión y violación a los derechos humanos de las personas participantes en las protestas en Cuba](#).

<sup>1080</sup> Radio Televisión Martí. September 30, 2022. [En medio de protestas, régimen de Cuba corta Internet: ETECSA confirma que es en todo el país](#); Swissinfo. September 30, 2022. [Denuncian caída casi completa del tráfico de internet tras protestas en Cuba](#); Twitter account of Cloudflare Radar (@CloudflareRadar). [September 30, 2022](#); Twitter account of Netblocks (@Netblocks). [September 30, 2022](#); Twitter account of YucaByte (@YucaByte). [September 30, 2022](#).

<sup>1081</sup> Twitter account of Luz Escobar (@Luz\_Cuba). [September 30, 2022](#); Periódico Cubano. September 30, 2022. [¿Qué dice Etecsa sobre el apagón de Internet que vivieron los cubanos anoche?](#).

<sup>1082</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>1083</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).



## DOMINICA

488. In 2022, the Rapporteurship learned of multiple reports and documentaries on alleged irregularities in citizenship by investment programs in Dominica, as well as in four other Caribbean states. These investigative journalistic works reportedly revealed the absence of effective access to public information in the country, which would make accountability to society more difficult. This Office was also informed about the apparent lack of electoral guarantees for the opposition in Dominica, whose attempt to challenge the 2019 general elections was reportedly rejected by the Caribbean Court of Justice. The Rapporteurship also registered with concern the arrest of a former member of the opposition for having participated in anti-government demonstrations in past years. The Rapporteurship also followed up on the judicial harassment to which citizens, activists and politicians have been subjected for participating in a series of weekly marches since March 30, 2022. The Rapporteurship particularly notes that Dominica has taken concrete actions to close the digital gap through subsidies for low-income students and families to access broadband services.

### A. Journalism and democracy

489. In 2022, the Rapporteurship received investigations by the Caribbean Investigative Journalism Network (CIJN) into the government's alleged lack of transparency and accountability of its Citizenship By Investment (CBI) program. According to information revealed by CIJN, more than half of the government's projected revenue growth for fiscal year 2021-2022 would be funded by the CBI, demonstrating the state's high reliance on this program.<sup>1084</sup> CIJN denounced that the citizenry would not have access to complete information on the tax revenues and expenditures generated by the program, as well as the nationality of the applicants. Likewise, the only two persons authorized to give statements on the CBI, Prime Minister Roosevelt Skerrit and CBI program director Emmanuel Nanthan, reportedly ignored all requests for an interview and even the written questions of CIJN journalists.

490. The journalistic report on the citizenship program in Dominica would be part of an ICJN investigative project and a documentary released on July 7, 2022 concerning such programs in Dominica, St. Kitts and Nevis, Antigua and Barbuda, Grenada and St. Lucia.<sup>1085</sup> The documentary, as well as reports from each country, would have been prepared by some 18 journalists from the region. CNN anchor Jim Clancy reportedly directed the journalists to develop this investigative and long-form multimedia project. As reported to this Office, citizenship-by-investment programs have come under increased public scrutiny after members of the European Parliament called for a ban on such practices.<sup>1086</sup>

491. The media and investigative journalists reportedly expressed the apparent difficulty in accessing information of public interest due to the absence of a Freedom of Information Act in the State of Dominica.<sup>1087</sup> In this context, this Office learned that members of the press, as well as the public, have been unable to learn the details of million-dollar contracts between the government of Dominica and a foreign company to carry out infrastructure projects in the country, such as housing, health centers, schools and medical facilities.<sup>1088</sup> Additionally, this Office learned that the CIJN would have been alerted of a possible conflict of interest since this corporation would also be a service provider of CBI, and therefore would have the power to collect and spend the money generated by the program in its own projects. According to available information, there is no public record of the exclusive agreement between the State and this company.

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<sup>1084</sup> Caribbean Investigative Journalism Network. May 20, 2022. [Dominica: Unanswered Questions Undermine Credibility](#); Caribbean News Global. August 1, 2022. [Dominica tabled \\$993.6 million budget for 2021-2022](#).

<sup>1085</sup> Caribbean Investigative Journalism Network. July 7, 2022. [CIJN Launches Documentary on Citizenship By Investment](#); KRON4. June 7, 2022. [The Caribbean Investigative Journalism Network launches investigative series on Citizen By Investment Programmes in the Caribbean](#).

<sup>1086</sup> European Parliament. 9 March 2022. [MEPs demand a ban on 'golden passports' and specific rules for 'golden visas'](#); The Caribbean Council. April 1, 2022. [Western countries moving against Caribbean CBI Schemes](#).

<sup>1087</sup> Caribbean Investigative Journalism Network. May 20, 2022. [Dominica: Unanswered Questions Undermine Credibility](#); Freedom House. 2022. [Dominica](#).

<sup>1088</sup> Caribbean Investigative Journalism Network. May 20, 2022. [Dominica: Unanswered Questions Undermine Credibility](#); IMI Daily. October 17, 2018. [Montreal Management Speaks Out on Dominica CIP Matter](#).



492. Finally, journalistic investigations indicate that several perpetrators of economic and international crimes have fraudulently obtained diplomatic passports from Dominica under the CBI program.<sup>1089</sup> Reportedly, among these individuals are Iranian, Chinese and Nigerian nationals accused of corruption in their countries of origin, raising doubts about the transparency and filters of the program.<sup>1090</sup>

493. The Office of the Special Rapporteur recalls that the right of access to information is a crucial tool for controlling State affairs and public administration, as well as monitoring corruption. The right of access to information is a fundamental requirement for guaranteeing transparency and good public administration by the government and other State authorities. Effectively, the full exercise of the right of access to information is a guarantee that is indispensable in preventing abuses by public officials, holding public administration accountable and promoting its transparency, as well as preventing corruption and authoritarianism.<sup>1091</sup> Therefore, this Office recognizes the value of investigative journalism as a cornerstone of accountability of governments and public figures, and congratulates the efforts of journalists in the Caribbean to promote this type of journalism in the region.

494. Given that Dominica does not yet have a law guaranteeing access to information, as reported by this Office in its last annual report, the Rapporteurship reiterates that the State has the obligation to adjust its domestic legal system to international standards on access to information, including: (a) implementing an adequate legal framework; (b) removing legal or administrative obstacles that impede access to information; (c) promoting the right of access within all of the State's entities and authorities, through the adoption and enforcement of rules and procedures and through the training of public officials on the custody, administration, filing and provision of information; and (d) in general terms, adopting public policy that is favorable to the full exercise of this right.<sup>1092</sup>

495. As the Rapporteurship has stated on previous occasions, in connection with the fight against corruption and promotion of integrity, access to information practices need to be geared toward fostering informed debate and accountability as a way to prevent it.<sup>1093</sup> In this context, access to information will only be useful to promote the fight against corruption if the State provides "timely, complete and accessible" information in a "simple and quick" manner, since incomplete and time-consuming information prevents proper accountability and qualified debate.

## **B. Freedom of expression, Rule of Law and democratic institutions**

496. During 2022, the Office of the Special Rapporteur received reports of alleged opposition dissent over electoral guarantees in the country. The leader of the United Workers Party (UWP) reportedly asserted that the right of Dominican citizens to choose their own government would be "defective" and "dysfunctional".<sup>1094</sup> According to public information, the commissioner appointed by the government in August 2020 to advance an electoral reform has not presented a report on the matter as of the date of this report. This Office also learned that media efforts to contact the Chairman of the Electoral Office of the Government of the Commonwealth of Dominica to obtain an update on Sir Byron's report have so far been unsuccessful.

497. In the midst of the debate on the lack of guarantees for general elections and the need for electoral reform, this Office learned that on July 5, 2022, the Caribbean Court of Justice would have annulled the petitions

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<sup>1089</sup> Caribbean Investigative Journalism Network. May 20, 2022. [Dominica: Unanswered Questions Undermine Credibility](#); Dominica News Online. November 6, 2019. [Former Dominican Diplomat to pay 1.3 billion to Iran Government](#); The Dominican. 20 October 2015. [Ng Lap Seng and the Dominica connection](#); Vanguard Nigeria. June 7, 2020. [Revealed: Diezani now Dominican citizen](#).

<sup>1090</sup> Caribbean Loop News. April 6, 2022. [US report: CBI programmes in 3 Caribbean countries lack transparency](#); Antigua Observer Newspaper. March 31, 2021. [US Cites Citizenship Programs In 3 Caribbean Countries For Lack of Transparency](#).

<sup>1091</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework Regarding the Right to Access Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

<sup>1092</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework Regarding the Right to Access Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 43.

<sup>1093</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 229.

<sup>1094</sup> Dominica News Online. April 2, 2022. [The people will decide if UWP participates in another election without reform - Lennox Linton](#); The Sun Dominica. July 28, 2022. [Electoral Reform Appears to be Dominica's Unreachable Star: Where is the Sir Dennis Byron report?](#); Nature Isle News. November 5, 2022. [Government awaits reports on Electoral Reform from Sir Dennis Byron](#).

of the UWP to challenge the electoral results in ten districts of the 2019 General Elections of Dominica.<sup>1095</sup> According to public information, the ruling was reportedly interpreted by the opposition leader as a signal that there should be no more elections in Dominica without electoral reform.

498. The Office of the Special Rapporteur recalls that the dissemination of deliberate misinformation could damage the reputation of a candidate or public person or possibly other more diffuse interests such as the democratic process or the public's trust in democratic institutions.<sup>1096</sup> However, this Office also recalls that information on matters of public interest enjoys a certain presumption of legitimacy, as it is a kind of specially protected speech. When it is difficult to determine the truthfulness or falsity of the information, that presumption is maintained. The presumption can only be overcome when "contradicted by a competent authority that provides sufficient guarantees of independence, autonomy and impartiality", typically, a court that takes action after receiving a specific complaint.<sup>1097</sup>

499. On April 23, 2022, the Rapporteurship was informed of the arrest of Thomson Fontaine, at Melville Hall International Airport, upon his return to Dominica.<sup>1098</sup> The former UWP member of the parliament was reportedly arrested by local police under a warrant issued on November 22, 2018. According to public information, Fontaine is reportedly among a group of opponents –including opposition leader Lennox Linton, former Prime Minister Edison James and current Speaker Joseph Isaac– accused of inciting public disorder and disturbing the peace on February 7, 2017, when they gathered to demand the resignation of Prime Minister Roosevelt Skerrit.<sup>1099</sup> Riots and disturbances would have occurred in the context of this meeting, for which the police reportedly had to intervene with tear gas to control the situation. At that time, the Prime Minister reportedly claimed that his opponents were plotting a coup d'état.<sup>1100</sup> Due to his work abroad, Fontaine was absent from two court summons, so the magistrate presiding over his case would have granted the request to issue a bench warrant against him.

500. Since May 2022, this Office has received information suggesting that Thomson Fontaine would have been released on bail, which would have allowed him to leave the country to resume his work duties.<sup>1101</sup> According to the latest information received by this Office, Thomson must return his travel documents and surrender himself to the jurisdiction of the court no later than December 6, 2022 in order to avoid having his bail revoked.

501. The Office of the Special Rapporteur recalls that public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "*desacato laws*", restrict freedom of expression and the right to information.<sup>1102</sup> Likewise, this Office recalls that it is inadmissible in principle to criminalize per se demonstrations on public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly.<sup>1103</sup>

502. In addition, the Office of the Special Rapporteur emphasizes that it is essential that all levels and agencies of the State respect and ensure that no one will be criminalized for exercising the rights to freedom of

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<sup>1095</sup> Caribbean Court of Justice. July 6, 2022. [CCJ Agrees Petitioners Have No Right of Appeal](#); Dominica News Online. July 7, 2022. ['Petitioners lost but the people won' - Linton on CCJ ruling: 'no election without electoral reform,' he insists](#).

<sup>1096</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Guide to guarantee freedom of expression in the face of deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22.

<sup>1097</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Guide to guarantee freedom of expression in the face of deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22.

<sup>1098</sup> Dominica News Online. April 23, 2022. [LIVE on DNO: Thomson Fontaine arrested in Dominica; a number of people gather outside police headquarters](#); Caribbean Loop News. 24 April 2022. [Dominica: Former opposition senator arrested at airport](#). Caribbean National Weekly. April 25, 2022. [Former Dominican opposition senator arrested at airport](#); The Sun Dominica. May 18, 2022. [Police arrest Dr. Thompson Fontaine as he arrives at Douglas Charles Airport from Africa and treats him like a common criminal, opposition forces say](#).

<sup>1099</sup> Caribbean Loop News. February 8, 2017. [Protesters get tear-gassed in Dominica](#).

<sup>1100</sup> Dominica News Online. February 8, 2017. [PM Skerrit says UWP, DFP attempted government overthrow](#); The Montserrat Reporter. February 12, 2017. [PM Skerrit says protesters had planned a coup against his government](#).

<sup>1101</sup> Dominica News Online. May 10, 2022. [Dr. Thomson Fontaine receives court permission to travel to South Sudan](#); Nature Isle News. August 23, 2022. [Court grants former UWP Senator on alleged incitement charge permission to travel](#); The Sun Dominica. September 2, 2022. [Incitement case adjournment 'jeopardizes' Dr. Fontaine employment while four Magistrates rescue themselves from Linton's matter](#).

<sup>1102</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle. N° 11.

<sup>1103</sup> IACHR. Annual Report 2005. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V. Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly. 2005. Para. 96.

expression, assembly, and association in the context of demonstrations and protests, nor be subjected to threats, harassment, violence, persecution, or retaliation for participating in protests.<sup>1104</sup> Therefore, the authorities should facilitate the exercise of the right to demonstrate and protest as the general rule and should not regard them as a threat to public order or domestic security.<sup>1105</sup>

503. Since March 30, 2022, the Office of the Special Rapporteur has received reports of a series of recurring demonstrations led by agronomist and environmentalist Atherton Martin, winner of the Goldman Environmental Prize. According to the information received, a group of citizens, led by Martin, is reportedly holding walks for “peace, justice and prosperity” every Wednesday in the capital city of Roseau.<sup>1106</sup> However, the head of the Commonwealth of Dominica Police Force (CDPF) has allegedly disallowed the protests as he has not received permission applications for such activity.<sup>1107</sup> The Public Order Act would require the written permission of the Chief of Police for any walk, march or protest action. Specifically, the Act makes it unlawful for any public procession to take place unless a permit has been issued pursuant to the Act. It would also provide that where a person wishes to organize a public procession, he/she shall, at least three days prior to the intended public procession, submit an application to the commissioner for a permit.

504. According to public information, the Dominica police commissioner’s statements would have generated outrage among citizens and opposition parties. As a result, several groups have reportedly called his statements intimidating, politically biased and aimed at undermining the freedom and independence of Dominica’s citizens.<sup>1108</sup>

505. On May 19, 2022, the Rapporteurship received reports that six participants of the weekly walk for “peace, justice and prosperity” appeared before the Roseau Magistrate Court to plead not guilty to illegally walking the streets of the capital.<sup>1109</sup> The defendants were reportedly cited for violating a section of the Public Order Act. According to the law, anyone guilty of one of these offenses would be subject to a fine of \$10,000 East Caribbean dollars or imprisonment for six months. The defendants include Atherton Martin, leader of the walks, Lennox Linton, leader of the opposition United Workers Party (UWP), and Danny Lugay, member of the parliament for the Roseau North constituency. The judge hearing the case would have adjourned the trial until October 14, 2022 and summoned all defendants to appear in court on that date prior to their release. As of the date of publication of this annual report, the status of the case is unknown. According to information received by this Office, the authorities are preparing to issue additional summons to other attendees.

506. The Office of the Special Rapporteur recalls that protest is often an important means of action and the pursuit of legitimate objectives by organizations and groups, and as such can also be protected by the right to freedom of association; the lawful and legitimate aims of freedom of association include public demonstrations and social protests.<sup>1110</sup> The fact that demonstrations and protests involve the right to freedom of expression, both in the way in which they take place and in the content they express, can often result in specially protected forms of speech, the robustness of which is conducive to the development and strengthening of democratic coexistence.<sup>1111</sup>

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<sup>1104</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 333.

<sup>1105</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 339.

<sup>1106</sup> Dominica News Online. March 30, 2022. [Walk for Peace, Justice, and Prosperity in the city of Roseau](#); Kairi FM. March 30, 2022. [A Walk For Peace](#); Caribbean Loop News. 29 March 2022. [Dominica: Police warn against illegal protest](#); Caribbean Loop News. 30 March 2022. [Dominica: 'We The People' concerned by statements made by police chief](#).

<sup>1107</sup> The Sun Dominica. May 11, 2022. [Walk won't stop](#); Dominica News Online. May 19, 2022. [Six plead not guilty to criminal charges for walking in Roseau](#).

<sup>1108</sup> Dominica News Online. March 30, 2022. [DFP, UWP and NJAM condemn Police Chief's reaction to planned walk in Roseau today](#); Caribbean Loop News. 30 March 2022. [Dominica: 'We The People' concerned by statements made by police chief](#).

<sup>1109</sup> Caribbean National Weekly. May 20, 2022. [Opposition leader among ten charged for protesting in Dominica](#); Dominica News Online. May 19, 2022. [Six plead not guilty to criminal charges for walking in Roseau](#).

<sup>1110</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 20, 21.

<sup>1111</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 44.

507. As this Office has stated on previous occasions, the exercise of freedom of assembly through social protest should not be subject to government authorization or excessive requirements that make it difficult to carry out Legal requirements underlying the prohibition or limitation of a meeting or demonstration, such as the requirement of prior permission, are not compatible with freedom of assembly or the exercise of freedom of expression in the Inter-American system.<sup>1112</sup> The Rapporteurship emphasizes that the organizers' failure to give prior notification to the authorities should not lead to the break-up of the gathering or to the imposition of criminal or administrative penalties such as fines or deprivation of liberty against the organizers, leaders, or their associations.<sup>1113</sup>

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

508. In April 2022, the Special Rapporteur welcomed the launch in Dominica of the book "The Maroons of Dominica 1764 - 1818: Resistance Rebellion and Freedom From Slavery".<sup>1114</sup> The book, written by Thomson Fontaine, tells the story of "Maroons" who defied slavery on the island between the late eighteenth and early nineteenth centuries. According to the author's historiographical work, the efforts of the Maroons would have helped focus attention on the conditions of slavery in the British West Indies and, eventually, the abolition of the practice.

509. This Office considers valuable the publication and dissemination of various works that enrich the public debate on the historical marginalization of certain populations. Likewise, as stated in a report by the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA), this Office reiterates that States are called upon to guarantee the preservation of the distinctive forms of expression of groups that have been historically discriminated against and excluded from public debate, thus promoting the historical memory of these people and contributing to tolerance and respect in society.<sup>1115</sup>

### D. Freedom of expression and the Internet

510. In 2022, the Special Rapporteur was informed of efforts by the National Telecommunications Regulatory Commission (NTRC) of the Commonwealth of Dominica to coordinate an effective regulatory regime to improve telecommunications in the country. Among the initiatives promoted by the commission this year would be an updated website for citizens to share their complaints and grievances; programming workshops for children between the ages of 8 and 16; and a subsidy that would allow Internet access to the most vulnerable for EC\$10 per month.<sup>1116</sup>

511. Regarding the Internet access program, this Office learned that the subsidized broadband initiative, called Net 4 All, was launched in October 2021. This initiative would allow hundreds of students and low-income families to access a 10 Mbps internet service at minimal monthly costs as long as they have a mobile device.<sup>1117</sup> The Rapporteurship welcomes the donation of 50 tablets from a telecommunications company so that the lack of a mobile device would not become a barrier to access the program for dozens of students and families.<sup>1118</sup>

512. The Rapporteurship has previously described "digital literacy" as the set of skills, knowledge and attitudes required by an individual to functionally develop within the information society; its objective is for

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<sup>1112</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 56.

<sup>1113</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 60.

<sup>1114</sup> Dominica News Online. May 6, 2022. [Dominica's Maroons fight to end slavery chronicled in Dr. Thomson Fontaine's first book](#); PushPast10. 4 May 2022. [Thomson Fontaine PhD. The Maroons of Dominica. Official book launch](#).

<sup>1115</sup> IACHR. Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights. [Economic, social, cultural and environmental rights of Afro-descendants](#). OEA/Ser.L/V/II. Doc. 109. March 16, 2021.

<sup>1116</sup> The Voices. September 21, 2022. [Improving Electronic Communications Services to Consumers](#); NTRC. n.d. [Net4All](#);

<sup>1117</sup> Zero Gap. February 2, 2022. [Dominica develops Internet access program](#); Kairi FM. n.d. [NTRC Launches Subsidized Internet Program for \\$10 Monthly](#).

<sup>1118</sup> Nature Isle News. February 25, 2022. [Flow Supports NTRC's Net4All Social Broadband Program](#); Q95 FM. February 25, 2022. [Dominica is supporting the NTRC's Net4All Social Broadband Program with the donation of fifty Amazon Fire Tablets through the Cable & Wireless Charitable Foundation \(CWCF\)](#).

people to acquire the knowledge and the skills to “use technology efficiently, developing new social and financial opportunities within their social framework”.<sup>1119</sup> In this sense, “digital literacy” is an essential process in the guarantee of human rights, and a particularly necessary measure to protect and guarantee the rights to equality and nondiscrimination.<sup>1120</sup>

513. This Office recalls that the guarantee of non-discrimination includes the State’s obligation to address the specific Internet access needs that some particularly vulnerable groups may have.<sup>1121</sup> Therefore, the Rapporteurship welcomes the efforts of the State of Dominica, as well as the private sector, to provide subsidies and mobile devices so that low-income students and families can access broadband services.

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<sup>1119</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. CIDH/RELE/INF.17/17. Para. 42.

<sup>1120</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. CIDH/RELE/INF.17/17. Para. 43.

<sup>1121</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. CIDH/RELE/INF.17/17. Para. 60.

## ECUADOR

514. In 2022, the Office of the Special Rapporteur was informed of a series of reports of attacks on the press in Ecuador, including the murder of journalists, death threats, attacks, and stigmatizing remarks by public officials and leaders. This Office also received information about blockades of public facilities to prevent coverage. In two weeks, two journalists were murdered in the province of Manabí, a region where reports of violence have increased. The Inter-American Commission on Human Rights and its Office of the Special Rapporteur followed up on social demonstrations and urged the State to observe Inter-American standards to guarantee freedom of expression and the right of assembly in the context of citizen demonstrations. This Office again urged the State of Ecuador to redouble its efforts to prevent violence against journalists and press workers. Finally, the Rapporteurship thanks the Permanent Mission of Ecuador to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

515. This Office received several reports of acts of violence against journalists in different forms, including aggressions, threats, stigmatization, and even murders. In the early morning of July 24, journalist Mike Cabrera was the victim of gunshots fired by a group of unknown individuals when he was talking with other people in one of the main avenues of Portoviejo, capital of the province of Manabí<sup>1122</sup>. Although he was taken to the hospital of the Instituto Ecuatoriano de Seguridad Social, he did not survive the attack<sup>1123</sup>. Mike Cabrera had worked as a presenter in a newscast of the *Manabita Television* channel and covered local issues through *Nexo Digital*, his informative page in social networks<sup>1124</sup>. The Communication Council of Ecuador, as well as this Office of the Special Rapporteur, condemned the murder of the journalist and urged the authorities to exhaust all lines of investigation in accordance with due process to determine the perpetrators and motive of the crime<sup>1125</sup>.

516. This Office recalls that the murder of journalists and communicators constitutes the most external form of censorship. According to Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR, “the murder, kidnapping, intimidation, threat to social communicators, as well as the material destruction of the media, violates the fundamental rights of individuals and severely restricts freedom of expression”<sup>1126</sup>. As RELE has pointed out on previous occasions, this type of acts produces a marked effect of self-censorship, inhibiting journalists from carrying out their work; and reinforces the tendency to carry out journalism that avoids reporting on sensitive issues such as security, corruption or drug trafficking<sup>1127</sup>.

517. Two weeks after the murder of Mike Cabrera, on August 10, journalist Gerardo Delgado of Ola Manta TV was shot and killed on Avenida Metropolitana in Montecristi, also in Manabí province<sup>1128</sup>. At the time of the

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<sup>1122</sup> Fundamedios. July 24, 2022. [Ecuadorian journalist killed in armed attack](#); MetroEcuador. July 25, 2022. [Who was Mike Cabrera, the communicator shot dead in Portoviejo](#); GK. 25 July 2022. [Journalist was shot to death in Portoviejo. This we know](#); Twitter account Fundación de Periodistas Sin Cadenas (@SinCadenasECU). [August 9](#), 2022.

<sup>1123</sup> Fundamedios. July 24, 2022. [Ecuadorian journalist killed in armed attack](#); MetroEcuador. July 25, 2022. [Who was Mike Cabrera, the communicator shot dead in Portoviejo](#); GK. 25 July 2022. [Journalist was shot to death in Portoviejo. This we know](#); Twitter account Fundación de Periodistas Sin Cadenas (@SinCadenasECU). [August 9](#), 2022.

<sup>1124</sup> Fundamedios. July 24, 2022. [Ecuadorian journalist killed in armed attack](#); MetroEcuador. July 25, 2022. [Who was Mike Cabrera, the communicator shot dead in Portoviejo](#); GK. 25 July 2022. [Journalist was shot to death in Portoviejo. This we know](#); Twitter account Fundación de Periodistas Sin Cadenas (@SinCadenasECU). [August 9](#), 2022.

<sup>1125</sup> Communication Council. July 25, 2022. [The Communication Council condemns the murder of the communicator Mike Cabrera](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. August 3, 2022. Press Release R175/22. [RELE condemns the murder of journalist Mike Cabrera in Ecuador and calls on the State to take measures for the prevention and protection of the press](#).

<sup>1126</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#). Principle 9.

<sup>1127</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017.

<sup>1128</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 24. Press Release R186/22. [RELE condemns the murder of journalist Gerardo Delgado Olmedo in Ecuador and urges the authorities to redouble their efforts to contain violence against journalists](#).



attack, Delgado was in his vehicle with his daughter, who witnessed the murder and was unharmed<sup>1129</sup>. According to public information, the reporter was on his way to cover a story related to an alleged suicide<sup>1130</sup>. The authorities reported that on the same August 10, two people were arrested for allegedly committing the crime, who after being detained were placed before a judge, who ordered both to be remanded in custody for alleged participation in the crime<sup>1131</sup>. Likewise, the State has informed that the Public Prosecutor's Office continues to carry out several investigations and expert reports with the support of the National Police in order to clarify the facts and determine those responsible<sup>1132</sup>. According to information from a public source, the alleged perpetrators allegedly received US\$2,000 to commit the murder<sup>1133</sup>. Likewise, RELE learned that two people had been detained for their possible participation in the murder<sup>1134</sup>.

518. This Rapporteurship condemned the murder of the journalist and urged the State to investigate the facts fully, effectively and impartially, taking into consideration the journalistic work as a possible motive for the crime, and to punish those responsible<sup>1135</sup>. In this regard, RELE reiterates the observations made in the 2019 Special Report on the Situation of Freedom of Expression in Ecuador regarding the lack of measures or protocols to guarantee the safety of journalists and media workers, and reiterated the recommendations of that report regarding the prevention and protection of journalists<sup>1136</sup>.

519. In addition, this Office received information on various attacks, threats and intimidations against journalists, which could be generating a climate of intimidation of the press. According to the Inter American Press Association (IAPA), a journalist of the Guayaquil newspaper *Expreso*, whose name was not disclosed, reported that unknown individuals threw two explosive devices at his home. No injuries or material damage were reported<sup>1137</sup>. Granasa, the publisher of *Expreso*, ratified its support for the work of its journalists in the face of threats and rejected any form of intimidation "in relation to the publications they publish"<sup>1138</sup>.

520. RELE also learned about death threats against Carlos Castillo, editor and communicator of *El Ferrodinario*, a digital media of the province of Guayas, considered one of the most violent in the country<sup>1139</sup>. According to public reports, Castillo had found two bags with blood when leaving his home, and made known the intimidations through a video posted on social networks in which he said he had filed a complaint with the police<sup>1140</sup>. According to public information, between 2020 and 2022 Castillo had received 11 threats, including

<sup>1129</sup> CPJ. August 19, 2022. [Journalist Gerardo Delgado Olmedo is shot to death in Manta, Ecuador](#); El Comercio. Aug. 10, 2022. [Journalist was shot to death in Montecristi, Manabí](#); Infobae. Aug. 11, 2022. [Gunmen killed journalist Gerardo Delgado in Ecuador](#); Vistazo. Aug. 11, 2022. [Who was Gerardo Delgado? The territory journalist who was murdered in Manabí](#).

<sup>1130</sup> CPJ. August 19, 2022. [Journalist Gerardo Delgado Olmedo is shot to death in Manta, Ecuador](#); El Comercio. Aug. 10, 2022. [Journalist was shot to death in Montecristi, Manabí](#); Infobae. Aug. 11, 2022. [Gunmen killed journalist Gerardo Delgado in Ecuador](#); Vistazo. Aug. 11, 2022. [Who was Gerardo Delgado? The territory journalist who was murdered in Manabí](#).

<sup>1131</sup> Twitter account of the Ecuadorian Police (@PoliciaEcuador). [August 11, 2022](#).

<sup>1132</sup> Permanent Mission of the Republic of Ecuador to the OAS. August 24, 2022. Observations to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1133</sup> CPJ. August 19, 2022. [Journalist Gerardo Delgado Olmedo is shot to death in Manta, Ecuador](#); El Comercio. Aug. 10, 2022. [Journalist was shot to death in Montecristi, Manabí](#); Infobae. Aug. 11, 2022. [Gunmen killed journalist Gerardo Delgado in Ecuador](#); Vistazo. August 11, 2022. [Who was Gerardo Delgado? The territory journalist who was murdered in Manabí](#).

<sup>1134</sup> Fundamedios. September 12, 2022. [Prosecutor's office raided offices of digital media in Manta for investigation of journalist's murder](#); Latam Journalism Review. 14 September 2022. [Ecuador prosecutor's office raids offices of digital media outlet in Manta for investigation into journalist's murder](#).

<sup>1135</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 24. Press Release. R186/22. [RELE condemns the murder of journalist Gerardo Delgado Olmedo in Ecuador and urges the authorities to redouble their efforts to contain violence against journalists](#).

<sup>1136</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 2019. [Special Report on the Situation of Freedom of Expression in Ecuador](#); Joint report by the Special Rapporteur for Freedom of Expression of the IACHR, Edison Lanza, and the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, on the missions to Ecuador.

<sup>1137</sup> SIP. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and Peruvian media](#); El Comercio. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and a Peruvian media outlet](#); Debate. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and Peruvian media](#).

<sup>1138</sup> SIP. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and Peruvian media](#); El Comercio. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and a Peruvian media outlet](#); Debate. September 21, 2022. [IAPA condemns attacks against Ecuadorian journalist and Peruvian media](#).

<sup>1139</sup> Firsts. May 4, 2022. [66% of violent deaths are concentrated in three emergency provinces](#);

<sup>1140</sup> Journalists Without Chains Foundation. August 18, 2022. [Intimacy to journalist](#); Journalists Without Chains. April 19, 2022. [Contar lo que pasa en Durán pone en riesgo la vida de los periodistas](#); Voces del Sur. August 18, 2022. [Ecuadorian journalist receives bloody](#)

two death threats<sup>1141</sup>. At the beginning of this year, after the publication of an article on organized crime operating in the area, the journalist received information about an alleged group of hired killers arrested in an area near his former home, who allegedly had photos and videos of his residence<sup>1142</sup>.

521. On January 11, journalists Arturo Barriga and Eduardo Andino received death threats through a message that they both received simultaneously from an unidentified subject who warned them about "a person who is paying a few dollars to 3 of our guys to shoot you"<sup>1143</sup>. Both communicators published on their Twitter accounts the alleged threatening messages they received from a person claiming to be a leader of the gang "Los Choneros"<sup>1144</sup>. After publishing the messages, other alleged victims responded to the tweets, indicating that they had also received messages from the same person and that it could be the way a gang of extortionists operates<sup>1145</sup>. The Police and the Ministry of Government contacted Barriga to show solidarity and investigate the threats.<sup>1146</sup> The state office Consejo de Comunicación rejected the intimidations towards journalists<sup>1147</sup>.

522. Among other reported incidents, on February 18, reporter Paul Coello and cameraman Marcelo Llasha, both from *Teleamazonas*, denounced having been verbally attacked by a group of police officers while they were covering Rumiñahui, a canton in the province of Pichincha, south of Quito<sup>1148</sup>. A video shows the police surrounding the team and trying to put their hand on the camera to prevent them from being filmed<sup>1149</sup>. The journalists were reportedly unable to continue with their work due to alleged obstructions by the police<sup>1150</sup>.

523. RELE also recorded Paul Coello's complaint about alleged aggressions and threats against him by the Attorney General's Office and the National Police<sup>1151</sup>. The incident allegedly occurred while he was covering the search for the body of María Belén Bernal, a lawyer murdered in the Casitagua hill, in the north of Quito<sup>1152</sup>.

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[cover on his front door](#); Fundamedios. September 2, 2022. [August: one journalist murdered, three threatened with death and one missing](#); Primicias. May 4, 2022. [66% of violent deaths are concentrated in three provinces in emergency](#).

<sup>1141</sup> Journalists Without Chains Foundation. August 18, 2022. [Intimacy to journalist](#); Journalists Without Chains. April 19, 2022. [Contar lo que pasa en Durán pone en riesgo la vida de los periodistas](#); Voces del Sur. August 18, 2022. [Ecuadorian journalist receives bloody cover on his front door](#); Fundamedios. September 2, 2022. [August: one journalist murdered, three threatened with death and one missing](#); Primicias. May 4, 2022. [66% of violent deaths are concentrated in three provinces in emergency](#).

<sup>1142</sup> Journalists Without Chains Foundation. August 18, 2022. [Intimacy to journalist](#); Journalists Without Chains. April 19, 2022. [Contar lo que pasa en Durán pone en riesgo la vida de los periodistas](#); Voces del Sur. August 18, 2022. [Ecuadorian journalist receives bloody cover on his front door](#); Fundamedios. September 2, 2022. [August: one journalist murdered, three threatened with death and one missing](#); Primicias. May 4, 2022. [66% of violent deaths are concentrated in three provinces in emergency](#).

<sup>1143</sup> El Universo. January 11, 2022. ["Te escribe Kelvin Ruiz, líder de Los Choneros y alguien ha pagado para meterte unos tiros", el mensaje con el que delincuentes buscan extorsionar en Ecuador](#); Vistazo. January 11, 2022. [Journalist Arturo Barriga is victim of extortion with message attributed to 'Los Choneros'](#); Consejo de Comunicación. January 11, 2022. [Communiqué No. 1/2022](#).

<sup>1144</sup> El Universo. January 11, 2022. ["Te escribe Kelvin Ruiz, líder de Los Choneros y alguien ha pagado para meterte unos tiros", el mensaje con el que delincuentes buscan extorsionar en Ecuador](#); Vistazo. January 11, 2022. [Journalist Arturo Barriga is victim of extortion with message attributed to 'Los Choneros'](#); Consejo de Comunicación. January 11, 2022. [Communiqué No. 1/2022](#).

<sup>1145</sup> El Universo. January 11, 2022. ["Te escribe Kelvin Ruiz, líder de Los Choneros y alguien ha pagado para meterte unos tiros", el mensaje con el que delincuentes buscan extorsionar en Ecuador](#); Vistazo. January 11, 2022. [Journalist Arturo Barriga is victim of extortion with message attributed to 'Los Choneros'](#); Consejo de Comunicación. January 11, 2022. [Communiqué No. 1/2022](#).

<sup>1146</sup> El Universo. January 11, 2022. ["Te escribe Kelvin Ruiz, líder de Los Choneros y alguien ha pagado para meterte unos tiros", el mensaje con el que delincuentes buscan extorsionar en Ecuador](#); Vistazo. January 11, 2022. [Journalist Arturo Barriga is victim of extortion with message attributed to 'Los Choneros'](#); Consejo de Comunicación. January 11, 2022. [Communiqué No. 1/2022](#).

<sup>1147</sup> Communication Council. January 11, 2022. [Communiqué No. 1/2022](#).

<sup>1148</sup> Fundamedios. February 18, 2022. [Policías agreden verbalmente a equipo periodístico de Teleamazonas](#); Twitter account of Paul Coello (@Paulcoellosegar). [February 18, 2022](#); Teleamazonas. 18 February 2022. [Agreden a equipo periodístico de Teleamazonas durante cobertura](#).

<sup>1149</sup> Fundamedios. February 18, 2022. [Policías agreden verbalmente a equipo periodístico de Teleamazonas](#); Twitter account of Paul Coello (@Paulcoellosegar). [February 18, 2022](#); Teleamazonas. 18 February 2022. [Agreden a equipo periodístico de Teleamazonas durante cobertura](#).

<sup>1150</sup> Fundamedios. February 18, 2022. [Policías agreden verbalmente a equipo periodístico de Teleamazonas](#); Twitter account of Paul Coello (@Paulcoellosegar). [February 18, 2022](#); Teleamazonas. 18 February 2022. [Agreden a equipo periodístico de Teleamazonas durante cobertura](#).

<sup>1151</sup> Fundamedios. September 21, 2022. [Ecuadorian journalist was intimidated by police officers](#); Paul Coello Twitter account (@paulcoellosegar). [September 21, 2022](#).

<sup>1152</sup> Fundamedios. September 21, 2022. [Ecuadorian journalist was intimidated by police officers](#); Paul Coello Twitter account (@paulcoellosegar). [September 21, 2022](#).

. The journalist reported that eight police officers and a prosecutor tried to take away the equipment with which he was recording the search, and after a discussion with the officers, he was forced to delete the material<sup>1153</sup> .

524. In addition, according to available information, Daniela Moina, a journalist for the newspaper *Extra*, was verbally assaulted by a legislative advisor after she questioned a Pachakutik legislator during a press conference on the land conflict in the Tanda-Pelileo commune<sup>1154</sup> .

525. Likewise, this Rapporteurship learned that police agents reportedly obstructed news coverage by Cynthia Shibel Estrada, of *La Prensa de Chimborazo*, in the context of a visit by the President to Riobamba, a city in the central highlands of Ecuador<sup>1155</sup> .

526. Likewise, according to a report by the organization Fundamedios, the Public Company Corporación Eléctrica del Ecuador (CELEC EP) allegedly denied access to the Coca Codo Sinclar hydroelectric project to the correspondent of the *Voice of America (VOA)* in Ecuador, Néstor Aguilera<sup>1156</sup> .

527. On the other hand, Fundamedios also reported alleged attacks on social networks against journalist Yalillé Loaiza, correspondent of *Infobae* in Ecuador. The journalist was allegedly the target of attacks on social networks after interviewing the president<sup>1157</sup> . The messages and stigmatizing remarks on social networks allegedly occurred after the journalist published details about the interview. Some of the messages received described the journalist as "trash", "pest", "bootlicker" and "interviewer trash"<sup>1158</sup> .

528. The IACHR and its Office of the Special Rapporteur have understood that attacks, threats and intimidation against journalists are intended to be "a tool that sends a clear message to all those in civil society who investigate irregularities in public administration. This practice seeks to make the press, as a control mechanism, keep silent or become an accomplice of those persons or institutions that carry out abusive or illegal acts or deeds. Ultimately, what is sought is to prevent society from being informed of these events at all costs"<sup>1159</sup> . It is the duty of States to investigate these acts, punish the perpetrators and provide the necessary protection measures in cases that so require<sup>1160</sup> .

529. In 2022, the Office of the Special Rapporteur observed that some journalists were sued for acts related to their work. In August, this Rapporteurship recorded with concern the criminal complaint for slander filed by the mayor of Guayaquil, Cynthia Viteri, against *El Diario Expreso*<sup>1161</sup> . The legal action was due to the publication of a report that revealed alleged contracts in which companies linked to the mayor's husband would have benefited between 2019 and 2020<sup>1162</sup> . The media was notified about the legal action, which also requested information about the journalist who conducted the investigation<sup>1163</sup> . Several civil society

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<sup>1153</sup> Fundamedios. September 21, 2022. [Ecuadorian journalist was intimidated by police officers](#); Paul Coello Twitter account (@paulcoellosegar). [September 21, 2022](#).

<sup>1154</sup> Fundamedios. August 29, 2022. [Legislative advisor shouted at Ecuadorian journalist for asking questions he did not like](#); Daniel Acosta Twitter account (@DanielAcostag). [August 29, 2022](#).

<sup>1155</sup> Fundamedios. June 1, 2022. [Assault on journalist during coverage](#); Radio Coqueta 106.3 FM / Facebook. June 2, 2022. [Attention Ecuadorian journalist, assaulted by police during coverage of presidential visit La Prensa de Chimborazo journalist Cynthia](#); Fabiola Santa Twitter account. [May 20, 2022](#).

<sup>1156</sup> Fundamedios. September 19, 2022. [Ecuadorian public company restricts access of a journalist](#).

<sup>1157</sup> Fundamedios. August 8, 2022. [Infobae correspondent in Ecuador is attacked in networks](#); Fundamedios / Facebook. 08 August 2022. [Aug. 8, 2022](#).

<sup>1158</sup> Fundamedios. August 8, 2022. [Infobae correspondent in Ecuador is attacked in networks](#); Fundamedios / Facebook. 08 August 2022. [Aug. 8, 2022](#).

<sup>1159</sup> IACHR. 2000. [Background and Interpretation of the Declaration of Principles](#).

<sup>1160</sup> IACHR. 2000. [Background and Interpretation of the Declaration of Principles](#).

<sup>1161</sup> Express. August 2, 2022. [Cynthia Viteri denounces Diario EXPRESO for slander for the report on the prosperity of her family environment](#); GK. 17 August 2022. [Cynthia Viteri's legal action against Expreso newspaper, explained](#).

<sup>1162</sup> Express. August 2, 2022. [Cynthia Viteri denounces Diario EXPRESO for slander for the report on the prosperity of her family environment](#); GK. 17 August 2022. [Cynthia Viteri's legal action against Expreso newspaper, explained](#).

<sup>1163</sup> Fundamedios. August 2, 2022. [Cynthia Viteri denounces Diario EXPRESO for slander for the report on the prosperity of her family environment](#); GK. 17 August 2022. [Cynthia Viteri's legal action against Expreso newspaper, explained](#).

organizations considered these facts as an act of intimidation and questioned the use of criminal figures as they contribute to the self-censorship of the press<sup>1164</sup>.

530. Likewise, this Office received information on the complaint for moral damages filed by the former president of the Sports Federation of Chimborazo and current director of the Provincial Board of the Prefecture against journalist Danilo Villarroel, of the media *El Diario de Riobamba Digital*<sup>1165</sup>. The legal action was allegedly filed for publishing information that questioned the operation of the sports entity<sup>1166</sup>. According to the complainant, the publications would have caused him moral damage and damage to his honor<sup>1167</sup>. According to the organization Fundamedios, this would be the fourth criminal complaint faced by this media<sup>1168</sup>. However, according to public reports, a judge declared the journalist innocent<sup>1169</sup>.

531. In its previous reports, the Rapporteurship has expressed its concern regarding the use of criminal defamation laws, including libel and slander, for the purpose of protecting the honor or image of public officials. In the hemisphere, practice has shown that on multiple occasions, public figures or those involved in matters of public interest resort to the use of these figures as a mechanism to discourage criticism and limit the scope of a democratic and uninhibited public debate. As the Rapporteurship has pointed out in previous reports, "the possibility of abuse of such laws by public officials to silence critical opinions is as great in the case of these laws as in the case of *desacato* laws"<sup>1170</sup>.

532. In this regard, this Office recalls that Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that "public officials are subject to greater scrutiny by society. Laws that criminalize offensive speech directed at public officials generally known as '*desacato* laws' infringe on freedom of expression and the right to information"<sup>1171</sup>.

533. Both the IACHR and the IACHR Court have repeatedly pointed out that States have a more limited scope to impose restrictions on the right to freedom of expression "whenever it concerns expressions concerning the State, matters of public interest, public officials in the exercise of their functions or candidates for public office, or individuals voluntarily involved in public affairs, as well as political discourse and debate"<sup>1172</sup>. This is because these persons are subject to a greater degree of scrutiny and criticism from the public, which is justified by the public interest nature of the activities they carry out, because they have voluntarily exposed themselves to a more demanding scrutiny and because they have an enormous capacity to controvert information through their power of public convocation<sup>1173</sup>.

534. On the other hand, the Rapporteurship learned about the disqualifications of former President Rafael Correa against journalist Miguel Rivadeneira. On September 24, the former president said that "these sick

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<sup>1164</sup> Twitter account of Fundación Periodistas Sin Cadenas (@SinCadenasECU). August 9, 2022. August 9, 2022; Fundamedios. 02 August 2022. [Ecuadorian mayor denounced Diario Expreso after investigation](#); Facebook account / Etiqueta Negra. [August 2, 2022](#).

<sup>1165</sup> El Diario de Riobamba / Facebook. [August 24, 2022](#); Fundamedios. August 24, 2022. [Local government official sues journalist for "moral damage"](#).

<sup>1166</sup> El Diario de Riobamba / Facebook. [August 24, 2022](#); Fundamedios. August 24, 2022. [Local government official sues journalist for "moral damage"](#).

<sup>1167</sup> El Diario de Riobamba / Facebook. [August 24, 2022](#); Fundamedios. August 24, 2022. [Local government official sues journalist for "moral damage"](#).

<sup>1168</sup> El Diario de Riobamba / Facebook. [August 24, 2022](#); Fundamedios. August 24, 2022. [Local government official sues journalist for "moral damage"](#).

<sup>1169</sup> Fundamedios. November 1, 2022. [Update: Ecuadorian justice ratifies the innocence of journalist sued for moral damages](#); El Diario de Riobamba / Facebook. [November 11, 2022](#).

<sup>1170</sup> IACHR, Annual Report of the Inter-American Commission on Human Rights 2002. Vol. III. Report of the Rapporteurship for Freedom of Expression. OEA/Ser.L/V/II.117 Doc. 5 rev. 1, 7 March 2003. Chapter V. Parr. 17.

<sup>1171</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1172</sup> IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para 100; I/A Court H.R., Case of Ivcher Bronstein v. Mexico. *Case of Ivcher Bronstein v. Peru*. Judgment of February 6, 2001. Series C No. 74; I/A Court H.R., Case of Herrera Ulloa v. Peru. *Case of Herrera Ulloa v. Costa Rica*. Judgment of July 2, 2004. Series C No. 107; I/A Court H.R., Case of Ricardo Canese v. Paraguay. *Case of Ricardo Canese v. Paraguay*. Judgment of August 31, 2004. Series C No. 111; I/A Court H.R., Case of Palamara Iribarne. *Case of Palamara Iribarne v. Chile*. Judgment of November 22, 2005. Series C No. 135; I/A Court H.R., Case of Eduardo Kimel v. Argentina. *Case of Eduardo Kimel v. Argentina*. Judgment of May 2, 2008. Series C No. 177.

<sup>1173</sup> IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 40.



people call themselves journalists", referring and quoting a publication of the journalist on social networks<sup>1174</sup>. According to available information, Correa's responses provoked a series of stigmatizing messages about the journalist's work from anonymous accounts<sup>1175</sup>.

535. RELE also learned that, during an interview with journalist Carlos Vera, the President allegedly disqualified the work of the press<sup>1176</sup>. For example, he allegedly referred to the interviewing journalist as "insidious" and questioned him for "raising inconsequential issues"; he also accused him of "not knowing anything" about public administration and of wanting to "corner the Government"<sup>1177</sup>.

536. As previously stated, the Office of the Special Rapporteur for Freedom of Expression recognizes that it is legitimate, and on certain occasions a duty, for State authorities to speak out on issues of public interest and to defend themselves against criticism or questioning by the press<sup>1178</sup>. However, in doing so, they should not discredit or stigmatize those who question them, given their high office, the broad scope of their pronouncements, and the possible effects that their expressions may have on certain sectors of the population<sup>1179</sup>. This implies that they should refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>1180</sup>.

537. As the Inter-American Court of Human Rights has established, public officials must bear in mind that their status implies a position of guarantor of the fundamental rights of individuals and, therefore, "their statements may not disregard these rights or constitute forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts"<sup>1181</sup>. This also means that they must refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>1182</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

538. In 2022, the Office of the Special Rapporteur followed the debates to reform the domestic legal framework on freedom of expression in Ecuador. In May 2021, the executive branch sent to the National Assembly a Draft Organic Law on Free Expression and Communication, which was later unified with other law proposals<sup>1183</sup>. Since early 2022, the National Assembly held multiple debates to evaluate the draft reforms to the current law, and received observations and comments from representatives of civil society and public institutions<sup>1184</sup>. In its final stage, two alternatives were presented to the plenary of the legislative body, after

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<sup>1174</sup> Twitter account of Rafael Correa (@MashiRafael). [September 24, 2022](#); Fundamedios. September 26, 2022. [Journalist receives attacks on social networks after insults from former Ecuadorian president on Twitter](#).

<sup>1175</sup> Twitter account of Rafael Correa (@MashiRafael). [September 24, 2022](#); Fundamedios. September 26, 2022. [Journalist receives attacks on social networks after insults from former Ecuadorian president on Twitter](#).

<sup>1176</sup> Fundamedios. October 12, 2022. [President Guillermo Lasso gives an interview full of darts against the press](#); GK. Oct. 13, 2022. [Guillermo Lasso's dangerous expressions about the press](#).

<sup>1177</sup> Fundamedios. October 12, 2022. [President Guillermo Lasso gives an interview full of darts against the press](#); GK. Oct. 13, 2022. [Guillermo Lasso's dangerous expressions about the press](#).

<sup>1178</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>1179</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>1180</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 24, 2022. Press Release No. R62/22. [The Rapporteurship warns about the normalization and worsening of violence against journalists in Mexico and urges the authorities to activate complementary measures](#).

<sup>1181</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>1182</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139; UN, OSCE, OAS, ACHPR. October 20, 2021. [Joint Declaration 2021 on political leaders, persons exercising public functions, and freedom of expression](#).

<sup>1183</sup> Swissinfo. May 26, 2021. [Lasso sends bill on freedom of expression to Assembly](#); Government of Ecuador. May 25, 2021. [Organic Law of Free Expression and Communication was sent to the National Assembly](#).

<sup>1184</sup> El Comercio. January 11, 2022. [Assembly closed first debate on changes to Communication Law](#); Swissinfo. January 12, 2022. [Ecuador Legislative advances in debate of law on freedom of press](#).

which, on July 21, 2022, the National Assembly approved the Minority Report<sup>1185</sup>. In August 2022, pursuant to constitutional powers, the president presented partial objections to certain provisions, and constitutionally objected to another series of articles of the Minority Report<sup>1186</sup>.

539. In this context, the Rapporteurship considers that the measures adopted by the executive branch represent an important step towards the full realization of the right to freedom of expression and of the press in Ecuador. RELE recognizes the legitimate concerns of sectors historically excluded from public debate, and their demands to improve the guarantees of pluralism and diversity in the media, which attempted to be embodied in the Minority Report. However, in the opinion of this Office, the text approved on July 21 contains some provisions that could severely impact the exercise of freedom of expression and generate legislative regressions for Ecuadorian society.

540. The Rapporteurship conducted a technical analysis of the text and considered, among other aspects, that the incorporation of a duty of the State to "guarantee the right to the truth" and the prohibition of dissemination of "false information" can seriously affect the right to freedom of expression. This provision, in addition to being in conflict with Inter-American standards, such as Principle 7 of the Declaration of Principles on Freedom of Expression, is difficult to implement without incurring in arbitrariness in its application<sup>1187</sup>. At the same time, the text proposed that the media should be obliged to adopt codes of ethics, which would be supervised by state entities, as opposed to the voluntary nature that should characterize all instances of journalistic self-regulation<sup>1188</sup>. This precept is based on the premise that journalism can choose among different mechanisms to generate an ethical performance, which may include a code of ethics, but does not depend on or exhaust itself in this mechanism<sup>1189</sup>. Likewise, the Report approved by the Assembly established mechanisms of subsequent responsibility that could diminish guarantees for expressions that in the Inter-American human rights system have reinforced protection due to their public interest<sup>1190</sup>.

541. The decision of the executive branch to partially object to certain provisions of the bill has taken into account some of the aforementioned concerns of RELE. For this Office, for the most part, the objections presented represent a step forward in strengthening the right to freedom of expression insofar as they take into account Inter-American standards on the matter. In 2013, with the enactment of the Organic Law on Communication, Ecuador went through a context of serious violations to freedom of expression, which materialized mainly in abusive practices and censorship against the media. Since the first reform to such law, in 2019, the situation of freedom of expression has been gradually evolving. In this context, the reform process moved in the same direction of improvement.

542. On October 3, the Constitutional Court issued an opinion in which it accepted twelve of the observations made by the executive branch<sup>1191</sup>; and on October 30, the National Assembly ratified three articles, related to the purpose of the norm, the democratization of frequencies and affirmative action for community media<sup>1192</sup>. Finally, on November 11, the President of Ecuador sent to the Official Registry the Communication Law, which came into force on the day of its publication, November 14, 2022<sup>1193</sup>. According to the information available, after the modifications, the reform would have eliminated media controls, would prohibit messages of violence disseminated by the media, would include the principles of voluntary regulation

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<sup>1185</sup> National Assembly of Ecuador. July 21, 2022. [Plenary approved in second debate the draft reforms to the communication law](#); El Universo. July 21, 2022. [Asamblea Nacional aprueba reformas a la Ley de Comunicación y niega nueva propuesta de ley](#).

<sup>1186</sup> Presidency of the Republic of Ecuador. August 24, 2022. [Oficio No. T.01-SGJ-22-0170](#); AP News. [Ecuador vetoes partial veto of reforms to communication law](#); GK. 26 August 2022. [Partial veto of reforms to the Organic Law of Communication, explained](#).

<sup>1187</sup> IACHR. [Background and interpretation of the Declaration of Principles on Freedom of Expression](#). 2000.

<sup>1188</sup> IACHR. Annual Report 2001. Report of the Office of the Special Rapporteur for Freedom of Expression. [Chapter IV. Ethics in the media](#). 2001.

<sup>1189</sup> IACHR. Annual Report 2001. Report of the Office of the Special Rapporteur for Freedom of Expression. [Chapter IV. Ethics in the media](#). 2001.

<sup>1190</sup> The Hour. July 29, 2022. [President Guillermo Lasso will propose a veto to enshrine freedom of expression](#); El Universo. July 22, 2022. [These are the main aspects of the reform to the Communication Law approved in the Assembly](#).

<sup>1191</sup> Constitutional Court of Ecuador. October 3, 2022. [Partial objection for unconstitutionality to the reforms to the Organic Reformatory Law of the Organic Law of Communication](#).

<sup>1192</sup> National Assembly of Ecuador. October 30, 2022. [National Assembly ratified three articles that reform the Organic Law of Communication](#).

<sup>1193</sup> Swissinfo. November 11, 2022. [Ecuador's president sends Communication Law to official registry](#); RT. Nov. 12, 2022. [Lasso signs new Communication Law and says it will serve in the fight against "narco-politicians" in Ecuador](#).



of the media and self-regulation, "in no case by standards or regulations imposed by the State", as well as affirmative actions to strengthen community media and would give power to the popular assemblies to make evaluations on public media<sup>1194</sup>.

543. The Rapporteurship considers that Ecuador is going through a crucial moment in the public debate on the guarantees for the exercise of freedom of expression. In this regard, this Office appreciates the willingness of the State to receive technical advice on an issue of such important impact for the consolidation and functioning of democracy as the process of reform of the Organic Law on Communication. It is also grateful for the information provided by civil society actors -including representatives of the media, journalism associations, human rights, community and indigenous organizations- during listening sessions held with the Special Rapporteur throughout 2022. RELE recognizes that this process demonstrates the strength of democratic institutions in Ecuador and the functioning of checks and balances in a State governed by the rule of law.

544. On the other hand, this Office learned of the resolution issued by the Telecommunications Regulation and Control Agency (Arcotel) in which it withdrew the title that allowed the operation of *Canal UNO*, with nationwide coverage<sup>1195</sup>. The concession of the frequencies would have been reverted to the State<sup>1196</sup>. According to the information available, the resolution is based on the fact that this media outlet would have failed to submit financial and accounting documents in 2018 and 2019<sup>1197</sup>. As background, RELE recorded that in April 2020, in the framework of the health emergency due to COVID-19, the media outlet would have dismissed several journalists and workers of the channel<sup>1198</sup>. In June and August, there were demonstrations by former workers demanding the payment of their severance payments and back wages<sup>1199</sup>.

545. This Office was informed about the raid carried out by the Police and the Prosecutor's Office at the Center for Digital Autonomy (CAD), directed by Ola Bini, a Swedish technology development expert who is facing legal proceedings for the crime of non-consensual access to a computer system<sup>1200</sup>. CAD denounced that the police seized all the equipment and even the security cameras<sup>1201</sup>. The Swedish citizen was arrested three years ago and since then the criminal proceedings against him have reportedly been delayed several times<sup>1202</sup>. According to the latest information received in November, the hearing was again suspended until 2023<sup>1203</sup>.

546. On the other hand, in June, the Inter-American Commission on Human Rights and its Office of the Special Rapporteur for Freedom of Expression expressed its concern about the worsening of social tensions in Ecuador in the context of the National Strike<sup>1204</sup>. In this context, the Office of the Special Rapporteur received

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<sup>1194</sup> Voice of America. November 14, 2022. [Ecuador's new communications law eliminates "prior censorship" and gives greater autonomy to media](#); GK. November 11, 2022. [Así entrarán en vigencia las reformas a la Ley de Comunicación](#).

<sup>1195</sup> Fundamedios. January 7, 2022. [Arcotel withdrew Canal Uno's license](#); Voces del Sur. January 11, 2022. [Arcotel withdrew the enabling title of Canal UNO](#); Twitter account of La Voz del Tomebamba (@tomebamba). [January 6, 2022](#).

<sup>1196</sup> Fundamedios. January 7, 2022. [Arcotel withdrew Canal Uno's license](#); Voces del Sur. January 11, 2022. [Arcotel withdrew the enabling title of Canal UNO](#); Twitter account of La Voz del Tomebamba (@tomebamba). [January 6, 2022](#).

<sup>1197</sup> Fundamedios. January 7, 2022. [Arcotel withdrew Canal Uno's license](#); Voces del Sur. January 11, 2022. [Arcotel withdrew the enabling title of Canal UNO](#); Twitter account of La Voz del Tomebamba (@tomebamba). [January 6, 2022](#).

<sup>1198</sup> Fundamedios. January 7, 2022. [Arcotel withdrew Canal Uno's license](#); Voces del Sur. January 11, 2022. [Arcotel withdrew the enabling title of Canal UNO](#); Twitter account of La Voz del Tomebamba (@tomebamba). [January 6, 2022](#).

<sup>1199</sup> Fundamedios. January 7, 2022. [Arcotel withdrew Canal Uno's license](#); Voces del Sur. January 11, 2022. [Arcotel withdrew the enabling title of Canal UNO](#); Twitter account of La Voz del Tomebamba (@tomebamba). [January 6, 2022](#).

<sup>1200</sup> Twitter account of the Center for Digital Autonomy (@somos.CAD). [April 8, 2022](#); Twitter account of the Ecuadorian Attorney General's Office. [April 8, 2022](#); Twitter account of Justicia Minuto a Minuto (@MinutoJusticia). [April 8, 2022](#); Primicias. April 8, 2022. [Prosecutor's Office raided Ola Bini's organization](#); Accessnow. November 15, 2022. [Ola Bini case: hearing adjourned again](#).

<sup>1201</sup> Twitter account of the Center for Digital Autonomy (@somos.CAD). [April 8, 2022](#); Twitter account of the Ecuadorian Attorney General's Office. [April 8, 2022](#); Twitter account of Justicia Minuto a Minuto (@MinutoJusticia). [April 8, 2022](#); Primicias. April 8, 2022. [Prosecutor's Office raided Ola Bini's organization](#); Accessnow. November 15, 2022. [Ola Bini case: hearing adjourned again](#).

<sup>1202</sup> Twitter account of the Center for Digital Autonomy (@somos.CAD). [April 8, 2022](#); Twitter account of the Ecuadorian Attorney General's Office. [April 8, 2022](#); Twitter account of Justicia Minuto a Minuto (@MinutoJusticia). [April 8, 2022](#); Primicias. April 8, 2022. [Prosecutor's Office raided Ola Bini's organization](#); Accessnow. November 15, 2022. [Ola Bini case: hearing adjourned again](#).

<sup>1203</sup> According to updated information, on January 31, 2023, a court unanimously acquitted Ola Bini and lifted the precautionary measures against the computer expert. El Universo. January 31, 2023. [Court acquitted Swedish computer scientist Ola Bini](#); RT. February 1, 2023. [Ecuadorian court declares Swedish computer scientist Ola Bini, Assange's friend, not guilty](#).

<sup>1204</sup> IACHR. June 24, 2022. Press Release No. 145/22. [IACHR and RELE note with concern the worsening of social tensions in Ecuador and urge an urgent, inclusive and effective dialogue](#).

reports of physical aggressions, excessive use of force, detention of demonstrators and journalists during the protests of June 13, 2022, in the framework of a National Strike called by various social sectors<sup>1205</sup>. The Alianza por los Derechos Humanos de Ecuador registered 79 people detained, 55 injured and 39 possible human rights violations that occurred between June 14 and 19, 2022<sup>1206</sup>. Several organizations denounced attacks on their web platforms by means of bots that tried to saturate their servers<sup>1207</sup>. Likewise, Amnesty International denounced the President's decision to repress the protests and described the situation as a "human rights crisis"<sup>1208</sup>.

547. Also, according to public information, on June 14, Segundo Leonidas Iza Salazar, president of the Confederation of Indigenous Nationalities of Ecuador (CONAIE), was allegedly illegally detained by agents of the elite command of the Armed Forces and National Police<sup>1209</sup>. The Ecuadorian Attorney General's Office issued a statement in which it denied having ordered the arrest of the indigenous leader. Different organizations considered Iza's detention to be violent and illegal, and held the government responsible for his whereabouts<sup>1210</sup>.

548. Following the mobilizations that took place during the National Strike, the government declared a State of Emergency in three provinces of Ecuador for 30 days<sup>1211</sup>. This Office observed with concern the reports that indicated that such measure would affect citizens' rights, since it would imply the suspension of the right to access information, which could generate measures of blocking online content and suspension of Internet services<sup>1212</sup>.

549. Likewise, according to information reported by the IACHR and its Special Rapporteurship in a press release, the Ombudsman's Office of Ecuador reported 6 deaths in the context of the protests, at least 2 as a result of firearms impacts<sup>1213</sup>. Likewise, the IACHR and its Special Rapporteurship learned that at least 166 demonstrators and 120 agents of the National Police were injured<sup>1214</sup>.

550. On the other hand, the Office of the Special Rapporteur received information confirmed by the authorities on the death of a soldier during the citizen protests. After 16 days of protests called by indigenous movements, alleged demonstrators attacked a convoy in the Amazon region of the country. In response to these

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<sup>1205</sup> Amnesty International. June 20, 2022. [Ecuador: Repression against protests is causing human rights crisis](#); Swissinfo. 23 June 2022. [AI denounces human rights crisis in Ecuador due to repression of protests](#); Wambra. June 21, 2022. [Balance de las vulneraciones de derechos durante la primera semana de Paro Nacional en Ecuador](#); United Nations. July 20, 2022. [Governments increase the risk of violence by repressing peaceful protests, expert warns](#).

<sup>1206</sup> Alliance for Human Rights in Ecuador. No date. [Monitoring of Human Rights Violations in Ecuador. National Strike June 2022](#).

<sup>1207</sup> Amnesty International. June 20, 2022. [Ecuador: Repression against protests is causing human rights crisis](#); Swissinfo. 23 June 2022. [AI denounces human rights crisis in Ecuador due to repression of protests](#); Wambra. June 21, 2022. [Balance de las vulneraciones de derechos durante la primera semana de Paro Nacional en Ecuador](#); United Nations. July 20, 2022. [Governments increase the risk of violence by repressing peaceful protests, expert warns](#).

<sup>1208</sup> Amnesty International. June 20, 2022. [Ecuador: Repression against protests is causing human rights crisis](#); Swissinfo. 23 June 2022. [AI denounces human rights crisis in Ecuador due to repression of protests](#); Wambra. June 21, 2022. [Balance de las vulneraciones de derechos durante la primera semana de Paro Nacional en Ecuador](#); United Nations. July 20, 2022. [Governments increase the risk of violence by repressing peaceful protests, expert warns](#).

<sup>1209</sup> Twitter account of Alianza de Organizaciones por los Derechos Humanos (@DDHH\_Alianza). [June 14, 2022](#); Twitter account of CONAIE (@CONAIE\_Ecuador). [June 14, 2022](#); Twitter account of the Ecuadorian Attorney General's Office (@FiscaliaEcuador). [June 14, 2022](#); CONAIE Twitter account (@CONAIE\_Ecuador). [June 14, 2022](#).

<sup>1210</sup> Twitter account of Alianza de Organizaciones por los Derechos Humanos (@DDHH\_Alianza). [June 14, 2022](#); Twitter account of CONAIE (@CONAIE\_Ecuador). [June 14, 2022](#); Twitter account of the Ecuadorian Attorney General's Office (@FiscaliaEcuador). [June 14, 2022](#); CONAIE Twitter account (@CONAIE\_Ecuador). [June 14, 2022](#).

<sup>1211</sup> El Universo. June 17, 2022. [Decree declaring state of emergency in Ecuador](#); El Comercio. [State of emergency decree is published with changes to Internet access](#); Primicias. June 17, 2022. [Lasso declares state of emergency in Pichincha, Cotopaxi and Imbabura](#).

<sup>1212</sup> El Universo. June 17, 2022. [Decree declaring state of emergency in Ecuador](#); El Comercio. [State of emergency decree is published with changes to Internet access](#); Primicias. June 17, 2022. [Lasso declares state of emergency in Pichincha, Cotopaxi and Imbabura](#).

<sup>1213</sup> IACHR. June 24, 2022. Press Release No. 145/22. [IACHR and RELE note with concern the worsening of social tensions in Ecuador and urge an urgent, inclusive and effective dialogue](#).

<sup>1214</sup> IACHR. June 24, 2022. Press Release No. 145/22. [IACHR and RELE note with concern the worsening of social tensions in Ecuador and urge an urgent, inclusive and effective dialogue](#).

events, the government reportedly suspended the dialogue with the organizations that maintained the strike<sup>1215</sup>.

551. On June 30, an agreement was signed that would open a new dialogue between the government and the leaders of the indigenous movement, which would ratify the end of the 18-day strike. The Confederation of Indigenous Nationalities of Ecuador (CONAIE) and other groups promoting the social protests met with the Ecuadorian government after two weeks of mobilizations<sup>1216</sup>.

552. Social protest, which includes the exercise of the right to freedom of peaceful and unarmed assembly, freedom of association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and the State is obliged to respect, protect and guarantee these rights<sup>1217</sup>. Regarding the obligation to respect, the IACHR and its Office of the Special Rapporteur have indicated that "the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry out" and that individuals have the freedom to choose the time, place and manner of demonstrating<sup>1218</sup>. Likewise, with respect to the obligation to protect and facilitate, the Commission has emphasized that "[t]he imperative social interest in the right to participate in public demonstrations gives rise to a general presumption in favor of its exercise"<sup>1219</sup>. As the IACHR report on protest and human rights mentions, States must act on the basis of the lawfulness of public protests and demonstrations and under the assumption that they do not constitute a threat to public order, even in cases where they are made without prior notice<sup>1220</sup>. Finally, in relation to the obligation to guarantee, the IACHR has established that it "implies in the first place the duties to investigate and punish any violation occurring in the context of a public demonstration"<sup>1221</sup>.

553. This Office also reiterates that the use of force in the context of protests should be understood as "a last resort that, qualitatively and quantitatively limited, seeks to prevent an event of greater gravity than that which provokes the State reaction" and that, within this framework of exceptionality, the State must satisfy the principles of legality, absolute necessity and proportionality<sup>1222</sup>. Finally, this Rapporteurship recalls that "it is inadmissible in principle to criminalize *per se* demonstrations on public streets"<sup>1223</sup>; and that States should refrain from engaging in practices of mass, collective or indiscriminate arrests in public demonstrations<sup>1224</sup>.

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

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<sup>1215</sup> Swissinfo. June 28, 2022. [Minister confirms death of military officer during protests in Ecuador](#); Primicias. June 28, 2022. [One soldier killed and 12 injured in attack on convoy in Shushufindi](#); TeleSur. June 28, 2022. [Ecuador president suspends dialogue with strike organizations](#); Guillermo Lasso Twitter account (@LassoGuillermo). [June 28, 2022](#); CONAIE Twitter account (@CONAIE\_Ecuador). [June 28, 2022](#).

<sup>1216</sup> Ecuador Chequea Twitter account (@ECUADORCHEQUEA). [June 30, 2022](#); BBC. June 30, 2022. [Ecuador protests: strike ends after agreement between government and indigenous movement](#); France24. June 30, 2022. [Ecuador: "We begin together the task of transforming this peace", said Lasso after end of strike](#); La República. June 30, 2022. [National Strike in Ecuador: Government and indigenous reach agreement and end protests](#); CONAIE Twitter account (@CONAIE\_Ecuador). [30 June 2022](#).

<sup>1217</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Foreword and paras. 1-46.

<sup>1218</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Paras. 73 and 91.

<sup>1219</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 91.

<sup>1220</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 93.

<sup>1221</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 246.

<sup>1222</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 102.

<sup>1223</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 187.

<sup>1224</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 138.

554. In 2022, feminist groups and organizations denounced the alleged excessive use of public force in the context of public demonstrations for International Women's Day on March 8<sup>1225</sup>. According to available information, security agents allegedly fired tear gas and used water hoses and beatings with batons against those participating in the marches in the cities of Quito and Guayaquil<sup>1226</sup>.

555. This Office highlights that a protest can involve and encompass other specific rights linked to the groups, actors or interests involved, such as gender equality in women's movements, or rights that protect migrants, children and adolescents, or indigenous peoples<sup>1227</sup>. Protest has also been -and is- a fundamental tool in the region for different population groups to express their identity and claim against intolerance and discrimination, such as LGBTIQ people and Afro-descendant populations. In this sense, as the report on protest and human rights points out, "when analyzing the rights involved in demonstrations and protests, it should also be noted that incorrect responses by the State may not only affect the aforementioned rights but also other fundamental rights such as the right to life, physical integrity, personal safety and the right to liberty"<sup>1228</sup>.

556. Likewise, the Office of the Special Rapporteur has pointed out that, in accordance with Article 13 of the American Convention, speeches that express elements of the personal identity or dignity of those who express themselves -such as public demonstrations by women demanding their rights- enjoy special protection within the inter-American human rights system<sup>1229</sup>. In this sense, the Rapporteurship invites the State of Ecuador to identify possible obstacles or limitations to the freedom of expression of these groups and to harmonize its institutional practices to the reinforced protection of this type of speeches or demonstrations.

557. On the other hand, the Rapporteurship received with concern the data provided by the organizations Fundamedios and Periodistas Sin Cadenas regarding the alleged increase in violence against women journalists. According to Fundamedios, one of the cases of violence against women that stands out is that of journalist Janet Hinostroza, who allegedly received through social networks a series of insults and misogynistic messages from accounts that are allegedly linked to State institutions<sup>1230</sup>. Other attacks were allegedly committed through smear campaigns, accusations through press releases and even unfinished criminal proceedings and opening of investigations by the Prosecutor's Office<sup>1231</sup>.

558. In this context, the Rapporteurship learned of the aggression committed against journalist Viviana Erazo, of the community media *Wambra*, allegedly by security agents, while she was covering the March 8 protests. The journalist reported having been assaulted and pepper-sprayed by a policeman<sup>1232</sup>. Violence during the protest allegedly escalated during the night, when police allegedly fired tear gas and committed acts of violence against women protesters<sup>1233</sup>.

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<sup>1225</sup> Human Rights Watch. March 16, 2022. [Ecuador should investigate police abuses during Women's Day marches](#); El Comercio. March 8, 2022. [Women denounce that they were attacked with tear gas in marches for 8M](#); Telesur Tv. March 9, 2022. [Police repress feminist march for 8M in Ecuador](#).

<sup>1226</sup> Human Rights Watch. March 16, 2022. [Ecuador should investigate police abuses during Women's Day marches](#); El Comercio. March 8, 2022. [Women denounce that they were attacked with tear gas in marches for 8M](#); Telesur Tv. March 9, 2022. [Police repress feminist march for 8M in Ecuador](#).

<sup>1227</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 25.

<sup>1228</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 25.

<sup>1229</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

<sup>1230</sup> Fundamedios. March 7, 2022. [Being a woman and exercising freedom of expression, a dangerous combination](#); Fundamedios. February 2, 2022. [Journalist Janet Hinostroza was attacked](#).

<sup>1231</sup> Fundamedios. March 7, 2022. [Being a woman and exercising freedom of expression, a dangerous combination](#); Fundamedios. February 2, 2022. [Journalist Janet Hinostroza was attacked](#).

<sup>1232</sup> Fundamedios. March 9, 2022. [Irony, en el Día Internacional de la Mujer la fuerza pública agrede con toletazo y gas pimienta a una periodista](#); Twitter account Wambra Medio Comunitario (@wambraEc). [March 9, 2022](#); Voces del Sur. 08 March 2022. [Public force assaults a journalist with toletazo and pepper spray](#).

<sup>1233</sup> Fundamedios. March 9, 2022. [Irony, en el Día Internacional de la Mujer la fuerza pública agrede con toletazo y gas pimienta a una periodista](#); Twitter account Wambra Medio Comunitario (@wambraEc). [March 9, 2022](#); Voces del Sur. 08 March 2022. [Public force assaults a journalist with toletazo and pepper spray](#).



559. According to available information, in August, the Centro Democrático movement declined to present its candidate for mayor of Guayas for making a sexist comment during a political rally. The aspirant to the candidacy would have said on the podium a questionable speech<sup>1234</sup>.

560. RELE also received reports of alleged misogynistic attacks through social networks against journalist Silrat Traslaviña, of *Majestad Radio*<sup>1235</sup>. Traslaviña had already been the victim of disqualification campaigns on social networks after interviewing former President Rafael Correa. This time, the aggressions allegedly began after an interview with a female legislator, in addition to other criticisms from other female journalists, who accused the journalist of using feminism to victimize herself<sup>1236</sup>.

561. The Rapporteurship received with concern information on the alleged sexual assault committed by two unknown individuals against journalist Cinthya Chanatasig of the newspaper *La Prensa de Riobamba*<sup>1237</sup>. According to the report, the incident occurred when the journalist was gathering data for an investigation by the Fundación Periodistas sin Cadenas, in that city in the Ecuadorian Sierra<sup>1238</sup>.

562. Likewise, according to public reports, *Radio Redonda* reporter Xiomara de la Torre was allegedly sexually assaulted by a group of Barcelona Sporting Club fans during live coverage of the 'Clásico del Astillero' in Guayaquil, a soccer match between two clubs<sup>1239</sup>.

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

563. According to the information received, the State of Ecuador launched the "Digital Transformation Agenda 2025", which seeks to reduce the digital divide and increase access to broadband<sup>1240</sup>. Likewise, the Minister of Telecommunications and Information Society informed that they have made significant progress in connectivity, through the promotion of the 4G network in 661 localities of the country, among other measures<sup>1241</sup>. A total of 6 thousand free connection points have been created in the country, benefiting 643 thousand people<sup>1242</sup>. In addition, the "ICT School" was promoted to train people in cybersecurity issues<sup>1243</sup>.

564. As the Office of the Special Rapporteur has pointed out on previous occasions, access to the Internet is a *sine qua non* condition for the effective exercise of human rights, including especially the rights to freedom of expression and opinion, association and assembly, education, health and culture<sup>1244</sup>. In accordance with its nature, as a means inseparable from the full exercise of certain rights, access to the Internet must be universally guaranteed, adopting measures to close the digital divide, promoting infrastructure development policies, and protecting at all times the quality and integrity of the service, establishing explicit prohibitions against

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<sup>1234</sup> El Universo. August 10, 2022. [Questioned speech by Héctor Vanegas](#); Swissinfo. August 8, 2022. [He ruled out this Sunday to present a candidacy](#); La República. 7 August 2022. [Vanegas' candidacy for Guayas Prefecture dropped](#); Swissinfo.

<sup>1235</sup> Fundamedios. September 6, 2022. [Ecuadorian journalist is victim of misogynist campaign on social networks](#); GK. June 7, 2022. [Attacks on female journalists increase: foundation creates special alert](#); Expectativa. Oct. 19, 2022. [Journalist is attacked on social networks after message from former president Rafael Correa](#).

<sup>1236</sup> Fundamedios. September 6, 2022. [Ecuadorian journalist is victim of misogynist campaign on social networks](#); GK. June 7, 2022. [Attacks on female journalists increase: foundation creates special alert](#); Expectativa. Oct. 19, 2022. [Journalist is attacked on social networks after message from former president Rafael Correa](#).

<sup>1237</sup> Fundamedios. September 26, 2022. [Sexual assault on journalist](#); Voces del Sur. September 26, 2022. [Journalist was sexually assaulted during coverage](#); La Prensa. Sept. 22, 2022. [Abusers on the loose in the city](#); Brecha Cero. December 7, 2022. [Ecuador launched Digital Transformation Agenda 2025](#).

<sup>1238</sup> Fundamedios. September 26, 2022. [Sexual assault on journalist](#); Voces del Sur. September 26, 2022. [Journalist sexually assaulted during coverage](#); La Prensa. Sept. 22, 2022. [Abusers at large in the city](#); Brecha Cero. December 7, 2022. [Ecuador launched Digital Transformation Agenda 2025](#).

<sup>1239</sup> Communication Council of Ecuador. No date. [Oficial Comunicado 26-2022. Rechazamos la agresión sexual contra la reportera Xiomara de la Torre](#); El Telégrafo. 12 May 2022. [Xiomara de la Torre was victim of sexual harassment in the midst of her work](#); La República. May 12, 2022. [Journalist denounces sexual harassment outside Barcelona stadium](#).

<sup>1240</sup> Government of Ecuador. No date. [Digital transformation agenda Ecuador](#).

<sup>1241</sup> Firsts. Jan. 13, 2022. [4G coverage in Ecuador hovers around 76%, says government](#); DPL News. April 1, 2022. [Mintel highlights increase of 4G and hotspots WiFi its rendición de accountability.2021](#).

<sup>1242</sup> Government of Ecuador. No date. [32,000 people from 53 parishes now have 4G internet thanks to the Government of Encuentro](#); El Telégrafo. 7 October 2022. [Ecuador is a promoter of digital transformation and connectivity projects](#).

<sup>1243</sup> El Telégrafo. October 7, 2022. [Ecuador is promoter of digital transformation and connectivity projects](#); Government of Ecuador. February 3, 2022. [MinEduc presents the Digital Education Agenda 2021-2025](#).

<sup>1244</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 32.

arbitrary, partial or total blocking and slowdowns.<sup>1245</sup> This Office welcomes the progress reported by the State in terms of internet access and connectivity, and encourages the State to continue its efforts to ensure both access to quality internet and the development of digital skills, through the implementation of digital literacy programs with a human rights perspective.<sup>1246</sup> Likewise, RELE highlights that the production of data and statistics on the levels of internet access throughout the territory is a fundamental part of universal internet access policies, as they serve to guide the design of these public policies.<sup>1247</sup>

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<sup>1245</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 32.

<sup>1246</sup> IACHR. March 26, 2021. [Guide No. 3 How to promote universal access to the Internet during the COVID-19 pandemic](#).

<sup>1247</sup> IACHR. March 26, 2021. [Guide No. 3 How to promote universal access to the Internet during the COVID-19 pandemic](#).



## EL SALVADOR

565. In 2022, the Office of the Special Rapporteur continued to observe a deterioration of the guarantees to exercise the right to freedom of expression in El Salvador. In the 183<sup>o</sup> Period of Sessions, journalists and human rights organizations denounced that the current administration of the government has been characterized by intolerance of criticism, refusals to provide interviews, and blocking press conferences; and that in the exercise of their duties they frequently face attacks, harassment, and threats by public officials. In a context of a State of Exception, which the government extended for more than eight months, the SRFOE warned of the risks of criminalization of legitimate exercises of freedom of expression based on the legislative reforms to the Criminal Code and the Law for the Proscription of Maras, Gangs, Groups, Associations, and Organizations of a Criminal Nature. For its part, the Salvadoran State has stated that it respects fundamental rights and liberties, that its legal framework and actions are in accordance with the provisions of the Constitution of the Republic and the conventional obligations; and that there is no persecution, harassment, or stigmatization of people who are critical of the government's management. Likewise, the State reported that the criminal reforms adopted are clear and specific, and that they are not aimed at restricting the informative work of the media.

### A. Journalism and democracy

566. The independent press continues to denounce a hostile climate to carry out journalistic work in El Salvador, as this Office pointed out in its last annual report.<sup>1248</sup> According to the information received by the SRFOE, in 2022 this situation would have worsened for various reasons, including the approval and entry into force of penal reforms that define legitimate exercises of freedom of expression and freedom of the press; complaints about the use of spyware against journalists who investigate matters of high public interest; and the persistence of stigmatizing accusations and disqualifications against the independent press coming from high levels of government.<sup>1249</sup> The Office of the Special Rapporteur has received reports indicating that the adverse context for journalistic work has caused journalists to leave the country for fear of threats, intimidation, attacks, and prosecution.<sup>1250</sup> According to information from civil society organizations during a public hearing held during the IACHR's 185<sup>o</sup> Period of Sessions, at least 10 journalists are reportedly in exile (7 men and 3 women).<sup>1251</sup>

567. The Office of the Special Rapporteur received information about the alleged use of the malicious software Pegasus to spy on journalists in El Salvador.<sup>1252</sup> An expert opinion carried out by Citizen Lab of the University of Toronto and the Access Now organization determined that at least 35 people from the Salvadoran media and civil society organizations had their phones tapped with Pegasus, the hacking software created by the Israeli company NSO Group.<sup>1253</sup> For its part, the State indicated that "the origin of such interventions is unknown, for which reason the corresponding investigations are being carried out, in order to determine the responsibility and authorship of said acts, which would also have affected the devices and communications of state officials."<sup>1254</sup> It is important to note that the SRFOE had already warned about the use of said software in other countries of the Americas, and the risk it implies regarding the rights of victims of espionage.<sup>1255</sup>

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<sup>1248</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. May 26, 2022. Para. 380.

<sup>1249</sup> See following paragraphs of this report.

<sup>1250</sup> IACHR. October 25, 2022. 185<sup>o</sup> Period of Sessions. [Audencia No. 6: Detenciones arbitrarias y situación de personas privadas de la libertad en el Estado de excepción en El Salvador](#); La Prensa Gráfica. October 18, 2022. [10 periodistas salvadoreños se encuentran en condición de exilio en lo que va del 2022](#); ABC España. May 15, 2022. [Ser periodista en El Salvador, de la muerte civil al exilio](#); Swissinfo. October 17, 2022. [Registran 86 agresiones y la salida de 10 periodistas de El Salvador en 2022](#).

<sup>1251</sup> IACHR. October 25, 2022. 185<sup>o</sup> Period of Sessions. [Audencia No. 6: Detenciones arbitrarias y situación de personas privadas de la libertad en el Estado de excepción en El Salvador](#).

<sup>1252</sup> Citizen Lab, University of Toronto. January 2022. [Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware](#). Citizen Lab Research Report No. 148.

<sup>1253</sup> Citizen Lab, University of Toronto. January 2022. [Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware](#). Citizen Lab Research Report No. 148.

<sup>1254</sup> Permanent Mission of El Salvador to the OAS. January 28, 2022. Note MPOEA-OEA-012/2022. Position of the State of El Salvador on the draft press release "The IACHR, SRFOE, and OHCHR express their deep concern at the findings on the use of Pegasus software to spy on journalists and civil society organizations in El Salvador."

<sup>1255</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. November 16, 2021. [The Office of the Special Rapporteur for Freedom of Expression recognizes the progress made in the investigation of the Pegasus case and calls on the Mexican authorities to ensure](#)

568. Said report indicates that, of the 35 people identified in the technical expertise, at least 22 would be members of the journalistic investigation portal *El Faro*.<sup>1256</sup> The media outlet's team would have remained under constant surveillance between June 29, 2020, and November 23, 2021.<sup>1257</sup> The expert opinion was also able to conclude that the access to the telephone devices would have been carried out on specific dates that coincided with moments in which the newspaper advanced, had published, or was about to publish reports of public interest, and in contexts of relevant national political debates.<sup>1258</sup>

569. Of the 22 members of *El Faro* who have been intervened, 19 are beneficiaries of IACHR precautionary measures since January 4, 2021.<sup>1259</sup> According to the information reported, a significant number of these interventions would have taken place in April and May 2021, three months after the precautionary measures were issued, in which it requested the State of El Salvador to guarantee that the beneficiaries can carry out their activities without being subjected to acts of intimidation, threats, and harassment.<sup>1260</sup> In this regard, the State indicated its interest in maintaining supervision of the precautionary measures in the *El Faro* case under the periodic reporting mechanism.<sup>1261</sup>

570. Faced with these facts, the IACHR, its Office of the Special Rapporteur for Freedom of Expression (SRFOE) and the Regional Office of the United Nations High Commissioner for Human Rights for Central America, the Dominican Republic, and the Caribbean (OHCHR) expressed their concern and urged the State to investigate the denounced facts effectively and impartially, punish those found responsible, establish guarantees of non-repetition, and ensure the protection of the integrity of the victims. Likewise, in line with what the Office of the UN High Commissioner for Human Rights has already maintained, the IACHR and its SRFOE insisted on the call for an immediate moratorium on the sale, transfer, and use of surveillance technology until regulatory frameworks in line with human rights are established.<sup>1262</sup>

571. These facts were also presented to the IACHR during the 183<sup>o</sup> Period of Sessions, in March 2022.<sup>1263</sup> In the hearing "The situation of human rights in the context of cyber surveillance in El Salvador", civil society organizations expanded the information and stated that the journalists who were infected by Pegasus fear more and more for their safety and personal integrity, and that of their journalistic sources.<sup>1264</sup> On this occasion, the State highlighted that the problem of the use of Pegasus software is global in scope, at the same time that it highlighted the need to create a legal framework to control this type of tools, which, when used properly, could be useful to confront the terrorism and organized crime.<sup>1265</sup> In addition, the representation of the State specified that the Pegasus software infection did not exclusively affect journalists, but also affected public

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the integrity of the persons involved in the process. Press release R303/21; IACHR. Office of the Special Rapporteur for Freedom of Expression. August 6, 2021. The IACHR, SRFOE and OHCHR Mexico express their concern about the new findings on the use of Pegasus software. Press release R205/21; IACHR. Office of the Special Rapporteur for Freedom of Expression. July 12, 2017. Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation. Press release R96/17.

<sup>1256</sup> Citizen Lab, University of Toronto. January 2022. Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware. Citizen Lab Research Report No. 148.

<sup>1257</sup> Citizen Lab, University of Toronto. January 2022. Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware. Citizen Lab Research Report No. 148.

<sup>1258</sup> Citizen Lab, University of Toronto. January 2022. Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware. Citizen Lab Research Report No. 148.

<sup>1259</sup> IACHR. February 4, 2021. Resolution 12/2021. Precautionary measures No. 1051-20. 34 Identified members of the El Faro Digital Newspaper regarding El Salvador; IACHR. July 8, 2022. Resolution 32/2022. Precautionary Measures No. 1051-20. Identified members of the El Faro Digital Newspaper regarding El Salvador (Monitoring, Expansion, and Lifting).

<sup>1260</sup> Citizen Lab, University of Toronto. January 2022. Project Torogoz. Extensive Hacking of Media & Civil Society in El Salvador with Pegasus Spyware. Citizen Lab Research Report No. 148.

<sup>1261</sup> Permanent Mission of El Salvador to the OAS. January 28, 2022. Note MPOEA-OEA-012/2022. Position of the State of El Salvador on the draft press release "The IACHR, SRFOE, and OHCHR express their deep concern at the findings on the use of Pegasus software to spy on journalists and civil society organizations in El Salvador."

<sup>1262</sup> IACHR. January 31, 2022. IACHR, Its Office of the Special Rapporteur for Freedom of Expression and OHCHR Are Concerned About Evidence of the Use of Pegasus Malware to Spy on Journalists and Civil Society Organizations in El Salvador. Press release No. 022/22.

<sup>1263</sup> IACHR. March 16, 2022. 183<sup>o</sup> Period of Sessions. Audiencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador.

<sup>1264</sup> IACHR. March 16, 2022. 183<sup>o</sup> Period of Sessions. Audiencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador.

<sup>1265</sup> IACHR. March 16, 2022. 183<sup>o</sup> Period of Sessions. Audiencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador.

officials.<sup>1266</sup> In this regard, he mentioned that up to that moment there had been 33 complaints from public employees and officials.<sup>1267</sup>

572. This Office received information about the filing of a lawsuit against NSO Group before a United States federal court, by the Knight First Amendment Institute of Columbia University, 15 journalists, and other members of *El Faro*.<sup>1268</sup> As the Office of the Special Rapporteur was able to learn, the lawsuit was filed on November 30, 2022 before the United States Northern District Court, in the state of California, and alleges that "the actions of the NSO Group in developing the spyware and using it against the *El Faro* journalists violated, among other laws, the California Computer Fraud and Abuse Act and the California Comprehensive Computer Fraud and Data Access Act".<sup>1269</sup> The Knight First Amendment Institute specified that, "in addition to asking the court to rule that the Pegasus attacks against *El Faro* and its journalists violated US law, the lawsuit asks the court to: require NSO Group to identify, return and then delete all the information it obtained through these attacks; ban NSO Group from using Pegasus again against the plaintiffs, and require NSO Group to identify the customer who ordered the surveillance".<sup>1270</sup> According to the information documented by the Office of the Special Rapporteur, two other lawsuits have already been filed against NSO Group in this district: one from Apple and another from the instant messaging company, WhatsApp.<sup>1271</sup>

573. Regarding the described faces, the SRFOE reiterates that communications surveillance practices not only violate the right to privacy, but also have the potential to affect the rights inherent to the exercise of journalism, including the confidentiality and integrity of sources, as well as the rights of other people around them. Likewise, as the IACHR, its SRFOE and OHCHR have pointed out, "any intrusive action by communication devices must be supported by a legal and transparent framework that is in accordance with international human rights norms and standards, guaranteeing the principles of necessity, proportionality, and an objective that is legitimate and in accordance with said norms".<sup>1272</sup> The Office of the Special Rapporteur considers it essential that the State undertake its maximum efforts to clarify the facts through a complete, effective, and impartial judicial investigation, and that independence in the investigations and the cooperation of both public and private entities be guaranteed.

574. On the other hand, in 2022, the SRFOE observed the persistence of stigmatizing accusations against journalists and the media by government actors. Among the events recorded this year, the vice president disqualified the work of the digital magazine *Gato Encerrado*, referring to the medium as "zanates" (crows) and "activists disguised as journalists", and asserting that "they lie without shame".<sup>1273</sup> This happened after the outlet published an investigative article in which they argued that there had been "hermeticism" and a refusal to provide information of public interest within the framework of the process of creating a proposal for a new Constitution.<sup>1274</sup> Likewise, a pro-government representative referred to journalists from *El País* as "bar journalists"<sup>1275</sup>, in relation to a note in which they reported on the declaration of a state of exception in the country due to the rise in homicides.<sup>1276</sup> Another pro-government representative, citing a tweet from a

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<sup>1266</sup> IACHR. March 16, 2022. 183° Period of Sessions. [Audiencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador](#).

<sup>1267</sup> IACHR. March 16, 2022. 183° Period of Sessions. [Audiencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador](#).

<sup>1268</sup> Knight First Amendment Institute. November 30, 2022. [Periodistas de El Faro y el Knight Institute demandan a NSO Group por un programa espía](#); Voz de América. November 30, 2022. [Periodistas salvadoreños de El Faro demandan a fabricante de programa espía](#); Deutsche Welle (DW). November 30, 2022. [Periodistas de El Salvador denuncian en EE. UU. a NSO Group](#).

<sup>1269</sup> Knight First Amendment Institute. November 30, 2022. [Periodistas de El Faro y el Knight Institute demandan a NSO Group por un programa espía](#).

<sup>1270</sup> Knight First Amendment Institute. November 30, 2022. [Periodistas de El Faro y el Knight Institute demandan a NSO Group por un programa espía](#).

<sup>1271</sup> Knight First Amendment Institute. November 30, 2022. [Periodistas de El Faro y el Knight Institute demandan a NSO Group por un programa espía](#); Apple Newsroom. November 23, 2021. [Apple sues NSO Group to curb the abuse of state-sponsored spyware](#); The Guardian. October 29, 2019. [WhatsApp sues Israeli firm, accusing it of hacking activists' phones](#).

<sup>1272</sup> IACHR. January 31, 2022. [IACHR, Its Office of the Special Rapporteur for Freedom of Expression and OHCHR Are Concerned About Evidence of the Use of Pegasus Malware to Spy on Journalists and Civil Society Organizations in El Salvador](#). Press release No. 022/22.

<sup>1273</sup> Twitter account of Félix Ulloa (@fulloa51). [March 3, 2022](#); Twitter account of Félix Ulloa (@fulloa51). [February 10, 2022](#).

<sup>1274</sup> Gato Encerrado. December 15, 2021. [El proceso secreto para crear la nueva Constitución de Bukele](#).

<sup>1275</sup> Twitter account of Carlos Hermann Bruch (@noalospolicos). [March 27, 2022](#).

<sup>1276</sup> El País. March 27, 2022. [Bukele asume poderes extraordinarios y declara el estado de excepción para enfrentar la ola de asesinatos en El Salvador](#).

journalist about the state of exception, warned "the journalists from *El Faro*" that "they will go to jail if they collaborate with the gangs".<sup>1277</sup> The Minister of Justice and Public Security described *La Prensa Gráfica* and *El Diario de Hoy* as "hypocrites", accusing them of "protecting the interests of criminal structures" and "being on the side of terrorists and their opposition allies to misrepresent information".<sup>1278</sup> Likewise, the Vice Minister of Justice and General Director of Penitentiary Centers referred to journalists from *El Faro* as "terrorists", "gang spokespeople" and "mercenaries".<sup>1279</sup>

575. The Office of the Special Rapporteur also documented stigmatizing messages against journalists from the head of state. Thus, for example, according to the information available, the president questioned the veracity of the information disseminated by *El Diario de Hoy*, describing their work as "stupid".<sup>1280</sup> Through his social networks, the president also described anthropologist and journalist Juan Martínez d'Aubuisson, a collaborator of InsightCrime and *El Faro*, as "garbage", referring to an interview in which the specialist gave his opinion on the role of gangs in El Salvador.<sup>1281</sup> Following this, a representative from the Nuevas Ideas party shared the president's message and pointed out that "these guys (...) don't deserve anyone's respect, they are rubbish".<sup>1282</sup> The anthropologist is the author, among other academic publications, of "Ver, Oír y Callar", in which he documents the way in which gangs control territories and their population.<sup>1283</sup> After these events, Martínez d'Aubuisson publicly denounced having received death threats, a "wave of attacks" on social networks, and "dozens of comments from representative, officials and opinion leaders" related to the Government.<sup>1284</sup> In addition, he denounced that one of his sources had also received death threats.<sup>1285</sup>

576. In this context, the Office of the Special Rapporteur also observed with concern the messages from the President of the Legislative Assembly against the independent press that publishes about gangs and criminal gangs in El Salvador, and who have questioned the government's management of this matter.<sup>1286</sup> During a plenary session held on April 19, he referred to the "uncomfortable newspapers and journalists, those who call themselves intellectuals," and stated that "if they want to leave, let them leave," "give them asylum and leave (...) they don't contribute anything here (...) We don't need you, go away".<sup>1287</sup> The representative for the Nuevas Ideas party asserted that "there are a lot of journalists who, in addition to being journalists, are scoundrels (...) wanting to boast of being intellectuals (...) and in reality they are self-conscious people with little personality, who need to attract attention and try to tell this country that they are someone, when they are nothing".<sup>1288</sup> Likewise, he referred to *La Prensa Gráfica* and *El Diario de Hoy* as "little newspapers and pasquil" that "make you laugh" and that "in the end they were only arms of the opposition".<sup>1289</sup> Subsequently, through his Twitter account, the official referred to the press as "clowns", and called the newspaper *El Mundo* a "pamphlet", "deaf", "international fund hunters", and demanded that they "retract, apologize" and accept that his article was "another lying and self-victimizing antics".<sup>1290</sup>

<sup>1277</sup> Twitter account of Edgardo Mulato (@EdgardoMulatoSV). [June 2, 2022](#).

<sup>1278</sup> Twitter account of Gustavo Villatoro (@Vi11atoro). [May 12, 2022](#).

<sup>1279</sup> Twitter account of Osiris Luna Meza (@OsirisLunaMeza). [April 11, 2022](#).

<sup>1280</sup> Twitter account of Nayib Bukele (@nayibbukele). [March 5, 2022](#).

<sup>1281</sup> Twitter account of Juan Martínez d'Aubuisson (@juan\_martinezd). [April 11, 2022](#).

<sup>1282</sup> Twitter account of Ernesto Castro (@ECastroES). [April 11, 2022](#).

<sup>1283</sup> *El Faro*. April 21, 2022. [Tras una semana de acoso a la prensa, el presidente de la Asamblea exige a periodistas: 'váyanse'](#); RT. March 26, 2016. [Las maras de cerca: un antropólogo se adentra en su mundo para comprender el fenómeno](#).

<sup>1284</sup> The Washington Post. April 18, 2022. [Opinión. Bukele me convirtió en un pandillero por mi trabajo como investigador](#); Twitter account of Juan Martínez d'Aubuisson (@juan\_martinezd). [April 11, 2022](#).

<sup>1285</sup> The Washington Post. April 18, 2022. [Opinión. Bukele me convirtió en un pandillero por mi trabajo como investigador](#); *El Faro*. April 21, 2022. [Tras una semana de acoso a la prensa, el presidente de la Asamblea exige a periodistas: 'váyanse'](#);

<sup>1286</sup> *El Faro*. April 21, 2022. [Tras una semana de acoso a la prensa, el presidente de la Asamblea exige a periodistas: 'váyanse'](#); Twitter account of Juan Pappier (@JuanPappierHRW). [April 20, 2022](#).

<sup>1287</sup> *El Mundo*. April 20, 2022. [Castro a periodistas "incómodos": "Váyanse"](#); *El Diario de Hoy*. April 20, 2022. ["En democracia, la prensa independiente es incómoda", le responde Human Rights Watch a presidente de Asamblea tras decir a periodistas "que se vayan" del país](#).

<sup>1288</sup> *El Mundo*. April 20, 2022. [Castro a periodistas "incómodos": "Váyanse"](#); *El Diario de Hoy*. April 20, 2022. ["En democracia, la prensa independiente es incómoda", le responde Human Rights Watch a presidente de Asamblea tras decir a periodistas "que se vayan" del país](#).

<sup>1289</sup> *El Mundo*. April 20, 2022. [Castro a periodistas "incómodos": "Váyanse"](#); *El Diario de Hoy*. April 20, 2022. ["En democracia, la prensa independiente es incómoda", le responde Human Rights Watch a presidente de Asamblea tras decir a periodistas "que se vayan" del país](#).

<sup>1290</sup> Twitter account of Ernesto Castro (@ECastroES). [April 20, 2022](#).



577. The Office of the Special Rapporteur for Freedom of Expression has indicated that those who lead debates of general interest participate in a public space that they are also called to care for.<sup>1291</sup> As the Inter-American Court of Human Rights has held, in a democratic society it is not only legitimate, but also sometimes a duty, for state authorities to make statements on matters of public interest.<sup>1292</sup> However, in doing so, they are subject to certain limitations, mainly aimed at verifying the facts on which they base their opinions and addressing them with even greater diligence than that used by individuals, due to their high status, wide scope, and eventual effects that their expressions may have on certain sectors of the population.<sup>1293</sup> Likewise, as the Court maintains, "they must take into account that as public officials they have a position of guarantor of the fundamental rights of individuals and, therefore, their statements cannot disregard these or constitute forms of direct or indirect interference or pressure injurious to the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts".<sup>1294</sup> This duty of special care is particularly accentuated in certain contexts, such as a state of emergency, or situations of social conflict, disturbances of public order or social or political polarization, precisely because of the risks that may be involved.<sup>1295</sup>

578. The Inter-American Court has also understood that statements by high-ranking public officials against journalists and the media can increase the risk inherent to their profession.<sup>1296</sup> On this point, they have highlighted that "although it is true that there is an intrinsic risk to journalistic activity, the people who work for a certain social communication medium may see the risk situations that they would normally face exacerbated, if that medium is the subject of official speeches that may provoke or suggest actions or be interpreted by public officials or by sectors of society as instructions, instigation, or in any way authorizations or support, for the commission of acts that endanger or violate life, personal security, or other rights of people who carry out journalistic work or of those who exercise their freedom of expression".<sup>1297</sup>

579. In addition to the above, as mentioned in the IACHR report on the human rights situation in El Salvador, the SRFOE has received reports from civil society expressing concern about the potential government control of public debate.<sup>1298</sup> According to the information received, there would be institutional efforts to position the official story as the only legitimate and truthful one, through the constant dissemination of biased content, favorable to the president and the government, in state media and privately owned media managed by the State, and through the reduction of independent informative spaces.<sup>1299</sup> Various actors have reported to

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<sup>1291</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 17, 2021. [The Office of the Special Rapporteur for Freedom of Expression calls on those who hold or aspire to hold elected office in Peru to contribute with their speech to the protection of human rights](#). R 126/21.

<sup>1292</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., *Case of Perozo et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>1293</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., *Case of Perozo et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>1294</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., *Case of Perozo et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>1295</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 139.

<sup>1296</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 143.

<sup>1297</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 143.

<sup>1298</sup> IACHR. [The Human Rights Situation in El Salvador](#). OEA/Ser.L/V/II. Doc. 278. October 14, 2021. Para. 322.

<sup>1299</sup> El Diario de Hoy. July 30, 2020. [El Gobierno define y dirige algunos contenidos de medios confiscados](#); Deutsche Welle (DW). October 4, 2020. [Bukele y su gobierno son la principal fuente de desinformación en el país](#); Radio YSKL. October 20, 2020. [Comisión Especial asegura que se detectó acoso a periodistas por el Ejecutivo y preparan informe final](#); Facebook account of Radio Legislativa. [October 20, 2020](#); Twitter account of the Legislative Assembly (@AsambleaSV). [November 4, 2020](#); El Faro. November 16, 2022. [Asamblea: "Bukele y sus funcionarios son los principales actores de acoso contra periodistas"](#); Factum. March 4, 2022. [Las 400 portadas que Diario El Salvador regaló al bukelismo](#); Asociación de Radiodifusión Participativa de El Salvador (ARPAS). March 15, 2022. [Medios públicos: ¿un sueño irrealizable en El Salvador?](#).

the Office of the Special Rapporteur on the use of various state media, such as *Channel 10*, *Radio Nacional*, and *Diario El Salvador*, for political purposes and the dissemination of government propaganda.<sup>1300</sup>

580. This issue was also studied by the Special Commission for the investigation of harassment of journalists, created in August 2020 within the Legislative Assembly and on which this Office has commented in its latest annual reports.<sup>1301</sup> In the final report, the Special Commission concluded that "there was a possible interference by the executive body in the editorial line of the media that is under the administration of the National Asset Administration Council (CONAB) to attack, delegitimize, discredit, and to lie against those who do a job that goes against the official version of the government".<sup>1302</sup> Likewise, the aforementioned Commission adds that these practices on the part of the government "ignore the resolution of the Specialized Asset Forfeiture Court of San Salvador, which orders the aforementioned Council to guarantee strict and absolute respect for the editorial line and the contents of the media administered by said instance, not being able to intervene in any way (...)".<sup>1303</sup>

581. According to the reports received, the alleged government strategy of privileging the official story and positioning it as the only legitimate one also had an impact on citizen perception of the media.<sup>1304</sup> A study carried out in May 2022 by the private University Francisco Gavidia of San Salvador indicated that currently the state media are the most reliable sources for Salvadoran citizens.<sup>1305</sup>

582. In this regard, the Salvadoran State has indicated that one of the priority objectives of the current government has been "the strengthening of the coverage and participation of the public media in media spaces and public discussion, as a way of promoting plurality in the media and to facilitate the population's access to them".<sup>1306</sup> According to the authorities, "the strengthening of the state media and its journalistic practice contributes to providing the population with a variety of informative spaces, which constitutes a broader frame of reference for Salvadorans, favoring the balance of the country's media system to the democratization of information of public interest".<sup>1307</sup>

583. Along these lines, the State reported that the National System of Public Media was "reorganized and revitalized" in order to "allow the positioning of public media within the country's news references, promoting the diversity of opinions, approaches, and visions of the national reality".<sup>1308</sup> Likewise, it stressed that there has

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<sup>1300</sup> IACHR. [The Human Rights Situation in El Salvador](#). OEA/Ser.L/V/II. Doc. 278. October 14, 2021. Para. 322; Factum. March 4, 2022. [Las 400 portadas que Diario El Salvador regaló al bukelismo](#); Asociación de Radiodifusión Participativa de El Salvador (ARPAS). March 15, 2022. [Medios públicos: ¿un sueño irrealizable en El Salvador?](#); El Diario de Hoy. October 2, 2020. [Gobierno está convirtiendo al Canal 10 en un medio de propaganda oficialista](#); La Prensa Gráfica. October 4, 2020. [APES: Medios del Estado no son para difundir propaganda](#); Deutsche Welle (DW). October 12, 2020. [Noticiero El Salvador: ¿periodismo de corte preelectoral?](#).

<sup>1301</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 28. March 30, 2021. Para. 615; IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. May 26, 2022. Para. 390.

<sup>1302</sup> Legislative Assembly, Republic of El Salvador. November 4, 2022. Comisión especial para la investigación de acoso que están sufriendo periodistas de diferentes medios de comunicación debido a su trabajo y línea editorial y el uso de recursos públicos en contra de opositores. Opinion approved on November 12, 2022. P. 74 and 75.

<sup>1303</sup> Legislative Assembly, Republic of El Salvador. November 4, 2022. Comisión especial para la investigación de acoso que están sufriendo periodistas de diferentes medios de comunicación debido a su trabajo y línea editorial y el uso de recursos públicos en contra de opositores. Opinion approved on November 12, 2022. P. 75.

<sup>1304</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#); El Diario de Hoy. December 1, 2022. [Gobierno de Bukele ha armado una máquina de desinformación, propaganda y ataque a críticos](#); Factum. March 4, 2022. [Las 400 portadas que Diario El Salvador regaló al bukelismo](#); Asociación de Radiodifusión Participativa de El Salvador (ARPAS). March 15, 2022. [Medios públicos: ¿un sueño irrealizable en El Salvador?](#).

<sup>1305</sup> Revista Disruptiva. May 25, 2022. [Evaluación de tres años de gobierno del presidente Nayib Bukele: Sin novedades, todo está bien...](#).

<sup>1306</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 2.

<sup>1307</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 2.

<sup>1308</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 2.



been "a growth of digital media with different editorial lines and totally independent, which favors media pluralism and contributes to social control under a democratic rule of law".<sup>1309</sup>

584. Additionally, the State of El Salvador considers that on the part of the media there is a "relaxation of their duty to reasonably verify the facts on which their opinions are based, to compare the sources of information and to contrast them with other relevant data, because this also implies the right of people not to receive a manipulated version of the facts".<sup>1310</sup> In this regard, the State indicated that "as essential instruments of freedom of thought and expression, the media must responsibly exercise the social function they perform, since they ultimately become opinion makers".<sup>1311</sup> Additionally, the Salvadoran State indicated that "in El Salvador, although journalists are protected under the protection of freedom of expression, they must carry out their work obeying the principles of responsible journalism, that is, acting in good faith, providing information accurate and reliable, objectively reflect the opinions of those involved in the public debate and refrain from sensationalism, as the Inter-American Court has stated in its jurisprudence, which has highlighted the importance of developing responsible and ethical journalism, since that the media not only inform, but can also suggest, through the way they present the information, the way in which said information should be understood".<sup>1312</sup>

585. Given the previous considerations, the Office of the Special Rapporteur emphasizes that "States have the positive obligation to create an environment conducive to freedom of expression and the right to information, among other things promoting the independence and diversity of the media as a fundamental means to promote a solid and open debate on matters of public interest, and adopting norms that guarantee public transparency and the responsibility of public agents".<sup>1313</sup> Along these lines, the SRFOE recalls that, in accordance with Principle 13 of the IACHR's Declaration of Principles on Freedom of Expression, "the use of State power (...) with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression".<sup>1314</sup>

586. Regarding the role of public media, this Office recalls the recommendations made in the Joint Declaration of Special Rapporteurs for Freedom of Expression of 2017, particularly with regard to "ensuring the existence of solid, independent public media with sufficient resources, that operate with a clear mandate to promote the general public interest and establish and maintain the highest journalistic standards".<sup>1315</sup>

587. In 2022, the Office of the Special Rapporteur also received reports on alleged intimidating acts against the independent press. Thus, for example, in April three unknown individuals stole a laptop from *La Prensa Gráfica*, which was intended for the work of judicial journalism editor David Bernal. According to the

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<sup>1309</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 2.

<sup>1310</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 7.

<sup>1311</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 7.

<sup>1312</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 7.

<sup>1313</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [2021 Joint Declaration on Politicians, Public Officials, and Freedom of Expression](#).

<sup>1314</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1315</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. March 3, 2017. [Joint Declaration on Freedom of Expression and "Fake News", Disinformation, and Propaganda](#).

information available, the computer was in a vehicle at an establishment in Santa Elena, Antiguo Cuscatlán.<sup>1316</sup> The individuals reportedly only took the computer and the charger. The media outlet denounced these acts and asked the authorities to "clarify the facts to avoid future threats to journalistic work".<sup>1317</sup>

588. Likewise, the SRFOE has learned of reports of attacks on or restrictions on the press that, according to the information available, could be attributed to public security forces. Thus, for example, in March, a photojournalist for *El Diario de Hoy* was reportedly attacked by military and police forces in the Santa Lucia neighborhood of Ilopango, when he was doing his work in a Naval Force operation<sup>1318</sup>. The security forces violently prevented the reporter from continuing to take photos and forced him to delete the material from his equipment.<sup>1319</sup> In addition, the Office of the Special Rapporteur received information alleging the arbitrary detention of three journalists from *La Prensa Gráfica* by members of the National Civil Police (PCN), the Armed Forces (FAES), and prison custodians, who were covering the construction of a prison in the municipality of San Vicente, on December 13.<sup>1320</sup> The security agents reportedly forced them to delete all the content they had recorded in photography and video and checked their cell phones<sup>1321</sup>. On this issue, in its annual monitoring report on the situation of freedom of expression in El Salvador, APES indicated that, in 2022, 31 journalists reportedly suffered violations of their rights due to alleged abuse of power by agents of the PCN and FAES against the press.<sup>1322</sup>

589. The State reported that it has the institutional mechanisms to deal with attacks against journalists.<sup>1323</sup> In this regard, it specified that in cases where there are formal complaints of attacks or threats, an investigation is carried out under the functional direction of the Office of the Attorney General of the Republic.<sup>1324</sup> It also indicated that Salvadoran criminal law contemplates as an aggravating circumstance of criminal responsibility the fact that the crime is committed due to "the humanitarian work of the victim," which corresponds to the promotion and protection of human rights, which may include to journalists.<sup>1325</sup>

590. On the other hand, this Office learned of the inspection carried out at the facilities of *La Prensa Gráfica*, on January 7, 2022, by the Minister of Labor, linked to "complaints received by workers for violation of their rights", as reported by the entity publicly.<sup>1326</sup> In this regard, it indicated that they found "the violation of the rights of more than 400 workers" and that "they will not only defend freedom of expression, but they will also defend the rights of all the workers that make up the different media".<sup>1327</sup> For his part, the president of the Association of Journalists (APES) asserted that at the moment they had not received complaints from *La Prensa Gráfica* workers related to violations of labor rights, but that they would continue to investigate the

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<sup>1316</sup> Twitter account of APES (@apeselsalvador). [April 5, 2022](#); *La Prensa Gráfica*. April 5, 2022. [Hurta equipo e intimidan a periodista de LPG](#); *El Diario de Hoy*. April 5, 2022. [La Prensa Gráfica denuncia hurto de equipo e intimidación a periodista](#);

<sup>1317</sup> *La Prensa Gráfica*. April 5, 2022. [Hurta equipo e intimidan a periodista de LPG](#).

<sup>1318</sup> APES. March 29, 2022. [Militares y agentes de la PNC agreden a fotoperiodista de EDH](#); *El Diario de Hoy*. March 29, 2022. [Militares agreden a fotoperiodista de El Diario de Hoy y le borran material fotográfico](#); *La Prensa Gráfica*. March 29, 2022. [Militares agreden a fotoperiodista de El Diario de Hoy](#).

<sup>1319</sup> APES. March 29, 2022. [Militares y agentes de la PNC agreden a fotoperiodista de EDH](#); *El Diario de Hoy*. March 29, 2022. [Militares agreden a fotoperiodista de El Diario de Hoy y le borran material fotográfico](#); *La Prensa Gráfica*. March 29, 2022. [Militares agreden a fotoperiodista de El Diario de Hoy](#).

<sup>1320</sup> Twitter account of APES (@apeselsalvador). [December 13, 2022](#); Swissinfo. December 13, 2022. [Denuncian la retención "arbitraria" de tres periodistas en El Salvador](#); Deutsche Welle (DW). December 14, 2022. [El Salvador: denuncian retención "arbitraria" de periodistas](#).

<sup>1321</sup> Twitter account of APES (@apeselsalvador). [December 13, 2022](#); Swissinfo. December 13, 2022. [Denuncian la retención "arbitraria" de tres periodistas en El Salvador](#); Deutsche Welle (DW). December 14, 2022. [El Salvador: denuncian retención "arbitraria" de periodistas](#).

<sup>1322</sup> Twitter account of APES (@apeselsalvador). [December 21, 2022](#).

<sup>1323</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 5 and 6.

<sup>1324</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 5 and 6.

<sup>1325</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 5 and 6.

<sup>1326</sup> Twitter account of the Ministry of Labor (@TrabajoSV). [January 7, 2022](#).

<sup>1327</sup> Twitter account of the Ministry of Labor (@TrabajoSV). [January 7, 2022](#).

matter.<sup>1328</sup> In addition, he warned that the inspection at the facilities of the media "happens after journalistic publications that involve the current Minister of Labor".<sup>1329</sup>

591. As stated in Principle 9 of the Declaration of Principles of Freedom of Expression, "intimidation and threats (...) to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation". The IACHR and its Office of the Special Rapporteur have understood that this type of attack "seeks to be a tool of intimidation, through which a clear message is sent to all those people from civil society who carry out investigative tasks on irregularities in public administration. This practice seeks that the press, as a control mechanism, remain silent or become an accomplice of those people or institutions that carry out abusive or illegal acts or acts. Ultimately, what is sought is to prevent society from being informed of these events at all costs".<sup>1330</sup>

592. Obstructing press coverage at public events represents another challenge in terms of freedom of expression that civil society has reported to the Office of the Special Rapporteur; in addition to the denial of interviews and access to political sources.<sup>1331</sup> Fernando Romero, a reporter for *Revista Factum*, publicly denounced that journalists from said media outlet and from *Noticiero 6* were not allowed to enter the Human Rights Summit of the Office of the Ombudsman for the Defense of Human Rights (PDDH), which it took place in San Salvador between August 22 and 24.<sup>1332</sup> Also, in October, according to the information available, the San Francisco Gotera Investigating Court prevented the media from entering a hearing on the case of the El Mozote massacre, where five witnesses testified.<sup>1333</sup> According to the outlet *Gato Encerrado*, official sources informed them that the decision would have been made "to avoid re-victimization" of the first five witnesses called.<sup>1334</sup>

593. The Office of the Special Rapporteur recalls that the transparency and accountability of public powers strengthen democratic systems, and that the guarantee of the right of access to information, on many occasions, is a necessary condition to guarantee the exercise of other rights.<sup>1335</sup> When ruling on the restrictions imposed on journalists or communicators for access to official sources of information in acts or public events, the Inter-American Court has determined that "[w]ith respect to the accreditations or authorizations of the media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive, and disseminate information and ideas of all kinds, it must be demonstrated that its restriction is legal, pursues a legitimate objective, and is necessary and proportional in relation to the objective sought in a democratic society. Accreditation requirements must be specific, objective, and reasonable, and their implementation transparent".<sup>1336</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

594. In 2022, civil society organizations have reported the deepening of aggravation of democratic erosion and the closure of civic spaces in El Salvador.<sup>1337</sup> This situation would be fueled, among other aspects,

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<sup>1328</sup> Twitter account of César Fagoaga (@cesarfagoaga). [January 7, 2022](#).

<sup>1329</sup> Twitter account of César Fagoaga (@cesarfagoaga). [January 7, 2022](#); El Diario de Hoy. January 7, 2022. [Inspección a LPG fue después de publicación que menciona al ministro de Trabajo, dice APES](#).

<sup>1330</sup> IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1331</sup> IACHR. March 16, 2022. 183<sup>o</sup> Period of Sessions. [Audencia No. 11 La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador](#).

<sup>1332</sup> El Diario de Hoy. August 23, 2022. [Procuraduría de Derechos Humanos restringe labor de algunos periodistas que cubrirían evento](#); Twitter account of Fernando Romero (@bayernfern). [August 23, 2022](#).

<sup>1333</sup> El Mundo. October 31, 2022. [Jueza no permite ingreso de la prensa a diligencia en juicio por la masacre de El Mozote](#); Gato Encerrado. October 31, 2022. [Nueva jueza de caso El Mozote niega acceso a la prensa](#).

<sup>1334</sup> Gato Encerrado. October 31, 2022. [Nueva jueza de caso El Mozote niega acceso a la prensa](#).

<sup>1335</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American Legal Framework regarding the Right to Access to Information](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 64.

<sup>1336</sup> I/A Court H.R., *Case of Claude Reyes et al. v. Chile*. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194. Para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 195. Para. 346.

<sup>1337</sup> Communication sent by the Salvadoran Foundation for Economic and Social Development (FUSADES) to the Office of the Special Rapporteur. September 8, 2022.

by the approval of restrictive laws and legislative reforms on the right to freedom of expression; the alleged opacity of State institutions and public powers; and the criminalization –or threat of criminalization– of speeches that criticize or question government management.<sup>1338</sup> This situation was reportedly aggravated within the framework of the state of exception maintained by the government of El Salvador since March 2022 and for more than seven months, for reasons related to the increase in crimes and organized crime.<sup>1339</sup>

595. On March 27, 2022, the Legislative Assembly issued Decree No. 333 "Exception Regime", which suspended, for 30 days, the rights and guarantees established in the Constitution of the Republic related to freedom of association, the right of assembly, protection against arbitrary or abusive interference in private life, judicial guarantees, among others.<sup>1340</sup> This initiative of the Executive Branch stated that the declaration "derives from the serious disturbances to public order by criminal groups that threaten the life, peace, and security of the Salvadoran population" after an increase in the number of violent deaths since March 25.<sup>1341</sup> On November 11, 2022, seven months into the start of the exception regime in El Salvador, the IACHR expressed its concern about the persistence of massive and allegedly arbitrary detentions, and the failure to comply with judicial guarantees, and called on the State to implement citizen security actions that guarantee the rights and freedoms that are established in the American Convention on Human Rights and in accordance with inter-American standards.<sup>1342</sup>

596. In this context, on March 30 and April 5, the Legislative Assembly – at the initiative of the executive branch – approved reforms to the Criminal Code and the Law for the Proscription of Maras, Gangs, Groups, Associations, and Organizations of a Criminal Nature.<sup>1343</sup> The Minister of Justice and Security explained that the reform to the Maras Prohibition Law had the purpose of "repressing and dissuading individuals from illegitimately using the right to freedom of expression" in a way that could affect "the order public".<sup>1344</sup> According to the information available, the reforms were approved the same day they were presented, without further parliamentary deliberation.<sup>1345</sup> On April 13, 2022, the Office of the Special Rapporteur issued a press release in which it warned about the risks of severe criminalization of legitimate exercises of freedom of expression presented by the criminal reforms, and called on the State to adapt the legislation to the inter-American human rights standards in terms of freedom of expression.<sup>1346</sup>

597. The IACHR has continuously and closely monitored the complex citizen security situation in El Salvador for years. In 2004, the Commission recognized the right and obligation of the State of El Salvador to ensure public security and stressed that compliance with this duty is not incompatible with respect for human rights.<sup>1347</sup> Likewise, in the recent country report "Human Rights Situation in El Salvador," the Commission confirmed that the serious phenomenon of violence and insecurity has constituted one of the main issues of concern in the country, and recognized progress in security indices during the period 2019-2020.<sup>1348</sup> For this Office, the increase in violence is a matter on which the authorities are obligated to take both measures and

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<sup>1338</sup> Communication sent by the Salvadoran Foundation for Economic and Social Development (FUSADES) to the Office of the Special Rapporteur. September 8, 2022.

<sup>1339</sup> IACHR. November 11, 2022. [Seven Months into the Exceptional Framework, the IACHR Reminds El Salvador That It Must Comply with its Obligations Concerning Human Rights](#). Press release No. 254/22.

<sup>1340</sup> Legislative Assembly, Republic of El Salvador. Decree No. 333/22.

<sup>1341</sup> [DECRETO No. 350](#). Decree No. 333/22.

<sup>1342</sup> <sup>1342</sup> IACHR. November 11, 2022. [Seven Months into the Exceptional Framework, the IACHR Reminds El Salvador That It Must Comply with its Obligations Concerning Human Rights](#). Press release No. 254/22.

<sup>1343</sup> Legislative Assembly. March 30, 2022. [Decree No. 337](#); Legislative Assembly. March 30, 2022; Legislative Assembly. April 5, 2022. [Decree No. 350](#).

<sup>1344</sup> Legislative Assembly, Republic of El Salvador. April 4, 2022. [Comunicación del Ministro de Justicia y Seguridad Pública](#).

<sup>1345</sup> Deutsche Welle (DW). March 31, 2022. [El Salvador quintuplica penas de cárcel por pertenecer a pandillas](#); Swissinfo. April 6, 2022. [Congreso salvadoreño aprueba sancionar medios que difundan mensajes de maras](#); France 24. April 1, 2022. [Una reforma penal aumenta las condenas contra las maras en El Salvador](#).

<sup>1346</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 13, 2022. [The Office of the Special Rapporteur warns of the risk of criminalization of legitimate exercises of freedom of expression in El Salvador as a result of legislative reforms](#). Press release R80/22.

<sup>1347</sup> IACHR. December 4, 2004. [The Inter-American Commission on Human Rights and UNICEF express concern over the situation of children and adolescents involved with gangs or maras in El Salvador, Guatemala and Honduras](#). Press release No. 26/04.

<sup>1348</sup> IACHR. [The Human Rights Situation in El Salvador](#). OEA/Ser.L/V/II. Doc. 278. October 14, 2021. Paras. 28 and 32.



precautions so that the institutional deployment does not restrict the exercise of rights of people who carry out legitimate activities in society and of especial significance for democracy.

598. Through the reform of the Criminal Code, prison sanctions of 10 to 15 years are imposed on people who create, facilitate, or manufacture any form of visual expression that "explicitly or implicitly" transmits "messages, signs, denominations, propaganda, or any type of written statement" that "refers to" the different criminal groups or gangs.<sup>1349</sup> In the same way, the law criminalizes with the same criminal scale those who, through the use of technology or the media, reproduce and transmit messages or communications "originated or presumed to originate" by criminal groups that could "generate anxiety and panic" in the population.<sup>1350</sup> On the other hand, the reform to the Gang Proscription Law expressly prohibits the media from reproducing and transmitting messages originated by criminal groups that could "generate anxiety and panic" in the population.<sup>1351</sup> This Office considers that the breadth and vagueness of the terms used to describe prohibited conducts conflict with international standards, which require that any limit to freedom of expression be expressly, exhaustively, and clearly established by law. The aforementioned ambiguity of the wording makes it difficult to distinguish between sanctionable expressions and those that are not. Thus, for example, the criminalization of any type of visual expression that "implicitly" alludes to criminal groups may conflict with what the Inter-American Court has indicated that "in the elaboration of criminal offenses it is necessary to use strict and unequivocal terms that clearly delimit the punishable conducts".<sup>1352</sup>

599. According to the State's criteria, the reforms adopted in both regulatory bodies "are clear and specific" and "none of them leads to a vague interpretation, rather, they send a forceful message to the groups that operate outside the Law on the limits of their actions".<sup>1353</sup> On the other hand, it has indicated that it will be up to the judiciary to hear each particular case and carry out the factual and legal assessments to verify if the criminal type requirements are met. In this sense, the State points out that "it is precisely the margin of assessment that allows the judge to evaluate human behavior in the context of compliance or not with the rules of social coexistence".<sup>1354</sup> On this point and in relation to the aforementioned vagueness of the punishable conducts, the Office of the Special Rapporteur is concerned about the discretionary margin to interpret, for example, "implicit" messages and analyze whether they violate the norm.

600. The State has indicated that the right to freedom of expression is a constitutionally recognized right, but that it is not absolute in nature, rather it finds limits such as public order.<sup>1355</sup> However, this Office recalls that the inter-American system has understood that although public order is a legitimate objective for which subsequent liabilities can be established, it cannot be invoked to suppress a right guaranteed by the American Convention, distort it or deprive it of actual content.<sup>1356</sup> On the contrary, "the invocation of public order as a justification for limiting freedom of expression must obey real and objectively verifiable causes, which pose a certain and credible threat of a potentially serious disturbance of the basic conditions for the functioning of democratic institutions".<sup>1357</sup>

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<sup>1349</sup> Legislative Assembly, Republic of El Salvador. March 31, 2022. [Diputados aprueban seis reformas a códigos y leyes relacionadas a la protección de la población, tras crímenes de pandillas](#); Legislative Assembly. March 30, 2022. [Decree No. 337](#); Legislative Assembly. March 30, 2022; Legislative Assembly. April 5, 2022. [Decree No. 350](#).

<sup>1350</sup> Legislative Assembly, Republic of El Salvador. April 5, 2022. [Decree No. 350](#).

<sup>1351</sup> Legislative Assembly, Republic of El Salvador. April 5, 2022. [Decree No. 350](#).

<sup>1352</sup> I/A Court H.R., *Case of Kimel v. Argentina*. Merits, Reparations and Costs. Judgment of May 2, 2008 Series C No. 177. Para. 63.

<sup>1353</sup> Mission of El Salvador to the OAS. April 12, 2022. Position of the State of El Salvador regarding the draft statement of the IACHR's Office of the Special Rapporteur for Freedom of Expression on the risks of criminalization of legitimate exercises of freedom of expression in El Salvador based on legislative reforms. MPOEA-OEA-055/2022.

<sup>1354</sup> Mission of El Salvador to the OAS. April 12, 2022. Position of the State of El Salvador regarding the draft statement of the IACHR's Office of the Special Rapporteur for Freedom of Expression on the risks of criminalization of legitimate exercises of freedom of expression in El Salvador based on legislative reforms. MPOEA-OEA-055/2022.

<sup>1355</sup> Mission of El Salvador to the OAS. April 12, 2022. Position of the State of El Salvador regarding the draft statement of the IACHR's Office of the Special Rapporteur for Freedom of Expression on the risks of criminalization of legitimate exercises of freedom of expression in El Salvador based on legislative reforms. MPOEA-OEA-055/2022.

<sup>1356</sup> I/A Court H.R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights)*. Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5. Para. 67.

<sup>1357</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 82.

601. For the Office of the Special Rapporteur, the present reforms, as they were drafted, activate risks of severe criminalization of legitimate activities in society and of special importance for democratic life such as journalism, the defense of human rights, parliamentary activity, academic research, among others.<sup>1358</sup> All these activities require guarantees of freedom of expression and as a whole they contribute to ensuring that society is informed about its environment and can freely participate in decisions that impact it.<sup>1359</sup> The democratic understanding of matters of general interest -including citizen security- needs legal certainty so that people can freely and informedly participate in matters that concern them as a society without fear of being criminalized.<sup>1360</sup>

602. The State informed this Office that the punishable conducts in question “are far from the informative work of the media”.<sup>1361</sup> In this sense, the State has indicated that proof of this is that “the media have continued to make publications on a variety of platforms and on social networks on the issue of gangs in El Salvador and there has been no prosecution whatsoever”.<sup>1362</sup>

603. Notwithstanding this, the Office of the Special Rapporteur received information on alleged attempts to prosecute journalists from *El Faro*, based on the reforms to the Criminal Code and the Law for the Proscription of Maras, Gangs, Groups, Associations, and Organizations of a Criminal Nature, for investigating and reporting on criminal matters. According to the information available, a member of the Nuevas Ideas party indicated on social networks that he would submit a formal notice to the Attorney General of the Republic against journalists Óscar Martínez and Gabriela Cáceres for allegedly “replicating messages related to gangs in order to intimidate the population”.<sup>1363</sup> The message would be related to a report published by *El Faro* on April 5, 2022, the day the law reforms were approved, which reported irregularities in a criminal investigation against a gang leader.<sup>1364</sup> Additionally, this Office was informed that a pro-government representative, when exemplifying behaviors that would fit into the new criminal types, warned that if a book on gangs and criminal groups, “instead of investigating the social phenomenon (...) was a book that disseminates messages (on any platform) from gang members”, it would be punishable. In the same way, she mentioned the example that if a book “talked about crimes or the ways in which they were committed”, it would also be subject to criminal sanctions.<sup>1365</sup>

604. The Office of the Special Rapporteur notes that in the public conversation around these criminal reforms, the president suggested similarities with the objectives of legislations to “eradicate Nazism” and to prohibit speech not protected by international law.<sup>1366</sup> However, the SRFOE considers that neither in the explanatory statement nor in the articles of these norms are there clear references that allow us to conclude that the speeches that they seek to combat have similarities with those that are not protected by international

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<sup>1358</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 13, 2022. [The Office of the Special Rapporteur warns of the risk of criminalization of legitimate exercises of freedom of expression in El Salvador as a result of legislative reforms](#). Press release R80/22.

<sup>1359</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 13, 2022. [The Office of the Special Rapporteur warns of the risk of criminalization of legitimate exercises of freedom of expression in El Salvador as a result of legislative reforms](#). Press release R80/22.

<sup>1360</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 13, 2022. [The Office of the Special Rapporteur warns of the risk of criminalization of legitimate exercises of freedom of expression in El Salvador as a result of legislative reforms](#). Press release R80/22.

<sup>1361</sup> Mission of El Salvador to the OAS. April 12, 2022. Position of the State of El Salvador regarding the draft statement of the IACHR’s Office of the Special Rapporteur for Freedom of Expression on the risks of criminalization of legitimate exercises of freedom of expression in El Salvador based on legislative reforms. MPOEA-OEA-055/2022.

<sup>1362</sup> Mission of El Salvador to the OAS. April 12, 2022. Position of the State of El Salvador regarding the draft statement of the IACHR’s Office of the Special Rapporteur for Freedom of Expression on the risks of criminalization of legitimate exercises of freedom of expression in El Salvador based on legislative reforms. MPOEA-OEA-055/2022.

<sup>1363</sup> Swissinfo. April 10, 2022. [Asociación de periodistas salvadoreños denuncia intento de “criminalización”](#); El Mundo. April 10, 2022. [Miembro de Nuevas Ideas amenaza con denunciar a periodistas de El Faro ante la Fiscalía](#).

<sup>1364</sup> El Faro. April 5, 2022. [Juez documentó que Crook fue liberado pese a tener procesos penales abiertos](#).

<sup>1365</sup> El Mundo. April 19, 2022. [Pineda dice es delito si libro de periodistas sobre maras habla de crímenes](#); Twitter account of Marcela Pineda (@MarcelaPinedaSV). [April 18, 2022](#).

<sup>1366</sup> Twitter account of Nayib Bukele (@nayibbukele). [April 5, 2022](#); France 24. April 7, 2022. [El presidente Bukele aumenta la presión en su “guerra” contra las pandillas en El Salvador](#); Gato Encerrado. May 18, 2022. [Es falso que los medios defienden a las pandillas en El Salvador](#).



law, such as propaganda in favor of war, the advocacy of hatred, or incitement to genocide, at the threshold required by international standards for this.

605. This issue was also addressed at the 185<sup>o</sup> Period of Sessions, in a hearing on arbitrary detentions and the situation of persons deprived of liberty in the state of exception in El Salvador.<sup>1367</sup> On that occasion, the organizations requesting the hearing indicated that the criminal reforms implemented within the framework of the State of exception are having self-censorship effects. In this sense, they highlighted that there is fear on the part of citizens of denouncing and exposing ideas about criminal groups or gangs, which may be framed within the expressions criminalized in the reforms to the Criminal Code and the Law for the Prohibition of Maras, Gangs, Groups, Associations, and Organizations of a Criminal Nature. Likewise, the requesting organizations denounced that there is a recurring official narrative of harassment and discredit against human rights defenders and journalists, due to the work of social control that they carry out within the framework of the State of exception. In this regard, they highlighted that it not only contributes to exacerbating the climate of hostility and intolerance on the part of different sectors of the population against these groups, but also increases the vulnerability and risks of affecting the life and integrity of these people.

606. According to the information available, in April, the Association of Journalists of El Salvador (APES) and the Cristosal organization filed an unconstitutionality lawsuit against the amendments to the Law for the Prohibition of Maras, Gangs, Groups, Associations, and Organizations of a Criminal Nature and the Criminal Code, alleging substantive and formal reasons.<sup>1368</sup> In their lawsuit, they asked the Court as a precautionary measure to suspend the effects of the reforms.<sup>1369</sup> As of the date of the presentation of the annual report, the claim of unconstitutionality has not been admitted by the Constitutional Chamber.

607. The SRFOE emphasizes that a broad, robust and participatory public debate on issues that concern everyone as citizens is an essential element during states of exception. In this regard, this Office has previously indicated that the right to freedom of expression is a necessary condition for "the formation of a public opinion that is informed and aware of its rights, citizen control over public management, and the demand for accountability of state officials".<sup>1370</sup>

608. On the other hand, in this context, the Office of the Special Rapporteur consulted the State on information received regarding the criminal accusation of a citizen for the crime of contempt (*desacato*), and the arrest of six people for defamation. According to the reports received, on September 2, the Attorney General's Office filed an indictment for the crime of contempt (*desacato*) against Luis Alexander Rivas, allegedly related to the publication of a photograph of relatives of the president, from an anonymous Twitter account under the pseudonym "El Comisionado".<sup>1371</sup> According to what this Office was able to learn, the publication for which the criminal action was filed against indicated that part of the president's family was on a beach with a "tremendous security device", and then insulted the police escorts.<sup>1372</sup>

609. According to available information, Luis Alexander Rivas was arrested that same day, when he was at his residence and a police operation arrived to take him away. The information received by this Office indicates that in the following days it became known that Rivas was deprived of liberty in the laboratory of the Scientific Technical Division of the National Civil Police, in the San Francisco neighborhood of San Salvador. According to public information, on September 5, the Second Peace Court of San Salvador held the initial hearing against Rivas on the charge of contempt (*desacato*) "to the detriment of the public Administration and

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<sup>1367</sup> IACHR. October 25, 2022. 185<sup>o</sup> Period of Sessions. [Audiencia No. 6: Detenciones arbitrarias y situación de personas privadas de la libertad en el Estado de excepción en El Salvador](#).

<sup>1368</sup> La Prensa Gráfica. April 19, 2022. [APES y Cristosal presentan demanda de inconstitucionalidad contra reformas a Código Penal y Ley de Proscripción de Pandillas](#); Deutsche Welle (DW). April 20, 2022. [Periodistas de El Salvador acuden a Corte Suprema ante "mordaza"](#).

<sup>1369</sup> La Prensa Gráfica. April 19, 2022. [APES y Cristosal presentan demanda de inconstitucionalidad contra reformas a Código Penal y Ley de Proscripción de Pandillas](#); Deutsche Welle (DW). April 20, 2022. [Periodistas de El Salvador acuden a Corte Suprema ante "mordaza"](#).

<sup>1370</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 8.

<sup>1371</sup> El Faro. September 5, 2022. [Tuitero detenido con reglas del Régimen de Excepción es acusado de ofender al presidente Bukele](#); La Prensa Gráfica. September 5, 2022. [Acusan a Luis Rivas, "El Comisionado", por desacato desde Twitter](#).

<sup>1372</sup> Twitter account of El Comisionado (@\_elcomisionado\_). [August 21, 2022](#).

the President of the Republic," and decreed alternative measures to parole and a \$10,000 dollars bond.<sup>1373</sup> According to press information, the case was heard under the rules of the Exception Regime, which would limit certain constitutional guarantees of the detainee.<sup>1374</sup>

610. However, public information indicates that the Prosecutor's Office issued a second arrest warrant against Rivas, accused of the alleged crime of improper disclosure of personal data or information.<sup>1375</sup> In this regard, the Attorney General of the Republic affirmed that "freedom of expression is one thing and an attack on the integrity of people is another" and that "freedom of expression cannot be used to commit crimes".<sup>1376</sup>

611. The State reported that the different phases of the process in question were carried out "with respect to the right to defense and other procedural prerogatives that the Constitution and the Secondary Law confer".<sup>1377</sup> In particular, they point out that Luis Alexander Rivas was informed of the accusation and of his rights and guarantees in court, at the time of being summoned by the court, on September 2; that he was able to appoint a private lawyer; that he appeared at the initial hearing accompanied by his lawyers, "with which the right to technical and material defense was guaranteed"; and that he was notified of the indictment order.<sup>1378</sup> Likewise, they indicated that after the term granted to post a bond had elapsed, without it having been made, it was decided that the accused remain in provisional detention.<sup>1379</sup>

612. Additionally, the State reported on the investigation and detention of six people for the alleged commission of computer crimes, on September 16.<sup>1380</sup> As the sState pointed out, preliminary investigations would indicate that these people received money to make "slandorous publications" through the Twitter account "El Comisionado", from where "the personal information of public figures, individuals and those linked to political parties were defamed and revealed".<sup>1381</sup> The authorities specified that the six detainees will be brought before the courts and will be charged with the crimes of using personal data and improper disclosure of data with personal information, regulated in articles 24 and 26 of the Special Law on Computer Crimes.<sup>1382</sup>

613. This Office wishes to highlight that both the IACHR and the Inter-American Court have declared that there is a fundamental incompatibility between the "contempt (*desacato*) laws" and the right to freedom of expression, as provided for in Article 13 of the American Convention on Human Rights. Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that "public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally

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<sup>1373</sup> Swissinfo. September 5, 2022. [Procesan penalmente en El Salvador a tuitero por desacato contra Bukele](#); AP. September 6, 2022. [El Salvador: Procesan a tuitero por ofender a Bukele](#).

<sup>1374</sup> El Faro. September 5, 2022. [Tuitero detenido con reglas del Régimen de Excepción es acusado de ofender al presidente Bukele](#); Gato Encerrado. September 5, 2022. [Tuitero es procesado por ofender al presidente Bukele](#).

<sup>1375</sup> AP. September 6, 2022. [El Salvador: Procesan a tuitero por ofender a Bukele](#); El Mundo. September 6, 2022. [Imputan dos delitos a tuitero conocido como "El Comisionado"](#); La Prensa Gráfica. September 6, 2022. [Fiscalía acusa de otro delito a Luis Rivas sin mayor información](#).

<sup>1376</sup> Twitter account of Rodolfo Delgado (@FiscalGeneralSV). [September 5, 2022](#).

<sup>1377</sup> Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

<sup>1378</sup> Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

<sup>1379</sup> Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

<sup>1380</sup> Office of the Attorney General of the Republic of El Salvador. September 16, 2022. [Fiscalía giró órdenes de captura contra personas que cometieron delitos informáticos](#); Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

<sup>1381</sup> Office of the Attorney General of the Republic of El Salvador. September 16, 2022. [Fiscalía giró órdenes de captura contra personas que cometieron delitos informáticos](#); Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

<sup>1382</sup> Office of the Attorney General of the Republic of El Salvador. September 16, 2022. [Fiscalía giró órdenes de captura contra personas que cometieron delitos informáticos](#); Mission of El Salvador to the OAS. MPOEA-OEA-172/2022. Report of the State of El Salvador to the Office of the Special Rapporteur for Freedom of Expression (SRFOE) of the Inter-American Commission on Human Rights on criminal proceedings for contempt (*desacato*) of a citizen following a publication on social networks.

known as "desacato laws," restrict freedom of expression and the right to information"<sup>1383</sup>. For the IACHR, the justifications on which contempt (*desacato*) laws are based –mainly, the protection of public officials against offensive and/or critical expressions, or the protection of public order– are not backed by the American Convention.<sup>1384</sup> In this sense, the Commission and its Office of the Special Rapporteur have understood that the "contempt (*desacato*) laws" are "in conflict with the conviction that freedom of expression and opinion is the cornerstone of all the liberties on which the United Nations are consecrated' and 'one of the most solid guarantees of modern democracy'".<sup>1385</sup>

614. This Office has previously indicated that "contempt (*desacato*) laws" are an illegitimate restriction of freedom of expression, because: (a) they do not respond to a legitimate objective under the American Convention; and (b) are not necessary in a democratic society.<sup>1386</sup> As the IACHR has stated, "the application of 'contempt (*desacato*) laws' to protect the honor of public officials who act in an official capacity unjustifiably grants them a right to protection that is not available to other members of society. This distinction directly inverts the fundamental principle of a democratic system that makes the government subject to controls, including scrutiny by the citizenry, to prevent or control the abuse of its coercive power. If it is considered that public officials who act in an official capacity are, for all intents and purposes, the government, then it is precisely the right of individuals and citizens to criticize and scrutinize the actions and attitudes of those officials with regard to the public function".<sup>1387</sup>

615. On the other hand, in 2022, the Office of the Special Rapporteur continued to follow up on the reports received on alleged restrictions on the right of access to public information. As indicated in the last annual report, in July 2021, the Executive branch presented to the Legislative Assembly a list of reforms to the law on access to public information that, according to the information reported, would drastically reduce the effectiveness of the current regulations and of the Institute for Access to Public Information (IAIP). This proposal was examined and approved by the Legislation and Constitutional Points Commission on January 31, 2022.<sup>1388</sup> According to public information, the favorable opinion was included in the agenda for February 1 to be submitted to a vote by the plenary session of the Legislative Assembly; However, pro-government legislators requested that this point be withdrawn from the agenda of the plenary session, so that it could return to the Commission on Legislation and Constitutional Points in order to "remain under study".<sup>1389</sup> The SRFOE welcomes this decision and reiterates that the laws on public information must guarantee effective and widest possible access to this right and, in case of contemplating exceptions, these must not become the general rule in practice.<sup>1390</sup> Likewise, the exceptions regime must be interpreted restrictively and any doubts must be resolved in favor of transparency and access.<sup>1391</sup>

616. Additionally, various civil society organizations have expressed their concern to the Inter-American Commission and its Office of the Special Rapporteur over the alleged lack of independence of the Institute for Access to Public Information (IAIP) of El Salvador, and over measures from the executive branch that would have as an objective to appoint and remove commissioners of the Institute according to political interests.<sup>1392</sup>

<sup>1383</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1384</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 136.

<sup>1385</sup> IACHR. Annual Report 1994. [Chapter V: Report on the Compatibility of Desacato Laws with the American Convention on Human Rights](#). Title III. OEA/Ser. L/V/II.88. doc. 9 rev. February 17, 1995.

<sup>1386</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 136.

<sup>1387</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 136.

<sup>1388</sup> Legislative Assembly, Republic of El Salvador. February 1, 2022. [Diputados emiten dictamen favorable para reformar la Ley de Acceso a la Información Pública](#).

<sup>1389</sup> El Diario de Hoy. February 1, 2022. [Asamblea Legislativa frena reforma que pretendía ocultar ingresos de funcionarios](#); El Faro. February 1, 2022. [Diferencias en el bukélismo frenan desmantelamiento de ley de información pública](#).

<sup>1390</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 48.

<sup>1391</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 48.

<sup>1392</sup> Radio Cadena YSKL. December 6, 2022. [2022 cierra con retrocesos en acceso a la información pública, consideran organizaciones](#); El Diario de Hoy. May 23, 2022. [Instituto de Acceso a la Información está "muerto", afirman expertos en transparencia](#); Acción Ciudadana. December 5, 2022. [Hay un contexto desafiante para la transparencia y la lucha contra la corrupción en El Salvador](#); El

Likewise, the Office of the Special Rapporteur has received reports indicating that there is resistance from the different State bodies in providing public information.<sup>1393</sup>

617. In this regard, a report by the organization Acción Ciudadana published in August 2022 that evaluated the performance of the IAIP in compliance with its legal obligations, concluded that there has been a decrease in resolutions on access to public information in favor of citizens, particularly evident as of November 2021, the date on which the current configuration of commissioners was consolidated.<sup>1394</sup> In this sense, the report indicated that "as of this date, the general tendency of the resolutions is oriented towards a significant reduction of pronouncements in favor of the applicant and a correlative increase in the preliminary rejections of their claims".<sup>1395</sup> As reported, the response levels favorable to access to information would have dropped from 60% to 19% between 2020 and 2021.<sup>1396</sup> In addition, the IAIP would have reduced the number of cases it hears and extended the time in which it resolves cases.<sup>1397</sup>

618. In this context, in October 2022 the IAIP declared itself incompetent to hear an appeal filed by the organization Acción Ciudadana against the refusal of the Supreme Electoral Tribunal to provide information related to the financing of political parties, despite the fact that in 2016 the Institute had recognized that the principle of maximum publicity was applicable to the financial information of the political parties that was in the possession of the entities obligated to comply with the law on access to public information (LAIP).<sup>1398</sup> Acción Ciudadana considered it "serious that the IAIP declares itself incompetent to hear this and future cases related to information from political parties, regardless of whether the information is in the possession of entities bound by the LAIP, creating an area exempt from control".<sup>1399</sup>

619. The SRFOE was also informed that, in the context of the state of exception, in June the National Civil Police had declared the number of homicides and victims of the crime of disappearance as confidential information, based on a request made by the *Gato Encerrado* media outlet.<sup>1400</sup> The institution would have based its refusal to deliver this information on the fact that it would put national defense and public security at risk, and could cause damage to the prevention, investigation, or prosecution of illegal acts.<sup>1401</sup> The same media outlet reported that, in response to a request for information made to the Office of the Attorney General of the Republic (FGR), the institution responded in May 2022 that it could not provide statistical data on complaints related to crimes of homicide, disappearance, rape, sexual assaults and violence against women, corresponding to the period of March and April, since they are "non-existent".<sup>1402</sup>

620. The Office of the Special Rapporteur has indicated that the right of access to information is a fundamental requirement to guarantee transparency in government management and on the part of state authorities, and a fundamental tool for citizen control of the functioning of the State and accountability.<sup>1403</sup> As the IACHR has interpreted, Article 13 of the American Convention includes the positive obligation of the State

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Diario de Hoy. August 8, 2022. [El IAIP está cooptado por Nuevas Ideas, afirma relator de expresión de APES](#); El Diario de Hoy. May 4, 2021. [Liduvina Escobar: "Bukele está haciendo un uso abusivo para remover comisionados del IAIP"](#); El Faro. July 19, 2021. [Gobierno Bukele busca sepultar el acceso a la información pública](#).

<sup>1393</sup> El Diario de Hoy. May 23, 2022. [Instituto de Acceso a la Información está "muerto", afirman expertos en transparencia](#); Acción Ciudadana. December 5, 2022. [Hay un contexto desafiante para la transparencia y la lucha contra la corrupción en El Salvador](#); Acción Ciudadana. August, 2022. [¿El IAIP a favor de los ciudadanos? Actualización 2022](#).

<sup>1394</sup> Acción Ciudadana. August, 2022. [¿El IAIP a favor de los ciudadanos? Actualización 2022](#).

<sup>1395</sup> Acción Ciudadana. August, 2022. [¿El IAIP a favor de los ciudadanos? Actualización 2022](#).

<sup>1396</sup> La Prensa Gráfica. December 6, 2022. [2022 fue año de desafíos para transparencia y lucha contra la corrupción](#); Acción Ciudadana. Agosto de 2022. [¿El IAIP a favor de los ciudadanos? Actualización 2022](#).

<sup>1397</sup> Acción Ciudadana. August, 2022. [¿El IAIP a favor de los ciudadanos? Actualización 2022](#).

<sup>1398</sup> La Prensa Gráfica. October 22, 2022. [IAIP rechazó recurso sobre finanzas de partidos políticos](#); Diario el Mundo. October 21, 2022. [IAIP rechaza apelación contra TSE por no informar de partidos políticos en El Salvador - Diario El Mundo](#); Acción Ciudadana. October 22, 2022. [Acción Ciudadana insta a la ciudadanía a exigirle a las instituciones públicas que respeten su derecho de acceso a la información](#);

<sup>1399</sup> Acción Ciudadana. October 22, 2022. [Acción Ciudadana insta a la ciudadanía a exigirle a las instituciones públicas que respeten su derecho de acceso a la información](#).

<sup>1400</sup> Gato Encerrado. June 21, 2022. [Policía reserva información sobre homicidios y personas desaparecidas](#).

<sup>1401</sup> Gato Encerrado. June 21, 2022. [Policía reserva información sobre homicidios y personas desaparecidas](#).

<sup>1402</sup> Gato Encerrado. June 14, 2022. [Fiscalía niega datos sobre delitos de violencia](#).

<sup>1403</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Paras. 4 and 5.



to allow citizens access to the information in its possession.<sup>1404</sup> In this regard, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression states that “[a]ccess to information [...] is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right”.<sup>1405</sup> For its part, the Inter-American Court has established that Article 13 of the American Convention, by expressly stipulating the rights to “seek” and “receive” “information”, protects the right of every person to access information under the control of the State, with the exceptions allowed under the strict regime of restrictions established in said instrument.<sup>1406</sup>

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

621. In the latest annual reports and in the country report on the human rights situation in El Salvador, the IACHR and its Office of the Special Rapporteur have warned about the specific risks faced by women journalists in the exercise of their profession in the country, due to their status as women.<sup>1407</sup> In 2022, this Office continued to receive reports on attacks and threats directed at women journalists, especially on occasions when state authorities make stigmatizing accusations individually against female reporters on social networks.<sup>1408</sup>

622. The Office of the Special Rapporteur observes that the attacks, intimidation, and stigmatizing accusations take on a particularly aggressive and differentiated tone when it comes to women, and have the objective of intimidating, delegitimizing, and silencing them.<sup>1409</sup> In a report carried out by *El Faro*, Karen Fernández commented that her decision to leave the program “Focos” was related, among other reasons, to the insults and threats she received from followers of the president and his party via Twitter, after the president questioned and disqualified her work on social networks.<sup>1410</sup> Likewise, Mariana Belloso, a journalist specializing in Economics and part of the group of journalists who would have been the target of espionage through Pegasus, recounted in the same report that in recent years she had to seek psychological support due to the intimidation she frequently received on social networks after high-ranking public officials referred to her in a stigmatizing way.<sup>1411</sup> The journalist also mentioned that she reported to the Association of Journalists of El Salvador (APES) suspicious monitoring after meeting with journalistic sources on at least two occasions, and surveillance outside her residence.<sup>1412</sup> Likewise, she pointed out that in January 2022 she had to go into exile from the country for her and her family’s safety.<sup>1413</sup> Up to now, the Office of the Special Rapporteur has

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<sup>1404</sup> I/A Court H.R., Case of Claude Reyes et al. v. Chile. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151, para. 58 a) and b).

<sup>1405</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1406</sup> I/A Court H.R., Case of Claude Reyes et al. v. Chile. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Paras. 76 y 78; I/A Court H.R., Case of López Álvarez v. Honduras. Merits, Reparations and Costs. Judgment of February 1, 2006. Series C No. 141. Para. 77; I/A Court H.R., Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107. Para. 108.

<sup>1407</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 28. March 30, 2021. Para. 579 et seq.; IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. May 26, 2022. Para. 407 et seq.; IACHR. [The Human Rights Situation in El Salvador](#). OEA/Ser.L/V/II. Doc. 278. October 14, 2021.

<sup>1408</sup> Due Process of Law Foundation (DPLF). January, 2022. [Mujeres periodistas en primera línea: Desafíos de la Libertad de Prensa en El Salvador](#); *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#); *El Diario de Hoy*. March 8, 2022. [Susana Peñate: “Solamente subí un video y empezó una gran cantidad de cuentas de Twitter a criticarme”](#); *El Diario de Hoy*. March 8, 2022. [Carmen Rodríguez: “Han circulado fotos más sacadas de contexto donde dicen: ‘se ofrece sexo gratis’”](#).

<sup>1409</sup> Due Process of Law Foundation (DPLF). January, 2022. [Mujeres periodistas en primera línea: Desafíos de la Libertad de Prensa en El Salvador](#); *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#); *El Diario de Hoy*. March 7, 2022. [A pesar de acosos y amenazas, mujeres periodistas dicen que no se callarán](#); Universidad para la Paz. December, 2021. [Seguridad de mujeres periodistas en El Salvador, Honduras y Nicaragua 2021](#).

<sup>1410</sup> *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#); *El Diario de Hoy*. March 7, 2022. [Karen Fernández: “Me decían: Ojalá las violen a vos y a tu mamá”](#); IACHR. [The Human Rights Situation in El Salvador](#). OEA/Ser.L/V/II. Doc. 278. October 14, 2021. Para. 316.

<sup>1411</sup> *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#); *El Diario de Hoy*. March 7, 2022. Mariana Belloso: [“Con este gobierno los insultos y los ataques vienen de los mismos funcionarios”](#); Due Process of Law Foundation (DPLF). January, 2022. [Mujeres periodistas en primera línea: Desafíos de la Libertad de Prensa en El Salvador](#). P. 38; APES. October 11, 2021. [Miembro de Nuevas Ideas insulta a periodista Mariana Belloso](#).

<sup>1412</sup> *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#).

<sup>1413</sup> *El Faro*. July 27, 2022. [El bukélismo se enseña con las mujeres periodistas](#).

not registered messages rejecting the threats and intimidation against journalists by the Head of State or high-ranking officials, nor emphatic and forceful calls to stop these practices.

623. Likewise, the organization IM Defensoras warned that the risks surrounding the reports of illegal surveillance of communications against journalists and human rights defenders in El Salvador is especially worrying for women and LGBTQI+ people.<sup>1414</sup> As they pointed out in February 2022, in the last year alone, they issued six alerts related to digital violence against women human rights defenders, in which they reported intimidation and stigmatization, death threats against trans women and feminist collectives, digital harassment, and use of data extracted from personal accounts, among others.<sup>1415</sup>

624. The State of El Salvador has reported on the adoption of laws that seek to guarantee the rights of women, such as the Comprehensive Special Law for a Life Free from Violence for Women and the Law on Equality, Equity, and Eradication of Discrimination against Women.<sup>1416</sup> As indicated by the State, these laws have created public policy tools for the detection, prevention, care, protection, reparation, and punishment of violence against women, also providing a protection framework for women journalists.<sup>1417</sup>

625. Likewise, the authorities reported that the Institute for Access to Public Information is working on specific actions aimed at empowering women, with the aim of contributing –from transparency and access to information– to eliminating gender-based inequalities.<sup>1418</sup> Some actions carried out include the articulation of the "Network of Women for Transparency and Access to Information", in which various civil society organizations participate; and participation in the project "Incorporation of the gender approach in transparency policies and access to public information in Latin America", carried out by the Transparency and Access to Information Network.<sup>1419</sup>

626. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women, LGBTQI+ people, or indigenous peoples. The inter-American system grants reinforced protection to those speeches that express constitutive elements of the personal identity or dignity of those who express themselves<sup>1420</sup> and, therefore, the Office of the Special Rapporteur invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to tune institutional practices to the reinforced protection of this type of speech.

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

627. In 2022, this Office became aware of legal reforms that could have a detrimental impact on the right to freedom of expression and privacy of individuals. In February, the National Assembly of El Salvador approved reforms to the Criminal Procedure Code that would allow the carrying out of "undercover digital operations" in the investigation process of the crimes contained in the Special Law Against Computer and Related Crimes or other content in special criminal laws.<sup>1421</sup> According to public information, the new

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<sup>1414</sup> IM Defensoras. February 8, 2022. [\[Alerta Urgente\] EL SALVADOR / Inclusión de la figura del "agente encubierto digital" en el Código Procesal Penal supone grave amenaza para las defensoras de derechos humanos.](#)

<sup>1415</sup> IM Defensoras. February 8, 2022. [\[Alerta Urgente\] EL SALVADOR / Inclusión de la figura del "agente encubierto digital" en el Código Procesal Penal supone grave amenaza para las defensoras de derechos humanos.](#)

<sup>1416</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 6.

<sup>1417</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 6.

<sup>1418</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 8.

<sup>1419</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 8.

<sup>1420</sup> IACHR. [Inter-American legal framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

<sup>1421</sup> Legislative Assembly, Republic of El Salvador. February 1, 2022. [Decree No. 280](#).



regulations would grant powers to the Police to carry out "undercover digital operations", with the authorization of the Attorney General's Office.<sup>1422</sup> Likewise, the reform would authorize the Police to "carry out the search through the Information and Communication Technologies of an open or public nature, including Internet pages, and of digital evidence that constitutes the computerized punishable act or that can serve as evidence for the investigation", through computer programs that allow them to identify the unique identifying values of such digital evidence, or through the search or free inquiry in such virtual computer spaces".<sup>1423</sup>

628. These reforms were criticized by civil society and human rights organizations, who pointed out that they could lead to "abuse and arbitrariness" by the Prosecutor's Office and the Police, including spying on journalists and activists.<sup>1424</sup> In this regard, from the Journalist Protection Board, made up of various civil society organizations and the Human Rights Ombudsman, they questioned that their positions were not taken into account, despite the fact that journalists would be directly affected by the reform.<sup>1425</sup>

629. On the other hand, the president of the Security Commission of the Legislative Assembly assured that it is a matter that, "in the face of such a high number of complaints", requires attention and prompt action.<sup>1426</sup> In this sense, he stated that "the figure of digital undercover agent is a procedure that has always been used with the aim of seizing evidence and making it available to the authorities", therefore "there is no persecution or espionage, only the fight against crime".<sup>1427</sup>

630. In the framework of the 183° Period of Sessions of the IACHR, when consulted on this matter, the representation of the State highlighted that the figure of the undercover agent already existed in the Code of Criminal Procedure, and that the reform in question consisted of transferring said figure to digital operations, exclusively for the use of investigative techniques.<sup>1428</sup> He also pointed out that it is not a provision that can be used for espionage.<sup>1429</sup>

631. On the other hand, this Office has learned of reports on the existence of networks of coordinated inauthentic behavior (also known as "troll farms") and of strategies for manipulating public debate in El Salvador, allegedly linked to the presidential office.<sup>1430</sup> According to the information received, the government hired people to form part of "troll farms" in charge of manipulating political discourse in El Salvador.<sup>1431</sup> Part of their job would consist of amplifying messages from the president, creating fictitious followers of the head of state on social networks so that they praise his policies, and insulting and ridiculing people perceived as critical or hostile to the government administration and the president -even presenting complaints about their posts on the platforms, with the aim of getting their accounts closed-.<sup>1432</sup> The Reuters news agency published

<sup>1422</sup> Legislative Assembly, Republic of El Salvador. February 1, 2022. [Decree No. 280](#).

<sup>1423</sup> Legislative Assembly, Republic of El Salvador. February 1, 2022. [Decree No. 280](#).

<sup>1424</sup> Swiss Info. February 1, 2022. [HRW señala preocupación por reforma a ley salvadoreña de delitos informáticos](#); La Prensa Gráfica. February 12, 2022. [Organizaciones critican creación de agentes digitales encubiertos](#); El Faro. December 12, 2022. [Asamblea abre la puerta al espionaje a ciudadanos con "agentes encubiertos digitales"](#).

<sup>1425</sup> Twitter account of El Faro (@elfaro\_). [January 31, 2022](#).

<sup>1426</sup> AP News. February 1, 2022. [El Salvador aprueba el uso de agentes encubiertos digitales](#); France 24. February 2, 2022. [El Salvador autoriza operaciones digitales encubiertas para investigar delitos](#); El Mundo. 1 de febrero de 2022. [Aprobado decreto que autoriza agentes encubiertos digitales](#).

<sup>1427</sup> AP News. February 1, 2022. [El Salvador aprueba el uso de agentes encubiertos digitales](#); France 24. February 2, 2022. [El Salvador autoriza operaciones digitales encubiertas para investigar delitos](#); El Mundo. February 1, 2022. [Aprobado decreto que autoriza agentes encubiertos digitales](#).

<sup>1428</sup> IACHR. March 16, 2022. 183° Period of Sessions. [Audencia No. 11La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador](#).

<sup>1429</sup> IACHR. March 16, 2022. 183° Period of Sessions. [Audencia No. 11La situación de los derechos humanos en el contexto de la vigilancia cibernética en El Salvador](#).

<sup>1430</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#); The New Yorker. September 5, 2022. [The Rise of Nayib Bukele, El Salvador's Authoritarian President](#); Washington Office on Latin America (WOLA). August 24, 2022. [Press Freedom Under Siege in Central America](#); International Crisis Group. July 13, 2020. [All the President's Trolls: Real and Fake Twitter Fights in El Salvador](#).

<sup>1431</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#); The New Yorker. September 5, 2022. [The Rise of Nayib Bukele, El Salvador's Authoritarian President](#); Washington Office on Latin America (WOLA). August 24, 2022. [Press Freedom Under Siege in Central America](#); International Crisis Group. July 13, 2020. [All the President's Trolls: Real and Fake Twitter Fights in El Salvador](#).

<sup>1432</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#); The New Yorker. September 5, 2022. [The Rise of Nayib Bukele, El Salvador's Authoritarian President](#); Washington Office on Latin America (WOLA). August

a special report on the subject, in which it claimed to have spoken to three people who were employed by the government to work on troll farms.<sup>1433</sup> In this regard, the outlet pointed out that two of these employees claimed to have signed confidentiality agreements.<sup>1434</sup> It also specified that the contract to which they had access provided that the people hired could be subject to prosecution and a prison sentence of up to six years if they spoke to the press or with other political parties about their work.<sup>1435</sup>

632. Along these lines, in April of this year, the company Meta reported that it had removed 233 Facebook accounts, 84 pages, two groups, and 27 Instagram accounts for violating the policy against inauthentic behavior coordinated in El Salvador and Costa Rica.<sup>1436</sup> According to the company, the people behind this activity used fake accounts to manage pages that posed as media outlets, posted memes, commented on their own and other people's content, tried to attract people to domains outside of the platform, and amplified the content of pages of politicians and local companies.<sup>1437</sup> The Meta report also specified that the messages posted by the network were directed at "both sides of the political spectrum, including in support of competing candidates," and that some of the accounts had profiles probably generated through artificial intelligence techniques.<sup>1438</sup>

633. Faced with the aforementioned facts, this Office recalls that, as stated in the Joint Declaration of Special Rapporteurs of 2021, States have the obligation to "not participate in or finance coordinated inauthentic behaviors or other online influence operations that aim to influence the opinions or attitudes of the public or a section of the public for partisan political purposes".<sup>1439</sup>

634. Finally, in terms of connectivity and digital affordability, this Office was informed of the approval, by the Legislative Assembly, of the financing for the execution of the Social Digital Connectivity Program, promoted by the executive branch.<sup>1440</sup> The legislative body stressed its commitment to reduce the digital divide and improve access to connectivity in the country, and reported that the program will be executed by the Secretary of Innovation of the Presidency of the Republic and that it aims to train teachers, students, and medical staff to improve their digital skills.<sup>1441</sup>

635. The State of El Salvador has informed this Office about the "Links to Education" program, which aims to "close the digital divide in the public education system and achieve digital inclusion in all sectors of the country".<sup>1442</sup> For this, according to what they indicated, the program provides for the delivery of laptops for public school students.<sup>1443</sup> The authorities specified that, as of July 2022, a total of approximately 1,068,000 technological equipment would have been delivered nationwide.<sup>1444</sup>

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24, 2022. [Press Freedom Under Siege in Central America](#); International Crisis Group. July 13, 2020. [All the President's Trolls: Real and Fake Twitter Fights in El Salvador](#).

<sup>1433</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#).

<sup>1434</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#).

<sup>1435</sup> Reuters. November 29, 2022. [Trolls, propaganda and fear stoke Bukele's media machine in El Salvador](#).

<sup>1436</sup> Meta. April, 2022. [Detailed Report: Adversarial Threat Report](#). P. 13 and 14.

<sup>1437</sup> Meta. April, 2022. [Detailed Report: Adversarial Threat Report](#). P. 13 and 14.

<sup>1438</sup> Meta. April, 2022. [Detailed Report: Adversarial Threat Report](#). P. 13 and 14.

<sup>1439</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [2021 Joint Declaration on Politicians, Public Officials, and Freedom of Expression](#).

<sup>1440</sup> Legislative Assembly, Republic of El Salvador. April 19, 2022. [Órgano Legislativo avala crédito para financiar Programa de Conectividad Digital](#).

<sup>1441</sup> Legislative Assembly, Republic of El Salvador. April 19, 2022. [Órgano Legislativo avala crédito para financiar Programa de Conectividad Digital](#).

<sup>1442</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P. 1 and 2.

<sup>1443</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P.2.

<sup>1444</sup> Permanent Mission of El Salvador to the OAS. MPOEA-OEA-150/022. September 7, 2022. Contributions of the State of El Salvador to the public consultation of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the closure of civic space in the Americas. P.2.

636. The SRFOE has pointed out that the digital divide reinforces the pre-existing inequalities suffered by groups of people in situations of vulnerability. In this sense, the Office encourages the State to continue taking actions to promote, progressively, universal access to the Internet infrastructure and the necessary technology for the use and benefit of citizens.<sup>1445</sup>

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<sup>1445</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and Internet](#). OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. December 31, 2013. Para. 15

## UNITED STATES

637. In 2022, the Office of the Special Rapporteur registered an improvement in the number of incidents against the media in the country compared to the two years prior. However, this Office continued to observe aggressions against journalists, particularly in the framework of social protest; the majority of the aggressions documented by this Office this year took place in the context of protests over the overturning of *Roe v. Wade* and the demonstrations in Puerto Rico over the power outages on the island. Over the course of the year, the Office of the Special Rapporteur learned of the murder of at least two American journalists: Brent Renaud, who lost his life making a documentary about refugees in Ukraine, and Jeff German, fatally attacked for his investigations into an elected official in the state of Nevada. The Office of the Special Rapporteur was also informed of a knife attack on writer Salman Rushdie in the state of New York, leaving him with severe health problems. The Office of the Special Rapporteur welcomes the conviction of close to 10 individuals for attacking members of the media during the riot on January 6, 2021. This Officer urges the State to continue with the corresponding investigations to punish those responsible for the attacks on at least 15 more journalists on that day. In 2022, the Office of the Special Rapporteur registered with concern the increase in book censorship in the country, particularly in schools and public libraries. Likewise, this Office learned of legislative initiatives seeking to limit teaching and discussion of issues like sexual orientation, gender identity, and structural racism. Lastly, the Office of the Special Rapporteur learned of incidents of disinformation during the midterm elections, documenting alleged failures by some social media networks to flag misleading posts. In this context, this Office was also informed of an increase in hate speech on Twitter and the reinstatement of suspended accounts after the company was acquired by multibillionaire Elon Musk. The Rapporteurship thanks the Permanent Mission of the United States to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

638. The Office of the Special Rapporteur observed a substantial decline in the number of incidents against the media in the United States. As of the date of the drafting of this annual report, and according to figures reported by the U.S. Press Freedom Tracker, there were 12 arrests of journalists; 37 assaults on members of the media; 3 chilling statements; 10 incidents of denial of access; 8 incidents of equipment damage; 5 incidents of equipment search or seizure; 2 incidents of prior restraint; and 23 subpoenas or legal orders. In total, at least 111 incidents against journalists and the media were reported.<sup>1446</sup> That is compared to at least 313 incidents in 2021 and 1,006 in 2020.<sup>1447</sup> The Inter-American Press Association (IAPA) agreed with this diagnosis, finding that, in general, “on-the-job arrests and attacks on journalists are down this year from 2021 and 2020.”<sup>1448</sup>

639. In 2022, the Office of the Special Rapporteur documented the murder of an American journalist for reasons that could be related to his work. According to the information received, on September 3, 2022, investigative journalist Jeff German of the *Las Vegas Review-Journal* was stabbed to death in front of his home.<sup>1449</sup> A local Clark County elected official was reportedly charged with the murder after authorities found his DNA at the scene.<sup>1450</sup> According to public information, German had published a story detailing allegations of mismanagement and hostility in the office run by the alleged murderer; the elected official was arrested and charged by the authorities. He was not granted bail.<sup>1451</sup> German’s more than two decades of journalism work was recognized for exposing irregularities and incidents of corruption in Las Vegas. According to public

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<sup>1446</sup> U.S. Press Freedom Tracker. November 27, 2022. [Incident Database](#).

<sup>1447</sup> U.S. Press Freedom Tracker. November 27, 2022. [Incident Database](#).

<sup>1448</sup> Inter-American Press Association. October 26, 2022. [78th General Assembly. Reports: United States](#).

<sup>1449</sup> CNN. September 9, 2022. [Slain Las Vegas reporter took on mobsters and corruption in an ink-stained life](#); *USA Today*. September 13, 2022. [Reporter Jeff German confronted the power players of Sin City. It may have gotten him killed](#); *Columbia Journalism Review*. September 12, 2022. [The killing of Jeff German](#).

<sup>1450</sup> CNN. September 9, 2022. [Slain Las Vegas reporter took on mobsters and corruption in an ink-stained life](#); *USA Today*. September 13, 2022. [Reporter Jeff German confronted the power players of Sin City. It may have gotten him killed](#); *Columbia Journalism Review*. September 12, 2022. [The killing of Jeff German](#).

<sup>1451</sup> CNN. September 9, 2022. [Slain Las Vegas reporter took on mobsters and corruption in an ink-stained life](#); *USA Today*. September 13, 2022. [Reporter Jeff German confronted the power players of Sin City. It may have gotten him killed](#); *Columbia Journalism Review*. September 12, 2022. [The killing of Jeff German](#).

information, German was the ninth journalist based in the United States to be assassinated in the course of his work in the last three decades.<sup>1452</sup>

640. The Office of the Special Rapporteur also documented violence against American journalists in the context of the Russian invasion of Ukraine. In this context, the Office of the Special Rapporteur learned of the murder of American journalist Brent Renaud in March 2022. According to the information available, the journalist was murdered by Russian soldiers in the Ukrainian city of Irpin.<sup>1453</sup> The Office of the Special Rapporteur also learned that a Colombian-American journalist, Juan Arredondo, was injured in the fighting.<sup>1454</sup> Both journalists were victims of an armed attack as they traveled in an automobile from Kiev to Irpin after passing a checkpoint. They were on their way to film civilians fleeing the combat. According to public information, Renaud was the first foreign journalist killed in Russia's offensive in Ukraine.<sup>1455</sup>

641. In mid-August 2022, the Office of the Special Rapporteur was informed that writer Salman Rushdie was attacked with a knife as he was preparing to give a talk at an institution in the southeastern part of the state of New York. According to the information received by this Office, on August 12, a 24-year-old man ran to the stage where Rushdie was and stabbed him. The writer's agent stated at the end of October that as a result of his injuries, the writer had lost vision in one eye and mobility in one hand.<sup>1456</sup> Rushdie has been persecuted by Islamic fundamentalists for more than three decades over his novel *The Satanic Verses*, published in 1988. The novelist was forced to hide for more than 10 years and sought refuge in the United States following the issuing of a decree in Iran in 1989 offering a million-dollar reward for his head.<sup>1457</sup> The perpetrator of this attack on Rushdie was captured by authorities at the scene of the facts and turned him over to the justice system. He was charged with attempted murder and assault and was denied bail.<sup>1458</sup>

642. The Office of the Special Rapporteur reiterates that acts of violence against journalists is the most extreme form of censorship and has a threefold effect: They violate the right of victims to express and disseminate their ideas, opinions and information; they have a chilling and silencing effect on their peers; and they violate the right of citizens and society in general to seek and receive information and ideas of any kind. Their consequences for democracy—which depends on the free, open and dynamic exchange of ideas and information—are particularly serious.<sup>1459</sup>

643. Despite the fact that, according to international organizations, attacks on journalists decreased in the country in 2022, they still occurred, especially during coverage of protests.<sup>1460</sup>

644. During the protests triggered by the decision of the Supreme Court to overturn *Roe v. Wade* (1973), the Office of the Special Rapporteur documented at least nine attacks on members of the media.<sup>1461</sup> According to the information received by this Office, eight of these attacks took place on June 24, 2022, in the city of Los Angeles, California. The reports received indicate that reporter Lexis-Olivier Ray, with news site *L.A. Taco*, was repeatedly shoved by police officers while documenting the dispersal of a group of demonstrators; Ray and his

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<sup>1452</sup> Inter-American Press Association. October 26, 2022. [78th General Assembly. Reports: United States](#).

<sup>1453</sup> *The New York Times*. March 13, 2022. [Brent Renaud, an American Journalist, Is Killed in Ukraine](#); CNN. March 14, 2022. [Tributes paid to US journalist shot dead in Ukraine](#); *El País de España*. May 22, 2022. [Juan Arredondo, fotógrafo herido en Ucrania: "Me dije: ya, aquí me morí, no puedo hacer nada"](#).

<sup>1454</sup> *The New York Times*. March 13, 2022. [Brent Renaud, an American Journalist, Is Killed in Ukraine](#); CNN. March 14, 2022. [Tributes paid to US journalist shot dead in Ukraine](#); *El País de España*. May 22, 2022. [Juan Arredondo, fotógrafo herido en Ucrania: "Me dije: ya, aquí me morí, no puedo hacer nada"](#).

<sup>1455</sup> *The New York Times*. March 13, 2022. [Brent Renaud, an American Journalist, Is Killed in Ukraine](#); CNN. March 14, 2022. [Tributes paid to US journalist shot dead in Ukraine](#); *El País de España*. May 22, 2022. [Juan Arredondo, fotógrafo herido en Ucrania: "Me dije: ya, aquí me morí, no puedo hacer nada"](#).

<sup>1456</sup> BBC. October 23, 2022. [Salman Rushdie perdió un ojo y la movilidad de una mano en el ataque que sufrió en agosto, según su agente](#); *Al Jazeera*. August 12, 2022. [Author Salman Rushdie on ventilator after attack in New York](#).

<sup>1457</sup> BBC. October 23, 2022. [Salman Rushdie perdió un ojo y la movilidad de una mano en el ataque que sufrió en agosto, según su agente](#); *Al Jazeera*. August 12, 2022. [Author Salman Rushdie on ventilator after attack in New York](#).

<sup>1458</sup> NBC News. August 13, 2022. [Suspect in Salman Rushdie attack charged with attempted murder and assault](#); CBC. August 18, 2022. [U.S. judge denies bail for man accused in attack on author Salman Rushdie](#).

<sup>1459</sup> IACHR. 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. CIDH/RELE/INF.12/13. Para. 287.

<sup>1460</sup> Inter-American Press Association. October 26, 2022. [78th General Assembly. Reports: United States](#).

<sup>1461</sup> Inter-American Press Association. October 26, 2022. [78th General Assembly. Reports: United States](#); U.S. Press Freedom Tracker. November 27, 2022. [Incident Database](#).



colleague Joey Scott reportedly identified themselves as journalists and carried proper identification. However, they were repressed by the agents in question.<sup>1462</sup> Likewise, the reports received indicate that, through a technique known as kettling, in which the police corral a crowd before making mass arrests, independent videographer Sean Beckner-Carmitchel was shoved and detained for 30 to 45 minutes.<sup>1463</sup> Additionally, reporter Samuel Braslow from the *Beverly Hills Courier* was reportedly shoved by police officers.<sup>1464</sup> Minutes earlier, freelance journalist Tina-Desiree Berg of *Status Coup News* was also reportedly pushed and knocked violently to the ground by an officer; Berg showed the officer her press credentials, which hung around her neck, when she got up from the ground.<sup>1465</sup> The information received also indicates that independent photojournalist Jake Lee Green was attacked while photographing demonstrations. The photojournalist wore a number of insignias identifying him as media during the coverage, and while he was recording with his camera mounted on his shoulder, he was struck in the ribs with a nightstick.<sup>1466</sup> Another freelance videographer, Vishan Singh, was reportedly temporarily detained and assaulted by police officers while covering the demonstrations. The videographer reportedly claimed to have observed police officers armed with crowd control weapons.<sup>1467</sup> Finally, this Office recorded that a director of photography for documentary and feature film projects, who did not reveal her full name, was detained after accompanying her colleague Berg when she was violently knocked to the ground.<sup>1468</sup>

645. Additionally, in Portland, Oregon, the Office of the Special Rapporteur learned of a ninth communicator who was attacked while reporting on the protests triggered by the overturning of *Roe v. Wade* (1973). Information received by this Office indicates that on June 24, 2022, independent video journalist Mason Lake was attacked by a group of people dressed completely in black. Lake, who was wearing a vest labeled “press,” was reportedly knocked down when these persons pushed him from behind, causing him to drop the phone with which he was streaming the protests. After getting up and grabbing his device, the video journalist was threatened by the subjects, who told him to leave the event.<sup>1469</sup>

646. Additionally, according to information published by the Press Freedom Tracker, three journalists were arrested on June 25 in Phoenix, Arizona, while they were covering protests over reproductive rights around the state capital.<sup>1470</sup> The information reported indicated that photojournalist Alberto Mariani and his colleagues Joel Angel Juárez and Antranik Taivtian were detained by authorities after some demonstrators knocked down some fences near the state capital, triggering the authorities guarding the site to take repressive actions.<sup>1471</sup> A spokesperson for the police said the journalists were in a restricted area, but that once they identified themselves as journalists with their credentials, they were released without incident.<sup>1472</sup> The Press Freedom Tracker also reported that photographer Jack Sorgi, with *LLN Arizona*, had also been detained by Arizona state troopers.<sup>1473</sup> According to Sorgi, the state troopers had announced that the gathering of demonstrators around the capital in Phoenix was an illegal assembly, and the troopers therefore moved to repress those present. The photographer, who was wearing a T-shirt with the word “media” on the front and back, reportedly said he was a journalist, to which an officer reportedly replied “I don’t care what your pass

<sup>1462</sup> U.S. Press Freedom Tracker. November 27, 2022. [Journalist repeatedly shoved while covering LA reproductive rights protest](#); Twitter account of Lexis-Olivier (@ShotOn35mm). [June 24, 2022](#).

<sup>1463</sup> U.S. Press Freedom Tracker. June 24, 2022. [Independent videographer detained while documenting LA reproductive rights protest](#); Twitter account of Sean Beckner-Carmitchel. [June 25, 2022](#).

<sup>1464</sup> U.S. Press Freedom Tracker. June 24, 2022. [Independent videographer detained while documenting LA reproductive rights protest](#); Twitter account of Samuel Braslow (@SamBraslow). [June 24, 2022](#); Twitter account of Sean Beckner-Carmitchel. [June 25, 2022](#).

<sup>1465</sup> Twitter account of Samuel Braslow (@SamBraslow). [June 24, 2022](#); Twitter account of Sean Beckner-Carmitchel. [June 25, 2022](#); Twitter account of Tina Desiree Berg (@TinaDesireeBerg). [June 25, 2022](#); U.S. Press Freedom Tracker. August 24, 2022. [Journalist struck, shoved to ground while documenting LA protests on reproductive rights](#).

<sup>1466</sup> U.S. Press Freedom Tracker. June 24, 2022. [Photojournalist struck with police batons while covering reproductive rights protests in LA](#); Twitter account of Jake Lee Green (@AeonPhotoCo). [June 26, 2022](#).

<sup>1467</sup> U.S. Press Freedom Tracker. June 24, 2022. [Videographer assaulted, detained while covering reproductive rights protests in LA](#);

<sup>1468</sup> U.S. Press Freedom Tracker. June 24, 2022. [Cinematographer detained while documenting LA reproductive rights protest](#).

<sup>1469</sup> U.S. Press Freedom Tracker. June 24, 2022. [Video journalist assaulted at reproductive rights demonstrations in Portland](#); Twitter account of Mason Lake Media (@MasonLakePhoto). [June 24, 2022](#).

<sup>1470</sup> U.S. Press Freedom Tracker. June 25, 2022. [Arizona Republic photographer detained while documenting protests](#).

<sup>1471</sup> U.S. Press Freedom Tracker. June 25, 2022. [Arizona Republic photographer detained while documenting protests](#).

<sup>1472</sup> U.S. Press Freedom Tracker. June 25, 2022. [Arizona Republic photographer detained while documenting protests](#).

<sup>1473</sup> Twitter account of Jack Sorgi (@LLN\_Jack). [June 26, 2022](#); U.S. Press Freedom Tracker. June 25, 2022. [Photographer documenting reproductive rights protests detained at Arizona Capitol](#).



says.” Sorgi had to throw himself to the ground on police orders.<sup>1474</sup> Finally, the Office of the Special Rapporteur was also informed that photographer Michael González, Sorgi's colleague at *LLN Arizona*, had been detained by the same officers. The photographer's version states that the officers asked all those present in the vicinity of the capitol to get on the ground. Initially, González knelt down showing his press pass and, according to what he reported, an officer yelled at him to lie down completely.<sup>1475</sup>

647. In the framework of protests in Puerto Rico toward the end of August 2022 over constant power outages and increases in energy costs, the Office of the Special Rapporteur learned of at least three instances in which journalists were attacked while reporting.<sup>1476</sup> On August 25, this Office learned that photojournalist Juan R. Costa, with *NotiCel*, had been attacked by multiple police officers. Initially, a police officer sprayed demonstrators and a group of reporters with pepper spray. Although only Costa's camera was covered with the chemical irritant, it also landed on another independent journalist present at the scene: Carlos Edil Berríos Polanco. Berríos Polanco was sprayed with the gas even though he was wearing a helmet with the word “press” on it and had his journalism credential hung around his neck.<sup>1477</sup> According to public information, immediately afterward, another police officer struck Costa, after which two officers told him to move, even after he showed his press credentials.<sup>1478</sup> Lastly, according to the information available, a third assault took place, in this case of reporter Diego Berríos with student website *Pulso Estudiantil*. Like the other journalists present, a group of officers approached him to get him to leave the area. Although he retreated, the student reporter said he was shoved and hit in the arm with a nightstick, with the result that the telephone he was using to record the incidents was partially broken after falling to the ground.<sup>1479</sup> The Office of the Special Rapporteur learned that as a result of these facts, the Puerto Rican police committed to investigating the attacks on the media reported, and the head of the police apologized to one of the journalists assaulted.<sup>1480</sup>

648. The Office of the Special Rapporteur reiterates that States have a duty to adopt the measures necessary to prevent acts of violence, guaranteeing the safety of persons and public order. However, when using force in these contexts, States must adopt proportional measures to achieve these objectives and not arbitrarily block the exercise of the rights in play during protests.<sup>1481</sup> In this sense, this Office recalls that communicators must not be detained for doing their work, nor should they be harassed or attacked by security forces. On the contrary, security forces have a duty to protect them when they are the victims of acts of violence at the hands of third parties. Their equipment and materials cannot be confiscated, seized, or destroyed.<sup>1482</sup> Likewise, the Office of the Special Rapporteur recalls that, in contexts of social protest, States must refrain from carrying out mass, collective, or indiscriminate arrests.<sup>1483</sup>

649. In general and given the importance of the work done by journalists who cover social protests, this Office recalls that the State must afford them the highest degree of protection in order for them to perform their duties. This obligation is not limited to granting specific protective measures to journalists; it also includes the duty to create the necessary conditions to mitigate the risks of practicing their profession in such situations.<sup>1484</sup>

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<sup>1474</sup> Twitter account of Jack Sorgi (@LLN\_Jack). [June 26, 2022](#); U.S. Press Freedom Tracker. June 25, 2022. [Photographer documenting reproductive rights protests detained at Arizona Capitol](#).

<sup>1475</sup> U.S. Press Freedom Tracker. June 25, 2022. [Photographer documenting reproductive rights protests detained at Arizona Capitol](#).

<sup>1476</sup> Inter-American Press Association. October 26, 2022. [78th General Assembly. Reports: United States](#); *Columbia Journalism Review*. September 22, 2022. Blackouts in Puerto Rico. Again.

<sup>1477</sup> U.S. Press Freedom Tracker. August 25, 2022. [Independent journalist pepper-sprayed covering protests in Puerto Rico](#); *Latino Rebels*. August 26, 2022. [Journalists, Protesters Attacked by Police at LUMA Protest in Puerto Rico](#); Twitter account of Carlos (@Vaquero2XL). [August 26, 2022](#).

<sup>1478</sup> Twitter account of Angelica Serrano-Román (@angelicaserran0). [August 25, 2022](#); Twitter account of Juan R. Costa (@NotiJuan). [August 26, 2022](#); U.S. Press Freedom Tracker. August 25, 2022. [NotiCel photojournalist assaulted by police while covering protests in Puerto Rico](#).

<sup>1479</sup> U.S. Press Freedom Tracker. August 25, 2022. [Student journalist hit with police baton, pepper-sprayed at Puerto Rico protest](#); Twitter account Pulso Estudiantil (@ESTPulse). [August 25, 2022](#).

<sup>1480</sup> *NBC News*. August 26, 2022. [Puerto Rico will investigate any use of force during protests over power company](#); *WFLA*. August 26, 2022. [“La policía es amiga de la prensa”: Comisionado habla sobre agresión a periodista en protestas contra LUMA en Puerto Rico](#).

<sup>1481</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 12.

<sup>1482</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 356.

<sup>1483</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19. September 2019. Para. 138, 229.

<sup>1484</sup> OAS, UN. Joint declaration on violence against journalists and media workers in the context of protests. 2013.

650. Additionally, the Office of the Special Rapporteur learned that journalists who traveled en masse to Uvalde, Texas, to cover the latest mass school shooting toward the end of May faced repeated incidents of interference, intimidation, and obstruction by authorities and members of the community.<sup>1485</sup> This Office received reports indicating that the authorities had blocked access to and the flow of information on the tragedy by threatening to arrest a group of journalists in the school district office for "trespassing" on public property.<sup>1486</sup> According to reports, the authorities parked their official vehicles in front of journalists' cameras to block them from taking photographs or recording footage.<sup>1487</sup> This Office was also informed that unidentified motorcyclists had harassed photographers and reporters, claiming that the police had supposedly asked them for help in this way.<sup>1488</sup> The Office of the Special Rapporteur was also informed that the local police had refused for several days to share information with journalists on what had taken place.<sup>1489</sup>

651. The Office of the Special Rapporteur recalls that authorities must guarantee journalists the highest degree of protection.<sup>1490</sup> Likewise, this Office reiterates that States must not respond to crisis situations by placing additional restrictions on freedom of expression, except where strictly justified by the situation and international human rights law.<sup>1491</sup>

652. Additionally, the Office of the Special Rapporteur documented progress on the prosecutions brought against those who attacked journalists during the taking of the capital of the United States on January 6, 2021. This Office learned that at least 18 journalists had been attacked during the riots that broke out that day.<sup>1492</sup> This Office also documented dozens of thousands of dollars in news equipment damaged as a result of the attacks on the media.<sup>1493</sup> As of the closing date of this annual report, the Justice Department had indicted nearly 900 people for illegal activities at the Capitol in January 2021, 10 of who directly attacked a member of the media or destroyed some of their equipment.<sup>1494</sup>

653. Specifically, this Office received reports of charges brought over the attacks on three journalists: John Minchillo, an *AP* photojournalist; Erin Schaff, a *New York Times* photographer; and a *Reuters* cameraperson whose name is unknown.<sup>1495</sup>

654. However, the information received by the Office of the Special Rapporteur indicates that charges have not yet been brought over the attacks on at least 15 other journalists: Amanda Andrade-Rhodes of *The Washington Post*; Douglas Christian of *The Independent*; Lisa Desjardins, a correspondent for *PBS NewsHour*; Nate Gowdy of *The Independent*; John Harrington of *The Independent*; Anymann Ismail, a reporter for *Slate*; Vincent Jolly, reporter for *Le Figaro*; Chris Jones, photojournalist for *100 Days in Appalachia*; Christopher Lee of *Time Magazine*; Ronnie McCray, *CNN* photojournalist; Christopher Morris, freelance journalist; Chris Olson, *VICE News* cameraman; Manu Raju, senior congressional correspondent for *CNN*; Ben Solomon, international

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<sup>1485</sup> *The Washington Post*. June 28, 2022. [Journalists in Uvalde are stonewalled, hassled, threatened with arrest](#); *Houston Chronicle*. June 2, 2022. [Funerals for children killed in mass shooting continue in grieving Uvalde as police, bikers block press](#).

<sup>1486</sup> Twitter account of Shimon Prokopez (@ShimonPro). June 1, 2022. *The Washington Post*. June 28, 2022. [Journalists in Uvalde are stonewalled, hassled, threatened with arrest](#); Committee to Protect Journalists (CPJ). June 13, 2022. [Seeking 'answers and accountability': Reporters cover Uvalde shooting amid police obstruction](#); *Santo Antonio Express-News*. June 1, 2022. [Law enforcement officials say journalists will be charged for being on Uvalde CISD property](#).

<sup>1487</sup> Committee to Protect Journalists (CPJ). June 13, 2022. [Seeking 'answers and accountability': Reporters cover Uvalde shooting amid police obstruction](#); *CNN*. June 5, 2022. [Bikers confront reporters in Uvalde](#); *The Washington Post*. June 28, 2022. [Journalists in Uvalde are stonewalled, hassled, threatened with arrest](#).

<sup>1488</sup> Twitter account of Julian Gill (@JulianGi11). June 2, 2022; *Houston Chronicle*. June 3, 2022. [Funerals for children killed in mass shooting continue in grieving Uvalde as police, bikers block press](#); *CNN*. June 5, 2022. [Bikers confront reporters in Uvalde](#).

<sup>1489</sup> *The Texas Tribune*. June 3, 2022. [In battered Uvalde, where a police chief is in hiding, grief gives way to calls for accountability](#); *CNN*. June 5, 2022. [Bikers confront reporters in Uvalde](#).

<sup>1490</sup> OAS, UN, OSCE, ACHPR. International Rapporteurs urge stronger measures of protection for journalists who cover conflicts. 2014.

<sup>1491</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on Freedom of Expression and Responses to Conflict Situations. 2015. Part 2.b.

<sup>1492</sup> U.S. Press Freedom Tracker. October 21, 2022. [Charges – and punishments – for 16 rioters who hurt journalists, damaged news equipment](#).

<sup>1493</sup> U.S. Press Freedom Tracker. October 21, 2022. [Charges – and punishments – for 16 rioters who hurt journalists, damaged news equipment](#).

<sup>1494</sup> U.S. Press Freedom Tracker. October 21, 2022. [Charges – and punishments – for 16 rioters who hurt journalists, damaged news equipment](#).

<sup>1495</sup> U.S. Press Freedom Tracker. October 21, 2022. [Charges – and punishments – for 16 rioters who hurt journalists, damaged news equipment](#).

correspondent for *Vice News*; and an unidentified photojournalist for *FOX 5 DC*. Four of these journalists—Jolly, Jones, Olson, and Schaff—also reported physical damage to their journalism equipment.

655. The Office of the Special Rapporteur recalls that violence against journalists compromises the rights to personal integrity, life, and freedom of thought and expression. Likewise, the lack of due diligence in the investigation, pursuit and punishment of all those responsible can result in an additional violation to the rights to access to justice and judicial guarantees of those affected and their family members.<sup>1496</sup>

## **B. Freedom of expression, the Rule of Law and democratic institutions**

656. In 2022, the Office of the Special Rapporteur learned of reports of legal harassment against media outlets for doing their reporting work. For example, the Rapporteurship was informed of a defamation lawsuit filed by former President Donald J. Trump against US network *CNN* at the beginning of October 2022.<sup>1497</sup> The lawsuit was filed in a district court in Fort Lauderdale. According to public information, the former president was seeking punitive damages of \$475 million for "a series of ever-more scandalous, false, and defamatory labels of 'racist,' 'Russian lackey,' 'insurrectionist,' and ultimately 'Hitler.'"<sup>1498</sup> The lawsuit filed accused the television network of "defam[ing] the plaintiff in the minds of its viewers and readers for the purpose of defeating him politically."<sup>1499</sup> In a press release available publicly, the former president also said he planned to file more lawsuits against other "Fake News Media Companies" for the use of the term "The Big Lie" to refer to his questioning of the integrity of the November 2020 presidential elections and their results.<sup>1500</sup>

657. The Office of the Special Rapporteur recalls that political and public figures must be more exposed—not less exposed—to public scrutiny and criticism. The need for an open and broad debate, which is crucial for a democratic society, must necessarily encompass the people who participate in devising or implementing public policy. Because these persons are at the center of public debate and knowingly expose themselves to public scrutiny, they must show greater tolerance for criticism.<sup>1501</sup>

658. Additionally, the Office of the Special Rapporteur received reports indicating an increase in censorship in the United States, mainly in schools. According to public records, between July 2021 and June 2022, the availability of books in school libraries in the United States was reduced significantly due to increasing bans on literary works because of their content. The Office of the Special Rapporteur was able to learn that during this time period, at least 2,532 books were banned, including 1,648 individual works.<sup>1502</sup> The analyses conducted by civil society organizations and media outlets find that the vast majority of books removed had to do with LGBTQI+ persons and subject matters, the fight against racism, sexual and reproductive rights, sex education, and some perspectives on social activism. According to a report by PEN America, such measures have been documented in 138 of the approximately 13,000 school districts and in 32 out of 50 states. This has affected access to information for close to 4 million of the approximately 56 million students in more than 5,000 of the approximately 130,000 schools, according to the information available.<sup>1503</sup> Additionally, such measures affected books by more than 1,261 authors, 290 illustrators, and 18 translators

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<sup>1496</sup> IACHR. *Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression*. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. Para. 147.

<sup>1497</sup> *The Guardian*. October 3, 2022. [Trump sues CNN for defamation and seeks \\$475m in punitive damages](#); *CBS News*. October 4, 2022. [Trump sues CNN for defamation](#).

<sup>1498</sup> *The Guardian*. October 3, 2022. [Trump sues CNN for defamation and seeks \\$475m in punitive damages](#); *CBS News*. October 4, 2022. [Trump sues CNN for defamation](#).

<sup>1499</sup> *The Guardian*. October 3, 2022. [Trump sues CNN for defamation and seeks \\$475m in punitive damages](#); *CBS News*. October 4, 2022. [Trump sues CNN for defamation](#).

<sup>1500</sup> *Fox News*. October 3, 2022. [Trump sues CNN for defamation, teases lawsuits against other 'Fake News Media Companies' will follow](#); *The Hill*. October 3, 2022. [Trump threatens further legal action against news media, Jan. 6 panel](#).

<sup>1501</sup> IACHR. Report on the Compatibility of "Desacato" laws with the ACHR. 1995. Section IV.C

<sup>1502</sup> PEN America. September 19, 2022. [Banned in the USA: The Growing Movement to Censor Books in Schools](#); *The Guardian*. September 19, 2022. ['Rapid acceleration' in US school book censorship leads to 2,500 bans in a year](#); *CBS News*. September 20, 2022. [Over 1,600 books were banned in U.S. school districts - and the number is increasing](#).

<sup>1503</sup> PEN America. September 19, 2022. [Banned in the USA: The Growing Movement to Censor Books in Schools](#); *Reuters*. September 19, 2022. [U.S. school book bans on the rise due to advocacy groups, report says](#).

between 2021 and 2022. According to the data reported, from July 2022 to the present day, there have been at least 139 additional bans.<sup>1504</sup>

659. In addition to the censorship reported by PEN America, the Office of the Special Rapporteur also registered the preliminary data provided by the American Library Association (ALA). According to the ALA, the number of attempts to prohibit or restrict certain books in schools, universities, and public libraries in 2022 was on the way to surpassing the 2021 record that, for its part, had been the highest rate of censorship since the ALA began collecting the data more than two decades ago.<sup>1505</sup> The information received by this Office indicates that between January 1 and August 31, 2022, there have been at least 681 documented attempts to prohibit or restrict the circulation of 1651 titles. In 2021, there were a total of 729 attempts targeting 1,597 books.<sup>1506</sup> It is important to note that according to public information, more than 70% of the attempts at censorship are aimed at multiple titles, which is a new practice given that before, the complaints filed sought to suppress a single book at a time.<sup>1507</sup> The Office of the Special Rapporteur notes that based on the methodology used by PEN America and the ALA, according to which the tally of instances of censorship follows the complaints reported in the media and by libraries, the number of attempts at prohibiting or limiting the circulation of certain books could be undercounted.

660. Additionally, with respect to the aforementioned reports on book bans, in its 2021 annual report, the Office of the Special Rapporteur documented a series of proposals and bills passing the legislation attempting to prohibit the circulation of critical perspectives in the teaching of issues related to racism and gender identity in primary school.<sup>1508</sup> This Office notes that such restrictions originated mainly in complaints from fathers, mothers, and educational communities, as well as administrative decisions or demands from legislators or other public officials, based mainly on the guarantee of nondiscrimination against racial and religious majorities in the United States.<sup>1509</sup>

661. As the IACHR and its Office of the Special Rapporteur have held on multiple occasions, freedom of expression is a right that is essential for the exercise of other rights, including the rights to education, access to culture, religious freedom, freedom to assemble peaceably, and freedom of association, among other rights.<sup>1510</sup> Likewise, the Office of the Special Rapporteur has held that "the lack of freedom of expression is a cause that contributes to the disregard of other human rights" and, therefore, "the preservation of freedom of expression is a necessary condition for the peaceful and free functioning of democratic societies in the Americas."<sup>1511</sup>

662. Article XII of the American Declaration on the Rights and Duties of Man establishes that "Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity," understood by inter-American case law as values that are essential for preserving pluralism and tolerance, the basic pillars of democratic societies. It also holds that "Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private."<sup>1512</sup> The Declaration also provides that "everyone has the duty to support, nourish, educate and protect his minor children (...)."<sup>1513</sup> In this regard, States have a duty to establish the conditions necessary for the existence of true public debate—that considers the diversity of society—on matters that concern all citizens and takes into account the range and plurality of voices in order for the tensions between rights and disputes over interests in a society to be handled openly,

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<sup>1504</sup> PEN America. September 19, 2022. [Banned in the USA: The Growing Movement to Censor Books in Schools](#); Reuters. September 19, 2022. [U.S. school book bans on the rise due to advocacy groups, report says](#).

<sup>1505</sup> American Library Association (ALA). September 16, 2022. [American Library Association Releases Preliminary Data on 2022 Book Bans](#).

<sup>1506</sup> American Library Association (ALA). September 16, 2022. [American Library Association Releases Preliminary Data on 2022 Book Bans](#); AP News. September 16, 2022. [Book ban efforts surging in 2022, library association says](#).

<sup>1507</sup> American Library Association (ALA). September 16, 2022. [American Library Association Releases Preliminary Data on 2022 Book Bans](#); AP News. September 16, 2022. [Book ban efforts surging in 2022, library association says](#).

<sup>1508</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Annual Report 2021. Para. 443.

<sup>1509</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments](#).

<sup>1510</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments](#).

<sup>1511</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments](#).

<sup>1512</sup> Organization of American States. [The American Declaration of the Rights and Duties of Man](#).

<sup>1513</sup> Organization of American States. [The American Declaration of the Rights and Duties of Man](#).



peacefully, and with respect for human rights. In the words of the IACHR, “full and free discussion prevents a society from paralyzing and prepares it for the tensions and frictions that destroy civilizations. A free society, today and tomorrow, is one that can openly engage in rigorous public debate about itself.”<sup>1514</sup> For this Office, rather than providing space for a broad and robust debate on relevant matters that can be discussed by different persons or groups of persons, measures aimed at banning books in schools essentially ban any possibility of democratic deliberation. In this regard, the Inter-American Court has stated that the “radical suppression of freedom of expression” takes place “when the public authorities establish means to prevent the free flow of information, ideas, opinions or news”.<sup>1515</sup> In this regard, the Court has specified that an example of this is the prohibition of publications “and, in general, all those procedures that condition the expression or dissemination of information to government control”<sup>1516</sup>. In such cases, for the Court, “there is a radical violation both of the right of each person to express himself and of the right of all to be well informed, so that one of the basic conditions of a democratic society is affected”<sup>1517</sup>. According to the Court, “any act of public authority that implies a restriction on the right to seek, receive and impart information and ideas, to a greater extent or by means other than those authorized by the Convention itself” implies a restriction on the right to freedom of expression, “regardless of whether or not such restrictions benefit the government”<sup>1518</sup>.

663. The Office of the Special Rapporteur calls on the State to reflect and move to distance itself from actions that contribute to diminishing the public debate and restricting freedom of expression, as well as to take all measures available to it to ensure that diverse content can be included in the different spheres of society, including education.<sup>1519</sup> As this Office has indicated repeatedly, this right provides protection not only with regard to the distribution of ideas and information favorably received or considered inoffensive or indifferent, but also with regard to those that offend, shock, or upset the State or a segment of the population.

664. During the year, the Office of the Special Rapporteur continued to follow the judicial process brought against the founder of WikiLeaks, Julian Assange. In June 2022, this Office learned that, after consideration by both the magistrates’ court and the high court, and with the authorization of the UK Home Office, Assange was ordered extradited to the United States.<sup>1520</sup> According to public information, the Home Office emphasized that the UK courts have not found Assange’s extradition to be incompatible with his human rights. According to what this Office has been able to ascertain, the WikiLeaks founder was charged in the United States with 18 criminal charges for having published thousands of classified files and diplomatic cables in 2010. The Office of the Special Rapporteur learned that if found guilty, Assange could face up to 175 years in prison.<sup>1521</sup> At the end of August, this Office was informed that Assange’s lawyers had filed an appeal challenging his extradition.<sup>1522</sup> Likewise, the Office of the Special Rapporteur learned that at least five media outlets—*The Guardian*, *Le Monde*, *The New York Times*, *El País*, and *Der Spiegel*—had sent an open letter to the United States government. In the letter, they argued that the charges against Assange would set a “dangerous precedent” and could threaten to “undermine America’s First Amendment and the freedom of the press.”<sup>1523</sup>

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<sup>1514</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments.](#)

<sup>1515</sup> IACHR Court. Compulsory membership of journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85. November 13, 1985. Series A No. 5. para. 54.

<sup>1516</sup> IACHR Court. Compulsory membership of journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85. November 13, 1985. Series A No. 5. para. 54.

<sup>1517</sup> IACHR Court. Compulsory membership of journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85. November 13, 1985. Series A No. 5. para. 54.

<sup>1518</sup> IACHR Court. Compulsory membership of journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85. November 13, 1985. Series A No. 5. para. 55.

<sup>1519</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments.](#)

<sup>1520</sup> *The Guardian*. June 17, 2022. [Julian Assange’s extradition from UK to US approved by home secretary](#); *CNN*. June 17, 2022. [Julian Assange’s extradition to US approved by UK government.](#)

<sup>1521</sup> *The Guardian*. June 17, 2022. [Julian Assange’s extradition from UK to US approved by home secretary](#); *CNN*. June 17, 2022. [Julian Assange’s extradition to US approved by UK government.](#)

<sup>1522</sup> *The Guardian*. August 27, 2022. [Julian Assange files appeal against US extradition](#); *ABC Australia*. August 26, 2022. [WikiLeaks founder Julian Assange files latest appeal in bid to stop extradition to United States.](#)

<sup>1523</sup> *France 24*. November 28, 2022. Newspapers urge US to drop hunt for Assange; *The Guardian*. November 28, 2022. [‘Publishing is not a crime’: media groups urge US to drop Julian Assange charges.](#)

### C. Freedom of expression and the struggle against discrimination and exclusion

665. In 2022, the Office of the Special Rapporteur documented the proliferation and enactment of laws that, according to public information, seek to limit teaching and discussion of issues related to sexual orientation, gender identity, and racism in academic spaces. This Office received multiple reports of bills that would restrict curricula, books, and discussion of the subjects in classrooms in Florida, Ohio, Alabama, Georgia, Tennessee, Oklahoma, Kansas, and Indiana, among other states.<sup>1524</sup>

666. In the state of Florida, this Office learned that the State Senate passed a bill called the Parental Rights in Education Act, called the "Don't Say Gay" law by its critics. According to the text of the law, it bans "classroom instruction by school personnel or third parties on sexual orientation or gender identity" from kindergarten through third grade.<sup>1525</sup> The initiative was signed by the governor of Florida on March 28, 2022, and entered into force on July 1, 2022, according to public information.<sup>1526</sup> At the signing ceremony, the governor said "We will make sure that parents can send their kids to school to get an education, not an indoctrination."<sup>1527</sup> According to what as this Office was able to ascertain, the law sparked numerous criticisms in the state and the country since, according to its detractors, it will silence LGBTI students, affect their mental health, and violate their freedom of expression.<sup>1528</sup>

667. Following the passage of the "Don't Say Gay" law in Florida, the Office of the Special Rapporteur learned of a similar legislative initiative in the state of Ohio submitted in April. According to the information received by this Office, a group of Republican legislators submitted a bill that would change the ban on addressing issues related to sexual orientation and gender identity to include additional bans on related to racism.<sup>1529</sup> The Office of the Special Rapporteur was informed that the initiative would explicitly ban "divisive or inherently racist concepts," including "critical race theory, intersectional theory, the 1619 project, diversity, equity, and inclusion learning outcomes and inherited racial guilt."<sup>1530</sup> Like the law passed in Florida, the bill in Ohio would ban all instruction from kindergarten to third grade. In fourth grade through twelfth, instruction on these topics is banned if presented in "any manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards."<sup>1531</sup>

668. Weeks after passage of the "Don't Say Gay" law in Florida, the Office of the Special Rapporteur was informed of a new legislative initiative: the Stop the Wrongs to Our Kids and Employees (WOKE) Act, also known as the Stop WOKE Act.<sup>1532</sup> According to public information, the law was supported by the governor of Florida to stop "corporate wokeness" and "critical race theory."<sup>1533</sup> In a statement released in April, the governor said the law would not let "the far-left woke agenda take over our schools and workplaces," adding that "There is no place for indoctrination or discrimination in Florida."<sup>1534</sup> The law restricts the teaching of racial and gender issues in educational institutions and businesses, primarily in instances where it is taught that the "moral character or an individual's status as privileged or oppressed is determined by their race, color,

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<sup>1524</sup> NPR. April 10, 2022. [Not just Florida. More than a dozen states propose so-called 'Don't Say Gay' bills](#); ABC News. April 6, 2022. [GOP lawmakers introduce version of 'Don't Say Gay' bill in Ohio](#); Equality Ohio. April 5, 2022.

<sup>1525</sup> NBC News. March 8, 2022. ['Don't Say Gay' bill: Florida Senate passes controversial LGBTQ school measure](#); CBS News. March 8, 2022. [Florida Senate passes controversial 'Don't Say Gay' bill despite protests](#).

<sup>1526</sup> AP News. March 28, 2022. ['Don't Say Gay' bill signed by Florida Gov. Ron DeSantis](#); CBC. March 28, 2022. ['Don't Say Gay' bill becomes law in Florida, banning sexual orientation instruction from K-3](#).

<sup>1527</sup> AP News. March 28, 2022. ['Don't Say Gay' bill signed by Florida Gov. Ron DeSantis](#); CBC. March 28, 2022. ['Don't Say Gay' bill becomes law in Florida, banning sexual orientation instruction from K-3](#).

<sup>1528</sup> American Psychological Association. March 9, 2022. [APA president condemns Florida's 'Don't Say Gay' bill](#); NBC News. June 30, 2022. [As Florida's 'Don't Say Gay' law takes effect, schools roll out LGBTQ restrictions](#).

<sup>1529</sup> ABC News. April 6, 2022. [GOP lawmakers introduce version of 'Don't Say Gay' bill in Ohio](#); Equality Ohio. April 5, 2022. [Ohio Lawmakers Introduce Cruel LGBTQ+ Censorship Bill Targeting Free Speech in the Classroom](#).

<sup>1530</sup> ABC News. April 6, 2022. [GOP lawmakers introduce version of 'Don't Say Gay' bill in Ohio](#); Equality Ohio. April 5, 2022. [Ohio Lawmakers Introduce Cruel LGBTQ+ Censorship Bill Targeting Free Speech in the Classroom](#).

<sup>1531</sup> ABC News. April 6, 2022. [GOP lawmakers introduce version of 'Don't Say Gay' bill in Ohio](#); Equality Ohio. April 5, 2022. [Ohio Lawmakers Introduce Cruel LGBTQ+ Censorship Bill Targeting Free Speech in the Classroom](#).

<sup>1532</sup> Time Magazine. April 22, 2022. [Florida's Governor Just Signed the 'Stop Woke Act.' Here's What It Means for Schools and Businesses](#); Politico. November 17, 2022. ['Positively dystopian': Florida judge blocks DeSantis' anti-woke law for colleges](#).

<sup>1533</sup> Time Magazine. April 22, 2022. [Florida's Governor Just Signed the 'Stop Woke Act.' Here's What It Means for Schools and Businesses](#); Politico. November 17, 2022. ['Positively dystopian': Florida judge blocks DeSantis' anti-woke law for colleges](#).

<sup>1534</sup> Time Magazine. April 22, 2022. [Florida's Governor Just Signed the 'Stop Woke Act.' Here's What It Means for Schools and Businesses](#); Politico. November 17, 2022. ['Positively dystopian': Florida judge blocks DeSantis' anti-woke law for colleges](#).



sex, or national origin.”<sup>1535</sup> In mid November 2022, the Office of the Special Rapporteur learned that a federal judge had blocked part of the legislation that prevented university professors from teaching on race and gender.<sup>1536</sup> In his sentence, the judge found that, “The First Amendment does not permit the State of Florida to muzzle its university professors, impose its own orthodoxy of viewpoints, and cast us all into the dark.”<sup>1537</sup>

669. The Office of the Special Rapporteur recalls that censoring debate on controversial issues fails to address prevalent structural inequalities and prejudices that affect LGBTI persons in the Americas. Instead, rather than restricting such debates, States should in principle foster preventative and educational mechanisms and promote broader and deeper debates as a means of exposing and combating negative stereotypes.<sup>1538</sup> Additionally, this Office reiterates that it is especially important for States to take action to guarantee the exercise of the right to freedom of expression by LGBTI persons and empower those who are impacted and made invisible.<sup>1539</sup>

670. Likewise, the Office of the Special Rapporteur recalls States’ duty to guarantee the right to freedom of expression also implies contributing to the formation of a citizenry that “is willing to discuss with others the reasons that enable it to support a theory or make a decision.”<sup>1540</sup> Making it difficult to discuss issues of public relevance in academic environments, which par excellence shape citizens and prepare children for life in society, undermines the potential of education to develop the values of understanding, solidarity, respect, and responsibility.<sup>1541</sup>

671. The Office of the Special Rapporteur also underscores that education provides a pathway for transmitting messages that eradicate prejudices as well as a way of building more inclusive and tolerant societies. As indicated in a report by the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (ESCER), States are called upon to guarantee the preservation of distinctive forms of expression of groups that have historically experienced discrimination and exclusion from the public debate, thereby promoting the historical memory of these persons and contributing to tolerance and respect in society.<sup>1542</sup>

672. In its report on “Children, freedom of expression and the media”, the IACHR and its Special Rapporteurship warned that this type of initiative on comprehensive sex education for children “is a matter of increasing importance and debate”<sup>1543</sup>. In this regard, the Commission and its SR emphasized that all public policies must always maintain “the best interests of children and adolescents as the axis”<sup>1544</sup>. In this regard, General Comment 14 of the Committee on the Rights of the Child “on the right of the child to have his or her best interests a primary consideration” states that “whenever a decision has to be made affecting a specific child, a specific group of children or children in general, the decision-making process (by judicial or administrative authorities) should include an assessment of the potential impact (positive or negative) of the decision on the child or children concerned”.<sup>1545</sup> The Comment also warns that the best interests of the child is

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<sup>1535</sup> *Time Magazine*. April 22, 2022. [Florida’s Governor Just Signed the ‘Stop Woke Act.’ Here’s What It Means for Schools and Businesses](#); *Politico*. November 17, 2022. [‘Positively dystopian’: Florida judge blocks DeSantis’ anti-woke law for colleges](#).

<sup>1536</sup> NPR. November 18, 2022. [With a nod to ‘1984,’ a federal judge blocks Florida’s anti-‘woke’ law in colleges](#); *Politico*. November 17, 2022. [‘Positively dystopian’: Florida judge blocks DeSantis’ anti-woke law for colleges](#).

<sup>1537</sup> NPR. November 18, 2022. [With a nod to ‘1984,’ a federal judge blocks Florida’s anti-‘woke’ law in colleges](#); *Politico*. November 17, 2022. [‘Positively dystopian’: Florida judge blocks DeSantis’ anti-woke law for colleges](#).

<sup>1538</sup> IACHR. Hate Speech and Incitement to Violence against LGBTI Persons in the Americas 2015. Para. 14.

<sup>1539</sup> IACHR. Hate Speech and Incitement to Violence against LGBTI Persons in the Americas 2015. Para. 22.

<sup>1540</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments](#).

<sup>1541</sup> IACHR. October 20, 2022. Press Release 235/22. [The SRFOE calls on the authorities of the United States to generate the conditions for a broad, plural, and robust deliberation in learning spaces and academic environments](#).

<sup>1542</sup> IACHR. March 16, 2021. [Economic, social, cultural, and environmental rights of persons of African descent. Inter-American Standards to Prevent, Combat and Eradicate Structural Racial Discrimination](#). Para. 6, 167, 210.

<sup>1543</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Children, freedom of expression and the media in the Americas. OEA/Ser.L/V/II IACHR/RELE/INF.23/19. February 2019. Para. 36.

<sup>1544</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Children, freedom of expression and the media in the Americas. OEA/Ser.L/V/II IACHR/RELE/INF.23/19. February 2019. Para. 53.

<sup>1545</sup> United Nations. Committee on the Rights of the Child. General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, para. 1). May 29, 2013. P. 4.

a principle that must be interpreted in a way that respects complementary roles with other rights, such as the child's right to be heard.<sup>1546</sup>

673. Likewise, the Rapporteurship recalls that international human rights standards establish that “that the exercise of the rights of the child is progressive by virtue of the evolving capacities of the child and that parents, family members, and other persons responsible for the child have a responsibility to provide appropriate direction and guidance in the exercise by the child of those rights”<sup>1547</sup>. The principle of progressive autonomy is based on the fact that children “have the right progressively to develop the autonomous exercise of their rights, moving beyond the traditional argument that the parents have powers over their children because the latter lack capacity and autonomy”.<sup>1548</sup> In its report “Fulfillment of Children’s Rights”, the Inter-American Commission emphasized that “the objective of protection of children and adolescents and of their rights should be viewed broadly and as a continuum; it should be understood not only as protection against infringements of rights, but also as a set of prevention strategies designed to stop such violations from occurring; the interaction of rights must also be considered”.<sup>1549</sup>

674. Finally, the Office of the Special Rapporteur reiterates what has been indicated by the Inter-American Court and Commission that “the principle of the best interests of the child cannot be used in an attempt to justify decisions that discriminate against other persons and their rights, and that are based on nothing more than social stereotypes, preconceptions, and prejudices regarding certain behaviors or groups of people”.<sup>1550</sup>

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

675. As this is reported in its 2021 annual report, former president Donald Trump was suspended from his social media accounts, including Facebook and Twitter, after the Capitol riots on January 6, 2021.<sup>1551</sup> One year after the suspensions were issued, the Office of the Special Rapporteur was informed that the former president had launched his own social network: Truth Social.<sup>1552</sup> According to public information, the new social network advertised itself as “free from political discrimination.” The information received by this Office indicates that the app topped the App Store’s most-downloaded list, but had errors and bugs.<sup>1553</sup> The new social network is part of a series of new platforms—including GETTR, Parler, and Gab—claiming to protect free speech by lowering the level of content moderation.<sup>1554</sup>

676. Toward the end of November 2022, the Office of the Special Rapporteur was informed of the decision by the new owner of Twitter, Elon Musk, to reinstate former President Trump in the social network, lifting the permanent ban put in place on January 8, 2021.<sup>1555</sup> Through his Twitter account, the new owner of the social network issued a poll asking if the former president should be reinstated; more than 15 million people participated, and the option favoring Trump’s return won. For his part, the former president said he had no interest in returning to Twitter because he had his own social network: Truth Social.<sup>1556</sup>

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<sup>1546</sup> United Nations. Committee on the Rights of the Child. General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, para. 1). May 29, 2013. P. 4.

<sup>1547</sup> IACHR. Fulfillment of Children’s Rights. OEA/Ser.L/V/II.166 Doc. 206/17. November 30, 2017. Para. 339.

<sup>1548</sup> IACHR. Fulfillment of Children’s Rights. OEA/Ser.L/V/II.166 Doc. 206/17. November 30, 2017. Para. 339.

<sup>1549</sup> IACHR. Fulfillment of Children’s Rights. OEA/Ser.L/V/II.166 Doc. 206/17. November 30, 2017. Para. 353.

<sup>1550</sup> IACHR. The Right of Girls and Boys to a Family. Alternative care. Ending institutionalization in the Americas. OEA/Ser.L/V/II. Doc. 54/13. 17 de octubre 2013. Párr. 160.

<sup>1551</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Annual Report 2021. Para. 452; Twitter Blog. January 8, 2021. [Permanent suspension of @realDonaldTrump](#); Meta. June 4, 2021. [In Response to Oversight Board, Trump Suspended for Two Years; Will Only Be Reinstated if Conditions Permit](#).

<sup>1552</sup> NPR. February 22, 2022. [Trump’s social media site hits the app store a year after he was banned from Twitter](#); *The Guardian*. February 21, 2022. [Donald Trump’s social media app launches on Apple store](#).

<sup>1553</sup> NPR. February 22, 2022. [Trump’s social media site hits the app store a year after he was banned from Twitter](#); *The Guardian*. February 21, 2022. [Donald Trump’s social media app launches on Apple store](#).

<sup>1554</sup> CNBC. November 7, 2022. [While building Truth Social, Trump spoke with rivals about competing partnerships](#); *The Washington Post*. April 23, 2022. [The platform where the right-wing bubble is least likely to pop](#).

<sup>1555</sup> *Al Jazeera*. November 20, 2022. [Elon Musk reinstates Donald Trump’s Twitter account](#); *Reuters*. November 20, 2022. [Trump snubs Twitter after Musk announces reactivation of ex-president’s account](#).

<sup>1556</sup> *Al Jazeera*. November 20, 2022. [Elon Musk reinstates Donald Trump’s Twitter account](#); *Reuters*. November 20, 2022. [Trump snubs Twitter after Musk announces reactivation of ex-president’s account](#).

677. In addition to reinstating former president Trump, the Office of the Special Rapporteur was also informed of Elon Musk's decision to reinstate at least 10 additional accounts that had been suspended for violating the platform's terms of service.<sup>1557</sup> Initially, Musk had stated through his Twitter account that he would set up a moderation counsel with diverse points of view to evaluate such measures.<sup>1558</sup> However, the new owner of the company made the decision to reinstate the accounts of Republican representative Marjorie Taylor-Greene, who was suspended for promoting misinformation about COVID-19 in January 2022; Project Veritas, an organization that shared private information on a senior Facebook employee; Alex Lorusso, an influencer suspended for impersonation; James Lindsay, permanently suspended for hate speech against LGBT persons; Andrew Tate, suspended for comments against victims of sexual violence; Juanita Broadrick, suspended for spreading misinformation about the pandemic; Savannah Hernandez, suspended for her coverage of alleged fraud in the 2020 presidential election; and Meghan Murphy, suspended for her comments against transgender persons. On November 24, 2022, the Office of the Special Rapporteur learned of Musk's decision to offer general amnesty to all suspended accounts after having unilaterally reinstated at least a dozen of them.<sup>1559</sup>

678. The purchase of twitter by multibillionaire Elon Musk and its transfer to him toward the end of October 2022 led to an increase in hate speech, according to reports received by this Office. The information received indicates that in the first hours following Musk's acquisition, a racial epithet used to attack persons of African descent was used 26,000 times, triple the 2022 average.<sup>1560</sup> Likewise, the use of an insult against transgender persons increased by 53%.<sup>1561</sup> Lastly, the use of an offensive term for homosexual men increased by 39% compared to the annual average.<sup>1562</sup> For his part, Musk asserted that despite an initial increase in racist insults and insults against the LGBTI population, hate speech had gone down once again.<sup>1563</sup> In this sense, the company and its new owner indicated that nearly 1500 accounts have been removed for posting hate speech. The company also said it had reduced the visibility of such posts on the platform to make them harder to find.<sup>1564</sup> Also, reports from a variety of media outlets indicated that nearly half the company's labor force was fired after it was purchased in November 2022, including the entire human rights team and almost all the machine learning ethics team, which potentially played an important role in the increase of hate speech and other disinformation on the social network.<sup>1565</sup>

679. The Office of the Special Rapporteur recalls that combating hate speech requires empowering users to identify and condemn it in the public debate without blocking legitimate speech that is protected by the right to freedom of expression.<sup>1566</sup>

680. This Office also recalls that in exceptional cases, in response to clearly illegal content or speech that is not protected by the right to freedom of expression, the adoption of measures to block and filter specific content is admissible. In these cases, the measure must be subjected to a strict balance of proportionality and be carefully designed and clearly limited so as to not affect legitimate speech that deserves protection. In other

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<sup>1557</sup> Media Matters For America. November 22, 2022. [Elon Musk is unilaterally reinstating banned Twitter accounts, despite assuring civil rights groups and advertisers that he wouldn't](#). CBS News. November 21, 2022. [These formerly banned Twitter accounts have been reinstated since Elon Musk took over](#).

<sup>1558</sup> *The Guardian*. October 29, 2022. [Elon Musk declares Twitter 'moderation council' - as some push the platform's limits](#); *Al Jazeera*. October 29, 2022. [Musk plans to form 'content moderation council' for Twitter](#).

<sup>1559</sup> *The Guardian*. November 24, 2022. [Elon Musk offers general amnesty to suspended Twitter accounts](#); *AP News*. November 25, 2022. [Musk says granting 'amnesty' to suspended Twitter accounts](#).

<sup>1560</sup> *Axios*. November 12, 2022. [Elon Musk's Twitter sees rise in racial slurs, hate speech](#); *AP News*. November 10, 2022. [Report: Tweets with racial slurs soar since Musk takeover](#).

<sup>1561</sup> *Axios*. November 12, 2022. [Elon Musk's Twitter sees rise in racial slurs, hate speech](#); *AP News*. November 10, 2022. [Report: Tweets with racial slurs soar since Musk takeover](#).

<sup>1562</sup> *Axios*. November 12, 2022. [Elon Musk's Twitter sees rise in racial slurs, hate speech](#); *AP News*. November 10, 2022. [Report: Tweets with racial slurs soar since Musk takeover](#).

<sup>1563</sup> *AP News*. November 10, 2022. [Report: Tweets with racial slurs soar since Musk takeover](#). Twitter account of Elon Musk (@elonmusk). [November 23, 2022](#).

<sup>1564</sup> *AP News*. November 10, 2022. [Report: Tweets with racial slurs soar since Musk takeover](#); Twitter account of Elon Musk (@elonmusk). [November 23, 2022](#).

<sup>1565</sup> *The Guardian*. November 5, 2022. [Twitter slashes nearly half its workforce as Musk admits 'massive drop' in revenue](#). *Reuters*. November 5, 2022. [Twitter lays off staff, Musk blames activists for ad revenue drop](#); United Nations. November 5, 2022. UN Human Rights Chief Türk issues open letter to Twitter's Elon Musk.

<sup>1566</sup> IACHR. Standards for a free, open, and inclusive Internet. March 2017. OEA/SER.L/V/II. CIDH/RELE/INF.17/17. Para. 125.

words, filtration or blocking must be designed and applied so as to exclusively impact the illegal content without affecting other content.<sup>1567</sup>

681. This Office also learned of the dissolution of Twitter's Trust and Safety Council in December 2022 and the deletion of the council's website, with the statement that the council is not the best way to bring external insights into the product and policy development work.<sup>1568</sup> According to the reports, the council—comprised of defenders of civil rights and fundamental freedoms and academics—played a crucial role in aligning product development with the values of non-discrimination, inclusion, and safety. In the framework of this debate, the Office of the Special Rapporteur recalls that, by their very nature as public forums, social media and Internet platforms are fundamental infrastructure of the informational ecosystem. It therefore reiterates the obligation to comply with Inter-American and universal human rights standards, which includes adopting measures like the Twitter Trust and Safety Council to mitigate potential human rights violations.

682. Along these lines, this Office also received information indicating that in December 2022, Twitter suspended, without formal justification, the accounts of journalists who were closely covering the movements of the company and its CEO, Elon Musk, since the acquisition. They include the journalists Donie O'Sullivan of *CNN*, Ryan Mac of *The New York Times*, Drew Harwell of *The Washington Post*, and freelance journalist Aaron Rumar.<sup>1569</sup> Elon Musk reportedly posted on his Twitter account that the journalists violated the platform's doxxing policy by sharing the exact location of the CEO in real time. However, the reports received indicated that the journalists had posted reports on a Mastodon account (another social network) giving the updated location of the location of Musk's private jet, using public flight data available online. The Office of the Special Rapporteur is concerned at the measures taken to suspend social media accounts without due process or a clear justification given that the result is potentially prior censorship in that it prevents the user from participating in the public debate and limits before hand the right to freedom of expression in its individual and collective dimensions without regard for the criteria of the tripartite test.

683. The Office of the Special Rapporteur recalls that private companies are responsible for respecting human rights pursuant to the terms set forth in the United Nations Guiding Principles on Business and Human Rights (hereinafter "the UN Guiding Principles"). This instrument requires companies to "avoid causing or contributing to adverse human rights impacts him through their own activities"<sup>1570</sup> by carrying out "impact assessments (...) prior to major decisions or changes in the operation or (...) in response to or anticipation of changes in the operating environment (e.g. rising social tensions)."<sup>1571</sup> The impact assessment is part of the due diligence process that the company is required to carry out on its own work and should "draw on internal and/or independent external human rights expertise [and] involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation."<sup>1572</sup>

684. This Office observes that the decisions by Twitter described above were made without applying the principle of due diligence in human rights matters and failed to include an evaluation of the impact of the measures, both individually and collectively, with respect to the company's responsibility to respect human rights in its operations, particularly the rights to freedom of expression, equal protection, nondiscrimination, and due process. As indicated by the UN Guiding Principles, "The purpose [of due diligence] is to understand the specific impacts on specific people, given a specific context of operations," taking into account the range of

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<sup>1567</sup> IACHR. Freedom of Expression and the Internet. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 85.

<sup>1568</sup> *Reuters*. December 12, 2022. [Twitter dissolves Trust and Safety Council](#). *Washington Post*. December 12, 2022. [Twitter dissolves Trust and Safety Council](#).

<sup>1569</sup> *CNN*. December 16, 2022. [Elon Musk bans several prominent journalists from Twitter, calling into question his commitment to free speech](#).

<sup>1570</sup> United Nations. 2011. Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect, and Remedy" Framework," pg. 17. In the same sense, see IACHR. November 1, 2019. Business and Human Rights: Inter-American Standards. OEA/Ser.L/V/II CIDH/REDESCA/INF.1/19, para. 270.

<sup>1571</sup> United Nations. 2011. Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect, and Remedy" Framework, pg. 23-24.

<sup>1572</sup> United Nations. 2011. Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect, and Remedy" Framework, pg. 23-24.

persons potentially affected and their social status, the pertinent human rights issues at play, and projecting the risks and impacts of the proposed activities or business relationships.

685. At the same time, the Office of the Special Rapporteur highlights the role that the United States must play in its relationship with companies under its jurisdiction, including Twitter. According to the UN Guided Principles, “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises.”<sup>1573</sup> Although States can adopt different approaches in this regard, at a minimum, they must “a) Enforce laws (...) requiring business enterprises to respect human rights, and periodically (...) assess the adequacy of such laws (...) b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights (...) c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations; d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.”<sup>1574</sup> It is critical that the United States fulfill its obligation to protect in accordance with the UN Guiding Principles and the international human rights framework.

686. In May 2022, the Office of the Special Rapporteur received reports that the auto-suggestion system of Microsoft’s Bing search engine allegedly censored certain searches in China, Canada, and the United States. According to Citizen Lab, the search engine block applied to the names of leaders of the Chinese Communist Party, dissidents, and other persons considered politically sensitive in China.<sup>1575</sup> The researchers concluded that the censorship was also integrated into Microsoft Windows, as well as DuckDuckGo, which uses Bing autosuggestion data. According to public information, neither Microsoft nor its affiliate have provided any public explanation or guidance on why it had decided to perform censorship in certain regions or why it had censored auto-suggestions of these persons’ names.<sup>1576</sup>

687. The Office of the Special Rapporteur recalls that measures to block content cannot be used to control or limit the circulation of speech that is specially protected or is assumed to be protected when that assumption has not been contradicted by a competent authority that provides sufficient guarantees of independence, autonomy and impartiality, pursuant to the above-mentioned terms.<sup>1577</sup>

688. The Office of the Special Rapporteur monitored online disinformation in the framework of the midterm elections in the United States, held on November 8, 2022. According to reports received by this Office, hundreds of Twitter and Facebook posts questioned the election results in multiple states and raised doubts as to the integrity of the electoral process.<sup>1578</sup> However, disinformation was not as prevalent as reported during the 2020 presidential election.<sup>1579</sup> The patterns of disinformation seen during the 2022 campaign were generally less extensive in terms of both their scope and the relevance of the users disseminating them on social media. Additionally, as of the closing of this annual report, the conspiracy theories disseminated on digital platforms did not go equally viral, nor did they lead to large demonstrations, in contrast to the end of 2020.<sup>1580</sup>

689. Despite this, the actions taken by the digital platforms and social networks were irregular, according to public information.<sup>1581</sup> Therefore, some researchers and specialist associations, as well as the media, argue

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<sup>1573</sup> United Nations. 2011. Guiding Principles on Business and Human Rights. Implementing the United Nations “Protect, Respect, and Remedy” Framework, pg. 3.

<sup>1574</sup> United Nations. 2011. Guiding Principles on Business and Human Rights. Implementing the United Nations “Protect, Respect, and Remedy” Framework, pg. 5.

<sup>1575</sup> The Citizen Lab. May 19, 2022. [Bada Bing, Bada Boom: Microsoft Bing’s Chinese Political Censorship of Autosuggestions in North America](#).

<sup>1576</sup> The Citizen Lab. May 19, 2022. [Bada Bing, Bada Boom: Microsoft Bing’s Chinese Political Censorship of Autosuggestions in North America](#).

<sup>1577</sup> IACHR. Freedom of Expression and the Internet. 2013. OEA/SER.L/V/II. CIDH/RELE/INF. 11/13. Para. 90.

<sup>1578</sup> Reuters. November 9, 2022. [U.S. election misinformation limited, not stopped, on social media - experts](#); *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1579</sup> Reuters. November 9, 2022. [U.S. election misinformation limited, not stopped, on social media - experts](#); *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1580</sup> Reuters. November 9, 2022. [U.S. election misinformation limited, not stopped, on social media - experts](#); *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1581</sup> Reuters. November 9, 2022. [U.S. election misinformation limited, not stopped, on social media - experts](#); *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).



that Facebook and Twitter's information verification systems did not activate with respect to a number of inappropriate posts or posts with false information.<sup>1582</sup>

690. A study by *The Washington Post* found that the social media posts of at least 26 candidates had not been labeled or fact checked by digital platforms since April 2022.<sup>1583</sup> Additionally, in nearly 40 posts, candidates claim that the 2022 elections had been manipulated. None of these posts had been labeled by the social networks on which they were disseminated.<sup>1584</sup> This failure to verify is what prevailed during 2020, after which Facebook and Twitter added hundreds of labels so readers could be alerted that the information was misleading.

691. The Office of the Special Rapporteur reiterates that it is crucial for authorities to not "sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda)."<sup>1585</sup> Authorities must address the problem of misinformation through awareness campaigns, education, and training. They must focus on providing citizens with tools for distinguishing truthful information from false information; making citizens aware of their own participation in processes that spread information; and raise awareness on the harm that disinformation causes to the public debate.<sup>1586</sup>

692. Likewise, this Office reiterates that the digital platforms must implement the UN Guiding Principles to ensure that their products, policies, and practices do not impact human rights.<sup>1587</sup> As part of their due diligence efforts, platforms must take positive actions to push back on disinformation, such as, for example, promoting the content of fact checking organizations and implementing other measures, like establishing proper rules for political advertising on their platforms, labeling it as such, and informing the public who paid for it, how it works, and who it is targeting and why, maintaining a publicly accessible archive on the advertising purchased.<sup>1588</sup> These types of actions are less risky than ones that would remove content and that could be more effective at combating concerning phenomena.<sup>1589</sup>

693. In 2022, the Office of the Special Rapporteur observed that the debate continued on the scope of the immunity granted to platforms by Section 230 of the Communications Decency Act of 1996 after the Supreme Court admitted two new cases on the subject. This time, the debate is not limited to platform responsibility for content produced by third parties but also includes the debate on holding them responsible for their recommendation algorithms. In the case of *Twitter v. Taamneh*, the Court will decide if hosting terrorist content means that service providers are responsible for aiding and abetting terrorism, given that measures for detecting and removing such content is available to service providers.<sup>1590</sup> For its part, the case of *Gonzalez v. Google* addresses whether intermediaries can be held responsible for recommending content to their users.<sup>1591</sup> The Office of the Special Rapporteur emphasizes that according to the minimum guarantees and good practices of the Manila Principles on the liability of internet intermediaries, as a rule, "intermediaries should be protected by law from liability for third-party content" in circumstances where they have not been involved in modifying it. Additionally, it maintains that attempts to hold platforms responsible for intervening with respect to content leads these actors to be more restrictive with respect to their users speech, increasing the risk of limiting valid expression and transferring more control over expression to private actors.

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<sup>1582</sup> Reuters. November 9, 2022. [U.S. election misinformation limited, not stopped, on social media - experts](#); *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1583</sup> *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1584</sup> *The Washington Post*. November 6, 2022. [This year, GOP election deniers got a free pass from Twitter and Facebook](#).

<sup>1585</sup> UN, OAS, OSCE, ACHPR. March 3, 2017. Joint Declaration on Freedom of Expression and "Fake News," Disinformation and Propaganda.

<sup>1586</sup> IACHR. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Pg. 39.

<sup>1587</sup> UN, OAS, OSCE, ACHPR. April 30, 2020. Joint Statement on Freedom of Expression and Elections in the Digital Age.

<sup>1588</sup> UN, OSCE, OAS, ACHPR. October 20, 2021. Joint Declaration on Politicians and Public Officials and Freedom of Expression.

<sup>1589</sup> OAS. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Pg. 47.

<sup>1590</sup> *Scotusblog*. [Twitter, Inc. v. Taamneh](#).

<sup>1591</sup> *Scotusblog*. [Gonzalez v. Google LLC](#).



694. With regard to proposals to regulate social media platforms, this Office takes note of the ongoing debate on the issue in Congress in 2022, including the Kids Online Safety Act brought before the Senate in February 2022.<sup>1592</sup> Some legislative initiatives on the subject presented in 2021 were challenged in the courts during 2022. In May 2022, a federal appeals court for the 11th Circuit reportedly blocked Florida's "Stop Social Media Censorship Act," intended to prevent certain social media platforms from banning political candidates or newspaper companies from their services.<sup>1593</sup> Texas's HB 20 legislation, aimed at prohibiting content moderation, was also reportedly blocked by the Supreme Court in May 2022 after the 5th Circuit Court of Appeals allowed it to take effect.<sup>1594</sup> Tech industry groups reportedly asked the Supreme Court in December 2022 to review the content of the law.<sup>1595</sup>

695. Likewise, according to information received by the Office of the Special Rapporteur on state-level judicial actions against the alleged tech companies monopoly, in September 2022, a federal judge ruled in a suit filed by the Texas attorney general that it had been plausibly alleged that Google holds an advertising monopoly and its actions are anti-competitive. However, the judge rejected the accusations that Jedi Blue, an agreement in which Google and Facebook worked together on ad auctions, constituted monopolistic behavior. In the decision, the judge stated that the allegations fail to adequately account for Facebook's motivation to use its economic clout as an advertiser to drive the hardest bargain it could with Google and that Google was motivated by the legitimate, pro-competitive desire to obtain as much business as possible from Facebook.<sup>1596</sup>

696. In December 2022, the Office of the Special Rapporteur followed the actions of the Meta Oversight Board and at this time highlights the Board's policy advisory opinion on Meta's cross-check program. The advisory opinion found that Meta was fostering unequal treatment of users and that rather than focusing on protecting human rights, it was oriented toward the objective of addressing concerns about the company. The cross check program added a layer of human review to content in violation posted by certain accounts, including celebrities, politicians, and commercial partners. According to the Oversight Board, whereas the speech of users on the cross-check list is reviewed for compatibility with the platform's rules by humans, other users are less likely to have their expressions reviewed by analysts who attentively evaluate and apply all the company's policies. It takes Meta more than five days to reach a conclusion about whether content from cross-check users is in violation. The opinion emphasizes that given that infringing content remains active on the platform, there is a potential for harm. The Board also expressed concern that Meta does not have metrics to assess whether this special content moderation system results in more accurate decisions. According to the Board, "Without this, it is difficult to know whether the program is meeting its core objectives of producing correct content moderation decisions, or to measure whether cross-check provides an avenue for Meta to deviate from its policies." The Oversight Board also underscored that more transparency is needed in the systems, as it was not clear if users who repeatedly post violating content are kept on cross-check lists.<sup>1597</sup>

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<sup>1592</sup> CNN. February 16, 2022. [Senators launch bipartisan bill to regulate kids' use of social media](#); Reuters. February 16, 2022. [Two U.S. senators set to introduce 'Kids Online Safety Act'](#).

<sup>1593</sup> Vox. May 24, 2022. [Florida's social media free speech law has been blocked for likely violating free speech laws](#); NPR. May 23, 2022. [An appeals court finds Florida's social media law unconstitutional](#).

<sup>1594</sup> CNN. May 31, 2022. [Supreme Court temporarily blocks Texas's social media moderation law](#); CNBC. May 31, 2022 [Supreme Court blocks Texas social media law that tech companies warned would allow hateful content to run rampant](#).

<sup>1595</sup> CNN. December 15, 2022. [Tech groups ask Supreme Court to rule on hot-button Texas social media law](#).

<sup>1596</sup> The Verge. September 13, 2022. Judge throws out Facebook collusion claims in Google antitrust suit.

<sup>1597</sup> Oversight Board. December 2022. [Oversight Board publishes policy advisory opinion on Meta's cross check program](#).

## GRENADA

697. The year 2022 was marked by the general elections in the country, held on June 23. The Special Rapporteurship recorded changes in the frequency of press conferences which, prior to the arrival of the new administration, were held on a weekly basis. The Rapporteurship also noted with concern the new restrictions on journalists regarding the number of questions they can ask and the need to share them in advance with the new Prime Minister's press secretary. This year, the Rapporteurship was informed that the highest judicial authority reportedly dismissed an application to file a defense in a defamation suit filed by the former prime minister against a female political opponent. The electoral campaign in the first half of the year was reportedly characterized by media attacks between the two main parties and the dissemination of rumors about candidates and in relation to the electoral guarantees through social networks. This Office was informed about the cancellation of the official visit of members of the British monarchy due to possible fears of demonstrations in the framework of new calls for the reparation in favor of former British colonies in the Caribbean. The Rapporteurship highlights the efforts of Grenada and the regional organization CARICOM to allow free cross-border movement of journalists in the Caribbean.

### A. Journalism and democracy

698. On June 24, 2022, Dickon Mitchell was sworn in as the new Prime Minister of Grenada after his party, the *National Democratic Congress (NDC)*, won the general elections. The Rapporteurship learned that the new Prime Minister's first press conference was open to all media.<sup>1598</sup> This Office received information indicating that on previous occasions, members of the executive had allegedly only allowed certain journalists or media outlets to ask questions, which would have caused discontent among the press corps.

699. One month into the new administration, the Rapporteurship was informed of the government's decision to hold press briefings "on an ad hoc basis only". Prime Minister Dickon Mitchell's new press secretary reportedly assured that, unless there was something "substantial to report", there would be no press briefings after each cabinet meeting.<sup>1599</sup> In addition, the press secretary reportedly explained that journalists would be notified of press briefings a day in advance and that, should they have questions that "require specific information", journalists should ideally share them in advance of the meeting. Also, journalists would only have the right to ask two or three questions if time permitted. Finally, the secretary reportedly suggested that she would be in charge of choosing the officials and topics to be covered at the press conferences.

700. In its 2021 annual report, this Office expressed awareness of the difficult conditions in which reporters would exercise their profession in Grenada, and the effect that this could have on achieving the desired levels of professional journalism and freedom of the press. In this regard, the Rapporteurship recalls that the the operation of democracy demands the greatest possible degree of public debate on the functioning of society and the State in all of their aspects, that is, on matters of public interest. In a democratic and pluralistic system, the acts and omissions of the State and of government officials must be subject to rigorous scrutiny, not only by the internal control authorities, but also by the press and by public opinion. The conduct of public affairs and issues of common interest must be controlled by society as a whole.<sup>1600</sup> Therefore, the Office of the Special Rapporteur urges the State of Grenada to ensure that the press and the public have the right to ongoing scrutiny of government activities, including through recurring press conferences.

### B. Freedom of expression, Rule of Law and democratic institutions

701. In January 2022, the Oriental Eastern Caribbean Court of Appeal reportedly dismissed a political opponent's application to file a defense in a defamation suit brought by former Prime Minister Keith

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<sup>1598</sup> Grenada Broadcasting Network. July 5, 2022. [Opposition meets media](#); The New Today Grenada. July 9, 2022. [The downfall of Keith Mitchell](#).

<sup>1599</sup> Caribbean Loop News. July 27, 2022. [Grenada: Gov't post-Cabinet presses will be on a "needs-only basis"](#); Now Grenada. 27 July 2022. [Post cabinet briefing will no longer take place weekly](#).

<sup>1600</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. Para. 33.

Mitchell.<sup>1601</sup> According to public information, the decision of the Court of Appeal would have confirmed the judgment of the High Court in sentencing an elected official for her allegedly defamatory comments concerning the prime minister's possible conflict of interest in a shrimp farm project. As far as this Office was able to learn, in December 2019, the prime minister's lawyers reportedly wrote to the public official to demand that she cease and desist from repeating the claim; they also reportedly asked her to apologize and pay compensation of EC\$350,000 within seven days of receiving the preaction protocol letter.

702. This Office would like to recall that given that the right to freedom of expression enables the individual and the community to participate in active, robust and challenging debate on all aspects relative to the functioning of society, this right covers debate that may be critical of or even offensive to public officials, candidates for public office or individuals involved in shaping public policy. This does not mean that public officials cannot be judicially protected when their honor is subjected to unjustified attack, but such protection must be consistent with the principles of democratic pluralism, and it must be afforded through mechanisms that do not have a potential for creating inhibition or self-censorship.<sup>1602</sup>

703. On April 26, 2022, the Rapporteurship took note of a multilateral dialogue between the Secretary General of the Caribbean Broadcasting Union (CBU), the President of the Association of Caribbean Media Workers (ACM) and the Assistant Secretary General of the CARICOM Single Market and Trade (CSMT).<sup>1603</sup> This Office received information indicating that media workers would be one of the original five categories of persons within the free movement regime in CARICOM States. Notwithstanding the above, the parties would have admitted that there would still be inconsistent practices at the borders, so that journalists would not always be allowed to move freely within the region. Therefore, the CSMT would have committed to redouble its efforts to ensure that border control officials are aware of the rights of media workers to move across borders without problem.

704. The Office of the Special Rapporteur would like to recall that administrative measures should not be used to restrict the movement of journalists, including the entry of foreign journalists into a country, or media coverage of demonstrations or other events of public interest, unless this is strictly justified by the exigencies of the situation, in line with the three-part test.<sup>1604</sup> Therefore, this Office welcomes efforts to ensure that media workers can move freely throughout the region and carry out their journalistic work.

705. In May 2022, the Rapporteurship recorded a series of alleged media confrontations in the context of the electoral campaign. According to public information, the leader of the then ruling party allegedly accused his opponent from the National Democratic Congress (NDC) of spreading falsehoods and using judicial persecution against his opponents. For their part, representatives of the NDC reportedly asserted that the Prime Minister's statements were false and were intended to "distract the electorate".<sup>1605</sup>

706. In the days immediately prior to the holding of general elections, the Rapporteurship became aware of the alleged confusion that a press release from the Parliamentary Elections Office had caused among the electorate.<sup>1606</sup> According to the information available, NDC reportedly claimed that the information shared by the electoral authority was misleading because it implied that voters needed an identification document to vote when the only prerequisite was to be registered on the voters' list.

707. The Office of the Special Rapporteur reiterates that, as it has said on previous occasions, dissemination of deliberate misinformation could damage the reputation of a candidate or public person or possibly other more diffuse interests such as the democratic process or the public's trust in democratic

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<sup>1601</sup> The Eastern Caribbean Supreme Court in the Court of Appeal. January 11, 2022. [Claudette Joseph v. Dr. Keith C. Mitchell](#); Caribbean National Weekly. January 11, 2022. [Court of Appeal rules for Grenada PM in lawsuit against opposition politician](#).

<sup>1602</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. Para. 41.

<sup>1603</sup> CARICOM. April 25, 2022. [Regional Media Workers to be Sensitized on the Free Movement of CARICOM Nationals](#); CARICOM. April 26, 2022. [Remarks by Ambassador Wayne McCook, Assistant Secretary-General, CARICOM Single Market and Trade \(CSMT\)](#).

<sup>1604</sup> OAS, UN, OSCE, CADHP. Joint statement on freedom of expression and responses to conflict situations. 2015. Pt. 4.d

<sup>1605</sup> Grenada Broadcasting Network. May 23, 2022. [PM Promises New Legislation](#); Grenada Broadcasting Network. May 23, 2022. [Dickon Vs Keith](#). Spice Islander. June 5, 2022. [Grenada Election Madness battle of the two Mitchells](#).

<sup>1606</sup> Now Grenada. June 22, 2022. [The Voter Identification Card](#); Grenada Broadcasting Network. June 23, 2022. [NDC Says Press Release Is Causing Confusion](#).

institutions.<sup>1607</sup> In this sense, it is essential that political parties refrain from promoting disinformation campaigns by themselves or by third parties, which includes the duty not only to not promote them voluntarily, but to verify that this is not done involuntarily, that the main actors do not contribute to the dissemination of false information and that militants and activists reject such practices.<sup>1608</sup> It is also essential that the authorities address the problem of misinformation through awareness, education, and training campaigns. They should be focused on offering citizens tools to distinguish true from false information, become aware of their own participation in the processes of replication of information, and warn about the impoverishment of the public debate that misinformation generates.<sup>1609</sup>

708. Following the general elections, this Office was informed of the resurgence of proposals to formulate, approve, and implement an Access to Information Act in the country.<sup>1610</sup> As far as this Office was able to learn, proposals to introduce said act have been submitted since 2008, although they have never materialized. Several political parties have reportedly promised to make this law a priority if elected, although as of the date of publication of this annual report, no progress has been made.

709. As in past years, the Office of the Special Rapporteur remains concerned about the lack of implementation of an Access to Information Act in Grenada, as well as in other Caribbean States. This Office reiterates that the right of access to information is a crucial tool for controlling State affairs and public administration, as well as monitoring corruption. The right of access to information is a fundamental requirement for guaranteeing transparency and good public administration by the government and other State authorities. Effectively, the full exercise of the right of access to information is a guarantee that is indispensable in preventing abuses by public officials, holding public administration accountable and promoting its transparency, as well as preventing corruption and authoritarianism.<sup>1611</sup>

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

710. On April 21, 2022, the Special Rapporteur received reports that the Grenada National Reparations Committee (GNRC) reportedly wrote a letter to the Governor General of Grenada seeking an audience with the Earl and Countess of Wessex, who were scheduled to visit the island on April 26. According to public information, the GNRC reportedly sought a meeting with members of the British royal family to explain the reasons why the United Kingdom should be held accountable and pay compensation for crimes committed during the period of slavery and colonization.<sup>1612</sup> The group also planned to mobilize peacefully for public demonstrations during the official visit. However, the trip by the Earl and Countess of Wessex was reportedly canceled only a day before it was scheduled and after “consultations with the governor general of the island”.

711. The sudden cancellation of the visit of the Earl and Countess of Wessex to Grenada would have come after the Duke and Duchess of Cambridge also faced criticism and protests during their tour of Belize, the Bahamas and Jamaica in March 2022.<sup>1613</sup> The visit of several members of the British royal family during this year would have been in commemoration of Queen Elizabeth II’s Platinum Jubilee and the possibility of several states in the region, former British colonies, declaring themselves independent republics. In the Caribbean, Barbados was the first former British colony to declare itself an independent republic on November 30, 2021.

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<sup>1607</sup> IACHR. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. P. 22.

<sup>1608</sup> IACHR. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. P. 48

<sup>1609</sup> IACHR. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. P. 39.

<sup>1610</sup> Freedom House. n.d. [Freedom in the World 2022: Grenada](#); Grenada Broadcasting Network. June 13, 2022. [NDC Freedom of Information Act](#).

<sup>1611</sup> IACHR. The Inter-American Legal Framework Regarding the Right to Access to Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

<sup>1612</sup> Now Grenada. April 21, 2022. [Royal visit cancelled amidst planned protests in Grenada](#); The Independent. 21 April 2022. [Prince Edward and Sophie Wessex cancel part of Caribbean royal tour as country removed from itinerary](#)

<sup>1613</sup> The Times. April 22, 2022. [Prince Edwards' Grenada visit suddenly called off](#); The Guardian. April 21, 2022. [Prince Edward and Sophie postpone visit to Grenada at short notice](#).

712. This Office recalls that social protest, which includes the rights of peaceful and unarmed assembly, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights and therefore it is the duty of the State to guarantee its free exercise.<sup>1614</sup> In its report “Protest and Human Rights”, the IACHR emphasized that the holding of meetings, demonstrations, and protests is a central activity of many associations and organizations. In this regard, States have the duty to provide the necessary means for them to conduct their activities freely and to refrain from imposing obstacles that might hinder their work.<sup>1615</sup> Likewise, the IACHR has considered that the exercise of freedom of assembly through social protest should not be subject to government authorization or excessive requirements that make it difficult to carry out.<sup>1616</sup> Legal requirements underlying the prohibition or limitation of a meeting or demonstration, such as the requirement of prior permission, are not compatible with freedom of assembly or the exercise of freedom of expression in the inter-American system.<sup>1617</sup>

713. Finally, this Office stresses that the protection and guarantee of the right to protest deserve special attention when it is expressed by underrepresented or marginalized sectors or groups that face institutional frameworks that do not favor their participation, or serious barriers to access to other forms of mass communication.<sup>1618</sup>

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

714. In 2022, this Office was alerted to the alleged increase of offensive content on social networks during the electoral campaign and the general election, held on June 23, 2022. Various sectors of society reportedly described some of the content as “unpleasant”, while others argued that it was harmless.<sup>1619</sup>

715. This Office also received information on the alleged increase of disinformation and false news during the electoral campaign. According to reports received, the New National Party (NNP) reportedly had to deny a WhatsApp message claiming that Barbadian political strategist, Hartley Henry, had told former Prime Minister Keith Mitchell that he could not “save his re-election campaign”.<sup>1620</sup> The WhatsApp message also alleged that the political strategist had refused to accept a \$1 million payment after reviewing the latest figures from the various constituencies, claiming that the former prime minister had miscalculated his opponent’s growing popularity.

716. The IACHR and its Office of the Special Rapporteur have explained on previous occasions that, in electoral contexts, platforms should take positive actions to counteract misinformation, such as – for example – promoting content from fact-checking agencies. These types of actions are less risky than those that involve removing content and that may be more effective in combating the worrying phenomena.<sup>1621</sup>

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<sup>1614</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019.

<sup>1615</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 157.

<sup>1616</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 56.

<sup>1617</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 56.

<sup>1618</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 16.

<sup>1619</sup> Grenada Broadcasting Network. June 23, 2022. [The Trap of Disrespect](#).

<sup>1620</sup> Naked Departure. June 13, 2022. [Hartley Henry refused \\$\\$\\$ due to imminent defeat of Dr. Mitchell in upcoming elections in Grenada](#); Grenada Broadcasting Network. June 15, 2022. [NNP Responds to Hartley Henry Rumour](#).

<sup>1621</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. P. 47.



## GUATEMALA

717. The situation of freedom of expression in Guatemala continued to deteriorate in 2022. According to the information reported, journalists and media outlets that investigate matters of public interest, especially corruption, irregularities in public administration and human rights violations, are often targets of physical violence, harassment, intimidation, harassment campaigns on social networks and judicial prosecution. Likewise, available information indicates that the complaints of journalists who are victims of aggressions do not prosper due to the lack of momentum or the desistance of the Public Prosecutor's Office, in particular its Prosecutor's Office for Crimes Against Journalists. However, this Office recognizes the favorable sentence to journalist Sonny Figueroa, who denounced police aggression in 2020; as a result, this year a Court sentenced two agents of the National Civil Police for the crime of abuse of authority. On the other hand, this year, the Office of the Special Rapporteur received numerous allegations on the increased use of criminal law for purposes of intimidation and silencing, both against journalists as well as other individuals and groups of people who have a relevant role in public and democratic life. In terms of democratic institutions, RELE documented different legislative initiatives that would have negative impacts on the right to freedom of expression and access to information, according to several reports; however, these bills have been shelved in principle. RELE observes that challenges persist for the legal operation of community radio stations in Guatemala, in order to make effective the full enjoyment of the right to freedom of expression of sectors of the population that have been historically excluded from public debate. In this regard, the judgment of the Inter-American Court of Human Rights in the *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*, notified in December 2021, becomes a milestone as it expressly recognizes the duties of the State of Guatemala to adopt the necessary measures so that all segments of the population, including indigenous community media, can access the media and have legal instruments that provide them with legal certainty.

### A. Journalism and democracy

718. In 2022, the Office of the Special Rapporteur received numerous reports on attacks on freedom of expression in Guatemala, mainly related to attacks, intimidation and judicial harassment against journalists with alleged silencing purposes, framed in a context of violations of judicial independence in Guatemala<sup>1622</sup>. In a hearing on the situation of freedom of expression in Guatemala held during the 185th Period of Sessions of the IACHR, civil society organizations warned that at least 6 journalists have had to leave Guatemala as a result of acts of harassment and threats, and the lack of guarantees for the exercise of journalistic work<sup>1623</sup>.

719. The persistent violence against journalists in the exercise of their profession continues to be an obstacle to the realization of the guarantees of the right to freedom of expression in Guatemala. This year, the Rapporteurship received information about the murder of journalist Orlando Villanueva. According to the information available, on March 8, 2022, journalist Orlando Villanueva was the victim of an armed attack by unidentified individuals, who allegedly shot him at a sports field in Puerto Barrios, department of Izabal<sup>1624</sup>. According to the information reported, the journalist was covering local issues, including the political agenda and alleged corruption cases, for the portal *Noticias del Puerto*, which he had founded and directed<sup>1625</sup>.

720. The Human Rights Ombudsman's Office (PDH) of Guatemala indicated that the journalist had reported to the Public Prosecutor's Office alleged acts of harassment and persecution by central government officials and local authorities, as well as businessmen with interests in the department<sup>1626</sup>. In addition, this Office became aware that on October 29, 2021, during a live broadcast on social networks, the journalist had denounced that police officers and officials from the Public Prosecutor's Office had attempted to enter his home in a violent manner and with alleged intimidating purposes<sup>1627</sup>. Publicly available information indicates that

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<sup>1622</sup> IACHR. February 22, 2022. Press Release No. 037/22. [IACHR expresses concern over new violations of judicial independence in Guatemala](#).

<sup>1623</sup> IACHR. October 24, 2022. 185th Period of Sessions. [Hearing No. 1: Situation of freedom of expression in Guatemala](#).

<sup>1624</sup> CPJ. March 28, 2022. [Guatemalan journalist Orlando Villanueva shot to death in Puerto Barrios](#); Prensa Comunitaria. March 16, 2022. [Villanueva's murder shows vulnerability of departmental journalist](#).

<sup>1625</sup> CPJ. March 28, 2022. [Guatemalan journalist Orlando Villanueva shot to death in Puerto Barrios](#); Prensa Comunitaria. March 16, 2022. [Villanueva's murder shows vulnerability of departmental journalist](#).

<sup>1626</sup> Human Rights Ombudsman's Office (PDH) of Guatemala. March 10, 2022. [Communiqué 28/22](#).

<sup>1627</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 8, 2022. Press Release R73/22. [The Special Rapporteurship condemns the murder of journalist Orlando Villanueva in Guatemala and calls on the State to investigate the facts and](#)

these events could have been related to his journalistic coverage of matters of public interest<sup>1628</sup>. The State has informed that the aforementioned act corresponds to a proceeding carried out by court order issued by the Juzgado Pluripersonal de Primera Instancia Penal Narcoactividad y Delitos contra el Ambiente de Izabal, to carry out investigative proceedings in an ongoing case<sup>1629</sup>.

721. According to the information available, since March 28, the investigation has been under the responsibility of the Prosecutor's Office for Crimes Committed against Journalists, which is carrying out the relevant procedures, in coordination with the National Civil Police<sup>1630</sup>. In this regard, the State indicated that since the events, the police have provided perimeter security for Orlando Villanueva's family members<sup>1631</sup>. The State has also informed that, by virtue of the judicial investigation underway, the alleged perpetrator of the crime has been identified and a series of steps have been taken to arrest him<sup>1632</sup>. It has also expressed its commitment to clarify the truth surrounding the case and to apply the corresponding sanctions to those responsible<sup>1633</sup>. On the other hand, the PDH informed that the Izabal Auxiliary opened a file and that it would follow up on the case, in coordination with the Office for the Defense of Human Rights Defenders and Journalists<sup>1634</sup>.

722. The Rapporteurship also received information on attacks against the press for their informative work. In this regard, the Association of Journalists of Guatemala (APG) documented 105 attacks against journalists in its report on the situation of freedom of expression in Guatemala in 2022, which they said were largely attributable to state officials at different levels and agents of public security forces<sup>1635</sup>. The APG report warned that local officials continue to be the main subjects to whom attacks against the press in Guatemala are attributed, despite the fact that the facts are not always publicly known or reported to the justice system for various reasons -among them, the fear of the victims of being the target of reprisals and distrust towards the judiciary and its ability to diligently investigate attacks on the press-<sup>1636</sup>. According to this entity, in 2022, three of the most relevant acts involving local authorities occurred in San Marcos, Quetzaltenango and Suchitepéquez<sup>1637</sup>. In the first two cases, the aggrieved parties reported physical violence, while in the third case, the complainant reported having received threats from a member of a municipal council<sup>1638</sup>. RELE has also received information that aggressions against journalists in many cases involve police officers<sup>1639</sup>.

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[determine their link to the practice of journalism](#); CPJ. March 28, 2022. [Guatemalan journalist Orlando Villanueva shot to death in Puerto Barrios](#); Prensa Libre. April 8, 2022. [Case of journalist murdered in Izabal reaches the IACHR and demands the government to clarify the facts](#); Human Rights Ombudsman's Office (PDH) of Guatemala. March 10, 2022. [Communiqué 28/22](#).

<sup>1628</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 8, 2022. Press Release R73/22. [The Special Rapporteurship condemns the murder of journalist Orlando Villanueva in Guatemala and calls on the State to investigate the facts and determine their link to the practice of journalism](#); CPJ. March 28, 2022. [Guatemalan journalist Orlando Villanueva shot to death in Puerto Barrios](#); Prensa Libre. April 8, 2022. [Case of journalist murdered in Izabal reaches the IACHR and demands the government to clarify the facts](#); Human Rights Ombudsman's Office (PDH) of Guatemala. March 10, 2022. [Communiqué 28/22](#).

<sup>1629</sup> Permanent Mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1630</sup> Permanent Mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1631</sup> Permanent Mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1632</sup> Permanent Mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1633</sup> Permanent Mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

<sup>1634</sup> Human Rights Ombudsman's Office (PDH) of Guatemala. March 10, 2022. [Communiqué 28/22](#).

<sup>1635</sup> Association of Journalists of Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#); Asociación de Periodistas de Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala, Primer Trimestre 2022](#).

<sup>1636</sup> Association of Journalists of Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala, First Quarter 2022](#).

<sup>1637</sup> Association of Journalists of Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala, First Quarter 2022](#).

<sup>1638</sup> Association of Journalists of Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala, First Quarter 2022](#).

<sup>1639</sup> Community Press. November 30, 2022. [Increased police aggressions against journalists in Guatemala](#); Asociación de Periodistas de Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#).

723. Among other incidents, the Office learned that journalist Lesby Esmeralda Catún Cuz de Rosales, of the magazine *Retenamit*, was reportedly intimidatingly detained by agents of the National Civil Police (PNC) in San Pedro Carchá. As she was leaving her home, the police officers asked her for her documents, forced her to get out of the vehicle, took her purse and telephone, handcuffed her, forcibly put her in a patrol car and took her to a courthouse<sup>1640</sup>. The journalist reportedly spent approximately two hours in police custody, without knowing the reasons for her arrest<sup>1641</sup>. According to the information received, the Prosecutor's Office for Crimes Against Journalists of the Public Prosecutor's Office (MP) dismissed the complaint for assault and abuse of authority filed by the journalist against three PNC agents for these acts. The decision of the Public Prosecutor's Office was based on the fact that they could not establish that the PNC agents had caused injuries to the journalist nor that they committed an arbitrary and illegal act<sup>1642</sup>. The Human Rights Ombudsman's Office of Guatemala reported that the Auxiliaturas of Alta Verapaz opened a file on this case, and that it would follow up with the respective instances together with the Office for the Defense of Human Rights Defenders and Journalists.<sup>1643</sup>

724. RELE also learned that on April 18 journalist Irma Tzi, correspondent of *Nuestro Diario*, was the victim of an armed attack by an unknown individual in Cobán, Alta Verapaz, when she was on her way to cover<sup>1644</sup>. The journalist went to the scene after receiving a fraudulent call alerting her to an alleged murder. According to information provided by the Human Rights Ombudsman's Office, after the attack, firefighters reportedly transferred the journalist to the emergency room of the Regional Hospital. Also, according to information received by the Rapporteurship, the IFEX network had reported death threats against the journalist in 2013.<sup>1645</sup>

725. On June 16, the National Civil Police violently assaulted and damaged the camera of reporter Robinson Ortega, of *Relax Noticias*, when he was documenting a police operation during a public demonstration in the Las Palmas neighborhood of Siquinalá, Escuintla, where excessive actions by the police against a group of women demonstrators were reported<sup>1646</sup>. Subsequently, the reporter was reportedly detained by the police and, according to the information received, was released on June 21 by order of the Criminal Court of First Instance of Santa Lucía Cotzumalguapa, Escuintla<sup>1647</sup>. The Quezalteca Press Association condemned the events and called on the Director General of the PNC and the Minister of the Interior "to refrain from using the security apparatus as a system of repression against the press" and to carry out the corresponding internal investigation<sup>1648</sup>. Likewise, the Guatemalan Chamber of Journalism emphasized that "any action by a public official or employee that limits this constitutional guarantee deserves the most energetic rejection", and demanded that the authorities of the Ministry of the Interior "clarify the facts immediately and deduce the administrative responsibilities that correspond to the agents responsible, without detriment to possible crimes committed that should be investigated by the Public Prosecutor's Office"<sup>1649</sup>. According to available

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<sup>1640</sup> Community Press. April 28, 2022. [Aggressions against three journalists in Alta Verapaz and Quetzaltenango reported](#); Red Rompe el Miedo Guatemala. April 25, 2022. [Red Rompe el Miedo Guatemala condemns aggressions against journalist in Alta Verapaz by members of the PNC](#); Prensa Libre. May 3, 2022. [World Press Freedom Day: Journalism under digital siege and violence, according to Unesco and IAPA](#).

<sup>1641</sup> Community Press. April 28, 2022. [Aggressions against three journalists in Alta Verapaz and Quetzaltenango reported](#); Red Rompe el Miedo Guatemala. April 25, 2022. [Red Rompe el Miedo Guatemala condemns aggressions against journalist in Alta Verapaz by members of the PNC](#); Prensa Libre. May 3, 2022. [World Press Freedom Day: Journalism under digital siege and violence, according to Unesco and IAPA](#).

<sup>1642</sup> The Hour. November 9, 2022. [APG rejects dismissal of journalist's complaint against PNC agent](#); Prensa Comunitaria. November 10, 2022. [MP rejects police aggression against journalist Lesby Catún](#).

<sup>1643</sup> PDH of Guatemala. April 20, 2022. [Comunicado 38/22](#); Community Press. April 28, 2022. [Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango \(Aggressions against three journalists in Alta Verapaz and Quetzaltenango\)](#).

<sup>1644</sup> Fundamedios. April 20, 2022. [Guatemalan journalist was attacked with a knife](#).

<sup>1645</sup> IFEX. 19 June 2013. [Two journalists receive death threats for their work in Guatemala](#).

<sup>1646</sup> CRN News. June 16, 2022. [Escuintla: PNC captures journalist while documenting police operation](#); El Periódico. June 16, 2022. [Several women and a journalist detained during demonstration](#).

<sup>1647</sup> Free Press. June 22, 2022. ["He was only doing his job": judge frees journalist Robinson Ortega, captured while covering a protest in Escuintla](#).

<sup>1648</sup> El Periódico. June 16, 2022. [Several women and a journalist detained during demonstration](#).

<sup>1649</sup> Antigua Channel. June 18, 2022. [Cámara Guatemalteca de Periodismo rechaza actuar de la PNC al detener a periodista](#); Prensa Libre. June 16, 2022. [CGP and APG condemn aggression against journalists by PNC agents and demand prompt investigation](#).

information, the journalist filed the complaint with the Prosecutor's Office for Crimes against Journalists but on September 29 he was notified that it was dismissed.

726. On June 21, 2022, *Prensa Libre* and *Guatavisión* photojournalist Carlos Hernández Ovalle was reportedly assaulted by police officers while covering a demonstration by students at the Universidad de San Carlos de Guatemala (Usac), which also damaged part of his photographic equipment<sup>1650</sup>. The photojournalist said that he was fully identified as press, with his corresponding press card and a shirt identified with the logos of the media<sup>1651</sup>.

727. In addition, the Human Rights Ombudsman's Office reported death threats against journalist Ángel Palacios, from Coatepeque, Quetzaltenango<sup>1652</sup>.

728. The Association of Journalists of Guatemala and civil society entities linked to freedom of the press have criticized the role of the Public Prosecutor's Office and its Office of Crimes against Journalists with respect to complaints of aggressions filed by journalists<sup>1653</sup>. According to the information reported, in 2022 the Public Prosecutor's Office has dismissed and filed numerous complaints of police aggressions against journalists without sufficient justification, including the cases of Robinson Ortega, Francisco Lucas, Carlos Choc and Lesby Catún<sup>1654</sup>. According to a newspaper report that investigated this issue, in the last 18 years, only 2% (28 files) of the total number of admitted cases (1,187 complaints) on attacks on journalists have obtained a conviction, and concluded that the Public Prosecutor's Office closes more cases than reach the courts<sup>1655</sup>.

729. One of the cases that went to court and obtained a favorable sentence for the victim was that of journalist Sonny Figueroa, who reported having been the victim of police aggression in 2020<sup>1656</sup>. The Rapporteurship learned that in 2022 the Eleventh Criminal Sentencing Court sentenced two officers of the National Civil Police to 4 years and 9 months in prison for the crime of abuse of authority and suspended them from public functions<sup>1657</sup>.

730. With respect to the allegations about the persistence of attacks and threats against journalists, the State has reported that significant progress has been made in terms of protection of journalists, and that the National Civil Police "is aware of the challenges it is willing to meet to ensure that the public security service

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<sup>1650</sup> The Hour. June 22, 2022. [La PNC adds another attack against journalists; now 38 in 172 days](#); *Prensa Libre*. June 21, 2022. [PNC assaults Prensa Libre and Guatavisión journalist who was documenting captures during demonstration on Roosevelt](#); Luis Assardo Twitter account (@luisassardo). [June 21, 2022](#).

<sup>1651</sup> The Hour. June 22, 2022. [La PNC adds another attack against journalists; now 38 in 172 days](#); *Prensa Libre*. June 21, 2022. [PNC assaults Prensa Libre and Guatavisión journalist who was documenting captures during demonstration on Roosevelt](#); Luis Assardo Twitter account (@luisassardo). [June 21, 2022](#).

<sup>1652</sup> PDH of Guatemala. April 20, 2022. [Comunicado 38/22](#); Community Press. April 28, 2022. [Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango \(Agresiones against three journalists in Alta Verapaz and Quetzaltenango\)](#).

<sup>1653</sup> Twitter account of the Association of Journalists of Guatemala (APG) (@APG\_1947). [October 17, 2022](#); El Periódico. November 9, 2022. [APG rechaza que el MP desestime denuncia de supuesta agresión contra periodista](#); *Prensa Comunitaria*. August 3, 2022. [Fiscalía archiva caso de periodistas agredidos por exparamilitares](#); *La Hora*. October 17, 2022. [APG accuses Consuelo Porras' MP of dismissing journalists' complaints](#); *Prensa Comunitaria*. November 30, 2022. [Police aggressions against journalists increase in Guatemala](#); *Prensa Comunitaria*. November 2, 2022. [Restrictions on information, judicial harassment and intimidation, the three actions against journalism in Guatemala](#).

<sup>1654</sup> Twitter account of the Association of Journalists of Guatemala (APG) (@APG\_1947). [October 17, 2022](#); El Periódico. November 9, 2022. [APG rechaza que el MP desestime denuncia de supuesta agresión contra periodista](#); *La Hora*. October 17, 2022. [APG points to Consuelo Porras' MP of dismissing journalist complaints](#); *Prensa Comunitaria*. 30 November 2022. [Police aggressions against journalists in Guatemala increase](#); *Resumen Latinoamericano*. November 30, 2022. [Guatemala. Public Prosecutor's Office dismisses police aggression against journalist Lesby Catún](#); Twitter account of journalist Simón A-Ramón (@simon\_antun). [January 7, 2022](#); *Prensa Comunitaria*. November 2, 2022. [Restrictions on information, judicial harassment and intimidation, the three actions against journalism in Guatemala](#); *Deutsche Welle (DW)*. 13 December 2022. [Guatemala: APG denounces 105 attacks on journalists in 2022](#).

<sup>1655</sup> Public Square. July 24, 2022. [Justice for Guatemalan journalists: prosecutor's office files more complaints than it brings to trial](#); Article 19. 3 May 2021. [Report "Guatemala: State against the press and free expression"](#).

<sup>1656</sup> The Hour. October 25, 2022. [Sonny Figueroa case: Police officers convicted of a crime and ordered to continue investigation](#); *Swissinfo*. October 26, 2022. [Two police officers convicted for assault on journalist in Guatemala during 2020](#).

<sup>1657</sup> The Hour. October 25, 2022. [Sonny Figueroa case: Police officers convicted of a crime and ordered to continue investigation](#); *Swissinfo*. October 26, 2022. [Two police officers convicted for assault on journalist in Guatemala during 2020](#).



for the journalists' guild is effective"<sup>1658</sup>. In this regard, they informed that they have established protection and investigation mechanisms and measures for journalists and people working in the media, in situations of risk, in addition to the procedures established in general<sup>1659</sup>. They also stated that, in terms of prevention of violence against journalists, the National Civil Police, through the Inspector General's Office, has trained all police personnel at the national level on issues related to respect for human rights in police procedures, with the aim of updating the knowledge of police officers and that their actions are framed within the framework of national and international legal regulations<sup>1660</sup>.

731. The State warned that one of the problems faced by the police institution in addressing issues of violence against journalists is that the Division for the Protection of Journalists and Security has been affected by a reduction in personnel; and, on the other hand, the need for a budget increase so that resources can be allocated in an appropriate and prioritized manner<sup>1661</sup>. Likewise, the State of Guatemala considers that a challenge in relation to the safety of journalists is to counteract the level of risks and threats to journalists who enjoy security measures by the Division for the Protection of Persons and Security, through the police personnel assigned<sup>1662</sup>.

732. Additionally, the State of Guatemala reported that the Prosecutor's Office for Crimes against Journalists, from January to October 2022, has received a total of 54 complaints<sup>1663</sup>. They also indicated that through their personnel they comply with the activity of initiating an agile investigation, being available 24 hours a day so that they can be advised on how to file their complaints or provide them with support; and that they are constantly informed of the progress of their investigations<sup>1664</sup>. The authorities also indicated that in September 2022, the investigations of the Prosecutor's Office were strengthened within the Integral Case System, with an additional agency to attend to incoming complaints<sup>1665</sup>.

733. Principle 9 of the IACHR Declaration of Principles on Freedom of Expression states that intimidation and threats to social communicators, as well as the material destruction of the media, violate the fundamental rights of individuals and severely restrict freedom of expression; and that it is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure adequate reparation to the victims<sup>1666</sup>.

734. The IACHR and its Office of the Special Rapporteur have understood that the actions referred to in the aforementioned principle are intended to restrict or hinder the work of those journalists who investigate abuses, abuses, irregularities or wrongdoings of all kinds, carried out either by public officials or private individuals<sup>1667</sup>. Likewise, they seek to be tools of intimidation, by means of which a message is sent to all those

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<sup>1658</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the Presidential Commission for Peace and Human Rights. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1659</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the Presidential Commission for Peace and Human Rights. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1660</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the Presidential Commission for Peace and Human Rights. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1661</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the National Civil Police. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1662</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the National Civil Police. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1663</sup> Permanent Mission of Guatemala to the OAS. December 19, 2022. Note NV-OAS-M4-299-2022. Response to the IACHR Recommendations regarding Chapter IV.B of the 2021 Annual Report. Actions of the State of Guatemala to comply with the recommendations of the IACHR Annual Report-Chapter IV.B.

<sup>1664</sup> Permanent Mission of Guatemala to the OAS. December 19, 2022. Note NV-OAS-M4-299-2022. Response to the IACHR Recommendations regarding Chapter IV.B of the 2021 Annual Report. Actions of the State of Guatemala to comply with the recommendations of the IACHR Annual Report-Chapter IV.B.

<sup>1665</sup> Permanent Mission of Guatemala to the OAS. December 19, 2022. Note NV-OAS-M4-299-2022. Response to the IACHR Recommendations regarding Chapter IV.B of the 2021 Annual Report. Actions of the State of Guatemala to comply with the recommendations of the IACHR Annual Report-Chapter IV.B.

<sup>1666</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Declaration of Principles on Freedom of Expression](#). 2020.

<sup>1667</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).



persons of the civil society who carry out investigation tasks on irregularities in the public administration<sup>1668</sup>. RELE has also maintained that this practice "seeks to keep the press, as a control mechanism, silent", preventing society from being informed about events of public interest<sup>1669</sup>. For all these reasons, the Inter-American Court emphasized that "the practice of journalism can only be carried out freely when the persons who engage in it are not victims of threats or physical, psychological or moral aggression or other acts of harassment"<sup>1670</sup>.

735. On the other hand, in 2022 this Office has received complaints about criminalization of journalists investigating matters of public interest, which would be inserted in a context of intensified judicial persecution against different groups of people who play a relevant role of scrutiny of public power in Guatemala, as noted by the Inter-American Commission in its Annual Report 2021<sup>1671</sup>.

736. According to the information received, José Rubén Zamora and Flora Silva - president and financial director of the media outlet *El Periódico*, respectively - have been the object of judicial persecution by the Public Prosecutor's Office (MP)<sup>1672</sup>. According to RELE, agents of the Public Prosecutor's Office and the National Civil Police raided the homes of José Rubén Zamora on July 29 and Flora Silva on August 19<sup>1673</sup>. Both were arrested for allegedly committing crimes related to money laundering, among others<sup>1674</sup>.

737. On December 8, Guatemala's Seventh Criminal Court ordered the opening of the trial against Zamora for the alleged crimes of money laundering, racketeering and influence peddling, considering that, in the indictment, the Public Prosecutor's Office provided consistent elements that should be debated at trial<sup>1675</sup>. That same day, the former manager of *el Periódico*, Flora Silva Flores, was sentenced to six years in prison for money laundering and a fine of Q150 thousand (just over US\$ 38,000) for the crime of money laundering, after she accepted the charges in an abbreviated procedure. Since Flora Silva accepted responsibility through a special procedure of acceptance of charges, the court reduced her sentence to three years and granted her conditional release for the remainder of her sentence<sup>1676</sup>.

738. Throughout 2022, numerous civil society organizations demanded the immediate release of the president of *El Periódico*; and considered Zamora's detention as an act of judicial persecution and censorship against critical journalists and media outlets that investigate acts of corruption in Guatemala<sup>1677</sup>. Along these lines, at the public hearing of the IACHR on the situation of the right to freedom of expression in Guatemala, held during the 185th Period of Sessions, civil society organizations denounced that the actions against Zamora constitute "a strong message to all journalists in Guatemala" who are uncomfortable with the Government, and

<sup>1668</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1669</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1670</sup> I/A Court H.R., Case of Vélez Restrepo and Family v. Colombia. *Case of Vélez Restrepo and Family Members v. Colombia. Preliminary Objection, Merits, Reparations and Costs*. Judgment of September 3, 2012 Series C No. 248. para. 209.

<sup>1671</sup> IACHR. Annual Report 2021. [Chapter IV.B. Guatemala](#). Paras. 243-248.

<sup>1672</sup> CPJ. Oct. 12, 2022. ['Persecuting every critical voice': son of imprisoned Guatemalan journalist José Rubén Zamora speaks about his father's detention](#); El Faro Twitter account (@elfaro). [August 20, 2022](#); New York Times. July 30, 2022. [In Widening Crackdown, Renowned Journalist Arrested in Guatemala](#); Prensa Comunitaria. August 5, 2022. [Keys to Understanding the Political Persecution against Jose Ruben Zamora and Prosecutor Samari Gomez](#); Voice of America. July 30, 2022. [Guatemalan Journalist Critical of President Arrested](#); Infobae. August 20, 2022. [Financial Director of Guatemala's El Periódico Arrested](#); El Periódico. August 19, 2022. [Detienen a directora financiera de elPeriódico](#).

<sup>1673</sup> El País. July 29, 2022. [Guatemalan prosecutor's office raids 'elPeriódico' newsroom and orders the arrest of its director](#); Voice of America. July 30, 2022. [Guatemalan Journalist Critical of President Arrested](#); Infobae. August 20, 2022. [Financial Director of Guatemalan newspaper El Periódico Arrested](#); El Periódico. August 19, 2022. [Detienen a directora financiera de elPeriódico](#).

<sup>1674</sup> El País. July 29, 2022. [Guatemalan prosecutor's office raids 'elPeriódico' newsroom and orders the arrest of its director](#); Voice of America. July 30, 2022. [Guatemalan Journalist Critical of President Arrested](#); Infobae. August 20, 2022. [Financial Director of Guatemalan newspaper El Periódico Arrested](#); El Periódico. August 19, 2022. [Detienen a directora financiera de elPeriódico](#).

<sup>1675</sup> CNN. December 8, 2022. [Guatemalan justice orders journalist José Zamora to go to trial and sentences one of his collaborators](#); El Periódico. December 8, 2022. [Judge sends José Rubén Zamora to trial for three crimes](#); Infobae. December 8, 2022. [The Guatemalan justice system ordered the prosecution of journalist José Rubén Zamora Marroquín](#).

<sup>1676</sup> Republic. December 8, 2022. [Condenan a exgerente de elPeriódico, Flora Silva, en procedimiento de aceptación de cargos](#); CNN. December 8, 2022. [The Guatemalan justice system orders journalist José Zamora to go to trial and sentences one of his collaborators](#).

<sup>1677</sup> International Press Institute. December 7, 2022. [Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#); Pen International. October 5, 2022. [Guatemala: We demand the immediate release of elPeriódico director José Zamora and Flora Silva](#); CEJIL. August 3, 2022. [International organizations reject the criminalization of prominent journalist José Rubén Zamora and strongly denounce the persecution of critical voices in Guatemala](#); CPJ. Aug. 3, 2022. [CPJ demands immediate release of Guatemalan journalist José Rubén Zamora](#); Twitter account of the Association of Journalists of Guatemala (@APG\_1947). [July 29, 2022](#); ABC News. November 30, 2022. [Guatemala's El Periodico newspaper stops print edition](#).

that this case has been used as an example to intimidate and silence the press<sup>1678</sup>. Likewise, an international mission of the Inter American Press Association (IAPA) that attended the trial hearing against Zamora in Guatemala concluded that "the institutional fragility in Guatemala conspires against freedom of the press, independent journalism and democracy" and that "the weakness in the functioning of the institutions is expressed in the lack of independence of the public authorities"<sup>1679</sup>. The IAPA also denounced the increased criminalization of journalists and community media, and the frequent threats against reporters who denounce the advance of organized crime, due to the alleged collusion of drug criminals with local authorities and police forces<sup>1680</sup>.

739. Journalist José Rubén Zamora has been the beneficiary of precautionary measures from the IACHR since 2003, when the Commission understood that there was an imminent risk to his life and personal integrity due to a series of physical attacks and threats received in the exercise of his profession, and the context of violence against the press in Guatemala<sup>1681</sup>. In accordance with the powers granted by the precautionary measures mechanism, in August 2022, the IACHR and its Special Rapporteurship requested the State to conduct a working visit to verify Zamora's situation<sup>1682</sup>.

740. State authorities have indicated that these criminal proceedings are not related to journalistic activities; and that the judicial proceedings surrounding their case are carried out in strict compliance with the legal framework and human rights<sup>1683</sup>. In contrast, information reported to this Office by numerous civil society actors indicates that the prosecution of José Rubén Zamora and Flora Silva could be related to their journalistic work<sup>1684</sup>. In this context, the Rapporteurship notes that freedom of the press includes not only editorial activities but also those related to the sustainability of the media<sup>1685</sup>.

741. In this context, on July 29, the offices of Aldea Global S.A., a commercial entity that - being in charge of the administrative management of the media outlet - shares its facilities with *El Periódico*<sup>1686</sup> were raided. According to the information received, at least eight workers of the media outlet were reportedly held for at least 16 hours on July 29<sup>1687</sup>.

742. According to information reported to this Office, the situation of pressure and persecution of the directors of *El Periódico* has severely damaged its financial situation<sup>1688</sup>. In November, the media outlet

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<sup>1678</sup> IACHR. October 24, 2022. 185th Period of Sessions. [Hearing No. 1: Situation of freedom of expression in Guatemala](#).

<sup>1679</sup> SIP. December 12, 2022. [IAPA is concerned about institutional fragility in Guatemala that conspires against press freedom](#).

<sup>1680</sup> SIP. December 12, 2022. [IAPA is concerned about institutional fragility in Guatemala that conspires against press freedom](#).

<sup>1681</sup> IACHR. No date. [Precautionary measures granted by the IACHR during 2003](#).

<sup>1682</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 2, 2022. Press Release No. R196/22. [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#).

<sup>1683</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1684</sup> CPJ. August 3, 2022. [CPJ demands immediate release of Guatemalan journalist José Rubén Zamora](#); El País. August 3, 2022. [José Rubén Zamora: "This is a persecution by Giammattei, it is a political trial"](#); El Faro. August 15, 2022. [The dubious case against José Rubén Zamora was put together in 72 hours](#); Prensa Comunitaria. August 5, 2022. [Keys to understanding the political persecution against Jose Ruben Zamora and prosecutor Samari Gomez](#); Voice of America. July 30, 2022. [Guatemalan Journalist Critical of President Arrested](#).

<sup>1685</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 2, 2022. Press Release No. R196/22. [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#).

<sup>1686</sup> El Periódico. July 30, 2022. [Journalist Jose Ruben Zamora detained and "elPeriodico" offices raided](#); El Mundo. July 30, 2022. [Guatemalan Prosecutor's Office raids the headquarters of 'El Periódico' and arrests its president, winner of the King of Spain award, accused of money laundering](#).

<sup>1687</sup> Free Press. July 30, 2022. [Eight workers were detained during the raid on the facilities of elPeriodico](#); El Periódico. July 31, 2022. [Employees of "elPeriodico" were held for more than 16 hours](#).

<sup>1688</sup> Voice of America. December 4, 2022. ["We transform ourselves to resist": elPeriodico de Guatemala closes its print edition](#); International Press Institute. December 7, 2022. [Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#); Democracy Now. December 2, 2022. [Guatemalan newspaper El Periódico closes its print edition after being attacked by the government](#).

announced that they were putting an end to the print edition<sup>1689</sup>. According to information received, as of December 2022 the two main accounts of the newspaper continue to be frozen<sup>1690</sup>.

743. In addition to these facts there are other cases that have come to the attention of RELE, related to complaints classified as spurious and aimed at preventing the publication of investigations on matters of public and political relevance. In 2022, RELE became aware of a complaint filed by a former Minister of Communications against journalist Juan Luis Font, director of the news program *Con Criterio*, for allegedly committing the crimes of illicit association and collusion<sup>1691</sup>. According to public information, the evidence of the alleged illicit association would include interviews Font conducted with a former judge in his radio program, as well as tweets from his personal account in which he commented on alleged acts of harassment against the judge by "criminal groups"<sup>1692</sup>. The reporter confirmed that he decided to leave the country and denounced harassment and reprisals linked to his work that discourage him from continuing to practice journalism from Guatemala<sup>1693</sup>.

744. In this regard, the State indicated that said proceeding is under legal reserve and that the investigating entity continues with the proceedings to elucidate whether or not the facts indicated were committed<sup>1694</sup>. The authorities emphasized that the complaint mentioned here was filed by a third party and not by the Public Prosecutor's Office, and that the State is not prosecuting the journalist for his informative work<sup>1695</sup>.

745. In addition, according to available information, the Seventh Court of First Criminal Instance reportedly ordered an investigation against journalists from *Agencia Ocote*, after they interviewed a prosecutor in prison and produced a podcast about her case.<sup>1696</sup>

746. The Office of the Special Rapporteur has also given particular follow-up to the cases of journalists Juan Bautista Xol, Baudilio Choc and Carlos Choc, who have publicly denounced judicial proceedings against them and police operations at their residences after they covered a series of demonstrations by the Mayan Q'eqchi' population in El Estor, Izabal, and the use of public force to disperse them, in October 2021<sup>1697</sup>. Although this Office was informed that there were two criminal proceedings in force against journalist Carlos

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<sup>1689</sup> ABC News. November 30, 2022. [Guatemala's El Periodico newspaper stops print edition](#); Prensa Libre. November 30, 2022. [elPeriódico ends print edition after executives say pressure](#); Deutsche Welle (DW). November 19, 2022. [elPeriódico to stop print circulation in Guatemala](#).

<sup>1690</sup> IACHR. October 24, 2022. 185 Session. [Hearing No. 1: Situation of freedom of expression in Guatemala](#); International Press Institute. December 7, 2022. [Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#); Prensa Libre. November 23, 2022. [Jose Ruben Zamora case: Peruvian press organizations deliver letter to Foreign Minister Mario Búcaro to ask for "release" of journalist](#); Prensa Comunitaria. December 5, 2022. [Independent journalists denounce attacks on the press in Guatemala](#).

<sup>1691</sup> CPJ. April 8, 2022. [Guatemalan journalist Juan Luis Font leaves country after former minister accuses him of 'illicit association'](#); Community Press. 25 March 2022. [Juan Luis Font: "They won't see me shut up unless they manage to put me in jail"](#); Prensa Comunitaria. 23 March 2022. [APG rejects new act of judicial harassment against Juan Luis Font](#); Agencia Ocote. April 4, 2022. [Journalist J.L. Font leaves Guatemala and organizations alert the population](#).

<sup>1692</sup> CPJ. April 8, 2022. [Guatemalan journalist Juan Luis Font leaves the country after a former minister accuses him of 'illicit association'](#); Prensa Libre. December 6, 2021. [Journalist Juan Luis Font is taken into custody at the request of the MP and he points to persecution for his publications](#).

<sup>1693</sup> Virtual meeting of the Special Rapporteur for Freedom of Expression with journalist Juan Luis Font. March 13, 2022; CPJ. April 8, 2022. [Guatemalan journalist Juan Luis Font leaves country after former minister accuses him of 'illicit association'](#); Agencia Ocote. 4 April 2022. [Journalist J.L. Font leaves Guatemala and organizations alert the population](#).

<sup>1694</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1695</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1696</sup> The Hour. June 19, 2022. [Agencia Ocote: we entered as journalists and guard saw the recorder](#); Asociación de Periodistas de Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#).

<sup>1697</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 29, 2021. Press Release R286/21. [La Relatoría Especial llama al Estado de Guatemala a respetar y garantizar la labor periodística conforme a estándares internacionales de derechos humanos](#); CPJ. April 4, 2022. [Guatemalan journalist Carlos Choc to be prosecuted for facts related to journalistic coverage of a protest](#); Twitter account of the Association of Journalists of Guatemala (APG) (@APG\_1947). [March 31, 2022](#); Prensa Comunitaria. March 28, 2022. [The State once again criminalizes journalist Carlos Choc and Prensa Comunitaria for reporting on the operations of the Russian mine in El Estor](#).

Choc, on September 1, 2022, the State informed that there were no complaints filed against him, and that there are no State actions to impede his journalistic activity<sup>1698</sup>. However, the Rapporteurship learned that on September 13, 2022, the Pluripersonal Judge of First Criminal Instance of Izabal ruled lack of merit on the crime of instigation to violence, in the criminal case linked to the protests in El Estor, in October 2021<sup>1699</sup>. The journalist had been denounced by 13 agents of the National Civil Police who accused him of physical aggression in the context of his journalistic coverage. *Prensa Comunitaria* has warned that there is still another criminal case against him.<sup>1700</sup>

747. Journalist Robinson Ortega of *Relax Noticias* was indicted by the Mixed Appeals Court of Escuintla, after a PNC agent denounced him for the crime of assault and the Public Prosecutor's Office appealed the ruling of lack of merit issued by a judge in June<sup>1701</sup>. As previously mentioned in this report, on June 16, 2022, the reporter was detained while covering a demonstration in Las Palmas Siquinalá, Escuintla, where he had recorded alleged abuses by the security forces<sup>1702</sup>. As a result of these events, a police report was filed against him with accusations of "obstructing" the work of the security forces and of having insulted them; and he was also accused of physically assaulting a police officer -which, according to civil society organizations, are false allegations made by a police officer-<sup>1703</sup>. The hearing to review the coercive measures ordered against journalist Robinson Ortega, scheduled for November 2022, was suspended for 2023, as far as this Office was able to learn.<sup>1704</sup>

748. In 2022, the Office of the Special Rapporteur continued to follow up on the situation of journalists Sonny Figueroa and Marvin del Cid, who in recent years have been criminally accused by government officials and former government officials, allegedly after they published journalistic investigations involving them<sup>1705</sup>. With respect to these facts, the State of Guatemala indicated that "there is no particular persecution for their journalistic work, nor is there professional harassment against both journalists"<sup>1706</sup>. In addition, it added that "the criminal proceedings initiated against the agents of the National Civil Police for the aggressions reported by both journalists is proof of the State's commitment to bring justice to all".<sup>1707</sup>

749. Likewise, as denounced by civil society organizations, the alleged judicial persecution against journalists is accompanied by defamation and intimidation campaigns in social networks, which seek to delegitimize the work of the independent press<sup>1708</sup>. The Association of Journalists of Guatemala documented

<sup>1698</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1699</sup> El Periódico. September 13, 2022. [Journalist Carlos Choc cleared of charges](#); El Comercio. September 13, 2022. [Guatemala: Journalist accused of instigating violence released in 2021](#); Prensa Comunitaria. September 14, 2022. [El día en que el Estado de Guatemala se quedó sin argumentos contra el periodista Carlos Choc](#); TeleSUR. 14 September 2022. [Guatemalan journalist accused of instigating violence is released](#).

<sup>1700</sup> Community Press. November 23, 2022. [Legal persecution persists against journalist Carlos Choc and three fishermen, at the request of miners](#).

<sup>1701</sup> Break the Fear Network. November 10, 2022. [Red Rompe el Miedo Guatemala strongly condemns the criminalization of journalist Robinson Ortega](#); Prensa Comunitaria. November 11, 2022. [Court annuls judge's decision and orders trial of journalist Robinson Ortega](#); Fundamedios. December 23, 2022. [Informe Regional. 2022. año del éxodo periodístico \(2022, year of the journalistic exodus\)](#).

<sup>1702</sup> See previous paragraphs of this report.

<sup>1703</sup> Newsroom / Facebook. [November 13, 2022](#); Community Press. 17 October 2022. [Prosecutor's Office for crimes against journalists seeks to dismiss case against civilian national police officers accused of assaulting journalist](#).

<sup>1704</sup> Community Press. 30 November 2022. [Judge postpones hearing of journalist Robinson Ortega](#); Twitter account of Red Rompe el Miedo Guatemala (@RompeElMiedoGt). [29 November 2022](#).

<sup>1705</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 473.

<sup>1706</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1707</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1708</sup> Association of Journalists of Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#).



21 attacks against media and journalists in digital platforms, including 3 cyber attacks to digital pages or profiles in social networks, 2 cases of provisional suspension of users in social networks and 16 acts of defamation, threats and sexual harassment against women in these platforms<sup>1709</sup>.

750. The Special Rapporteurship considers that these actions contribute to deepen the deterioration of the guarantees to practice journalism in Guatemala, a situation that has already been addressed by this Office in press releases and its last annual report<sup>1710</sup>. Likewise, RELE has received complaints that the alleged actions of institutional harassment against journalists and media outlets are generating an environment of self-censorship in the press, especially among those who investigate matters of public relevance, such as corruption and criminalization against justice operators.

751. At the 185th Period of Sessions of the IACHR, during the hearing on the situation of freedom of expression in Guatemala, the State's representative emphasized that Guatemala respects the right to freedom of expression, and noted that it is working proactively, from different State bodies, to promote measures and policies to protect journalists and freedom of the press. On the other hand, it insisted that criminal proceedings are carried out in strict compliance with the legal framework and human rights. They also affirmed that the legal actions brought against journalists are within the framework of constitutionally guaranteed rights, which include the possibility for individuals to initiate criminal proceedings when they consider their rights have been violated, as well as the power of the State to initiate criminal proceedings in certain cases. The State emphasized that the complaints, by themselves, do not constitute convictions in any way; and that the relevant judicial bodies are responsible for resolving disputes<sup>1711</sup>.

752. This Office understands that these facts must be analyzed in light of the human rights situation in Guatemala, which the IACHR has already analyzed in accordance with its mandate<sup>1712</sup>. In this regard, the Commission has emphasized that these types of criminal proceedings constitute a form of reprisal and intimidation for its work and seek to hinder its work<sup>1713</sup>.

753. Along these lines, this Office considers that prolonged criminal proceedings in cases involving journalists can have a negative impact on the right to freedom of expression and freedom of the press, especially to the extent that the relationship between the criminal prosecution and the practice of journalism is not clarified<sup>1714</sup>. According to Inter-American jurisprudence, judicial proceedings, when used as an indirect means to restrict the right to freedom of expression, "can have a dissuasive, frightening and inhibiting effect on all those who exercise the right to freedom of expression, which, in turn, prevents public debate on issues of interest to society"<sup>1715</sup>.

754. In view of the foregoing considerations, the Office of the Special Rapporteur recalls that journalism is the primary and principal manifestation of freedom of expression, since it is journalists and the media who keep society informed on matters of public interest and contribute to the existence of a broad, robust and

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<sup>1709</sup> Association of Journalists of Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#).

<sup>1710</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022; IACHR. Office of the Special Rapporteur for Freedom of Expression. October 29, 2021. Press Release R286/21. [The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. September 2, 2022. Press Release No. R196/22. [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#).

<sup>1711</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1712</sup> IACHR. Annual Report 2021. [Chapter IV.B. Guatemala](#). Paras. 243-248.

<sup>1713</sup> IACHR. Annual Report 2021. [Chapter IV.B. Guatemala](#). Paras. 243-248.

<sup>1714</sup> IACHR. October 24, 2022. 185 Session. [Hearing No. 1: Situation of freedom of expression in Guatemala](#); IACHR Court. *Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs*, Judgment of November 27, 2008. Series C No. 192. para. 155; I/A Court H.R., *Case of Granier et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of June 22, 2015. Series C No. 293. para. 164.

<sup>1715</sup> IACHR Court. *Case of Granier et al. (Radio Caracas Televisión) v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of June 22, 2015. Series C No. 293. para. 164.



pluralistic public debate<sup>1716</sup>. Likewise, the Commission has repeatedly held that an independent and critical press is a fundamental element for the validity of the other freedoms that make up the democratic system and the rule of law<sup>1717</sup>. For this reason, States have the obligation to create the conditions for journalists to be able to exercise their function freely, independently and safely<sup>1718</sup>.

755. Likewise, this Office emphasizes that direct or indirect pressures from the State aimed at silencing the informative work of social communicators are incompatible with freedom of expression. Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that "the use of the power of the State and the resources of the public treasury (...) with the objective of pressuring and punishing or rewarding and privileging social communicators and the media according to their informative lines, violates freedom of expression and should be expressly prohibited by law. The social communication media have the right to carry out their work independently"<sup>1719</sup>. RELE has also emphasized that "imposing direct or indirect pressures aimed at silencing the informative work of social communicators obstructs the full functioning of democracy, since its consolidation is intimately related to the free exchange of ideas, information and opinions among people"<sup>1720</sup>.

756. Finally, the Rapporteurship recalls that criminal law is the most restrictive and severe means of establishing responsibility for conduct related to the right to freedom of expression, particularly when it imposes custodial sentences<sup>1721</sup>; and that its application to punish speech in the public interest is incompatible with inter-American standards<sup>1722</sup>. In this regard, the Office of the Special Rapporteur reiterates that limiting debate through criminal law has serious effects on democratic control and that, when used unnecessarily and disproportionately, it leads to the abusive exercise of the punitive power of the State<sup>1723</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

757. In terms of democratic institutionalism, in 2022 the Office of the Special Rapporteur learned about various bills that, if approved, could have a negative impact on the right to freedom of expression. This was the case, for example, of Decree 39-2022 that created the Law on Prevention and Protection against Cybercrime, approved on August 4, 2022 by Congress, whose objective was to "protect the personal data of Guatemalans, strengthen the rules of social-digital coexistence in the country, update national legislation in this new technological era and the criminalization of cybercrime, computer fraud and the protection of personal data on the Internet"<sup>1724</sup>. The norm was questioned by civil society organizations and specialists, who alleged imprecision and vagueness in the normative text; the introduction of restrictive provisions to the right of access to public information; the violation of the right to reserve sources, among other points that they considered incompatible with the Constitution<sup>1725</sup>.

758. However, a few weeks later, on August 24, the Congress decided to shelve this decree, after a series of observations and objections presented by deputies<sup>1726</sup>. RELE welcomes the decision of the legislative body

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<sup>1716</sup> I/A Court H.R., Advisory Opinion OC-5/85 of November 13, 1985. [Advisory Opinion OC-5/85 of November 13, 1985](#). "Compulsory Membership in an Association of Journalists (Arts. 13 and 29 American Convention on Human Rights). Para. 71; IACHR. No date. [Background and Interpretation of the Declaration of Principles](#).

<sup>1717</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1718</sup> IACHR. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 8 and para. 165 et seq.

<sup>1719</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1720</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1721</sup> I/A Court H.R. *Case of Usón Ramírez v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 20, 2009. Series C No. 207, para. 55.

<sup>1722</sup> I/A Court H.R. *Case of Álvarez Ramos v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 30, 2019. Series C No. 380, para. 121.

<sup>1723</sup> I/A Court H.R. I/A Court H.R., *Case of Tristán Donoso v. Panama. Preliminary Objection, Merits, Reparations and Costs*. Judgment of January 27, 2009 Series C No. 193, para. 119.

<sup>1724</sup> Congress of the Republic. August 4, 2022. [Plenary approves law against cybercrime](#); OGD. August 5, 2022. [Plenary of Congress approves Decree 39-2022 Law against Cybercrime](#).

<sup>1725</sup> Acción Ciudadana TI Guatemala Twitter account (@AcGuatemala). [August 10, 2022](#); Prensa Libre. 10 August 2022. [Acción Ciudadana and Transparency International reject regulations against cybercrime](#); La Hora. August 11, 2022. [Analistas expresan preocupación por Ley de Ciberdelincuencia y su efecto en libertad de expresión](#); Divergentes. August 11, 2022. [Ley de Ciberdelitos en Guatemala, ¿una nueva mordaza para la libertad de expresión?](#)

<sup>1726</sup> Free Press. September 1, 2022. [Congress makes official that decree 39-2022 that contained the Law against cybercrime is archived](#); Plaza Pública. August 24, 2022. [Ley contra ciberdelincuencia, la normativa que puso en riesgo la libertad de expresión y la crítica](#)

to dismiss this norm, which contained provisions that, due to their vagueness, granted wide margins of discretion in their application and that ran the risk of being used to the detriment of the right to freedom of expression.

759. Likewise, this Office was informed of initiative 6076 of the Law for the Strengthening of the Public Security Forces and the Army, which, according to the Guatemalan Congress, has as its main objective "to guarantee national security as a fundamental element that allows reaching adequate levels of economic and social development, for an environment of peace, stability and governability for the Guatemalan society"<sup>1727</sup>. It also seeks to "support the elements of the National Civil Police (PNC), the Guatemalan Army and other security entities, who have suffered legal repercussions with long processes, when using the principle of proportionality of force or for using their weapon in legitimate defense of their life and that of third parties", as indicated by the Congress<sup>1728</sup>. The initiative had a first favorable opinion; however, according to information from the State of Guatemala, on August 23, 2022, a political agreement was reached by the majority of members of the Board of Directors of the Congress in which they stated that it would not be agendized again in the proposals of the agenda that the Board of Directors proposed initiative 6076<sup>1729</sup>.

760. On the other hand, in a scenario of allegations of weakening of the guarantees to judicial independence, the Association of Journalists of Guatemala has reported alleged restrictions to the participation and coverage of the press in judicial hearings, some of them in relevant cases such as the one followed by the Public Ministry against Virginia Laparra, former prosecutor of the Special Prosecutor's Office against Impunity (FECI) in Quetzaltenango, or the case against a man accused of attacking a demonstration linked to the opposition to mining in "La Puya"<sup>1730</sup>. According to this entity, this type of limitations have been recurrent since 2020, even after the health prevention measures for the pandemic had already been lifted<sup>1731</sup>.

761. In terms of democratic institutions, the State of Guatemala emphasized that "the Political Constitution of the Republic of Guatemala establishes that it is the duty of the State to guarantee the inhabitants of the Republic life, liberty, justice, security, peace and the integral development of the person"<sup>1732</sup>. Likewise, it specified that the Constitution, "when referring to the duties of the State with respect to the inhabitants of the Republic, imposes on it the obligation to guarantee not only freedom, but also other values, such as justice and the integral development of the person, for which it must adopt the measures that in its judgment are convenient according to the needs and conditions of the moment, which may be not only individual but also social"<sup>1733</sup>.

762. In relation to the aforementioned facts, the Rapporteurship recalls that, as established by Inter-American jurisprudence, any limitation on the exercise of freedom of expression -whether arising from laws,

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[ciudadana](#); Prensa Libre. October 11, 2022. [Sectors and experts call for veto for law against cybercrime for violating freedom of expression](#); Prensa Libre. August 10, 2022. [Cámara Guatemalteca de Periodismo y organizaciones rechazan Ley contra la Ciberdelincuencia](#).

<sup>1727</sup> Congress of Guatemala. August 4, 2022. [Emiten dictamen favorable a iniciativa 6076](#); Prensa Libre. August 16, 2022. [Oficialistas maintain interest in approving law to strengthen security forces](#); La Hora. August 9, 2022. [Initiative 6076: Law for use of force in demonstrations advances in first debate](#); Divergentes. 19 August 2022. [Law for the Strengthening of Public Security Forces in Guatemala: in limbo and repudiated](#).

<sup>1728</sup> Congress of Guatemala. August 4, 2022. [Favorable opinion to initiative 6076 is issued](#).

<sup>1729</sup> Congress of Guatemala. August 4, 2022. [Emiten dictamen favorable a iniciativa 6076](#); United Nations. Office of the United Nations High Commissioner for Human Rights. November 4, 2022. [Informe de la Comisión Presidencial de los Derechos Humanos en respuesta a la comunicación recibida de las Mandatos del Relator Especial sobre los derechos a los derechos a la libertad de reunión pacífica y asociación; del Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias; y de la Relatora Especial sobre la situación de los defensores de derechos humanos por la preocupación ante la intención del Congreso de la República de Guatemala de convertir en ley la iniciativa número 6076 titulada "Ley para el fortalecimiento de las fuerzas de seguridad pública y el ejército de Guatemala"](#).

<sup>1730</sup> Association of Journalists of Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala. First Quarter 2022](#).

<sup>1731</sup> Association of Journalists of Guatemala (APG). May 2022. [Estado de Situación de la Libertad de Expresión en Guatemala. First Quarter 2022](#).

<sup>1732</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the Presidential Commission for Peace and Human Rights. File of the Office of the Special Rapporteur for Freedom of Expression.

<sup>1733</sup> Permanent Mission of Guatemala to the OAS. October 12, 2022. Information provided by the State of Guatemala to RELE. Response from the Presidential Commission for Peace and Human Rights. File of the Office of the Special Rapporteur for Freedom of Expression.

administrative, judicial, police or any other type of decisions and acts- must meet the requirements of legality, legitimate objective, necessity and proportionality<sup>1734</sup>.

763. Likewise, RELE recalls that social protest, which includes the exercise of the right to freedom of peaceful and unarmed assembly, freedom of association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and the State is obliged to respect, protect and guarantee these rights<sup>1735</sup>. Any limitation on the exercise of the right to protest must meet the aforementioned requirements of legality, legitimate objective, necessity and proportionality<sup>1736</sup>. Article 15 of the American Convention on the right to peaceful assembly establishes that it may be subject to restrictions imposed "in the interests of national security, public safety or public order, or to protect public health or morals or the rights or freedoms of others"<sup>1737</sup>. The IACHR has held that States are not free to interpret in any way the content of these objectives for purposes of justifying a limitation in specific cases<sup>1738</sup>.

764. Finally, RELE reiterates that transparency and accountability of public authorities strengthen democratic systems. In this sense, the authorities must ensure that the press can access press conferences and provide coverage of public events convened by the executive, legislative and judicial branches, to gather information on matters of public interest and notoriety, and provide equal opportunities for the formulation of questions<sup>1739</sup>. In ruling on restrictions imposed on journalists or communicators for access to official sources of information at public acts or events, the Inter-American Court has determined that "[w]ith respect to accreditations or authorizations to the press media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive and impart information and ideas of all kinds, it must be demonstrated that their application is legal, pursues a legitimate objective and is necessary and proportional in relation to the objective pursued in a democratic society. The accreditation requirements must be concrete, objective and reasonable, and their application transparent"<sup>1740</sup>.

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

765. The lack of legal recognition and allegations of criminal prosecution of community radio stations constitute other challenges that must be addressed by the State of Guatemala in order to make effective the exercise of the right to freedom of expression. As noted in the last annual report of the IACHR, there are significant challenges for the operation of unlicensed community radio stations in the country<sup>1741</sup>. This issue was analyzed by the Inter-American Court of Human Rights in the *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*, whose judgment was notified on December 17, 2021 and declared the State of Guatemala internationally responsible for the violation of the rights to freedom of expression, equality before

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<sup>1734</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 67.

<sup>1735</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Foreword and paras. 1-46.

<sup>1736</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 36.

<sup>1737</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 36.

<sup>1738</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the Right to Freedom of Expression](#). Para. 75.

<sup>1739</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346; UN, OSCE, OAS, ACHPR. October 20, 2021. [Joint Declaration 2021 on political leaders, persons exercising public functions, and freedom of expression](#).

<sup>1740</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346.

<sup>1741</sup> Community Press. September 6, 2022. [Guatemalan journalism tries to survive in the face of criminalization and harassment](#); No Ficción. July 11, 2022. [A new beginning for community radio](#); Prensa Comunitaria. September 13, 2022. [Carlos Choc, community journalist criminalized for doing his work in El Estor](#); Agencia Ocote. May 17, 2022. [Persecution of the press. Carlos Choc: I sign and we leave](#); Marcha. April 11, 2022. [Guatemala: La mina espía y criminaliza para controlar El Estor](#); Prensa Comunitaria. April 27, 2022. [Community journalism: the need to continue in the midst of persecution and harassment](#).

the law and participation in the cultural life of four indigenous peoples operating community radio stations<sup>1742</sup>. Among the measures of reparation, the Court ordered to adapt domestic legislation to recognize community radio stations as differentiated means of communication, particularly indigenous community radio stations; to regulate their operation, establishing a simple procedure for obtaining licenses; and to refrain from criminally prosecuting individuals who operate indigenous community radio stations, to raid such stations and to seize their transmission equipment<sup>1743</sup>.

766. Following the decision of the Inter-American Court, on January 25, 2022, the bill 5965 Regulating Community Radio Stations was presented to the plenary of the Congress of Guatemala, which proposed reforms to the General Law of Telecommunications with the aim of regulating community radio stations in the country, and which was questioned by civil society<sup>1744</sup>. The Movement of Community Radio Broadcasters of Guatemala - made up of members of almost 60 community radio stations throughout the country and legally represented by the association Sobrevivencia Cultural - rejected the bill, arguing that it does not comply with the orders of the Inter-American Court of Human Rights<sup>1745</sup>. In this regard, they pointed out that the State did not carry out any prior consultation with the communities identified as victims in the case before the Inter-American Court, nor more broadly with indigenous communities in the country; that the initiative does not clearly define indigenous community radio, which is essential for the differentiated recognition of this medium as ordered by the Court; that the procedure for obtaining licenses for indigenous community radio is ambiguous; and that the initiative does not reserve a part of the radio spectrum for indigenous community radio<sup>1746</sup>. According to information received by RELE, during 2022 meetings were held within Congress to discuss this bill; and COPADEH has reported that they have met with some deputies to address the proposed law in question<sup>1747</sup>.

767. This Office emphasizes that community journalism contributes to diversity and pluralism of information and that, in this sense, community journalism -and, in particular, community radio broadcasting- can play an extremely important role by offering public interest programming and complementing the content offered by private commercial broadcasters<sup>1748</sup>.

768. The Inter-American Court has highlighted the importance of pluralism for the exercise of the right to freedom of expression, stating that it implies "tolerance and a spirit of openness, without which there is no democratic society"<sup>1749</sup>. Therefore, according to the Court, States have the duty to adopt the necessary measures to ensure that all segments of the population have access to the media<sup>1750</sup>. To achieve this end, "it is necessary that the State democratize access in such a way that it recognizes, promotes or encourages the diverse forms and uses that each sector can adopt to access and operate these media and, consequently, creates spaces for differentiated forms of media and the corresponding legal instruments to provide them with legal security"<sup>1751</sup>. According to the decision of the Court in the case of *Pueblos Indígenas Maya Kaqchikel de Sumpango y otros Vs. Guatemala*, "this state obligation necessarily implies a right of the indigenous peoples to

<sup>1742</sup> IACHR Court. December 17, 2021. CP-103/2021. [Guatemala is responsible for violating the freedom of expression and cultural rights of four indigenous peoples who operate community radio stations.](#)

<sup>1743</sup> IACHR Court. December 17, 2021. CP-103/2021. [Guatemala is responsible for violating the freedom of expression and cultural rights of four indigenous peoples who operate community radio stations.](#)

<sup>1744</sup> Congress of the Republic, Department of Legislative Information. [Initiative No. 5965](#); LatAm Journalism Review. 29 March 2022. [Radios comunitarias indígenas de Guatemala buscan que gobierno acate sentencia emblemática de Corte Interamericana](#); Observacom. February 16, 2022. [Exigen al Estado de Guatemala que cumpla con sentencia de la Corte IDH sobre las radios comunitarias indígenas.](#)

<sup>1745</sup> Cultural Survival. February 15, 2022. [To the national and international public opinion on the Law Initiative 5965.](#)

<sup>1746</sup> Cultural Survival. February 15, 2022. [To the national and international public opinion on the Law Initiative 5965.](#)

<sup>1747</sup> Congress of the Republic. March 1, 2022. [Analizan iniciativa de ley que regula las radios comunitarias](#); Prensa Comunitaria. November 23, 2022. [Baja Verapaz: a community radio returns to the air ten years later.](#)

<sup>1748</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 802.

<sup>1749</sup> IACHR Court. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile*. Merits, Reparations and Costs. Judgment of February 5, 2001. Series C No. 73. para. 69.

<sup>1750</sup> I/A Court H.R., *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*. Merits, Reparations and Costs. Judgment of October 6, 2021. Series C No. 440. para. 88.

<sup>1751</sup> I/A Court H.R., *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*. Merits, Reparations and Costs. Judgment of October 6, 2021. Series C No. 440. para. 89.



be represented in the different media, especially by virtue of their particular ways of life, their community relations and the importance of the media for the referred peoples"<sup>1752</sup>.

769. In this context, the IACHR and its RELE consider it essential that the State of Guatemala adopt the necessary measures to allow indigenous communities to operate their community radio stations freely, without interference or criminal prosecution, in accordance with the provisions of the Inter-American Court<sup>1753</sup>.

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

770. In 2022, the Rapporteurship has continued to receive information about the increase in inauthentic behavior coordinated by anonymous accounts on social networks in Guatemala, which, as has been reported, disseminate confidential State information or announce acts that are later carried out by the State, for example, in relation to operations, proceedings and criminal trials that are under the protection of the Public Prosecutor's Office<sup>1754</sup>. On this point, the State has informed the IACHR and its Special Rapporteurship that "at no time have these publications been aired by official accounts of the State of Guatemala, nor by its public officials, so it is not attributable to the State"<sup>1755</sup>.

771. Likewise, reports indicate that these coordinated groups of anonymous accounts -also known in Guatemala as *netcenters*- promote harassment campaigns and online attacks against journalists, media, civil society organizations, human rights defenders and public figures critical of the Government, whose alleged purpose is to position narratives of rejection and discredit to their work<sup>1756</sup>. In 2022, the Association of Journalists of Guatemala documented 21 attacks against media and journalists on digital platforms in 2022, comprising 3 cyber attacks on digital pages or profiles on social networks, 2 cases of provisional suspension of users on social networks and 16 acts of defamation, threats and sexual harassment against women on these platforms<sup>1757</sup>.

772. Thus, for example, in May, an anonymous Twitter account - known for actively intervening in harassment campaigns against government critics, and allegedly part of the *netcenters* - published death threats against journalist Sonny Figueroa, of the digital media *Vox Pópuli*<sup>1758</sup>. The Rapporteurship also highlights the case of an attack on the Twitter account of the investigative portal *No-Ficción*, in mid-July 2022, after they published an investigation linked to the Odebrecht case, in alliance with the media outlet *Redacción Regional*.<sup>1759</sup> According to the media, on July 14, hours after publishing the report, their Twitter account was deactivated and the devices of the people in charge of the contents were disconnected.<sup>1760</sup> The account would have been recovered within half an hour, using the established internal Twitter rules; however, in the following

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<sup>1752</sup> I/A Court H.R., Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, Reparations and Costs*. Judgment of October 6, 2021. Series C No. 440. para. 92.

<sup>1753</sup> I/A Court H.R., Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, Reparations and Costs*. Judgment of October 6, 2021. Series C No. 440. para. 184.

<sup>1754</sup> With Criterion. August 2, 2022. [MP opens privileged access of information to netcenter](#); La Hora. November 24, 2022. [Netcenter announces and MP confirms it asked judge for extradition of Aldana](#); Centro Latinoamericano de Investigación Periodística (CLIP). November 30, 2022. [How anti-justice and human rights netcenters mutated in Guatemala](#); Prensa Libre. January 17, 2023. [Common pattern in criminalization cases](#); La Hora. August 22, 2022. [MP does not investigate leaks to "netcenters" due to lack of complaints](#).

<sup>1755</sup> Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State on the press release of the Office of the Special Rapporteur: "El Estado de Guatemala debe garantizar de forma plena y efectiva el derecho a la libertad de expresión y a la libertad de prensa" (The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press). Archive of the Office of the Special Rapporteur.

<sup>1756</sup> Fake News Hunters. August 24, 2022. [Influence operations associated with Americas, Twitter August 2022 \[Reports in Spanish\]](#); El Periódico. August 27, 2022. [Report shows coordinated campaigns by fake Twitter users against NGOs and social movements](#); Prensa Libre. May 3, 2022. [World Press Freedom Day: Journalism under digital siege and violence, according to Unesco and IAPA](#); El Periódico. August 28, 2022. [Report shows coordinated campaigns by fake Twitter users against social movements](#); Agencia Ocote. November 30, 2022. [How anti-justice and human rights netcenters mutated in Guatemala](#).

<sup>1757</sup> Association of Journalists of Guatemala (APG). December 2022. [Estado de situación de la libertad de expresión 2022: "terrorismo judicial acecha a la prensa"](#).

<sup>1758</sup> Red Rompe el Miedo. 25 May 2022. [Red Rompe el Miedo Guatemala calls on Public Prosecutor's Office to investigate threat against journalist Sonny Figueroa](#); Article 19. 25 May 2022. [Red Rompe el Miedo Guatemala calls on the Public Prosecutor's Office to investigate the threat against journalist Sonny Figueroa](#).

<sup>1759</sup> Nonfiction. July 18, 2022. [No Ficción bajo ciberataque](#); Article 19. 20 July 2022. [Independent media in Guatemala suffers digital aggression after publication on Odebrecht case](#); Soy 502. 18 July 2022. [Medio No-Ficción denounces cyber attack for published investigation](#); La Hora. July 18, 2022. [No Ficción denounces attack on its Twitter after report on Sinibaldi](#).

<sup>1760</sup> Nonfiction. July 18, 2022. [Nonfiction under cyberattack](#).



days, the alleged digital attack would have intensified<sup>1761</sup>. On July 17, 2022, the media outlet detected at 12 pm that the *No Ficción* account had been left without followers, going from having 17,300 followers to zero<sup>1762</sup>. Likewise, multiple followers of the media outlet's social networks reported suspicious situations<sup>1763</sup>.

773. In addressing this issue during the IACHR public hearing on freedom of expression in Guatemala during the 185th Period of Sessions, the State warned that "the use or abuse of social networks (...) correspond to publications not made by accounts or state officials, and also belong to the scope of third parties, so in that sense any subject when considered affected by this type of material can report to the administrator of the social network where the corresponding publication is found"<sup>1764</sup>.

774. The Office of the Special Rapporteur emphasizes that the right to freedom of expression in the terms enshrined in Article 13 of the American Convention protects both traditional media and information that circulates through the Internet<sup>1765</sup>. In this regard, the Joint Declaration on Freedom of Expression and the Internet provides as a general principle that "freedom of expression applies to the Internet in the same way as to all media".<sup>1766</sup> In this sense, RELE considers it essential that the State of Guatemala investigates and punishes all types of attacks, threats or intimidations to journalists or information portals through digital media, as well as restrictions to public interest information circulating on the Internet.

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<sup>1761</sup> Nonfiction. July 18, 2022. [Nonfiction under cyberattack](#):

<sup>1762</sup> Nonfiction. July 18, 2022. [Nonfiction under cyberattack](#).

<sup>1763</sup> Nonfiction. July 18, 2022. [Nonfiction under cyberattack](#).

<sup>1764</sup> IACHR. October 24, 2022. 185th Period of Sessions. [Hearing No. 1: Situation of freedom of expression in Guatemala](#).

<sup>1765</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 82.

<sup>1766</sup> UN, OSCE, OAS and ACHPR. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

## GUYANA

775. In 2022, the Office of the Special Rapporteur closely followed the discussions and tensions between media associations and political and state authorities on training issues, journalistic standards, and the possible regulation of content on the Internet. Over the course of the year, the Office of the Special Rapporteur noted with concern instances of judicial and police harassment against a media outlet for investigating a possible conflict of interest of a minister. Likewise, the Office of the Special Rapporteur took note of the verbal attacks, by political and diplomatic authorities, against an international media outlet for conducting an investigation into an alleged corruption network in Guyana that would involve Chinese economic, public, and private interests. Finally, the Office of the Special Rapporteur was alerted of the arrest of two communicators for having committed alleged crimes of extortion through an information portal on social networks. In 2022, the Office of the Special Rapporteur received information about a series of protests over alleged police brutality in the country; some of the demonstrations culminated in instances of state repression, causing a severe interruption in the activities of the society. Finally, the Office was also alerted to an increase in complaints about discrimination against the Afro-Guyanese population. 2022 had a positive balance in terms of improvements in perception and tolerance towards the LGBTI population.

### A. Journalism and democracy

776. On April 26, 2022, the oil company ExxonMobil announced that it would have found three new wells off the coast of Guyana, bringing the recoverable oil and gas potential of its discoveries to nearly 11 billion barrels<sup>1767</sup>. Guyana, being one of the countries with the least economic resources in the hemisphere, would use the profits from its participation in oil production for its economic development. The oil bonanza, however, would require an active press for effective accountability to ensure that the largest revenue stream the country has ever seen is earmarked for development.

777. The Office of the Special Rapporteur recalls that in the area of the fight against corruption and the promotion of integrity, the practices of access to information must be aimed at promoting an informed debate and accountability to prevent it<sup>1768</sup>. In this sense, access to information will only be useful to promote the fight against corruption if the State provides "timely, complete, and accessible" information and in a "simple and fast" manner, since incomplete information and long periods of time prevent the proper accountability and qualified debate<sup>1769</sup>.

778. Within the framework of World Press Freedom Day, the Office of the Special Rapporteur was informed of a series of events and statements at a two-day conference to commemorate this occasion. On the one hand, the Office of the Special Rapporteur learned that the Guyana government had announced offering free training courses for journalists in the national territory, as well as in the diaspora, through an institutional alliance with the *coursera* platform<sup>1770</sup>. The courses would be part of what would be the first media and communication academy in the country, the Guyana Media and Communications Academy. Media professionals would receive licenses, funded by the government, to access online training.

779. On the other hand, the Office of the Special Rapporteur learned that the Guyana Press Association (GPA) would not support the initiative of a virtual academy for media professionals because it considers that the resources should be invested in strengthening the center of Communication from the University of Guyana's Center for Communication Studies<sup>1771</sup>.

780. According to the reports received by this Office, the President of Guyana, Irfaan Ali, members of the cabinet, and supporters of the government have sought to define what, in their opinion, they consider to be "good journalism." The Guyana Press Association (GPA) reportedly made a statement on the matter, criticizing

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<sup>1767</sup> Reuters. April 26, 2022. [Exxon makes three new oil discoveries in Guyana and boosts reserves](#). Guyana Times. May 3, 2022. [World Press Freedom Day: Media freedom is a cornerstone of democratic societies - ABCE diplomats](#).

<sup>1768</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 229.

<sup>1769</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 229.

<sup>1770</sup> Caribbean National Weekly. May 4, 2022. [Guyana government launches Media and Communication Academy](#); Department of Public Information. May 3, 2022. [Minister McCoy unveils Guyana's Media and Communication Academy](#).

<sup>1771</sup> Guyana Press Association. May 5, 2022. [Press Release](#).

the event organizers for allegedly conflating and misrepresenting the practice of journalism with public relations and social media influencers<sup>1772</sup>. Similarly, the Guyana Press Association reportedly criticized the government for talking about improving the standards of journalism in the country when it is the politicians who are using social media influencers—instead of journalists—to disseminate information of public interest.

781. This Office recalls that public officials also have the duty to ensure that with their statements they are not harming the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts, such as journalists and the media.<sup>1773</sup> Additionally, the Office of the Special Rapporteur emphasizes the fact that politicians and public officials must refrain from taking measures that undermine the independence of the media, such as politically interfering in operations, assuming commercial control of regulatory bodies or media commercial, community, or public communication, or pressure online platforms to regulate content.<sup>1774</sup>

782. Although the Office of the Special Rapporteur highlights the efforts to improve the skills and knowledge of the journalistic union in the country, it is also concerned about the possible impact that political and public financing could have on the independence of the media and their journalists.

783. On June 19, 2022, this Office was informed of a possible harassment incident against the Stabroek News newspaper. According to the information received by the Office of the Special Rapporteur, the newspaper investigated the links between the Ministry of Public Works and the company Western Logistics Guyana Inc., of which he was allegedly a director when he was already working as a public official. The outlet's investigation started from a resolution of the company's board resolution to which the outlet's journalists had access.<sup>1775</sup> Minister Indar reportedly accused the newspaper of being in possession of “stolen documents,” for which he urged the police to be present at the Stabroek News premises to find out how they were obtained. After a visit by two detectives from the Criminal Investigation Department (CID), the newspaper's editor-in-chief, Anand Persuad, reportedly called the minister's statement “scandalous”, adding that the police presence must be seen as an “act of intimidation intended to interfere with the legitimate work of the newspaper.”

784. In response to the controversy generated by the Stabroek News complaint, Minister Indar reportedly issued a press release accusing the press of spreading “false reports” designed to mislead people about his character and conduct as a public official. In addition, the minister would have assured that he did not instruct any member of the police to visit the facilities of the outlet in question.

785. As described by the IACHR and its Office of the Special Rapporteur in the Declaration of Principles on Freedom of Expression, “[e]very social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.”<sup>1776</sup> Likewise, the background and interpretation of the Declaration of Principles also indicates that “[t]his principle provides for the right of every social communicator to refuse to disclose sources of information and research findings to private entities, third parties, or government or legal authorities. Professional confidentiality is considered the social communicator's right not to reveal information or documentation that has been received in confidence or in the course of research. It should be emphasized that this right does not constitute a duty, as the social communicator does not have the obligation to protect the confidentiality of information sources, except for reasons of professional conduct and ethics”<sup>1777</sup>.

786. This Office reiterates that public officials must be careful to ensure that their comments are accurate, that they avoid stigmatizing and discrediting the media by resorting to labels that refer to so-called false news or “fake news” or other qualifiers that discredit them, and that they do not threaten journalists or undermine

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<sup>1772</sup> Demerara Waves. May 5, 2022. [Gov signals intent to “streamline” social media news entities](#); Guyana Press Association. May 5, 2022. [Press Release](#).

<sup>1773</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. para. 204.

<sup>1774</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on the independence and diversity of the media in the digital age. 2018. Pt. 4.a.

<sup>1775</sup> Stabroek News. June 18, 2022. [Query on minister's ties to company results in cops visiting Stabroek News](#); Stabroek News. June 21, 2022. [Police visit to SN constitutes attack on press freedom - Shadow AG](#); Guayana Chronicle. June 20, 2022. [Minister Indar says he did not play a role in cops' visit to SN](#).

<sup>1776</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 8.

<sup>1777</sup> IACHR. Background and Interpretation of the Declaration of Principles. 2000.

respect for the independence of the media<sup>1778</sup>. Similarly, this Office stresses that political and public personalities should be more exposed –and not less exposed– to public scrutiny and criticism. The need for an open and broad debate, which is crucial for a democratic society, must necessarily encompass the people who participate in the formulation or implementation of public policy. Since these people are at the center of public debate and knowingly expose themselves to public scrutiny, they must show greater tolerance for criticism<sup>1779</sup>.

787. On July 7, the Office of the Special Rapporteur was informed of a journalistic investigation by VICE News that would have exposed multi-million-dollar Chinese investments in Guyana to exploit natural resources. A journalist from this outlet reportedly interviewed Chinese businessmen to determine the possible degree of corruption in the country. Several of those interviewed reportedly assured that the Vice President of Guyana would be involved in an alleged network of corruption through bribery.<sup>1780</sup> The undercover journalist managed to meet with the vice president, who assured that he could collaborate from the government to carry out investment projects, although he denied benefiting financially through bribes. In a press release, the Chinese embassy in Guyana denied the accusations, assuring that Chinese companies operating in the country "follow local laws, international practices, and market rules, participating in large projects through open and fair tenders." The diplomatic mission reportedly accused the VICE News journalist of "having a predetermined agenda" to "slander and attack China-Guyana cooperation." The embassy claimed to be "strongly dissatisfied" and in opposition to "such a violation of professional ethics" of the journalist and the outlet.

788. The Office of the Special Rapporteur reiterates that the complaints about acts of corruption and the debates around the management of public resources are framed within the categories of speeches specially protected by the right to freedom of expression in inter-American jurisprudence<sup>1781</sup>. Likewise, this Office recalls that the complaints about acts of corruption and the debates around the management of public resources are framed within the categories of speeches specially protected by the right to freedom of expression in inter-American jurisprudence<sup>1782</sup>.

789. On August 3, 2022, Guyana marked one year of joining the Media Freedom Coalition, an initiative launched in July 2019 and led by Canada and the United Kingdom. Guyana and Belize are the only two Caribbean States that are part of this association<sup>1783</sup>. The Media Freedom Coalition seeks member countries to work together to "defend freedom of the press, journalists' safety, and hold accountable those who harm journalists for doing their jobs." Coalition members sign a Global Pledge on Media Freedom with a common agenda for promoting and defending press freedom.

790. The Office of the Special Rapporteur salutes Guyana's efforts to join the Media Freedom Coalition, setting a positive precedent for other states in the region.

791. At the end of September, this Office was informed of the arrest of two communicators–Gary Eleazar and Alex Wayne–for having participated in an alleged crime of extortion.<sup>1784</sup> According to the information received, the two journalists were reportedly captured by the police after allegedly trying to extort money from a businessman in exchange for removing a false post on a social network from the Guyana News Network (GNN) portal that accused him of participating in illegal activities. The police reportedly argued that this portal would be known for publishing defamatory articles about certain individuals. The police would have carried out searches in the homes of the defendants, confiscating cell phones, laptops, and hard drives. The communicators have reportedly pleaded not guilty after appearing before Cove and John Magistrate's Court and, and

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<sup>1778</sup> IACHR. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Page 38,39.

<sup>1779</sup> IACHR. Report on the compatibility between contempt laws and the ACHR. 1995. Section IV.C.

<sup>1780</sup> Vice News. July 7, 2022. [Undercover in Guyana: Exposing Chinese Business in South America](#); Stabroek News. February 9, 2022. [Chinese Embassy condemns VICE media claims](#); News Room. June 20, 2022. [Vice News has 'malicious' intent to smear Guyana/China relations - Chinese Ambassador](#).

<sup>1781</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 193.

<sup>1782</sup> IACHR. Corruption and Human Rights: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 193.

<sup>1783</sup> Stabroek News. August 6, 2021. [Guyana joins Media Freedom Coalition](#); Government of the UK. February 2, 2022. [Policy Paper: Media Freedom Coalition, an overview](#); Government of the UK. July 11, 2019. [Policy paper: Global pledge on media freedom](#).

<sup>1784</sup> News Room. September 24, 2022. [Two reporters in custody for extortion](#); Guyana Chronicle. September 28, 2022. [Reporters on \\$200,000 bail each for alleged extortion attempt](#);

consequently have been granted bail. At the time of publication of this annual report, the case and investigation continue in the courts.

792. As the IACHR and its Office of the Special Rapporteur have stated, the State can punish really serious violations committed by the media through proportional sanctions that do not represent excessive restrictions on freedom of expression<sup>1785</sup>. In this sense, this Office urges the Guyanese authorities to investigate in depth and, if applicable, punish the crime that two communicators from an information portal would have committed.

## **B. Freedom of expression, Rule of Law and democratic institutions**

793. On June 10, 2022, the Office of the Special Rapporteur was informed of the murder of Quinton Bacchus, a 23-year-old Guyanese man who had been shot to death by a police officer. Bacchus reportedly lost his life in a shooting after allegedly trying to sell a firearm to an undercover police officer in Haslington, East Coast Demerara<sup>1786</sup>. His death would have led to a series of demonstrations since June 13. Residents of Golden Grove, East Coast Demerara, reportedly took to the streets to demand an investigation into Bacchus' death after alleged witness reports emerged questioning the validity of the facts presented by police. The police commissioner reportedly ensured that an impartial investigation would be launched. Likewise, the commissioner reportedly revealed that the officer who shot Bacchus would be under arrest while the investigation continues.

794. As of June 28, according to the reports received by this Office, an allegedly false news story began on social networks that the policeman accused of the murder of the 23-year-old man had been released. According to public information, the rumor would have led to a wave of protests, blockades, looting, and burning of vehicles. The Guyana police reportedly issued a press release denying the information, assuring that the police officer being investigated would continue in custody. Likewise, the police would have asked the protesters to lift the blockades. Guyana's President Irfaan Ali reportedly urged protesting residents of Golden Grove state to "stick to the facts" and not be "misled" by social media posts or unverified information in the media. The president would also have assured that a man threatened to kill him in a video posted on Facebook, supposedly from the profile of an opposition parliamentarian.<sup>1787</sup> Due to the above, the head of state would have said that he would request the National Assembly to approve a unanimous resolution that denounces the political violence and the threats of assassination against him.

795. In a statement through his Facebook page, the president would have described the protests as "a scandalous anarchy" for which he urged the police to arrest protesters who damage public and private property and loot citizens.<sup>1788</sup> As a result of the alleged death threats received by the head of state, he assured that in the protests "not everything is justice." The individual who reportedly threatened the president in a live broadcast was reportedly captured by the authorities.

796. On June 28, the Guyana Police Force, in the state of Golden Grove, reportedly used tear gas and opened fire on a group of protesters. Stabroek News Assistant Editor Samantha Alleyne and her 10-year-old son were reportedly among those injured in this confrontation despite not protesting<sup>1789</sup>. In a press release, the police would have assured that only one person was injured and that it was a member of that institution.

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<sup>1785</sup> IACHR. Annual Report 2001. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV. Ethics in the media. para. 8.

<sup>1786</sup> Guyana Chronicle. June 14, 2022. ["Top Cop" launches independent probe into Quinton Bacchus' death](#); Stabroek News. June 28, 2022. [President appeals for protesters to leave East Coast road](#); News Room. June 28, 2022. [Cop who shot, killed Quinton Bacchus 'confined' to Police HQ](#).

<sup>1787</sup> Jamaica Gleaner. June 28, 2022. [Guyana president denounces assassination threat as protests continue](#); The St. Kitts Nevis Observer. June 30, 2022. [Guyana President Irfaan Ali Says His Life Has Been Threatened Over Murder Suspect Cop's Release](#). Stabroek News. June 29, 2022. [President says will ask National Assembly to decry political violence](#).

<sup>1788</sup> Caribbean National Weekly. June 29, 2022. [Guyana President Irfaan Ali says his life has been threatened; protest is not all about justice for murdered man](#); Guyana Chronicle. June 29, 2022. [Police to investigate assassination threat against President Ali](#); iNews Guyana. June 29, 2022. [Man who threatened President's life arrested](#).

<sup>1789</sup> Stabroek News. June 29, 2022. [SN Assistant Editor shot by pellet after cops open fire on protesters](#); News Room. June 28, 2022. [Stabroek News senior reporter, Oluatoyin Samantha Alleyne-Williams, and her child were injured by the police](#).



797. On June 29, this Office was informed that 16 people had been charged for the apparent riots of the previous day.<sup>1790</sup> The defendants reportedly appeared before the Cove and John Magistrate's Court. According to the information received, none of the defendants is related to the alleged assault and destruction of the Mon Repos market.<sup>1791</sup> The riots reportedly resulted in substantial losses for the merchants, who considered the possible compensation from the State insufficient.

798. On July 3, 2022, in a press release, the Police Complaints Authority reportedly recommended charges against three members of the Guyana Police Force in connection with the fatal shooting of Quindon Bacchus. The statement ensured that it would be the responsibility of the director of the public prosecutor's office to determine who to indict and for what crimes.<sup>1792</sup>

799. The Office of the Special Rapporteur emphasizes that the authorities should not stigmatize or stereotype the protesters and their demands, and avoid making generalizations based on the behavior of particular groups or isolated events. In this sense, the authorities must take into account that public officials have a position of guarantor of the fundamental rights of people and, therefore, their statements cannot constitute forms of direct or indirect interference in the rights of those who intend to contribute to public deliberation through the expression and dissemination of information. This duty is particularly accentuated in situations of greater social conflict, disturbances of public order, or social or political polarization, precisely because of the set of risks that they may imply for certain people<sup>1793</sup>.

800. Likewise, the Office of the Special Rapporteur highlights that a State may impose reasonable limitations on demonstrations in order to ensure their peaceful development or disperse those that turn violent, provided that such limits are governed by the principles of legality, necessity, and proportionality. In addition, the decentralization of a demonstration must be justified in the duty to protect people, and the safest and least harmful measures for the protesters must be used. The use of force in public demonstrations must be exceptional and in strictly necessary circumstances in accordance with internationally recognized principles<sup>1794</sup>.

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

801. In 2022, this Office received information indicating that the current administration would allegedly be engaging in discriminatory practices against Afro-Guyanese individuals in the provision of land, jobs, contracts, and other opportunities.<sup>1795</sup> The accusations were reportedly raised by the opposition party of the A Partnership for National Unity+Alliance For Change (APNU+AFC), a party mostly supported by Afro-Guyanese, against the largely Indo-Guyanese People's Progressive Party Civic (PPPC). According to public information, the president and his cabinet would have rejected the accusations of racial discrimination, arguing that there was no evidence that it existed.

802. On July 19, 2022, the Office of the Special Rapporteur received information indicating that Indo-Guyanese academics and performers had been excluded from the 22nd Guyana Folk Festival;<sup>1796</sup> the festival would also celebrate the 50th anniversary of Carifesta, the Caribbean Festival of Arts.

803. As the Office of the Special Rapporteur has expressed on previous occasions, States should focus particularly, as local circumstances warrant, on combating—which includes designing programs to

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<sup>1790</sup> News Room. June 29, 2022. [16 charged with 'riotous behavior' during ECD protest](#); HGPTV. July 7, 2022. [Persons who caused chaos during Golden Grove protests to be slapped with charges - Nandall](#);

<sup>1791</sup> Stabroek News. June 29, 2022. [Mon Repos vendors beaten, looted during Quindon Bacchus protest](#); iNews Guyana. June 28, 2022. ["Why they had to do this" - Mon Repos vendors counting millions in losses](#).

<sup>1792</sup> Guyana Chronicle. July 4, 2022. [Charge three cops in Quindon Bacchus fatal shooting](#); Stabroek News. July 4, 2022. [PCA recommends three cops be charged in Quindon Bacchus case](#).

<sup>1793</sup> OAS, UN. Joint declaration on violence against journalists and communicators in the context of social demonstrations. 2013.

<sup>1794</sup> OAS, UN. Joint declaration on violence against journalists and communicators in the context of social demonstrations. 2013.

<sup>1795</sup> Demerara Waves. September 11, 2022. [President urges critics to prove govt is practising marginalisation](#); Caribbean National Weekly. September 12, 2022. [Guyana's President dismisses criticism of racial discrimination](#); News Room. September 25, 2022. [Racism, discrimination allegations have no basis - Parag](#).

<sup>1796</sup> Stabroek News. July 19, 2022. [Indo-Guyanese academics, performers have been excluded from Guyana Folk Festival's celebration of 50th anniversary of Carifesta](#).

counteract—historical discrimination, prejudices, and tendentious attitudes that impede the equal enjoyment of the right to freedom of expression by certain groups<sup>1797</sup>.

804. In September, the Office of the Special Rapporteur received the results of a study on perceptions and attitudes towards people from the LGBTI community in Guyana<sup>1798</sup>. The findings shared with this Office showed an improvement with respect to the last study, carried out in 2013. More than a thousand people from the coastal regions were reportedly interviewed between June 18 and July 1, 2022, to measure national public opinion in this matter. According to the information disseminated, close to three quarters of the population reportedly had positive attitudes towards the LGBTI population.

805. The Office of the Special Rapporteur emphasizes that the promotion and protection of the right to freedom of expression must be combined with efforts to combat intolerance, discrimination, hate speech, and incitement to violence, particularly with the promotion of proactive public policies for the social inclusion in the media and to ensure that LGBTI individuals and communities can exercise their right to freedom of expression without discrimination. All these efforts must strictly conform in a general way to international human rights law, and, in particular, to the standards on freedom of expression<sup>1799</sup>.

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

806. On May 3, 2022, as part of International Press Freedom Day, the Guyana Press Association (GPA) issued a statement highlighting the risks and challenges to freedom of expression in the digital age.

807. The association reportedly expressed concern about the rise of online media and the convergence of traditional media to social networks as they expose the journalistic community to cyber threats, such as ransomware and spyware intrusions.<sup>1800</sup> According to the association's statement, spyware could be used to determine journalists' sources and provoke attacks on reporters, their sources and even their work devices; they would also be exposed to hackers whose sole objective would be to destroy the information channels of the media, inhibiting the free flow of information to the public. This Office was also alerted to the possibility that the Cyber Crime Act criminalizes the transmission of sensitive information by electronic means, which would worry the journalistic union. The association reportedly urged state authorities, journalists, and the media to take preventive measures, such as being careful with downloaded content and minimizing their vulnerability to surveillance and control of their work. The association reportedly described the environment in which journalists operate in the Caribbean as "increasingly dangerous," noting that despite the fact that several countries have enacted laws to intercept communications and counter what they consider to be cybercrime, there is evidence that the legislation would be abused to censor the press and undermine freedom of expression.

808. In response to the concerns raised by the journalistic union in the country, the Office of the Special Rapporteur learned of the president's pronouncement, who asserted that his government had no intention of using state-of-the-art technology to monitor the activities of the media, journalists, and citizens<sup>1801</sup>. The president reportedly indicated that his government would have "no intention" to use any spyware.

809. The Office of the Special Rapporteur recalls that States have the obligation to respect and protect the right to privacy in the digital age and adopt or adapt their legislation and practices to that effect, protecting all persons under their jurisdiction, which includes protection against possible arbitrary or abusive interference also with respect to third parties<sup>1802</sup>. Likewise, this Office emphasizes that respect for freedom of expression

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<sup>1797</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on universality and the right to freedom of expression. 2014. Pt. 1.g

<sup>1798</sup> Stabroek News. September 29, 2022. [Majority of Guyanese accept or tolerate LGBTQ persons, study finds](#); News Room. September 29, 2022. [Guyanese found to be tolerant as hate toward LGBTQ persons decrease - Survey](#).

<sup>1799</sup> IACHR. Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI people. para. 9.

<sup>1800</sup> iNews Guyana. May 3, 2022. [GPA urges local media to safeguard against emerging cyber security threats](#); Guyana Times. May 3, 2022. [Press Freedom Day 2022: Safeguard against emerging cyber security threats – GPA urges journalists, media houses](#).

<sup>1801</sup> Caribbean National Weekly. May 5, 2022. [Guyana President assures no spying on local media or citizens in general](#); The St Kitts Nevis Observer. 5 de mayo de 2022. [Guyana President Assures Public: No Spying on Local Media or Citizens](#).

<sup>1802</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 131.

online presupposes the privacy of communications. Indeed, without a private space, free from arbitrary interference by the State or individuals, the right to freedom of thought and expression cannot be fully exercised<sup>1803</sup>. Finally, the Office of the Special Rapporteur reiterates that the laws and policies regarding the validity, nature, scope, and implementation of interception and monitoring mechanisms must be public, and the State is obliged to apply the principle of maximum disclosure developed within the framework of the right of access to information<sup>1804</sup>.

810. On July 18, 2022, the Prime Minister of Guyana, Mark Phillips, reportedly called on telecommunications companies to address disinformation on the internet, as well as the digital divide in the region<sup>1805</sup>. The COVID-19 pandemic reportedly revealed the lack of connectivity in the country, as well as the potential of social networks to spread false news about the virus and vaccination. The public official reportedly urged telecommunications operators, content providers, and regulators to examine frameworks that promote and ensure responsible use of the Internet, insisting that such frameworks should comply with principles of freedom of expression.

811. In late July 2022, this Office noted with concern a request by Guyana's attorney general and minister of legal affairs to the Federal Bureau of Investigations (FBI) to take action against members of the Guyanese diaspora in the United States for allegedly spreading racial hatred in the country<sup>1806</sup>. According to the information received, the public official argued that these people were operating in cyberspace "with impunity from the United States." by allegedly creating ethnic conflicts between segments of the Guyanese population, suggesting that various individuals are "inciting domestic terrorism." Among the people accused by the government of committing crimes of racial hostility, seditious libel, and disturbance of public order from the United States would be Rickford Burke, who is allegedly an opponent of the current administration and reportedly an alleged spokesperson for the community Guyanese Afro-descendant.

812. The Office of the Special Rapporteur recalls that the response of the States in terms of security in cyberspace must be limited and proportionate, and seek to comply with precise legal purposes, which do not compromise the democratic virtues that characterize the network. In this sense, governments should refrain from privileging the concentrated and centralized use of criminal law as a fundamental instrument to face all possible threats that may threaten online security<sup>1807</sup>.

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<sup>1803</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 183.

<sup>1804</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 218.

<sup>1805</sup> Caribbean Loop News. July 18, 2022. [Guyana PM: examine frameworks to address misinformation online](#); CANTO. July 20, 2022. [Guyana's Prime Minister Calls on Telecoms To "Prioritise Long Term Returns Over Short-Term Windfalls" To End The Digital Divide](#).

<sup>1806</sup> ABC. July 26, 2022. [Guyana pide al FBI actuar contra gente de la diáspora que propaga odio racial](#); Guyana Standard. July 26, 2022. [Cyberspace being used to promote riotous behaviour in guyana - Nandlall tells the FBI](#); Demerara Waves. July 26, 2022. [US-based Guyanese organisations ask US Attorney General to probe Nandlall's use of FBI to go after critics](#).

<sup>1807</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 120.

## HAITI

813. During 2022, the SRFOE received information on seven murders of journalists in Haiti, making it the country in the hemisphere with the second highest rate of murders against the press. Likewise, the Rapporteurship learned of alleged kidnappings of journalists, in a context of generalized violence promoted by organized criminal gangs. This year it also learned of social demonstrations motivated by the high cost of living following the elimination of fuel subsidies during September and October of this year. Added to this is the political instability that has led to disrespect for fundamental guarantees and human rights, especially in the context of citizen protests, where journalists were assaulted while covering the events. The State of Haiti continues to face important challenges in terms of democratic institutions, citizen security and the administration of justice, which have repercussions on the respect and guarantee of human rights and freedom of expression.

### A. Journalism and democracy

814. In 2022, the Office of the Special Rapporteur noted with concern an increase in the number of lethal attacks against the press in Haiti. During the course of the year, at least seven murders of journalists that could be linked to their work, as well as attempted murders of members of the press, were recorded. This situation causes a climate of self-censorship due to the fear of practicing journalism, especially in the absence of convincing answers from the authorities. Several reports indicate that since the assassination of former president Jovenel Moïse, on July 7, 2021, the country has been in an escalation of violence and humanitarian crisis, which would have been aggravated by the increase in the prices of vital products and which would have provoked protests especially during September and October 2022. The violence against journalists is framed in a scenario of high citizen insecurity, due to the presence of criminal gangs that control 60 percent of Haiti's capital.<sup>1808</sup>

815. According to information received by the Office of the Special Rapporteur, John Wesley Amady, of the Canadian radio station *Radio Ecoute FM*, and Wilguens Louissaint, a local reporter for various digital media, were killed on the afternoon of January 6, 2022 after being victims of an armed attack while reporting on the escalating tension and violent clashes between criminal gangs for control of the Laboule 12 area in Port-au-Prince.<sup>1809</sup> According to available information, a third journalist, Wilmann Vil, managed to escape the attack alive.<sup>1810</sup>

816. Also, according to information received by this Office, on the morning of February 23, police officers reportedly opened fire from a national police vehicle on people demonstrating for an increase in Haiti's minimum wage in Port-au-Prince.<sup>1811</sup> Three journalists were reportedly hit by gunfire: Maxihen Lazzare, of *Roi des Infos*; Sony Laureore, of *Laurore News TV*; and Yves Moïse, of *Radio RCH 2000*.<sup>1812</sup> Maxihen Lazzare died shortly afterwards in a hospital in the capital, victim of serious wounds caused by the projectiles.<sup>1813</sup>

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<sup>1808</sup> BBC. December 5, 2022. [BBC special in Haiti: the brutality of the gangs that hold Port-au-Prince hostage](#); La Jornada. October 16, 2022. [Gangs terrorize Haiti with sexual violence, says UN](#).

<sup>1809</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. January 10, 2022. Press Release R9/ 22. [The Special Rapporteur condemns the murder of journalists John Wesley Amady and Wilguens Louissaint in Haiti and urges the State to diligently investigate those responsible](#); Unesco. January 11, 2022. [Director-General condemns murder of journalists Wilguens Louissaint and John Wesley Amady in Haiti](#); CPJ. Jan. 7, 2022. [Two Haitian journalists killed while reporting on gang violence in Port-au-Prince](#); CNN. January 8, 2022. [Bodies of slain Haitian journalists recovered, show no signs of being burned](#).

<sup>1810</sup> Nòdwes prayer. January 6, 2022. [Two online media journalists victims of armed attack by gangs in Laboule](#); CPJ. 7 January 2022. [Two Haitian journalists killed while reporting on gang violence in Port-au-Prince](#).

<sup>1811</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 2, 2022. Press Release R 44/ 22. [SRFOE condemns the use of firearms during a protest in Haiti that resulted in the death of a journalist and several people injured](#); Reuters. February 23, 2022. [Haiti police open fire on demonstrators, one journalist killed](#); Vant Bèf Info. 23 February 2023. [Flash/Haiti: One journalist killed and 2 others injured during the workers' demonstration](#).

<sup>1812</sup> Reuters. February 23, 2022. [Haiti police open fire on demonstrators, one journalist killed](#); Vant Bèf Info. 23 February 2023. [Flash/Haiti: One journalist killed and 2 others injured during the workers' demonstration](#).

<sup>1813</sup> Miami Herald. February 24, 2022. [Accused of killing journalist, Haiti police open probe](#); Voces del Sur. 23 February 2022. [Maxihen Lazzare becomes the third journalist killed in Haiti so far in 2022](#).

817. Also on September 11, reporters Frantzsen Charles and Tayson Lartigue were reportedly killed while reporting on violence and gang clashes in the Cité Soleil neighborhood of Port-au-Prince<sup>1814</sup>. Prime Minister Ariel Henry condemned the events, which he described as “barbaric acts”, and offered his condolences to the families.<sup>1815</sup> As far as the Rapporteurship was able to learn, Frantzsen Charles was a student at the *Centre de Formation en Communication et en Administration* and worked for *FS News*; and Tayson Lartigue reported through his portal *Tijèn Journalis*.<sup>1816</sup>

818. On October 24, local authorities identified the body of the communicator Garry Tess, who had been missing since October 18 in the district of Los Cayos, South Department of Haiti<sup>1817</sup>. The information received by this Office indicates that the broadcaster had left his home on the aforementioned date and had not returned since then; his body was reportedly identified by his wife a week after his disappearance.<sup>1818</sup> The reporter, who covered political and national current affairs as a broadcaster of the program “Gran Lakou” on *Radio Lébon FM*, had been reported missing six days before he was found dead.<sup>1819</sup>

819. This Office also reported the murder of journalist Romelson Vilcin on October 30. The journalist was reportedly hit in the head by a tear gas canister when police attempted to disperse a group of people demanding the release of Robert Dimanche, a journalist with *Radio Tele Zenith*<sup>1820</sup>. Hours earlier, Dimanche was reportedly arrested by the police and taken to the Delmas police station in Port-au-Prince while covering another protest.<sup>1821</sup>

820. On November 5, journalist Fritz Dorilas was murdered in his home in Port-au-Prince. The reporter worked for *Radio Télé Megastar* and was co-host of a program called “Law and Justice”.<sup>1822</sup> According to available information, Dorilas was shot several times near his home in the middle of a gang shootout where he was allegedly taken from his home to be executed.<sup>1823</sup>

821. The Rapporteurship also learned of the murder of Haitian journalist Francklin Tamar, on December 18, 2022.<sup>1824</sup> According to publicly available information, the reporter was the victim of an armed attack by two unidentified individuals on a motorcycle on Rue Monseigneur Guilloux, near his home in the city of Port-au-Prince.<sup>1825</sup> The journalist died on his way to the hospital after being shot at least twice.<sup>1826</sup> Franklin Tamar was

<sup>1814</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 23, 2022. Communiqué R213/22. [SRFOE condemns the murder of journalists Frantzsen Charles and Tayson Lartigue in Haiti and calls on the State to provide security guarantees for the press](#); CPJ. September 15, 2022. [Haitian journalists Frantzsen Charles and Tyson Lartigue shot dead while covering violence in Port-au-Prince](#); Voice of America. September 13, 2022. [Alarm in Haiti over killing of two more journalists by armed gangs](#); Alter Presse. September 12, 2022. [Media : Two More Journalists Missing in Haiti's Armed Gang Fiefdom](#).

<sup>1815</sup> Ariel Henry Twitter account (@DrArielHenry). [September 12, 2022](#).

<sup>1816</sup> CPJ. September 15, 2022. [Haitian journalists Frantzsen Charles and Tyson Lartigue shot dead while covering violence in Port-au-Prince](#); FS News Haiti. 14 September 2022. [Obituary: Journalist FSNewsHaiti Frantzsen CHARLES murdered in Cité Soleil](#).

<sup>1817</sup> Latin American Summary. October 28, 2022. [Haiti. Local journalist associations condemn murder of Garry Tess and attempted murder of photojournalist](#); Los Angeles Times. October 25, 2022. [Haitian journalist survives assassination attempt](#).

<sup>1818</sup> CPJ. October 26, 2022. [Haitian journalist Roberson Alphonse survives shooting attack in Port-au-Prince, missing radio host found dead in Les Cayes](#); Alter Presse. 25 October 2022. [Haiti-Violence: Journalist Roberson Alphonse shot in Delmas](#); Le Nouvelliste. 26 October 2022. [Roberson Alphonse escapes assassination attempt, emotions and reactions](#).

<sup>1819</sup> CPJ. October 26, 2022. [Haitian journalist Roberson Alphonse survives shooting attack in Port-au-Prince, missing radio host found dead in Les Cayes](#); Alter Presse. 25 October 2022. [Haiti-Violence: Journalist Roberson Alphonse shot in Delmas](#); Le Nouvelliste. 26 October 2022. [Roberson Alphonse escapes assassination attempt, emotions and reactions](#).

<sup>1820</sup> CPJ. November 11, 2022. [Haitian journalist Romelson Vilcin killed during demonstration at police station](#); Haiti 24. 31 October 2022. [L’AJH consternée par la mort du journaliste Romelson Vilcin](#).

<sup>1821</sup> ABC News. October 31, 2022. [Haiti police to probe death of reporter during gathering](#); AP News. October 30, 2022. [Witnesses: Journalist killed after police in Haiti open fire](#); Haitian Times. 31 October 2022. [Renowned politician, journalist killed over weekend in Port-au-Prince](#).

<sup>1822</sup> CBS News. November 10, 2022. [Another journalist reported killed in Haiti. 8th so far this year](#); Fundamedios. November 10, 2022. [Journalist killed in Haiti amid armed clashes](#).

<sup>1823</sup> CBS News. November 10, 2022. [Another journalist reported killed in Haiti. 8th so far this year](#); Fundamedios. November 10, 2022. [Journalist killed in Haiti amid armed clashes](#).

<sup>1824</sup> Twitter account of the Office of the Special Rapporteur for Freedom of Expression (@RELE\_CIDH). [December 19, 2022](#); CPJ. Dec. 22, 2022. [Haitian radio journalist Francklin Tamar shot, killed in Port-au-Prince](#); Loop. 19 December 2022. [Journalist Tamar Franklin killed by armed individuals](#); The Haitian Times. 25 October 2022. [Haiti News Live Blog - Updated Daily](#).

<sup>1825</sup> CPJ. December 22, 2022. [Haitian radio journalist Francklin Tamar shot, killed in Port-au-Prince](#); Loop. 19 December 2022. [Journalist Tamar Franklin killed by gunmen](#); The Haitian Times. 25 October 2022. [Haiti News Live Blog - Updated Daily](#).

<sup>1826</sup> CPJ. December 22, 2022. [Haitian radio journalist Francklin Tamar shot, killed in Port-au-Prince](#); Loop. 19 December 2022. [Journalist Tamar Franklin killed by gunmen](#); The Haitian Times. 25 October 2022. [Haiti News Live Blog - Updated Daily](#).



a well-known radio reporter, with a career of more than 20 years covering cultural issues, according to public reports.<sup>1827</sup> He had been working at *Radio Solidarité* since 2015, where he hosted two programs on music and culture.<sup>1828</sup> In a press release, the Haitian Ministry of Culture and Communication condemned the murder of the reporter.<sup>1829</sup>

822. This Office recalls that murders of journalists constitute the most extreme form of censorship and violate the right to freedom of expression in both its individual and collective dimensions. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation”.<sup>1830</sup>

823. The same media outlet, *Radio y Televisión Zenith*, was attacked on the night of January 30-31, along with two police buildings. The violence allegedly led to the breaking of doors and windows of the media outlet’s premises and the throwing of Molotov cocktails. One policeman died while another was reportedly shot and wounded. The Haitian Association of Journalists condemned the attack and recalled that it followed threats made against the newspaper.<sup>1831</sup>

824. This office also learned that on July 17, according to public information, journalist Edner Fils Decime, of *AlterPresse*, was kidnapped after the car in which he was traveling was intercepted by three vehicles with armed persons.<sup>1832</sup> Along with him, four other people were also reportedly abducted in the town of Delmas in Port-au-Prince. Edner Fils Decime was held captive for 20 days and then released on August 5.<sup>1833</sup> The media for which he worked had organized a campaign calling for his release, which was supported by many local organizations such as the *Association des Journalistes Haïtiens* (AJH). Decime’s health conditions were reportedly worrying as he suffered from hypertension and was reportedly deprived of his medications and the strict diet he was supposed to follow.

825. In this context, on October 27, the newspaper *Le Nouvelliste*, which was founded in 1899, announced that it will cease publishing its print edition due to the security and economic problems facing the country, which would have limited its continuity.<sup>1834</sup>

826. In this context of violence, on October 25, journalist Roberson Alphonse was wounded in both arms while traveling in a vehicle on his way to work at *Magik9* radio station; the car was hit by at least 10 bullets.<sup>1835</sup> In addition to working at the radio station, Alphonse writes for the newspaper *Le Nouvelliste*. The Minister of Culture and Communication expressed his solidarity with the journalist and called the attack an “assassination attempt”.<sup>1836</sup>

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<sup>1827</sup> *Le Nouvelliste*. December 19, 2022. [Cultural journalist from Radio Solidarité shot dead in Port-au-Prince](#); Monitor Civicus. 29 December 2022. [Haitian Journalist Faced With Spiralling Violence](#).

<sup>1828</sup> CPJ. December 22, 2022. [Haitian radio journalist Francklin Tamar shot, killed in Port-au-Prince](#); Loop. 19 December 2022. [Journalist Tamar Franklin killed by gunmen](#); The Haitian Times. 25 October 2022. [Haiti News Live Blog - Updated Daily](#); Rezo Nòdwes. 19 December 2022. [Insecurity: Indignation at Radio Solidarity after the murder of Franklyn Tamar, host of the program "Konpa/Konpa"](#).

<sup>1829</sup> Republiq   D’Haiti. December 20, 2022. [The Ministry of Culture and Communication condemns the murder of journalist Francklin Tamar](#).

<sup>1830</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1831</sup> Sputnik. February 2. [Haitian Journalists Association condemns attack on radio station and recalls its constant harassment](#); La Propuesta Digital. February 1, 2022. [Armed attack on two sub-stations and Radio Z  nith in Haiti](#).

<sup>1832</sup> International Federation of Journalists. July 18, 2022. [Haiti: journalist Edner Fils Decime was kidnapped along with other people](#); International Federation of Journalists. August 8, 2022. [Haiti: journalist Edner D  cime was released after 20 days of kidnapping](#).

<sup>1833</sup> International Federation of Journalists. July 18, 2022. [Haiti: journalist Edner Fils Decime was kidnapped along with other people](#); International Federation of Journalists. August 8, 2022. [Haiti: journalist Edner D  cime was released after 20 days of kidnapping](#).

<sup>1834</sup> La Razon. October 27, 2022. [The Haitian newspaper "Le Nouvelliste" paralyzes its print edition due to security problems in the country](#).

<sup>1835</sup> Committee to Protect Journalists. 26 October 2022. [Haitian journalist Roberson Alphonse survives shooting attack in Port-au-Prince, missing radio host found dead in Les Cayes](#); News4jax. October 25, 2022. [Haitian journalist hospitalized after assassination attempt](#); TeleNoticias. Oct. 25, 2022. [Journalist escapes kidnapping attempt](#); IFJ Latin America. October 25, 2022. [Journalist Roberson Alphonse was shot at: TeleNoticias](#).

<sup>1836</sup> Ministry of Communication website. October 25, 2022. [Note de presse - Communication Ha  ti](#).

827. In addition, in the context of the September 7 demonstrations over the economic situation and the public security crisis, this Office received information that at least three journalists from the *Télé Zenith* media outlet were injured by gunfire and rubber bullets, tear gas and assaults by police in the Haitian capital.<sup>1837</sup> At the same time, a journalist covering cultural issues was reportedly hit by a projectile during protests in the city of Cap-Haïtien (North), allegedly coming from the police.<sup>1838</sup>

828. The IACHR and its Office of the Special Rapporteur have understood that attacks, threats, intimidation and harassment against journalists are intended to restrict or hinder the work of those journalists who investigate attacks, abuses, irregularities or illegal acts of any kind committed by public officials, organizations or private individuals in general.<sup>1839</sup> Likewise, they seek to be instrument of intimidation that sends an unmistakable message to all members of civil society engaged in investigating irregularities in the public administration.<sup>1840</sup> The SRFOE has also maintained that this practice "seeks to silence the press in its watchdog role", preventing society from being informed about events of public interest<sup>1841</sup>. For all these reasons, the Inter-American Court emphasized that "journalism can only be exercised freely when those who carry out this work are not victims of threats or physical, mental or moral attacks or other acts of harassment".<sup>1842</sup>

829. States have a positive obligation to identify and punish the perpetrators of crimes against journalists in a complete, effective and impartial manner and to judicially determine the relationship they may have with journalistic activity and freedom of expression. The authorities should not rule out the practice of journalism as a motive for the murder and/or aggression before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this sense can have serious repercussions in the development of the processes in the indictment or trial stages. Failure to fully exhaust the logical lines of investigation has an impact, above all, on the failure to identify the intellectual authors.

830. Likewise, the Rapporteurship reiterates that there is nothing more permissive to the repetition of violence against the press than the absence of a forceful institutional reaction - and therefore it is important that the authorities at the highest level continue to emphatically repudiate this escalation of violence - and nothing more encouraging and reassuring for the perpetrators of violence than impunity for crimes against journalists.

## **B. Freedom of expression, Rule of Law and democratic institutions**

831. A communiqué published on August 8 by the Organization of American States underscores the serious institutional crisis in Haiti, which is demonstrated by the lack of effective rights for the majority of people, and therefore the lack of freedom to express ideas and respect different opinions, since the institutional framework through which these rights could be enforced would be extremely weakened.<sup>1843</sup> As stated in this communiqué, there would not exist "single institution with the capacity to address the problems facing Haitians", which would make the rule of law inapplicable. One of the calls made by the OAS Assembly is to bring justice for the assassination of President Jovenel Moïse, to promote a broad dialogue and to achieve free and transparent elections.<sup>1844</sup>

832. In a UN Security Council resolution issued on July 15, it was decided to extend until July 15, 2023 the mandate of the UN Integrated Office in Haiti (BINUH), under the direction of a Special Representative of the UN

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<sup>1837</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 23, 2022. Press Release R213/22. [SRFOE condemns the murder of journalists Frantzsen Charles and Tayson Lartigue in Haiti and calls on the State to provide security guarantees for the press.](#)

<sup>1838</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 23, 2022. Press Release R213/22. [SRFOE condemns the murder of journalists Frantzsen Charles and Tayson Lartigue in Haiti and calls on the State to provide security guarantees for the press.](#)

<sup>1839</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles.](#)

<sup>1840</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles.](#)

<sup>1841</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles.](#)

<sup>1842</sup> I/A Court H.R., Case of Vélez Restrepo and Family v. Colombia. *Case of Vélez Restrepo and Family Members v. Colombia. Preliminary Objection, Merits, Reparations and Costs.* Judgment of September 3, 2012 Series C No. 248. para. 209.

<sup>1843</sup> OAS. August 8, 2022. Press Release C-045/22. [Statement of the OAS General Secretariat on Haiti.](#)

<sup>1844</sup> OAS. August 8, 2022. Press Release C-045/22. [Statement of the OAS General Secretariat on Haiti.](#)

Secretary General.<sup>1845</sup> This office would be mandated to promote stability, the rule of law, the defense of human rights and dialogue mechanisms. One of the agreements reportedly reached was to achieve a consensus to hold independent elections within 18 months.<sup>1846</sup>

833. BINUH expressed its condemnation of the murders of journalists this year and stated that “freedom of expression is a fundamental right, the obstruction of which is a major obstacle to the democratic process. Violence against journalists is a serious threat to press freedom and impedes the enjoyment of the right to information. Without journalists, how can people have access to information? Journalists must be protected at all times.”<sup>1847</sup> The IACHR welcomed the extension of the BIDUH and expressed concern about clashes between armed groups in the Cité Soleil area of Port-au-Prince. In a communiqué of July 20, it pointed out that these violent events reportedly left 99 people dead, 135 wounded and displaced more than 2,500 between July 7 and 14, according to the United Nations<sup>1848</sup>.

834. On August 30, 2022, the Inter-American Commission on Human Rights issued Resolution 43/33,<sup>1849</sup> by which it granted precautionary measures of protection in favor of M.A.C., after considering that she is in a serious and urgent situation of risk of irreparable harm to her rights in Haiti. According to the request, the beneficiary, who identifies herself as a women's human rights defender in Haiti, is at risk due to threats and harassment against her in the context of her search for justice for acts of sexual violence of which she was allegedly a victim.

835. The various violent events reported in September have reportedly drawn the attention of various international organizations, including the Inter American Press Association (IAPA), which condemned “the numerous violent attacks against journalists and media in Haiti”, one of which occurred on September 15 at the headquarters of the state-owned Radio Television Nationale de Haiti (TNH), which involved the burning of three vehicles, the throwing of stones at the building and the theft of equipment from the station.<sup>1850</sup>

836. In the index published by Freedom House, Haiti's status went from partially “free” to “not free” in 2022. On freedom of expression, it was considered that “attacks on journalists occur frequently, and impunity for perpetrators is the norm”. The study also adds: “the work of journalists is constrained by threats and violence, government interference, and a lack of financial resources”.<sup>1851</sup>

837. The Office of the Special Rapporteur also received reports of alleged police repression during social demonstrations. According to the information available, in the context of the protests that took place in the capital, Port-au-Prince, during the month of October, to protest against the government's handling of fuel shortages and price increases, the Haitian police allegedly fired tear gas at thousands of people marching in the streets.<sup>1852</sup> They also reportedly fired guns into the air to disperse the crowd.<sup>1853</sup>

838. The Inter-American Commission and its Office of the Special Rapporteur emphasize that the actions of State security agents must be carried out in strict compliance with international human rights standards, which establish the use of force under the principles of exceptionality, proportionality and absolute necessity.

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<sup>1845</sup> United Nations. Security Council. July 15, 2022. [Resolution 2645 \(2022\) Adopted by the Security Council at its 9095th meeting.](#)

<sup>1846</sup> UN News. December 21, 2022. [UN calls for support for international force for Haiti.](#)

<sup>1847</sup> BINUH. 14 September 2022. [Joint press release: UNESCO and HCDH condemn the murder of journalists Tayson Latigue and Frantzsen Charles in Cité Soleil and call for the protection of journalists.](#)

<sup>1848</sup> IACHR. July 20, 2022. Press Release No. 164/22. [The State of Haiti and the International Community must seek comprehensive solutions to the worsening citizen insecurity in Haiti](#); United Nations Office for the Coordination of Humanitarian Affairs. 15 July 2022. [Daily Noon Highlights: Haiti, Ukraine.](#)

<sup>1849</sup> IACHR. August 30, 2022. Precautionary Measures No. 433-22. [M.A.C. Regarding Haiti.](#)

<sup>1850</sup> SWI Swissinfo. 16 September 2022. [IAPA condemned "the numerous violent attacks against journalists and media in Haiti".](#)

<sup>1851</sup> Freedom House. [Freedom in the World 2022.](#)

<sup>1852</sup> Aljazarra. October 4, 2022. [Haitian police fired tear gas at thousands of people](#); La Voz. October 16, 2022. [Tension and insecurity dominate political and social agenda](#); Radio Hc. 15 September 2022. [Protesters attacked Thursday the headquarters of Haiti's National Television](#); Listin Diario. October 6, 2022. [The anti-government protest movement took a turn.](#)

<sup>1853</sup> Aljazarra. October 4, 2022. [Haitian police fired tear gas at thousands of people](#); La Voz. October 16, 2022. [Tension and insecurity dominate political and social agenda](#); Radio Hc. 15 September 2022. [Protesters attacked Thursday the headquarters of Haiti's National Television](#); Listin Diario. October 6, 2022. [The anti-government protest movement took a turn.](#)

In this sense, security operations must be planned under clear action protocols that guarantee the adequate, progressive and proportional use of less lethal weapons, and that favor dialogue.

839. This Rapporteurship recalls that acts of violence against journalists or media workers and which for reasons connected to their professional activity violate both the individual's right to express and impart ideas, opinions and information, as well as the rights of citizens and societies as a whole to seek and receive information and ideas of any nature.<sup>1854</sup>

### C. Freedom of expression and the Internet

840. of the main challenges facing Haiti in the digital area is the lack of information, figures and statistics on the level of Internet penetration in households. This is due to the lack of capacity of state institutions to conduct studies. The most recent information, dating from 2020, indicates that 35% of the population has access to the Internet, while the world average is 60%.<sup>1855</sup> Likewise, the availability of broadband would be 0.27 compared to a world average of 16 percent.<sup>1856</sup>

841. This Office recalls that States must promote access to the Internet for all people, which implies expanding Internet infrastructure and access to the technology necessary for its use, but also promoting digital literacy and ensuring linguistic plurality. The principle of universal access "refers to the need to guarantee connectivity and access to the Internet infrastructure and other ICT services that is universal, ubiquitous, equitable, truly affordable, and of adequate quality, all throughout the State's territory".<sup>1857</sup>

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<sup>1854</sup> Office of the Special Rapporteur for Freedom of Expression, IACHR. [Violence against journalists and media workers: inter-American standards and national practices on prevention, protection and prosecution of perpetrators](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 12/13. December 31, 2013. Para. 1; I/A Court H.R.. Case of Vélez Restrepo and Family Members v. Colombia. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248. para. 142-149.

<sup>1855</sup> World Bank. [People using the internet \(% of population\) - Haiti](#); El Dia. October 28, 2022. [Crisis corners Haitian press, which loses lives and circulation](#).

<sup>1856</sup> World Bank. [People using the internet \(% of population\) - Haiti](#); El Dia. October 28, 2022. [Crisis corners Haitian press, which loses lives and circulation](#).

<sup>1857</sup> IACHR. Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV (Freedom of Expression and the Internet). OEA/Ser.L/V/II.149. Doc. 50. 31 December 2013. Para. 16; Organization of American States. Sixth Summit of the Americas. April 14-15, 2012. Cartagena de Indias, Colombia. Mandates arising from the Sixth Summit of the Americas. May 23, 2012. OEA/Ser.E CA-VI/doc.6/12 Rev.2. Access to and use of information and communication technologies. Para. 1-4.

## HONDURAS

842. The Rapporteurship continues to observe with concern a hostile context for the practice of journalism in Honduras due to reports of murders, intimidations, legal actions against journalists possibly motivated by the practice of journalism. In 2022, several organizations expressed their concern about the alleged institutional weakening of the mechanism for the protection of journalists and human rights defenders, as well as the lack of effectiveness of the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators (Feprodhh). On the other hand, the Special Rapporteurship welcomes the repeal of the Law for the classification of public documents related to national security and defense -known as the "Secrets Law"-, which implied serious obstacles for the full exercise of the right of access to public information. The repeal of this regulation implies compliance with one of the recommendations established in the 2019 country report of the IACHR on the human rights situation in Honduras. Finally, the Rapporteurship thanks the Permanent Mission of Honduras to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

843. During 2022, at least three murders of journalists were reported in Honduras, which raises concerns about the violence derived from the practice of journalism. In addition, RELE received information about harassment, threats, and the possible regression after the issuance of a regulation that would weaken the protection mechanism for journalists.

844. On January 9, RELE and the IACHR condemned the murder of Lenca indigenous leader and community journalist Pablo Isabel Hernández Rivera.<sup>1858</sup> According to publicly available information, on January 9, 2022 unknown persons shot indigenous leader and community journalist Hernández Rivera while he was on his way to church in the municipality of San Marcos de Caiquín, department of Lempira<sup>1859</sup>. The journalist died immediately in the attack. Pablo Isabel Hernández Rivera was director and journalist of the community radio station *Tenán 94.1 F.M.*, "La voz Indígena Lenca". In his community he was known for his critical coverage of local issues. The radio station also rebroadcast the program "Voces contra el olvido" (Voices against forgetting), of the Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH)<sup>1860</sup>. According to available information, in addition to being a community journalist, he was a prominent indigenous leader and member of the Network of Human Rights Defenders of Lempira that organizes and forms COFADEH, Mayor of the Vara Alta Auxiliary, which is the Traditional Government of the Lenca People, President of the Indigenous and Peoples' Cultural Association, Secretary of the Local Indigenous Council of Tierra Colorada and President of the network of Agro-ecologists of the Cacique Lempira Lord of the Mountains Biosphere<sup>1861</sup>. The IACHR and the Office of the Special Rapporteur expressed having knowledge that in recent years Pablo Isabel Hernández has reported threats against his life.<sup>1862</sup>

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<sup>1858</sup> IACHR. January 18, 2022. Press Release No. 015/22. [The IACHR and its RELE condemn the murder of community journalist and indigenous leader Pablo Isabel Hernández Rivera in Honduras and calls on the State to diligently investigate the facts.](#)

<sup>1859</sup> OHCHR. 10 January 2022. [OHCHR condemns the murder of Pablo Isabel Hernández, human rights defender and social communicator](#); C-Libre Twitter account (@CLibrehn). [January 9, 2022](#); International Federation of Journalists. January 13, 2022. [Honduras: communicator and community radio director murdered](#); UNESCO. 21 April 2022. [Director-General calls for investigation into the murder of journalist Pablo Isabel Hernández Rivera in Honduras.](#)

<sup>1860</sup> OHCHR. 10 January 2022. [OHCHR condemns the murder of Pablo Isabel Hernández, human rights defender and social communicator](#); C-Libre Twitter account (@CLibrehn). [January 9, 2022](#); International Federation of Journalists. January 13, 2022. [Honduras: communicator and community radio director murdered](#); UNESCO. 21 April 2022. [Director-General calls for investigation into the murder of journalist Pablo Isabel Hernández Rivera in Honduras.](#)

<sup>1861</sup> IACHR. January 18, 2022. Press Release No. 015/22. [The IACHR and its RELE condemn the murder of community journalist and indigenous leader Pablo Isabel Hernández Rivera in Honduras and calls on the State to diligently investigate the facts.](#)

<sup>1862</sup> IACHR. January 18, 2022. Press Release No. 015/22. [IACHR and its RELE condemn the murder of community journalist and indigenous leader Pablo Isabel Hernández Rivera in Honduras and calls on the State to diligently investigate the facts](#); Human Rights Watch. June 30, 2022. [Letter from Human Rights Watch to President Xiomara Castro](#); International Federation of Journalists. January 13, 2022. [Honduras: community radio director and communicator murdered](#); Resumen Latinoamericano. January 9, 2022. [Honduras. Lenca ombudsman murdered in San Marcos de Caiquín, Lempira.](#)



845. Likewise, the IACHR and the Office of the Special Rapporteur condemned the murder of journalist Ricardo Ávila<sup>1863</sup>. According to publicly available information, in the early morning of May 26, 2022, unknown subjects intercepted and shot journalist Ricardo Alcides Ávila of *Metro TV* as he was on his way from the municipality of Marcovia to Choluteca<sup>1864</sup>. After the attack, Ávila was transferred to a hospital in Choluteca and later to another institution in Tegucigalpa, where he died on May 29<sup>1865</sup>. In this regard, the Honduran National Police reported that the journalist was the victim of an attempted robbery and that the assailants had taken some of his belongings. However, this hypothesis has been controverted by reports from Ricardo Ávila's relatives, who assured that the perpetrators did not steal any valuable belongings after shooting him, such as his wallet, cell phone and motorcycle<sup>1866</sup>. The president of the Inter American Press Association (IAPA) asked "to deepen the investigations and not to rule out his profession as the cause of the attack"<sup>1867</sup>. The organization argued that, although the police are handling the hypothesis of an attempted robbery, "the coverage that Ávila gave of police events and social movements should also be investigated"<sup>1868</sup>.

846. In its 2019 report "Situation of Human Rights in Honduras", the IACHR recalled that States have the obligation to protect journalists who are at risk because of the exercise of their profession and to initiate timely investigations when attacks occur<sup>1869</sup>. The Rapporteurship recalls that it is the duty of the State to investigate, prosecute and punish whoever is responsible and guarantee reparations to the victims<sup>1870</sup>. In this regard, RELE urges the State of Honduras to continue the investigations with due diligence, to punish the intellectual and material authors, and to provide clear and transparent information regarding the actions taken and findings in the case. Likewise, the Office of the Special Rapporteur emphasizes that the investigations should not rule out the evaluation of the possible link between the crime and the practice of journalism, as this could hinder the identification of possible masterminds.

847. Likewise, the Office of the Special Rapporteur received information on the murder of journalist Edwin Josué Andino Canaca, on October 10,<sup>1871</sup>. This Office called on the State to investigate, prosecute and punish these facts, considering the practice of journalism as a possible motive for the crime<sup>1872</sup>. According to the information received, a group of people dressed as Military Police of Public Order went to the home of journalist Edwin Josué Andino Canaca, producer of the television channel *La Tribuna* (LTV), and his father Edwin Emilio Andino Amador, on the morning of October 10, 2022. Both were gagged with adhesive tape and forced to leave their home. The bodies of journalist Andino Canaca and his father were found 15 kilometers

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<sup>1863</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. January 18, 2022. Press Release R156/22. [RELE condemns the murder of journalist Ricardo Ávila in Honduras](#); Diario de Huila. May 30, 2022. [Ricardo Ávila. Honduran journalist was murdered](#); Deutsche Welle (DW). May 30, 2022. [Shot journalist dies in Honduras, the fourth murdered this year](#).

<sup>1864</sup> CPJ. June 6, 2022. [Cameraman and television presenter Ricardo Ávila is shot to death in southwestern Honduras](#); Voice of America. May 30, 2022. [Honduran journalist shot dead, fourth so far in 2022](#).

<sup>1865</sup> CPJ. June 6, 2022. [Cameraman and television presenter Ricardo Ávila is shot to death in southwestern Honduras](#); Voice of America. May 30, 2022. [Honduran journalist shot dead, fourth so far in 2022](#).

<sup>1866</sup> C-Free. May 30, 2022. [Social communicator Ricardo Ávila dies](#); Infobae. May 30, 2022. [Honduran journalist Ricardo Ávila died at the age of 25 from a bullet wound](#).

<sup>1867</sup> Inter American Press Association. June 3, 2022. [IAPA asks Honduras to deepen investigations into journalist's murder](#); Swissinfo. June 3, 2022. [IAPA asks Honduras to deepen investigations into the murder of a cameraman](#); El Heraldo. June 7, 2022. [IAPA asks Honduras to deepen investigations into the murder of Ricardo Ávila](#).

<sup>1868</sup> Inter American Press Association. June 3, 2022. [IAPA asks Honduras to deepen investigations into journalist's murder](#); Swissinfo. June 3, 2022. [IAPA asks Honduras to deepen investigations into the murder of a cameraman](#); El Heraldo. June 7, 2022. [IAPA asks Honduras to deepen investigations into the murder of Ricardo Ávila](#).

<sup>1869</sup> IACHR. [Situation of human rights in Honduras](#). Country Report. OEA/Ser.L/V/II. Doc. 146. August 27, 2019. Para. 367, Numeral 2.

<sup>1870</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 27, 2022. Press Release. R240/22. [RELE condemns the kidnapping and murder of journalist Edwin Josué Andino Canaca and calls on the State of Honduras to provide security guarantees for the press](#).

<sup>1871</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. October 27, 2022. Press Release. R240/22. [RELE condemns the kidnapping and murder of journalist Edwin Josué Andino Canaca and calls on the State of Honduras to provide security guarantees for the press](#).

<sup>1872</sup> CPJ. October 26, 2022. [Honduran journalist Edwin Josué Andino is shot to death in Tegucigalpa](#); C-Libre Honduras. Oct. 10, 2022. [Edwin Josué Andino Canaca, is the fifth journalist murdered in Honduras so far in 2022](#); Swissinfo. 10 October 2022. [TV journalist and his father are shot to death in Honduras](#).

away from each other, both with gunshot wounds. Also, according to public information, the authorities considered the hypothesis that it was an attack planned by organized crime<sup>1873</sup>.

848. This Office recalls that murders of journalists constitute the most extreme form of censorship and violate the right to freedom of expression in both its individual and collective dimensions. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation, threats to social communicators, as well as the material destruction of the media, violate the fundamental rights of individuals and severely restrict freedom of expression. It is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure adequate reparation for the victims"<sup>1874</sup>.

849. The IACHR and its Office of the Special Rapporteur have understood that the purpose of violence against journalists is to restrict or hinder the work of those who investigate abuses, abuses, irregularities or illicit acts of all kinds, carried out either by public officials or private individuals<sup>1875</sup>. Likewise, they seek to be tools of intimidation, by means of which a message is sent to all those persons of the civil society who carry out investigation tasks on irregularities in the public administration<sup>1876</sup>. RELE has also maintained that this practice "seeks to keep the press, as a control mechanism, silent", preventing society from being informed about events of public interest<sup>1877</sup>. For all these reasons, the Inter-American Court emphasized that "the practice of journalism can only be carried out freely when the persons who engage in it are not victims of threats or physical, psychological or moral aggression or other acts of harassment"<sup>1878</sup>.

850. States have a positive obligation to identify and punish the perpetrators of murders of journalists in a complete, effective and impartial manner, and to judicially determine the relationship they may have with journalistic activity and freedom of expression. The authorities should not rule out the practice of journalism as a motive for the murder and/or aggression before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this sense can have serious repercussions in the development of the processes in the indictment or trial stages. Failure to fully exhaust the logical lines of investigation has an impact, above all, on the failure to identify the intellectual authors.

851. In this context, on June 17, the presidents of the Honduran Association of Journalists and the Honduran Bar Association expressed their concern over the deaths of journalists at a press conference. They also denounced impunity in more than 90 percent of the cases and signed an agreement to demand answers from the authorities<sup>1879</sup>.

852. On May 24, by means of a communiqué, the National Commissioner for Human Rights of Honduras stated that there is 91% impunity in crimes against journalists since 2001<sup>1880</sup>. In this regard, the organization stated that of the 92 cases it has monitored since 2001, 84 have not been convicted<sup>1881</sup>. Due to these figures, the Commissioner considered that practicing journalism in Honduras is a "high-risk profession"<sup>1882</sup>. He also noted that the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators (Feprodhh) had not achieved the expected results<sup>1883</sup>. The report "Bajo Riesgo: Cómo superar las deficiencias de los programas de protección de periodistas en América Latina" by Reporters Without Borders highlights that in Honduras there is a specific prosecutor's office to investigate

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<sup>1873</sup> CPJ. October 26, 2022. [Honduran journalist Edwin Josué Andino shot to death in Tegucigalpa](#); C-Libre Honduras. Oct. 10, 2022. [Edwin Josué Andino Canaca, is the fifth journalist murdered in Honduras so far in 2022](#); Swissinfo. 10 October 2022. [TV journalist and his father are shot to death in Honduras](#).

<sup>1874</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>1875</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1876</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1877</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>1878</sup> I/A Court H.R., Case of Vélez Restrepo and Family v. Colombia. *Case of Vélez Restrepo and Family Members v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012 Series C No. 248. para. 209.

<sup>1879</sup> La Tribuna June 17, 2022. [Journalists and lawyers join efforts for impunity in murder cases](#); Hondudiario. June 16, 2022. [No more immunity in the death of lawyers and journalists, demand both unions](#).

<sup>1880</sup> Twitter account of the Institution of the National Commissioner for Human Rights (@CONADEH). [May 24, 2022](#).

<sup>1881</sup> Twitter account of the Institution of the National Commissioner for Human Rights (@CONADEH). [May 24, 2022](#).

<sup>1882</sup> Twitter account of the Institution of the National Commissioner for Human Rights (@CONADEH). [May 24, 2022](#).

<sup>1883</sup> Twitter account of the Institution of the National Commissioner for Human Rights (@CONADEH). [May 24, 2022](#); Latam Journalism Review. July 1, 2022. [Special Prosecutor's Office for the Protection of Journalists in Honduras has failed to obtain sentences and has no jurisdiction to investigate murders](#).

crimes against journalists but notes that coordination with protection mechanisms is "insufficient"<sup>1884</sup>. Additionally, an investigation conducted by *LatAm Journalism Review* of the University of Texas indicated that, since its creation in 2018 until the time of publication (June 2022) 252 complaints have been formalized before the Special Prosecutor's Office; however, there are no sentences and there would be no judicialized cases against aggressors of journalists, communicators or human rights defenders in criminal courts or tribunals<sup>1885</sup>. According to what the head of the Prosecutor's Office told *LatAm Journalism Review*, the reason for this is that "many of the cases are referred to a peace court, where they are settled through conciliation, while other cases known by the Feproddhh are referred to other prosecutors' offices, such as Crimes Against Life or Ethnic Groups"<sup>1886</sup>.

853. In this context, the director and representative of Unesco's Central America Cluster Office said that "Honduras is a very dangerous country to practice journalism, the figures show it"<sup>1887</sup>. To verify the conditions of freedom of expression in the country, Alicia Quiñonez, regional coordinator for the Americas and the Caribbean of Centro Pen International, traveled to Honduras on December 11 to meet with journalists who may be suffering violations to do their work. Centro Pen reported that it requested a meeting with the National Human Rights Commissioner to address the situation of the Protection Mechanism for human rights defenders, journalists, social communicators and justice operators, but did not receive a response. Among the findings of the visit was "harassment, including criminal, police and legal harassment; they also commented that they were afraid to exercise their professional work, even more so after being threatened through messages to their phones and other means", according to the Twitter account of the Pen Center<sup>1888</sup>.

854. The Office of the Special Rapporteur has repeatedly urged States to "conduct serious, impartial and effective investigations into the murders, attacks, threats and acts of intimidation committed against journalists and media workers"<sup>1889</sup>. The Inter-American Court has pointed out that impunity -understood as the failure to investigate, prosecute, capture, try and convict as a whole- fosters the chronic repetition of human rights violations and the total defenselessness of the victims and their families<sup>1890</sup>.

855. This Office learned of the actions that would entail changes in the National Protection Mechanism after the arrival of the new Secretary for Human Rights<sup>1891</sup>. According to civil society organizations, on August 12, 14 people were dismissed and this would be weakening the system because it could have happened for political rather than technical reasons<sup>1892</sup>. Likewise, other users reported possible abuses of authority on the part of personnel<sup>1893</sup> and that these measures would affect 158 persons<sup>1894</sup> who benefit from this mechanism,

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<sup>1884</sup> Reporters Without Borders. February 2022. [Under risk: How to overcome the shortcomings of journalist protection programs in Latin America \(Brazil, Colombia, Honduras and Mexico\)](#).

<sup>1885</sup> Latam Journalism Review. July 1, 2022. [Special Prosecutor's Office for the Protection of Journalists in Honduras has failed to secure convictions and has no jurisdiction to investigate murders](#).

<sup>1886</sup> Latam Journalism Review. July 1, 2022. [Special Prosecutor's Office for the Protection of Journalists in Honduras has failed to secure convictions and has no jurisdiction to investigate murders](#).

<sup>1887</sup> Swissinfo. October 27, 2022. [Honduras, country dangerous enough to practice journalism, according to Unesco](#); Signis ALC. 27 October 2022. [UNESCO: Honduras a dangerous country to practice journalism](#).

<sup>1888</sup> Twitter account of Pen International for the Americas and the Caribbean (@PEN\_LAC). [December 20, 2022](#).

<sup>1889</sup> IACHR. Annual Report 2012. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser.L/V/II.147. Doc. 1. 5 March 2013. Para. 4, subparagraph c). See also, IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VII (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 4 (a); IACHR. Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VI (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 4 (a); IACHR. Annual Report 2011. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 4, subparagraph c).

<sup>1890</sup> IACHR Court. *Case of Ivcher Bronstein v. Peru. Merits, Reparations and Costs*. Judgment of February 6, 2001. Series C No. 74. para. 186; I/A Court H.R., *Case of the Constitutional Tribunal v. Peru. Case of the Constitutional Tribunal v. Peru. Merits, Reparations and Costs*. Judgment of January 31, 2001. Series C No. 71. Para. 123; I/A Court H.R., *Case of Bámaca Velásquez v. Peru. Case of Bámaca Velásquez v. Guatemala. Merits*. Judgment of November 25, 2000. Series C No. 70. para. 211.

<sup>1891</sup> Reporters Without Borders. 19 August 2022. [New Honduran government dismantles journalist protection mechanism](#); Swissinfo. 23 August 2022. [IAPA asks Honduras to review changes to journalist protection system](#).

<sup>1892</sup> Reporters Without Borders. 19 August 2022. [New Honduran government dismantles journalist protection mechanism](#); Swissinfo. 23 August 2022. [IAPA asks Honduras to review changes to journalist protection system](#).

<sup>1893</sup> El Heraldo. August 3, 2022. [Human Rights Secretariat in the eye of the hurricane for more complaints of mistreatment](#);

<sup>1894</sup> El Heraldo. August 18, 2022. [At least 158 people at risk as protection system breaks down](#).

among them, 14 justice operators<sup>1895</sup>, 12 journalists<sup>1896</sup>, 119 human rights defenders<sup>1897</sup> and 13 social communicators<sup>1898</sup>. The IAPA asked the President of Honduras to review these changes<sup>1899</sup> and on August 26, the Special Rapporteur for Freedom of Expression, Pedro Vaca, called on the Government that the changes would not weaken this tool<sup>1900</sup>. This Mechanism was born in 2015 through Decree 34-2015<sup>1901</sup>. In the RELE 2019 Report, insufficient protection of the Mechanism was reported in the face of risk situations of various journalists<sup>1902</sup>. For its part, Reporters Without Borders also expressed concern about the changes<sup>1903</sup> and in a regional report mentioned that one of the reasons for the weakness of the Mechanism is the lack of budget.<sup>1904</sup>

856. This Office received several reports on the activation of legal actions against journalists that could have been used as a silencing measure. According to publicly available information, journalist César Silva, of the UNTV television channel, was detained by security forces on April 8 and released the same day. In statements to the press, Silvia indicated that he was surprised to be arrested because the day before he had announced to the court that he would present himself to clarify his legal situation. Silva was sentenced to 37 days and 12 hours of commutable imprisonment for the crime of libel. Silva paid approximately US\$16 to avoid jail time. Silva was charged with injuria due to an arrest warrant that existed since 2019. In 2019, he would have tried to interview the diplomat but the latter would have refused and then an altercation would have been detonated between the two. The president of Honduras spoke in favor of the journalist on her Twitter account: "Surprised with the capture that violates freedom of expression, of the militant and journalist César Omar Silva. In compliance with the law, he must be immediately released"<sup>1905</sup>. Civil society organizations and journalists' guilds have called for the repeal of crimes against honor<sup>1906</sup>. The president of Congress said publicly on October 13 that "they had on their agenda to repeal crimes against honor"<sup>1907</sup>.

857. This Rapporteurship has expressed its concern regarding the use of criminal defamation laws, including the figures of libel and slander, with the same purpose of contempt<sup>1908</sup>. In general, these offenses refer to the expression of expressions that affect the honor of a person or the false accusation of crimes. In the hemisphere, practice has shown that many public officials resort to the use of these figures as a mechanism to discourage criticism. As the Rapporteurship has pointed out in previous reports, "the possibility of abuse of such laws by public officials to silence critical opinions is as great in the case of these laws as in the case of desacato laws"<sup>1909</sup>.

858. This office was also informed of the decision of a court in La Paz that ordered measures against journalist Sonia Pérez<sup>1910</sup>, correspondent of *Radio Progreso*, not to approach sources of information and the obligation to sign once a month in a judicial control book. This case originated on May 22 due to a complaint by a landowner against Pérez accusing her of breaking and entering and damaging private property. The Committee to Protect Journalists publicly called for the charges against the journalist to be dropped and for the legal system to stop being used to silence the media<sup>1911</sup>. On May 25, the Public Prosecutor's Office confirmed

<sup>1895</sup> El Heraldo. August 18, 2022. [At least 158 people at risk as protection system breaks down.](#)

<sup>1896</sup> El Heraldo. August 18, 2022. [At least 158 people at risk as protection system breaks down.](#)

<sup>1897</sup> El Heraldo. August 18, 2022. [At least 158 people at risk as protection system breaks down.](#)

<sup>1898</sup> El Heraldo. August 18, 2022. [At least 158 people at risk as protection system breaks down.](#)

<sup>1899</sup> Inter American Press Association. August 23, 2022. [IAPA asks Xiomara Castro to review changes to the system of protection for journalists in Honduras.](#)

<sup>1900</sup> Twitter account of Pedro Vaca (@PVacaV). [August 26, 2022.](#)

<sup>1901</sup> UNHCR. 2015. Official Gazette of the Republic of Honduras. [Decree No. 34-2015.](#)

<sup>1902</sup> IACHR. Annual Report 2019. Report of the Office of the Special Rapporteur for Freedom of Expression. Para. 816.

<sup>1903</sup> Reporters Without Borders Twitter account (@RSF\_eng). [12 August 2022.](#)

<sup>1904</sup> Reporters Without Borders. February 2022. [Under risk: How to overcome the shortcomings of journalist protection programs in Latin America \(Brazil, Colombia, Honduras and Mexico\).](#)

<sup>1905</sup> Twitter account of Xiomara Castro (@XiomaraCastroZ). [April 8, 2022.](#)

<sup>1906</sup> Digital Process. May 19, 2022. [CPH, APH and C-Libre call for the repeal of the decree on crimes against honor.](#)

<sup>1907</sup> Hondudiario. October 13, 2022. [Freedom of expression will never be violated, assures the president of the Congress.](#)

<sup>1908</sup> IACHR, Annual Report of the Inter-American Commission on Human Rights 2002. Vol. III. Report of the Rapporteurship for Freedom of Expression. OEA/Ser.L/V/II.117 Doc. 5 rev. 1, 7 March 2003. Chapter V. Parr. 17.

<sup>1909</sup> IACHR, Annual Report of the Inter-American Commission on Human Rights 2002. Vol. III. Report of the Rapporteurship for Freedom of Expression. OEA/Ser.L/V/II.117 Doc. 5 rev. 1, 7 March 2003. Chapter V. Parr. 17.

<sup>1910</sup> Conexihon. June 30, 2022. [Sonia Pérez, prosecuted for being a journalist.](#)

<sup>1911</sup> Committee to Protect Journalists Twitter account (@pressfreedom). [July 30, 2022.](#)



the case against Pérez<sup>1912</sup> and affirmed that the journalist "appears in the group of 31 members of the "Consejo Indígena Lenca la Comunidad de Nueva Palestina", accused of aggravated usurpation and alteration of terms or boundaries, a crime not related to the work of informing"<sup>1913</sup>.

859. On March 8, security forces announced that they had captured a person allegedly a member of a gang for having been responsible for firing shots against the facilities of *Radio Globo*<sup>1914</sup>. According to publicly available information, on March 7, unknown persons had fired four shots with high caliber weapons against the building where this media outlet operates, in the Honduran capital<sup>1915</sup>.

860. Among the allegations of intimidation of journalists, the Rapporteurship learned of the public complaint made on December 9 by journalist and human rights defender Dina Meza, who through her social networks reported having been followed<sup>1916</sup>. Journalist protection organizations such as Article 19, Reporters Without Borders and PEN International expressed their solidarity with Meza, who currently serves as executive director of the Association for Democracy and Human Rights of Honduras (ASOPODEHU), which accompanies journalists at risk. Reporters Without Borders pointed out that the intimidating actions against Meza are taking place in a context of complaints about the "collapse" of the National Protection Council and the Mechanism for the Protection of Journalists, Social Communicators, Human Rights Defenders and Justice Operators and against the Human Rights Secretariat<sup>1917</sup>.

861. Likewise, this Office was informed of the legal intimidations against journalist Andrés Molina, which were allegedly issued by the Secretary of Social Development, according to the organization Article 19<sup>1918</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

862. This Rapporteurship received information that on March 8, 2022 the Law for the classification of public documents related to national security and defense was repealed, through Decree 12-2022<sup>1919</sup>. According to the approved decree, the Institute for Access to Public Information will be in charge of resolving requests for classification of information. Likewise, all persons will be able to request access to information that had been classified as reserved by the previous regulations. This Office welcomes this decision, which is part of the recommendations on access to public information in the Report on the Situation of Human Rights in Honduras, issued by the IACHR in 2019. IAPA also welcomed the annulment of the law<sup>1920</sup>.

863. The Office of the Special Rapporteur has pointed out that the right of access to information is a fundamental requirement to guarantee transparency in government management and on the part of state authorities, and a fundamental tool for citizen control of the functioning of the State and accountability<sup>1921</sup>. As interpreted by the IACHR, Article 13 of the American Convention includes the positive obligation of the State to allow citizens access to information in its possession<sup>1922</sup>. In this sense, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression states that "[a]ccess to information [...] is a fundamental right of individuals. States are obliged to guarantee the exercise of this right"<sup>1923</sup>. For its part, the Inter-American Court

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<sup>1912</sup> Public Prosecutor's Office of Honduras. May 25, 2022. [Accusation of communicator is for aggravated usurpation and not for the work of informing.](#)

<sup>1913</sup> Public Prosecutor's Office of Honduras. May 25, 2022. [Accusation of communicator is for aggravated usurpation and not for the work of informing.](#)

<sup>1914</sup> El Heraldo. March 8, 2022. [Capturan a segundo implicado en atentado contra Radio Globo](#); La Tribuna. March 9, 2022. [Second gunman caught in attack on building where Radio Globo operates.](#)

<sup>1915</sup> Digital Process. March 7, 2022. [Shooting at the building where Radio Globo operates in the Honduran capital.](#)

<sup>1916</sup> [Dina Meza is harassed and under surveillance for her work defending freedom of expression](#); Twitter account of PEN International - The Americas and the Caribbean (@PEN\_LAC). [August 17, 2022](#); RSF en Español Twitter account (@RSF\_esp). [August 18, 2022](#).

<sup>1917</sup> Twitter account of PEN International - The Americas and the Caribbean (@PEN\_LAC). [August 17, 2022](#).

<sup>1918</sup> Article 19 MX-CA Twitter account (@article19mex). [7 January 2023](#).

<sup>1919</sup> Criteria. March 1, 2022. [National Congress of Honduras repeals Secrecy Law](#); France 24. March 2, 2022. [Honduras repeals secrecy law to fight corruption.](#)

<sup>1920</sup> Inter American Press Association. March 4, 2022. [IAPA welcomes the elimination of official secrecy in Honduras.](#)

<sup>1921</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Paras. 4 and 5.

<sup>1922</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151, para. 58 (a) and (b).

<sup>1923</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression.](#)



has established that Article 13 of the American Convention, by expressly stipulating the rights to "seek" and "receive" "information," protects the right of every person to access information under the control of the State, with the exceptions permitted under the strict regime of restrictions established in said instrument<sup>1924</sup>.

864. On the other hand, on September 19, the President in Council of Ministers approved decree PCM-023-2022<sup>1925</sup>, which created the General Directorate of Information and Press<sup>1926</sup>, regulates communication strategies and media monitoring. This Rapporteurship learned that the Committee for Free Expression, C-LIBRE, through a public statement, pointed out that the decree has "practices harmful to freedom of the press and freedom of expression, which push for the concentration of state public discourse, the conditioning of advertising, prior censorship and the granting of powers to CONATEL to make an inventory of the media in Honduras"<sup>1927</sup>. The president of Congress assured that this would not be an act against freedom of expression<sup>1928</sup>.

865. The Rapporteurship recalls that, according to Principle 5 of the Declaration of Principles of the IACHR, "[p]rior censorship, interference or direct or indirect pressure on any expression, opinion or information disseminated through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions on the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the creation of obstacles to the free flow of information, violate the right to freedom of expression"<sup>1929</sup>. In this regard, the IACHR and its Office of the Special Rapporteur have understood that the imposition of restrictions on freedom of expression only admits subsequent liability, which must be expressly established by law where the ends pursued are legitimate, and the grounds for establishing liability are necessary to ensure the end sought<sup>1930</sup>.

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

866. As RELE has learned, the Telecommunications Commission of the Congress announced that it will create a fund of 25 million lempiras to support community radio stations. The World Association of Community Radio Broadcasters for Latin America welcomed the decision and considered it important to strengthen the sustainability of community media over time<sup>1931</sup>.

867. This Office emphasizes that community journalism contributes to diversity and pluralism of information and that, in this sense, community journalism - and, in particular, community radio broadcasting - can play an extremely important role by offering public interest programming and complementing the content offered by private commercial broadcasters<sup>1932</sup>.

868. The Inter-American Court has highlighted the importance of pluralism for the exercise of the right to freedom of expression, stating that it implies "tolerance and a spirit of openness, without which there is no democratic society"<sup>1933</sup>. Therefore, according to the Court, States have the duty to adopt the necessary

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<sup>1924</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. Paras. 76 and 78; I/A Court H.R., *Case of López Álvarez v. Honduras. Case of López Álvarez v. Honduras. Merits, Reparations and Costs*. Judgment of February 1, 2006. Series C No. 141. para. 77; I/A Court H.R., *Case of Herrera Ulloa v. Honduras. Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 2, 2004. Series C No. 107. para. 108.

<sup>1925</sup> La Gaceta, official gazette of the Republic of Honduras. [September 19, 2022](#).

<sup>1926</sup> La Prensa. October 10, 2022. [Gobierno realizará un diagnóstico a los medios de comunicación](#); El Heraldito. October 11, 2022. [Gobierno realizará un diagnóstico a los medios de comunicación del país](#).

<sup>1927</sup> C-Libre Honduras. October 13, 2022. [Government approves decree to limit the right to freedom of expression and public information](#); Pasos de Animal Grande. October 11, 2022. [C-LIBRE: Government is at the gates of imposed censorship and surveillance of the population](#); Proceso. Oct. 12, 2022. [C-Libre calls on government to repeal PCM that creates directorate to monitor media](#).

<sup>1928</sup> Hondu Diario. October 13, 2022. [Freedom of expression will never be violated, assures president of Congress](#); Radio América. October 12, 2022. [Freedom of expression will never be violated: according to the head of the National Congress](#).

<sup>1929</sup> IACHR. [Background and Interpretation of the Declaration of Principles on Freedom of Expression](#). 2000.

<sup>1930</sup> IACHR. [Background and Interpretation of the Declaration of Principles on Freedom of Expression](#). 2000.

<sup>1931</sup> Amarc. May 18, 2022. [Congreso de Honduras creará fondo para apoyar económicamente a radios comunitarias](#); Canal 8. 17 May 2022. [National Congress announces creation of fund to support community radio stations](#).

<sup>1932</sup> IACHR. Annual Report 2020. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 28. 30 March 2021. Para. 802.

<sup>1933</sup> IACHR Court. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile. Merits, Reparations and Costs*. Judgment of February 5, 2001. Series C No. 73. para. 69.

measures to ensure that all segments of the population have access to the media<sup>1934</sup>. To achieve this purpose, "it is necessary that the State democratize access in such a way that it recognizes, promotes or encourages the diverse forms and uses that each sector can adopt to access and operate these media and, consequently, creates spaces for differentiated forms of media and the corresponding legal instruments to provide them with legal security"<sup>1935</sup>. According to the decision of the Court in the case of *Pueblos Indígenas Maya Kaqchikel de Sumpango y otros Vs. Guatemala*, "this state obligation necessarily implies a right of the indigenous peoples to be represented in the different media, especially by virtue of their particular ways of life, their community relations and the importance of the media for the referred peoples"<sup>1936</sup>.

869. The Office was also informed of the report "Women in Power of the Word"<sup>1937</sup> published on April 11 by Unesco and the PEN Center, which deals with the participation of women artists, culture, journalism and communication professionals in public life. Five countries were studied: Ecuador, Guatemala, Honduras, Mexico and Nicaragua. The document mentions that in these countries there was an "underrepresentation of women's participation in literary productions and media content, reaching 30% in contrast to 70% for men".<sup>1938</sup>

870. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women, LGBT+ persons, or indigenous peoples. The Inter-American system grants enhanced protection to those speeches that express constitutive elements of the personal identity or dignity of those who express themselves<sup>1939</sup> and, therefore, the Rapporteurship invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to tune institutional practices to the enhanced protection of this type of speeches.

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<sup>1934</sup> I/A Court H.R., Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, Reparations and Costs*. Judgment of October 6, 2021. Series C No. 440. para. 88.

<sup>1935</sup> I/A Court H.R., Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, Reparations and Costs*. Judgment of October 6, 2021. Series C No. 440. para. 89.

<sup>1936</sup> I/A Court H.R., Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, Reparations and Costs*. Judgment of October 6, 2021. Series C No. 440. para. 92.

<sup>1937</sup> France 24. April 12, 2022. [Women, relegated in Latin American literature and journalism](#); El Universal. April 11, 2022. [PEN International presents report on female participation in the publishing industry](#).

<sup>1938</sup> PEN International Twitter account (@pen\_int). [May 11, 2022](#); Unesco. May 5, 2022. [UNESCO, PEN International and VIDA presented a report on the participation and current context of women writers and journalists in five Latin American countries](#).

<sup>1939</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

## JAMAICA

871. In 2022, the Office of the Special Rapporteur closely followed the evolution of the state of freedom of expression in Jamaica. Therefore, this Office became aware of the activities carried out by the Jamaican press association to discuss journalistic standards and highlight the achievements of the press in the country. Likewise, the Office of the Special Rapporteur took note of the concentration and ownership of the media on the island, the impact of the restrictions due to COVID-19 on the union, and the security enjoyed by members of the press to carry out their work. The information received by the Office of the Special Rapporteur during the year would indicate that 2022 was a year particularly characterized by protests over the state of the infrastructure, the lack of public services, and unfavorable working conditions. Some of these public demonstrations were reportedly interrupted by State forces as a result of protesters blocking roads, while some union demonstrations reportedly resulted in reprisals against various workers. In the second half of 2022, the Office of the Special Rapporteur registered with concern a ban on musical and television content on the island, which would constitute a clear example of prior censorship and a serious violation of freedom of expression. This year, the Office of the Special Rapporteur also registered instances of racial discrimination in social networks and educational institutions, for which it urges the State to take the respective measures to prevent the repetition of this type of behavior.

### A. Journalism and democracy

872. In the first semester of 2022, the Office of the Special Rapporteur welcomed the fruitful activities organized by the Press Association of Jamaica (PAJ) to exchange perspectives on the coverage of issues of public interest and recognize the work of colleagues in the region.

873. On February 25, 2022, the association organized a forum within the framework of the national journalism week. According to public information, the forum addressed journalistic coverage of the COVID-19 pandemic and the dilemma that the media faces when giving voice and visibility to anti-vaccination groups in the region<sup>1940</sup>. The panelists reportedly emphasized the need to have reliable sources of information, especially from scientists and doctors, in order to report all the data to the public. The Office of the Special Rapporteur congratulates the association for its efforts to generate discussion spaces that strengthen journalistic standards in the region and answer critical questions for the union.

874. Likewise, the Office of the Special Rapporteur learned of the national journalism awards, organized by the association on February 26, 2022<sup>1941</sup>. The awards highlighted the best journalists in the categories of reporting, radio documentary, television documentary, videography, photography, opinion journalism, investigative journalism, breaking news coverage, environmental issues, children's rights, health, technology, sports, and business, among others. This Office congratulates the awardees and the efforts to recognize the journalistic achievements of the union in Jamaica and the Caribbean.

875. In 2022, the Office of the Special Rapporteur received a series of updates on the state of freedom of the press in Jamaica. Among the information received by this Office is the balance on the ownership of the media in the country, the relations between the press and the acting prime minister, as well as the impact of the restrictions due to the COVID-19 pandemic.

876. On May 3, 2022, Reporters Without Borders published its latest press freedom index on the occasion of International Freedom of the Press Day. In this latest version, as the Office of the Special Rapporteur was able to learn, Jamaica dropped five places; the island was in seventh place in 2021 and would have fallen to twelfth place in the 2022 index<sup>1942</sup>. According to the information released by this organization, Jamaica

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<sup>1940</sup> Press Association of Jamaica Twitter account (@PressAssnJa). [February 25, 2022](#); Press Association of Jamaica YouTube account. [February 25, 2022](#).

<sup>1941</sup> Sage Network. February 26, 2022. [Press Association of Jamaica \(PAJ\) Award Ceremony 2022](#). Press Association of Jamaica Twitter account (@PressAssnJa). [February 26, 2022](#).

<sup>1942</sup> Reporters Without Borders. May 3, 2022. [Americas Index 2022: Jamaica](#); The Jamaica Gleaner. May 3, 2022. [Jamaica moves down in World Press Freedom Index](#).

continues to be one of the safest countries in the world for media workers, likewise, the right to information is widely respected on the island.

877. The main media in the country (Jamaica Gleaner, Jamaica Star, and Jamaica Observer) are reportedly privately owned, so the government would have no power over them and enjoy greater independence<sup>1943</sup>. Private media reportedly experienced significant growth thanks to the parallel development of online commerce on the island, thus expanding the advertising market<sup>1944</sup>.

878. This Office emphasizes that States must establish strict transparency requirements for the ownership of the media, along with effective rules and systems to prevent monopolies and undue concentration or cross-ownership of the media. In this sense, the approval of independent regulatory bodies should be required before mergers or acquisitions that pose a threat to free competition or diversity can be carried out. These requirements could include limits on media concentration or cross-ownership.<sup>1945</sup>

879. Despite the fact that Prime Minister Andrew Holness had previously praised Jamaica's record on press freedom and declared his commitment to defending it, the president reportedly also made value judgments arguing that journalists were not always be forced to abide by the facts<sup>1946</sup>. Additionally, government restrictions to combat the COVID-19 pandemic reportedly hampered the work of journalists since the first half of 2020, at a critical time for citizens to receive reliable information. Due to the foregoing, the Office of the Special Rapporteur learned that the Press Association of Jamaica (PAJ) had requested the prime minister to make an exception to the confinement so that television and radio presenters, reporters, camerapeople, technicians, and other media professionals could mobilize freely in the exercise of their work<sup>1947</sup>.

880. As the IACHR and its Office of the Special Rapporteur have stated on previous occasions, public officials must ensure that their comments are accurate and avoid stigmatizing and discrediting the media by resorting to labels that refer to so-called false news or other qualifiers against the media and their journalists<sup>1948</sup>.

881. As this Office was able to verify in the course of 2022, the press would be free to openly criticize officials, although some journalists reported intimidation while carrying out their work, especially during the electoral cycle in the past. According to public information, no physical attacks against media workers have been reported in the last 10 years.<sup>1949</sup>

882. This Office recalls that public officials and those who aspire to be, in a democratic society, have a different threshold of protection, which exposes them to a greater degree to public scrutiny and criticism, which is justified by the nature of interest<sup>1950</sup>.

883. As this Office has stipulated in its Declaration of Principles on Freedom of Expression in principle number 9, the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression<sup>1951</sup>. Therefore, the Office of the Special Rapporteur welcomes the fact that no case of physical attack against a member of the press has been filed in the last decade. Likewise, the Office of the Special Rapporteur encourages the State of Jamaica to continue ensuring the safety of journalists in the country so that no episode of this nature occurs in the future.

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<sup>1943</sup> Reporters Without Borders. May 3, 2022. [Americas Index 2022: Jamaica](#).

<sup>1944</sup> The Jamaica Gleaner. May 3, 2022. [Jamaica moves down in World Press Freedom Index](#).

<sup>1945</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on the independence and diversity of the media in the digital age. 2018. Pt. 6.d.

<sup>1946</sup> The Jamaica Gleaner. May 3, 2022. [Jamaica moves down in World Press Freedom Index](#).

<sup>1947</sup> The Jamaica Gleaner. May 3, 2022. [Jamaica moves down in World Press Freedom Index](#).

<sup>1948</sup> IACHR. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Pages 38, 39.

<sup>1949</sup> Reporters Without Borders. May 3, 2022. [Americas Index 2022: Jamaica](#).

<sup>1950</sup> IACHR. Inter-American legal framework on the right to freedom of expression. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. para. 40.

<sup>1951</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 9.

## B. Freedom of expression, Rule of Law and democratic institutions

884. In 2022, the Office of the Special Rapporteur received information about multiple protests on the island. These demonstrations were reportedly characterized by their differences in motives, location, duration, and number of participants. In terms of trends, this Office was able to identify as cross-cutting issues the deficient state of the island's infrastructure and the union rights of workers in the country.

885. In February, the Office of the Special Rapporteur learned that the residents of Chester Castle, in Hanover, blocked sections of the main highway that leads to the community in protest at the lack of water<sup>1952</sup>. Information received indicates that residents used rocks, empty steel water tanks, old motor vehicles, tires, trees, and even electrical appliances to erect roadblocks.<sup>1953</sup> According to what this Office was able to learn, the population in this town was without water for six weeks, for which they assured that they would not stop setting up barricades and making their claims heard until their access to this basic resource was reestablished<sup>1954</sup>. The local police, as well as the Jamaica Defense Force (JDF), were present at the scene to remove the obstacles on the road and resume the flow of vehicles. The Office of the Special Rapporteur was informed about the attempt by the residents of the area to communicate with the deputy of their electoral district, who reportedly did not address their claims<sup>1955</sup>.

886. The Office of the Special Rapporteur recalls that public demonstrations are considered an exercise of freedom of expression, since the expression of opinions, dissemination of information, and articulation of demands are central objectives of the protests.<sup>1956</sup> Likewise, the Office of the Special Rapporteur clarifies that spontaneous demonstrations are also protected, therefore spontaneous meetings should be exempt from the notification requirement and security forces and bodies should, to the extent possible, protect and facilitate spontaneous meetings as they would do with any other gathering<sup>1957</sup>.

887. In March 2022, this Office received reports indicating that dozens of teachers and administrative workers of an institution had protested for not having been paid deductions for nine years of taxes from the National Insurance Scheme (NIS) and the National Housing Trust (NHT)<sup>1958</sup>.

888. In mid-May 2022, this Office was also informed of a strike by air traffic controllers at Jamaica's two main airports – Norman Manley International Airport, in Kingston, and Sangster International Airport, in St. James. – following a dispute with the Ministry of Finance regarding wage negotiations<sup>1959</sup>.

889. On the other hand, the Office of the Special Rapporteur learned that some workers of the Transport Authority in St. Andrew had expressed their dissatisfaction with the departure of the Managing Director as a result of an alleged interference by another public official at the end of June<sup>1960</sup>.

890. The Office of the Special Rapporteur reiterates that freedom of conscience, expression, association, assembly, conscience, religion, or the exercise of labor and union rights must be guaranteed, as well as the use and enjoyment of material and immaterial aspects of copyright and other rights over appropriable tangible or intangible assets likely to have a value, as well as other internationally recognized human rights<sup>1961</sup>.

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<sup>1952</sup> The Jamaica Star. February 24, 2022. [Chester Castle six weeks without water](#).

<sup>1953</sup> The Jamaica Star. February 25, 2022. [Residents block road to protest lack of water](#).

<sup>1954</sup> The Jamaica Star. February 25, 2022. [Residents block road to protest lack of water](#); The Jamaica Star. February 24, 2022. [Chester Castle six weeks without water](#).

<sup>1955</sup> The Jamaica Star. February 25, 2022. [Residents block road to protest lack of water](#).

<sup>1956</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 18.

<sup>1957</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 61.

<sup>1958</sup> The Jamaica Gleaner. March 24, 2022. [Innswood staff protest over unremitted NIS, NHT deductions](#); Nationwide Radio Jamaica. March 24, 2022. [Innswood High School Staff Protest Alleged Failure of Institution to Pay NHT Taxes](#).

<sup>1959</sup> The Jamaica Star. May 12, 2022. [Air traffic controllers on strike](#). CNN Travel. May 12, 2022. [Air traffic control shuts down in Jamaica, stranding passengers](#).

<sup>1960</sup> The Jamaica Gleaner. June 21, 2022. [Upset Transport Authority workers protest departure of MD](#); The Jamaica Star. June 21, 2022. [Angry Transport Authority workers protest departure of MD](#).

<sup>1961</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 2.



891. The reports received by the Office of the Special Rapporteur also indicate that in May, members of the Jamaica Fire Brigade organized a protest to denounce alleged harsh working conditions. A representative of the firefighters assured that, under the current system, the workers would not have working days. One day after a demonstration, a brigade spokesperson reportedly confirmed that four firefighters had been suspended from their duties in what could be a reprisal<sup>1962</sup>. For his part, a member of the prime minister's office team, reportedly expressed his disapproval of the firefighters' method, alleging that "nothing is achieved by going out into the street." Morgan reportedly urged the firefighters to meet with the Local Government Minister<sup>1963</sup>.

892. This Office stresses that it is essential that States at all levels and agencies respect and guarantee that no one will be criminalized for exercising the rights to freedom of expression, assembly, and association in the context of demonstrations and protests; nor will they be subject to threats, harassment, violence, persecution or reprisals for participating in protests<sup>1964</sup>.

893. In April 2022, the Office of the Special Rapporteur learned of the case of a man who for days had expressed his rejection of the war in Ukraine in front of the Russian embassy in Kingston and, despite the fact that some members of the embassy allegedly photographed him to intimidate him, he was never removed from the site.<sup>1965</sup> The Office of the Special Rapporteur welcomes the fact that the individual right to freedom of expression has been fully respected in this instance.

894. As a consequence of the global inflation that is also affecting Jamaica, this Office recorded a series of public demonstrations by opposition parties and their supporters to demand that the government and the current administration remove a tax on gasoline.<sup>1966</sup> Likewise, this Office was also informed that in May, students from the University of the Commonwealth Caribbean (UCC) protested in front of the institution's facilities due to the increase in the rates of tuition, claiming that costs would have increased by as much as 50 percent; some students were reportedly blocked from the university's social networks as a result of their messages criticizing the increase costs<sup>1967</sup>.

895. This Office recalls that protests are usually an important means of action and the pursuit of legitimate objectives by organizations and groups, and as such may also be protected by the right to freedom of association.<sup>1968</sup> In this sense, the authorities must facilitate the holding of meetings, social protests, or public demonstrations, guaranteeing that they can be carried out, seen and heard by the target public in the space chosen by the conveners, so that the message that the organizers and participants want to disseminate can be heard. Therefore, as a general rule, the right to demonstrate and protest includes the right to choose the time, place, and manner of doing so<sup>1969</sup>.

896. In the course of 2022, there were multiple protests over the state of the infrastructure in certain towns on the island. In April, this Office was informed that taxi operators in St. James had blocked sections of Norwood Drive in protest of poor road conditions, claiming that the main road had been in poor condition for several years. According to the information received, the protesters used refrigerators, trees, old motor vehicle parts, rocks, and other debris to prevent the passage of vehicles<sup>1970</sup>. In addition, dozens of St. Ann residents reportedly blocked several roads between Runaway Bay and Discovery Bay to protest poor road conditions; once again, the police were reportedly present to clear the roadblocks<sup>1971</sup>. In September, the Office of the

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<sup>1962</sup> The Jamaica Star. May 18, 2022. [Firemen suspended](#); Caribbean Loop News. May 23, 2022. ['No one wants to hear us,' firefighter says after colleagues suspended](#).

<sup>1963</sup> The Jamaica Star. May 18, 2022. [Firemen suspended](#).

<sup>1964</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 333.

<sup>1965</sup> The Jamaica Gleaner. April 18, 2022. [One-man anti-war protest in Jamaica](#).

<sup>1966</sup> The Jamaica Gleaner. May 17, 2022. [PNP revs up protest for gas tax cap](#); Caribbean National Weekly. May 17, 2022. [PNP Stages March at Ministry of Finance Over Rising Fuel Prices in Jamaica](#).

<sup>1967</sup> The Jamaica Gleaner. May 18, 2022. [Students protest tuition hike at UCC but university defends decision](#); [Nationwide Radio Jamaica. 18 de mayo de 2022. UCC Students Protest Tuition Increase](#).

<sup>1968</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 20, 21.

<sup>1969</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 73.

<sup>1970</sup> The Jamaica Star. April 27, 2022. [Norwood taxi operators protest poor road conditions](#); The Jamaica Gleaner. April 27, 2022. [Taxi operators in Norwood protest over bad road conditions](#).

<sup>1971</sup> The Jamaica Star. April 11, 2022. [St Ann residents protest poor roads](#); The Jamaica Gleaner. May 24, 2022. [St Ann residents protest over poor road conditions, MP promises repairs](#).

Special Rapporteur learned that residents of St. Thomas had blocked the main road to demand the repair of roads in the area; Taxi and bus operators have also joined the clamor of the residents, assuring that the accumulation of dust and the lack of maintenance of the road are causing respiratory problems. The local police and firefighters did not repress the protesters, although they did clear the main road to resume vehicle traffic<sup>1972</sup>.

897. This Office recalls that speeches that deal with public officials and authorities or refer to matters of public interest are especially protected by Article 13 of the American Convention on Human Rights<sup>1973</sup>.

898. On April 16 and 17, 2022, the Office of the Special Rapporteur was informed that residents of Denham Town, Kingston, had protested the death by shooting of Horaine Glenn, a 32-year-old man.<sup>1974</sup> According to the information received, Glenn sought to defend his cousin and a friend of his while they were allegedly searched by soldiers from the Jamaica Defense Force (JDF). The confrontation between Glenn and the soldiers reportedly led to residents removing him from the area. According to some witnesses, Glenn was chased by a soldier who shot him several times outside his house<sup>1975</sup>. The Independent Commission of Investigations (INDECOM) reportedly assured residents that an impartial and independent investigation would be underway.<sup>1976</sup> The protesters reportedly blocked the surrounding roads for two days with old cars, refrigerators, tires, and rubble as a form of protest<sup>1977</sup>. Some of these objects were also burned, fueling tensions between residents and members of the security forces<sup>1978</sup>.

899. The Office of the Special Rapporteur emphasizes that the authorities must facilitate the exercise of the right to demonstrate and protest as a general rule and must not consider them as a threat to public order or internal security.<sup>1979</sup> Likewise, this Office reiterates that the mere decentralization of a demonstration does not constitute, in itself, a legitimate purpose that justifies the use of force by the security forces<sup>1980</sup>. As a matter of principle, the authorities must privilege dialogue and negotiation in the management of any form of protest, and not resort to force during demonstrations, occupations, or protests, except when absolutely necessary. In no case should there be an indiscriminate use of force in the context of protests<sup>1981</sup>.

900. On March 23, 2022, the Office of the Special Rapporteur was informed that the Prime Minister, Andrew Holness, reportedly addressed the island's intention to become a republic and remove the British monarch as head of state during an audience with the prince and princess of Wales<sup>1982</sup>. The prime minister's pronouncement reportedly occurred after a series of protests led by the Advocates Network in the vicinity of the office of the British High Commission before the couple's arrival in the country<sup>1983</sup>. The protesters have reportedly called on the British royal family to apologize to the people of Jamaica for the atrocities associated with slavery and to acknowledge the relevance of the reparation requests<sup>1984</sup>.

901. The Office of the Special Rapporteur recalls that the protest as a form of participation in public affairs is especially relevant for groups of people historically discriminated against or in conditions of

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<sup>1972</sup> The Jamaica Gleaner. September 6, 2022. [St Thomas road protests mar start to new school year](#); The Jamaica Star. September 6, 2022. [St Thomas protests continue](#); The Jamaica Star. September 6, 2022. [St Thomas cabbies staying off the job](#).

<sup>1973</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 206.

<sup>1974</sup> CVM Television. April 18, 2022. [Soldier Allegedly Kills Man in Denham Town](#); The Jamaica Gleaner. April 17, 2022. [Protest in Denham Town over shooting of resident](#).

<sup>1975</sup> The Jamaica Gleaner. April 17, 2022. [Protest in Denham Town over shooting of resident](#).

<sup>1976</sup> Radio Jamaica News Online. April 19, 2022. [INDECOM gets report from one JDF soldier regarding Denham Town shooting](#).

<sup>1977</sup> The Jamaica Gleaner. April 19, 2022. [Teen traumatised after witnessing dad die](#).

<sup>1978</sup> The Jamaica Gleaner. April 17, 2022. [Denham Town in uproar, as security forces try to explain killing of resident](#).

<sup>1979</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 339.

<sup>1980</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 112.

<sup>1981</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 341.

<sup>1982</sup> Caribbean Loop News. March 23, 2022. [WATCH: Holness tells Prince William, Kate, Jamaica will be 'moving on'](#); Sky News. March 24, 2022. [Jamaican PM tells Prince William and Kate Middleton 'we are moving on' following anti-colonialism protests](#).

<sup>1983</sup> Global News. March 21, 2022. [Prince William, Kate face more protests, backlash as tour continues to Jamaica](#); CNN. March 22, 2022. [Prince William and Kate face protests in Jamaica during royal tour](#).

<sup>1984</sup> The Guardian. March 22, 2022. [Duke and Duchess of Cambridge accused of benefiting from slavery](#).

marginalization<sup>1985</sup>. In this sense, the Office of the Special Rapporteur welcomes the fact that the protests over historical debts have had an echo in the highest spheres of power in the country.

902. In October 2022, the Office of the Special Rapporteur was informed of the decision of the Jamaica Broadcasting Commission to ban music and television content that it considers to glorify crime<sup>1986</sup>. The ban would address allusions to criminal activity, violence, drug use, scams, and weapons, as well as urban slang related to acquiring money or a lavish lifestyle<sup>1987</sup>. This Office learned that various artists in the country have criticized the measure since it would not stop crime and would possibly exclude populations affected by this type of activity from the conversation<sup>1988</sup>. The measure was reportedly taken within the framework of efforts to stop the levels of armed violence in Jamaica, the country with the highest homicide rate in Latin America and the Caribbean in 2021 according to a research center<sup>1989</sup>.

903. The Office of the Special Rapporteur recalls that, as stipulated in the inter-American legal framework on freedom of expression, the imposition or exclusion of certain content constitutes an example of prior censorship<sup>1990</sup>. In this sense, this Office reiterates that prior censorship, interference, or direct or indirect pressure on any expression, opinion, or information disseminated through any means of oral, written, artistic, visual, or electronic communication, must be prohibited by law. Restrictions on the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the creation of obstacles to the free flow of information, violate the right to freedom of expression.<sup>1991</sup> In view of the foregoing, the Office of the Special Rapporteur urges the State of Jamaica to repeal the prohibition of musical and television content since it constitutes a form of prior censorship and violates the right to freedom of expression.

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

904. On February 2, 2022, the Office of the Special Rapporteur received reports indicating that the principal of a secondary school maintained his decision to prohibit students with braided hair from attending school<sup>1992</sup>. A 15-year-old student, who identifies as a Rastafarian, was reportedly a victim of this policy. This Office learned that the pupil's mother accused the school of discrimination after the rector urged her son to alter his hair, just as the rector would have done with at least a dozen other classmates.

905. As established by the IACHR and its Office of the Special Rapporteur in the document Inter-American Principles on Academic Freedom and University Autonomy, no discriminatory norm, act, or practice based on criteria suspected of discrimination, whether by state authorities or by individuals, can diminish or restrict, in any way, the rights of a person in the exercise of their academic freedom and the right to education<sup>1993</sup>. In this sense, this Office rejects the possible discrimination to which minors from minority groups would be subject to attend educational institutions due to their physical appearance and cultural practices.

906. On February 14, 2022, the Office of the Special Rapporteur learned that the Disabilities Act had entered into force. According to the information received by this Office, the legislation protects and promotes the equal rights of people with disabilities, thus complying with the provisions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>1994</sup>. In addition, the legislation would prohibit discrimination against this sector of the population. According to public information, the law would promote

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<sup>1985</sup> IACHR. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 23.

<sup>1986</sup> The Guardian. October 13, 2022. [Jamaica broadcasting regulator bans music and TV deemed to glorify crime](#); BBC News. October 13, 2022. [Jamaica bans music and TV glorifying crime](#).

<sup>1987</sup> The Guardian. October 13, 2022. [Jamaica broadcasting regulator bans music and TV deemed to glorify crime](#)

<sup>1988</sup> The Guardian. October 13, 2022. [Jamaica broadcasting regulator bans music and TV deemed to glorify crime](#)

<sup>1989</sup> The Jamaica Gleaner. January 31, 2021. [Jamaica tops homicides in Latin American and the Caribbean](#); InSight Crime. January 29, 2021. [InSight Crime's 2020 Homicide Round-Up](#).

<sup>1990</sup> IACHR. Inter-American legal framework on the right to freedom of expression. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. para. 148.

<sup>1991</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 5.

<sup>1992</sup> The Jamaica Star. February 2, 2022. [School bars plaited-hair boy - Principal insists student must cut it or lock it](#); The Jamaica Gleaner. February 23, 2022. [Rastafarians call for an end to institutionalised discrimination](#).

<sup>1993</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 3.

<sup>1994</sup> The Jamaica Star. February 15, 2022. ['Able-bodied and disabled must work together' - Chair of Jamaica Society for the Blind hails implementation of Disabilities Act](#); Jamaica Information Service. March 24, 2022. [Disabilities Act](#).

the disabled community's right to education and training, employment, health care, and housing<sup>1995</sup>. Additionally, the law does not allow for employers to not hire a person with a disability if they are qualified for the job in question.<sup>1996</sup> The bill was in the preliminary stages for more than a decade, though it received bipartisan support when it was debated<sup>1997</sup>.

907. The Office of the Special Rapporteur emphasizes that States should focus particularly, as local circumstances warrant, on combating—which includes designing programs to counteract—historical discrimination, prejudices, and tendentious attitudes that impede the equal enjoyment of the right to freedom of expression by certain groups.<sup>1998</sup> Therefore, this Office congratulates the State of Jamaica for the implementation of the Disabilities Act.

908. In this matter, the Office of the Special Rapporteur encourages the State to consider the promotion of assistive technologies for persons with disabilities in order to guarantee a more uniform distribution of the benefits of ICTs, and to reduce the digital divide and provide digital opportunities for all. The state must also adopt policies to promote and encourage those who provide services on the Internet to adopt accessible formats for people with disabilities.<sup>1999</sup>

909. On July 13, 2022, the Office of the Special Rapporteur was informed that Trudi Carter, a national player for the Jamaican women's soccer team, had been the victim of racist comments on the Instagram social network after the team qualified for the FIFA 2023 Women's World Cup.<sup>2000</sup>

910. This Office emphasizes that combating hate speech requires the empowerment of Internet and social network users to identify and condemn it in public debate without blocking legitimate speech, and thus create more inclusive spaces for expression.<sup>2001</sup> Therefore, the Office of the Special Rapporteur rejects this type of comment and salutes the Jamaica Football Federation (JFF) for condemning racist messages on social networks.<sup>2002</sup> Likewise, this Office is grateful that the JFF has informed the regional soccer organization Concacaf of the situation regarding these unfortunate events.

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

911. In 2022, the Office of the Special Rapporteur learned that some media outlets had indicated that the lack of regulation of the global technology giants in Jamaica, as well as in the rest of the CARICOM States, would be creating adverse economic circumstances for the national and regional media.<sup>2003</sup>

912. This Office recalls that States must guarantee the existence of effective regulations that require the media, telecommunications operators, and online intermediaries to be transparent in terms of their ownership and sources of financing<sup>2004</sup>. Likewise, the Office of the Special Rapporteur reiterates that States must ensure that all aspects of the media markets, such as advertising and the production and distribution of content, function in an impartial and competitive manner, protected from anticompetitive practices by those who hold a strong or dominant position in the market.<sup>2005</sup>

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<sup>1995</sup> Jamaica Special Economic Zone Authority. October 11, 2022. [Disabilities Act To Take Effect February 14, 2022](#); Adventist Review. February 28, 2022. [Adventists in Jamaica Welcome Long-awaited Disability Act](#).

<sup>1996</sup> Adventist Review. February 28, 2022. [Adventists in Jamaica Welcome Long-awaited Disability Act](#).

<sup>1997</sup> United Nations Human Rights, Office of the High Commissioner. March 10, 2022. [Press Release: Experts of the Committee on the Rights of Persons with Disabilities Commend Jamaica on Disabilities Act, Asking about Data on Persons with Disabilities and Disaster Preparedness](#).

<sup>1998</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on universality and the right to freedom of expression. 2014. Pt. 1.g.

<sup>1999</sup> IACHR. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 63.

<sup>2000</sup> Caribbean Loop News. July 14, 2022. [JFF condemns reported racial abuse of Reggae Girl Trudi Carter](#); The Jamaica Gleaner. July 13, 2022. [JFF slams alleged racial abuse of Reggae Girl Trudi Carter](#).

<sup>2001</sup> IACHR. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 125.

<sup>2002</sup> Twitter account of the Official home of the Reggae Boyz & Reggae Girlz National Stadium (@jff\_football). [July 13, 2022](#).

<sup>2003</sup> The Jamaica Gleaner. May 3, 2022. [Editorial: Press freedom and the hyperscalers](#).

<sup>2004</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on Political Leaders, Persons in Public Service, and Freedom of Expression. 2021. Pt. 1.c.v

<sup>2005</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on the independence and diversity of the media in the digital age. 2018. Pt. 6.c.

## MEXICO

913. Mexico is one of the most dangerous and lethal countries for the press in the region and in the world. In 2022, according to information documented by this Office, at least 15 journalists were murdered for reasons that could be linked to the profession, and numerous communicators were victims of armed attacks, threats and intimidation. The intensity of violence against the press is accompanied by an official discourse of stigmatization of the press by the authorities, especially promoted by the executive branch through the "Who's Who in the lies of the week" section of presidential press conferences. Although violence and stigmatization against the press are phenomena with different origins and responsibilities, the stigmatizing discourse of public officials hinders efforts to combat violence against journalists, increases hostility and the risks of the informative work, and fosters a context of self-censorship to report on matters of public relevance. Additionally, this year the Rapporteurship learned of new reports of espionage against journalists and human rights defenders through the Pegasus software, which allegedly involved the Ministry of National Defense. Following up on its previous annual reports, RELE continued to monitor the development of women's protests, and reports on the alleged disproportionate use of public force and stigmatizing speeches of high-level authorities against demonstrators. The Rapporteurship welcomes the ruling of the Mexican Supreme Court of Justice that declared unconstitutional the decree that created the National Registry of Mobile Telephone Users (Panaut), which obliged users to provide various personal data such as name, nationality, identification number or Unique Population Registry Code (CURP), and biometric data. Finally, this Office is grateful for the information provided by the State of Mexico on challenges and progress in terms of freedom of expression, in response to the request made by the Office of the Special Rapporteur in the framework of the preparation of the Annual Report 2022. Likewise, the Rapporteurship thanks the Permanent Mission of Mexico to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

914. In 2022, the Office of the Special Rapporteur observed an upsurge in violence against journalists in Mexico, which recorded one of the highest murder rates in recent years. According to information reported to RELE, at least 15 journalists and communicators were murdered in Mexico for reasons that could be related to their work. In addition, there have been reports of kidnappings, death threats, intimidating attacks, aggressions and stigmatization against the press, especially against those who report on matters of public interest. The Rapporteurship notes that this scenario of hostility to the practice of journalism has led to a generalized fear of the press to report on sensitive issues such as drug trafficking, corruption or organized crime<sup>2006</sup>.

915. According to the information received, on January 10 the body of journalist José Luis Gamboa Arenas was found dead in the city of Veracruz<sup>2007</sup>. According to the information reported, the journalist was the victim of an armed attack that left him with stab wounds<sup>2008</sup>. José Luis Gamboa was the general director of the digital newspaper *El Regional del Norte - Inforegio*, where he reported on issues of local public interest, and was also known for sharing information and analysis on political issues on his social networks<sup>2009</sup>. On April 26, 2022,

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<sup>2006</sup> ElDiario.es. February 15, 2022. [Violence, fear and precariousness: the risk of being a journalist in Mexico](#); El País. February 11, 2022. [Blood, bullets and silence: journalism under terror in Mexico](#); Infobae. March 26, 2022. [With fear and impotence, journalists work in Mexico](#); Animal Político. 24 August 2021. ["We live in fear": in 2021 a journalist is assaulted every 12 hours in Mexico](#).

<sup>2007</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. January 21, 2022. Press Release R16/22. [Special Rapporteurship condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico](#); CPJ. January 24, 2022. [Mexican journalist José Luis Gamboa stabbed to death in Veracruz](#); La Silla Rota Veracruz. January 15, 2022. [Murder of journalist in a neighborhood in the port of Veracruz](#); Animal Político. January 17, 2022. [Journalist José Luis Gamboa is killed in the port of Veracruz](#).

<sup>2008</sup> CPJ. January 24, 2022. [Mexican journalist José Luis Gamboa stabbed to death in Veracruz](#); La Silla Rota Veracruz. January 15, 2022. [Murder of journalist in a neighborhood in the port of Veracruz](#); Animal Político. January 17, 2022. [Journalist José Luis Gamboa is killed in the port of Veracruz](#).

<sup>2009</sup> ARTICLE 19 MX-CA Twitter account (@article19mex). [25 January 2022](#); Animal Político. 17 January 2022. [Journalist José Luis Gamboa is killed in the port of Veracruz](#).



the Veracruz State Attorney General's Office reported that police agents had arrested the alleged murderer of journalist José Luis Gamboa.

916. On January 17, photojournalist Alfonso Margarito Martínez Esquivel was reportedly murdered in an armed attack by an unknown individual outside his home in the city of Tijuana<sup>2010</sup>. The photojournalist was known for his extensive coverage of police and security issues for various local portals, as well as national and international media<sup>2011</sup>. The State Attorney General's Office reportedly confirmed the death of the reporter through a communiqué, in which it warned that "freedom of expression, in all its forms, is a fundamental right of citizens" and that the entity "always works within its power of legal action, for the safety of media representatives in Baja California"<sup>2012</sup>. According to the information received, in December 2021 the reporter would have requested protection measures in the state agency of Baja California<sup>2013</sup>. According to information from the State, Alfonso Margarito Martínez did not go to the Protection Mechanism for Human Rights Defenders and Journalists of the State of Baja California. Likewise, they indicated that on December 13, 2021 there was an approach by the Mechanism to offer him protection measures and Mr. Martínez Esquivel refused, arguing that he would seek the support of the Federal Protection Mechanism. In addition, the authorities specified that on December 15, 2021, the matter was referred to the Federal Protection Mechanism, which attempted to establish communication via electronic and telephone with Mr. Martínez Esquivel without success, for which they allege that it did not have the minimum elements to assess his case and determine the intervention of the Federal Protection Mechanism. Finally, the State informed that in March 2022, arrest warrants were granted and executed against three persons for their possible responsibility in the murder of the journalist<sup>2014</sup>. As far as this Office was able to learn, in December 2022, two people were sentenced to 25 years in prison for the murder of the reporter, after they accepted an abbreviated procedure<sup>2015</sup>.

917. On January 23, 2022, according to the information available, unknown subjects attacked Lourdes Maldonado López with a firearm while she was inside a car in the vicinity of her home in the city of Tijuana<sup>2016</sup>. Lourdes Maldonado had been covering police, corruption and local politics in the state of Baja California for more than 20 years; throughout her career, she worked for different local and national media, in addition to hosting news programs on radio and television<sup>2017</sup>. According to public information, in February, three people were arrested for their possible participation in the crime. In October, Justice sentenced one of them to 24 and the other two to 20 years in prison, after determining their material authorship and complicity in the murder of Lourdes Maldonado<sup>2018</sup>.

918. According to the organization Artículo 19, the journalist had previously been the target of intimidating attacks, such as the alleged attack with gunshots and blows to her car in March and April 2021, and that after these events she had received protection measures from the state, which included surveillance

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<sup>2010</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. January 21, 2022. Press Release R16/22. [Special Rapporteurship condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico](#); CPJ. January 25, 2022. [Mexican photojournalist Margarito Martínez shot to death in Tijuana](#); La Jornada. Jan. 18, 2022. [Journalist Margarito Martínez murdered in Tijuana](#); Animal Político. Jan. 17, 2022. [Photojournalist Margarito Martínez Esquivel is murdered in Tijuana, Baja California](#).

<sup>2011</sup> Deutsche Welle (DW) Akademie. January 18, 2022. [Police photojournalist murdered in Mexico](#); La Jornada. January 18, 2022. [Journalist Margarito Martínez is murdered in Tijuana](#).

<sup>2012</sup> Office of the Attorney General of the State of Baja California, United Mexican States. [January 17, 2022](#).

<sup>2013</sup> El País January 18, 2022. [The fierce farewell to the "4-4 of Tijuana"](#); CPJ. January 25, 2022. [Mexican photojournalist Margarito Martínez is shot to death in Tijuana](#).

<sup>2014</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 2-8.

<sup>2015</sup> Latinus. December 12, 2022. [Two involved in the murder of photojournalist Margarito Martínez sentenced to 25 years in prison](#); El Sol de México. December 12, 2022. [Two sentenced for murder of journalist Margarito Martínez](#).

<sup>2016</sup> IACHR. January 28, 2022. Press Release No. 020/22. [IACHR, RELE and UN-DH Mexico condemn the murder of journalist Lourdes Maldonado](#); CPJ. January 31, 2022. [Violence continues: Lourdes Maldonado is the third journalist to be killed in Mexico in less than a month](#); CBS News. 24 January 2022. [In 2019, a journalist told Mexico's president, "I fear for my life." She was just found shot to death in Tijuana](#); La Jornada. 23 January 2022. [Journalist Lourdes Maldonado is murdered in Tijuana](#).

<sup>2017</sup> BBC. January 24, 2022. [Lourdes Maldonado: who was the journalist murdered in Mexico \(and why she had asked AMLO for help\)](#); Article 19. 25 January 2022. [ARTICLE 19 condemns the murder of journalist María de Lourdes Maldonado López and joins demands for justice](#).

<sup>2018</sup> Yahoo! News. October 26, 2022. [Lourdes Maldonado's murderer sentenced, but motives and mastermind remain unclear](#); Infobae. 26 October 2022. Those [responsible for the murder of journalist Lourdes Maldonado were sentenced](#).

rounds, communication with the police and a panic button<sup>2019</sup>. The State reported that in April 2021 Lourdes Maldonado was incorporated into the State System for Protection and Attention to Journalists and Human Rights Defenders of Baja California and certain protection measures were confirmed in her favor previously established by an Emergency Committee of the government of Baja California<sup>2020</sup>. The measures were reportedly granted for a period of four months, and then reevaluated and ratified, according to the State<sup>2021</sup>.

919. It is of particular relevance to this Office that on March 26, 2019, the reporter expressed fear for her life during a presidential press conference, where she also asked the head of state for his "support, help and labor justice" in connection with a labor lawsuit she was pursuing against the company Primer Sistema de Noticias (PSN), owned by a former governor of Baja California, a media outlet in which Lourdes Maldonado had worked<sup>2022</sup>. In the context of this lawsuit, four days before the attack against Lourdes Maldonado, the journalist had made public the decision in her favor by the Federal Conciliation and Arbitration Board (JFCA), as well as the decision to seize assets of the company<sup>2023</sup>.

920. Also, according to information confirmed by the Sinaloa State Prosecutor's Office (FGE), the body of journalist Luis Enrique Ramírez was found dead and with signs of beatings on May 5, south of the city of Culiacán, Sinaloa state<sup>2024</sup>. Likewise, the FGE's experts and the autopsy carried out by the Forensic Medical Service reportedly determined that the journalist suffered cranioccephalic traumatism as a result of blunt force trauma<sup>2025</sup>. Additionally, the FGE has informed that as the investigations progress, the route to follow will be determined, including the possibility of the investigation being transferred to the Special Prosecutor's Office for Crimes against Freedom of Expression (FEADLE)<sup>2026</sup>. Luis Enrique Ramírez worked as a columnist for the newspaper *El Debate* and directed the news portal *Fuentes Fidedignas*, where he covered issues related to local politics<sup>2027</sup>. According to available information, in 2011 the journalist had gone into temporary exile in Mexico City for fear of his personal safety due to the growing situation of violence against journalists in the Culiacán area<sup>2028</sup>. In his last column -published on May 3, in the framework of the World Press Freedom Day- the journalist denounced that in 2018 he had been approached and verbally assaulted in a violent manner when he met with the then municipal president of Culiacán<sup>2029</sup>.

921. In addition, the Rapporteurship recorded the murder of the journalists Yesenia Mollinedo and Sheila Johana García of the newspaper *El Veraz*<sup>2030</sup>. According to public information, on May 9, unknown subjects shot them multiple times in the parking lot of a convenience store in the municipality of Cosoleacaque, state of

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<sup>2019</sup> Article 19. 25 January 2022. [ARTICLE 19 condemns the murder of journalist María de Lourdes Maldonado López and joins demands for justice](#).

<sup>2020</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 2-8.

<sup>2021</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 2-8.

<sup>2022</sup> Infobae. January 24, 2022. [The day journalist Lourdes Maldonado went to AMLO for help: "I fear for my life"](#); El Universal. January 27, 2022. ["Temo por mi vida": journalist Lourdes Maldonado asked AMLO for help in 2019 and this Sunday she was killed](#).

<sup>2023</sup> Deutsche Welle (DW). February 1, 2022. [El negro historial del político al que Lourdes Maldonado denunció antes de ser asesinada](#); Sin Embargo. January 25, 2022. [A few days before she was murdered, journalist Maldonado had defeated Bonilla](#).

<sup>2024</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 11, 2022. Press Release No. R102/22. [RELE condemns the persistence of murders of journalists in Mexico](#); CPJ. May 12, 2022. [Mexican journalist Luis Enrique Ramirez is found dead in Culiacan](#); El País. May 5, 2022. [Journalist Luis Enrique Ramirez murdered, the ninth crime against the press this year](#).

<sup>2025</sup> Attorney General's Office of the State of Sinaloa, United Mexican States. May 5, 2022. [FGE confirms deprivation of life of journalist Luis Enrique Ramirez](#); La Jornada. May 5, 2022. [Journalist Enrique Ramirez died from blows to the head: FGE Sinaloa](#).

<sup>2026</sup> Attorney General's Office of the State of Sinaloa, United Mexican States. May 5, 2022. [FGE confirms the murder of journalist Luis Enrique Ramirez](#).

<sup>2027</sup> BBC. May 6, 2022. [Luis Enrique Ramirez, the influential Mexican journalist found dead along a roadside in Sinaloa](#); CNN en Español. May 5, 2022. [Journalist Luis Enrique Ramirez Ramos found dead in Sinaloa, Mexico](#).

<sup>2028</sup> Animal Político. May 6, 2022. ["Yo soy el que sigue": journalist Luis Enrique Ramírez Ramos, murdered in Sinaloa, had denounced threats](#); Infobae. 5 May 2022. [Journalist Luis Enrique Ramírez Ramos was murdered in Culiacán: that's nine so far in 2022](#).

<sup>2029</sup> Deutsche Welle (DW). May 7, 2022. [Mexican journalist denounced violence and insults before being murdered](#); UNESCO. May 9, 2022. [UNESCO Director-General condemns the murder of journalist Luis Enrique Ramirez in Mexico](#).

<sup>2030</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 11, 2022. Press Release No. R102/22. [RELE condemns the persistence of murders of journalists in Mexico](#); CPJ. May 17, 2022. [Mexican journalists Yessenia Mollinedo and Johana García are killed in Veracruz](#); El Sol de México. May 9, 2022. [Two journalists killed in Veracruz; 11 journalists murdered in 2022](#); BBC. May 10, 2022. [Violence in Mexico: journalist Yessenia Mollinedo and cameraman Johana García shot dead in Veracruz](#).

Veracruz<sup>2031</sup> . In this regard, the Veracruz State Attorney General's Office reported the opening of an investigation into the case, and emphasized that "there will be no impunity" and that "all lines of investigation will be exhausted, including his journalistic activity"<sup>2032</sup> .

922. On June 29, Antonio de la Cruz, a journalist with the newspaper *Expreso*, was the victim of an armed attack while he was in his car in Ciudad Victoria, Tamaulipas, along with his daughter Cinthya de la Cruz Martínez<sup>2033</sup> . According to the information reported, both died as a result of gunshot wounds<sup>2034</sup> . The investigation of the case has been taken over by the Attorney General's Office through its Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression (FEADLE)<sup>2035</sup> .

923. On August 2, reporter Ernesto Méndez, owner and general manager of the local newspaper *Tu Voz*, was the victim of an armed attack by a group of unidentified individuals while he was in the company of family and friends in a bar in the city of San Luis de la Paz, Guanajuato state<sup>2036</sup> . During his 18-year career in journalism he also worked as a contributor to the newspapers *Correo* and *Zona Franca*<sup>2037</sup> . According to reports received by the Rapporteurship, Ernesto Méndez had previously been the target of threats<sup>2038</sup> . The governor of the State of Guanajuato condemned the facts and instructed to follow up on the case for its clarification and the pursuit of justice<sup>2039</sup> . Likewise, the Secretary of Government of Guanajuato assured that "the corresponding protection measures will be dictated" in coordination with the mechanisms for the protection of local and federal journalists<sup>2040</sup> . The Prosecutor's Office of Guanajuato reported that a person was arrested and charged for the alleged material authorship of the journalist's crime<sup>2041</sup> .

924. Additionally, in 2022, the Special Rapporteurship received information on other murders of journalists that could be related to the journalistic function: Roberto Toledo, on January 31, in Zitácuaro, Michoacán state<sup>2042</sup> ; Heber López Vásquez, on February 10, in the city of Salina Cruz, Oaxaca state<sup>2043</sup> ; Jorge Luis Camero Zazueta, in the city of Empalme, Sonora state<sup>2044</sup> ; Juan Carlos Muñiz, on March 4, in the city of

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<sup>2031</sup> CPJ. May 17, 2022. [Mexican journalists Yessenia Mollinedo and Johana García are killed in Veracruz](#); El Sol de México. May 9, 2022. [Two journalists killed in Veracruz: 11 journalists murdered in 2022](#); BBC. May 10, 2022. [Violence in Mexico: journalist Yessenia Mollinedo and cameraman Johana García shot dead in Veracruz](#).

<sup>2032</sup> Twitter account of the Attorney General's Office of the State of Veracruz (@FGE\_Veracruz). [May 9, 2022](#).

<sup>2033</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 12, 2022. Press Release No. R157/22. [Mexican authorities must stop violence against journalists and guarantee their right to freely and safely exercise their profession](#); CPJ. July 5, 2022. [Mexican journalist Antonio de la Cruz is shot to death in Ciudad Victoria](#); Animal Político. June 30, 2022. [Antonio de la Cruz, the journalist with a passion for the environment who became the twelfth to be murdered in Mexico this year](#); Expreso. 30 June 2022. [Antonio, our colleague, is murdered](#).

<sup>2034</sup> CPJ. July 5, 2022. [Mexican journalist Antonio de la Cruz is shot to death in Ciudad Victoria](#); Animal Político. June 30, 2022. [Antonio de la Cruz, the journalist with a passion for the environment who became the twelfth to be murdered in Mexico this year](#); Expreso. 30 June 2022. [Antonio, our colleague, is murdered](#).

<sup>2035</sup> El Sol de Mexico. June 29, 2022. [FGR opens investigation into murder of journalist Antonio de la Cruz in Tamaulipas](#); Infobae. June 29, 2022. [FGR opened investigation into the murder of Antonio de la Cruz in Tamaulipas](#).

<sup>2036</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 16, 2022. Press Release No. 180/2022. [The Rapporteurship condemns the murder of journalist Ernesto Méndez in Mexico and notes that 2022 records the highest number of crimes against the press in the country in the last 24 years](#); Deutsche Welle (DW). August 3, 2022. [Journalist number 13 murdered in Mexico in 2022](#); Animal Político. August 3, 2022. [Journalist Ernesto Méndez murdered in Guanajuato: 13 journalists killed in 2022](#).

<sup>2037</sup> El País. August 3, 2022. [Journalist Ernesto Méndez shot to death in Guanajuato](#); Zona Franca. August 3, 2022. [Journalist Ernesto Méndez murdered in San Luis de la Paz](#); El Sol de México. August 2, 2022. [Journalist Ernesto Méndez is murdered in Guanajuato](#).

<sup>2038</sup> Animal Político. August 3, 2022. [Asesinan al periodista Ernesto Méndez en Guanajuato: van 13 comunicadores muertos en 2022](#); El Universal. August 3, 2022. [Reporters Without Borders deplores the murder of journalist Ernesto Méndez](#); ARTICLE 19 MX-CA Twitter account (@article19mex). [3 Aug. 2022](#).

<sup>2039</sup> Diego Sinhue Rodríguez Vallejo Twitter account (@diegosinhue). [August 3, 2022](#).

<sup>2040</sup> Twitter account of Libia García (@LibiaGarciaML). [August 3, 2022](#).

<sup>2041</sup> Twitter account of the Attorney General's Office of the State of Guanajuato (@FGEGUANAJUATO). [August 11, 2022](#).

<sup>2042</sup> CPJ. February 3, 2022. [Roberto Toledo is the fourth Mexican journalist murdered in less than four weeks](#); El País. January 31, 2022. [Journalist Roberto Toledo murdered in Michoacán, the fourth crime against the press in a month in Mexico](#).

<sup>2043</sup> CPJ. February 15, 2022. [Mexican journalist Heber López is shot to death in Oaxaca and authorities arrest two suspects in the crime](#); El Universal. 10 February 2022. [Journalist Heber Lopez killed in Oaxaca: two arrested](#); La Jornada. 10 February 2022. [Journalist Heber López is murdered in Salina Cruz, Oaxaca](#).

<sup>2044</sup> Article 19. March 24, 2022. [Jorge Luis Camero, journalist murdered in Sonora](#); Aristegui Noticias. February 25, 2022. [Journalist Jorge Camero Zazueta killed in Sonora](#).

Fresnillo, Zacatecas state<sup>2045</sup> ; and Armando Linares, on March 15, in Zitácuaro, state of Michoacán<sup>2046</sup> ; Juan Arjón López, on August 16, in the municipality of San Luis Río Colorado, state of Sonora<sup>2047</sup> ; and Fredid Román Román, on August 22, 2022, in Chilpancingo, state of Guerrero<sup>2048</sup> .

925. The Rapporteurship also received information about the murder of four workers of the radio station *Switch 105.9 FM*, on August 11 during a violent day in Ciudad Juárez, where more than ten victims were reportedly killed by criminal groups<sup>2049</sup> . The Rapporteurship called on the State to promptly clarify the facts<sup>2050</sup> .

926. The State has reported progress in the investigations of murders of journalists. Official records counted 13 cases of murders in 2022, with respect to which there were 5 people sentenced, 20 prosecuted and 32 detained, according to information updated as of March 14, 2022<sup>2051</sup> . According to the State's reports, the convictions were in the cases of the murder of journalist Alfonso Margarito Martínez and journalist Lourdes Maldonado López<sup>2052</sup> .

927. While the murder of journalists is the most extreme form of censorship, violence against the press in Mexico has also manifested itself in other ways. According to information received by the Office of the Special Rapporteur, Jesús Pintor Alegre, Fernando Moreno Villegas and Alan García Aguilar, collaborators of the *Escenario Calentano* news portal, were reported missing since approximately December 27, 2022<sup>2053</sup> . According to available information, they were reportedly kidnapped in the state of Guerrero by members of a well-known criminal group linked to drug trafficking<sup>2054</sup> . In a video allegedly disseminated by the kidnappers in the first days of January 2023, two of them appeared barefoot and with their hands and feet chained, and stated that they were "paying the consequences of the publications that were made against these people and different people from the Tierra Caliente region of the State of Mexico, Michoacán and Guerrero"<sup>2055</sup> . In addition, the publication of the video on social networks was accompanied by a threatening message<sup>2056</sup> . According to available information, on January 11, 2023, Jesús Pintor Alegre and Fernando Moreno Villegas were released; while, at the time of writing, the whereabouts of Alan García Aguilar remain unknown<sup>2057</sup> . The

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<sup>2045</sup> CPJ. March 21, 2022. [Mexican journalist Juan Carlos Muñiz is shot to death in Zacatecas](#); El País. March 4, 2022. [Journalist Juan Carlos Muñiz murdered, the seventh crime against the press in Mexico this year](#); El Universal. March 4, 2022. [Juan Carlos Muñiz, reporter for Testigo Minero, is murdered in Fresnillo, Zacatecas](#).

<sup>2046</sup> CPJ. March 17, 2022. [Mexican journalist Armando Linares is shot to death in Zitácuaro](#); Aristegui Noticias. March 15, 2022. [Journalist Armando Linares murdered in Zitácuaro, Michoacán](#); Animal Político. 15 March 2022. [Journalist Armando Linares, who in January reported threats for his work, is murdered in Michoacán](#).

<sup>2047</sup> El País. August 16, 2022. [Body of Juan Arjón López, the fourteenth journalist to be killed by violence, identified](#); CPJ. 19 August 2022. Body of [missing Mexican journalist Juan Arjón López found in San Luis Río Colorado](#).

<sup>2048</sup> CPJ. August 22, 2022. [Mexican journalist Fredid Román shot and killed in Chilpancingo](#); Infobae. 22 August 2022. [Journalist Fredid Román murdered in Guerrero](#); CNN. 23 August 2022. [Guerrero prosecutor's office investigates the murder of Mexican journalist Fredid Román](#).

<sup>2049</sup> Latinus. August 11, 2022. [Broadcaster Allán González and three other radio workers murdered during violent day in Ciudad Juárez](#); Milenio. August 11, 2022. [Broadcaster and three employees of a radio station in Ciudad Juárez murdered](#); El Financiero. August 12, 2022. [Violence in Ciudad Juárez: 11 people dead and 6 detained, confirms AMLO](#).

<sup>2050</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. August 16, 2022. Press Release No. 180/22. [The Rapporteurship condemns the murder of journalist Ernesto Méndez in Mexico and notes that 2022 records the highest number of crimes against the press in the country in the last 24 years](#).

<sup>2051</sup> Twitter account of Jesús Ramírez Cuevas (@JesusRCuevas). [December 15, 2022](#); Government of Mexico. December 30, 2022. [Stenographic version. Press conference by President Andrés Manuel López Obrador on December 30, 2022](#).

<sup>2052</sup> Twitter account of Jesús Ramírez Cuevas (@JesusRCuevas). [December 15, 2022](#); El País. October 26, 2022. [Three men sentenced for murder of Mexican journalist Lourdes Maldonado](#); Latinus. December 12, 2022. [Two involved in the murder of photojournalist Margarito Martínez sentenced to 25 years in prison](#).

<sup>2053</sup> Deutsche Welle (DW). January 11, 2022. [Three Mexican journalists remain missing in Guerrero state](#); El País. January 10, 2022. [Disappeared journalist and administrators of a news site in Guerrero](#).

<sup>2054</sup> Deutsche Welle (DW). January 11, 2022. [Three Mexican journalists remain missing in Guerrero state](#); El País. January 10, 2022. [Disappeared journalist and administrators of a news site in Guerrero](#).

<sup>2055</sup> Infobae. January 10, 2023. [Journalists disappeared in Guerrero were chained and exhibited in a video](#); El País. 10 January 2022. [Disappeared journalist and administrators of a news site in Guerrero](#).

<sup>2056</sup> Infobae. January 10, 2023. [Journalists disappeared in Guerrero were chained and exhibited in a video](#); El País. 10 January 2022. [Disappeared journalist and administrators of a news site in Guerrero](#).

<sup>2057</sup> El País. January 12, 2023. [A journalist and one of the alleged administrators of a news site kidnapped in Guerrero are freed](#); Animal Político. January 13, 2023. [Journalist and chemist reported missing in Guerrero freed](#); Ahora Guerrero. January 13, 2023. [Nothing is known of the whereabouts of the supposed administrator of the website "Escenario Calentano", kidnapped in Tierra Caliente](#).



authorities have reported that they are investigating the facts and that search operations are continuing to locate the third person<sup>2058</sup>.

928. In April 2022, a report of the Committee on Enforced Disappearances on its visit to Mexico under Article 33 of the Convention expressed its concern about the disappearances of human rights defenders and journalists in Mexico<sup>2059</sup>. In this regard, it stated that between 2003 and 2021, more than 30 journalists disappeared, and that, to date, none of these persons have been located and no progress has been made in the investigations or punishment of those responsible<sup>2060</sup>.

929. RELE has also documented aggressions, threats and intimidating attacks, both against journalists and their families. The organization Article 19 Mexico recorded 331 attacks against journalists and media outlets in the first half of 2022, which means, according to them, that in Mexico every 14 hours a journalist or media outlet is assaulted for doing their job<sup>2061</sup>.

930. Among other facts documented by this Office<sup>2062</sup>, on January 25, journalist José Ignacio Santiago Martínez, founder and director of *Pluma Digital Noticias*, was reportedly the victim of an armed attack on a highway while on his way to the city of Juchitlán, Oaxaca<sup>2063</sup>. According to public information, at the time of the incident the reporter was accompanied by bodyguards assigned to him by the Federal Protection Mechanism for Human Rights Defenders and Journalists<sup>2064</sup>. According to the Oaxaca Prosecutor's Office, the reporter and the bodyguards were returning from visiting a waterfall near the town of San Lucas Yosonicaje, where the journalist had gone to gather tourist-cultural information for an article<sup>2065</sup>. The State informed that the Federal Mechanism requested the collaboration of the Government of Oaxaca in order to continue with the protection measures in his favor, such as the continuation of the Oaxaca State Police patrols at the home of the journalist's mother<sup>2066</sup>.

931. Likewise, on July 2, journalist Susana Carreño, director of *Radio UdeG*, a radio station affiliated with the University of Guadalajara and *Channel 44*, was attacked with a sharp weapon in Puerto Vallarta, Jalisco state, and was reportedly seriously injured and taken to a hospital<sup>2067</sup>. The governor of Jalisco made a statement on his social networks about the events, which he described as an "attack in an attempted robbery"<sup>2068</sup>. However, *Radio UdeG* warned that although the attackers stole some of his belongings, there are sufficient elements to consider that it was not a robbery<sup>2069</sup>. In this sense, both the media to which the journalist belongs and civil society organizations asked the authorities not to rule out lines of investigation related to her journalistic work as a possible motive for the attack<sup>2070</sup>.

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<sup>2058</sup> Attorney General's Office of the State of Guerrero. January 11, 2023. [FGE continues with Search Operations to locate journalists Jesús "N", Fernando "N" and Alan "N"](#); Attorney General's Office of the State of Guerrero. January 11, 2023. [FGE investigates Deprivation of Personal Liberty in Coyuca de Catalán](#).

<sup>2059</sup> UN. Report of the Committee on Enforced Disappearances on its visit to Mexico under Article 33 of the Convention. CED/C/R.9 (Findings). April 12, 2022. Para. 16.

<sup>2060</sup> UN. Report of the Committee on Enforced Disappearances on its visit to Mexico under Article 33 of the Convention. CED/C/R.9 (Findings). April 12, 2022. Para. 16.

<sup>2061</sup> Article 19. August 18, 2022. [First half of 2022: Impunity and denial in the face of extreme violence against the press persists](#).

<sup>2062</sup> CPJ. September 19, 2022. [Gunmen threaten Mexican reporter Rodrigo Bustillos in Tehuacan](#); El Sol de Zacatecas. March 29, 2022. [FGJEZ confirms armed attack on home of journalist in Valparaiso](#).

<sup>2063</sup> Animal Político. January 26, 2022. [José Ignacio Santiago, a journalist of Zapotec origin, is shot at in Oaxaca](#); El País. 27 January 2022. [Journalist shot at in Oaxaca: "In Mexico you can be silenced by crime or by the authorities"](#).

<sup>2064</sup> Animal Político. January 26, 2022. [José Ignacio Santiago, a journalist of Zapotec origin, is shot at in Oaxaca](#); El País. 27 January 2022. [Journalist shot at in Oaxaca: "In Mexico you can be silenced by crime or by the authorities"](#).

<sup>2065</sup> Office of the Attorney General of the State of Oaxaca, United Mexican States. January 26, 2022. [FGEO investigates and responds to aggression against journalist in the Mixteca region](#).

<sup>2066</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 2-8.

<sup>2067</sup> CPJ. July 11, 2022. [Mexican journalist Susana Carreño is seriously injured when she is attacked with a knife in Puerto Vallarta](#); Animal Político. July 1, 2022. [Journalist Susana Carreño is injured in Puerto Vallarta, Jalisco: after surgery, she is reported out of danger](#); Informador.Mx. July 11, 2022. [Susana Carreño: Journalist attacked in Puerto Vallarta reported stable](#).

<sup>2068</sup> Twitter account of Enrique Alfaro (@EnriqueAlfaroR). [July 1, 2022](#).

<sup>2069</sup> CPJ. July 11, 2022. [Mexican journalist Susana Carreño is seriously injured when she is attacked with a knife in Puerto Vallarta](#); Animal Político. July 2, 2022. ["No fue robo, fue atentado": Protestan en Puerto Vallarta por agresión contra periodista Susana Carreño](#).

<sup>2070</sup> Article 19. July 2, 2022. [Organizations demand Jalisco authorities investigate attack against Susana Mendoza, without dismissing her journalistic work](#); Animal Político. July 2, 2022. ["No fue robo, fue atentado": Protestan en Puerto Vallarta por agresión contra](#)



932. RELE also learned of an armed attack on journalist Rubén Eduardo Haro Madero, founder and director of *Las Noticias de la Red*, on July 17, in Ciudad Obregón, Sonora state<sup>2071</sup>. According to available information, unknown individuals shot at least five times at the journalist, who was driving a car and escaped unharmed from the attack<sup>2072</sup>. The Sonora State Attorney General's Office announced that it was investigating the attack<sup>2073</sup>. In addition, the Rapporteurship also learned of the alleged attempted homicide of reporter Netzahualcoyotl Cordero García, who covers police matters on his own portal, *CG Noticias*, in the municipality of Isla Mujeres, Quintana Roo state<sup>2074</sup>. According to public information, Cordero is the beneficiary of protection measures from the federal Protection Mechanism, as a result of threats he received previously<sup>2075</sup>. The Attorney General's Office of the State of Quintana Roo reported that it initiated the investigation file related to the facts<sup>2076</sup>.

933. This Office received with concern reports of an armed attack on journalist Ciro Gómez Leyva, host of *Radio Fórmula* and the news program "Imagen Noticias" on *Imagen Televisión*, on December 15 in Mexico City<sup>2077</sup>. According to available information, two unidentified individuals on a motorcycle allegedly shot the journalist as he was driving home and then fled the scene<sup>2078</sup>. Ciro Gómez Leyva shared photos of the bullet wounds to his car and stated that he was saved by the armor of the vehicle<sup>2079</sup>. The attack reportedly occurred 180 meters from his home<sup>2080</sup>.

934. This Office notes that, the day before the attack, the President of Mexico had individually mentioned journalists Ciro Gómez Leyva, Carlos Loret de Mola and Sergio Sarmiento in the morning press conference<sup>2081</sup>. When referring to positions allegedly opposed to the government's administration, the head of state pointed out that listening to these journalists "is harmful to health" and can cause "a tumor in the brain"<sup>2082</sup>. However, on December 16, the day after the attack, the President expressed his solidarity and support to Ciro Gómez Leyva, while he pointed out that although "they have notorious differences, of public domain", it is "completely reprehensible that an attempt against life is made" and that "a damage to a personality like Ciro generates a lot of political instability"<sup>2083</sup>. Likewise, the President emphasized that he ordered an investigation of the facts to "see all the hypotheses"<sup>2084</sup>. However, he specified that "the only hypothesis that should be discarded, although this will be up to the authorities, is that we, the government I represent, is not a repressive government. We do

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[periodista Susana Carreño](#); Radio UdeG. July 2, 2022. [They protest after the aggression against Susana Carreño; they demand an end to the violence](#).

<sup>2071</sup> CPJ. July 24, 2022. [Mexican journalist Rubén Haro survives attack in Ciudad Obregón](#); La Jornada. July 17, 2022. [Journalist Rubén Haro unharmed after shooting attack in Sonora](#); Las Noticias De La Red - Facebook. [July 17, 2022](#); Excelsior. July 18, 2022. [Investigation into whether Rubén Eduardo Haro was attacked for his journalistic work](#).

<sup>2072</sup> CPJ. July 24, 2022. [Mexican journalist Rubén Haro survives attack in Ciudad Obregón](#); La Jornada. July 17, 2022. [Journalist Rubén Haro unharmed after shooting attack in Sonora](#); Las Noticias De La Red - Facebook. [July 17, 2022](#); Excelsior. July 18, 2022. [Investigation into whether Rubén Eduardo Haro was attacked for his journalistic work](#).

<sup>2073</sup> Twitter account of the Attorney General's Office of the State of Sonora (@fgjesonora). [July 17, 2022](#).

<sup>2074</sup> La Jornada. February 1, 2022. [Journalist denounces murder attempt against her in Quintana Roo](#).

<sup>2075</sup> LatAm Journalism Review. 21 February 2022. [Who were the journalists killed in Mexico](#) so far this year; La Jornada. February 1, 2022. [Journalist denounces murder attempt against her in Quintana Roo](#).

<sup>2076</sup> Latinus. February 2, 2022. The [Quintana Roo Public Prosecutor's Office opens an investigation into the attack on journalist Netzahualcoyotl Cordero](#).

<sup>2077</sup> CPJ. December 20, 2022. [News anchor Ciro Gómez Leyva escapes unharmed from an attack in Mexico City](#); El Espectador. December 16, 2022. [Attack on Ciro Gómez Leyva, "no motive yet": SSC](#); Animal Político. December 16, 2022. [Attack on Ciro Gómez was direct and an attempt on his life: assailants fled to Edomex: García Harfuch](#).

<sup>2078</sup> CPJ. December 20, 2022. [News anchor Ciro Gómez Leyva escapes unharmed from an attack in Mexico City](#); El Espectador. December 16, 2022. [Attack on Ciro Gómez Leyva, "no motive yet": SSC](#); Animal Político. December 16, 2022. [Attack on Ciro Gómez was direct and an attempt on his life: assailants fled to Edomex: García Harfuch](#).

<sup>2079</sup> Twitter account of Ciro Gómez Leyva (@CiroGomezL). [December 16, 2022](#).

<sup>2080</sup> Twitter account of Ciro Gómez Leyva (@CiroGomezL). [December 16, 2022](#).

<sup>2081</sup> Andrés Manuel López Obrador / Youtube. December 14, 2022. [Morning conference: Latin America needs alliance for the welfare of the peoples. Conference President AMLO](#).

<sup>2082</sup> Andrés Manuel López Obrador / Youtube. December 14, 2022. [Morning conference: Latin America needs alliance for the well-being of the peoples. Conferencia presidente AMLO](#); El Universal. December 14, 2022. [AMLO: It is harmful to listen to Gómez Leyva. Loret and Sarmiento, you can even get a tumor in your brain](#); Infobae. December 16, 2022. [The day AMLO said that listening too much to Ciro Gómez Leyva is "harmful to health"](#).

<sup>2083</sup> Latinus. December 16, 2022. ["Tenemos diferencias con Ciro Gómez Leyva y van a seguir, pero es reprochable el atentado del que fue víctima": AMLO](#); Deutsche Welle (DW). December 17, 2022. [Mexico: AMLO condemns attack on journalist Ciro Gómez Leyva](#).

<sup>2084</sup> Expansion. December 19, 2022. ["My government is not repressive": AMLO after the attack against Ciro Gómez](#); Informador. December 19, 2022. [Government is not involved in attack on Ciro Gómez Leyva: López Obrador](#).

not silence anyone, we are respectful of human rights and the main human right is the right to life"<sup>2085</sup>. In this regard, he warned that the attack could be linked to groups "contrary to the Government" with the objective of affecting it<sup>2086</sup>.

935. In December, following the attack against *Ciro Gómez Leyva*, a group of 180 journalists signed an open letter to the president, in which they demanded that he "cease his harassment of critical journalists" since "practically all the emanations of hatred towards journalists are incubated, born and spread in the National Palace"<sup>2087</sup>.

936. Additionally, RELE has received information on recurrent threats to journalists and media outlets. For example, according to the information received, journalists *María de Jesús Peters* and *Juan de Dios García Davish*, from *San Cristóbal de las Casas*, *Chiapas*, were forced to leave the country after receiving a death threat on May 13<sup>2088</sup>.

937. In March, journalists from the newspaper *El Universal* and environmental activists denounced having been attacked and threatened with death by a group of five armed men while documenting the extraction of *tepetate* from the *Tecalco-Chiconautla* hill in the municipality of *Tecamac*, supposedly to consolidate the infrastructure of the new *Felipe Ángeles International Airport*<sup>2089</sup>. According to press reports, the individuals allegedly forced two reporters, the photographer and an activist to erase the recorded material, while at the same time they intimidated them with shots from a long gun<sup>2090</sup>. They also allegedly threatened to set them on fire with a can of gasoline they were carrying and forced them to hand over documents containing complaints made by residents of *San Pablo Tecalco* to stop the exploitation of the hill<sup>2091</sup>. The team of journalists and activists had to leave the site under constant threats from the subjects<sup>2092</sup>.

938. On July 20, journalist *Rodolfo Montes* addressed the president during the morning press conference to denounce death threats and to request the federal government to continue providing him with protection under the Mechanism for the Protection of Journalists<sup>2093</sup>. He also reported that his daughter, who was also the target of threats, had recently left the country for security reasons<sup>2094</sup>.

939. The State has told this Office that one of the main challenges it faces in defending freedom of expression is the presence of organized crime in some areas of the country and the collusion it has with some local authorities, which makes it difficult to carry out effective actions to protect those who exercise freedom of expression and journalistic activity in those areas<sup>2095</sup>.

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<sup>2085</sup> El País. December 19, 2022. [López Obrador affirms that the attack against \*Ciro Gómez Leyva\* could have been a plan to destabilize his government](#); Expansión. December 19, 2022. ["My government is not repressive", AMLO after the attack against \*Ciro Gómez\*](#); I

<sup>2086</sup> El País. December 19, 2022. [López Obrador affirms that the attack against \*Ciro Gómez Leyva\* could have been a plan to destabilize his government](#); Expansión. December 19, 2022. ["My government is not repressive", AMLO after the attack against \*Ciro Gómez\*](#).

<sup>2087</sup> El Universal. December 20, 2022. [Tras atentado a \*Ciro\*, 180 periodistas exigen a AMLO cesar hostigamiento](#); Infobae. December 21, 2022. [Journalists demanded AMLO that the attack against \*Ciro Gómez Leyva\* does not go unpunished](#).

<sup>2088</sup> El País. June 13, 2022. ["Vamos a matar a tu familia": la última amenaza del narco a dos periodistas de \*Chiapas\*](#); La Jornada. June 6, 2022. [Couple of journalists from \*Tapachula\* leave the country due to death threats](#).

<sup>2089</sup> El Universal. March 29, 2022. [Armed group intimidates EL UNIVERSAL journalists; threatens to set them on fire](#); La Silla Rota. March 30, 2022. [Armed group intimidates and threatens \*El Universal\* journalists with setting them on fire](#); Vanguardia. March 30, 2022. [Armed men threaten journalists from EL UNIVERSAL, they were investigating tepetate extraction](#).

<sup>2090</sup> El Universal. March 29, 2022. [Armed group intimidates EL UNIVERSAL journalists; threatens to set them on fire](#); La Silla Rota. March 30, 2022. [Armed group intimidates and threatens \*El Universal\* journalists with setting them on fire](#); Vanguardia. March 30, 2022. [Armed men threaten journalists from EL UNIVERSAL, they were investigating tepetate extraction](#).

<sup>2091</sup> El Universal. March 29, 2022. [Armed group intimidates journalists from EL UNIVERSAL; they threaten to set them on fire](#); La Silla Rota. March 30, 2022. [Armed group intimidates and threatens journalists from \*El Universal\* with setting them on fire](#); Vanguardia. March 30, 2022. [Armed men threaten journalists from EL UNIVERSAL, they were investigating tepetate extraction](#).

<sup>2092</sup> El Universal. March 29, 2022. [Armed group intimidates journalists from EL UNIVERSAL; they threaten to set them on fire](#); La Silla Rota. March 30, 2022. [Armed group intimidates and threatens journalists from \*El Universal\* with setting them on fire](#); Vanguardia. March 30, 2022. [Armed men threaten journalists from EL UNIVERSAL, they were investigating tepetate extraction](#).

<sup>2093</sup> Process. July 20, 2022. [With his voice cracking, journalist \*Rodolfo Montes\* denounces death threats from the CJNG](#); Infobae. July 20, 2022. [A journalist tearfully denounced threats from the CJNG and begged the president for help](#).

<sup>2094</sup> Process. July 20, 2022. [With his voice cracking, journalist \*Rodolfo Montes\* denounces death threats from the CJNG](#); Infobae. July 20, 2022. [A journalist tearfully denounced threats from the CJNG and begged the president for help](#).

<sup>2095</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 7. Archive of the Office of the Special Rapporteur.

940. In this context, at the beginning of 2022, the authorities informed that in that year they would promote a "National System of Prevention and Protection for defenders and journalists"<sup>2096</sup>. Said National System would be based on a law -to be presented to the Congress of the Union during the year-, which would also contemplate the creation of a "National Prevention Model", a "National Register of Aggressions" and a "National Protection Protocol"<sup>2097</sup>. According to the information received, within the framework of the elaboration of said draft law, the State called for dialogues in different regions of the country with relevant actors, the first of which took place on January 17 and 18, 2022, with the participation of beneficiaries of the Protection Mechanism, journalists, civil society organizations, representatives of international organizations, academics and public servants of the Mexican government<sup>2098</sup>. This effort joins others of the Mexican State such as the agreement with the United Nations Educational, Scientific and Cultural Organization (UNESCO) to create a fund to finance investigative journalism<sup>2099</sup>.

941. The State also reported that on June 7, 2022, the General Directorate for Human Rights and Democracy of the Ministry of Foreign Affairs held the "International Dialogue on experiences and best practices for the construction of a National Protection System for Human Rights Defenders and Journalists in Mexico, with the support of the UNESCO Office in Mexico"<sup>2100</sup>. The objective of the meeting was to share experiences and best practices implemented in various regions and countries, to contribute to the current debate for the construction of a national protection system and the definition of actions and competencies of the various actors of the Mexican State<sup>2101</sup>.

942. As highlighted in a press release issued by RELE, the Presidential Spokesperson's Office indicated that the Federal Government condemns any act of violence against those who work as journalists; it demands that investigations be carried out to clarify the facts and punish those responsible; recognizes "without ambiguity" that attacks on journalists, in addition to constituting a direct affectation of journalists' rights, "represent an affront to Mexican society as a whole"; and reiterates its call to all levels of government to protect the life and integrity of journalists<sup>2102</sup>.

943. The Rapporteurship emphasizes that, given the serious situation that Mexico is going through in relation to violence against journalists, the State must provide urgent and priority institutional responses. In this regard, although this Office recognizes the initiatives promoted this year by the State in the area of freedom of expression -aimed at promoting more robust legislative frameworks and generating spaces for reflection

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<sup>2096</sup> Permanent Mission of Mexico to the OAS. January 20, 2022. Comments by the State to the press release "La Relatoría Especial condena los asesinatos de los periodistas José Luis Gamboa Arenas y Alfonso Margarito Martínez Esquivel en México" (The Office of the Special Rapporteur condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico). Archivo de la Relatoría Especial; Misión Permanente de México ante la OEA. January 28, 2022. Comments by the State to the press release "IACHR, RELE and UN-DH Mexico condemn the murder of journalist Lourdes Maldonado". Special Rapporteurship file; Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. Pp. 7 and 8. Archive of the Office of the Special Rapporteur.

<sup>2097</sup> Permanent Mission of Mexico to the OAS. January 20, 2022. Comments by the State to the press release "La Relatoría Especial condena los asesinatos de los periodistas José Luis Gamboa Arenas y Alfonso Margarito Martínez Esquivel en México" (The Office of the Special Rapporteur condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico). Archivo de la Relatoría Especial; Misión Permanente de México ante la OEA. January 28, 2022. Comments by the State to the press release "IACHR, RELE and UN-DH Mexico condemn the murder of journalist Lourdes Maldonado". Archive of the Office of the Special Rapporteur.

<sup>2098</sup> Permanent Mission of Mexico to the OAS. January 20, 2022. Comments by the State to the press release "La Relatoría Especial condena los asesinatos de los periodistas José Luis Gamboa Arenas y Alfonso Margarito Martínez Esquivel en México" (The Office of the Special Rapporteur condemns the murders of journalists José Luis Gamboa Arenas and Alfonso Margarito Martínez Esquivel in Mexico). Archive of the Office of the Special Rapporteur.

<sup>2099</sup> Permanent Mission of Mexico to the OAS. January 28, 2022. Comments by the State to the press release "IACHR, RELE and UN-DH Mexico condemn the murder of journalist Lourdes Maldonado". Archive of the Office of the Special Rapporteur.

<sup>2100</sup> Permanent Mission of Mexico to the OAS. November 1, 2022. State Report on the International Dialogue on experiences and best practices for the construction of a National Protection System for Human Rights Defenders and Journalists in Mexico. Archive of the Office of the Special Rapporteur.

<sup>2101</sup> Permanent Mission of Mexico to the OAS. November 1, 2022. State Report on the International Dialogue on experiences and best practices for the construction of a National Protection System for Human Rights Defenders and Journalists in Mexico. Archive of the Office of the Special Rapporteur.

<sup>2102</sup> Permanent Mission of Mexico to the OAS. March 23, 2022. Comments by the State to the press release on violence against journalists in Mexico. Archive of the Office of the Special Rapporteur.

and exchange of good practices- at the same time it considers that such institutional efforts are disjointed and are insufficient and ineffective to contain the phenomenon of violence against the press<sup>2103</sup>.

944. This Office has learned that the executive branch has condemned the murders and made public commitments to ensure justice and non-impunity for the facts<sup>2104</sup>. However, the Rapporteurship observes that official messages rejecting violence are often scarce with respect to the recurrent stigmatizing remarks coming from the highest authorities<sup>2105</sup>. In this sense, RELE emphasizes the importance of the authorities making use of their leadership positions to counteract and confront violence against the press, constantly, clearly, publicly and firmly recognizing the legitimacy and value of journalistic work for democracy, even when the information disseminated may be critical of government interests.

945. The Office of the Special Rapporteur for Freedom of Expression considers that the reported murders, intimidatory attacks and threats should be taken into account by the State in order to deepen prevention measures and implement institutional protection designs urgently and effectively; and to promote the knowledge and appropriation of the press about the available protection mechanisms. In this regard, the Office recalls that according to Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR, "the murder, kidnapping, intimidation, threats to social communicators, as well as the material destruction of the media, violate the fundamental rights of individuals and severely restrict freedom of expression. It is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure adequate reparation for the victims"<sup>2106</sup>.

946. The Rapporteurship insists in its call to the State of Mexico to investigate the facts, punish the perpetrators and ensure adequate reparation for the victims. As it has stated on previous occasions, the failure to punish the material and intellectual authors of crimes against freedom of expression sends a message of permissiveness and tolerance of violence against the press, and contributes to self-censorship. The Rapporteurship urges the Mexican State to heed the recent calls made by this Office to comply with its duties to promote, protect, respect and guarantee the work of journalists.

947. On the other hand, this Office warns that the aforementioned facts are inserted in a context of constant stigmatization by public officials and leaders towards the press, which threatens their integrity and increases the risk inherent to their work. This type of stigmatizing and discrediting statements have come from government authorities as well as from leaders of different political sectors, and significantly reduce the impact of the measures that the State reports as adopted for the prevention and protection of the press. In this sense, for RELE the different promotion and training activities promoted by the State are overshadowed by the forcefulness and reiteration of stigmatizing statements from authorities and public officials. For example, during the daily press conferences, the President has referred to the newspaper *Reforma* as "a conservative newspaper of the mafia of power"<sup>2107</sup>. Likewise, according to available information, he has accused journalist Carmen Aristegui of making "slandorous reports" for political purposes<sup>2108</sup>. On February 11, the President referred to journalist Carlos Loret de Mola as a "mercenary", "corrupt", "not even a journalist", and also exposed personal and fiscal information of the journalist and assured that he would request information through the National Institute of Transparency (INAI) to corroborate the data on the journalist's income and the payment

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<sup>2103</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 24, 2022. Press Release No. R62/22. [The Rapporteurship warns about the normalization and worsening of violence against journalists in Mexico and urges the authorities to activate complementary measures](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. May 11, 2022. Press Release No. R102/22. [RELE condemns the persistence of murders of journalists in Mexico](#).

<sup>2104</sup> Twitter account of Jesús Ramírez Cuevas (@JesusRCuevas). [January 24, 2022](#); [January 31, 2022](#); [February 17, 2022](#); [March 4, 2022](#); [March 16, 2022](#); [May 5, 2022](#); [June 29, 2022](#).

<sup>2105</sup> See following paragraphs of this report.

<sup>2106</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2107</sup> Government of Mexico. February 17, 2022. [Stenographic version. Press conference by President Andrés Manuel López Obrador on February 17, 2022](#); Proceso. February 19, 2022. [Confronting media and journalists: A strategy to win the battle of the narrative](#).

<sup>2108</sup> Aristegui Noticias. February 4, 2022. [AMLO charges again against Aristegui](#); El Universal. 4 February 2022. [Carmen Aristegui "deceived for a long time", says AMLO; the journalist responds](#); Infobae. 4 February 2022. [AMLO lashes out against journalist Carmen Aristegui: "She has deceived for a long time"](#).

of his taxes<sup>2109</sup>. In August, the full INAI determined that there are elements to sanction the president for publicly disseminating "without legal authorization" a tax document that violates the privacy of journalist Carlos Loret de Mola<sup>2110</sup>. According to publicly available information, between January and April 2022, the President mentioned journalist Carlos Loret de Mola at least 134 times in 60 press conferences<sup>2111</sup>.

948. As reported by the organization Artículo 19, the stigmatizing practices of the head of state have generated a "cascade effect", in which "the stigmatizing language is replicated at different levels of government and by officials of various political parties"<sup>2112</sup>. For example, this Office learned that the leader of the Institutional Revolutionary Party (PRI), reportedly stated that journalists "should not be shot to death (...) they should be starved to death"<sup>2113</sup>; and that a national leader of the National Regeneration Movement (Morena) party stated that there are "gunmen in the press abusing freedom of expression and attacking the president", during a political event<sup>2114</sup>.

949. In this context, the Rapporteurship notes that the section "Who's who in the lies of the week", implemented by the Government in June of last year with the alleged purpose of "informing" the citizens and refuting the alleged false news disseminated by the media, continues to be a space used by the executive branch to stigmatize and disqualify the work of the press.

950. For its part, the State has indicated that the purpose of this "government communication mechanism" is to "analyze, verify and clarify inaccurate news of general interest to the population that could affect the fundamental right to freedom of expression and access to information of persons interested in knowing all points of view on a given news event"<sup>2115</sup>. In this sense, the State stated that with this space they seek to "contribute to the social responsibility of the media to disseminate truthful information that serves the interests of the people and allows citizens to make their own decisions within a democratic State"<sup>2116</sup>.

951. According to the State, this mechanism "constitutes a novel and legitimate channel of communication between society and the public servants with the highest responsibility in the country" and "an exercise of critical analysis to reflect on the public tasks of the federal administration" that seeks to generate a critical and participatory citizenship in public affairs<sup>2117</sup>. It also indicated that it is "indispensable for learning about the diversity of public policy issues and the obstacles faced by public institutions in their execution"<sup>2118</sup>.

952. According to the authorities, the section "Who's who in the lies of the week" is based on the Political Constitution of the United Mexican States, which establishes in its Articles 6 and 7 the right of citizens to "be duly informed about the manner in which the State's stewardship is carried out through the federal public

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<sup>2109</sup> Aristegui Noticias. February 11, 2022. [AMLO shows alleged salary of Loret de Mola; he is 'out of his mind', he responds](#); Proceso. February 11, 2022. [Loret de Mola charged 35 mdp in one year, he is a "mercenary" not even a journalist: AMLO](#); Animal Político. February 14, 2022. ["No me voy a dejar": AMLO reiterates attacks against Loret de Mola: INAI is asked to apply sanctions](#).

<sup>2110</sup> Proceso. August 18, 2022. [INAI orders AMLO to be sanctioned for displaying Loret de Mola's personal data](#); W Radio. August 18, 2022. [INAI orders AMLO to be sanctioned for displaying personal data of Carlos Loret](#).

<sup>2111</sup> El Universo. April 26, 2022. ["Lo suyo es la venganza": AMLO ha mencionado 134 veces a Loret de Mola en 60 mañaneras](#); Infobae. April 26, 2022. [Since the Casa Gris scandal, AMLO has mentioned Carlos Loret de Mola 134 times in 60 lectures: SPIN](#); Luis Estrada Twitter account (luisestrada.). [April 26, 2022](#).

<sup>2112</sup> Article 19. August 18, 2022. [First half of 2022: Impunity and denial in the face of extreme violence against the press persists](#).

<sup>2113</sup> El País. May 25, 2022. ["A los periodistas hay que matarlos de hambre": PRI leader's 'audiogate' complicates opposition plans](#); Animal Político. 25 May 2022. [A los periodistas "hay que matarlos de hambre": el último audio presuntamente de Alejandro Moreno difundido por Layda Sansores](#); Yahoo! Noticias. 25 May 2022. ["A los periodistas no hay que matarlos a balazos, sino de hambre": los vergonzosos audios de 'Alito' Moreno](#).

<sup>2114</sup> Expansion. March 5, 2022. [Mario Delgado receives boos for calling journalists "mercenaries"](#); Proceso. March 5, 2022. [Oaxaca journalists boo Morena leader Mario Delgado \(Video\)](#); Animal Político. March 6, 2022. [Oaxaca journalists boo Mario Delgado for comments against the press](#).

<sup>2115</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2116</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2117</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2118</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.



administration"<sup>2119</sup>. According to the Mexican State, in order to guarantee effective accountability to the governed, "public entities, through their heads, are obliged to issue institutional and informative messages that are relevant to the population, as is the case here"<sup>2120</sup>.

953. Likewise, citing standards emanating from the Inter-American Court of Human Rights, the State of Mexico held that "all authorities of the Member States have a duty to pronounce precisely on matters of public order, taking into account the general interest of the population and, therefore, it is conventionally valid that, in an official press conference, public information is clarified and distortions that affect governance are avoided"<sup>2121</sup>.

954. As previously stated, the Office of the Special Rapporteur for Freedom of Expression recognizes that it is legitimate, and on certain occasions a duty, for State authorities to make statements on matters of public interest and to defend themselves against criticism or questioning by the press<sup>2122</sup>. However, in doing so, they should not discredit or stigmatize those who question them, given their high office, the broad scope of their pronouncements, and the possible effects that their expressions may have on certain sectors of the population<sup>2123</sup>. This implies that they must refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>2124</sup>.

955. As the Inter-American Court of Human Rights has established, public officials must bear in mind that their status implies a position of guarantor of the fundamental rights of individuals and, therefore, "their statements may not disregard these rights or constitute forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts"<sup>2125</sup>. This also means that they must refrain from making speeches that may, directly or indirectly, encourage or promote violence against communicators and journalists<sup>2126</sup>.

956. For the Office of the Special Rapporteur, the stigmatizing official discourse, which labels the work of the press as "lies" or "fake news", or labels them as "conservative" or "of the regime", not only contributes to the deterioration of public debate but also has the potential to increase the risks inherent to journalistic work, especially in a context of escalating violence against communicators<sup>2127</sup>.

957. The Rapporteurship emphasizes that the duty of authorities and public officials to adopt a discourse that contributes to freedom of expression is one of the fundamental components of the States' obligation to prevent violence against journalists<sup>2128</sup>. As the IACHR and the Rapporteurship have already pointed out, States have the obligation to adopt measures to prevent violence against journalists and media workers, which "is

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<sup>2119</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2120</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2121</sup> Permanent Mission of Mexico to the OAS. March 11, 2022. State Report. Request for information on murders and intimidating attacks against journalists in Mexico; and prevention and protection measures adopted. P. 17-20.

<sup>2122</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>2123</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>2124</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 24, 2022. Press Release No. R62/22. [The Rapporteurship warns about the normalization and worsening of violence against journalists in Mexico and urges the authorities to activate complementary measures.](#)

<sup>2125</sup> I/A Court H.R., Case of Apitz Barbera et al. v. Venezuela. *Case of Apitz Barbera et al. v. Venezuela. Preliminary objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. para. 131; *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

<sup>2126</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139; UN, OSCE, OAS, ACHPR. October 20, 2021. [Joint Declaration 2021 on political leaders, persons exercising public functions, and freedom of expression.](#)

<sup>2127</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139; UN, OSCE, OAS, ACHPR. October 20, 2021. [Joint Declaration 2021 on political leaders, persons exercising public functions, and freedom of expression.](#)

<sup>2128</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 156.

accentuated in situations or areas in which there is or has been detected a special risk for journalists working in the media"<sup>2129</sup>. Likewise, the Office of the Special Rapporteur has reminded States that "a simple but highly effective measure of protection consists of the highest authorities of the State constantly, clearly, publicly and firmly recognizing the legitimacy and value of journalistic work, even when the information disseminated may be critical, inconvenient and inopportune for the interests of the government"<sup>2130</sup>.

958. While this Office recognizes the problems arising from the dissemination of false news and believes that democratic societies must combat attempts to manipulate public debate, it also believes that the purpose of combating alleged "lies" can be channeled through other institutional routes. In this sense, the Rapporteurship believes that the promotion of a governmental check section of journalistic content and labeling of journalists and media puts at risk the guarantees for freedom of expression and democratic institutionality in Mexico.

959. During a public hearing of the 180th Regular Session of the IACHR, held in July 2021, the Special Rapporteur for Freedom of Expression invited the State of Mexico to reflect on and reevaluate the format of the section "Who's Who in the Week's Lies", and invited that its existence be reconsidered, while reiterating the availability of the Office to provide technical advice<sup>2131</sup>. Likewise, throughout 2022, the Special Rapporteur called on the Mexican State to suspend this section<sup>2132</sup>. Similarly, in its 2021 Annual Report, the Office of the Special Rapporteur for Freedom of Expression pointed out that in Mexico the challenge persists of distinguishing between legitimate pronouncements of public authorities that defend an official position and speeches that, under that argument, may imply stigmatization<sup>2133</sup>.

960. The Office of the Special Rapporteur stresses that, given the increase in murders, threats, physical aggressions and attacks against journalists in Mexico, it is essential that the State send clear messages of recognition of the legitimacy and value of journalistic work. RELE considers that, under the alleged premise of guaranteeing freedom of expression in its collective dimension and the access of citizens to information of public interest, the "Who's who in the lies of the week" sends public messages that could contribute to the stigmatization against journalists and media outlets. This may contravene the international obligation of the State to adopt a public discourse that contributes to prevent violence against journalists<sup>2134</sup>.

961. Regarding the information previously pointed out about the section "Who is who in the lies of the week", RELE identifies that: (i) the State has not made public the criteria on which they conclude, from an official program, that a content corresponds to "disinformation", "false news" or "lies" or other labels on journalistic activity; (ii) this space focuses on counteracting the information published by certain persons or in certain reports that question or criticize the government management, so it has the potential to become an official instance of defense of the Government itself against criticism, with more similarities to propaganda than to verification of information; (iii) the public authorities have not demonstrated how they comply with the Inter-American standards regarding the reasonable, although not necessarily exhaustive, verification of the facts on which they base their opinions when referring to matters of public interest<sup>2135</sup>; (iv) it is possible to observe that the statements and labels promoted by the Government in this space may encourage stigmatization and violence against the press; (v) although the State has informed that if any of the statements

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<sup>2129</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 155.

<sup>2130</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 158.

<sup>2131</sup> IACHR. July 1, 2022. 185 Regular Session. [Hearing No. 21: Protection of the human rights of human rights defenders and communicators in Mexico](#); El País. February 2, 2022. [The IACHR Rapporteur for Freedom of Expression asks López Obrador to suspend 'Who's Who of Lies'](#).

<sup>2132</sup> Process. February 1, 2022. [Exclusive: IACHR Rapporteur asks to stop "Who's who of lies" for violence against journalists](#).

<sup>2133</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Paras. 607-609.

<sup>2134</sup> 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](#). OEA/Ser.L/V/II.149. Doc. 50. 31 December 2013. Paras. 34 et seq.

<sup>2135</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 139.

made is inaccurate or requires clarification, it will proceed to publicly acknowledge it, RELE observes that in practice there has been no such possibility.

962. The Special Rapporteurship recognizes that the State has the duty to promote, respect and guarantee freedom of expression in its dual dimension, both individual and collective; and appreciates the commitment and political will of the State to move forward to counteract the negative effects of disinformation. However, RELE considers that this type of actions should be developed by non-governmental and independent entities. The State can take other positive measures to prevent and combat disinformation in the media, such as the promotion of journalistic self-regulation frameworks, the creation of press councils and journalistic ethics courts, as well as the adoption of public policies on media and digital literacy for the development of civic skills. Likewise, RELE considers that judicial channels play an important role in evaluating and settling possible abuses in the exercise of the right to freedom of expression, both by individuals and the State, linked to disinformation.

963. In summary, the Rapporteurship believes that the promotion of a governmental check section of journalistic content and labeling of journalists and media outlets puts at risk the guarantees for freedom of expression and democratic institutionality in Mexico, inasmuch as State institutions are not the ideal platforms to evaluate the veracity of journalistic information and the media are primarily responsible to the public and not to the Government<sup>2136</sup>. Based on the aforementioned facts, the Rapporteurship considers that the section "Who's who in the lies of the week" adopted by the executive branch contravenes Inter-American standards on freedom of expression, and calls on the State to suspend this practice.

## **B. Freedom of expression, Rule of Law and democratic institutions**

964. Spying practices allegedly perpetrated by public agencies against citizens, especially journalists and human rights defenders, remain one of the main challenges facing democratic institutions in Mexico. In 2022, RELE received reports on the use of surveillance tools by the current government against three people investigating human rights violations allegedly committed by the Mexican Army.

965. On October 2, 2022, the Network in Defense of Digital Rights (R3D), Article 19 Mexico and Central America, and SocialTIC, with the support of the Citizen Lab of the University of Toronto, and in collaboration with *Animal Político*, *Aristegui Noticias* and *Proceso*, published the report "Spy Army" where they exposed findings on three new cases of espionage by the Government against journalists and human rights defenders in Mexico, with the Pegasus *malware*, between 2019 and 2021<sup>2137</sup>. These three people would be Raymundo Ramos, President of the Human Rights Committee of Nuevo Laredo, Ricardo Raphael, journalist and writer, and an unidentified journalist from *Animal Político*. The report specified that at the time of the facts, these three people were carrying out work and investigations related to human rights violations committed by the Armed Forces. In addition, it warned that these practices of illegal intervention of private communications of civilians could continue<sup>2138</sup>.

966. According to the report, the Ministry of National Defense hired a "remote information monitoring system" from Comercializadora Antsua S.A. de C.V., in April 2019, and concealed this information from the Attorney General's Office and the Federal Superior Audit Office, as well as from a request for information filed by the organization R3D<sup>2139</sup>.

967. The denouncing organizations requested the establishment of an independent and international mechanism to investigate the illegal espionage committed by previous and current governments, in order to guarantee "truth, justice and the absence of impunity"<sup>2140</sup>. In this sense, they demanded that the Attorney

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<sup>2136</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Ethics in the media](#). 2004.

<sup>2137</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#); *Animal Político*. October 5, 2022. [Sedena does not deny investigation into 'Ejército espía', says R3D: organizations demand investigation into privacy violations](#).

<sup>2138</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#); *El Financiero*. October 5, 2022. [Organizations demand Sedena to prove that it does not spy on journalists and activists](#).

<sup>2139</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#); *Animal Político*. October 5, 2022. [Sedena does not deny investigation into 'Ejército espía', says R3D: organizations demand investigation into privacy violations](#).

<sup>2140</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#).

General's Office conduct a professional and impartial investigation aimed at identifying all material and intellectual authors of illegal espionage in previous and current governments<sup>2141</sup>. They also requested the National Senate to "suspend the process of approval of the constitutional extension of the presence of the armed forces in security tasks, especially while the reported cases of espionage are not clarified"<sup>2142</sup>.

968. Faced with these facts, the president rejected the allegations and stated that the Army performs intelligence work and not espionage, without providing further details that would allow clarifying the facts reported<sup>2143</sup>. In addition, the president questioned the organizations saying that they received money from the United States and from those who "did not pay taxes before and now have to pay". He also said that the journalists and media that have questioned him regarding this matter "had a good relationship with previous governments"; and that one of the alleged victims, Ricardo Raphael, is "a sympathizer of the right wing or conservative movement in the country" and "a spokesman of conservatism that is against us"<sup>2144</sup>.

969. The Attorney General's Office announced on October 16 that there are two advanced judicial files for cases related to espionage, which would be 1) the acquisition by the then Attorney General's Office, during the previous six-year term, of the intelligence equipment 'PEGASUS', for the amount of \$456,843,149.00 pesos, without any justification for its celebration and evading public bidding procedures, as well as the irregular use of the Public and National Security Expenses item; and 2) a proceeding for the crime of illegal intervention of private communications to the detriment of various journalists and human rights defenders, in which on August 26, 2021, criminal action was exercised through the obtaining of an arrest warrant against Juan Carlos "N", for his probable responsibility in the commission of the crime of illegal intervention of communications; all this as material co-perpetrator of said criminal act<sup>2145</sup>. According to the information available, these investigations would be related to events that occurred during the previous government administration, and not to the events denounced by civil society organizations in 2022<sup>2146</sup>.

970. Likewise, the State has informed this Office that the National Human Rights Commission (CNDH), on May 24, 2022, issued General Recommendation 47/2022 to Mexican State authorities regarding the case of espionage and its impact on freedom of expression related to the Pegasus software<sup>2147</sup>. According to the report, said recommendation was addressed to the president of the Board of the Chamber of Senators; the president of the Board of the Chamber of Deputies; the president of the Bicameral Commission of National Security of the Legislative Branch; the head of the Secretariat of Security and Citizen Protection (SSPC), and the head of the Attorney General's Office (FGR) for the absence of legal regulation for the acquisition and use of technologies for the surveillance, intervention and collection of data of persons in national territory: its impact on freedom of expression, the right to defend human rights and its link to the duty of care of the Mexican State<sup>2148</sup>.

971. Likewise, the CNDH requested that the responsibility of the companies that develop and commercialize such technologies be established in those cases in which their activities may cause human rights violations as a consequence of the operations, products or services they carry out; as well as that clear and specific prohibitions be established regarding the personalized modification of products, the selection of targets and the provision of maintenance or assistance services that imply a violation of national or international human rights law<sup>2149</sup>. It also requested that additions or modifications be made to the current legal framework to establish as an obligation of the authorities that carry out interventions to private

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<sup>2141</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#).

<sup>2142</sup> Article 19. October 3, 2022. [#ArmySpy: New cases of spying with Pegasus in Mexico must not go unpunished](#).

<sup>2143</sup> Government of Mexico / Youtube. October 3, 2022. [#ConferenciaPresidente | Monday, October 3, 2022](#); Animal Político. October 4, 2022. [Despite evidence, AMLO denies spying from Sedena and minimizes facts: accuses that it is 'a scandal to harm us'](#); El Universal. October 4, 2022. [AMLO denies spying on journalists and opponents: Army does intelligence, not espionage, he says](#); Deutsche Welle (DW). October 4, 2022. [López Obrador denies Army spying on journalists and activists](#).

<sup>2144</sup> Aristegui Noticias. October 4, 2022. [AMLO denies Army spying on journalists and activists](#); Contralínea. October 4, 2022. ["What would be the point of spying on Ricardo Raphael?": AMLO](#).

<sup>2145</sup> Office of the Attorney General of the Republic. October 16, 2022. [Press Release FGR 499/22. FGR informs](#).

<sup>2146</sup> Office of the Attorney General of the Republic. October 16, 2022. [Press release FGR 499/22. FGR reports](#); CNN. 17 October 2022. [Fiscalía de México informa de dos investigaciones por casos vinculados al software Pegasus](#); El País. [Fiscalía's omissions in the 'Pegasus case' raise doubts about the Army](#).

<sup>2147</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2148</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2149</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

communications, to submit a report to the Judiciary of the Federation, with a specific periodicity, on the use and destination of the data and information obtained, as a statistician<sup>2150</sup>.

972. Likewise, the CNDH requested the Ministry of Security and Citizen Protection to promote before the National Security Council the issuance of an administrative instrument to regulate the use of devices and/or systems useful in the interception of private communications<sup>2151</sup>; and urged the Attorney General's Office to continue with the investigation<sup>2152</sup>.

973. As RELE has learned, this General Recommendation of the CNDH would be linked to complaints filed with the CNDH in June 2017 by journalists, communicators and human rights defenders, in which they indicated that they were subject to attempted computer surveillance attacks, via cell phones, through the Pegasus system<sup>2153</sup>.

974. On the other hand, according to publicly available information, on September 29, a group of people calling themselves "Guacamaya" claimed to have obtained information from a server of the Secretariat of National Defense (Sedena) in a volume of approximately 6 terabytes of information<sup>2154</sup>. The leaked files would reveal that the Army has been involved in surveillance and profiling activities of journalists, activists, human rights defenders and feminist groups<sup>2155</sup>.

975. The executive branch acknowledged the leaks of the Guacamaya group in the files of the Sedena and assured that in its government "there is nothing to hide"<sup>2156</sup>. Likewise, in a press release, the Ministry of National Defense affirmed that the Pegasus surveillance software was contracted between June 27, 2011 and August 24, 2013 "and was used solely and exclusively to maintain the security and operational capacity of the Mexican Army and Air Force"<sup>2157</sup>. In this regard, it stated that in accordance with domestic regulations "they are empowered to carry out intelligence activities during the development of operations against organized crime"<sup>2158</sup>. However, it assured that "with strict adherence to the rule of law," the Sedena "does not carry out intelligence activities and much less espionage of any kind against sectors of the population, such as human rights defenders, social activists and journalists"<sup>2159</sup>.

976. The background and the seriousness of the facts denounced require a forceful response from the State, which must provide detailed information on the facts in question, and activate the necessary investigations to clarify the facts, assign responsibilities and provide reparations to the affected persons. As the Rapporteurship has pointed out on previous occasions, "the opacity of the State's actions in certain areas constitutes fertile ground for the occurrence and repetition of serious human rights violations"<sup>2160</sup>.

977. In this regard, the report "Right to Information and National Security" stresses that obstacles to accessing information on surveillance activities carried out by States "operate in many cases as barriers to

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<sup>2150</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2151</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2152</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2153</sup> National Human Rights Commission. 2022. [General Recommendation 47/2022](#).

<sup>2154</sup> Connectas. October 10, 2022. [Guacamaya Leaks: Amidst Intelligence and State Abuse](#); El País. 1 October 2022. [Guacamaya 'hacks': from protecting the environment to attacking Latin American armies](#); The Record. 22 December 2022. [Guacamaya leaks spark debate about militarization, spyware, but no accountability](#).

<sup>2155</sup> The New York Times. [Mexican army hack exposes secrets of country's most powerful institution](#); BBC. October 6, 2022. [Guacamaya Leaks: 5 revelations of the massive hack suffered by Mexico's army](#); The Record. 22 December 2022. [Guacamaya leaks spark debate about militarization, spyware, but no accountability](#).

<sup>2156</sup> Process. September 30, 2022. [AMLO admits hacking by the "Guacamaya" group to the Sedena and that he is ill](#); Yahoo! Noticias. October 17, 2022. [Mexico's military hacking that's not a scandal, because AMLO doesn't want it to be](#); BBC. Oct. 6, 2022. [Guacamaya Leaks: 5 revelations of the massive hacking Mexico's military suffered](#).

<sup>2157</sup> Government of Mexico. Ministry of National Defense. October 4, 2022. [Press Release 161](#); Latinus. October 4, 2022. [Sedena denies spying on journalists and activists in the current government: "The Pegasus contract expired in 2013"](#).

<sup>2158</sup> Government of Mexico. Ministry of National Defense. October 4, 2022. [Press Release 161](#); El País. October 5, 2022. [Sedena breaks silence after massive Guacamaya leak and denies accusations of spying on journalists](#).

<sup>2159</sup> Government of Mexico. Ministry of National Defense. October 4, 2022. [Press Release 161](#); Semana. October 5, 2022. [Mexican Army denies spying on activists and journalists](#).

<sup>2160</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Right to information and national security](#). OEA/Ser.L/V/II IACHR/RELE/INF.24/20. July 2020. Para. 5.



accountability for their legitimate use, which should follow the requirements of prior judicial authorization and be strictly necessary and proportionate to the legitimate purposes sought to be protected by the State"<sup>2161</sup>.

978. In this regard, the Tshwane Principles on National Security and the Right to Information ("Tshwane Principles") provide that any information relating to surveillance activities by the State should be accessible to society<sup>2162</sup>. This information includes: (i) the rules governing all types of surveillance, both overt and covert, including indirect surveillance techniques such as profiling and data mining; (ii) the permissible targets of surveillance; (iii) the presumption threshold required to initiate or continue surveillance, as well as the procedures for authorization and review of the use of such measures; (iii) the types of personal data that may be collected and/or processed for reasons relating to national security; iv) the criteria that apply to the use, retention, deletion and transfer of such data; and iv) the entities authorized to carry out surveillance actions and statistics relating to the use of surveillance actions<sup>2163</sup>.

979. On the other hand, the Special Rapporteurship has learned of several unconstitutionality actions resolved by the Supreme Court of Justice of the Nation in which they invalidated legislative reforms of 2017 to the Federal Law of Telecommunications and Broadcasting<sup>2164</sup>. According to the information available, such reforms had repealed provisions related to the rights of the audiences, particularly the obligation for the media to distinguish between information and opinion<sup>2165</sup>. As far as this Office was able to learn, in one of its decisions, resolved on August 29, 2022, the Plenary of the Supreme Court based its decision on "the existence of serious violations to the legislative procedure developed before the Chamber itself that impacted the democratic quality of the decision finally adopted, since the right to participation of all political forces with parliamentary representation, in conditions of freedom and equality, was not respected"<sup>2166</sup>. The Office of the Special Rapporteur received reports expressing concern about these decisions, considering that they impose excessive requirements and controls contrary to Inter-American standards on freedom of expression<sup>2167</sup>.

980. This Office recalls that, according to Principle 6 of the Declaration of Principles on Freedom of Expression of the IACHR, "journalistic activity must be governed by ethical conduct, which in no case may be imposed by States"<sup>2168</sup>. The Inter-American Court has emphasized that journalism is the primary and principal manifestation of freedom of expression of thought and that "the common good demands the maximum possibility of information and it is the full exercise of the right to expression that favors it"<sup>2169</sup>. According to the Court, "it is contradictory in principle to invoke a restriction on freedom of expression as a means to guarantee it, because it is to ignore the radical and primary nature of this right as inherent to each human being individually considered, although it is also an attribute of society as a whole. A system of control to the right of expression in the name of a supposed guarantee of the correctness and truthfulness of the information that society receives can be a source of great abuses and, in the end, violates the right to information that society itself has"<sup>2170</sup>. RELE considers that this is a matter that requires legal certainty and a response compatible with

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<sup>2161</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Right to information and national security](#). OEA/Ser.L/V/II IACHR/RELE/INF.24/20. July 2020. Para. 58.

<sup>2162</sup> Global Principles on National Security and the Right to Information ("Tshwane Principles"). June 12, 2013.

<sup>2163</sup> Global Principles on National Security and the Right to Information ("Tshwane Principles"). June 12, 2013.

<sup>2164</sup> El Economista. August 29, 2022. [Suprema Corte invalida reforma de 2017 sobre derecho de audiencias](#); Expansión. August 29, 2022. [Supreme Court invalidates 2017 reform on hearing rights](#); Government of Mexico. January 23, 2023. Report of the Mexican State in response to the request of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the Federal Telecommunications and Broadcasting Law. Archive of the Office of the Special Rapporteur.

<sup>2165</sup> El Economista. August 29, 2022. [Suprema Corte invalida reforma de 2017 sobre derecho de audiencias](#); Expansión. August 29, 2022. [Supreme Court invalidates 2017 reform on hearing rights](#); Government of Mexico. January 23, 2023. Report of the Mexican State in response to the request of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights on the Federal Telecommunications and Broadcasting Law. Archive of the Office of the Special Rapporteur.

<sup>2166</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 12. Archivo de la Relatoría Especial; Aristegui Noticias. August 29, 2022. [SCJN invalidates radio and TV regulation for 'serious violations' to the legislative process](#); Expansión. August 29, 2022. [Supreme Court invalidates 2017 reform on audience rights](#).

<sup>2167</sup> National Chamber of the Radio and Television Industry (CIRT). February 3, 2022. Letter to the Special Rapporteur. Special Rapporteur's file; International Association of Broadcasting (AIR). 27 January 2022. [AIR Communiqué: Mexico](#); International Association of Broadcasting (AIR). August 31, 2022. [Freedom of expression and the viability of broadcasting at risk in Mexico](#).

<sup>2168</sup> IACHR. 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2169</sup> IACHR Court. Compulsory Membership in an Association of Journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5. Paras. 71 and 77.

<sup>2170</sup> IACHR Court. Compulsory Membership in an Association of Journalists (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5. para. 77.

freedom of expression standards, and has therefore expressed to the Mexican State its willingness to provide technical assistance if deemed appropriate.

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

981. As mentioned in the last annual report, the Office of the Special Rapporteur notes that there are challenges to effectively guarantee the right to freedom of expression of women in Mexico, who face differentiated restrictions to their rights based on gender. A report published by the organization Comunicación e Información de la Mujer (CIMAC) in 2022 concluded that the current administration has seen an increase in attacks against women journalists related to their work<sup>2171</sup>. One of CIMAC's criteria when analyzing the increase in acts of violence against women journalists is the type of coverage carried out by the victims. In this regard, they pointed out that journalistic coverage of feminist protests and demonstrations against gender violence represent the most dangerous for women journalists (13.16% of attacks), partly due to the increase in demands for an end to violence against women and the stigmatizing discourse of the president against feminist protests; followed by investigations related to acts of corruption (10.16%); electoral coverage (7.56%); and those related to the health emergency (6.64%)<sup>2172</sup>.

982. RELE has continued to monitor the development of women's protests in Mexico, and complaints about the alleged disproportionate use of public force against protesters<sup>2173</sup>. In this regard, according to available information, on March 8, 2022, in the context of demonstrations for International Women's Day, civil society organizations documented disproportionate actions of public force in protests in Mexico City<sup>2174</sup>. The Office of the Special Rapporteur also recorded disproportionate responses by the security forces during the demonstrations that took place on March 8 in the city of Morelia, Michoacán state<sup>2175</sup>.

983. Reports have also warned about the stigmatization of women's protests by public authorities<sup>2176</sup>. For example, the day before the Women's Day demonstrations, the president stated in a press conference that the objective of such protests "is no longer to defend women, it is not even feminism, it is a reactionary conservative stance against us, against the transformation policy, which is a totally political stance", and affirmed having information that the demonstrators "are preparing themselves with clubs, with blowtorches, with Molotov cocktails"<sup>2177</sup>. On the same occasion, the Head of Government of Mexico City stated that they expected the participation of "groups that use these dangerous artifacts and violent methods in the demonstration; they are groups that, as you know, cover their faces and use these objects, Molotov cocktails, not only hammers and other tools, but also pepper spray"<sup>2178</sup>.

984. Also, according to public reports, on May 19, police officers reportedly assaulted activists of LGBT+ groups who were demonstrating outside the cathedral of the city of Toluca, in order to disperse them<sup>2179</sup>. On that occasion, police officers also allegedly resorted to the use of public force against journalists covering the

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<sup>2171</sup> CIMAC. [Unpunished Words: Stigmatization and Violence against Women Journalists in Mexico 2019-2022](#). 2022. P. 45.

<sup>2172</sup> CIMAC. [Unpunished Words: Stigmatization and Violence against Women Journalists in Mexico 2019-2022](#). 2022. P. 59.

<sup>2173</sup> See following paragraphs of this report.

<sup>2174</sup> Article 19. March 10, 2022. [Stigmatization and HR violations by the State in the context of the #8M feminist protest](#); Libertad y protesta. March 10, 2022. [Red #RompeElMiedo, FLEPS and CIMAC document stigmatization and HR violations by the State in the context of the #8M feminist protest](#); Animal Político. March 8, 2022. [Incidents on #8M: a group of protesters clash with police; 25 injured reported in different events](#); La Jornada. August 3, 2022. [After more than five hours, 8M march concluded peacefully](#); Latinus. March 8, 2022. [CDMX police receive with pepper spray women who approach the fences protecting Palacio Nacional](#); Twitter account of Red Rompe el Miedo (@RompeMiedo). [March 8, 2022](#); Twitter account of La Razón (@LaRazon\_mx). [8 March 2022](#).

<sup>2175</sup> UN-HCHR Mexico Twitter account (@ONUDHmexico). [March 11, 2022](#); Contramuro. March 9, 2022. [32 journalists injured in Michoacán by gas, bullets and SSP rockets](#); Quadratin Michoacan. March 8, 2022. [Aggressions against reporters, detained and injured, balance of 8M](#).

<sup>2176</sup> Article 19. March 10, 2022. [Stigmatization and HR violations by the State in the context of the #8M feminist protest](#); Libertad y protesta. March 10, 2022. [Red #RompeElMiedo, FLEPS and CIMAC document stigmatization and HR violations by the State in the context of the #8M feminist protest](#); Red Rompe el Miedo Twitter account (@RompeMiedo). [March 8, 2022](#).

<sup>2177</sup> Government of Mexico, Presidency. March 07, 2022. [Stenographic version of President Andrés Manuel López Obrador's morning press conference](#).

<sup>2178</sup> Government of Mexico, Head of Government. March 7, 2022. [Interview with the Head of Government, Claudia Sheinbaum Pardo, during press conference](#).

<sup>2179</sup> Process. May 19, 2022. [Two activists and five journalists injured in police repression outside Toluca Cathedral](#); La Silla Rota. May 19, 2022. [Edomex will sanction aggressions against journalists in Toluca: "there was excessive use of force"](#); La Jornada. May 20, 2022. [Reprimen protesta de minorías sexuales en Toluca \(Sexual minorities protest repressed in Toluca\)](#).

demonstrations<sup>2180</sup>. In response to these events, the Secretary of Security of the State of Mexico issued a communiqué rejecting the facts and informed that "it will carry out the pertinent investigations, in order to apply sanctions to those responsible" and that "once the investigations are concluded, those public servants who are proven to have violated the principles of police action, will be sanctioned with the corresponding administrative and corrective resources"<sup>2181</sup>.

985. Social protest, which includes the exercise of the right to freedom of peaceful and unarmed assembly, freedom of association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and the State is obliged to respect, protect and guarantee these rights<sup>2182</sup>. With respect to the obligation to protect and facilitate, the Commission has emphasized that "[t]he imperative social interest in the right to participate in public demonstrations gives rise to a general presumption in favor of its exercise"<sup>2183</sup>. As mentioned in the IACHR report on protest and human rights, States must act on the basis of the lawfulness of public protests and demonstrations and on the assumption that they do not constitute a threat to public order<sup>2184</sup>. Likewise, in relation to the obligation to guarantee the right to protest, the IACHR has established that it "implies first and foremost the duties to investigate and punish any violation occurring in the context of a public demonstration"<sup>2185</sup>.

986. This Office also reiterates that the use of force in the context of protests must be understood as "a last resort that, limited in qualitative and quantitative terms, is intended to prevent an event of greater gravity than that which provokes the State reaction" and that, within this framework of exceptionality, the State must satisfy the principles of legality, absolute necessity and proportionality<sup>2186</sup>.

987. Finally, the Office of the Special Rapporteur reminds the Mexican State that, as noted by the IACHR in the report on protest and human rights, "States must adopt positive measures to guarantee this enjoyment to women; children and adolescents; people of African descent; victims of discrimination based on their gender identity or sexual orientation; migrants and non-nationals; indigenous peoples; and groups claiming access to economic, social and cultural rights". As this Office has pointed out, the discourse of these groups of people is historically silenced and must be protected by the States<sup>2187</sup>.

988. On the other hand, in April 2022, the Electoral Tribunal of the Judiciary of the Federation (TEPJF) concluded that a legislator "committed political violence against women on the basis of gender" as a result of various "manifestations made against transgender and transsexual persons", as well as against a deputy of the Morena party, "by reducing their political-electoral rights through these comments"<sup>2188</sup>. The Court determined that the comments made by the deputy used discriminatory language that violated the dignity of transgender women, and that "had the purpose of making the complainant [deputy] and transgender women invisible, violating their political-electoral right to exercise the passive vote, by relating to a gender category"<sup>2189</sup>. In this framework, it ordered the Internal Comptroller's Office of the Chamber of Deputies and Deputies to be

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<sup>2180</sup> El Sol de Toluca. May 19, 2022. [Policemen assault journalists during mobilization of the LGBT+ community in Toluca](#); La Jornada. May 20, 2022. [Reprimen protesta de minorías sexuales en Toluca \(Sexual minorities protest repressed in Toluca\)](#).

<sup>2181</sup> State of Mexico (Edomex), Secretary of Security. May 19, 2022. [The Secretariat of Security informs about possible aggressions committed by state police against journalists and demonstrators](#).

<sup>2182</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Foreword and paras. 1-46.

<sup>2183</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 91.

<sup>2184</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 93.

<sup>2185</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 246.

<sup>2186</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 102.

<sup>2187</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

<sup>2188</sup> Electoral Tribunal of the Federal Judiciary. April 21, 2022. [Federal Deputy Salma Luévano Luna suffered political violence against women on the basis of gender, derived from various comments made on the Twitter profile of federal deputy Gabriel Ricardo Quadri de la Torre made against her and trans women: Specialized Chamber](#).

<sup>2189</sup> Electoral Tribunal of the Federal Judiciary. April 21, 2022. [Federal Deputy Salma Luévano Luna suffered political violence against women on the basis of gender, derived from various comments made on the Twitter profile of federal deputy Gabriel Ricardo Quadri de la Torre made against her and trans women: Specialized Chamber](#).

informed for the application of the corresponding sanction, in addition to the implementation of various measures of comprehensive reparation, consisting of the implementation of courses on gender-based political violence against women and violence against LGBT+ persons, the offering of a public apology and the publication of the summary of the sentence in its Twitter account (SRE-PSC-50/2022)<sup>2190</sup>.

989. In relation to this case, the National Human Rights Commission (CNDH) condemned the legislator's expressions, which it considered discriminatory, and urged "legislators, authorities and the population in general to avoid such discriminatory statements and actions"<sup>2191</sup>. In making its pronouncement, the CNDH also made an "energetic call" to political parties so that within their statutes and principles they consider practices aimed at inclusion, equality, non-discrimination and the elimination of all forms of violence against the LGBT+ population<sup>2192</sup>.

990. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression and citizen participation of groups historically excluded from public debate, such as women, LGBT+ persons, or indigenous peoples. The Inter-American system grants enhanced protection to those speeches that express constitutive elements of the personal identity or dignity of those who express themselves<sup>2193</sup> and, therefore, the Rapporteurship invites States to identify possible obstacles or limitations to the freedom of expression of these groups and to tune institutional practices to the enhanced protection of this type of speeches.

991. In relation to the foregoing, the Rapporteurship positively values the progress reported by the State in relation to the promotion of community and indigenous radio broadcasting. In this regard, the State indicated that as part of the activities contemplated in the first stage of the "ProRadio 2022 Program," between April 27 and 29, 2022, three webinars were held in which information and advice was provided to those interested in obtaining a social, community or indigenous concession for radio broadcasting services<sup>2194</sup>. The State emphasized that "with these actions the Federal Telecommunications Institute reaffirms its commitment to promote community and indigenous broadcasting; as well as the participation of citizens, peoples and communities in the dissemination of their own content that reflects the ethnic and cultural diversity of Mexico"<sup>2195</sup>.

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

992. On April 25, the plenary of Mexico's Supreme Court of Justice of the Nation declared unconstitutional the decree that created the National Registry of Mobile Telephone Users (Panaut), which obliged users to provide various personal data such as name, nationality, identification number or Unique Population Registry Code (CURP), and biometric data<sup>2196</sup>. The Court based its decision mainly on the fact that the restrictions to the right to privacy provided by the Decree did not pass the proportionality test, since there were alternative measures equally suitable to guarantee public security and less harmful to this right<sup>2197</sup>. This decision was

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<sup>2190</sup> Electoral Tribunal of the Federal Judiciary. April 21, 2022. [Federal Deputy Salma Luévano Luna suffered political violence against women on the basis of gender, derived from various comments made on the Twitter profile of federal deputy Gabriel Ricardo Quadri de la Torre made against her and trans women: Specialized Chamber.](#)

<sup>2191</sup> CNDH. January 13, 2022. Communiqué DGDDH/009/2022. [CNDH condemns discriminatory expressions by legislator against trans persons.](#)

<sup>2192</sup> CNDH. January 13, 2022. Communiqué DGDDH/009/2022. [CNDH condemns discriminatory expressions by legislator against trans persons.](#)

<sup>2193</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

<sup>2194</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 16. Special Rapporteurship file; Federal Institute of Telecommunications. April 21, 2022. [The IFT will carry out the ProRadio 2022 Program to provide advice to those interested in obtaining social, community and indigenous concessions \(Communiqué 35/2022\).](#)

<sup>2195</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 16. Special Rapporteurship file; Federal Institute of Telecommunications. April 21, 2022. [The IFT will carry out the ProRadio 2022 Program to provide advice to those interested in obtaining social, community and indigenous concessions \(Communiqué 35/2022\).](#)

<sup>2196</sup> Supreme Court of Mexico. April 25, 2022. Communiqué No. 137/2022. [Plenary of the SCJN declares unconstitutional the regulatory system that creates the National Registry of Mobile Telephony Users](#); Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report of RELE-IACHR. P. 12. Archive of the Office of the Special Rapporteur.

<sup>2197</sup> Supreme Court of Mexico. April 25, 2022. Communiqué No. 137/2022. [Plenary of the SCJN declares unconstitutional the regulatory system that creates the National Registry of Mobile Telephony Users.](#)



welcomed by civil society organizations and by the Mexico City Human Rights Commission (CDHCM)<sup>2198</sup>. As pointed out in the last annual report of the RELE, the reports received from organizations dedicated to the defense of human rights in digital environments warned that its application constituted a serious risk to the privacy of citizens<sup>2199</sup>.

993. This Office has already emphasized that respect for freedom of expression on the Internet presupposes privacy of communications, since "without a private space, free from arbitrary interference by the State or private parties, the right to freedom of thought and expression cannot be fully exercised"<sup>2200</sup>. States therefore have an obligation to respect and protect the right to privacy in accordance with international human rights law, including in the context of digital communications<sup>2201</sup>. In the report "Freedom of Expression and the Internet," the Rapporteurship noted that "the authorities must, on the one hand, refrain from arbitrary intrusions into the orbit of the individual, his or her personal information and communications and, on the other hand, must ensure that other actors refrain from such abusive conduct"<sup>2202</sup>. For the Office of the Special Rapporteur, this aspect is closely linked to the State's obligation to create an environment conducive to the exercise of the right to freedom of expression, since the violation of the privacy of communications has a chilling effect and affects the full exercise of the right to communicate<sup>2203</sup>.

994. According to Freedom House's "Freedom on the Net" report, in Mexico state actors continue to resort to legal threats to remove journalistic information published on digital platforms<sup>2204</sup>. Thus, for example, according to available information, on April 11 a judge in Yucatan ordered the media outlets Cambio del Sureste, Grillo de Yucatan, Infolliteras, Noticias al Punto, Yucatan al Segundo and La Noticia Ciudadana to remove journalistic articles related to the former Undersecretary of the Ministry of Urban Development and Environment<sup>2205</sup>. The articles in question reported alleged acts of corruption by the former official<sup>2206</sup>. Likewise, in April, the organization Artículo 19 denounced that the journalist Eduardo Lliteras of the portal *Infolliteras de Yucatán*, was notified on April 18 of a lawsuit for alleged moral damages against a businessman, as a result of the publication of a report that related him to illegal activities<sup>2207</sup>. According to them, the businessman requested the removal of the publications and a compensation of 500 thousand pesos<sup>2208</sup>.

995. Likewise, a report published in February 2022 by the media *Rest of World* investigated the role of the company Eliminalia, dedicated to "reputation management", in the activation of removal and deindexation

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<sup>2198</sup> R3D. April 25, 2022. [Plenary of the SCJN declares PANAUT unconstitutional](#); Derechos Digitales. February 25, 2022. [#NoAlPadrón: Mexico facing abusive regulation for cell phone use](#); Article 19. 22 February 2022. [SCJN must declare PANAUT unconstitutional](#); Mexico City Human Rights Commission. [CDHCM celebrates the SCJN's decision to declare unconstitutional the reforms that created the National Registry of Mobile Phone Users](#).

<sup>2199</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Paras. 626.

<sup>2200</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 130.

<sup>2201</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 23.

<sup>2202</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 23.

<sup>2203</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 23.

<sup>2204</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022.

<sup>2205</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Article 19. 12 April 2022. [Judicial branch, Yucatan prosecutor's office and former official maintain judicial harassment and threaten to sanction journalists](#); Infolliteras. 15 April 2022. [A paso de tortuga, la Comisión de Derechos Humanos del Estado de Yucatán, CODHEY, de seguimiento a la supuesta "investigación de oficio" sobre demanda de eliminar notas dirigida a Infolliteras desde el Poder Judicial](#); Disidente. 14 April 2022. [Codhey investigates harassment against journalists in Yucatán](#).

<sup>2206</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Article 19. 12 April 2022. [Judicial branch, Yucatan prosecutor's office and former official maintain judicial harassment and threaten to sanction journalists](#); Infolliteras. 15 April 2022. [A paso de tortuga, la Comisión de Derechos Humanos del Estado de Yucatán, CODHEY, de seguimiento a la supuesta "investigación de oficio" sobre demanda de eliminar notas dirigida a Infolliteras desde el Poder Judicial](#); Disidente. 14 April 2022. [Codhey investigates harassment against journalists in Yucatán](#).

<sup>2207</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Animal Político. April 20, 2022. [Denuncia Artículo 19 denuncia hostigamiento judicial contra el periodista Eduardo Lliteras en Yucatán](#); Article 19 Twitter account (@article19mex). 20 April 2022. 2022.

<sup>2208</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Animal Político. April 20, 2022. [Denuncia Artículo 19 denuncia hostigamiento judicial contra el periodista Eduardo Lliteras en Yucatán](#); Article 19 Twitter account (@article19mex). 20 April 2022. 2022.



processes of internet content related to persons of public interest in Mexico and other countries<sup>2209</sup>. According to the information reported, the company would use legal threats and claims alleging copyright infringement against media outlets to get them to remove content that mentioned businessmen and people linked to politics<sup>2210</sup>.

996. The Office of the Special Rapporteur reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they must be provided for by law and pursue a legitimate aim recognized by international law and be necessary to achieve that aim (the "tripartite" test)<sup>2211</sup>. In assessing the proportionality of a restriction on freedom of expression on the Internet, the impact that such a restriction might have on the Internet's ability to ensure and promote freedom of expression must be weighed against the benefits that the restriction would bring for the protection of other interests<sup>2212</sup>.

997. Also, in a joint statement, the regional freedom of expression mandates of the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS) and the African Commission on Human and Peoples' Rights (ACHPR) emphasized that "States should not subject Internet intermediaries to mandatory orders to remove or otherwise limit content, except where content is lawfully limited in accordance with [international] standards."<sup>2213</sup>.

998. Finally, the State reported that through the Federal Telecommunications Institute it launched the Annual Digital Literacy Program (PAD) 2022, which aims to conduct courses and lectures that promote digital skills throughout the country, especially in areas with less access to information and communication technologies<sup>2214</sup>. According to the Mexican State, the PAD 2022 was prepared following the recommendations of international organizations that point out the need for States to implement mechanisms for capacity building related to technology and innovation, and the development of strategies, policies and programs for digital skills<sup>2215</sup>. The State also reported on the various lines of action of the Federal Telecommunications Institute (IFT) to close the digital divide and its strategic planning for the period 2021-2025; as well as the implementation of initiatives from the executive branch to close the digital divide, such as the Social Coverage Program (PCS), the "Smart Villages, Sustainable Wellbeing" project, among other initiatives identified in different states<sup>2216</sup>.

999. Finally, the Rapporteurship appreciates the information provided by the State on mobile service coverage in indigenous peoples<sup>2217</sup>. Likewise, RELE welcomes the publication of statistical data by the IFT on the scope of mobile service coverage in 2G, 3G and 4G technologies in the 66 indigenous peoples identified in Mexico in the 2020 Census, as well as the accuracy of the localities in which coverage is still non-existent<sup>2218</sup>. As the IACHR and its Office of the Special Rapporteur have stated, the production of data and statistics on the levels of internet access throughout the territory is a fundamental part of universal internet access policies, as

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<sup>2209</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Rest of World. February 3, 2022. [Exposed documents reveal how the powerful clean up their digital past using a reputation laundering firm](#); Rest of World. 24 Feb. 2022. [Powerful Mexicans pay to scrub their reputations online. Lawyers fear it's hindering criminal investigations](#).

<sup>2210</sup> Freedom House. [Freedom on the Net 2022. Mexico](#). 2022; Rest of World. February 3, 2022. [Exposed documents reveal how the powerful clean up their digital past using a reputation laundering firm](#); Rest of World. 24 Feb. 2022. [Powerful Mexicans pay to scrub their reputations online. Lawyers fear it's hindering criminal investigations](#).

<sup>2211</sup> UN, OSCE, OAS, CADHP. June 1, 2022. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>2212</sup> UN, OSCE, OAS, CADHP. June 1, 2022. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>2213</sup> UN, OSCE, OAS, CADHP. May 4, 2016. [Joint statement on freedom of expression and countering violent extremism](#).

<sup>2214</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 15. Archive of the Office of the Special Rapporteur.

<sup>2215</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. P. 15. Archive of the Office of the Special Rapporteur.

<sup>2216</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. Pp. 19 to 35. Archive of the Office of the Special Rapporteur.

<sup>2217</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. Archivo de la Relatoría Especial; Instituto Federal de Telecomunicaciones. August 9, 2022. [Cobertura del Servicio Móvil en los Pueblos Indígenas](#).

<sup>2218</sup> Permanent Mission of Mexico to the OAS. October 12, 2022. Inputs from Mexico for the 2022 Annual Report RELE-IACHR. Archivo de la Relatoría Especial; Instituto Federal de Telecomunicaciones. August 9, 2022. [Cobertura del Servicio Móvil en los Pueblos Indígenas](#).

they serve to guide the design of these public policies<sup>2219</sup>. RELE has recommended that statistics include at least disaggregated figures according to provinces and geographic areas, gender, age and type of connection; and that, in particular, provide data on the level of Internet penetration in vulnerable communities, rural areas, historically discriminated sectors and indigenous peoples<sup>2220</sup>. RELE welcomes these initiatives and encourages the State to continue its efforts to guarantee both access to quality internet and the development of digital skills, through the implementation of digital literacy programs with a human rights perspective<sup>2221</sup>.

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<sup>2219</sup> IACHR. March 26, 2021. [Guide No. 3 How to promote universal access to the Internet during the COVID-19 pandemic](#).

<sup>2220</sup> IACHR. March 26, 2021. [Guide No. 3 How to promote universal access to the Internet during the COVID-19 pandemic](#).

<sup>2221</sup> IACHR. March 26, 2021. [Guide No. 3 How to promote universal access to the Internet during the COVID-19 pandemic](#).

## NICARAGUA

1000. In 2022, the Office of the Special Rapporteur observed an intensification of the repressive acts by the Nicaraguan State against journalists. These acts included police operations at their residences and media facilities, judicial persecution, confiscation of media and seizure of work equipment. The newspaper *La Prensa* and its journalistic team were one of the main targets of persecution by the Government, which resulted in the entire editorial staff being forced to leave the country in a short period of time, an unprecedented event in the monitoring of this Office. Likewise, in 2022, journalists Miguel Mora and Miguel Mendoza were sentenced to 13 years and 9 years in prison, respectively, for the crime of “conspiracy to undermine national integrity”. Throughout the year, both journalists - imprisoned in the new Chipote prison - were on hunger strike for prolonged periods of time to demand that the authorities allow them to see their sons and daughters. Reports received by this Office indicate that, since the beginning of the human rights crisis in 2018, at least 54 media outlets would have been closed, almost 30 of them in 2022 alone. On September 21, *CNN en Español* was taken off the air by the Government. According to the Nicaraguan Institute of Telecommunications (TELCOR), the measure was taken because it found that the content transmitted by CNN “contravenes, violates and injures the legal norms” of Nicaragua. In a year in which the Government cancelled the legal status of more than 2,000 civil society organizations, the Rapporteurship emphasizes that there is a closure and government co-optation of civic spaces and democratic participation in Nicaragua, and urges the State to restore and enforce the full enjoyment of civil and political rights, especially freedom of expression, peaceful assembly and association. While measures of persecution and censorship have reached widely diverse organizations, in 2022 the IACHR and its Office of the Special Rapporteur particularly observed an increase in harassment against the Catholic Church.

### A. Journalism and democracy

1001. In 2022, the Office of the Special Rapporteur for Freedom of Expression of the IACHR received information on an increase in police operations at journalists’ residences and media facilities, raids, confiscation of media outlets, seizure of work equipment, displacement and forced exile of journalists.<sup>2222</sup> Likewise, the information reported indicates that some media outlets have cut back their coverage of political issues as a result of government threats to close them.<sup>2223</sup> The complaints received by this Office show that the actions taken by the State seek to silence the press and control any speech that questions or contradicts the official voices, undermining the basic guarantees for the exercise of fundamental freedoms.

1002. In 2022, the newspaper *La Prensa* and its members were one of the main targets of persecution by the Government.<sup>2224</sup> According to the newspaper, this attack reached the entire journalistic team, including drivers, photographers and reporters.<sup>2225</sup> The information received indicates that, in July the National Police raided the homes of members of the newspaper and arbitrarily detained some of them, who were subsequently transferred to the prison of Nuevo Chipote.<sup>2226</sup> According to public information, the actions perpetrated against the newspaper were linked to its coverage of the Government’s expulsion of the religious order Misioneras de la Caridad de Nicaragua, after the cancellation of its legal status on June 29, 2022.<sup>2227</sup> The newspaper *La Prensa* demanded that the Nicaraguan Government “respect the laws”, “release the detainees” and “cease the persecution against the staff of the newspaper” because “they are only doing their job, without committing any crime”.<sup>2228</sup> In this context, that same month, *La Prensa* reported that its entire editorial team was forced to leave

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<sup>2222</sup> IACHR. July 15, 2022. Office of the Special Rapporteur for Freedom of Expression. [Nicaragua must cease persecution of independent press and be held accountable for its actions](#). Press Release No. R163/22; See following paragraphs of this report.

<sup>2223</sup> El Comercio. July 11, 2022. [Nicaraguan press suppresses political topics after government threats](#); Swissinfo. 11 July 2022. [Nicaraguan press suppresses political topics after government threats](#).

<sup>2224</sup> El País. July 21, 2022. [‘La Prensa’ journalists leave Nicaragua due to harassment by Daniel Ortega’s regime](#); Deutsche Welle. July 21, 2022. [La Prensa journalists leave Nicaragua denouncing persecution](#).

<sup>2225</sup> La Prensa. July 7, 2022. [Ortega’s regime persecution against La Prensa](#); Onda Local. July 7, 2022. [La Prensa denounces persecution of its workers](#).

<sup>2226</sup> La Prensa. July 7, 2022. [Ortega’s regime persecution against La Prensa](#); AP. July 9, 2022. [Nicaragua goes after newspaper for reporting nuns’ expulsion](#); CPJ. July 18, 2022. [Nicaraguan police raid homes of two La Prensa journalists and arrest two media workers](#).

<sup>2227</sup> Voz de America. July 8, 2022. [Nicaragua: detains worker of La Prensa for reporting on the expulsion of 18 nuns](#); AP. July 9, 2022. [Nicaragua goes after newspaper for reporting nuns’ expulsion](#).

<sup>2228</sup> La Prensa. July 7, 2022. [Ortega regime unleashes persecution against La Prensa staff](#).

Nicaragua.<sup>2229</sup> The Special Rapporteur pointed out that this is unprecedented in the monitoring carried out by the Office, since there are no previous records of an entire newsroom having been forcibly displaced into exile in such a short period of time.<sup>2230</sup>

1003. The Office of the Special Rapporteur condemned the escalation of repression by the authorities against journalists and urged the State to cease persecution, intimidation and harassment against the independent press that reports on matters of public interest, including the human rights crisis, and to restore full guarantees to exercise the right to freedom of expression.<sup>2231</sup> On September 29, the Nicaraguan Attorney General's Office reported on the indictment of four workers of *La Prensa* for the crime of conspiring undermine national integrity, jointly with the crime of propagation of false news through information and communication technologies, to the detriment of the State and Nicaraguan society.<sup>2232</sup> According to what this Office was able to learn, the accused persons include the journalist and the driver assigned to cover the expulsion from the country of the Missionaries of Charity order.<sup>2233</sup>

1004. The use of criminal mechanisms against journalists who report on the political and human rights situation in Nicaragua is one of the main repressive tools used by the Government to silence the press. In 2022, this Office learned of several judicial convictions, framed in closed trials that did not respect the basic guarantees of due process, and which confirm that Nicaraguan journalists who persist in the exercise of their profession, despite the Government's threats, are likely to end up in prison.<sup>2234</sup>

1005. On February 4, 2022, the Second Criminal District Court sentenced journalist and former presidential pre-candidate Miguel Mora to 13 years in prison and disqualified him from holding public office for allegedly committing the crime of "conspiracy to undermine national integrity", provided for in Law 1055 on the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace.<sup>2235</sup> Miguel Mora, owner and former director of the TV channel *100% Noticias*, was arrested on June 20, 2021 in Managua and has been deprived of his liberty for more than 440 days in the Judicial Assistance Directorate (DAJ), known as *El Chipote* prison.<sup>2236</sup> Family members have denounced that Miguel's health has deteriorated severely due to poor food and conditions of confinement.<sup>2237</sup> Between July and August, the journalist remained on hunger strike for 59 days to demand that the authorities allow him to see his son and have access to a Bible.<sup>2238</sup> On August 12, 2022, in an extraordinary session of the Permanent Council of the OAS, the president of the IACHR, Julissa Mantilla, warned about the hunger strike, and demanded that the Nicaraguan State guarantee his life and

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<sup>2229</sup> La Prensa. July 21, 2022. [La Prensa editorial staff forced to abandon Nicaragua by Ortega's regime persecution](#); CNN Español. July 22, 2022. [La Prensa newspaper reports that its editorial staff leaves Nicaragua for safety](#).

<sup>2230</sup> La Prensa. July 27, 2022. [IACHR so far had no record of the exile of "an entire newsroom," as has happened with LA PRENSA](#); Voz de America. July 28, 2022. [IACHR condemns the situation of the Nicaraguan newspaper La Prensa](#).

<sup>2231</sup> IACHR. July 15, 2022. Office of the Special Rapporteur for Freedom of Expression. [Nicaragua must cease persecution of independent press and be held accountable for its actions](#). Press Release No. R163/22.

<sup>2232</sup> La Prensa. October 3, 2022. [Regime accuses four LA PRENSA workers of "conspiracy"](#); Swissinfo. October 4, 2022. [Nicaraguan prosecutor's office accuses four La Prensa workers of conspiracy](#); CPJ. October 17, 2022. [Authorities accuse four workers of the Nicaraguan newspaper La Prensa of conspiracy, two of whom remain in preventive detention](#).

<sup>2233</sup> La Prensa. October 3, 2022. [Regime accuses four LA PRENSA workers of "conspiracy"](#); Swissinfo. October 4, 2022. [Nicaraguan prosecutor's office accuses four La Prensa workers of conspiracy](#); CPJ. October 17, 2022. [Authorities accuse four workers of the Nicaraguan newspaper La Prensa of conspiracy, two of whom remain in preventive detention](#).

<sup>2234</sup> BBC. February 11, 2022. [Nicaraguan justice system condemned opponents in closed trials to sentences of up to 13 years in prison](#); Inter American Press Association (IAPA). March 2, 2022. [IAPA demands release of journalists prisoners of conscience in Nicaragua](#).

<sup>2235</sup> ABC International. February 9, 2022. [Miguel Mora, journalist and pre-candidate for president of Nicaragua, sentenced to 13 years in prison](#); AP. February 9, 2022. [Nicaragua sentences journalist, ex-minister for "conspiracy"](#).

<sup>2236</sup> La Prensa. September 3, 2022. [Miguel Mora completes 440 days in DAJ cells and managed to see his son Miguelito on the tenth visit](#); Artículo 66. 20 October 2022. [Miguel Mora, 16 months in captivity in "El Chipote"](#).

<sup>2237</sup> Artículo 66. July 28, 2022. [Concern for the health of Miguel Mora, after 35 days on hunger strike because he is not allowed to see his son](#); Inter American Press Association. [IAPA warns of deteriorating health of Nicaraguan journalists in prison](#).

<sup>2238</sup> Divergentes. July 30, 2022. [Miguel Mora's hunger strike in El Chipote extends and hits his health](#); 100% Noticias. August 12, 2022. [Miguel Mora's life in danger 50 days into hunger strike](#); La Prensa. September 3, 2022. [Miguel Mora completes 440 days in DAJ cells and managed to see his son Miguelito on the tenth visit](#).

integrity.<sup>2239</sup> According to public information, on August 20, 2022, Miguel Mora was reunited with his son, after the authorities authorized the visit.<sup>2240</sup>

1006. Likewise, on February 8, 2022, the Ninth Criminal Trial District Court of Managua sentenced sports journalist Miguel Mendoza to nine years in prison for allegedly committing the crime of “conspiracy to undermine national integrity”, and disqualified him from holding public office for the same years.<sup>2241</sup> Likewise, the judge in charge ordered the confiscation of all his assets.<sup>2242</sup> The sports journalist was arrested in June 2021, after a police raided his home located in Managua, as part of a wave of arrests of opposition political leaders and critics of the government, prior to the general elections of November 2021.<sup>2243</sup> In November 2022, the journalist had been on hunger strike for more than 40 days as a measure to pressure the authorities to allow him to see his daughter.<sup>2244</sup> According to the information available, through the defense attorney, eleven requests were introduced so that his daughter could enter the facilities of *El Chipote* prison, where the journalist is serving his sentence.

1007. On March 23, 2022, in a closed trial - as in the cases of Miguel Mora and Miguel Mendoza - the Second Criminal District Court of Managua sentenced Juan Lorenzo Holmann Chamorro, general manager of the newspaper *La Prensa*, to nine years in prison for allegedly committing the crime of money laundering.<sup>2245</sup> In addition, the judge ordered him to pay a fine that, according to representatives of the newspaper, would be three times the amount for which the journalist was brought to trial.<sup>2246</sup> According to the information available, Juan Lorenzo Holmann’s health has deteriorated seriously -particularly due to eye and heart problems- and he remains in isolation, incommunicado and in unhealthy conditions of confinement. At the conclusion of this report, the journalist has been imprisoned for more than 440 days for political reasons.<sup>2247</sup>

1008. In addition to these facts, there are serious reports of an increase of journalists and communicators in displacement and forced exile due to the growing fear of reprisals, which can range from police siege to their homes, threats to their families and even criminalization with exorbitant penalties. The information reported to Rapporteurship indicates that from 2018 to date at least 140 journalists would have left Nicaragua for reasons linked to the lack of guarantees to exercise the profession.<sup>2248</sup> Among the journalists who publicly stated their decision to leave the country in 2022 are Aminta Ramírez,<sup>2249</sup> Julio Jarquín<sup>2250</sup> and María Flordeliz Ordóñez,<sup>2251</sup> beneficiary of precautionary measures of the IACHR.<sup>2252</sup> However, many people have preferred

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<sup>2239</sup> IACHR. August 12, 2022. [Speech by the President of the IACHR, Commissioner Julissa Mantilla](#). Special session of the Permanent Council.

<sup>2240</sup> La Prensa. August 20, 2022. [Regime authorizes visit of daughter of political prisoner Tamara Dávila](#); 100% Noticias. August 20, 2022. [Miguel Mora receives visit from his son Miquelito in El Chipote after 59 days of hunger strike](#).

<sup>2241</sup> CPJ. February 10, 2022. [Nicaraguan journalist Miguel Mendoza is convicted of disseminating false news and conspiring against national integrity](#).

<sup>2242</sup> El Comercio. February 16, 2022. [Nicaragua: sports journalist critical of Daniel Ortega is sentenced to 9 years in prison for “conspiracy”](#); Artículo 66. February 16, 2022. [Sports reporter Miguel Mendoza sentenced to nine years in prison](#).

<sup>2243</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression of the IACHR](#). OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 632.

<sup>2244</sup> La Prensa. September 21, 2022. [Miguel Mendoza begins hunger strike in El Chipote to be allowed to see his daughter](#); Artículo 66. 3 November 2022. [Miguel Mendoza completes 500 days without seeing his eight-year-old daughter](#).

<sup>2245</sup> France 24. April 1, 2022. [Nicaragua: director of ‘La Prensa’ sentenced to nine years in prison](#); CPJ. March 28, 2022. [Authorities convict Juan Lorenzo Holmann, general manager of the newspaper La Prensa, for the crime of money laundering](#).

<sup>2246</sup> La Prensa. March 31, 2022. [Ortega dictatorship imposes nine years in prison and a millionaire fine on the general manager of LA PRENSA](#); Confidencial. April 1, 2022. [Juan Lorenzo Holmann, general manager of La Prensa, is sentenced to nine years in prison](#).

<sup>2247</sup> Nicaragua Actual. October 28, 2022. [Juan Lorenzo Holmann's daughter exposes to IAPA the serious situation her father is living in prison](#).

<sup>2248</sup> La Prensa. July 27, 2022. [IACHR so far had no record of the exile of ‘an entire newsroom’, as has happened with LA PRENSA](#); Confidencial. September 8, 2022. [Daniel Ortega’s war against journalism: 54 media outlets closed](#); UN. Office of the High Commissioner for Human Rights. October 19, 2022. [Human Rights Committee Considers Report of Nicaragua in the Absence of a Delegation. Experts Ask about the Treatment of Protesters and Reported Fraudulent Practices in Past Elections](#). Press release.

<sup>2249</sup> Swissinfo. January 5, 2022. [Another communicator critical of Ortega leaves Nicaragua for safety](#); Artículo 66. 5 January 2022. [Aminta Ramírez goes into exile due to alleged arrest warrant against her](#).

<sup>2250</sup> 100% Noticias. February 14, 2022. [Sports reporter Julio “El Porteño” Jarquín goes into exile due to threats from Daniel Ortega’s dictatorship](#); IP Nicaragua. February 14, 2022. [Julio “El Porteño” Jarquín goes into exile for safety](#).

<sup>2251</sup> Artículo 66. February 28, 2022. [Notimatv journalist goes into exile due to threats and political persecution against her](#); Infobae. March 3, 2022. [Journalist María Flordeliz Ordóñez left Nicaragua and with her there are now 120 exiled journalists](#).

<sup>2252</sup> IACHR. June 17, 2020. [Resolution 27/2020](#). Precautionary Measures No. 399-20. Eduardo Walter Montenegro Chavarría and others with respect to Nicaragua (Identified members of the NOTIMATV journalistic team).



not to make public the decision to go into exile, for fear that their families or close environments may suffer retaliation.<sup>2253</sup>

1009. Attacks and illegitimate intrusions to the freedom and independence of the media in Nicaragua are part of a trend that continues to increase in 2022. Since the beginning of the human rights crisis in 2018, at least 54 media outlets would have been closed, almost 30 of them in 2022 alone.<sup>2254</sup> Likewise, the facilities of the media outlets *100% Noticias*, *Confidencial* and *La Prensa* were seized and confiscated.<sup>2255</sup> The information received by this Office indicates that most of the closed media correspond to local radio stations that were located in the north of Nicaragua and belonged to the Catholic Church<sup>2256</sup>.

1010. In addition, this Office learned at the beginning of the year of shutting down and confiscation of the portal *Trinchera de la Noticia*, for allegedly “disturbing social peace and refusing to timely present information or presenting incomplete or inaccurate information”, as stated in the resolution of the Judicial Power.<sup>2257</sup> The list of news outlets that were shut down in 2022 includes, among many others, the television channel *Condega Visión*, which broadcast from the department of Estelí; the channel *NGTV3*, which broadcast from the municipality of Nueva Guinea; *Radio Darío*, from the municipality of León; *Radio Estéreo Libre*, from the municipality of Jinotega; *Radio Católica de Sébaco* and other Catholic radio stations of the Diocese of Matagalpa.<sup>2258</sup> In August, the IACHR and its Office of the Special Rapporteur for Freedom of Expression condemned the arbitrary suspension of seven Catholic radio stations in the Diocese of Matagalpa, and the violent entry of the police into the Niño Jesús de Praga chapel on August 1, from where they allegedly took radio and TV equipment. The IACHR and the Rapporteur reiterated the call to the State of Nicaragua to cease the constant attacks against the Catholic Church.<sup>2259</sup>

1011. On the evening of September 21, the Government of Nicaragua took *CNN en Español* off the air.<sup>2260</sup> The news outlet assured that it “will continue to fulfill its responsibility to the Nicaraguan public, offering news links on CNNespanol.com, so that they can have access to information that is not otherwise available”.<sup>2261</sup> It also reaffirmed its commitment “to truth and transparency” and its belief “in the vital role that freedom of the press plays in a healthy democracy”.<sup>2262</sup> In this regard, the Nicaraguan Institute of Telecommunications (TELCOR) asserted that the order to remove the channel from the cable network was taken based on the functions and powers conferred to it by the internal regulations as it had found that “the content transmitted by the Channel ‘CNN en Español’ through the Subscription Television network of its representative, contravenes, violates and harms the legal norms (...)” of Nicaragua.<sup>2263</sup>

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<sup>2253</sup> *La Prensa*. March 2, 2022. [Between 70 and 120 journalists are in exile, due to threats and persecution by the regime](#); NTN24. July 18, 2022. [Independent journalists in Nicaragua, forced into exile](#).

<sup>2254</sup> *Confidencial*. September 8, 2022. [Daniel Ortega's war against journalism: 54 media outlets closed](#); UN. Office of the High Commissioner for Human Rights. October 19, 2022. [Human Rights Committee Considers Report of Nicaragua in the Absence of a Delegation. Experts Ask about the Treatment of Protesters and Reported Fraudulent Practices in Past Elections](#). Press release.

<sup>2255</sup> Swissinfo. March 2, 2022. [Union demands Ortega to return "confiscated" press media in Nicaragua](#); Divergentes. February 23, 2022. [Ortega resurrects confiscations as state policy](#); Infobae. June 20, 2022. [IAPA repudiated the confiscation and shutdown of a fourth media outlet in Nicaragua](#).

<sup>2256</sup> *Confidencial*. September 8, 2022. [Daniel Ortega's war on journalism: 54 media outlets closed](#); CPJ. 20 September 2022. [Nicaraguan government suspends at least 17 local radio and TV stations](#); Artículo 66. August 3, 2022. [IAPA condemns "massive shutdown" of radio stations by Sandinista dictatorship](#); La Nación. August 19, 2022. [Persecution against the Church in Nicaragua: the most critical bishop of the regime is kidnapped, amid the silence of the Pope](#).

<sup>2257</sup> Swissinfo. June 10, 2022. [Nicaraguan media Trinchera de Noticia denounces police occupation and shutdown](#); CNN Español. June 11, 2022. [Independent media outlet "Trinchera de la Noticia" denounces police raid and shutdown](#); CPJ. June 30, 2022. [Nicaraguan police raid, close independent news outlet Trinchera de la Noticia](#).

<sup>2258</sup> CPJ App. September 20, 2022. [Nicaraguan government suspends at least 17 local radio and TV stations](#); Deutsche Welle (DW). August 11, 2022. [Nicaragua: NGTV television channel announces closure](#); CNN Español. August 13, 2022. [Telcor orders cancellation of Radio Darío in Nicaragua, the tenth in recent months](#).

<sup>2259</sup> IACHR Twitter account (@IACHR). [August 3, 2022](#).

<sup>2260</sup> CNN English. September 22, 2022. [Nicaraguan government takes CNN en Español off the air](#); Reuters. 22 September 2022. [Nicaragua blocks Spanish-language CNN from air amid government crackdown](#).

<sup>2261</sup> CNN English. September 22, 2022. [Government of Nicaragua takes CNN en Español off the air](#).

<sup>2262</sup> CNN English. September 22, 2022. [Government of Nicaragua takes CNN en Español off the air](#).

<sup>2263</sup> RT. 22 September 2022. [Nicaragua removes CNN en Español signal for "contravening, violating and injuring legal norms"; Telcor says it removed CNN en Español from cable for "violating and injuring legal norms" of Nicaragua](#).

1012. According to information gathered by this Office, the Nicaraguan government has used the powers of the Nicaraguan Institute of Telecommunications to arbitrarily close media outlets and censor news programs critical of the government.<sup>2264</sup> In Nicaragua, this agency has, among other functions, the supervision, application and control of compliance with the laws governing the operation and provision of telecommunications services. TELCOR's official website specifies that the agency is responsible for "the administration and regulation of the radio frequency spectrum, as well as the granting of concessions, licenses, permits or registration certificates (...) applicable to companies interested in providing telecommunications services (...)"<sup>2265</sup> The IACHR and its Office of the Special Rapporteur have called on the State to refrain from using its powers in the area of telecommunications as a measure to limit or impede the circulation of information, ideas and opinions.<sup>2266</sup>

1013. In view of the above information, the Office of the Special Rapporteur recalls that journalism is the primary and principal manifestation of freedom of expression, since it is journalists and the media who keep society informed about matters of public interest and contribute to the existence of a broad, robust and pluralistic public debate.<sup>2267</sup> For this reason, States have the obligation to create the conditions for journalists to be able to exercise their function freely, independently and safely.<sup>2268</sup>

1014. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that intimidation and/or threats against social communicators violate the fundamental rights of individuals and strongly restrict freedom of expression.<sup>2269</sup> The IACHR and its Office of the Special Rapporteur have understood that these types of actions are intended to restrict or hinder the work of journalists who investigate attacks, abuses, irregularities or illicit acts of any kind committed by public officials, organizations or private individuals in general.<sup>2270</sup> Likewise, these actions are used as an instrument of intimidation that sends a message to all members of civil society engaged in investigating irregularities in the public administration.<sup>2271</sup> This Office has also stated that this practice "seeks to silence the press in its watchdog role", preventing society from being informed about events of public interest.<sup>2272</sup>

1015. Likewise, this Office emphasizes that direct or indirect pressures from the State aimed at silencing the informative work of social communicators are incompatible with freedom of expression. Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that "[t]he exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner."<sup>2273</sup>

1016. As the Rapporteurship has previously stated, the evidence gathered indicates that there is currently no guarantee whatsoever to exercise the right to freedom of expression in Nicaragua.<sup>2274</sup> Faced with this situation, the Rapporteurship reiterates its call to the State to put an end to the escalation of repression and to guarantee the right of journalists to inform without pressure or interference in their work. The Rapporteurship recalls that it is the duty of the State to promote, respect and guarantee the right of all persons to express their

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<sup>2264</sup> Voz de America. October 17, 2022. [Telcor: The wapon used by Ortega to close media outlets](#); La Prensa. September 12, 2022. [Ortega implements old and new methods to censor independent media, says Voces del Sur report](#).

<sup>2265</sup> Government of Nicaragua. [Nicaraguan Institute of Telecommunications and Postal Services \(TELCOR\)](#).

<sup>2266</sup> IACHR Twitter account (@IACHR). [August 3, 2022](#).

<sup>2267</sup> I/A Court H.R., Advisory Opinion OC-5/85 of November 13, 1985. [Advisory Opinion OC-5/85 of November 13, 1985](#). "Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism" (Arts. 13 and 29 American Convention on Human Rights). Para. 71; IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>2268</sup> IACHR. [Inter-American Legal Framework on the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Para. 8 and para. 165 et seq.

<sup>2269</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2270</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>2271</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>2272</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>2273</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2274</sup> IACHR. July 15, 2022. Office of the Special Rapporteur for Freedom of Expression. [Nicaragua must cease persecution of independent press and be held accountable for its actions](#). Press Release No. R163/22.

opinions or ideas by any means and without fear of being persecuted, punished or stigmatized for it; to participate in the public debate to encourage and enrich it; and to access relevant information to exercise political control that makes possible a true democracy.<sup>2275</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

1017. In 2022, restrictions to fundamental freedoms reached a critical point in Nicaragua.<sup>2276</sup> According to information received, the main strategies used by the Government to limit freedom of expression and public participation this year have been the massive cancellation of legal status of civil society organizations, judicial persecution, and the implementation of control and surveillance mechanisms against human rights defenders, civil society actors, academics, students, members of the Catholic Church, political parties, opponents of the Government and all those who actively participate in public life.<sup>2277</sup> This Office reiterates that there is no longer any space for critical voices in Nicaragua, as the Government's censorship strategy has been steadily deployed against anyone who attempts to question it and against all available areas of democratic participation.<sup>2278</sup>

1018. According to information submitted by civil society organizations to the IACHR and the Office of the Special Rapporteur, from 2018 to the present, Nicaragua has cancelled the legal status of 2,634 civil society organizations; 95% of them would have been cancelled in 2022.<sup>2279</sup> The list of entities would include feminist organizations or those working for women's rights; indigenous and Afro-descendant organizations; environmental organizations; among others. Likewise, the IACHR and the Special Rapporteur received information on the de facto confiscation of at least 43 entities and on the different methods of expropriation consummated by the State, ranging from the freezing of accounts and assets, and the seizure of personal property of workers, to the police occupation of their buildings.<sup>2280</sup>

1019. The international community has emphatically condemned these events. In July 2022, UN experts warned about the arbitrary shutdown of hundreds of civil society organizations and the chilling effect it has on civil society actors, and warned that this situation represents "a clear pattern of repression of civic space".<sup>2281</sup> In September 2022, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur for Freedom of Expression of the IACHR affirmed that there is a "governmental closure and co-optation of civic spaces and democratic participation in Nicaragua" and urged the State to reestablish and make effective the full enjoyment of civil and political rights, especially freedom of expression, peaceful assembly and association.<sup>2282</sup> They also called on the international community to increase its commitment to provide supportive responses to the victims of the human rights crisis.<sup>2283</sup> The situation of the right to freedom of association was also analyzed by the IACHR during a public hearing held at the 185th Period of Sessions.<sup>2284</sup> There, the IACHR described the situation in Nicaragua as "a regime of terror" and

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<sup>2275</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. December 30, 2009; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Background and Interpretation of the Declaration of Principles](#).

<sup>2276</sup> IACHR. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2277</sup> IACHR. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2278</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2279</sup> IACHR. October 27, 2022. 185th Period of Sessions. [Hearing No. 14: Situation of freedom of association in Nicaragua](#).

<sup>2280</sup> IACHR. October 27, 2022. 185th Period of Sessions. [Hearing No. 14: Situation of freedom of association in Nicaragua](#).

<sup>2281</sup> UN. 29 July 2022. [Office of the High Commissioner for Human Rights. Nicaragua: UN experts denounce arbitrary shutdown of civil society organisations](#).

<sup>2282</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2283</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2284</sup> IACHR. October 27, 2022. 185th Period of Sessions. [Hearing No. 14: Situation of freedom of association in Nicaragua](#).

emphasized the importance of continuing to closely observe the situation of fundamental freedoms in the country.<sup>2285</sup>

1020. The Office of the Special Rapporteur emphasizes that any limitations or restrictions on the freedom of peaceful assembly and association must be strictly subject to a series of requirements. International human rights law understands that only those restrictions that are expressly established by law, that are necessary to achieve one of the compelling objectives provided for in international law, and that are proportional to that objective, will be legitimate. In this sense, the Rapporteurship emphasizes that the dissolution of civil society organizations and media is one of the most serious sanctions that the authorities can impose on an organization, and that they can only be used in compliance with the aforementioned requirements.<sup>2286</sup> In addition, international standards require that organizations have the opportunity to appeal the decision before an independent and impartial tribunal.<sup>2287</sup> The Rapporteurship emphasizes that one of the pillars of freedom of association, which must be considered when establishing limitations to this right, is the presumption that the activities of associations are lawful.<sup>2288</sup>

1021. The Office of the Special Rapporteur reiterates the call to the State to refrain from using the law in an arbitrary and selective manner, and from applying abusive government practices, in order to hinder or restrict citizen participation and freedom of expression, peaceful assembly and association.<sup>2289</sup> As noted by UN and IACHR Special Rapporteurs, “the closure and widespread cancellation of civil society organizations and media outlets highlights the governmental co-optation of civic space and the intention to consolidate the official narrative as the only permitted discourse, which is deepened by official propaganda strategies and pressures to replicate it.”<sup>2290</sup>

1022. While the Government’s persecution and censorship measures have reached widely diverse organizations, in 2022 the IACHR and its Special Rapporteurship particularly noted an increase in harassment actions against the Catholic Church.<sup>2291</sup> In May, the IACHR and the Special Rapporteur condemned the order of the regulator TELCOR to remove the *Canal Católico* from the cable television schedules.<sup>2292</sup> *Canal Católico*, which was founded in 2011, belongs to the Episcopal Conference of Nicaragua and was interrupted while broadcasting religious activities.<sup>2293</sup> According to available information, TELCOR’s order was given the day after the bishop of the Diocese of Matagalpa and apostolic administrator of the Diocese of Estelí denounced on social networks the harassment by agents of the National Police.<sup>2294</sup> According to public information, in December the Public Prosecutor’s Office accused two Catholic journalists who collaborate with the Diocese of Matagalpa: Manuel Antonio Obando Cortedano, head of media of the Diocese of Matagalpa (north), and

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<sup>2285</sup> IACHR. October 27, 2022. 185th Period of Sessions. [Hearing No. 14: Situation of freedom of association in Nicaragua](#).

<sup>2286</sup> UN. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. A/HRC/20/27. 21 May 2012. Para. 75.

<sup>2287</sup> UN. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. A/HRC/20/27. 21 May 2012. Para. 61.

<sup>2288</sup> UN. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. A/HRC/23/39. 24 April 2013. Para. 18.

<sup>2289</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2290</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. September 28, 2022. [In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms](#). Press Release 218/22.

<sup>2291</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#). Press Release 119/22; IACHR. August 19, 2022. [IACHR Condemns Repression and Arrests of Members of Roman Catholic Church in Nicaragua](#). Press Release 184/22.

<sup>2292</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#).

<sup>2293</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#). Press Release 119/22; La Prensa. May 20, 2022. [Telcor orders cable companies to remove the Catholic Channel from its signal](#); Artículo 66. 31 May 2022. [Ortega regime takes over the frequency of Canal Católico](#).

<sup>2294</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#). Press Release 119/22; La Prensa. May 19, 2022. [Monseñor Rolando Álvarez denounces persecution by the police and takes refuge in the Santo Cristo de Las Colinas Parish](#); El País CR. 21 May 2022. [Bishop denounces that he suffers police persecution by the Nicaraguan government](#).



Wilberto Artola, journalist of the digital channel *TV Merced*, of the same Diocese.<sup>2295</sup> The journalists were reportedly arrested on December 11, 2022.<sup>2296</sup>

1023. Article 12 of the American Convention provides for “freedom to profess or disseminate one’s religion or beliefs, either individually or together with others, in public or in private” and establishes that “freedom to manifest one’s religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals or the rights or freedoms of others”. As already pointed out by the IACHR and its Special Rapporteur, the order to exclude the *Canal Católico* from the cable network could constitute an arbitrary restriction of the right to disseminate one’s religion or beliefs and, in the current context, also to a form of retaliation against the church for its mediating role and for the support it afforded to victims of the ongoing human rights crisis in Nicaragua.<sup>2297</sup>

1024. On the other hand, the information presented by civil society organizations during the aforementioned public hearing indicates that the practices perpetrated by the Government to prevent or hinder the exercise of freedom of expression, assembly and association have been largely based on a restrictive legal framework with provisions contrary to international human rights standards.<sup>2298</sup> According to the information documented by the Rapporteurship, among the main laws used by the State against civil society actors are Law No. 977 against Money Laundering, Financing of Terrorism and Financing the Proliferation of Weapons of Mass Destruction, of 2018; Law No. 1040 on the Regulation of Foreign Agents, of 2020; Law No. 1042 on Cybercrimes, of 2020; Law No. 1055 on the Defense of the People’s Rights to Independence, Sovereignty and Self-Determination for Peace, of 2020; and Law No. 1115 on the Regulation and Control of Non-Profit Organizations, of 2022.

1025. In 2022, several UN Special Rapporteurs expressed their concerns regarding the aforementioned Law on Regulation and Control of Non-Profit Organizations, known as the “NPO Law”, approved by the National Assembly on March 31, 2022. In particular, the experts drew the attention of the State to the imposition of extensive administrative and registration procedures, the disclosure of beneficiary data, and the significant limitation of external funding for organizations.<sup>2299</sup> The Special Rapporteurs also reminded the State that “its obligations to protect, promote and implement human rights apply in the context of the fight against terrorism, including when enacting measures to combat the financing of terrorism”.<sup>2300</sup>

1026. In 2022, the Rapporteurship also learned of the approval of reforms to the National Cinematheque Law, published on October 18, 2022 through Law 1132.<sup>2301</sup> The Rapporteurship notes with concern the breadth of the powers provided to the National Cinematheque, which in the context of the human rights crisis in Nicaragua could be applied arbitrarily in order to limit or restrict film production. For example, the regulation grants the entity the power to “authorize the pre-production, production, realization or filming, exhibition and distribution of national or foreign audiovisual and cinematographic projects in Nicaragua”.<sup>2302</sup> The regulation also provides for “preventive security measures”, which could consist of “the prohibition of the development,

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<sup>2295</sup> Swissinfo. December 15, 2022. [Two journalists collaborating with Nicaraguan bishop Rolando Álvarez are accused](#); La Prensa. 15 December 2022. Two [Matagalpa journalists working for Catholic media accused](#).

<sup>2296</sup> Infobae. December 12, 2022. [Detention of two Catholic journalists in Nicaragua denounced](#); Swissinfo. 15 December 2022. [Two journalists collaborating with Nicaraguan bishop Rolando Álvarez are accused](#).

<sup>2297</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#). Press Release 119/22.

<sup>2298</sup> IACHR. October 27, 2022. 185th Period of Sessions. [Hearing No. 14: Situation of freedom of association in Nicaragua](#).

<sup>2299</sup> Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders. May 5, 2022. [Ref. OL NIC 1/2022](#).

<sup>2300</sup> Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders. May 5, 2022. [Ref. OL NIC 1/2022](#).

<sup>2301</sup> Government of Nicaragua. October 18, 2022. [La Gaceta - N° 195](#).

<sup>2302</sup> Law 1132 on Amendments and Additions to Law No. 909 Creating the National Cinematheque and Amendments to Law No. 723 Law of Cinematography and Audiovisual Arts. Article One: Amendments. Powers.



public exhibition, commercialization of cinematographic and audiovisual products, as well as their confiscation”.<sup>2303</sup>

1027. A group of Nicaraguan independent filmmakers denounced that the Law “harms the freedom of creation and expression of independent filmmakers”, since “the National Cinematheque goes from promoting and disseminating cinematography and audiovisual arts, to regulating and supervising cinematography and audiovisual arts in all its aspects and formats”.<sup>2304</sup> In this sense, they called for “reflecting on the importance of defending creative freedom (...) and ensuring that the rights to freedom of expression and cultural creation are respected”.<sup>2305</sup>

1028. This Office emphasizes that the right to freedom of expression includes “the freedom to seek, receive and impart information and ideas of all kinds, regardless of the borders, either orally, in writing or in print, in the form of art, or through any other media of one’s choice. The Inter-American human rights system protects the right to artistic or symbolic expression, to the dissemination of artistic expression, and to access to art in all its forms. Principle 5 of the Declaration of Principles on Freedom of Expression provides that, “[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”<sup>2306</sup>

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

1029. During 2022, this Office has become aware of the particular impact that the actions identified in the previous sections have had on voices traditionally excluded from public debate. The scenario is aggravated by the lack of official statistical data on violence against groups in vulnerable situations, which ends up harming not only the right of access to information of citizens but also the development of public policies in this area.

1030. The Rapporteurship has received information on the shutdown, seizure of equipment and raid on the facilities of the community radio station *Radio Vos*, which defines itself as a “radio school with a feminist profile”.<sup>2307</sup> In August, TELCOR reportedly cancelled the radio station’s broadcasting license for allegedly failing to comply with rulings of the General Law of Telecommunications. In September, the radio station denounced that State officials had raided and occupied the radio station’s headquarters, which was operating in a rented space, and prevented access to the building.<sup>2308</sup> The shutdown of *Radio Vos* is part of a context of increasing absence of news coverage in areas far from the capital, which this Office has called “zones of media silence”.<sup>2309</sup>

1031. Additionally, in 2022, the Rapporteurship has monitored the impact that the shutdown of more than 2,000 non-governmental organizations has had on actors working on the rights of women, LGBTI+ persons and other vulnerable groups. According to publicly available information, 176 feminist organizations or those working for women’s rights; 76 indigenous and Afro-descendant organizations; and 109 organizations

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<sup>2303</sup> Law 1132 on Amendments and Additions to Law No. 909 Law Creating the National Cinematheque and Amendments to Law No. 723 Law on Cinematography and Audiovisual Arts. Article two: additions. Measures of assurance.

<sup>2304</sup> Voz de America. October 13, 2022. [Nicaragua approves reform to control production of audiovisual material](#); 100% Noticias. October 13, 2022. [Reform to control production of audiovisual material in Nicaragua is approved](#); Ricardo Zambrana Twitter account (@Zambranitis). [October 13, 2022](#).

<sup>2305</sup> Voz de America. October 13, 2022. [Nicaragua approves reform to control the production of audiovisual material](#).

<sup>2306</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2307</sup> SwissInfo. September 6, 2022. [Community radio station denounces expropriation of its facilities in Nicaragua](#); Infobae. [Daniel Ortega's regime expropriated the facilities of the community radio station Radio Vos](#); La Lupa. August 3, 2022. [Radio Vos: "They can turn off the radio, but they can't turn off our voice"](#); Confidential. September 6, 2022. [Regime assaults and confiscates the facilities of Radio Vos de Matagalpa](#).

<sup>2308</sup> SwissInfo. September 6, 2022. [Community radio station denounces expropriation of its facilities in Nicaragua](#); Infobae. [Daniel Ortega's regime expropriated the facilities of the community radio station Radio Vos](#); La Lupa. August 3, 2022. [Radio Vos: "They can turn off the radio, but they can't turn off our voice"](#); Confidential. September 6, 2022. [Regime assaults and confiscates the facilities of Radio Vos de Matagalpa](#).

<sup>2309</sup> IACHR. August 12, 2022. [IACHR Concludes Promotional Visit to Miami, United States of America, and San José, Costa Rica to Monitor the Situation of Nicaraguan Individuals](#). Press Release No. 179/22; IACHR. August 12, 2022. [Speech by the President of the IACHR, Commissioner Julissa Mantilla](#). Special session of the Permanent Council.

dedicated to environmental issues would have been targeted between 2018 and June 2022.<sup>2310</sup> For instance, the *Asociación Programa Regional Feminista La Corriente* was raided and seized by security forces.<sup>2311</sup> The suppression of the legal status of La Corriente reportedly took place alongside 50 other NGOs in the framework of the “National Dignity Day”.<sup>2312</sup> Likewise, during the month of LGBTI+ pride, Nicaraguan activists in exile have denounced the violence against LGBTI people in the country, the concerning impact that the shutdown of NGOs in Nicaragua has on the defense of the rights of this group, and the effects of self-censorship that repression generates.<sup>2313</sup>

1032. This Office recalls that speech that expresses constituent elements of one’s personal identity or dignity is specially protected under the American Convention on Human Rights.<sup>2314</sup> The Rapporteurship highlights the duty of the Nicaraguan State to respect and guarantee the right to freedom of expression of historically discriminated groups. As the Rapporteurship has previously pointed out, on many occasions these groups lack channels or avenues to voice their complaints, express their ideas and opinions, or to inform themselves about the issues that affect them. Therefore, it is essential for the State to promote public policies for the social inclusion of these groups in the media and other spaces for activism and public advocacy, and to refrain from restricting existing civic and public participation spaces for these groups.<sup>2315</sup>

1033. Finally, the Rapporteurship notes with concern the impact that the wave of repression against journalists, human rights defenders, activists and opponents has on women. In particular, women are more vulnerable as they are not only exposed to attacks because of the exercise of their journalistic work or defense of human rights, but are also disproportionately affected and are targets of gender-based reprisals. Thus, for example, in 2022 this Office learned of complaints from women defenders of women’s rights about the creation of false profiles with their names, linking them to pornographic sites, as a strategy of intimidation, harassment to discredit their work.<sup>2316</sup> Additionally, in early January, *Radio La Costeñísima* journalists Kalúa Salazar and Yahaciela Barrera were reportedly the target of police harassment while covering a femicide case in Bluefields.<sup>2317</sup> In this context, the IACHR, through its Special Follow-up Mechanism for Nicaragua (MESENI) and the Office of the Special Rapporteur received information about the attempt by the police to enter the home of Kalúa Salazar.<sup>2318</sup> Likewise, the Office of the Special Rapporteur received information on alleged intimidation and aggressions against the reporter of the *Notimatv* channel, María Flordeliz Ordóñez, who reported that a police patrol raided her home without a warrant for 55 minutes, and that they allegedly beat and threatened her husband, forcing him to remain silent while police officers interrogated her about her work.<sup>2319</sup>

1034. In this context, the Office of the Special Rapporteur draws attention to the significant challenges that persist in gathering official data on discrimination and violence against women and LGBTI+ persons, which

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<sup>2310</sup> IACHR. October 27, 2022. 185th Session. [Hearing No. 14: Situation of freedom of association in Nicaragua](#); Mesoamerican Initiative of Women Human Rights Defenders. June 3, 2022. [Government of Daniel Ortega does not give respite: after new day of cancellations 57 feminist and women's rights organizations have been illegally cancelled since 2018](#).

<sup>2311</sup> 100% Noticias. May 5, 2022. [Shutdown of the feminist association "La Corriente" part of "annihilation" policy of the Nicaraguan regime](#); Artículo 66. July 8, 2022. [La Corriente: "The seizure of our facilities is an illegal act that violates freedom of association"](#).

<sup>2312</sup> 100% Noticias. May 4, 2022. [50 NGOs cancelled in Nicaragua, congressman says this way they avoid "cheating"](#).

<sup>2313</sup> La Lupa. June 29, 2022. [LGBTIQ+ people in Nicaragua and in exile demand respect for their human rights](#). La Prensa. June 26, 2022. [Nicaraguan LGBTIQ+ community in exile in Costa Rica joined the Pride March](#); Artículo 66. 24 June 2022. [LGBTIQ+ community denounces that their rights have been taken away in Nicaragua](#).

<sup>2314</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009. Par. 53.

<sup>2315</sup> IACHR. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. [Chapter IV: Hate Speech and Incitement to Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#). OAS/Ser.L/V/II.rev.2 Doc. 36. 12 November 2015. Paras. 217-221.

<sup>2316</sup> Colectivo de Derechos Humanos Nicaragua Nunca +; CEJIL; IM-Defensoras. March 18, 2022. Communication to the Honorable Commissioner Esmeralda Arosemena de Troitiño and the Honorable Mr. Pedro Vaca Villareal on the Situation of the defense of human rights and freedom of expression in the digital space Nicaragua. Archives of the Rapporteurship.

<sup>2317</sup> Artículo 66. January 5, 2022. [Ortega police besiege journalists from Radio La Costeñísima](#); Voces del Sur. January 2022. [More state repression and less denunciations: this is how 2022 begins for the independent press in Nicaragua](#).

<sup>2318</sup> IACHR Twitter account (@IACHR). [January 7, 2022](#).

<sup>2319</sup> Alertas Libertad de Prensa Nicaragua (@AlertasLP\_Nic) Twitter account. [February 28, 2022](#); La Prensa. March 2, 2022. [Matagalpa journalist goes into exile after detention threats](#); Infobae. March 3, 2022. [Journalist María Flordeliz Ordóñez left Nicaragua and with her there are now 120 exiled journalists](#).

hinders access to information for citizens and makes the size of the problem invisible.<sup>2320</sup> As previously pointed out by the IACHR and its Rapporteurship, access to information has an instrumental character for the exercise of other human rights; and implies the observance of different obligations by the States, among which stand out the obligation to collect and produce information, and the obligation of active transparency. The collection and production of disaggregated information on the situation of violence and discrimination against women and LGBTI+ persons allows for greater effectiveness in the design and evaluation of public policies focused on combating this problem.<sup>2321</sup>

1035. Finally, the Rapporteurship expresses its concern regarding the repression against the Catholic Church -analyzed in the previous recitals of this report- and reiterates its call to the State of Nicaragua to guarantee pluralism of voices and content in the media, including religious discourse.<sup>2322</sup> The Rapporteurship highlights that, according to the Inter-American Legal Framework on the Right to Freedom of Expression, religious speech enjoys a special level of protection under the American Convention on Human Rights (ACHR), as it expresses constitutive elements of personal identity and dignity. This is of particular importance in a country with a majority of its population professing the Catholic religion.<sup>2323</sup>

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

1036. The Rapporteurship recognizes the importance of the digital civic space for the sustainability and survival of independent journalism in Nicaragua and for the exercise of the defense of human rights. In 2022, this Office received information about serious restrictions to the right to freedom of expression, assembly and association on the Internet; and a growing climate of self-censorship of citizens who, for fear of reprisals, choose not to disseminate information or express their ideas and opinions on social networks.<sup>2324</sup> Likewise, there are still relevant challenges for the universalization of access to the Internet in the country.<sup>2325</sup>

1037. In 2022, the Rapporteurship recorded numerous criminal convictions based on the Special Law on Cybercrimes.<sup>2326</sup> In January 2022, the Chinandega Criminal Trial District Court sentenced Donald Alvarenga to 12 years in prison for allegedly committing the crimes of conspiracy to undermine national integrity and propagation of false news through information and communication technologies.<sup>2327</sup> The Rapporteurship also learned of other cases, such as the 11-year prison sentence on the same charges against activist Masaya Nidya Barbosa Castillo;<sup>2328</sup> the 8-year prison sentence on the same charges against activist Cinthia Samantha Padilla Jirón;<sup>2329</sup> and the 8-year prison sentence, also on the same charges, against diplomat Edgar Parrales.<sup>2330</sup> Likewise, in March, activist Yoel Ibazan Sandino, founder of the Facebook page “*Mentes Libres*”, was sentenced

<sup>2320</sup> UN. Report of the Office of the United Nations High Commissioner for Human Rights on Nicaragua. [A/HRC/49/23](#). 2 September 2022.

<sup>2321</sup> IACHR. [Access to information, violence against women and the administration of justice in the Americas](#). OAS/Ser.L/V/II.154 Doc. 19. 27 March 2015. Para. 42.

<sup>2322</sup> IACHR. May 27, 2022. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge the State of Nicaragua to End Persecution of the Church and to Enable a Plurality of Voices](#). Press Release 119/22

<sup>2323</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. December 30, 2009. Para. 53 et seq.

<sup>2324</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. December 30, 2009. Para. 56.

<sup>2325</sup> Freedom House. October 2022. [Freedom on the Net. Nicaragua](#); Colectivo de Derechos Humanos Nicarágua Nunca +; CEJIL; IM-Defensoras. March 18, 2022. Communication to the Honorable Commissioner Esmeralda Arosemena de Troitiño and the Honorable Mr. Pedro Vaca Villareal on the Situation of the defense of human rights and freedom of expression in the digital space Nicaragua. Archives of the Rapporteurship.

<sup>2326</sup> Nicaragua Investiga. October 3, 2022. [Dictatorship charges 13 people for propagation of false news and "conspiracy"](#); 100% Noticias. October 4, 2022. [Matagalpa priests charged with "conspiracy" and "false news"](#); DW. October 20, 2022. [Nicaraguan prosecutor's office accuses another priest of conspiracy](#).

<sup>2327</sup> La Prensa. January 18, 2022. [Donald Alvarenga, first opponent convicted under Cybercrime Law](#); La Prensa. January 28, 2022. [Judge "rectifies" conviction against opposition leader Donald Alvarenga, increases sentence to 12 years in prison and fine of more than 42 thousand córdobas](#); Artículo 66. 31 January 2022. [Donald Alvarenga, the former Sandinista sentenced to 12 years for "inciting violence" through his social networks](#).

<sup>2328</sup> CENIDH Twitter account (@Cenidh). [February 11, 2022](#); Nicaragua Investiga. August 4, 2022. [Political prisoner Nidia Barbosa sentenced to 11 years in prison](#).

<sup>2329</sup> 100% Noticias. March 8, 2022. [Samantha Padilla Jiron sentenced to eight years in prison for "treason" in Nicaragua](#); La Prensa. November 3, 2022. [Samantha Jirón serves 360 days in La Esperanza. These are the women held in this penitentiary system](#).

<sup>2330</sup> CNN. April 27, 2022. [Nicaragua ex-diplomat convicted on charges of conspiracy and spreading false news](#); Confidential. 27 April 2022. [Edgard Parrales before Ortega judge: "I am innocent. I am backed by a history of life and commitment to the defense of Nicaragua"](#).

to 11 years in prison for conspiracy to undermine national integrity and propagation of false news, in relation to different publications made on this page.<sup>2331</sup> On May 5, 2022, the IACHR granted precautionary measures in favor of Yoel Ibzán Sandino, and determined that the State should adopt the necessary measures to protect his rights to life, personal integrity and health. In analyzing and deciding this case, the IACHR took special account of the threats and acts of harassment against Yoel Sandino Ibarra for expressing himself through his social networks in a critical manner to the Government.<sup>2332</sup> According to information reported by *Confidencial*, as of March 2022 at least 30 people had been convicted for conspiracy and propagation of false news.<sup>2333</sup>

1038. The Rapporteurship has received numerous reports indicating that these criminal proceedings did not respect the minimum guarantees of due process, especially in evidentiary matters.<sup>2334</sup> According to available information, during the trial against journalist Miguel Mendoza, which culminated in a 9-year prison sentence, the court allegedly considered as evidence various publications by the journalist on his social networks.<sup>2335</sup> Likewise, this Office became aware of alleged violations of judicial guarantees in the criminal proceeding that the Prosecutor's Office followed against a 56 years old farmer, Santos Camilo Bellorín Lira, who was sentenced to 11 years in prison for allegedly undermining national integrity and propagating false news through information and communication technologies.<sup>2336</sup> According to the information available, Santos Bellorín Lira did not have a profile with recent activity on social networks, nor a cell phone with the necessary technology for connection to a mobile network, or a computer.<sup>2337</sup> To support the accusation of cybercrimes, the Prosecutor's Office allegedly presented screenshots of publications on social networks from some profiles that -according to them- belonged to Mr. Bellorín Lira; however, the Prosecutor's Office did not present sufficient evidence that such profiles actually belonged to Santos Bellorín Lira.<sup>2338</sup>

1039. As reported by the National Assembly, in 2022 various parliamentary commissions conducted consultation on the latest criminal laws, including the Cybercrime Law.<sup>2339</sup> In the consultation with the Judiciary, held in February, the representatives of the Supreme Court considered the Special Law on Cybercrimes as "complete", since they did not "find gaps in the application of the Law".<sup>2340</sup> Likewise, in the consultation with the Nicaraguan Human Rights Ombudsman's Office, which took place in March, the entity stated that "the laws approved have contributed to the work of the entity dedicated to the protection of the human rights, as is the case of the Cybercrime Law which has given a response to many complaints regarding crimes linked to information technologies".<sup>2341</sup>

1040. As in previous years, the Rapporteurship recalls that the right to freedom of expression applies to the Internet in the same way as to all media. This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards which provide, inter alia,

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<sup>2331</sup> Nicaragua Investiga. March 24, 2022. [Activist Yoel Sandino, creator of Mentas Libres, sentenced to 11 and a half years in prison](#); Artículo 66. 23 March 2022. [Ortega's justice system sentences opposition activist Yoel Sandino to 11 years in prison](#).

<sup>2332</sup> IACHR. May 5, 2022. [Resolution 21/22](#). Precautionary Measures No. 145-22. Yoel Ibzán Sandino Ibarra. Nicaragua.

<sup>2333</sup> Confidencial. March 8, 2022. [Regime adds more than 30 political prisoners sentenced for "conspiracy" and "cybercrimes"](#).

<sup>2334</sup> Confidencial. February 15, 2022. [Nicaragua political prisoner convictions based on "ridiculous evidence"](#); Civicus. February 15, 2022. [Nicaragua: several political prisoners tried and convicted - CIVICUS - Tracking conditions for citizen action](#); Artículo 66. February 11, 2022. [Miss World Nicaragua's father Douglas Cerros sentenced to 12 years in prison](#); SwissInfo. 12 February 2022. [Miss World Nicaragua's father sentenced to 12 years in prison](#); Artículo 66. August 12, 2022. [CSJ Criminal Chamber acquits Douglas Cerros: "Version of officials not credible"](#); Nicaragua Investiga. August 12, 2022. CSJ [Criminal Chamber acquits Douglas Cerros](#).

<sup>2335</sup> CPJ. February 10, 2022. [Nicaraguan journalist Miguel Mendoza convicted of crimes of disseminating false news and conspiring against national integrity](#); La Prensa. February 16, 2022. [Journalist and sports reporter Miguel Mendoza is sentenced to 9 years in prison](#).

<sup>2336</sup> Confidencial. February 21, 2022. [Farmer with no smartphone or social networks convicted of cybercrime](#); Artículo 66. February 15, 2022. [Esteli farmer convicted of cybercrime without knowing about technology](#).

<sup>2337</sup> Confidencial. February 21, 2022. [Farmer with no smartphone or social networks convicted of cybercrime](#); Artículo 66. February 15, 2022. [Esteli farmer convicted of cybercrime without knowing about technology](#).

<sup>2338</sup> Confidencial. February 21, 2022. [Farmer with no smartphone or social networks convicted of cybercrime](#); Artículo 66. February 15, 2022. [Esteli farmer convicted of cybercrime without knowing about technology](#).

<sup>2339</sup> National Assembly of Nicaragua. February 24, 2022. [Parliamentary Commissions continue the consultations and analysis of the approved Criminal laws](#).

<sup>2340</sup> National Assembly of Nicaragua. February 24, 2022. [Parliamentary Commissions continue the consultations and analysis of the approved Criminal laws](#).

<sup>2341</sup> National Assembly of Nicaragua. March 9, 2022. [Penal norms contribute to respond to the demands of the population](#).



that they must be provided for by law, pursue a legitimate aim recognized by international law, and be necessary to achieve that aim (the “tripartite” test).<sup>2342</sup>

1041. The Office of the Special Rapporteur reiterates the importance that any legislation aimed at regulating content on the Internet does not contain vague and general definitions or disproportionately affect the free flow of information in the digital sphere. In this regard, this Office has already pointed out that general prohibitions on the dissemination of information based on vague and ambiguous concepts, including the concept of “false news” or “fake news” are incompatible with international standards on freedom of expression.<sup>2343</sup>

1042. In turn, restrictions to digital civic space and self-censorship have escalated, in some situations, to forced exile due to threats, harassment and persecution. In 2022, the Rapporteurship continued to follow up on the case of Kevin Adrián Monzón Mora, who reportedly left the country by force in September 2021. On February 22, 2021, the IACHR granted precautionary measures in his favor, including his family, considering that, as a result of his publications on the social network TikTok, he was exposed to threats, harassment, intimidation and acts of violence in Nicaragua.<sup>2344</sup> Despite the existence of the precautionary measures granted by the IACHR, the Office of the Special Rapporteur learned of the continued acts of harassment and violence against him.<sup>2345</sup> This Office learned that, upon attempting to enter the United States, Kevin Monzón was reportedly detained for at least 40 days in an immigration station, between August and September 2022.<sup>2346</sup> According to available information, he is in the process of applying for political asylum in the United States.<sup>2347</sup>

1043. This Office has also learned of hacking attempts against newspapers and news portals in Nicaragua, such as the *Confidencial* newsletter on Whatsapp, the Whatsapp account of *Artículo 66* and the Twitter account of *100% Noticias*.<sup>2348</sup> This Office highlights that these cases are framed in a context of constant discrediting campaigns, threats, harassment and *doxing* practices in the digital sphere, especially against Nicaraguan human rights defenders and journalists.<sup>2349</sup> In this regard, an OHCHR report of September 2022 indicated that “officials and citizens related to the Sandinista National Liberation Front also allegedly participated in these acts of harassment, intimidating individuals for allegedly using social networks against the Government”.<sup>2350</sup>

1044. The exercise of freedom of expression online also faces significant infrastructure challenges in Nicaragua, particularly due to the low Internet penetration in some territories. According to information gathered by civil society organizations, although progress has been made in recent years, currently less than half of Nicaragua’s population would have access to the Internet.<sup>2351</sup> As far as this Office has been able to observe, the most recent official statistics on internet access are from 2017.<sup>2352</sup> On the other hand, available

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<sup>2342</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

<sup>2343</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, [Joint Declaration on Freedom of Expression and “Fake News”. Disinformation and Propaganda](#). March 3, 2017.

<sup>2344</sup> IACHR. April 22, 2021. [Resolution 33/2021](#). Precautionary Measures No. 205-21. Kevin Roberto Solís. Nicaragua.

<sup>2345</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 64 rev. 1. 26 May 2022. Para. 653.

<sup>2346</sup> Article 66. October 3, 2022. [Kevin Monzon regains his freedom after 40 days detained by U.S. Immigration](#); 100% Noticias. August 18, 2022. [Kevin Monzon crosses Rio Bravo and requests political asylum in the US](#).

<sup>2347</sup> Article 66. October 3, 2022. [Kevin Monzon regains his freedom after 40 days detained by U.S. Immigration](#); 100% Noticias. August 18, 2022. [Kevin Monzon crosses Rio Bravo and requests political asylum in the US](#).

<sup>2348</sup> Freedom House. October 2022. [Freedom on the Net. Nicaragua](#).

<sup>2349</sup> Colectivo de Derechos Humanos Nicaragua Nunca +; CEJIL; IM-Defensoras. March 18, 2022. Communication to the Honorable Commissioner Esmeralda Arosemena de Troitiño and the Honorable Mr. Pedro Vaca Villareal on the Situation of the defense of human rights and freedom of expression in the digital space Nicaragua. Archives of the Rapporteurship.

<sup>2350</sup> UN. Report of the Office of the United Nations High Commissioner for Human Rights on Nicaragua. [A/HRC/49/23](#). September 2, 2022.

<sup>2351</sup> Data Reportal. February 16, 2022. [Digital 2022: Nicaragua](#); Freedom House. October 2022. [Freedom on the Net. Nicaragua](#).

<sup>2352</sup> CANITEL. January 2018. [Canitel Statistics: January 2018](#).



information indicates that internet service continues to be expensive and inaccessible for a large part of the population, despite the fact that in recent years the cost of access has been gradually reduced.<sup>2353</sup>

1045. The Rapporteurship reiterates its call to all States in the region to take action to progressively promote universal access to Internet infrastructure and the technology necessary for its use and affordability.<sup>2354</sup> As the IACHR and its Rapporteurship have pointed out on multiple occasions, access to the Internet is currently a *sine qua non* condition for the full enjoyment of human rights. The Rapporteurship encourages the State to continue working on the development of positive measures to reduce the digital gap faced by vulnerable groups, which on many occasions can reinforce the pre-existing inequalities to which they are exposed.<sup>2355</sup> .

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<sup>2353</sup> Freedom House. October 2022. [Freedom on the Net. Nicaragua](#).

<sup>2354</sup> IACHR Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 December 2013. Para. 15

<sup>2355</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). OEA/Ser.G CP/CAJP/INF.652/19. 2019. P. 39.

## PANAMA

1046. Although in general terms, RELE has recognized that in Panama there are high standards of compliance with the obligations to respect and guarantee the right to freedom of expression, in 2022 there were reports of complaints against journalists by public officials and obstruction of the informative work. Also, according to available information, in July there were large social mobilizations in protest of the high cost of living, where alleged repressive acts against demonstrators and journalists were reported. The Rapporteurship thanks the Permanent Mission of Panama to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

1047. The Office of the Special Rapporteur received reports of legal actions against journalists, especially against the media outlet *La Prensa*, which are cause for concern as they appear to be a form of possible intimidation to hinder the practice of journalism.

1048. On August 6, former president Ricardo Martinelli said he would file criminal charges against *La Prensa*<sup>2356</sup>. This came on the same day that the media announced ongoing investigations against Martinelli's companies and after the U.S. Federal Bureau of Investigation (FBI) alerted Panama about alleged tax evasion operations of a company linked to the former president. The former first lady also announced that she would proceed legally against the newspaper, stating that “there goes her lawsuit and all her cronies”<sup>2357</sup>. The president filed a criminal complaint for forgery after requesting a copy of the published document from the media. In the complaint, the former president asked for an expert appraisal of the document<sup>2358</sup>. In 2021, similar cases promoted by Martinelli had been registered. The increase in the use of legal actions against the media and journalists as a tool of intimidation in Panama was warned during the 77th General Assembly of the Inter American Press Association (IAPA)<sup>2359</sup>.

1049. The Rapporteurship also learned of several publications, including a video, in which the logo of *La Prensa* had been placed with the aim of intimidating the journalist Rolando Rodríguez<sup>2360</sup>. This allegedly occurred after Rodríguez sent some questions as part of an investigation to an assistant of the Vice President of the Republic<sup>2361</sup>. The executives of the media outlet blamed the Government for launching these messages as a consequence of Rodríguez's inquiries that culminated in an article that denounced, among other things, the acquisition of real estate by the Vice President's family<sup>2362</sup>.

1050. On April 1, *La Prensa* attempted to personally deliver a request for information to the Financial Analysis Unit (UAF) that they had also made by e-mail the day before. However, the people in charge of said institution asked the journalistic team to leave, and they were not attended<sup>2363</sup>.

1051. The Rapporteurship had reported in 2021 the indictment of charges of gender violence against journalist Mauricio Valenzuela, who on January 2, 2020 had published information of high public interest about

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<sup>2356</sup> World Association of Journalists. August 5, 2022. [Martinelli anuncia querella por publicación de La Prensa](#); La Prensa. August 5, 2022. [Martinelli announces action against La Prensa](#).

<sup>2357</sup> World Association of Journalists. August 5, 2022. [Martinelli anuncia querella por publicación de La Prensa](#); La Prensa. August 5, 2022. [Martinelli announces action against La Prensa](#).

<sup>2358</sup> Criticism. August 4, 2022. [Martinelli rejects 'false and reckless' facts by La Prensa](#); Panamá América. 5 August 2022. [Martinelli instructs his lawyers to file criminal complaint for falsification, after publication](#).

<sup>2359</sup> Inter American Press Association. October 19, 2021. [Report to the 77th Virtual General Assembly of the IAPA](#); La Vanguardia. October 21, 2020. [Panama's report to the IAPA denounces the use of justice against journalism](#).

<sup>2360</sup> La Prensa. October 6, 2022. [Threats and defamation of La Prensa for upcoming publications on assets of José Gabriel Carrizo's family](#); La Estrella de Panamá. October 11, 2022. [Redoubled security for Vice President Carrizo's family](#).

<sup>2361</sup> La Prensa. October 6, 2022. [Threats and defamation of La Prensa for upcoming publications on assets of José Gabriel Carrizo's family](#); La Estrella de Panamá. October 11, 2022. [Redoubled security for Vice President Carrizo's family](#).

<sup>2362</sup> La Prensa. October 6, 2022. [Threats and defamation of La Prensa for upcoming publications on assets of José Gabriel Carrizo's family](#); La Estrella de Panamá. October 11, 2022. [Redoubled security for Vice President Carrizo's family](#).

<sup>2363</sup> La Prensa. April 4, 2022. [SPI-UAF siege of journalists of "La Prensa"](#).

alleged unlawful acts committed by a deputy<sup>2364</sup>. On March 17, 2022, the prosecution requested the dismissal of the case in favor of Mauricio Valenzuela, for lack of evidence to charge him with the alleged crime against life and personal integrity, in the modality of psychological and gender injuries. Among the petition, the prosecution referred to the higher level of scrutiny that public officials must tolerate. However, the Judge of Guarantees denied the dismissal and referred the case to another prosecutor, stating that freedom of expression is not above Article 17 of the Constitution, which refers to the honor of persons<sup>2365</sup>. For her part, the congresswoman filed a criminal complaint for "simulation of punishable acts and slander in judicial proceedings" against the media *Focopanamá*<sup>2366</sup>.

1052. Likewise, the judge in the case reportedly requested the opinion of a US prosecutor to have more elements for the process by means of an international legal assistance requested to obtain information on the social media accounts of *Claramente* and *Focopanamá*. On April 4, Mari A. Aponte, litigation prosecutor of the Criminal Division of the U.S. Department of Justice, reportedly sent a letter in which, after evaluating the evidence, she did not consider that there were crimes in the file and explained the incompatibility of the accusations with the principles of freedom of expression<sup>2367</sup>.

1053. On the other hand, according to available information, the Ombudsman's Office has received complaints from the National Association of Journalists (Conape) about the alleged violation of the right to freedom of expression and information during journalistic coverage of the July protests in Panama<sup>2368</sup>. The president of Conape, Griselda Melo, denounced that reporters were detained in different parts of the country<sup>2369</sup>. The report of the Panamanian Ombudsman's Office on the citizen protests highlighted that in 8% of the confrontations there was aggression towards human rights officials and journalists who covered the events<sup>2370</sup>. The Ombudsman's Office confirmed the use of tear gas in 12 demonstrations, in six demonstrations rubber bullets were used, in three demonstrations firearms were used, and in one demonstration there was a threat by a police unit<sup>2371</sup>.

1054. The IACHR has established that, although the State has the legitimate duty to guarantee security and public order, the use of force must be governed by the principles of legality, strict necessity and proportionality; and it has the duty to respect and guarantee the work of journalists in the context of demonstrations, in view of the important role they play in documenting the events and the actions of the security forces<sup>2372</sup>.

1055. RELE also learned that the National Authority for Transparency and Access to Information (Antai) sanctioned on June 5 with a fine of \$1 thousand to the digital media *La Verdad* and journalist Amanda Alvarado

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<sup>2364</sup> La Prensa. September 1, 2022. [Imputan cargos al periodista Mauricio Valenzuela por presunta violencia de género, tras denuncia de Zulay Rodríguez](#); TVN Noticias, 6 January 2020. [Deputy Zulay Rodríguez files complaint against Mauricio Valenzuela](#).

<sup>2365</sup> La Prensa, March 17, 2022. [Prosecutor does not find merit to prosecute Mauricio Valenzuela, for the complaint filed by Zulay Rodríguez](#); Panamá América. April 8, 2022. Mauricio [Valenzuela's dismissal of the complaint filed by Zulay Rodríguez for gender violence is denied](#).

<sup>2366</sup> Panama America. February 23, 2022. [Congresswoman Zulay Rodríguez files complaint against Annette Planells, Foco, Diana Clemencia Ríos and Juan David Penagos](#); *Crítica*. February 23, 2022. [Congresswoman Zulay files complaint against Planells, Foco and Penagos](#).

<sup>2367</sup> La Prensa. April 26, 2022. U.S. [Attorney considers Zulay Rodríguez's complaint against Mauricio Valenzuela unfounded](#); Foco Panamá. May 3, 2022. The [Public Prosecutor's Office ratifies in requesting a dismissal for Mauricio Valenzuela due to the absence of a crime](#).

<sup>2368</sup> Ombudsman's Office: August 04, 2022. [Ombudsman's Office receives report from Conape of violation of the right to freedom of expression](#); Metro Libre. Aug. 3, 2022. [Defensoría recibe reporte de vulneración al derecho a la libertad de expresión](#); La Prensa. June 24, 2022. [Media granted appeal for reconsideration of Antai fine](#).

<sup>2369</sup> Ombudsman's Office: August 04, 2022. [Ombudsman's Office receives report of violation of the right to freedom of expression from Conape](#); Metro Libre. Aug. 3, 2022. [Defensoría recibe reporte de vulneración al derecho a la libertad de expresión](#); La Prensa. June 24, 2022. [Media granted appeal for reconsideration of Antai fine](#).

<sup>2370</sup> Ombudsman's Office: August 04, 2022. [Ombudsman's Office receives report of violation of the right to freedom of expression from Conape](#); Metro Libre. Aug. 3, 2022. [Defensoría recibe reporte de vulneración al derecho a la libertad de expresión](#); La Prensa. June 24, 2022. [Conceden a medio de comunicación recurso de reconsideración por multa de la Antai](#); Defensoría del Pueblo de Panamá Twitter account (@DefensoríadelPueblodePanamá). [04 de agosto de 2022](#).

<sup>2371</sup> Twitter account of the Ombudsman's Office of Panama (@DefensoríadelPueblodePanamá). [04 August 2022](#); La Estrella. 04 August 2022. [Defensoría divulga informe de conmoción social en Panamá de mayo a agosto del 2022](#).

<sup>2372</sup> Human Rights Council. [The promotion and protection of Human Rights in the context of peaceful demonstrations](#). Resolution A/HRC/25/L.20, 24 March 2014. Numeral 18, 48; IACHR. United Nations (UN) Special Rapporteur for the Protection and Promotion of the Right to Freedom of Opinion and Expression Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the OAS. [Joint Declaration on violence against journalists and communicators in the context of social demonstrations](#). September 13, 2013.

for publishing in a news item on June 26, 2021 a marriage certificate issued by the National Directorate of Civil Registry of the Electoral Tribunal, which would have been provided by a journalistic source to prove a marital relationship<sup>2373</sup>. The Antai considered that the journalist would have incurred in a violation of privacy. Following a challenge, on June 22, Antai's Director of Personal Data Protection granted an appeal for reconsideration filed by the media, suspending the sanction<sup>2374</sup>. The National Journalism Council (CNP) and the Forum of Journalists for Freedom of Expression and Information rejected the sanction as a violation of freedom of expression.<sup>2375</sup>

1056. Additionally, in terms of access to information, the Ombudsman's Office qualified the Director of the Sports Institute of Panama as a "hostile and obstructive official" for unjustifiably denying information to the institution. Brands became the seventh official to receive such qualification<sup>2376</sup>.

1057. The Rapporteurship recalls that transparency and accountability of public authorities strengthen democratic systems, and that the guarantee of the right of access to information, on many occasions, is a necessary condition to guarantee the exercise of other rights<sup>2377</sup>. As interpreted by the IACHR, Article 13 of the American Convention includes the positive obligation of the State to allow citizens to access information in its possession<sup>2378</sup>. In this sense, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression states that "[a]ccess to information [...] is a fundamental right of individuals. States are obliged to guarantee the exercise of this right"<sup>2379</sup>. For its part, the Inter-American Court has established that Article 13 of the American Convention, by expressly stipulating the rights to "seek" and "receive" "information," protects the right of every person to access information under the control of the State, with the exceptions permitted under the strict regime of restrictions established in said instrument<sup>2380</sup>.

1058. The principle of maximum disclosure has been recognized in the Inter-American system as a guiding principle of the right to seek, receive and impart information contained in Article 13 of the American Convention<sup>2381</sup>. The following consequences derive from this principle: (1) the right of access to information must be subject to a limited regime of exceptions, which must be interpreted in a restrictive manner, so as to favor the right of access to information; (2) any negative decision must be motivated and, in this sense, the State has the burden of proving that the requested information cannot be disclosed; and (3) when in doubt or in a legal vacuum, the right of access to information must prevail<sup>2382</sup>.

1059. Likewise, when ruling on restrictions imposed on journalists or communicators for access to official sources of information at public acts or events, the Inter-American Court has determined that "[w]ith respect to accreditations or authorizations to the press media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive and impart information and ideas of all kinds, it must be demonstrated that their application is legal, pursues a legitimate objective, and is necessary and

<sup>2373</sup> The Star of Panama. June 3, 2022. [The CNP and the Forum of Journalists question the Antai for the sanction to a digital media](#); La Verdad. 03 June 2022. [Antai fines a news portal that disclosed a marriage certificate from the Civil Registry](#).

<sup>2374</sup> La Prensa. June 24, 2022. [Media granted appeal for reconsideration of Antai fine](#); La Prensa. June 25, 2022. [Antai suspends fine to digital media until reconsideration appeal is resolved](#); Foco Panamá. July 28, 2022. [Antai suspends fine to media](#) outlet.

<sup>2375</sup> El Siglo. June 3, 2022. [Gremios periodísticos se pronuncian por sanción a medio digital](#); CNP Panamá Twitter account (@CNP\_Panama). [June 6](#), 2022.

<sup>2376</sup> Twitter account of Radio Panamá @RadioPanamá. [August 3, 2022](#); Twitter account of the Ombudsman's Office of Panama (@DefensoríadelPueblodePanamá). [August 3](#), 2022.

<sup>2377</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 64.

<sup>2378</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151, para. 58 (a) and (b).

<sup>2379</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>2380</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. Paras. 76 and 78; I/A Court H.R., *Case of López Álvarez v. Honduras*. *Case of López Álvarez v. Honduras. Merits, Reparations and Costs*. Judgment of February 1, 2006. Series C No. 141. para. 77; I/A Court H.R., *Case of Herrera Ulloa v. Honduras*. *Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 2, 2004. Series C No. 107. para. 108.

<sup>2381</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 9.

<sup>2382</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 10.

proportional in relation to the objective pursued in a democratic society. The requirements for accreditation must be concrete, objective and reasonable, and their application transparent"<sup>2383</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

1060. In July 2022, this Office documented a series of protests in which tensions between demonstrators and security forces could be observed. According to public information, since July 6, strikes and demonstrations took place throughout the country in response to the increase in fuel and food prices during the last six months<sup>2384</sup>. To this, other claims have been incorporated, linked to the rights of indigenous peoples, transparency in public management, education policies, economic inequality in Panama, among others<sup>2385</sup>. According to public information, the demonstrations included, for weeks, the complete blockade of highways in different urban centers and places of the country, seriously affecting the supply of basic food and supplies, the transportation of patients and medical personnel. In addition to the free movement of people in the cities. In this regard, the State also pointed out the effects on the productive system and access to education, highlighting the impact especially on the most vulnerable sectors of the population<sup>2386</sup>.

1061. In this context, as mentioned in a press release, the IACHR and its RELE learned that on July 19, situations of violence occurred, resulting in injuries to both demonstrators and members of the public forces in actions to clear blocked highways in Santiago, capital of the province of Veraguas, and in Panama City<sup>2387</sup>. In this regard, they noted that during the process of opening blocked roads, the Ombudsman's Office of Panama recorded clashes between demonstrators and police units that allegedly endangered the integrity of third parties, the elderly, children and adolescents who were not part of the social protests<sup>2388</sup>. It also documented that 56 people, including civilians and police officers, received outpatient medical attention<sup>2389</sup>. Additionally, according to information received by the IACHR and its Office of the Special Rapporteur, 21 people were reportedly detained in connection with their participation in the demonstrations -among them, three adolescents-<sup>2390</sup>. According to the Ombudsman's Office, all were released without charge<sup>2391</sup>.

1062. The Ombudsman's Office published a report that was sent to the IACHR stating that 92% of the demonstrations were peaceful, while in the rest there were altercations<sup>2392</sup>. As a result of the protests, 80 people received medical attention for various reasons, including a gunshot wound to the arm and a policewoman who was detained by demonstrators in the city of Santiago.<sup>2393</sup> The report also reports the use of tear gas bombs, rubber bullets and firearms by police forces<sup>2394</sup>. Another event that was included in the

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<sup>2383</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346.

<sup>2384</sup> San Diego Union Tribune. July 11, 2022. [Panama freezes gasoline prices after protests](#); Deutsche Welle (DW). July 12, 2022. [Panama government lowers fuel prices in face of protests](#); Twitter account of Presidency of Panama (@presidenciapma). July 11, 2022.

<sup>2385</sup> The Times. July 19, 2022. [What sparked the biggest protests in years in Panama](#); BBC. July 21, 2022. [Panama: how it has gone from being an example of prosperity and stability to experiencing massive protests](#).

<sup>2386</sup> IACHR. July 27, 2022. Press Release No. 168/22. [Protests in Panama: IACHR and its RELE call for effective and inclusive dialogue](#).

<sup>2387</sup> IACHR. July 27, 2022. Press Release No. 168/22. [Protests in Panama: IACHR and its RELE call for effective and inclusive dialogue](#); La Prensa. July 19, 2022. [Chaos, injuries and 20 arrested during clashes between protesters and police in Santiago](#); Telemetro.com. 19 July 2022. [Repression and violence during demonstrations in Santiago repudiated](#).

<sup>2388</sup> Office of the Ombudsman of Panama. July 21, 2022. [Comunicado N°2: Protests in Veraguas](#).

<sup>2389</sup> Office of the Ombudsman of Panama. July 21, 2022. [Comunicado N°2: Protests in Veraguas](#).

<sup>2390</sup> Office of the Ombudsman of Panama. July 21, 2022. [Comunicado N°2: Protests in Veraguas](#).

<sup>2391</sup> Office of the Ombudsman of Panama. July 21, 2022. [Comunicado N°2: Protests in Veraguas](#).

<sup>2392</sup> Office of the Ombudsman of Panama. August 9, 2022. [Defensoría divulga Informe preliminar de conmoción social en Panamá de mayo a agosto del 2022](#); Telemetro. [Defensoría presenta informe de observaciones de las protestas nacionales](#); Panamá América. 4 August 2022. [Up to 23 protests in one day occurred in July reveals Ombudsman's Office report](#).

<sup>2393</sup> Office of the Ombudsman of Panama. August 9, 2022. [Defensoría divulga Informe preliminar de conmoción social en Panamá de mayo a agosto del 2022](#); Telemetro. [Defensoría presenta informe de observaciones de las protestas nacionales](#); Panamá América. 4 August 2022. [Up to 23 protests in one day occurred in July reveals Ombudsman's Office report](#).

<sup>2394</sup> Office of the Ombudsman of Panama. August 9, 2022. [Defensoría divulga Informe preliminar de conmoción social en Panamá de mayo a agosto del 2022](#); Telemetro. [Defensoría presenta informe de observaciones de las protestas nacionales](#); Panamá América. 4 August 2022. [Up to 23 protests in one day occurred in July reveals Ombudsman's Office report](#).



document are the confrontations that took place at the University of Panama that affected a young woman due to tear gas while she was allegedly beaten by security forces<sup>2395</sup>.

1063. In this context, the IACHR and RELE urged the State to continue to preserve the right to peaceful protest and to maintain the process of inclusive and effective dialogue to address the legitimate claims of citizens<sup>2396</sup>. They also recalled the importance of ensuring the coexistence of all human rights in tension in contexts of social conflict, with the use of public force as a last resort to ensure social peace<sup>2397</sup>.

1064. Social protest, which includes the exercise of the right to freedom of peaceful and unarmed assembly, freedom of association and freedom of expression, is a fundamental tool in the defense of democracy and human rights, and the State is obliged to respect, protect and guarantee these rights<sup>2398</sup>. Regarding the obligation to respect, the IACHR and its Office of the Special Rapporteur have indicated that "the exercise of the right to assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that hinder its realization"<sup>2399</sup>. Likewise, with respect to the obligation to protect and facilitate, the Commission has emphasized that "[t]he imperative social interest of the right to participate in public demonstrations gives rise to a general presumption in favor of its exercise"<sup>2400</sup>. As the IACHR report on protest and human rights mentions, States must act on the basis of the lawfulness of public protests and demonstrations and under the assumption that they do not constitute a threat to public order, even in cases where they are made without prior notice<sup>2401</sup>. Finally, in relation to the obligation to guarantee, the IACHR has established that it "implies in the first place the duties to investigate and punish any violation occurring in the context of a public demonstration"<sup>2402</sup>.

1065. This Office also reiterates that the use of force in the context of protests should be understood as "a last resort that, qualitatively and quantitatively limited, seeks to prevent an event of greater gravity than that which provokes the State reaction" and that, within this framework of exceptionality, the State must satisfy the principles of legality, absolute necessity and proportionality<sup>2403</sup>. Finally, this Rapporteurship recalls that "it is inadmissible in principle to criminalize *per se* demonstrations on public streets"<sup>2404</sup>; and that States should refrain from engaging in practices of mass, collective or indiscriminate arrests in public demonstrations<sup>2405</sup>.

1066. On the other hand, the Rapporteurship took cognizance of the bill concerning the regulation of the right to rectification or reply in relation to the media. On March 10, the National Assembly processed draft bill 242 through the Government, Justice and Constitutional Affairs Committee. If approved, the bill would reduce to 24 hours the period granted to the media to disseminate the replies, would stipulate the application of more

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<sup>2395</sup> Office of the Ombudsman of Panama. August 9, 2022. [Defensoría divulga Informe preliminar de conmoción social en Panamá de mayo a agosto del 2022](#); Telemetro. [Defensoría presenta informe de observaciones de las protestas nacionales](#); Panamá América. 4 August 2022. [Up to 23 protests in one day occurred in July reveals Ombudsman's Office report](#).

<sup>2396</sup> IACHR. July 27, 2022. Press Release No. 168/22. [Protests in Panama: IACHR and its RELE call for effective and inclusive dialogue](#).

<sup>2397</sup> IACHR. July 27, 2022. Press Release No. 168/22. [Protests in Panama: IACHR and its RELE call for effective and inclusive dialogue](#).

<sup>2398</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Social Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Foreword and paras. 1-46.

<sup>2399</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 91.

<sup>2400</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 91.

<sup>2401</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 93.

<sup>2402</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 246.

<sup>2403</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 102.

<sup>2404</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 187.

<sup>2405</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Social Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19. Para. 138.

severe fines if the news included the alleged commission of a crime and would also establish that the media should apologize as "a form of moral redress if the falsity of the published news is proven"<sup>2406</sup>.

1067. Finally, in terms of access to public information, the Rapporteurship was pleased to receive Circular No. DAI -001-2022 of January 25 from the National Authority for Transparency and Access to Information, by which it informed the Municipalities of the obligation to publish detailed budgetary information, including information related to subsidies, exonerations and mobilization expenses. In this way, the authority, which already monitors the websites of public entities and municipalities in the country, would add to this task the aforementioned items as of February 2022<sup>2407</sup>. Likewise, in a document sent to this Rapporteurship on July 29, 2022 by the State of Panama, the latter highlighted as a good practice the dissemination by the Human Rights Department of the Attorney General's Office of a notebook with jurisprudential criteria of the Inter-American Court as well as an academic event held with the support of the National Council of Journalism of Panama and the UNESCO Chair on Freedom of Expression of the University of Los Andes.

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

1068. The Rapporteurship was informed of alleged acts of forced sterilization of indigenous women in the province of Bocas del Toro, after a congresswoman made public on February 15 the complaints she received while touring the towns of the area. The congresswoman stated that dozens of women "at the time of giving birth had to go to a hospital quite far away, and when they woke up they had been sterilized without their consent"<sup>2408</sup>. On February 17, the authorities announced the beginning of the investigation and reported "stumbling blocks" in the investigation due to alleged resistance by members of the indigenous people. For its part, the Ombudsman maintained that it was "only one alleged victim" and denied that this was a generalized behavior in the country<sup>2409</sup>. In the investigations, emphasis was placed on the "culture of silence" not to talk about these issues because of the taboo connotations they carry<sup>2410</sup>. One prosecutor commented that some women who had reported these acts only did so to her because she was a woman, but that they were complex situations that they had not discussed, possibly not even with their own partners out of fear<sup>2411</sup>.

1069. This Office considers that the eventual reparation measures in cases such as the one mentioned above should include educational and communicational attention that may help to diminish this culture of silence on sexual and reproductive rights issues, and thus increase the recognition of rights and prevent future human rights violations.

1070. The Inter-American Commission has extensively developed Inter-American standards related to the protection of the sexual and reproductive rights of women, girls and adolescents, with special attention to those in situations of vulnerability, such as indigenous women. In particular, the IACHR has defined the obligation to obtain prior, free and fully informed consent before performing any medical procedure, including surgical sterilization. This obligation requires that qualified medical personnel provide adequate, complete, reliable, understandable and accessible information without threats, coercion or inducements of any kind. In the case of indigenous women, information should be presented in their own language and in a culturally appropriate manner, respecting their traditions and beliefs.

### D. Freedom of expression and the Internet

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<sup>2406</sup> Radio Panama. March 10, 2022. [Assembly has processed a bill that seeks to increase sanctions to the media](#); La Estrella de Panamá. March 2, 2022. [Reforms to the right to reply extend punishment to the media](#); La Prensa. March 24, 2022. [Libertad de opinión, en riesgo por proyecto de ley](#).

<sup>2407</sup> National Authority for Transparency and Access to Information. January 25, 2022. [Mayors will have the obligation to publish subsidies, exonerations and mobilization expenses](#); National Authority for Transparency and Access to Information. January 18, 2022. [Circular N° ANTAI-DAI-001-2022](#).

<sup>2408</sup> The Star of Panama. 15/02/2022. [Forced sterilization of indigenous women in Bocas del Toro revealed](#); Prensa Latina. March 3, 2022. [Pregnancies and forced sterilization of indigenous women shake Panama](#).

<sup>2409</sup> The Star of Panama. March 18, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#); Efeminista. March 28, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#).

<sup>2410</sup> The Star of Panama. March 18, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#); Efeminista. March 28, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#).

<sup>2411</sup> The Star of Panama. March 18, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#); Efeminista. March 28, 2022. [Forced sterilization case breaks indigenous culture of silence in Panama](#).

1071. The Rapporteurship learned that on April 6 the telephone company Digicel Panamá S.A. announced that it will cease to operate in Panama, after considering that the merger of Cable & Wireless Panamá (CWP) and Claro would represent the end of free competition for the telecommunications market in the country. After Digicel's departure, only Tigo, owned by Millicom, would compete with the group resulting from the merger between CWP and Claro<sup>2412</sup>.

1072. This Rapporteurship recalls that one of the guiding principles for Internet governance is pluralism and diversity. RELE has pointed out that this implies ensuring that no changes are introduced in the network that result in the reduction of voices and content. Public policies on the matter must protect the multidirectional nature of the network and promote platforms that allow the search and dissemination of information and ideas of all kinds, regardless of borders, in the terms of Article 13 of the American Convention 13<sup>2413</sup>.

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<sup>2412</sup> Panama America. April 7, 2022. [Asep reacted to Digicel's withdrawal and will supervise service provision until the process is completed](#); Deutsche Welle (DW). April 7, 2022. [Digicel assures that in Panama there is no free competition](#); BN Américas. April 7, 2022. [Spotlight: Panama's telco market after Digicel's exit](#).

<sup>2413</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open and inclusive internet](#). OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 8.

## PARAGUAY

1073. The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights observed in 2022 a high level of danger to practice journalism in Paraguay, mainly in the city of Pedro Juan Caballero, a risk area for journalism due to organized crime, in that locality a journalist was murdered during this year. In addition, there were several attacks, stigmatization, criminal proceedings, among other intimidating actions against journalists.

### A. Journalism and democracy

1074. On September 6, journalist Humberto Coronel was shot eight times in the back after finishing his day's work at *Radio Amambay* in the Paraguayan city of Pedro Juan Caballero, on the border with Brazil. According to available information, Coronel was about to get into his car when he was attacked by a hit man on a motorcycle<sup>2414</sup>. The journalist also worked for the media outlet *Mbykymi Noticias*.

1075. According to the information available<sup>2415</sup>, months before the murder, Coronel and his co-worker Gustavo Baez Sanchez had reported death threats to the police. These would have started after the murder of the mayor of that border city, José Carlos Acevedo<sup>2416</sup>, on May 17. In October 2021, Haylee Acevedo, niece of the former mayor, was also reportedly murdered.

1076. The threats against Coronel and Baez were related to their journalistic coverage of organized crime in the area. In the complaint made by both journalists, they referred to a note received at Baez Sanchez's home, on which was written in Portuguese: "*Sabe muitas coisas, vamos ir apagando o que sabe muito, Gustavo Umbertito*" (He knows a lot of things, let's go turning off the one who knows a lot, Gustavo Humberto)<sup>2417</sup>.

1077. Following the murder of his colleague, Báez said publicly that he was considering the possibility of leaving the country with his family. The media reported that according to the first investigations, the authorities did not rule out that the journalist's death was related to his work, and therefore this office considered it crucial to call on the authorities to take urgent and pertinent measures to protect the life and personal integrity of Gustavo Báez.<sup>2418</sup>

1078. National and international press organizations denounced the government's inactivity, since despite the fact that the journalist was threatened and that he had denounced it in a timely manner, he had not been assigned any type of protection. According to the information obtained, the authorities had offered police custody to the journalists. This was accepted by Gustavo Báez but rejected by Humberto Coronel. For its part, the Attorney General's Office announced that the two policemen who were guarding the place where Coronel's murder took place would be investigated since "they were not near the journalist at the time of the attack".<sup>2419</sup>

1079. After the murder, this Office learned that the prosecutor in charge of the investigation had been dismissed. The investigator reportedly stated publicly that responsibility could not be attributed to the Police or the Prosecutor's Office, since the journalist should not have been "giving himself away", arguing that after the first threats he had suffered he should have taken refuge or "tried to put things right"<sup>2420</sup>. Despite the above

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<sup>2414</sup> The Nation. September 6, 2022. [Hitman killed journalist Humberto Coronel of Radio Amambay](#); BBC Mundo. September 7, 2022. [Humberto Coronel: Journalist's murder shocks Paraguay](#).

<sup>2415</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. 2022. [RELE condemns the murder of journalist Humberto Coronel in Paraguay and calls on the State to strengthen prevention and protection measures for the press](#).

<sup>2416</sup> CNN. May 18, 2022. [Mayor of a city in Paraguay suffered an attack and is fighting for his life](#); Abc Color. May 21, 2022. [Mayor José Carlos Acevedo died victim of an attack in San Juan Caballero](#).

<sup>2417</sup> Abc Color. September 6, 2022. [Hitman murders journalist who denounced threats weeks ago](#).

<sup>2418</sup> Infobae. Sept. 7, 2022. [Threatened journalist considers fleeing Paraguay](#); September 7, 2022. [Threatened journalist considers leaving Paraguay after colleague's murder](#).

<sup>2419</sup> International Federation of Journalists. September 7, 2022. [Paraguay: journalist Humberto Coronel murdered](#); Twitter account of the Paraguayan Union of Journalists (@Periodistaspy). September 6, 2022. [Murder of journalist Humberto Coronel is result of state inaction](#); Acento. Sept. 7, 2022. [It's the advance of organized crime: Paraguayan journalist's murder shocking the South American country](#).

<sup>2420</sup> Abc Color. September 7, 2022. [Fiscalía deslinda responsabilidad y dice que periodista asesinado no debía estar "regalándose"](#); Abc Color. September 7, 2022. [Prosecutor removed from case](#); La Nación. September 7, 2022. [Prosecutor's office forms committee to investigate case of journalist murdered in Amambay](#).

considerations, the Rapporteurship valued positively the apology made by the prosecutor, who stated that she had expressed herself erroneously and acknowledged her respect for the work of press workers and journalists. Subsequently, a specialized group was formed to investigate the death of the journalist.

1080. Six days after the murder, the National Prosecutor's Office charged Mauricio Miguel Recalde with the crime. The accusation was based, among other evidence, on the images collected from the closed-circuit cameras at the scene of the attack and the entire flight path. Subsequently, local media reported the arrest of another man accused of being the logistical facilitator of the crime<sup>2421</sup>.

1081. The Rapporteurship emphasizes that the duty of authorities and public officials to adopt a discourse that contributes to freedom of expression is one of the fundamental components of the States' obligation to prevent violence against journalists<sup>2422</sup>. As the IACHR and the Rapporteurship have already pointed out, States have the obligation to adopt measures to prevent violence against journalists and media workers, which "is accentuated in situations or areas in which there is or has been detected a special risk for journalists working in the media".<sup>2423</sup> The Rapporteurship has repeatedly reiterated that the murder of journalists and communicators constitutes, in addition to a violation of the right to life, the most serious attack on freedom of expression and a form of direct censorship<sup>2424</sup>.

1082. This Office registered another case that constitutes a threat to journalistic work. According to public information, an alleged businessman reportedly declared his intention to kill journalist Pablo Gastón Ortiz, of the television channel *Visión Comunicaciones* of the city of Villarrica, and prosecutor Sussy Ramírez, who was investigating the threats<sup>2425</sup>.

1083. This Rapporteurship has urged the State of Paraguay to investigate the facts of murders and threats in an objective and impartial manner and considering the practice of journalism as a possible motive. In this regard, this Office has previously pointed out that the existence of an adequate institutional framework is crucial for the State to be able to investigate, judge and criminally punish crimes against journalists and that, given this, officials have the obligation to assign the responsibility of investigating and judging these crimes to the authorities that are in the best conditions to resolve them and that have the autonomy and independence to act.

1084. This Rapporteurship has called on the State to increase its efforts to prevent violence against the press, especially with regard to the violation of rights during journalistic coverage. The Inter-American Commission on Human Rights and the Inter-American Court have insisted on exhausting the logical lines of investigation linked to freedom of expression in order to achieve effective justice.

1085. On October 10, according to reports received by this office, Milciades Ruiz, a journalist of *Radio Capitán Bado*, reported having been attacked in a place where allegedly "vote buying" was taking place in a sector on the border with Brazil, since the events allegedly took place during the journalistic coverage of the elections in Brazil. According to the complaint, the journalist was allegedly beaten by four men carrying firearms. They allegedly held him for a few minutes in a house in the area and took away the cell phone with which he had filmed the events<sup>2426</sup>.

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<sup>2421</sup> Swissinfo. September 12, 2022. [Paraguay prosecutor's office charges alleged perpetrator of journalist's murder](#); El Comercio. September 19, 2022. [Alleged perpetrator of Paraguayan journalist's murder charged](#); Abc Color. September 17, 2022. [Cae hombre que brindó apoyo logístico para la muerte del periodista](#).

<sup>2422</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 156.

<sup>2423</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Zonas Silenciadas: regiones de alta peligrosidad para ejercer la libertad de expresión](#). OEA/Ser.L/V/II IACHR/RELE/INF.16/17. March 15, 2017. Para. 155.

<sup>2424</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Study on the Situation of the Investigations into the Murder of Journalists for reasons that could be related to the Journalistic Activity](#). OEA/Ser.L/V/II.131. p. 11.

<sup>2425</sup> Last Hour. September 13, 2022. [Divulgan audio donde supuesto empresario dice que mandó a matar a periodista y a fiscal](#); Facebook account Caaguazú Noticias Digital. September 14, 2022. [Audio where alleged businessman says he had journalist and prosecutor killed. An alleged Catalan councilman and investor](#).

<sup>2426</sup> Last Hour. October 10, 2022. [Journalist denounces aggression by Brazilians allegedly buying votes](#); Abc Color. October 30, 2022. [Journalist denounces aggression in coverage of alleged vote buying in Brazilian elections](#).



1086. On the other hand, the Relatoria expresses its concern because on November 3, a court acquitted Waldemar Pereira Rivas, accused of the murder of journalist Leo Veras. According to public information, Veras was murdered on February 12, 2020 in Pedro Juan Caballero<sup>2427</sup>. The city of Pedro Juan Caballero is one of the most dangerous in the country to practice journalism due to the organized crime networks that operate in that area. The Union of Journalists of Paraguay repudiated the ruling and denounced that the prosecutor's office did not carry out an adequate investigation. It also described the court as benevolent to the accused<sup>2428</sup>.

1087. The Inter-American Court of Human Rights condemned the Paraguayan State for the death of journalist Santiago Leguizamón, murdered in April 1991 in the city of Pedro Juan Caballero, Amambay. On February 13, 2021, the Inter-American Commission on Human Rights presented the case of Santiago Leguizamón Zaván and family before the Inter-American Court of Human Rights. The case refers to the death of Santiago Leguizamón on April 26, 1991, a renowned journalist and human rights defender, for reasons that were allegedly linked to his profession, as well as the failure of the State to adopt adequate and timely measures to protect him and prevent the occurrence of such events. It also addresses the lack of an effective and diligent investigation into these events, consistent with applicable international standards, and the impunity in which the case is found. In August, the State of Paraguay recognized its international responsibility for the violation of the rights that the Inter-American Commission identified as violated in its Report on the Merits, for which it was condemned as responsible for the violation of the rights to life and freedom of thought and expression, in addition to the violation of the rights to judicial guarantees and judicial protection to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, wife and children, respectively<sup>2429</sup>.

1088. This office received information on criminal proceedings initiated against journalists and media outlets for expressing themselves on issues of public interest, which would reveal an attempt to use the justice system to harass and silence journalists. The office has received information that the Director of *ABC Color* and journalist Juan Carlos Lezcano were convicted of defamation on November 18. The ruling came as a result of the second criminal proceeding initiated by the former Undersecretary of Taxation (SET) against both journalists. The sentence was received with concern by this Office, since it was issued by the judge despite the fact that it would have ratified the veracity of the information published in 2019 about alleged irregularities during the bidding process to update the tax system<sup>2430</sup>. This type of ruling contravenes the principles of jurisprudence on freedom of expression.

1089. The use of criminal law to punish expressions on matters of public interest or about public officials, candidates for public office or politicians violates Article 13 of the American Convention, according to the IACHR. The IACHR Court, for its part, does not rule out criminal prosecution, but considers it disproportionate in most cases. Civil penalties for defamation should not be of such proportions as to have a chilling effect on freedom of expression and should be designed to restore the damaged reputation and not to compensate the plaintiff or punish the defendant; in particular, pecuniary sanctions should be strictly proportional to the actual harm caused and the law should give priority to the use of a range of non-pecuniary remedies<sup>2431</sup>.

1090. Costa Rica (2004), the IACHR Court found a violation of freedom of expression and a disproportionate sentence for a journalist who was criminally convicted of defamation for having reproduced in a Costa Rican newspaper certain accusations of corruption made by the European press against the Costa

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<sup>2427</sup> Abc Color. November 03, 2022. [Cachorrao acquitted for crime of journalist Leo Veras](#); Última Hora. 03 November 2022. [Sentencing Court acquits Cachorrao for crime of journalist Leo Veras](#); Twitter account @ABCDigital. November 5, 2022. [Police release "Cachorrao"](#).

<sup>2428</sup> Twitter account @Periodistaspy. November 3, 2022. [Again impunity for the murder of journalists](#). Última hora. 4 de noviembre de 2022 [Sindicato repudia fallo que dejó libre a presunto asesino](#).

<sup>2429</sup> Twitter account of the Inter-American Court of Human Rights (@CorteIDH). [December 16, 2022](#).

<sup>2430</sup> The Nation. November 18, 2022. [Natalia Zuccolillo was convicted for defamation and must pay G. 487 million to the former head of SET](#); Abc Color. November 18, 2022. [Aberrant ruling violates freedom of the press](#).

<sup>2431</sup> United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression. [Joint Declaration on Freedom of Expression and the Internet, 30 November 2000](#).

Rican consul to the International Atomic Energy Agency (IAEA) in Belgium. The IACHR Court ordered, among other things, the annulment of the criminal proceedings against the communicator<sup>2432</sup>.

1091. According to public information, Carlos Giménez, a journalist of *La Nación*, was dismissed from the lawsuit filed against him for libel, defamation and slander. The accusation was brought by Juan Rojas Cantero, president of the Association of Parents of the Recycled Instruments Orchestra of Cateura (OIR) after the publication of an article revealing alleged administrative mismanagement and corruption in the orchestra<sup>2433</sup>. Regarding this fact, the International Federation of Journalists warned of a notorious increase in the judicialization of journalistic work in Paraguay and in the region, which would threaten freedom of expression and the right of the people to receive information<sup>2434</sup>.

1092. This Rapporteurship received with concern information that one of the most important banks in Paraguay has threatened to take legal action against the newspaper *5 Días*, for the publication of an article in which it denounced financial mismanagement on the part of the banking institution. In a statement that would attempt to invalidate the information revealed by the media, the bank allegedly accused *5 Días* of setting up a journalistic operation based on falsehoods to confuse and create uncertainty<sup>2435</sup>.

## **B. Freedom of expression, Rule of Law and democratic institutions**

1093. This Special Rapporteurship learned of the bill to increase prison sentences for road blockades presented by a group of legislators in the Senate. According to the information available, the proposal would have generated a series of debates and conflicting positions in Paraguayan society. On the one hand, businessmen demanded respect for free transit; on the other hand, social organizations rejected the criminalization of protest<sup>2436</sup>. The bill sought to modify article 216 of the Penal Code and impose prison sentences of "up to six years" for those who obstruct the free movement of people and goods on the country's roads<sup>2437</sup>. The proposal came a week after the country experienced a series of blockades and demonstrations due to the increase in fuel prices. Therefore, this Office recalls that the Inter-American Court of Human Rights has reiterated to the States to respect and guarantee the non-criminalization for exercising the rights to freedom of expression, assembly and association in the context of demonstrations and protests. In this regard, RELE took note that the Senate rejected the bill by a majority vote.

1094. The Center for Justice and International Law (CEJIL) and the Human Rights Coordinator of Paraguay (CODEHUPY) stated that "the bill violates international human rights standards associated with and protected by the right to freedom of expression in that it aims to criminalize acts that are protected in the exercise of a right such as the right to protest. At the same time, it deepens violations of human rights of historically excluded and violated communities". Both entities requested the IACHR to publicly express its concern in a prompt manner to prevent the project from being adopted.

1095. In August, this Rapporteurship recorded reports of people demonstrating in the vicinity of Congress while the impeachment trial against the Attorney General was being held. During the demonstration there were reportedly attempts at harassment and repression by security forces. It was reported that shouting and pushing and shoving were exchanged between the demonstrators and the agents. The most critical moment was when the police installed a cordon to search all the demonstrators who approached the Legislative headquarters.<sup>2438</sup>

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<sup>2432</sup> Inter-American Court of Human Rights. 2004. [Case of Herrera Ulloa v. Costa Rica](#).

<sup>2433</sup> The Nation. June 12, 2022. [La Nación journalist denounces attack on freedom of expression](#); La Nación. July 18, 2022. [Oral trial for maintaining freedom of expression should begin on July 22](#).

<sup>2434</sup> Facebook account International Federation of Journalists. July 20, 2022. [SPP warns of judicial harassment of journalist](#); La Nación. July 20, 2022. [Freedom of expression trial: SPP and IFJ warn that they will be watching the trial](#).

<sup>2435</sup> The Independent. June 13, 2022. [Threats do not intimidate us](#); La Nación. June 13, 2022. [BASA clarifies 5 días lie and announces lawsuit](#).

<sup>2436</sup> Swissinfo. April 20, 2022. [Proposal to toughen penalties for road blockades sparks debate in Paraguay](#); Sistema de Información Legislativa. [Technical file of the dossier](#).

<sup>2437</sup> Hoy Newspaper. April 20, 2022. [Proposal to toughen penalties for road blockades sparks debate in several sectors](#); La diara mundo. April 21, 2022. [Paraguay: controversy over bill to increase penalties for roadblocks](#); La Nación. 13 April 2022. [Senador planteará penalizar con cárcel a aquellos que realicen cierres de ruta](#).

<sup>2438</sup> Abc Color. August 2, 2022. [Manifestantes denuncian represión policial y cateos amedrentar protesta](#); Última Hora Twitter account (@ultimahora.com). [26 July 2022](#).

1096. This Rapporteurship considers positive the proposal to protect freedom of the press and freedom of expression through the initiative of the Law for the Security of Journalists and Human Rights Defenders presented by a senator, president of the Human Rights Commission. The bill would open the doors to a legal framework of prevention and protection for those who are at risk as a result of defending human rights and the exercise of freedom of expression such as journalism.<sup>2439</sup>

1097. In the framework of the International Day to End Impunity for Crimes against Journalists, which is commemorated on November 2, the Mesa de Seguridad de Periodistas demanded the Paraguayan State to strengthen public policies that guarantee the exercise of free, safe and quality journalism. It also warned about the need to strengthen awareness and training of social actors and officials, as well as the attention to complaints and the search for protection and justice for press workers<sup>2440</sup>.

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

1098. This Rapporteurship is concerned about the possible harassment faced by women journalists within the media. Such is the case of the three journalists of the Sistema Nacional de Televisión and Albavisión *Canal9*, who were dismissed after having denounced a superior for systematic sexual harassment of the press workers in their charge. According to the registered complaint, from the investigation opened, more complaints and testimonies were gathered about the same person and about other managers of the company<sup>2441</sup>. The International Federation of Journalists and the Union of Journalists of Paraguay (SPP) repudiated the dismissals without cause and denounced the fact as a clear act of retaliation and intimidation of women journalists. They also demanded their immediate reinstatement<sup>2442</sup>.

1099. The Rapporteurship has considered that in order to contribute to the eradication of these practices, the media should establish internal policies with specific provisions on gender-based violence and discrimination, with emphasis on labor and sexual harassment. There should also be internal procedures and independent complaint and accountability mechanisms that guarantee the rights of women journalists and all parties involved<sup>2443</sup>.

### D. Freedom of expression and the Internet

1100. On December 6, the foreign ministers of Paraguay and Argentina signed an agreement to promote the strengthening of digital connectivity through fiber optics. The project would seek to improve Paraguay's access to the fiber optic networks used in Argentina and provide better internet service in the territory<sup>2444</sup>. This Rapporteurship highlights the importance of expanding Internet connectivity and closing the digital divide.

1101. This Rapporteurship recalls that States must promote access to the Internet for all persons, which implies expanding Internet infrastructure and access to the technology necessary for its use, but also promoting digital literacy and guaranteeing linguistic plurality. The Rapporteurship recalls that the Internet is a platform and a means for the exercise of human rights such as freedom of expression, political participation, the rights of association and assembly, economic, social and cultural rights, so that States are called upon to ensure the necessary conditions for the enjoyment and exercise of these rights.

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<sup>2439</sup> Twitter account of the Senate of Paraguay (@Senadopy). [November 11, 2022](#); Chamber of Senators of Paraguay. November 11, 2022. [Draft bill presented to protect journalists and human rights defenders](#).

<sup>2440</sup> Twitter account of the Roundtable for the Safety of Journalists (@MSPeriodistaspy). [November 1, 2022](#); Última Hora. November 2, 2022. [They demand public policies to exercise free, safe and quality journalism](#).

<sup>2441</sup> International Federation of Journalists. August 8, 2022. [Despiden a tres trabajadoras que habían denunciado acoso en Albavisión](#); Revista Emancipa. November 2022. [Harassment, persecution and dismissals: The ordeal experienced by SNT girls](#); El Nacional. October 5, 2022. [Denuncian supuesto ataque al derecho de una comunicadora en Grupo Albavisión](#).

<sup>2442</sup> Twitter account @SPP. July 30, 2022. [Sindicato de Periodistas del Paraguay repudia y condena los despidos de compañeras del Sistema Nacional de Televisión](#); Twitter account of the International Federation of Journalists (@FIP\_AL). [August 1, 2022](#).

<sup>2443</sup> IACHR. [Women Journalists and Freedom of Expression: Discrimination and gender-based violence against women journalists in the exercise of their profession](#). OAS/SER.L/V/II CIDH/RELE/INF.20/18. 2018. Para. 137, citing UN Women and UN Global Compact Office. Women's Empowerment Principles. 2011.

<sup>2444</sup> IP Agency. December 6, 2022. [Paraguay and Argentina agree to strengthen digital connectivity](#); Ámbito. December 6, 2022. [Argentina and Paraguay signed a fiber optic interconnection agreement](#).



## PERU

1102. In 2022, the Rapporteurship observed the worsening of social tensions and restrictions to the exercise of freedom of expression in Peru. This involves the exercise of journalistic work in an environment of high stigmatization of the press, constant threats of prosecution, including criminal lawsuits as a result of coverage of matters of public interest as well as a marked hermeticism and opacity of State institutions in the face of journalistic deployment -particularly of the media-. On the other hand, the threatening actions of particular groups have presented special concern regarding the right to freedom of expression of groups in vulnerable situations, the press and those who actively participate in the defense of human rights. The Rapporteurship is also concerned about various bills that could have a dissuasive effect on the free exercise of journalism on matters of public interest, especially those related to the management of the State, as well as the approval of a law that could jeopardize the teaching of human rights and comprehensive sex education in schools. The work of women journalists, denunciations of sexual violence and the promotion of issues related to access to reproductive rights have also posed obstacles to the exercise of freedom of expression. In April, a state of emergency was declared in the midst of days of protest, where complaints of excessive use of force were also reported. In the digital environment, there are concerns about broad powers to control content on the network, as well as decisions to impose facial recognition technologies without observing personal data protection standards. Peru should continue to make efforts to universalize access to the network, but considering the urgent need to have digital literacy policies as one of its priorities. The Rapporteurship thanks the Permanent Mission of Peru to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

1103. The Rapporteurship continues to observe that the deployment of journalistic work in Peru faces important challenges. First, the secrecy of State institutions and the stigmatization of the press by high-ranking public authorities. The Rapporteurship is concerned about the high number of stigmatizing speeches from the highest authorities of the country<sup>2445</sup>. For example, then President Pedro Castillo has referred to the press as "a joke"<sup>2446</sup>, and has pointed out that the media are "bent on destabilizing the government"<sup>2447</sup>, that they only "broadcast lies and false news about Pedro Castillo"<sup>2448</sup>, and that they are "biased to tell the country, to lie to it"<sup>2449</sup>. In turn, the then premier Aníbal Torres reportedly stated that the press is "harming children" and "damaging the youth" because it "deceives, defames, misinforms"<sup>2450</sup>. The Presidency of Congress reportedly stated that journalists "only misinform"<sup>2451</sup>. In this context, journalists have been harassed, threatened, physically and verbally assaulted while carrying out their activities, and have also worked in a climate of fear of legal sanctions, including criminal sanctions, when reporting on matters of public interest.

1104. Journalist Gastón Medina of *Cadena Sur* and *Nueva FM* reportedly received death threats on February 22, 2022, which, according to the journalist, were linked to his reports on alleged acts of corruption against the

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<sup>2445</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022. The ANP recorded at least 18 attacks under the label "stigmatizing speech".

<sup>2446</sup> Canal N. June 2, 2022. ["This press is a joke," was Pedro Castillo's last statement to journalists](#); Infobae. 22 February 2022. [Pedro Castillo called the press a 'joke' and refuses to answer for the double version he gave to the Prosecutor's Office](#).

<sup>2447</sup> El Comercio. July 28, 2022. [Pedro Castillo questioned the press in message to the Nation: They seek to destabilize, "they broadcast lies and false news"](#); CNN. July 28, 2022. [The 5 most striking phrases of Pedro Castillo's speech on his one year anniversary as president of Peru](#).

<sup>2448</sup> RPP. July 29, 2022. [Colegio de Periodistas de Perú rechaza ataque a la prensa en mensaje de Pedro Castillo por Fiestas Patrias](#); TV Perú. July 29, 2022. [They are going to get tired of looking for evidence of corruption, because they are not going to find it, declared Pedro Castillo](#).

<sup>2449</sup> Latina. October 18, 2022. [Pedro Castillo and a new attack on the press during ceremony with graduates of the Armed Forces](#); Consejo de la Prensa Peruana. 19 October 2022. [The Peruvian Press Council asks President Castillo not to use an authoritarian tone against the press](#).

<sup>2450</sup> RPP. April 20, 2022. [Aníbal Torres on the press: "They have created a fiction of reality"](#); Infobae. April 20, 2022. [Aníbal Torres again criticizes the press: "It is a press that is damaging children, that deceives"](#).

<sup>2451</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022. REPORT N°-079-2022/C098/C096R2/May-OFIP-PERU; TV Peru. May 12, 2022. [María del Carmen Alva: "Como siempre la prensa informando mal"](#).



regional governor of Ica<sup>2452</sup>. During the year, the headquarters of the media channel 15 *Cadena Sur* was the target of several threatening acts of vandalism: the entrance of the facilities was attacked with excrement and stained with red paint, a dead dog was thrown at the entrance of the media headquarters, where unknown subjects also allegedly detonated explosives<sup>2453</sup>. In August, a journalist correspondent of *Latina Tv*, *El Comercio* and *Info región* received insults and threats on social networks after reporting on a fire in the Madre de Dios region, allegedly caused by illegal miners<sup>2454</sup>. In turn, on October 27, 2022, journalist Hugo Gonzales Henostroza was physically assaulted by 4 unknown persons in Huaraz, Ancash, resulting in head injuries<sup>2455</sup>. Likewise, IDL-Reporteros denounced several acts of violence against the media and its journalists, including insults and aggressions against its director, Gustavo Gorriti, as well as the raid and attempted theft of material from its offices in Lima<sup>2456</sup>.

1105. The Office is concerned about reports on acts of harassment and verbal and physical aggressions against journalists during the coverage of events and occurrences of public interest. RELE has become aware of episodes of obstruction of journalists' work by private individuals outside public buildings, such as the National Congress, the Superior Court of Justice and Prosecutor's Offices, especially in politically sensitive contexts<sup>2457</sup>. The Office of the Special Rapporteur received with particular concern reports of aggressions in different parts of the country against journalists and communicators covering protests and demonstrations in the country<sup>2458</sup>. In particular, information was received about physical attacks and intimidation against journalists covering the events, as well as obstacles to their work and attempted theft and destruction of equipment, allegedly by unidentified persons who were in the vicinity of the protests<sup>2459</sup>. In this context, a correspondent of *Canal N* was also reportedly the victim of aggressions, a reporter of *La República* had to be taken to a hospital after being hit in the arm, while a journalist of *Panamericana Televisión* was injured after being stoned while covering a protest<sup>2460</sup>.

1106. Throughout 2022, RELE also observed consistent reports of acts of harassment and threats carried out by groups identified as "La Resistencia", "Legión Patriotas del Perú", and other related groups, whose members were reported on several occasions to threaten, harass and physically attack journalists and communicators.<sup>2461</sup> In February 2022, members of the group called "La Resistencia" disclosed personal information of journalist Jaime Chinchá, surrounded his home and uttered insults and threats against him<sup>2462</sup>. Likewise, in March 2022, a journalist from *Latina* was attacked by members of "La Resistencia" outside the

<sup>2452</sup> IPYS. August 3, 2022. [Peru: Harassment and threats against journalist opposed to regional administration continue](#); CPJ. March 7, 2022. [Peruvian journalist Gastón Medina receives envelope with death threat and a bullet in his news outlet](#); Voces del Sur. August 24, 2022. [Peru: journalist receives death threat - Voces del Sur](#).

<sup>2453</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022. REPORT N°-146-2022/C185/September-OFIP-PERU; CPJ. September 19, 2022. [Explosive device detonated outside the headquarters of the Peruvian television channel Cadena Sur](#).

<sup>2454</sup> Latina. August 26, 2022. [Latina journalist receives threats from illegal miners after attack on police base](#); IPYS. 26 August 2022. [Peru: illegal miners threaten journalist after coverage of violent protest](#).

<sup>2455</sup> National Association of Journalists of Peru. October 28, 2022. [Huaraz: journalist is assaulted after disseminating information regarding Regional Government](#); IPYS. 28 October 2022. [Perú: desconocidos atacan a golpes a periodista](#) IDL-Reporteros Twitter account (@IDL\_R).

<sup>2456</sup> IDL-Reporters Twitter account (@IDL-R). [January 11, 2022](#). *La República*. 23 April 2022. [ANP: "Condenamos intrusión a las instalaciones de IDL y el intento de robo de material periodístico"](#); IDL-Reporteros. 26 April 2022. [Reporters Without Borders. ANP and IPYS condemn attacks against IDL-Reporteros](#). IDL-Reporteros. 21 April 2022. [On the day, Pestilencia escalates its attacks](#).

<sup>2457</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022.

<sup>2458</sup> IFJ. [Peru: eight journalists were assaulted during the national strike](#). April 5, 2022; Twitter account of the Office of the Special Rapporteur for Freedom of Expression (RELE\_CIDH). [April 9, 2022](#).

<sup>2459</sup> IFJ. [Peru: eight journalists were assaulted during the national strike](#). April 5, 2022; IACHR. Press Release 072/22. [IACHR condemns restrictions to fundamental rights during protests in Peru and acts of violence](#). April 7, 2022; CPP. [Report 2022-I on freedom of expression in Peru for the Inter American Press Association](#). May 6, 2022.

<sup>2460</sup> Panamericana. [Huancayo: Panamericana TV reporter injured in clashes during protest](#). April 1, 2022; Amnesty International. [Peru: President Castillo must ensure proportional use of force in social protests and avoid human rights violations](#). April 7, 2022; DW. [Peru protests leave at least 6 dead](#). April 7, 2022; CPP. [Report 2022-I on freedom of expression in Peru for the Inter American Press Association](#). May 6, 2022.

<sup>2461</sup> According to information received by the Rapporteurship during its visit to Peru in May 2022.

<sup>2462</sup> El Comercio. [Jaime Chinchá: members of "La Resistencia" hurled insults outside his home](#). February 22, 2022; La República. February 22, 2022. [Members of "La Resistencia" gathered to attack Jaime Chinchá during demonstration](#) / Politics

Congress, in the context of a demonstration with the presence of supporters and opponents of the vacancy of then President Pedro Castillo.<sup>2463</sup>

1107. The Rapporteurship has also been informed of acts of deprivation of liberty to which journalists were subjected while carrying out their work. On April 27, police officers detained for more than 6 hours a journalist from La República who was covering demonstrations in Challhuahuacho, Apurímac. On that occasion, police officers also momentarily took away his cell phone and allegedly erased images taken during the deployment<sup>2464</sup>. On September 2, a team of journalists from *Talara TV Noticias* was detained for more than 24 hours at the local police station after covering a protest in La Brea, Talara, Piura. On the occasion of the detention, a police officer reportedly restrained a journalist on the verge of asphyxiation<sup>2465</sup>. On September 28, police officers held for nearly five hours a team from *Exitosa Noticias* covering an eviction in Lurin, Lima.<sup>2466</sup>

1108. The Office of the Special Rapporteur became aware of the facts related to the deprivation of liberty of a journalistic team from *América TV*<sup>2467</sup>. According to public information, on July 6, 2022, Eduardo Quispe Palacios, Elmer Valdiviezo and Roel Cabrer were detained and deprived of their freedom for more than four hours in the Centro Poblado la Palma, district of Chadín, province of Chota, Cajamarca. In the incident, the journalists had their cell phones and equipment confiscated. Eduardo Quispe Palacios and Elmer Valdiviezo were following up on a report presented in *Cuarto Poder* three days before the incident, in which they criticized the management of contracts and public announcements on state sanitation works in the district of Chadín, in a case apparently related to the sister-in-law of then President Castillo<sup>2468</sup>. The journalists and the host saw their releases conditioned to the reading of a note qualifying as "false accusation" the reported facts, in which it was pointed out the need to rectify the case in order "not to harm the central government, nor their relatives"<sup>2469</sup>. Journalist Eduardo Quispe Palacios was reportedly forced to apologize "to the peasant patrols of the district of Chadín and at the national level for not acting in accordance with the truth"<sup>2470</sup>. The victims were immediately released, according to information from the Peruvian National Police, and their equipment was recovered<sup>2471</sup>. In a communiqué, the Central Única Nacional de Rondas Campesinas reportedly stated that "anyone who goes to rondas campesinas bases must first ask permission from their authorities and if people do not want to testify they cannot be harassed" and that "they do not commit the crime of kidnapping by acting within their constitutional powers"<sup>2472</sup>. The Rapporteurship notes that, according to Article 149 of the Peruvian Constitution, "the authorities of the Peasant and Native Communities, with the support of the Rondas Campesinas, may exercise jurisdictional functions within their territorial scope in accordance with customary law, as long as they do not violate the fundamental rights of the individual."

1109. The Rapporteurship has been informed about the activation of criminal complaints based on crimes against honor<sup>2473</sup> against journalists who cover matters of public interest, such as the alleged collection of

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<sup>2463</sup> The Republic. March 28, 2022. [Latina journalists are attacked by member of the Resistance outside congress](#); El Popular. March 28, 2022. [Vacancy Pedro Castillo: Resistance assaults Latina journalist outside Congress](#).

<sup>2464</sup> The Republic. April 27, 2022. [Apurímac: La República journalist was irregularly intervened by the Challhuahuacho Police](#); El Comercio. April 28, 2022. [Las Bambas: PNP pronounces on case of journalist who reported violent detention in eviction of community members](#).

<sup>2465</sup> The Piura Regional. September 3, 2022. [Talara: police officers denounced for arresting and assaulting journalist Randy León Requena](#); ANP Facebook account. [September 6, 2022](#).

<sup>2466</sup> IPYS. September 29, 2022. [Peru: police surround and detain journalistic team](#); Inter American Press Association. 78th General Assembly. October 27-30, 2022. [Peru](#).

<sup>2467</sup> ANP. July 7, 2022. [ANP demands maximum punishment for those responsible for kidnapping of Cuarto Poder journalists](#); IFJ. 7 July 2022. [Peru: América Televisión journalistic team was kidnapped for several hours](#).

<sup>2468</sup> Infobae. July 6, 2022. [América TV journalists were kidnapped by peasant patrols while investigating the case of Pedro Castillo's sister-in-law](#); El Comercio. July 8, 2022. [Kidnapping of journalists: ronderos say they demanded to read statement to "corroborate their identity" | VIDEO Cajamarca Eduardo Quispe Pedro Castillo](#).

<sup>2469</sup> La República. July 7, 2022. [Eduardo Quispe: who is the journalist who was kidnapped by rondas campesinas in Cajamarca?](#); Perú 21. July 7, 2022. [What does it say and who wrote the message read by the kidnapped Cuarto Poder journalist?](#) | VIDEO.

<sup>2470</sup> The Republic. July 7, 2022. [Reporter of "Cuarto Poder" forced to apologize for report on Yenifer Paredes](#); Canal N. July 7, 2022. [Statement by the Rondas Campesinas de Chadín on kidnapping of journalists](#).

<sup>2471</sup> Twitter account of the National Police of Peru (@PoliciaPeru). [July 6, 2022](#).

<sup>2472</sup> Infobae. July 7, 2022. [Rondas campesinas reject being labeled as "kidnappers" and claim not to protect the government](#); La República. July 7, 2022. [Eduardo Quispe: who is the journalist who was kidnapped by peasant patrols in Cajamarca?](#).

<sup>2473</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022, REPORT N°-006-2022/C008/January-OFIP-PERU.

bribes<sup>2474</sup>, the filing of complaints of rape of minors by the Prosecutor's Office<sup>2475</sup>, facts related to the management of the historical and cultural heritage of Peru<sup>2476</sup>. The Rapporteurship has also been informed that a warrant was issued for the arrest of a journalist for his failure to attend a hearing to initiate the oral trial in a defamation proceeding against him<sup>2477</sup>. Likewise, the Unipersonal Court of Nauta sentenced journalist Denis Flores Díaz, former host and director of the program "Amazonía informativa" on *Radio Amazonía 97.3 F.M.*, to a one-year suspended prison sentence and a payment of 5,000 soles in civil reparations for the crime of defamation against a director of the Local Educational Management Unit of Nauta<sup>2478</sup>.

1110. Therefore, although the Rapporteurship has observed judicial decisions favorable to freedom of the press and special protection for the dissemination of matters of public interest - such as the acquittal in first and second instance of journalist Paola Ugaz in a defamation case reported in previous Annual Reports of this Rapporteurship<sup>2479</sup> - the Rapporteurship notes a widespread practice of activation of lawsuits that can generate a deterrent effect on the exercise of the right to freedom of expression.

1111. The Rapporteurship underscores its concern over the conviction of the 30th Criminal Court of the Supreme Court of Lima, which sentenced reporter Christopher Acosta and Jerónimo Pimentel, director of the publishing house Penguin Random House, to two years' suspended imprisonment for the crime of aggravated defamation (Article 132 of the Criminal Code) against former presidential candidate and leader of the political party Alianza para el Progreso, César Acuña. Likewise, the judge ordered the convicted parties to pay a civil reparation of 400,000 soles (equivalent to 100,000 US dollars). The process originated as a result of a complaint filed by Acuña after the journalist published the book "Plata como cancha" (Silver as a court). The book is described by the publisher as "an exhaustive journalistic investigation that reveals secrets, impunity and fortune of the Peruvian politician", and would include "judicial and fiscal records, government resolutions", among other information related to the political and business career of the plaintiff<sup>2480</sup>. However, after criticism of the decision by civil society organizations and representatives of international organizations, on June 16, 2022 Acuña signed his withdrawal from the lawsuit<sup>2481</sup>.

1112. The Rapporteurship also observed, as recorded in the Annual Report on Attacks on Press Freedom 2022 of the National Association of Journalists of Peru, that at least 15 reports were documented of notarial letters sent by public officials and former public officials against journalists covering matters of public interest that involve them, with threats of prosecution of cases for violations of honor in addition to descriptions of the work performed<sup>2482</sup>. In this sense, the Rapporteurship highlights with particular concern such actions on the part of the highest authorities of the country. On April 12, 2022, the then incumbent President of the Republic sent a notarized letter to journalist Rosana Cueva, of the *Panorama* program and to the director of the *Vigilante.pe* information platform, José Beteta, following the broadcast of a report in which the President appears in a leisure activity with an alleged supplier of the State<sup>2483</sup>. In his letter, made public, he requests rectification for alleged defamation against him, and states "in case of not rectifying in a proportional manner the tendentious falsehoods propagated by you through your social media, I will have the duty to exercise the

<sup>2474</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022. REPORT N°-096-2022/C117-120/June-OFIP-PERU

<sup>2475</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022, REPORT N°-043-2022/C052-053/March-OFIP-PERU.

<sup>2476</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022, REPORT N°-061-2022/C076/C046R1/April-OFIP-PERU.

<sup>2477</sup> IPYS. [Peru: arrest warrant issued against journalist](#); National Association of Journalists. June 17, 2022. [ANP denounces bad practices of the regional governor of Ica to the detriment of local journalism](#).

<sup>2478</sup> IPYS. December 16, 2021. [Peru: judge sentences journalist for defamation](#); Inter American Press Association. 78th General Assembly. October 27-30, 2022. [Peru](#).

<sup>2479</sup> The Republic. June 10, 2022. [Judiciary ratifies sentence that acquitted Paola Ugaz of defamation lawsuit](#); Latam Journalism Review. 2 February 2022. [Judge acquits Peruvian journalist who was sued for aggravated defamation](#).

<sup>2480</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. January 11, 2022. Press Release R12/22. [RELE expresses concern about the conviction for defamation for the publication of the journalistic book "Plata como cancha" in Peru, and warns about its potential intimidating effect](#).

<sup>2481</sup> IPYS. June 12, 2022. [Peru: politician and businessman dropped defamation suit against journalist](#); Andina. June 16, 2022. [César Acuña drops his lawsuit against journalist Christopher Acosta](#) / Noticias.

<sup>2482</sup> National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022

<sup>2483</sup> CPJ. April 29, 2022. [Peruvian President Pedro Castillo threatens two journalists with civil and criminal actions for the crime of defamation](#); La República. April 13, 2022. [CPP on Pedro Castillo's notarized letter to 'Panorama': 'It is a threat'](#).

civil and criminal actions that the Law confers me for the crime of aggravated defamation, foreseen in article 132 of the Penal Code"<sup>2484</sup> . Likewise, on August 1, 2022, President Pedro Castillo again sent a letter to Panorama after the Sunday paper issued a report with statements from an effective collaborator with mentions to the then president. In the letter, it is stated "I ask you to rectify yourself in view of the fact that all these facts are false; otherwise you will be sued for the crime of slander, libel and defamation"<sup>2485</sup> .

1113. In May, the Rapporteurship also noted with concern the impediments encountered by journalists and other accredited media professionals in gaining access to the Congress of the Republic, covering congressional activities, and gaining access to public sources related to the legislative body<sup>2486</sup> . Specifically, access to the hemicycle, to the hall of the lost steps, to the chroniclers' room and to the steps of the Congress was limited as part of the measures imposed to contain the advance of the COVID-19 pandemic and also, based on a report of the National Institute of Civil Defense (INDECI) related to possible structural risks that the Congress building would present<sup>2487</sup> . This despite the fact that, to date, the measures to confront the COVID-19 pandemic in open and closed spaces have already been relaxed in the capital and that, despite the INDECI reports, numerous people enter and use the Congress building. Congressmen and Congresswomen who decide to meet in person, parliamentary work teams, as well as administrative staff and visitors can access the Chamber today. In this context, a congressman reportedly stated that "it is not a media show what is being done inside" as a way of justifying the restrictions on the entry of the press to the Chamber.<sup>2488</sup> Likewise, the Presidency of the National Congress has demanded that journalists "do not misinform" regarding the impediment of the press to enter the Congress<sup>2489</sup> . However, on May 30, the access to the chroniclers' room was again authorized and, on June 15, 2022, access to the Hall of the Lost Steps, to the rooms of the Legislative Palace and the Víctor Raúl Haya de la Torre and Juan Santos Atahualpa buildings was also authorized, as well as access of journalists to the Chamber, although, in the latter case, in a lower number than in the previous practice<sup>2490</sup> .

1114. In 2022, then President Castillo reportedly went for more than 100 days without appearing to make personal statements to the press<sup>2491</sup> . The Rapporteurship has learned of various acts by security agents of President Pedro Castillo to prevent the press from approaching the former president at public events or covering the president's activities at these events<sup>2492</sup> , which would have included physical attacks on a reporter from RPP Radio who tried to approach authorities of the Executive Branch during a walk from the Government Palace to Congress<sup>2493</sup> ; and physical attacks on a journalist from TV Mundo Cusco who was doing his job during

<sup>2484</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. *The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru*. June 2, 2022. P. 8.

<sup>2485</sup> Infobae. August 8, 2022. *Pedro Castillo to Panorama: "I demand your rectification and I order you to proceed to read the notarized letter"*; Peruvian Press Council. National Radio and Television Society. August 2, 2022. *CPP and SNRTV reject President Castillo's threat to Panorama*; Panorama Twitter account (@panoramaptv). *7 August 2022*.

<sup>2486</sup> In this regard, in the framework of its working visit to the country and, in particular, its visit to the Congress of the Republic, the delegation of the Office of the Special Rapporteur was able to verify that the journalists assigned to cover parliamentary work had been located outside the building. They had to carry out their press work under a temporary tent, distanced from the entrance of the Congress and even limited by a fence. In practical terms, this not only prevents them from having first-hand knowledge of the debates and discussions that take place in the chamber, but also their access to sources and public figures is conditioned to their moving - at their discretion - to the aforementioned tent; IACHR. Office of the Special Rapporteur for Freedom of Expression. *La Relatoría Especial para la Libertad de Expresión de la CIDH presenta sus observaciones preliminares y recomendaciones tras su primera visita a Perú*. June 2, 2022; Ombudsman's Office. *Ombudsman's Office requests the Congress of the Republic to provide the necessary facilities for journalists to properly perform their work*. April 29, 2022; Infobae. *Ombudsman's Office pronounced itself against the impediment of journalists to enter Congress*. April 30, 2022; Perú21. *Representatives of press unions were prevented from entering the Congress after sit-in*. May 12, 2022.

<sup>2487</sup> Swissinfo. May 12, 2022. *Journalists urge Peruvian Congress to lift ban on press access*; Convoca. 14 May 2022. *Return of journalists to the congressional chamber is conditioned to a report that not even the parliamentarians themselves know about*; Infobae.8 June 2022. *Congressional restrictions to journalists continue in the Hall of Pasos Perdidos*.

<sup>2488</sup> Infobae. May 12, 2022. *Jorge Montoya "orders" not to attack Congress: "It is the only thing we have left of democracy in the country"*; La República. May 10, 2022.

<sup>2489</sup> Infobae. May 12, 2022. *María del Carmen Alva upset with journalists protesting in front of Congress: "Don't misinform"*; La República. May 12, 2022. *María del Carmen Alva confronts and shouts at journalists demanding to enter the hemicycle*.

<sup>2490</sup> Peruvian Press Council. May 30, 2022. *Open letter to the president of Congress on press access to the hemicycle*; El Peruano. June 14, 2022. *Capacity: 23 journalists will be able to enter from tomorrow to the gallery of the hemicycle of sessions*.

<sup>2491</sup> Infobae. June 2, 2022. *Pedro Castillo and the 100 days of silence with the press*; RPP. June 2, 2022. *Pedro Castillo: 100 days since the president has not given statements to the press*.

<sup>2492</sup> For example, the facts reported on February 25, 2022, March 16, April 25 and June 24 in: National Association of Journalists of Peru. *Attacks on Freedom of the Press. Annual Report 2022*. December 31, 2022.

<sup>2493</sup> Southern Voices. March 15, 2022. *Peru: reporter assaulted by state security to prevent coverage of presidential activity*; Consejo de la Prensa Peruana. March 16, 2022. *Peruvian Press Council condemns aggression against RPP journalist*.



a visit of the former president to a wastewater treatment plant in San Jeronimo, Cusco<sup>2494</sup>. In October, the national press was prevented from accessing a press conference of President Pedro Castillo at the Government Palace, organized after the presentation of a constitutional complaint by the Public Prosecutor against the former president. At the event, only journalists representing international media and local media could attend<sup>2495</sup>. The Foreign Press Association in Peru denied ministers who had alleged that the conference had requested exclusive access to the conference<sup>2496</sup>.

1115. The Rapporteurship has also received information on actions of regional governments that could hinder access to information on matters of public interest. For example, in February 2022, the governor of Piura reportedly prevented journalists he considered critical of his government from attending a press conference on the situation of hospitals in the region, which led to a sit-in protest by local journalists<sup>2497</sup>. There have also been reports of a hostile stance by the regional government of Arequipa against the press, especially after complaints of alleged favoritism in the hiring of personnel by the government<sup>2498</sup>. In January, a journalist from Ke buena Virú reportedly received a blow to the head from a manager of the Municipality of Virú, La Libertad, while the journalist was interviewing him<sup>2499</sup>. In Ica, according to an investigation by Centro Líber through access to public payrolls, said center has identified "A group of thirteen journalists has billed the Regional Government of Ica and its Regional Directorates close to half a million soles for advertising and communications services" and that "the common denominator of this network of communicators is the advertising display that highlights the image of the regional authority and its political movement in social networks"<sup>2500</sup>. Likewise, within the framework of the elections for regional governments, the Rapporteurship has received information of which journalists faced obstacles to access schools where voting was taking place and to carry out the informative work<sup>2501</sup>.

1116. On February 23, 2022, a host of a newscast of the state-owned public television station *TV Peru* announced live on his program that "I have been informed of my untimely dismissal" and stressed that a "situation has been reached where, unfortunately, plurality does not seem to be the flag"<sup>2502</sup>. The National Institute of Radio and Television of Peru reported that the departure of the host would have occurred after "the completion of a service order agreed with the journalist" on February 28 and that "in the framework of a restructuring in programming, his service order would not be renewed"<sup>2503</sup>. The Rapporteurship notes that the structure of hiring journalists in the State channel, framed by temporary and sometimes short-term contracts, may allow quick legal changes in the cadre of some of its press professionals, covered by precarious labor ties. RELE emphasizes that public media fulfill their function in democratic societies, the State must guarantee that they are not subject to arbitrary interference by any actor and must reinforce the guarantees for the independent work of journalists<sup>2504</sup>.

<sup>2494</sup> Canal N. September 9, 2022. [Cusco: journalist had an impasse with President Castillo's security](#); National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022, REPORT N°-144-2022/C182/September-OFIP-PERU.

<sup>2495</sup> IPYS. October 11, 2022. [Peru: Pedro Castillo denies entry of national press to press conference where he gave exonerations on the constitutional accusation against him](#); Consejo de la Prensa Peruana. National Society of Radio and Television. October 11, 2022. [CPP and SNRTV demand the presence of national media in press conferences](#).

<sup>2496</sup> Infobae. October 12, 2022. [Asociación de Prensa extranjera desmiente al Ejecutivo por teoría de 'exclusividad' para impedir ingreso a medios nacionales](#); Vigilante. October 13, 2022. [Foreign Press Association denies Torres and Salas](#).

<sup>2497</sup> IPYS. February 15, 2022. [Peru: regional governor restricts access to conferences and other public events to journalists he considers critical of his administration](#); IPYS. 16 February 2022. [Peru: regional governor sends special police to remove journalists' sit-in](#); Radio Cutivalu. February 15, 2022. [Regional government prevents Cutivalu journalist from entering press conference](#).

<sup>2498</sup> IPYS. August 19, 2022. [Peru: Regional Government harasses journalist and restricts journalist's access to information](#); National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022, REPORT N°-126-2022/C159/August-OFIP-PERU.

<sup>2499</sup> Latam Journalism Review. January 4, 2022. [In Peru, municipal manager responds to journalist with head butt](#); "En voz Alta" Facebook account. [January 1, 2022](#).

<sup>2500</sup> Liber Center. June 1, 2022. [The Governor's networks](#).

<sup>2501</sup> According to reports filed on October 2 and December 4 in: National Association of Journalists of Peru. Attacks on Freedom of the Press. [Annual Report 2022](#). December 31, 2022.

<sup>2502</sup> Management. February 23, 2022. [IRTP on Enrique Chávez: It was not untimely dismissal, but rather that his service order was not renewed](#); IPYS. February 22, 2022. [Peru: journalist warns about lack of plurality in State channel](#).

<sup>2503</sup> TV Perú Twitter account (@tvperupe). [February 23, 2022](#).

<sup>2504</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for the transition to an open, diverse, plural and inclusive digital television. OEA/Ser.L/V/II. CIDH/RELE/INF.13/15. March 9, 2015. Para. 155 et. al.



## B. Freedom of expression, Rule of Law and democratic institutions

1117. This Office highlights that, as has been recorded over the past years in annual reports of the RELE, episodes of social conflict have been a constant in Peru<sup>2505</sup>. In this context, in April 2022, the IACHR has recorded that "The National Freight Transporters Guild called for a national strike on March 28th for economic claims. According to available information, as of April 4, 4 people had died in the context of the strike, among them, 2 people who suffered traffic accidents, 1 child who fell into a river while fleeing confrontations between State forces and demonstrators, and 1 elderly person who was unable to get to his dialysis because of the demonstrations on the roads"<sup>2506</sup>. There have also been reported cases of injured people, including policemen, as well as riots, burning of tollbooths and looting of commercial premises that allegedly led to the arrest of 22 people<sup>2507</sup>. In response to the situation, the Executive Branch published the Supreme Decree of April 4, whereby it established a state of emergency in the cities of Lima and El Callao as of 2:00 a.m. the following day, and temporarily suspended rights such as the inviolability of the home, freedom of transit, personal freedom and freedom of assembly, among others<sup>2508</sup>. The state of emergency was lifted in the afternoon of April 5.<sup>2509</sup>

1118. In this regard, the IACHR and its RELE condemned the restrictions on fundamental rights in the face of these protests and the acts of violence recorded and possible human rights violations, and urged the State to respect and guarantee the human rights of all persons, both those who participate in the mobilizations and those who do not. It also recalled how inappropriate and dangerous it can be to decree states of emergency to address situations of high social conflict, the risks of human rights violations in this context and that such measures do not represent sustainable and effective responses to address and resolve democratic challenges<sup>2510</sup>.

1119. At the same time, RELE monitored the status of Constitutional Complaint N°132, filed by the former Attorney General of the Nation, Zoraida Ávalos Rivera, against Manuel Arturo Merino de Lama, in his capacity as President of the Republic; Antero Flores-Aráoz Esparza, in his capacity as President of the Council of Ministers and Gastón César Augusto Rodríguez Limo, in his capacity as Minister of the Interior<sup>2511</sup>, for the facts related to the state deployment in the days of protest in November 2020, known as #14N, where close to 80 people were injured, including journalists, and two young men, Jordan Inti Sotelo Camargo and Jack Bryan Pintado Sánchez, lost their lives. In this regard, RELE was informed that the proposed Final Report determined that "there is no responsibility of the mentioned officials, recommending the file for the alleged commission by omission of the crime of homicide, serious injuries and minor injuries, to the detriment of J.I.S.C. and J. B. P. S. S., F. M. C. A. and others"<sup>2512</sup>. On July 1 of this year, the Standing Committee approved the final report, thus culminating the process in Parliament<sup>2513</sup>.

1120. RELE has also received information on the status of the file opened against 11 high-ranking officers of the National Police (PNP) for the crimes of homicide, serious injuries, minor injuries and abuse of authority

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<sup>2505</sup> IACHR. [Annual Report 2017. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 210/17. December 31, 2017. Para. 1036-1039; IACHR. Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 30. 17 March 2019. Para. 900-906; IACHR. Annual Report 2019. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 5. 24 February 2020. Para. 1056-1063; IACHR. Annual Report 2020. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 28. 30 March 2021. Paras. 1145-1150; EFE. \[Social conflict in Peru: instability, mining and informality. 30 May 2022; Ombudsman's Office. Social Conflict Report No. 219. May 2022.\]\(#\)](#)

<sup>2506</sup> IACHR. April 7, 2022. Press Release 072/2022. [IACHR condemns restrictions to fundamental rights in the face of protests in Peru and acts of violence.](#)

<sup>2507</sup> IACHR. April 7, 2022. Press Release 072/2022. [IACHR condemns restrictions to fundamental rights in the face of protests in Peru and acts of violence.](#)

<sup>2508</sup> Government of Peru. Presidency of the Council of Ministers. [Supreme Decree No. 034-2022-PCM.](#) April 4, 2022

<sup>2509</sup> BBC. April 5, 2022. [Peru: President Castillo announces end of state of emergency amid violent clashes in Lima](#); CNN. April 6, 2022. [Castillo reverses curfew: here's what we know about the situation in Peru.](#)

<sup>2510</sup> IACHR. April 7, 2022. Press Release 072/2022. [IACHR condemns restrictions to fundamental rights in the face of protests in Peru and acts of violence.](#)

<sup>2511</sup> Public Prosecutor's Office of the Nation. March 7, 2022. [Public Prosecutor's Office sustains constitutional complaint against Manuel Merino and others, for the death of Inti Sotelo and Bryan Pintado.](#)

<sup>2512</sup> Congress of Peru. Permanent Commission. Sub Committee on Constitutional Accusations 2021-2022. [Oficio 0242.2021.2022.SCAC.CP.CR.](#) June 24, 2022.

<sup>2513</sup> Swissinfo. July 1, 2022. [Peruvian Congress confirms that it has filed a complaint against former president Merino](#); El Comercio. July 1, 2022. [Manuel Merino: Permanent Commission confirms filing of complaint for deaths of Inti Sotelo and Bryan Pintado.](#)

for alleged human rights violations in the context of the November 2020 protests<sup>2514</sup>. Between July 2022 and November 2022, all scheduled prosecutorial proceedings have been suspended as a result of a negative jurisdictional dispute over jurisdiction for the jurisdictional control of the ongoing investigation<sup>2515</sup>. The Rapporteurship notes that on November 29, 2022, the Permanent Criminal Chamber of the Supreme Court decided in favor of retaining jurisdiction in the National Criminal Court<sup>2516</sup>.

1121. In light of the above, this Office recalls that States have the duty to investigate and punish any violation that occurs in the context of a public demonstration. In these contexts, the absence of a thorough investigation when rights such as life and physical integrity have been violated generates an intimidating effect that is particularly serious due to the impact it has on the exercise of the rights to assembly, freedom of expression, and free association<sup>2517</sup>.

1122. For its part, the Rapporteurship has learned of judicial decisions that have lifted precautionary orders prohibiting persons accused or investigated in criminal proceedings from making statements to the press<sup>2518</sup>. This Office emphasizes that, in a September 2022 decision that lifted restrictive measures of "prohibition to make statements to the press, radio, written or television media regarding his case" and "prohibition to carry out political activity directly or indirectly" against a former Peruvian president accused in a money laundering process, the Criminal Chamber of the Supreme Court emphasized that "the criminal judge cannot run the risk of making criminal law a deterrent to the exercise of freedom of expression, which is undoubtedly undesirable in a democratic State"<sup>2519</sup>. As in other similar cases, RELE emphasizes that the judicial authorities must apply the constitutional or international guarantees that protect freedom of expression and ensure the media the freedom to report on matters of public interest, without being subject to prior censorship and other illegitimate restrictions<sup>2520</sup>.

1123. On April 8, 2022, the government presented Bill 1705/2021, which seeks to amend the text of Article 61 of the Peruvian Constitution<sup>2521</sup>. The bill proposes that the article expands the obligation to combat oligopolies and determines that "the State facilitates and monitors free competition, according to the principles and purposes of the Social Market Economy". It also adds that "monopolies, oligopolies, hoarding, speculation or price agreements are prohibited, as well as the abuse of dominant positions in the market. The law establishes the corresponding sanctions in the civil, administrative and criminal spheres for those individuals or legal entities that fail to comply with such prohibition". Additionally, said Bill proposes the prohibition "of cross-ownership of social media, in accordance with the law". According to the justification of the Bill, "although it is true that our legal system currently already provides a series of rules at an infra-constitutional level for the punishment of this type of conduct, it is necessary to establish an express directive to the ordinary legislator to deepen the mechanisms that may be necessary to guarantee what the Constitution requires (under the terms now proposed in Article 61°)"<sup>2522</sup>.

1124. This Office would like to advise that the issue of alleged media concentration in Peru is related to a case before the Inter-American Commission, currently in the merits phase<sup>2523</sup>. In 2022, the IACHR has admitted

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<sup>2514</sup> Ministry of Justice and Human Rights. Response to the Request for Information of the Special Rapporteur for Freedom of Expression of the IACHR, on the situation of freedom of expression in Peru. Oficio N. 292 - 2022 - JUS/VMDHAJ. August 24, 2022. RELE-IACHR file. Citing: MPFN. Report N° 14-2022-MP-FN-1FPSL, 2022. In: Oficio N° 004121-2022-M-FN-SEGFN. Date: 18.08.2022.

<sup>2515</sup> The Republic. July 21, 2022. [Inti and Bryan case: Prosecutor's Office suspends investigation after controversial ruling by Judicial Branch](#); Infobae. July 22, 2022. [Prosecutor's Office suspends investigation against Manuel Merino for Inti and Bryan's deaths - Infobae](#).

<sup>2516</sup> Government of Peru. Judicial Power. November 29, 2022. [Superior National Court will have jurisdiction in the process for the death of Inti Sotelo and Bryan Pintado](#).

<sup>2517</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II IACHR/RELE/INF.22/19. September 2019. Para. 246.

<sup>2518</sup> El Comercio. September 2, 2022. [Judiciary revokes four restrictive measures against PPK in money laundering investigation](#); Infobae. September 8, 2022. [Judiciary lifts restriction against Susana Villarán prohibiting her from testifying to the press](#).

<sup>2519</sup> State of Peru. Judicial Branch. Supreme Court of Justice of the Republic. Permanent Criminal Chamber. [Appeal 2848/2021/National](#), September 2, 2022.

<sup>2520</sup> IACHR. Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/SER.L/V/II Doc. 30. 17 March 2019. Para. 177.

<sup>2521</sup> Republic of Peru. Presidency of the Republic. [Oficio 101-2022](#). April 7, 2022. PL 1705-2021-PE.

<sup>2522</sup> Republic of Peru. Presidency of the Republic. [Oficio 101-2022](#). April 7, 2022. PL 1705-2021-PE.

<sup>2523</sup> IACHR. Report 125/22. Petition 1380-15. Seven Journalists. Peru. [Admissibility Report](#). November 21, 2022.

the case *Siete Periodistas vs. Peru*, in relation to Articles 8, 13 and 25 in accordance with Articles 1.1 and 2 of the American Convention<sup>2524</sup>. In 2013, a group of journalists, editors and journalistic entrepreneurs, filed an injunction lawsuit to declare null and void the purchase of a newspaper conglomerate of written press in the country by a business group of the same sector. As reported in RELE's 2021 Annual Report, in 2021, the first instance court declared the amparo proceeding to be admissible<sup>2525</sup>. However, after an appeal was filed, the sentence was annulled due to errors in the conduct of the process and in the guarantee of ample defense in the first instance<sup>2526</sup>. The Rapporteurship also notes that the business group, and defendant in said lawsuit, has argued that in Peru, "the written press is an open market without access barriers, in which numerous independent media participate not only in print editions (where several new newspapers have appeared), but also now in multiple digital platforms; which contribute to ensure plurality of information, diversity of approaches, and freedom of expression. This, without considering that freedom of expression is also exercised through other media, such as radio, television, and even social networks"<sup>2527</sup>.

1125. The Rapporteurship also learned with particular concern that, based on the analysis of leaked documents of the General Intelligence Directorate of Peru, journalistic investigations have highlighted that the documents reveal that the Directorate has monitored for alleged "terrorist" activities different public events in defense of human rights - including events promoted or organized with the support of government entities - events of political movements and leftist political parties, as well as Muslim religious leaders and associations, human rights defenders, political parties and political leaders and journalists<sup>2528</sup>. Likewise, the leaked documents known as "Guacamaya Leaks" would have pointed out the profiling of political parties and leaders and the elaboration of intelligence reports under the category of "affectations to the democratic State" and the indication that local journalists, teachers, local and religious leaders would act in the "indoctrination of the population" and that the "threat actors" identified in the report would have the "advice" of national and international NGOs<sup>2529</sup>. The digital media *La Encerrona* reported that after consulting the Armed Forces about the documents, they received an informal call from a colonel of the Information Office to warn them that publishing information related to the Guacamaya Leaks would be a crime<sup>2530</sup>.

1126. Throughout 2022, the Office of the Special Rapporteur has also become aware of various bills that could affect the free exercise of freedom of expression in Peru. On August 19, 2022, Bill 2862/2022 was presented in the Congress of the Republic proposing to raise the penalty in cases of defamation by up to five years, if the crime is committed through books, the press, social networks, websites or other means of social communication, which would result in effective imprisonment<sup>2531</sup>. RELE recalls that the punitive power of the State, all the more so when the consequence could be possible imprisonment, can only be exercised to the extent strictly necessary to protect fundamental legal goods from the most serious attacks that damage or endanger them<sup>2532</sup>.

1127. RELE takes note that the same congressman has submitted, on August 15, 2022, a bill to establish that "the State and private media must grant a free television and/or radio space so that the authorities elected by popular election of the Central, Regional or Local Government may inform, annually to the population, about their administration and for as long as it lasts"<sup>2533</sup>. According to the legislative proposal (Bill 2815/2022), its purpose would be to inform the citizens regarding "the progress, achievements and goals obtained in the

<sup>2524</sup> IACHR. Report 125/22. Petition 1380-15. Seven Journalists. Peru. [Admissibility Report](#). November 21, 2022.

<sup>2525</sup> IACHR. Annual Report 2021. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II Doc. 64 rev. 1. 26 May 2022. Para. 732.

<sup>2526</sup> Republic of Peru. Judicial Branch. Superior Court of Justice of Lima. Fourth Chamber Specialized in Civil Matters. Expediente 035583-2013-0-1801-JR-CI-04. October 20, 2022.

<sup>2527</sup> El Comercio. June 25, 2021. [Empresa Editora El Comercio SA will appeal ruling against association with Epensa](#); Apoyo Consultoria. Economic evaluation of the decision of the Fourth Constitutional Court of Lima declaring null the purchase of Epensa by El Comercio. Final Report prepared for El Comercio. September 23, 2021. Special Rapporteur's file.

<sup>2528</sup> EFF. December 25, 2022. [Hacking Governments and Government Hacking in Latin America: 2022 in Review | Electronic Frontier Foundation](#); La Encerrona. May 9, 2022. [#La Encerrona La PNP exposed \(in all its terruqueo\) by Russian hackers](#).

<sup>2529</sup> Connectas. October 10, 2022. [Guacamaya Leaks: Amidst Intelligence and State Abuse](#); La Encerrona Twitter account (@laencerronaperu). [October 6, 2022](#).

<sup>2530</sup> La Encerrona Twitter account (@laencerronaperu). [October 6, 2022](#).

<sup>2531</sup> Republic of Peru. Congress of the Republic. [Bill 02862/2022-CR](#). August 19, 2022.

<sup>2532</sup> I/A Court H.R., Case of Kimel v. Argentina. [Case of Kimel v. Argentina](#). Merits, Reparations and Costs. Judgment of May 2, 2008. Series C No. 177. para. 76.

<sup>2533</sup> Republic of Peru. Congress of the Republic. [Bill 02815/2022-CR](#). August 15, 2022.

development of the work carried out by the authorities of the central, regional and local government, annually, so that the population may know, directly from their authorities, the work carried out by them for the benefit of the community"<sup>2534</sup>.

1128. RELE notes with concern the presentation, on July 6, 2022, of Bill 2508/2021 by the Executive Branch, which punishes with a penalty of 1 to 4 years the dissemination of confidential information of the criminal investigation by the aggrieved party, lawyer, legal representative or any of the parties involved in a criminal investigation, judge, prosecutor, jurisdictional assistant, administrative assistant, assistant in prosecutorial function or member of the PNP<sup>2535</sup>. The RELE emphasizes that the most serious penalties are for the act of disseminating, directly or indirectly, the information through "social communication media or other mass media"<sup>2536</sup>. The legislative proposal received criticism from different civil society organizations in Peru, which reinforced the risk of imposing disproportionate restrictions on the circulation of information of public interest - such as allegations of corruption<sup>2537</sup>. The Peruvian Ombudsman's Office has concluded that "this legislative initiative violates the citizens' freedom of information" and warned about "the risk that the legislative proposal implies for the work of the press, since it criminalizes journalistic sources and allows women and men of the press to be investigated as accomplices or instigators"<sup>2538</sup>.

1129. Now, prior to the presentation of said Bill by the Executive Branch, the RELE takes note that, in January 2022, the Justice and Human Rights Commission of the National Congress has analyzed two bills referred to the criminal process for effective collaboration and, in its opinion unanimously approved, has presented a substitute text the analyzed bills with the following amendment to Article 409-B of the Criminal Code, contained in said opinion, states: "Whoever unduly discloses, provides, disseminates, supplies, gives or gives, in whole or in part, directly or indirectly, the identity of an effective collaborator, witness, aggrieved or protected expert, undercover or special agent, or the content of their statements, at any stage of the investigation or proceedings, shall be punished with imprisonment for not less than four nor more than six years"<sup>2539</sup>. In March, the Committee to Protect Journalists called on Congress to reject this legislative proposal, considering that it would impose an "absolute prohibition on the publication of information derived from the testimony of informants, which may be of obvious public interest, is incompatible with freedom of the press"<sup>2540</sup>. Despite the fact that in a first plenary vote the bill was not approved, a request for reconsideration of the vote was submitted, which, at the time of writing this report, was still awaiting analysis<sup>2541</sup>.

1130. However, on July 16, 2022, Law 31515 was published, which amends Law 28874 and regulates government advertising. Said regulation incorporates new requirements, general criteria and modifies prohibitions regarding state advertising<sup>2542</sup>. The Rapporteurship notes that the modifications established by Law 31515 would have a particular impact in favor of the contracting of state advertising for local media. The Law establishes that one of the requirements for the proposal and technical justification for the selection of broadcast media is the location of the media. It also establishes that a minimum percentage of 30% to 70% of the official advertising contracted by an entity must be destined to local media, variable according to the target audience, the territory where the broadcast message will be disseminated and the contracting state agency (whether national or local)<sup>2543</sup>.

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<sup>2534</sup> Republic of Peru. Congress of the Republic. [Bill 02815/2022-CR](#). August 15, 2022.

<sup>2535</sup> Republic of Peru. Presidency of the Republic. [Oficio 199-2022-PR](#). Bill 02508/2021-PE. July 6, 2022.

<sup>2536</sup> Republic of Peru. Presidency of the Republic. [Oficio 199-2022-PR](#). Bill 02508/2021-PE. July 6, 2022.

<sup>2537</sup> RPP. June 26, 2022. [Journalistic unions reject bill of the Executive that seeks to penalize the dissemination of tax information](#); France21. July 8, 2022. [Castillo's "gag law" bill raises fears in Peru](#).

<sup>2538</sup> Office of the Ombudsman. July 16, 2022. Bill [that creates a crime of dissemination of information in criminal investigations violates the freedoms of expression and information](#).

<sup>2539</sup> Republic of Peru. Congress of the Republic. Justice and Human Rights Commission. [Opinion on Bills 012/2021-CR and 565/2021-CR, proposing the Law that modifies Articles 473, 476-A and 481-A of the Criminal Procedural Code and Article 409-B of the Criminal Code, in order to Strengthen the Special Process for Effective Collaboration](#). January 21, 2022.

<sup>2540</sup> CPJ. March 14, 2022. [Peruvian Congress introduces bill to criminalize journalistic disclosure of statements by effective collaborators](#).

<sup>2541</sup> Republic of Peru. Congress of the Republic. [Bill 00565/2021-CR](#). Follow-up of the file.

<sup>2542</sup> Official Gazette El Peruano. [Law No. 31515](#). July 16, 2022.

<sup>2543</sup> Official Gazette El Peruano. [Law No. 31515](#). July 16, 2022.

1131. The Rapporteurship notes that these guidelines would be focused on addressing the need for the mechanisms for the allocation of official advertising to cover the different types of media, including local media. However, RELE considers that these measures should be accompanied by the necessary guarantees so that the advertising budget is allocated by impartial and credible institutions; with measurements based on objective and reliable criteria; and following technical criteria. As this Office has pointed out, the allocation of official advertising cannot represent a reward for silence or punishment for criticism, according to the editorial lines of the media<sup>2544</sup>. Finally, the Rapporteurship observes that such measures should not be confused with others, such as subsidies or economic aid of any kind that are specifically intended to promote media diversity and pluralism<sup>2545</sup>.

1132. The Rapporteurship has also learned that a group of individuals known as "La Resistencia" are linked to acts of violence in places where freedom of expression is exercised, such as bookstores or libraries, for example. According to information received by the delegation, this group has violated several bookstores in the capital, such as the *Crisol* bookstore or the *Primera Parada* bookstore<sup>2546</sup>. In particular, alleged members of "La Resistencia" have been identified as responsible for acts of harassment and insults against people attending the presentation of the book "Populistas" by Carlos Meléndez, at the Lima bookstore *El Virrey* on April 28, 2022<sup>2547</sup>. On the same occasion, members of the group harassed a journalist from Exitosa<sup>2548</sup>.

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

1133. Throughout 2022, the Rapporteurship continued to receive information about acts of harassment and judicial harassment against women who denounce acts of sexual violence and against groups that promote sexual and reproductive rights. The Rapporteurship has also received information on legislative initiatives that could place restrictions on the right to sexual and reproductive education. At the same time, the Rapporteurship rejects the invasion of a community library in May as a way to intimidate the work of two lesbian women and their community.

1134. For example, on May 23, 2022, the Tenth Seventh Unipersonal Criminal Court of the Superior Court of Justice of Lima tried a criminal complaint for aggravated defamation and sentenced a student of the Pontifical Public University of Peru, who publicly and administratively denounced alleged acts of sexual violence committed by a professor of archaeology at the university and former Peruvian Minister of Culture, to 20 months in suspended prison and the payment of 180,000 pesos<sup>2549</sup>. In October, United Nations experts warned of the risk that "if the court's decision stands, it could silence other victims and survivors of sexual violence and prevent them from speaking out against their aggressors"<sup>2550</sup>.

1135. The Rapporteurship has also learned that the Prosecutor of the Ministry of Women and Vulnerable Populations reportedly sent notarized letters against El Foco after the media outlet published a report alleging mistreatment and harassment of four women who allegedly worked under him. The letter requested the rectification "of the versions made by your person against me that constitute the crime against honor, slander and defamation" and points out an alleged improper use and editing of a photograph of him for the dissemination of the article in social networks. In the absence of rectification by the journalists of El Foco, the prosecutor filed an amparo lawsuit against the journalists, which was admitted for processing before the Fifth

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<sup>2544</sup> IACHR. [Background and Interpretation of the Declaration of Principles on Freedom of Expression](#). 2000.

<sup>2545</sup> RELE. [Principles on the Regulation of Official Advertising in the Inter-American System for the Protection of Human Rights](#). 2010. Para. 77 et al.

<sup>2546</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 2, 2022. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#).

<sup>2547</sup> IPYS. [Peru: members of extreme right-wing group attempt to attack reporter. April 29, 2022; La República. May 3, 2022. Vladimir Cerrón: La Resistencia promotes violent actions during book presentations; IDL-Reporteros. May 2, 2022. 'La Peste' escalates its war against books](#).

<sup>2548</sup> IPYS. April 29, 2022 [Peru: members of extreme right-wing group attempt to assault reporter; Exitosa Noticias. 29 April 2022. Members of "La Resistencia" attempted to assault Exitosa team during protests](#).

<sup>2549</sup> The Republic. May 23, 2022. [Judiciary issues suspended prison sentence to Marcela Poirier for the crime of defamation against former minister Luis Castillo](#); Wayka. May 24, 2022. [Judge sentences former student who denounced sexual harassment against professor Luis Jaime Castillo](#).

<sup>2550</sup> OHCHR. 17 October 2022. [Peru: UN experts concerned that criminalizing women activists will silence victims of sexual harassment](#).



Court Specialized in Constitutional Matters of the Superior Court of Lima in September<sup>2551</sup>. On October 14, the journalists were notified of the granting of a precautionary measure in favor of the prosecutor, in which the Fifth Constitutional Court of the Superior Court of Justice of Lima determined the provisional and immediate withdrawal of the retransmitted or permanent publications in the computer platforms (...) of the media outlet *El Foco*, related to the plaintiff, under penalty of the coercive measures allowed by the Constitutional Procedural Code, to be extended while the fine sentence is issued"<sup>2552</sup>.

1136. The Rapporteurship recalls that in the Joint Declaration of 2022, the various experts on Freedom of Expression recommended that "women who publicly denounce alleged perpetrators of sexual or gender-based violence should not be charged with criminal defamation, prosecuted for false denunciation of crimes, or be subjected to frivolous or vexatious defamation lawsuits"<sup>2553</sup>. Within the scope of the Inter-American system for the protection of human rights, and in particular the American Convention and the Convention of Belém do Pará, guarantee the right of women to exercise freedom of expression free from all forms of discrimination and violence.

1137. At the same time, the Rapporteurship emphasizes that women journalists "in challenging macho stereotypes that condemn their participation in public life, are confronted with violence and discrimination against women based on their gender, as well as differentiated forms of violence by state and non-state actors"<sup>2554</sup>. In 2022, the Rapporteurship learned that a journalist from *Wayka Peru* was the victim of a sexual assault while conducting interviews in the streets of Comas, Lima, when a man made inappropriate touching<sup>2555</sup>. Likewise, in November, the Peruvian Prime Minister, during activities at the Government Palace, reportedly made negative remarks about the coverage of a Sunday program on América Televisión about the situation of some roads in the country and that its hostess was a "bad mother", "bad wife", "bad daughter" and "if she has children she is only deforming her children"<sup>2556</sup>. The Rapporteurship emphasizes that violence, discrimination, and stigmatization based on gender reinforce the situation of vulnerability of women, which excludes and expels them from participation in public life for the mere fact of being women<sup>2557</sup>.

1138. The Rapporteurship also learned that Law 904/2021 on the content of educational materials and resources in Peru, approved on May 6, 2022 by Congress, is currently awaiting enactment<sup>2558</sup>. The law would condition the publication of educational materials to the prior consultation and consent of parents and guardians, which, according to the Ombudsman's Office, could impede "access to an education free of gender stereotypes and prejudices, as well as the exercise of the right to sexual and reproductive health"<sup>2559</sup>. According to the Ombudsman's Office, this is "a dangerous precedent for all public policies, since it would institutionalize -through a law- a right to veto by people with beliefs or prejudices, generating instability and lack of legal security for the protection of the human rights of people, and particularly, of students"<sup>2560</sup>.

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<sup>2551</sup> IPYS. 30 September 2022. [Peru: procurador del Ministerio de la Mujer presenta acción de amparo contra periodistas](#); Asociación Nacional de Periodistas. November 5, 2022. [Lima: Court orders media outlet to withdraw information on allegations against public official](#).

<sup>2552</sup> The Republic. November 5, 2022. [Superior Court of Justice of Lima orders the removal of publications on allegations against MIMP official](#); El Foco Twitter account (@elfoco.pe). 14 December 2022.

<sup>2553</sup> United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, Organization of American States (OAS) Special Rapporteur on Freedom of Expression, African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration 2022 on Freedom of Expression and Gender](#). May 3, 2022.

<sup>2554</sup> IACHR. RELE. [Women Journalists and Freedom of Expression](#). OEA/SER.L/V/II IACHR/RELE/INF.20/18. October 31, 2018. para. 3.

<sup>2555</sup> IFJ-FIP. September 23, 2022. [Peru: journalist suffered sexual harassment during coverage](#); Swissinfo. 22 September 2022. [Journalist reportedly sexually assaulted while conducting interviews in Lima](#).

<sup>2556</sup> Swissinfo. November 7, 2022. [Feminist entities criticize Peruvian prime minister for misogynistic attacks](#); IPYS. 7 November 2022. [Peru: prime minister utters sexist insults against TV journalist](#).

<sup>2557</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Women Journalists and Freedom of Expression](#). OAS/SER.L/V/II CIDH/RELE/INF.20/18. October 31, 2018. Para. 2 and 69.

<sup>2558</sup> Official Gazette El Peruano. June 23, 2022. [Law 31498: Law that promotes the quality of materials and resources](#).

<sup>2559</sup> Office of the Ombudsman. May 7, 2022. [Ombudsman's Office: President of the Republic must observe Bill No. 904 that conditions the publication of educational material to the consent of mothers and fathers](#).

<sup>2560</sup> Office of the Ombudsman. May 7, 2022. [Ombudsman's Office: President of the Republic must observe Bill No. 904 that conditions the publication of educational material to the consent of mothers and fathers](#).

1139. The Rapporteurship recalls that States should encourage public and private educational institutions to develop curricula and programs to guarantee human rights education in an interdisciplinary manner and in all educational cycles with a gender equality and intersectionality perspective, also guaranteeing comprehensive sex education<sup>2561</sup>.

1140. The Rapporteurship rejects the acts of harassment suffered by women and girls at the Miguelita Acosta Library. This Office was informed that on May 15, 2022, members of the so-called "Resistance" violently broke into a children's concert held at a fair to raise funds in support of the feminist and community library Miguelina Acosta<sup>2562</sup>. According to what RELE learned during its visit to the library, the aggressions, insults and destruction occurred in the presence of children and adolescents, as a way to intimidate the couple of lesbian women known as part of the LGBTI community that carries out a laudable social project in favor of vulnerable children in the center of the capital<sup>2563</sup>. The State must act to guarantee the right to freedom of expression of historically discriminated groups and punish those responsible for actions that seek to arbitrarily restrict this right, especially considering that the right to freedom of expression is closely related to promoting understanding and tolerance between cultures, favoring the deconstruction of stereotypes, facilitating the free exchange of ideas and offering alternative opinions and points of view<sup>2564</sup>.

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

1141. According to official data from the National Institute of Statistics and Informatics, between July and September 2022, approximately 74.2% of the population aged 6 years and older in the country uses the Internet and approximately 58.2% of households in the country have access to the Internet. However, the Rapporteurship emphasizes that, in addition to the existing gap to the universalization of the Internet in the country, there are important geographic and social gaps, which reveal an unequal possibility of access. For example, according to the INEI, "in Metropolitan Lima, 87.2% of the population used the Internet, 78.4% in the rest of urban areas and 42.8% in rural areas. At the same time, while 96.9% and 94.9% of the population with university and non-university higher education, respectively, use (...) Internet services", only 44.9% of the population with primary education or less do so. Likewise, only 19.1% of the population that accesses the Internet does so at home and on a cell phone<sup>2565</sup>.

1142. Access to the Internet is a *sine qua non* condition for the effective exercise of human rights<sup>2566</sup>. The Rapporteurship recalls that the principle of universal access to the network goes hand in hand with other duties on the part of the State, such as the duty to "promote, in a progressive manner, access to the technology necessary for its use and to the greatest possible amount of information available on the network; the duty to eliminate arbitrary barriers to access to infrastructure, technology and online information; and the duty to adopt positive differentiation measures to allow the effective enjoyment of this right to persons or communities that require it due to their circumstances of marginalization or discrimination"<sup>2567</sup>. At the same time, the Rapporteurship has reiterated that "the authorities should encourage educational measures aimed at promoting the ability of all persons to make autonomous, independent and responsible use of the Internet and digital technologies", a set of processes known as digital literacy, which should be oriented to the development of civic skills in the perspective of democratic coexistence and with a human rights approach<sup>2568</sup>.

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<sup>2561</sup> In this sense: I/A Court H.R., Case of Garzón Guzmán et al. *Case of Garzón Guzmán et al. v. Ecuador. Merits, Reparations and Costs*. Judgment of September 1, 2021. Series C No. 434. para. 139.

<sup>2562</sup> The Republic. May 14, 2022. [Downtown Lima: La Resistencia attacks citizens participating in a fair](#); Wayka. May 16, 2022. ['La Resistencia' attacks fair held by children from Miguelina Acosta Library](#).

<sup>2563</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#). June 2, 2022. P. 6.

<sup>2564</sup> IACHR. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. OAS/Ser.L/V/II.rev.2 Doc. 36. 12 November 2015. para. 219.

<sup>2565</sup> INEI. Government of Peru. [Estadísticas de las Tecnologías de Información y Comunicación en los Hogares. Quarter July-August-September 2022](#). December 2022.

<sup>2566</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 32.

<sup>2567</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 7.

<sup>2568</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 6.

1143. At the same time, the Rapporteurship has taken note of the powers of the Ministry of Transport and Communications to determine the suspension or blocking of operators and intermediaries in the online space. In this regard, the Rapporteurship is concerned about the information on the growing activation of precautionary processes and without opportunities to carry out a contradictory process that generate the blocking of websites and applications<sup>2569</sup>. The Rapporteurship was also informed about the powers of the Ministry of Transport and Communications to have administrative instruments to facilitate the blocking of applications based on an administrative regulation, according to the information received, said regulation does not guarantee due legal process or the right to a defense, it was also alleged lack of guarantees of transparency or democratic participation in the social scrutiny of such functions<sup>2570</sup>. For example, the Rapporteurship was informed of the use of Supreme Decrees with such objectives, as in the case of Supreme Decree 035-2019-MTC, which specifies the provisions on the blocking of applications and/or web pages related to the service of public transportation of persons in unauthorized minor vehicles<sup>2571</sup>.

1144. The relevance of the Internet as a platform for the enjoyment and exercise of human rights is directly linked to the architecture of the network and the principles that govern it, including the principle of openness, decentralization and neutrality<sup>2572</sup>. The blocking and filtering of content, in addition to any other sanction, must be subject to a strict proportionality judgment and be carefully designed and clearly limited so that it does not reach legitimate content that deserves protection<sup>2573</sup>.

1145. During 2022, the Rapporteurship also received information on policies, installation of cameras with face detection capability in some cities and districts of the country, without broad debate and prior reflection with citizens, and in the context of opacity about the scope and types of contracts signed between the companies offering the service and the public authorities and the database used<sup>2574</sup>. Currently, according to information received by the Rapporteurship, Legislative Decree 1182 already authorizes the Police to access, without prior court order, the location or geolocation of cell phone users and orders companies to save traffic data of all communications in the country for up to three years<sup>2575</sup>. In this regard, the Rapporteurship notes that the District Municipality of La Victoria was sanctioned in July 2022 by the National Data Protection Authority for "processing personal data without complying with the security measures established in the regulations on the matter"<sup>2576</sup>. In 2020, *Hiperderecho* and *AccesNow* reportedly filed a complaint about "the implementation of cameras with facial recognition technology that illegally process biometric data" in that municipality<sup>2577</sup>.

1146. As highlighted on other occasions by this Office, States have the obligation to respect and protect the right to privacy in accordance with international human rights law<sup>2578</sup>. Likewise, "surveillance practices and

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<sup>2569</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#). June 2, 2022. P. 20.

<sup>2570</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#). June 2, 2022. P. 20.

<sup>2571</sup> Hiperderecho. [We sue the Ministry of Transport for threatening freedom of expression and violating net neutrality by blocking apps](#); La República. December 17, 2019. [MTC persists in blocking Picap 'app' despite lawsuit against decree banning cab on linear motorcycles](#).

<sup>2572</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 December 2013. para. 11.

<sup>2573</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. 31 December 2013. para. 85.

<sup>2574</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#). June 2, 2022. P. 20.

<sup>2575</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Special Rapporteurship for Freedom of Expression of the IACHR Presents its Preliminary Observations and Recommendations after its First Visit to Peru](#). June 2, 2022. P. 20.

<sup>2576</sup> Republic of Peru. [Directorial Resolution N° 2629-2022-JUS/DGTAIPD-DPDP](#). File 016-2021-JUS/DGTAIPD-PAS. July 14, 2022.

<sup>2577</sup> AccessNow. October 16, 2020. [#NosVenLaCara: La Victoria Municipality in Lima has to protect our biometric data](#); Hiperderecho. [Personal Data Protection Authority must verify if the Municipality of La Victoria respects our personal data](#). December 2, 2020.

<sup>2578</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II.149. Doc. 50. 31 December 2013. Para. 23.

the unlawful or arbitrary interception and collection of personal data not only affect the right to privacy and freedom of expression, but may also be contrary to the precepts of a democratic society"<sup>2579</sup>.

1147. The Rapporteurship welcomes the decision of the Constitutional Court of Peru upheld a decision that declared unfounded the claim of an alleged drug trafficker against Google and Peruvian media, considering that the claim to remove all mention of his person through the Google search engine and news media is not directly related to the constitutionally protected content of the rights protected by the *habeas data* process. The Constitutional Court pointed out that the alleged "right to be forgotten" is also subject to restrictions or limitations derived, essentially, from the need to harmonize it with other constitutional rights or goods such as freedom of expression, which guarantees access, search and dissemination of news facts. The Constitutional Court also argued that, as a component of the journalistic exercise, the challenged information is limited to reporting on investigations carried out and published or disseminated in the context of the exercise of freedom of the press. The Constitutional Court highlighted the tripartite test of legality, legitimacy and necessity and proportionality of restrictions to freedom of expression highlighted by the ISHR, mentioning the *Claude Reyes v. Chile* case<sup>2580</sup>.

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<sup>2579</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II.149. Doc. 50. 31 December 2013. Para. 23.

<sup>2580</sup> Constitutional Tribunal of Peru. First Chamber. [Decision 119/2022](#). Case 03041-2021-PHD/TC. June 17, 2022.

## DOMINICAN REPUBLIC

1148. During 2022, the Office of the Special Rapporteur for Freedom of Expression recorded a series of cases of violence against journalists in the Dominican Republic that would threaten freedom of expression and among the main threats are law initiatives that seek to criminalize and attempt to silence criticism of political leaders, including opinions from digital platforms. In addition, RELE learned of complaints about blocking requests for public information and criminal proceedings against journalists and communicators. This Office recognizes the creation of a dialogue commission to review the legislation on freedom of expression, as a way to promote the advancement of rights. Finally, the Rapporteurship thanks the Permanent Mission of Dominican Republic to the OAS for its role in founding the Group of “Friends of Freedom of Expression and Journalism” (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

1149. This office is concerned about the aggression allegedly suffered by journalist Lourdes Aponte of *Listín Diario* and Ombudsman Pablo Ulloa on April 11. The journalist was allegedly robbed of her photographic equipment and cell phone by agents of the General Directorate of Security, Transit and Land Transportation (Digesett). According to public information, the equipment taken from the journalist contained alleged aggressions perpetrated by the transit agents against the press and the Ombudsman during an inspection operation at the vehicle retention center located in the old El Coco Canodrome. During the aggressions, the victims denounced the handling of weapons by the agents and were even attacked with a golf club, according to their complaints. Although the equipment taken from the journalist was returned to the media, the videos and photographs which would have served as evidence were erased by the Digesett agents<sup>2581</sup>. *Listín Diario* filed a formal complaint with the Inter-American Press Association (IAPA) for indirect censorship, secrecy of the source and violation of the right to privacy.

1150. Likewise, there were reports of aggression against journalist Teonilda Gómez and her children. According to the journalist's complaint, she was the victim of threats, harassment, intimidation, harassment, persecution, psychological and verbal violence, defamation and slander<sup>2582</sup>.

1151. RELE also reported with concern the lawsuit against the communicator Rafael Antonio Guerrero Méndez, accused of defamation and libel by the former chief of the National Police. Guerrero Méndez made the allegations during the program *Corrupción al Desnudo*, which is broadcasted on the YouTube platform<sup>2583</sup>. Guerrero Méndez is accused of defamation committed by electronic, computer, telematic, telecommunications or audiovisual means, for which the penalty is three months to one year in prison and a fine of five to five hundred times the minimum wage. This is the second complaint against the journalist coming from a former head of the security forces. The first one was filed in December 2020.

1152. This office recorded allegations of police intimidation and abuse against journalist Yerlin Peralta by agents of the National Police of Valverde. The journalist, a member of the circle of photojournalists, was allegedly detained with the use of force during a police check. The alleged police abuse was documented in a video that was published by the *Nuevo Diario Valverde*.<sup>2584</sup> The authorities must investigate these events and determine whether the acts of violence are related to journalism.

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<sup>2581</sup> Ciudadanía RD. April 11, 2022. [Digesett agents assault Ombudsman and several journalists](#); *Listín Diario*. 13 April 2022. [Digesett incurs in censorship and deletes data from Listín cell phone](#); *Diario Libre*. April 13, 2022. [Listín Diario denounces that Digesett agents erased photos and videos from the cell phone of the journalist assaulted in Canódromo](#).

<sup>2582</sup> *Listín Diario*. July 6, 2022. [Two unions condemn threats to journalist](#); *Diario Hoy*. July 5, 2022. [Califican de criminal amenazas de muerte contra periodista Teonilda Gómez](#); Extra Digital. July 5, 2022. [Journalist Teonilda Gómez receives death threats due to indifference of authorities](#).

<sup>2583</sup> *The Day*. 4 January 2022. [Ex-chief of PN sues communicator](#); Guzmán Fermín Twitter account (@guzmanfermin1). [3 January 2022](#); *Listín Diario*. 3 January 2022. [Former Police chief Rafael Guzman Fermin sues Rafael Guerrero for defamation](#).

<sup>2584</sup> *El Nuevo Diario*. 17 July 2022. [Captan en video supuesto atropello por parte de la PN a reportero de Valverde](#); Periódico losper Instagram account (@Periódicoysper). [17 July 2022](#).



1153. The Rapporteurship recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that, among other things, "the kidnapping, intimidation, threats to social communicators, as well as the material destruction of the media, violate the fundamental rights of individuals and severely restrict freedom of expression. It is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure that the victims receive adequate reparation". States are called upon to provide press officers with the highest level of protection, since journalists, cameramen, photojournalists and communicators who cover protests play a fundamental role in gathering and disseminating information.

## **B. Freedom of expression, Rule of Law and democratic institutions**

1154. This Office received with concern the denunciation made by the Inter American Press Association (IAPA) regarding various legislative initiatives in the Dominican Republic that would seek to inhibit freedom of the press and limit the work of journalists. In its opinion, the objective is to "overprotect" political leaders from criticism, which could contravene international human rights standards<sup>2585</sup>.

1155. In addition, a reform to the Penal Code would seek to regulate opinions expressed about individuals and would punish with imprisonment offenses against the president, ministers, legislators and diplomatic representatives in an attempt to "protect the right to privacy"<sup>2586</sup>. This Office welcomes the fact that the proposal was temporarily withdrawn from Congress after the presidency withdrew it after having installed a commission to review the legislation on freedom of expression. For its part, the IAPA emphasized that Dominican authorities should adapt national legislation to "the criteria of Inter-American jurisprudence" and avoid falling into the authoritarianism of the past.

1156. This Rapporteurship recalls that "desacato laws" are understood to be those laws that criminalize expressions that offend or insult members of the civil service in the exercise of their functions. Inter-American standards consider that the application of desacato laws unjustifiably grants them a right to protection that is not available to other members of society. In addition to direct restrictions, desacato laws indirectly restrict freedom of expression because they carry with them the threat of imprisonment or fines for those who insult or offend a public official, and the fear of criminal sanctions necessarily discourages citizens from expressing their opinions on issues of public interest<sup>2587</sup>.

1157. According to available information, the media *Listín Diario* denounced the Senate of the Republic and the Chamber of Deputies for allegedly impeding access to public information since 2020.<sup>2588</sup> From 2020 to July 2022, this media would have requested 12 pieces of information through the Single Portal for Requesting Access to Public Information (SAIP), without the Senate of the Republic and the Chamber of Deputies delivering the inquiries requested by the journalists. This Office reminds that all public authorities are obligated subjects of the right of access to information. This includes, as noted by the Inter-American Juridical Committee (RES.147 LXXIII-O/08), the executive, legislative and judicial branches, as well as bodies created by law, controlled by the government, or that operate with public funds or perform public functions. Also persons performing public functions.

1158. This Office registered with concern the coercive measure imposed by a court against Fernando Ernesto Santos Cabrera for publishing on Instagram an image with distorted features of the founding leader of the Dominican Republic Juan Pablo Duarte. The court considered that the publication would have generated

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<sup>2585</sup> Inter American Press Association. June 22, 2022. [IAPA concerned about the rise of anti-press freedom projects in the Dominican Republic](#); Interactive meetings. June 24, 2022. [IAPA concerned about boom in anti-press freedom projects](#) in Dominican Republic; Listín Diario. June 22, 2022. [Ortiz Bosch on projects would threaten freedom of expression: "This is not the time to discuss conflictive issues"](#); Por el ojo de la cerradura. 23 June 2022. [Ortiz Bosch on projects would threaten freedom of expression: "It is not the moment to discuss conflictive issues" and that it is his opinion and not official](#).

<sup>2586</sup> Diario Libre. May 17, 2022. [Bill regulating the right to privacy, honor, good name and image approved](#); Resumen Latinoamericano. May 17, 2022. [Dominican Republic. Bill on free speech creates controversy](#).

<sup>2587</sup> Inter-American Court of Human Rights. 2008. [Case of Kimel v. Argentina](#).

<sup>2588</sup> Listín Diario. July 21, 2022. [Congress dodges Law of Free Access to Information](#); Listín Diario. July 15, 2022. [What is the Senate doing that it does not want the population to know?](#)

alarm among a large part of the population for considering that the photograph was "outraged and profaned"<sup>2589</sup> for interpreting that Duarte would have been homosexual.

1159. This Office recalls that the restrictions listed by the United Nations that are considered discriminatory to freedom of expression, association and assembly that refer to rules prohibiting the dissemination of information on homosexuality under the pretext of restricting the propagation of LGBT "propaganda"<sup>2590</sup>.

1160. This Office welcomes the decision of the Executive to create a commission to open a dialogue with various sectors in order to promote a proposal for legislation on freedom of expression. The creation of the commission comes after questioned debates on draft laws that threaten freedom of expression. On the other hand, this office recalls that in October 2020, the government signed the Salta Declaration on Principles of Freedom of Expression in the Digital Age, in favor of safeguarding freedoms in the digital environment<sup>2591</sup>.

1161. The Supreme Court of Justice (SCJ) issued a ruling that establishes that defamation offenses through electronic media should be prosecuted only by the Public Prosecutor's Office at private instance. The decision could be contradictory to a ruling of the Constitutional Court which abolished custodial sentences when information crimes affect legislators and public officials<sup>2592</sup>.

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<sup>2589</sup> Listín Diario. August 11, 2022. [Judge imposes coercive measure on young man accused of distorting image of Duarte on social networks](#); Al Momento. 13 August 2022. Judge imposes [coercion on young man who published distorted image of Duarte](#).

<sup>2590</sup> Free and Equal United Nations. [International Human Rights Standards and Sexual Orientation and Gender Identity](#)

<sup>2591</sup> The Caribbean. July 10, 2022. [Namphi Rodríguez: the time has come to define a regulatory framework for freedom of expression](#); El Nuevo Diario. July 20, 2022. [Freedom of Expression Commission opens dialogue with various sectors](#).

<sup>2592</sup> Listín Diario. October 21, 2022. [Is defamation by digital media an aggravated felony](#); Diario Libre. October 25, 2022. [Supreme Court ruling on defamation is contrary to the Constitutional Court](#).

## SAINT KITTS AND NEVIS

1162. In 2022, the Office of the Special Rapporteur held a meeting in St. Kitts and Nevis with journalists from the region, with the participation of members of the press. On this day, the Office learned about the state of press freedom in the country. The Rapporteurship took note of the limited access to information of public interest, the arbitrary use of official advertising to interfere in media coverage, the lack of progress in the implementation of the Freedom of Information Act, despite having been approved in 2018, as well as the harassment against journalists on social networks. The year 2022 was marked by the general elections that took place on August 5 and the election of a new government. Prior to dissolving parliament, the former Prime Minister went through a series of political difficulties related to the implementation of the Freedom of Information Act, the lack of transparency of the citizenship-by-investment program, and verbal confrontations between diplomats and elected officials. This Office recorded with concern the alleged abuse of public television and radio by the previous administration for political proselytism. In the second half of the year, the Rapporteurship welcomed the ruling that decriminalized consensual sexual relations, setting an important precedent for the fight against discrimination of the LGBT people in the country and the region.

### A. Journalism and democracy

1163. In the framework of a private meeting, the Rapporteurship was informed about the limited access to information of public interest on governmental affairs and activities.<sup>2593</sup> Likewise, the Rapporteurship learned of the possible influence of the government on the media through official advertising, which would allow public officials to stop advertising as a reprisal to media critical of the administration.<sup>2594</sup> The information received indicates that this practice would have intensified during the COVID-19 pandemic.<sup>2595</sup>

1164. The Office of the Special Rapporteur recalls that the right of access to information is a critical tool for the control of the functioning of the State and public management, and for the control of corruption. The right of access to information is a fundamental requirement to guarantee transparency and good governance of the government and other state authorities. The full exercise of the right of access to information is a guarantee that is indispensable in preventing abuses by public officials, holding public administration accountable and promoting its transparency, as well as preventing corruption and authoritarianism.<sup>2596</sup>

1165. This Office reiterates that in the case of the allocation of government advertising, a case of indirect censorship occurs when such allocation is done with discriminatory aims according to the editorial position of the media outlet included in or excluded from such allocation, and with the purpose of imposing conditions on its editorial position or line of reporting.<sup>2597</sup> In this sense, the Rapporteurship urges the State to establish procedures for the contracting and allocation of government advertising that reduce discretion and prevent suspicion of political favoritism in its distribution. Advertising funds must be allocated according to pre-established criteria that are clear, transparent, and objective. Government advertising must never be allocated by the States as a reward or punishment for the editorial and reporting content of the media. Such use must be explicitly penalized.<sup>2598</sup>

1166. As expressed in its 2021 annual report, the Rapporteurship remains concerned about the lack of implementation of the Freedom of Information Act despite its enactment in 2018.<sup>2599</sup> In the framework of a private meeting, this Office learned that a group of journalists reportedly met with the new Prime Minister,

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<sup>2593</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2594</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2595</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2596</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American legal framework regarding the right to access to information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

<sup>2597</sup> IACHR. Principles on the Regulation of Official Advertising in the Inter-American System for the Protection of Human Rights. 2011. Para. 11.

<sup>2598</sup> IACHR. Principles on the Regulation of Official Advertising in the Inter-American System for the Protection of Human Rights. 2011. Para. 46.

<sup>2599</sup> IACHR. Annual Report 2021. Report of the Office of the Special Rapporteur for Freedom of Expression. Para. 790.

Terrance Drew, and the now former Attorney General, Vincent Byron, to discuss the implementation of said act. The journalists reportedly had seen greater political will for its implementation, however, as of the date of this annual report, no information has been received in relation to progress made on this front.<sup>2600</sup>

1167. The Office of the Special Rapporteur reiterates that access to information has an essential instrumental function. Only through adequate implementation of this right can people know exactly what their rights are and what mechanisms exist to protect them. In particular, the proper implementation of the right of access to information in its full scope is an essential condition for the fulfilment of the social rights of excluded or marginalized sectors.<sup>2601</sup>

1168. Likewise, the Rapporteurship recalls that the State must design a plan that allows the real and effective satisfaction of the right of access to information within a reasonable period of time. This obligation implies the duty to budget the necessary funds to meet, progressively, the demand that the right of access to information will generate.<sup>2602</sup> This Office emphasizes that it is the State's duty to adequately implement access laws.<sup>2603</sup> In this sense, the State must adopt norms, policies and practices that preserve and administer information adequately.<sup>2604</sup>

1169. In the course of the year, this Office was informed of repeated instances of trolling and harassment in social networks against journalists in the framework of the general elections of August 5, 2022.<sup>2605</sup> According to information shared by a group of journalists, these patterns of intimidation would not allow media workers to freely exercise their work.<sup>2606</sup> The fake accounts used in this type of activities would have a clear partisan affiliation since they would only emerge when a media outlet publishes a negative story about a particular politician or party.<sup>2607</sup>

1170. This Office emphasizes that States have a special obligation to take rapid and effective measures to prevent, protect, investigate, prosecute and punish attacks, threats, intimidation and harassment, offline and online, against journalists and other media workers, including against their property and families, during election periods, particularly where State actors are or may be involved. This obligation is especially pronounced in relation to female journalists and individuals belonging to marginalized groups.<sup>2608</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

1171. Between April 16 and April 20, 2022, the Rapporteurship was informed of a series of exchanges between the Prime Minister, Timothy Harris, and two of his co-partisans from the Team Unity coalition government: the First Deputy Minister and the Minister of Foreign Affairs.

1172. In a publicly available letter sent on April 16, the two cabinet members reportedly demanded a definitive response from the Prime Minister on 18 issues, including the implementation of the Freedom of Information Act and progress on press freedom.<sup>2609</sup> They also demanded greater transparency from the Prime

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<sup>2600</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2601</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework regarding the Right to Access to Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

<sup>2602</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework regarding the Right to Access to Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 40.

<sup>2603</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework regarding the Right to Access to Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 39.

<sup>2604</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework regarding the Right to Access to Information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 41.

<sup>2605</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2606</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2607</sup> Archive of the Office of the Special Rapporteur for Freedom of Expression. Listening session with journalists from the Caribbean. August 10, 2022.

<sup>2608</sup> OAS, UN, OSCE, CADHP. Joint Declaration on Freedom of Expression and Elections in the Digital Age. 2020. Paragraph 1.c.iii.

<sup>2609</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#); Caribbean Loop News. April 21, 2022. [St Kitts and Nevis: The Country is stable, says PM Harris](#).

Minister on the management of the Citizenship By Investment (CBI) program, including quarterly reports on the income obtained, the number of applications and the number of persons that were granted citizenship of St. Kitts and Nevis. Additionally, they would have asked him to take action to remove “immediately” and “permanently” the profiles on social networks that would be allegedly defaming members of the government coalition. Finally, they would have demanded the removal diplomats in light of attacks against members of the government and the opposition through national media.<sup>2610</sup>

1173. According to both cabinet members, the issues mentioned would be part of a series of grievances and concerns of the three political parties that form the coalition government since 2015: the People’s Action Movement (PAM), the Concerned Citizens’ Movement (CCM) and the People’s Labour Party.<sup>2611</sup> These issues would explain some of the reasons why the Prime Minister did not have the support of the majority of his cabinet, leading to a dissolution of parliament in May and subsequent general elections in August.<sup>2612</sup>

1174. On April 20, 2022, the Rapporteurship learned that the Prime Minister responded to the consultations submitted by the First Deputy Minister and the Minister of Foreign Affairs. According to the information available, the Prime Minister would have indicated that there was “significant progress” with respect to the implementation Freedom of Information Act, but that it would be necessary to “amend the legislation.”<sup>2613</sup> According to the Prime Minister, the lack of implementation would have not “impeded wide access to, and dissemination of information” concerning government activities.<sup>2614</sup>

1175. The Prime Minister reportedly stated that while several ministries would have hired Information and Communications Officers, each ministry are still required to appoint an Information Commissioner under the Freedom of Information Act.<sup>2615</sup>

1176. With respect to the implementation of the Freedom of Information Act, the Office of the Special Rapporteur reiterates that the State must adopt a systematic policy for training public officials who will work in satisfying the right of access to public information in all of its facets, as well as the training of public entities, authorities and agents responsible for responding to requests for access to State-held information on the laws and regulations governing this right. This obligation also entails the training of public officials on the laws and policies on the creation and maintenance of information archives that the State is obliged to safeguard, administer and produce or gather.<sup>2616</sup>

1177. The Prime Minister reportedly cited “the significant growth of radio and TV programs from Government Agencies / Departments” as a positive development. This would include his weekly program called “Leadership Matters”.<sup>2617</sup> This program would have been broadcasted every Tuesday, from 8 to 10 p.m., in prime time, across television, radio and digital platforms, between September 2020 and April 2022.<sup>2618</sup> In total, the Prime Minister had exclusive time on at least nine media outlets - ZIZ Radio 95.9, 96.1, 96.3, 96.9 FM; Freedom (106.5) FM; Sugar City (90.3) FM; VON Radio (860 AM or 93.7 FM); WINN (98.9); and live streaming via Facebook and Youtube from the state-owned accounts ZIZ and St. Kitts and Nevis Information Service (SKNIS).<sup>2619</sup>

1178. The Rapporteurship recalls that, insofar as it has been recognized that freedom of expression necessarily requires a broad plurality of information, it is essential to guarantee that these public media are

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<sup>2610</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#).

<sup>2611</sup> The St Kitts and Nevis Observer. May 27, 2022. [Team Unity: How it started, where it went wrong](#).

<sup>2612</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#); Caribbean National Weekly. May 10, 2022. [St Kitts and Nevis Parliament dissolved as PM Harris fires government ministers](#); The Jamaica gleaner. 10 May 2022. [St Kitts-Nevis parliament dissolved, general elections imminent](#).

<sup>2613</sup> The St Kitts and Nevis Observer. April 21, 2022. [PM's Letter to DPM Richards and Minister Brantley](#).

<sup>2614</sup> The St Kitts and Nevis Observer. April 21, 2022. [PM's Letter to DPM Richards and Minister Brantley](#).

<sup>2615</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#).

<sup>2616</sup> IACHR. The Inter-American legal framework regarding the right to access to information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 42.

<sup>2617</sup> The St Kitts and Nevis Observer. April 21, 2022. [PM's Letter to DPM Richards and Minister Brantley](#); Associates Times. April 28, 2022. [PM Harris rejects claim of PAM and CCM regarding misuse of government resources](#).

<sup>2618</sup> ZIZ Online (YouTube). February 15, 2022. [Leadership Matters | A Virtual Forum Series](#).

<sup>2619</sup> ZIZ Online (YouTube). March 29, 2022. [Leadership Matters: St Kitts & Nevis - One Nation Under God](#).



independent of the government.<sup>2620</sup> In that regard, the Rapporteurship reiterates that public radio and television cannot be used as tools of government communication or propaganda; rather, they must be autonomous forums for culture and information that act in the service of society as a whole. Their programming should: (1) disseminate artistic, cultural, scientific, academic and educational productions of general interest, carried out around the country; (2) provide information on issues of public interest; and (3) reflect society's political, social, geographic, religious, cultural, linguistic and ethnic diversity.<sup>2621</sup> Likewise, this Office reiterates that the public media must act in a transparent manner. This means, on one hand, that the States must guarantee access to information on all aspects related to their administration (except the guarantees inherent to journalism, such as the confidentiality of news sources); and on the other hand, that they must provide for mechanisms of accountability and citizen participation, such as by providing for the receipt of proposals and comments or complaints from the audience.<sup>2622</sup>

1179. Regarding the transparency of the CBI program, the Prime Minister reportedly advocated in favor of disclosing only the annual estimates generated by the initiative. The revenues, he said, would go into the Consolidated Fund and would be subject to the scrutiny of the Director of Audit.<sup>2623</sup> He also allegedly defended the decision that the unit in charge of managing the program would be part of the Prime Minister's office, and that to ensure non-interference, good decision making, and adherence to Due Diligence (DD) protocols, a series of protocols would be in place.

1180. The Rapporteurship recalls that the right of access to public information imposes on the State the obligation to proactively disclose information on its functions, activities and management of public resources on a routine basis, even in the absence of a request for access to public information, ensuring that the information is accessible, understandable and updated.<sup>2624</sup> The Rapporteurship recalls that access to public data in itself is not enough, when it comes to combating corruption. Eliciting data and information of public interest will only matter if access is timely, complete and fosters accountability.<sup>2625</sup>

1181. In connection with the calls to remove fake accounts and trolls on social networks, the Prime Minister reportedly assured that he had no control over social networks, noting that he had called the attention to people allegedly involved in the irresponsible dissemination of information.<sup>2626</sup> The Prime Minister also reportedly said that he "strongly" discouraged disrespectful behavior on digital platforms, thus acknowledging the need to tone down rhetoric on social networks.<sup>2627</sup>

1182. The Office of the Special Rapporteur wishes to clarify that States, as they are ultimately responsible for protecting and respecting the right to freedom of opinion and expression, must not require or otherwise pressure the private sector to violate human rights or unnecessarily or disproportionately interfere with the right to freedom of expression.<sup>2628</sup> The blocking or filtering of content to combat hate speech are measures of last resort, and should only be used when necessary and proportionate to the compelling aim they pursue. The States that take such measures should also design them in such a way that they do not affect legitimate speech that warrants protection.<sup>2629</sup>

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<sup>2620</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OAS Ser.L/V/II. CIDH/RELE/INF. 3/09. Para. 88.

<sup>2621</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OAS Ser.L/V/II. CIDH/RELE/INF. 3/09. Para. 89.

<sup>2622</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OAS Ser.L/V/II. CIDH/RELE/INF. 3/09. Para. 94.

<sup>2623</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#).

<sup>2624</sup> IACHR. Right to information and national security: Access to public interest information with respect to the national security exception. July 2020. OEA/Ser.L/V/II. IACHR/RELE/INF.24/20. Para. 150.

<sup>2625</sup> IACHR. Corruption and Human Rights in the Americas: Inter-American Standards. OEA/Ser.L/V/II. Doc. 236. 2019. Para. 232.

<sup>2626</sup> The St Kitts and Nevis Observer. April 21, 2022. [PM's Letter to DPM Richards and Minister Brantley](#).

<sup>2627</sup> The St Kitts and Nevis Observer. April 21, 2022. [Letter to PM Harris from Mins. Richards and Brantley](#).

<sup>2628</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. CIDH/RELE/INF.17/17. Para. 101.

<sup>2629</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open and Inclusive Internet. March 2017. OEA/Ser.L/V/II. CIDH/RELE/INF.17/17. Para. 123.

1183. Finally, regarding criticism of the alleged inflammatory comments made by the diplomatic corps, the Prime Minister reportedly said that “any citizen, including an ambassador, is free to exercise his or her democratic right to speak to issues affect him or her or his or her country” and that it is “ironic” that the two members of the cabinet criticizing him are not “denied [their] individual rights to free speech, even as [they] have both launched scathing attacks on the Government of which [they] are a part”.<sup>2630</sup>

1184. The Office of the Special Rapporteur recalls that, in principle, all forms of speech are protected by the right to freedom of expression, regardless of their content and the greater or lesser degree of social and state acceptance they enjoy. This general presumption of coverage of all expressive speech is explained by the State’s primary duty of content-neutrality and, as a consequence, by the necessity to guarantee that, in principle, there are no persons, groups, ideas or means of expression excluded a priori from public debate.<sup>2631</sup>

1185. Likewise, this Office recalls that given that the right to freedom of expression enables the individual and the community to participate in active, robust and challenging debate on all aspects relative to the functioning of society, this right covers debate that may be critical of or even offensive to public officials, candidates for public office or individuals involved in shaping public policy. This does not mean that public officials cannot be judicially protected when their honor is subjected to unjustified attack, but such protection must be consistent with the principles of democratic pluralism, and it must be afforded through mechanisms that do not have a potential for creating inhibition or self-censorship.<sup>2632</sup>

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

1186. On August 29, 2022, the Rapporteurship was informed of the decision of the Eastern Caribbean Supreme Court (ECSC) to rule in favor of Jamal Jeffers, a homosexual citizen of St. Kitts and Nevis, and of the St. Kitts and Nevis Alliance for Equality (SKNAFE), in a decision that would decriminalize consensual same-sex relations between persons over the age of 16.<sup>2633</sup> The plaintiffs had challenged the constitutionality of sections 56 and 57 of the Offences Against the Person Act, which criminalize buggery and indecent assault against males.<sup>2634</sup> According to both plaintiffs, these two sections would be contrary to the rights enshrined in Articles 3, 7, 12 and 15 of the Constitution of St. Kitts and Nevis.<sup>2635</sup> High Court Judge, Trevor M. Ward, would have ruled that the two sections of the Offences Against the Person Act contravene the rights to protection of personal privacy and the right to freedom of expression, thus rendering them null and void so as not to criminalize sexual conduct between consenting adults in private.<sup>2636</sup>

1187. The State of St. Kitts and Nevis, represented by its Attorney General, reportedly argued that the issues addressed by sections 56 and 57 were sensitive issues in society.<sup>2637</sup> Likewise, the Attorney General would have expressed that the parliament should address these issues as it would involve the protection of children and political issues related to health, education and social and cultural issues as a whole.<sup>2638</sup>

1188. With the August 29 decision, St. Kitts and Nevis became the latest country in the hemisphere to declare the unconstitutionality of laws that have historically criminalized LGBT people. Prior to St. Kitts and Nevis, the a similar decision was taken in July 2022 by the High Court of Antigua and Barbuda. In previous years, courts in Belize and Trinidad and Tobago also struck down legal codes criminalizing same-sex

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<sup>2630</sup> The St Kitts and Nevis Observer. April 21, 2022. [PM's Letter to DPM Richards and Minister Brantley](#).

<sup>2631</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. Para. 30.

<sup>2632</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. Para. 41.

<sup>2633</sup> Eastern Caribbean Supreme Court. August 29, 2022. [Jamal Jeffers and St. Kitts & Nevis Alliance for Equality Inc. v. Attorney General of St. Christopher and Nevis](#).

<sup>2634</sup> Caribbean National Weekly. August 31, 2022. [Eastern Caribbean Supreme Court strikes down anti-buggery law](#).

<sup>2635</sup> Al Jazeera. August 30, 2022. ['Null and void': Judge strikes down Saint Kitts anti-gay law](#); Swiss Info. 30 August 2022. [Saint Kitts ban on gay sex struck down by Caribbean regional court](#).

<sup>2636</sup> Caribbean National Weekly. August 31, 2022. [Eastern Caribbean Supreme Court strikes down anti-buggery law](#).

<sup>2637</sup> Caribbean National Weekly. August 31, 2022. [Eastern Caribbean Supreme Court strikes down anti-buggery law](#).

<sup>2638</sup> Caribbean National Weekly. August 31, 2022. [Eastern Caribbean Supreme Court strikes down anti-buggery law](#); The Jamaica Gleaner. August 29, 2022. [Court rules in favor of gay man](#).

relations.<sup>2639</sup> However, seven countries in the Caribbean, all of which are former British colonies, continue to criminalize these acts and thus infringing on the privacy and freedom of expression of LGBT persons: Barbados, Dominica, Grenada, Guyana, Jamaica, St. Lucia, and St. Vincent and the Grenadines.<sup>2640</sup>

1189. Like the Inter-American Commission on Human Rights (IACHR), this Office calls on all States in the Americas to repeal laws that criminalize consensual sexual relations between adults. Likewise, States must take measures to build a legal framework to guarantee the rights of LGBT persons and protect them from all forms of discrimination.<sup>2641</sup> In this regard, the Office of the Special Rapporteur reiterates that it is particularly important for States to take action to guarantee the exercise of the right to freedom of expression of LGBTI persons and to empower those affected and made invisible by hate speech.<sup>2642</sup>

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<sup>2639</sup> Al Jazeera. August 30, 2022. [‘Null and void’: Judge strikes down St. Kitts anti-gay law.](#)

<sup>2640</sup> UNAIDS. August 30, 2022. [Press Statement: St Kitts and Nevis becomes the latest country to declare that laws that have criminalized LGBT people are unconstitutional.](#)

<sup>2641</sup> Inter-American Commission on Human Rights. September 6, 2022. [IACHR welcomes decision declaring criminalization of LGBTI consensual sexual activity unconstitutional in Saint Kitts and Nevis.](#)

<sup>2642</sup> IACHR. Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI persons. Para. 22.

## SAINT VINCENT AND THE GRENADINES

1190. In 2022, the Office of the Special Rapporteur recorded the arrest and conviction of an individual who allegedly harassed a journalist at her home. The Rapporteurship also recorded the Prime Minister's refusal to share information of public interest regarding his mediation in negotiations between the United States and Venezuela. As in other countries in the region, the Rapporteurship observed a series of protests following the visit of members of the British monarchy and, with the death of Queen Elizabeth II, a resurgence of calls to break ties with the crown. This Office recorded at least one instance in which the criminal code was allegedly applied against an opponent of the current government for spreading "seditious words" on social networks. Likewise, this Office recorded media clashes between the President and opposition leaders. In the course of this year, the Rapporteurship recorded demonstrations for the dismissal of teachers who had refused to be vaccinated against COVID-19 and received information that fishermen faced higher costs in one of the main markets of the country. This Office welcomed information about awards celebrating the cultural contributions of individuals in the country, calls from young sectors of the population to promote gender equity, and the holding of artistic exhibitions that promote academic freedom and freedom of expression. The Rapporteurship also took note of significant progress made in the fight against child pornography and universal and neutral access to the Internet.

### A. Journalism and democracy

1191. On February 3, 2022, the Rapporteurship was informed of a court's decision to sentence a 21-year-old to nine months in prison after being convicted of trespassing on the property of journalist Sheron Garraway.<sup>2643</sup> The journalist reportedly testified before the authorities that in the early morning of May 23, 2021, she was awakened by voices and noises coming from outside her home.<sup>2644</sup> The journalist would have then called the police to report the incident. According to public information, the journalist clearly identified the subject at the police station when he was arrested.

1192. The Rapporteurship recalls that States have the obligation to adopt measures to prevent violence against journalists and media workers. This obligation is particularly important in countries in which there is a risk of these incidents taking place and in specific situations in which authorities know or should know that there is a real and immediate risk of such crimes being committed.<sup>2645</sup>

1193. During a press conference on October 4, 2022, Prime Minister Dr. Ralph Gonsalves reportedly refused to answer a question about the alleged prisoner exchange between the governments of Venezuela and the United States on the weekend of October 1.<sup>2646</sup> He reportedly stated that he could neither confirm nor deny what was asked by members of the press and that his government will never "go about and say what it is doing or not doing in any of these respects".<sup>2647</sup>

1194. This Office would like to recall that free access to information is also a measure that allows the citizenry to exercise adequately their political rights in a representative and participatory democratic system. Of course, political rights presume the existence of broad and vigorous public discourse, for which it is indispensable to have access to public information that allows for serious evaluation of the progress made and difficulties faced by the authorities in their achievements. Only through access to information under State control is the citizenry able to know if the State is adequately complying with its public functions.<sup>2648</sup>

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<sup>2643</sup> The Vicentian. February 18, 2022. [Journalist Relieved: Man Sentenced for Trespassing](#).

<sup>2644</sup> The Vicentian. February 18, 2022. [Journalist Relieved: Man Sentenced for Trespassing](#).

<sup>2645</sup> 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. 2013. OEA/Ser.L/V/II. CIDH/RELE/INF.12/13. Para. 33.

<sup>2646</sup> The Vicentian. October 7, 2022. [PM Does Not Comment On Prisoner Swap](#); Searchlight. October 1, 2022. [Prisoner swap between Venezuela and the United States takes place on Canouan](#).

<sup>2647</sup> Caribbean Loop News. August 5, 2022. [St Vincent's PM neither denying nor confirming US-Venezuela prisoner swap](#); iWitness News. October 4, 2022. [PM not denying, confirming US-Venezuela prisoner swap in SVG](#).

<sup>2648</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework regarding the right to access to information. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 1/09. Para. 5.

## B. Freedom of expression, Rule of Law and democratic institutions

1195. The Special Rapporteur was informed of multiple protests following the visit of Prince Edward and his wife Sophie as part of Queen Elizabeth II's Platinum Jubilee. Protesters reportedly gathered at three locations to demand a formal apology for crimes committed by the British Empire, as well as to demand reparations.<sup>2649</sup> The protests in St. Vincent and the Grenadines over the visit of members of the British Royal Family followed other demonstrations over the visit of the Duke and Duchess of Cambridge to Belize and Jamaica in March.<sup>2650</sup>

1196. The Rapporteurship reiterates that the protection and guarantee of the right to protest deserve special attention when it is expressed by underrepresented or marginalized sectors or groups that face institutional frameworks not conducive to their participation, or serious barriers to access to other forms of mass communication.<sup>2651</sup>

1197. At the end of March 2022, the Rapporteurship received reports that a political opponent of the current administration was facing charges for uttering "seditious words" during a Facebook live broadcast on December 19, 2021.<sup>2652</sup> According to public information, the opponent is known for using social networks to criticize the current government's policies. Likewise, the opponent would also be among the eleven people whose homes were reportedly raided on August 7, 2021 after the prime minister was injured during a social protest.<sup>2653</sup>

1198. According to the criminal code of St. Vincent and the Grenadines, "*seditious words*" would include those intended to "to bring into hatred or contempt, or to incite disaffection against, the person of the Sovereign, Her heirs or successors, the Governor-General or the Government", as well as those allegedly seeking "to raise discontent or disaffection amongst the inhabitants".<sup>2654</sup> In the live broadcast for which the opponent was charged, he reportedly asserted that there is a war in the country and that there should be anarchy until the right people run the state. The opponent's defense would have argued that his client's constitutional right to freedom of speech would have been violated by a "archaic law which our colonisers saw fit to repeal in their country".<sup>2655</sup>

1199. As in previous annual reports on Saint Vincent and the Grenadines, as well as other States in the region, the Office of the Special Rapporteur expresses its concern over the existence of the criminal offense of *seditious libel*, which affects the right to freedom of expression.<sup>2656</sup> The Special Rapporteurship recalls that the threat or imposition of imprisonment based on *desacato* and criminal defamation laws can have a chilling effect that affects not only journalists, but on all of society.<sup>2657</sup> Likewise, the Rapporteurship recalls that *desacato* laws grant a protection to public officials that is not available to the rest of society, and inverts the democratic principle whereby government –and, therefore, public officials-- are subject to public scrutiny, in order to preclude or control abuse of power.<sup>2658</sup> Finally, the Rapporteurship reiterates that public officials are subject to greater scrutiny by society, which is why these laws that penalize offensive expressions directed at public officials restrict freedom of expression and the right to information.<sup>2659</sup>

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<sup>2649</sup> St. Vincent Times. April 23, 2022. [Multiple protests during Prince Edward, Sophie's visit to St Vincent](#); iWitness News. April 24, 2022. [Protesters use royal visit to call for reparations](#).

<sup>2650</sup> Sky News. April 24, 2022. Prince Edward and Sophie: [Protesters call for end to colonialism as royals continue Caribbean tour](#).

<sup>2651</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 16.

<sup>2652</sup> iWitness News. March 26, 2022. [Activist charged with 3 counts of uttering seditious words](#); Searchlight. 29 March 2022. [Activist Kenson King charged with uttering seditious words](#).

<sup>2653</sup> iWitness News. August 15, 2021. [Activist charged with organizing, taking part in processions](#).

<sup>2654</sup> Searchlight. March 29, 2022. [Activist Kenson King charged with uttering seditious words](#).

<sup>2655</sup> iWitness News. March 28, 2022. [Court to decide whether to hear seditious charges against activist](#); Searchlight. 29 March 2022. [Activist Kenson King charged with uttering seditious words](#).

<sup>2656</sup> IACHR. Annual Report 2019. Report of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2657</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Silenced Zones: Highly dangerous areas for the exercise of freedom of expression. March 2017. OEA/Ser.L/V/II, IACHR/RELE/INF.16/17. Para. 28.

<sup>2658</sup> IACHR. Annual Report RELE 2004. Chapter IV. Report on Contempt and Criminal Defamation Laws. 2005.

<sup>2659</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle N° 11.



1200. This Office became aware of a series of protests between August and September led by the St Vincent and Grenadines Teachers Union (SVGTU). According to information received by the Rapporteurship, the protests were intended to express the dissatisfaction of teachers with the alleged unjustified dismissal of several teachers for failing to comply with the directive to be vaccinated against COVID-19.<sup>2660</sup> According to public information, close to 200 teachers would have been removed from their posts for refusing to receive the vaccine against this virus;<sup>2661</sup> 30 of them would have recovered their jobs after the relaxation of protocols against the pandemic.<sup>2662</sup> The Rapporteurship learned that within the framework of the protests, a representative of the union had encouraged civil society to join the demonstrations, emphasizing the constitutional right to protest.

1201. The Rapporteurship also learned of several calls to the government to allow the dismissed teachers to be reinstated because their departure would have affected rural, tertiary and technical schools, affecting access to education for children, adolescents and young adults.<sup>2663</sup> The prime minister reportedly responded to the protests and claims by stating that these teachers could reapply for teaching jobs, but that reinstating them would imply that his government should not have approved the mandatory vaccination mandate in the first place.<sup>2664</sup>

1202. In October, the Rapporteurship was also informed of another series of protests, in this case by vendors at the Kingstown Fish Market. The vendors reportedly expressed their disagreement with the increase vending fees which, in turn, would lead to an increase in the price of seafood that would severely affect the poor.<sup>2665</sup> The Prime Minister reportedly justified his administration's decision on the market's financial losses in the last fiscal year<sup>2666</sup>.

1203. This Office recalls that public demonstrations are considered an exercise of freedom of expression, since the expression of opinions, the dissemination of information, and the articulation of demands are central objectives of such demonstrations.<sup>2667</sup> Therefore, States are obliged to guarantee and facilitate the exercise of the human rights at stake during demonstrations and protests and to implement measures and mechanisms to ensure that these rights can be exercised in practice, rather than hindered.<sup>2668</sup>

1204. As in other Caribbean states, the death of Queen Elizabeth II is said to have focused new attention on the possible removal of the British crown from the constitutional order of St. Vincent and the Grenadines. The Rapporteurship learned that in July, Prime Minister Ralph Gonsalves reportedly expressed his desire to push for a new referendum to remove the Queen as head of state.<sup>2669</sup> The Rapporteurship also learned that the opposition leader reportedly claimed that the Prime Minister's meeting with the new King of the United Kingdom was "demonstrative level of political fraud", calling it an act of "barefacedness".<sup>2670</sup> The prime minister responded to his opponent by stating that "a long period in opposition has certainly addled his brain" and that the new King Charles knows that he does not agree with a monarchical system for the country.<sup>2671</sup>

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<sup>2660</sup> Caribbean Loop News. August 18, 2022. [St Vincent: Protest for unvaccinated teachers to be reinstated](#). The Vincentian. September 9, 2022. [Teachers to Mount Further Protests](#).

<sup>2661</sup> St Vincent Times. August 11, 2022. [Fired teachers in SVG tells government 'No Bait, Reinstatement'](#).

<sup>2662</sup> The Vincentian. September 2, 2022. [30 Teachers Have Returned](#).

<sup>2663</sup> iWitness News. September 3, 2022. [An open call for reinstatement of dismissed teachers in SVG; SVG TV. 15 August 2022. Dismissed teachers who were removed from service for refusing to comply with the government's Covid-19 mandate are intensifying their call to be reinstated](#).

<sup>2664</sup> iWitness News. August 17, 2022. [Reinstating unvaxxed teachers would mean mandate was illegal - PM](#). Caribbean Loop News. August 16, 2022. [SVG PM to teachers: You have nothing to lose, apply for your job](#).

<sup>2665</sup> iWitness News. Oct. 5, 2022. [Fish market loses \\$30,000 monthly; higher vending fees justifiable - PM](#); Searchlight. Sept. 30, 2022. [Fish vendors protest increase in prices](#).

<sup>2666</sup> Asbert News Network. October 6, 2022. [PM Gonsalves asks for reasonableness following fish vendor protests](#).

<sup>2667</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 18.

<sup>2668</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 28.

<sup>2669</sup> iWitness News. July 25, 2022. [PM proposes vote on removing Queen as head of state](#); Barbados Today. 26 July 2022. [SVG PM proposes referendum on removing Queen as Head of State](#).

<sup>2670</sup> iWitness News. July 25, 2022. [PM proposes vote on removing Queen as head of state](#).

<sup>2671</sup> iWitness News. October 6, 2022. [PM said he must respect King Charles despite Republican stance](#).

1205. The Rapporteurship was also informed of strong accusations between Prime Minister Ralph Gonsalves and his main political opponent. The information available indicates that the opposition leader had asked the Prime Minister to desist from using official government events to defame him.<sup>2672</sup> The opposition leader reportedly said in August that many women in the country depend on prostitution for their livelihood due to the island's economic situation.<sup>2673</sup> In response, the Prime Minister accused the opposition leader of spreading "wayward and ridiculous things", adding that the women he had referred to would "would give them a licking and send him packing at the next general elections".<sup>2674</sup>

1206. The Special Rapporteur recalls that State officials should unequivocally condemn attacks committed in reprisal for the exercise of freedom of expression and should refrain from making statements that are likely to increase the vulnerability of those who are targeted for exercising their right to freedom of expression.<sup>2675</sup>

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

1207. On International Women's Day, members of the Marion House Youth Assistance Programme (YAP) reportedly gathered in front of the Office of Public Prosecuting Services holding banners and chanting slogans to demand greater participation of women in parliament, the effective functioning of non-governmental organizations and greater participation of young people in national affairs.<sup>2676</sup> Marion House's youth assistance program offers accompaniment, counseling and training for one year to vulnerable youth between the ages of 15 and 25.<sup>2677</sup>

1208. The Office of the Special Rapporteur reiterates that women who actively exercise freedom of expression, such as women journalists, women human rights defenders and women politicians, are attacked for exercising freedom of expression and because of their gender.<sup>2678</sup>

1209. During Emancipation Month, three well-known individuals -David "Darkie" Williams, Ann Jones and Cecil "Blazer" Williams- were honored for their contributions to culture and the creative arts in the country.<sup>2679</sup> David Williams was recognized for his contributions to multiple festivals and the performing arts, while Ann Jones was recognized for developing the musical sphere in the country; Cecil Williams was also honored for his acclaimed literary works. This Office salutes these types of spaces that celebrate and commemorate the cultural contributions of prolific individuals.

1210. The Rapporteurship welcomed that the Community College of St. Vincent and the Grenadines organized an exhibition in July for graduates of the Associate Degree in Fine Arts, Design and Cultural Communications. The exhibition reportedly featured five students who addressed issues around degenerative diseases, childhood abroad, gender identity and gender roles.<sup>2680</sup>

1211. Academic institutions should respect pluralism, promote intercultural understanding, and support the ability of members of all communities, and particularly marginalized groups, to voice their perspectives and concerns.<sup>2681</sup> In this regard, the Rapporteurship welcomes the efforts of institutions to make complex issues visible through the arts.

1212. In October, the Rapporteurship learned that the literacy organization Hands Across The Sea (HATS), through the Ministry of Education, has reportedly donated nearly 4,500 books to students in multiple primary

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<sup>2672</sup> iWitness News. Sept. 11, 2022. [PM using gov't events for 'political mischief and maligning of people' - Leacock.](#)

<sup>2673</sup> Searchlight. Aug. 30, 2022. [PM rejects Leacock's people prostituting themselves claim.](#)

<sup>2674</sup> iWitness News. Sept. 11, 2022. [PM using gov't events for 'political mischief and maligning of people' - Leacock.](#)

<sup>2675</sup> OAS, UN, OSCE, CADHP. Joint Declaration on Crimes against Freedom of Expression. 2012. Paragraph 1.a.

<sup>2676</sup> The Vincentian. March 25, 2022. [Marion House Youth 'Breaking The Bias'.](#)

<sup>2677</sup> The Vincentian. December 11, 2020. [Register For Marion House YAP.](#)

<sup>2678</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, IACHR/RELE/INF.20/18. Para. 3.

<sup>2679</sup> iWitness News. August 2, 2022. [Three people recognized for contribution to culture.](#)

<sup>2680</sup> iWitness News. July 22, 2022. [SVGCC students express themselves through art at annual exhibition.](#)

<sup>2681</sup> OAS, UN, OSCE, CADHP. Joint statement on freedom of expression and countering violent extremism. 2016. Pt. 2.f.

schools, as well as to community libraries.<sup>2682</sup> The donations would be directed to sectors particularly affected by the eruptions of *La Soufrière* volcano between December 2020 and April 2021.<sup>2683</sup> The donation would have been made within the framework of the Caribbean Literacy and School Support Programme of this organization. This Office welcomes partnerships between NGOs and government entities to improve literacy and promote access to information and education in the Caribbean, especially for children and adolescents.

1213. In response to questions from the opposition, the Rapporteurship learned that the Minister of Education and National Reconciliation reportedly responded that the number of students with special needs who have completed their secondary education in the country during the last decade is unknown.<sup>2684</sup> However, he assured that the government would be strengthening data collection mechanisms and support systems for students with multiple disabilities.

1214. The Rapporteurship recalls that the right of access to public information imposes on the State the obligation to proactively disclose information on its functions, activities and management of public resources on a routine basis, even in the absence of a request for access to public information, ensuring that the information is accessible, understandable and updated.<sup>2685</sup>

1215. Likewise, this Office recalls that academic freedom must be promoted, protected and guaranteed equally and without discrimination on any grounds, including on the basis of disability, genetic characteristics, mental or physical health condition, including those of infectious or contagious disease, mental impairment or any other.<sup>2686</sup>

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

1216. The Special Rapporteur learned that on December 30, 2021, the Royal St. Vincent and the Grenadines Police Force (RSVGPF) issued a statement warning that it is an offense to “produce, make available, distribute, procure, possess or obtain child pornography through a computer system or on a computer data storage medium.”<sup>2687</sup> These provisions would make part of the *Cybercrime Act* 2016. The statement, as far as this Office could learn, would have been in response to a pornographic video of an underage person that was circulating through various platforms.<sup>2688</sup>

1217. This Office wishes to clarify that child pornography is prohibited in absolute terms by the Convention on the Rights of the Child (article 34.c), by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and by ILO Convention No. 182 on the worst forms of child labor (article 3.b). This prohibition, read in conjunction with Article 19 of the Convention, necessarily implies that child pornography, as a form of speech that is violently harmful to the prevailing rights of children and their best interests, must be excluded from the range of protection provided by freedom of expression.<sup>2689</sup> In summary, the Rapporteurship emphasizes that child pornography, as a form of speech that is violently harmful to the prevailing rights of children and their best interests, must be excluded from the scope of protection provided by freedom of expression.<sup>2690</sup>

1218. In March, the Rapporteurship was informed that Magistrate Rechanne Browne reportedly recused herself from the trial of a politician for irregular possession of a firearm after he allegedly made false

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<sup>2682</sup> iWitness News. October 21, 2022. [Public Library, schools receive 4,500 books from HATS](#); St Vincent Times. October 20, 2022. [MOE receives a donation of books from Hands Across the Sea](#).

<sup>2683</sup> Global News. April 12, 2021. [La Soufriere volcano erupts in biggest explosion yet, threatening thousands in St. Vincent](#).

<sup>2684</sup> iWitness News. October 18, 2022. [No data on special needs students who completed secondary school](#).

<sup>2685</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Right to access to information and national security: Access to public interest information with respect to the national security exception. July 2020. OEA/Ser.L/V/II, IACHR/RELE/INF.24/20. Para. 150.

<sup>2686</sup> IACHR. Inter-American Principles on Academic Freedom and University Autonomy. 2021. Principle N° 3.

<sup>2687</sup> The Vincentian. January 7, 2022. [Restrictions On Child Pornographic Materials](#); Searchlight. December 31, 2022. [Police issues warning about online publication of child porn](#).

<sup>2688</sup> St Vincent Times. December 29, 2021. [SVG: Man In Child Porn Video, Now In Police Custody](#).

<sup>2689</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09. Para. 60.

<sup>2690</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American Legal Framework on the Right to Freedom of Expression. 2010. OEA/Ser.L/V/II. CIDH/RELE/INF. 2/09.

accusations against her on Facebook<sup>2691</sup>. The magistrate reportedly argued that the publication discredited her, so she would not continue with the case.

1219. This Office recalls that the State's obligation to protect the rights of others is served by providing statutory protection against intentional infringement on honor and reputation through civil actions and by enacting laws guaranteeing the right of reply.<sup>2692</sup> The Rapporteurship also highlights that the dissemination of deliberate disinformation could damage the reputation of a candidate or public person or possibly other more diffuse interests such as the democratic process or the public's trust in democratic institutions.<sup>2693</sup>

1220. On July 18, 2022, the Rapporteurship was informed that a telecommunications operator had won a five-year government contract to improve broadband in St. Vincent and the Grenadines. The information received by this Office indicates that the successful bid would seek to improve wireless internet access in at least 116 locations on the island.<sup>2694</sup> The company would have committed to provide downloads of up to 300 Mbps in community centers, learning resource centers, sports fields, tourist sites and non-profit organizations.<sup>2695</sup> The initiative is reportedly being driven by the island's National Telecommunications Regulatory Commission (NTRC).

1221. The Office of the Special Rapporteur recalls that the principle of universal access refers to the need to guarantee connectivity and access to the Internet infrastructure and other ICT services that is universal, ubiquitous, equitable, truly affordable, and of adequate quality, all throughout the State's territory.<sup>2696</sup> In this regard, this Office stresses that steps should be taken to progressively promote universal access not only to infrastructure but also the technology necessary for its use and to the greatest possible amount of information available on the Internet; to eliminate arbitrary barriers to access to infrastructure, technology and information online, and to adopt measures of positive differentiation to allow for the effective enjoyment of this right for individuals or communities who face marginalization and discrimination.<sup>2697</sup>

1222. In early October, this Office learned that the government of St. Vincent and the Grenadines had approached *PayPal* to complain about obstacles to carrying out transactions.<sup>2698</sup> The government allegedly claimed that the U.S. company was not providing the same services as other Eastern Caribbean states such as Grenada, St. Lucia and Antigua and Barbuda.

1223. The Rapporteurship expresses that it is important that the authorities make efforts to progressively close the digital divide, widely recognized by the States, whether based on wealth, gender, geographic demarcations or social groups, between States and within States.<sup>2699</sup>

1224. The Special Rapporteurship learned of the approval in late October of a new Electronic Communications Bill in St. Vincent and the Grenadines. With the passage of this law, the country would become the second member state of the *Eastern Caribbean Telecommunications Authority (ECTEL)* to introduce new legislation to regulate the telecommunications sector; St. Kitts and Nevis would have been the first state to do so in February 2021.<sup>2700</sup> The law would seek to strengthen customer service delivery, establish a dispute tribunal, introduce severe penalties for non-compliance with legislation, and promote fairness, transparency

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<sup>2691</sup> iWitness News. March 31, 2022. [Politician in trouble over false statements about court](#); Radio Jamaica News. April 1, 2022. [SVG chief magistrate recuses herself from politician's gun trial](#).

<sup>2692</sup> IACHR. Report on the compatibility between desacato laws and the ACHR. 1995. Section V.

<sup>2693</sup> IACHR. Guide to guarantee freedom of expression in the face of deliberate disinformation in electoral contexts. 2019. OEA/Ser.D/XV.22.

<sup>2694</sup> Caribbean Loop News. July 18, 2022. [Digicel signs partnership with St Vincent and the Grenadines](#).

<sup>2695</sup> Telecompaper. July 22, 2022. [Digicel wins 5-yr government contract to improve broadband in St. Vincent and the Grenadines](#).

<sup>2696</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. 2013. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. Para. 16.

<sup>2697</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. 2013. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. Para. 15.

<sup>2698</sup> iWitness News. October 4, 2022. [SVG waiting on Paypal to address access issues](#).

<sup>2699</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. 2013. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. Para. 39.

<sup>2700</sup> St Vincent Times. October 30, 2022. [SVG new telecoms law is geared at improving customer service delivery](#); ECTEL. March 2, 2021. [The Federation of St. Kitts and Nevis Passes Electronic Communications \(EC\) Act](#).

and accountability between providers and regulators.<sup>2701</sup> The legislation would also seek to improve the conditions and terms for the issuance of licenses, facilitate the production of content and the monetization of content through internet-based platforms, expand the scope of telecommunications to include electronic communications, and preserve an open and neutral internet.<sup>2702</sup>

1225. The Office of the Special Rapporteur would like to recall that according to the principle of universal access, that is, the rights to equality and nondiscrimination, regulatory mechanisms need to be established - including pricing regimens, universal service requirements and licensing agreements - to foment broad access to the Internet, including for vulnerable sectors of society and the most isolated rural areas.<sup>2703</sup> In this sense, this Office welcomes the approval of the new Electronic Telecommunications Law as it constitutes a first step in the consolidation of universal access to the Internet and freedom of expression in this space.

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<sup>2701</sup> Searchlight. November 1, 2022. [SVG passes bill to better respond to new telecoms issues](#).

<sup>2702</sup> St Vincent Times. October 30, 2022. [SVG new telecoms law is geared at improving customer service delivery](#).

<sup>2703</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and the Internet. 2013. OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. Para. 47.



## SAINT LUCIA

1226. In 2022, the Office of the Special Rapporteur registered a series of legal disputes over the closure of a radio station that did not have a license to operate, which, in turn, would be the medium of choice for the political opposition in the country. As in other countries in the region, the Office of the Special Rapporteur learned of a series of protests following the visit of members of the British monarchy. According to what this Office was able to learn, the public demonstrations were characterized by calls for an apology for the crimes committed during the period of colonization, requests for economic reparation and the possible removal of the British monarch as head of state. Over the course of the year, the Office of the Special Rapporteur took note of progress in terms of equity for people with disabilities, as well as for women in the country. Likewise, this Office learned that the commemoration around the day of emancipation was revitalized on the island and reportedly enriched the public debate through the celebration of festivals and talks about the history of slavery and the identity of Afro-descendant people in the country. Finally, the Office of the Special Rapporteur took note of the efforts for digital literacy in the country, especially in educational centers.

### A. Journalism and democracy

1227. The Office of the Special Rapporteur welcomes the invitation from the United States Embassy to writers from Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines to apply to the International Writing Program (IWP) at the University of Iowa<sup>2704</sup>. The program lasted 12 weeks between August and November 2022. This Office considers that this type of initiative is valuable for cultural exchange, professional development, and the full exercise of freedom of expression of Caribbean writers.

1228. In March 2022, the Office of the Special Rapporteur was informed of the closure of the Sky FM radio station, until then available on the 93.1 FM frequency. According to the information received by this Office, the National Telecommunications Regulatory Commission - NTRC issued an order to suspend the station for not having a license to operate<sup>2705</sup>. This would be the second time that an order of this type has been issued against the radio station in question, since the first was issued in the second half of 2021.<sup>2706</sup> In the first communication from the NTRC, the outlet was reportedly informed that, if it ignored the orders, operators could face a fine and jail time<sup>2707</sup>.

1229. Public information would indicate that the radio network would be the one most frequented by the island's political opposition, the United Workers Party. Therefore, this Office recorded accusations of reprisals against the opposition in the country. The Minister of tourism, investment, creative industries, culture, and information reportedly asserted that Sky FM was aware that it would not have a license to broadcast its programming and therefore would be operating "illegally."<sup>2708</sup> Therold Prudent, an announcer for the station and a member of the UWP, reportedly claimed that the station did not have enough time to correct the situation. Additionally, Prudent would have ensured that Sky FM continued to broadcast through digital platforms<sup>2709</sup>.

1230. The Office of the Special Rapporteur recalls that the allocation of radio and television licenses must be guided by democratic criteria and pre-established, public, and transparent procedures, which serve as a brake on the possible arbitrariness of the State and guarantee conditions of equal opportunities for all persons and stakeholders.<sup>2710</sup> Likewise, this Office reiterates that the regulation on broadcasting should aspire to promote and expand the scope of the right to freedom of expression and not to restrict it. To this extent, the

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<sup>2704</sup> The Voice. March 16, 2022. [United States Invites Eastern Caribbean, Barbadian Writers to Apply to 2022 International Writing Programme Fall Residency in Iowa City](#); ZIZ Online. March 15, 2022. [The United States Invites Eastern Caribbean And Barbadian Writers To Apply To The 2022 International Writing Program Fall Residency In Iowa City](#).

<sup>2705</sup> The Voice. March 12, 2022. [Sky FM to Pursue Legal Action, Chastanet](#); Caribbean Loop News. January 12, 2022. [Necessary action will be taken regarding Sky FM - Pierre](#).

<sup>2706</sup> The Voice. November 27, 2021. [Does SKY FM Have Legal Authorization to Broadcast Over Saint Lucia Airwaves?](#); Caribbean Loop News. November 30, 2021. [King defends Kairi FM/Sky FM termination effort](#).

<sup>2707</sup> St. Lucia News Online. March 14, 2022. [The Opposition UWP Offers its Defense Against the Closure of Sky FM](#).

<sup>2708</sup> The Voice. March 12, 2022. [Sky FM to Pursue Legal Action, Chastanet](#).

<sup>2709</sup> St. Lucia News Online. March 14, 2022. [The Opposition UWP Offers its Defense Against the Closure of Sky FM](#).

<sup>2710</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OEA Ser.L/V/II. IACHR/RELEA/INF. 3/09. para. 58.

legal framework should ensure that the media could serve as a vehicle for the free, vigorous, open, plural, and diverse exercise of freedom of expression<sup>2711</sup>.

## **B. Freedom of expression, Rule of Law, and democratic institutions**

1231. The Office of the Special Rapporteur was informed of a series of protests in April as part of the visit of the Earl and Countess of Wessex in anticipation of Queen Elizabeth II's Platinum Jubilee<sup>2712</sup>. The information received indicates that the protesters have demanded a public apology and the payment of reparations by the British monarchy for the transatlantic slave trade<sup>2713</sup>. Additionally, members of the press have raised questions about the sources of financing for this visit, questioning its suitability<sup>2714</sup>. Members of the British royal family reportedly faced similar protests and demands in Saint Vincent and the Grenadines and Antigua and Barbuda, as well as Grenada, where they had to cancel their visit.

1232. In November 2021, Barbados removed Queen Elizabeth II as head of state by becoming a republic. Since then, and according to public information, other countries, including Jamaica and Antigua and Barbuda, have expressed interest in making a similar decision. Following the aforementioned demonstrations, the Prime Minister of Saint Lucia, Philip. J Pierre would have asserted that "it is the democratic right of the people to protest" and that his is a government that "believes in democracy and the rule of law"<sup>2715</sup>.

1233. The Office of the Special Rapporteur recalls that the protection and guarantee of the right to protest deserve special attention when it is used by underrepresented or marginalized sectors or groups that face institutional frameworks that do not favor their participation, or serious barriers to access to other forms of mass communication<sup>2716</sup>. Likewise, this Office emphasizes that the protest as a form of participation in public affairs is especially relevant for groups of people historically discriminated against or in conditions of marginalization<sup>2717</sup>.

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

1234. This Office welcomed the call for a series of awareness sessions to address the findings of a study on the needs of people with disabilities and provide inputs to local governments to meet them<sup>2718</sup>. The study in question was reportedly commissioned by the Caribbean Development Bank (CBD) to assess the situation of people with disabilities in Saint Lucia, Grenada, Jamaica, and Trinidad and Tobago<sup>2719</sup>. The research was carried out by the University of the West Indies with resources from the Central Statistical Office, the collaboration of the National Council for Persons with Disabilities, and oversight by the Ministry of Equity, Social Justice, and Empowerment.

1235. As the authorities and civil society design public policies to improve the quality of life of persons with disabilities, the Office of the Special Rapporteur recalls that States should consider the promotion of assistive technologies for persons with disabilities in order to guarantee a distribution uniformity of the benefits of ICTs, and to reduce the digital divide and provide digital opportunities for all. In addition, States must adopt policies to promote and encourage those who provide services on the Internet to adopt accessible formats for people

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<sup>2711</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OEA Ser.L/V/II. IACHR/RELEA/INF. 3/09. para. 24.

<sup>2712</sup> Sky News. April 28, 2022. [Earl and Countess of Wessex faced with protesters during St Lucia visit demanding slavery apology from the Queen](#); Caribbean Loop News. April 28, 2022. [Chastanet: The time has come for St Lucia to become a republic](#).

<sup>2713</sup> Sky News. April 28, 2022. [Earl and Countess of Wessex faced with protesters during St Lucia visit demanding slavery apology from the Queen](#).

<sup>2714</sup> Evening Standard. April 26, 2022. [Earl and Countess of Wessex's Caribbean tour blasted by St Lucia radio host](#); The Telegraph. April 24, 2022. [Wessexes' Caribbean tour faces new controversy when radio host asks how the visit benefits islanders](#).

<sup>2715</sup> Caribbean Loop News. April 28, 2022. [Chastanet: The time has come for St Lucia to become a republic](#).

<sup>2716</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 16.

<sup>2717</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 23.

<sup>2718</sup> Government of Saint Lucia. June 27, 2022. [National sensitization sessions underway for disability assessment in Saint Lucia](#).

<sup>2719</sup> Caribbean Loop News. June 28, 2022. [National sensitization sessions underway for disability assessment](#).

with disabilities<sup>2720</sup>. Likewise, this Office emphasizes that States should include regulations and incentives so that digital television can be inclusive and accessible to all people; new digital technologies facilitate the use of devices, services, and applications that make audiovisual content accessible to people with hearing and visual disabilities<sup>2721</sup>.

1236. The Office of the Special Rapporteur recorded the commemoration of Emancipation Day on the island on August 1, 2022. As this Office was informed, 2022 marked 184 years since the abolition of slavery in the British Empire, when people in 384 plantations on the island would have been released<sup>2722</sup>. The available public information indicates that the day was marked by a day of reflection by the State and civil society under the slogan of “Enkindling our Consciousness”. According to the reports received by this Office, Emancipation Day was revitalized in 2022 to turn the holiday into a national month of observation<sup>2723</sup>. Some of the activities held in August included festivals, concerts, art exhibits, history workshops, lectures, and a series of media talks<sup>2724</sup>.

1237. On August 23, 2022, this Office learned that the Saint Lucia National Reparations Committee (NRC) and the National Cultural Foundation (NCF) organized a panel titled “Transatlantic Slavery and Why it Must Forever be Remembered and Condemned”. The panel was reportedly broadcasted on the National Television Network (NTN) and included the participation of historian, author, poet and researcher Dr. Morgan Dalphinis.<sup>2725</sup> The date commemorates the International Day for the Remembrance of the Slave Trade and its Abolition and the beginning of the Haitian revolution in 1791 that established the first Afro-descendant republic in January 1804.<sup>2726</sup>

1238. Likewise, on August 31, 2022, the Office of the Special Rapporteur was informed that two civil society organizations had organized a day to commemorate the International Day for People of African Descent (IDPAD); these organizations would be the Saint Lucia National Reparations Committee (NRC) and the National Cultural Foundation (NCF). The NRC and NCF reportedly carried out an hour and a half live broadcast on the National Television Network (NTN).<sup>2727</sup> The United Nations designated the decade from 2015 to 2024 as the international decade for people of African descent, establishing August 31 as the day of commemoration in all Member States under the motto of “recognition, justice, and development”<sup>2728</sup>.

1239. The Office of the Special Rapporteur reiterates that, as indicated by the inter-American legal framework, States must focus particularly, as warranted by local circumstances, on combating historical discrimination, prejudices, and tendentious attitudes that impede the equal enjoyment of the right to freedom of expression by certain groups.<sup>2729</sup> In this sense, the Office of the Special Rapporteur welcomes the fact that the month of emancipation of 2022 has had a series of events around slavery and the identity of people of African descent to raise awareness and guarantee the right to freedom of expression.

1240. In August 2022, this Office learned that the Minister for Public Service, Home Affairs, Labour and Gender Affairs reportedly urged the CARICOM secretariat and regional governments to commit financial, material, and human resources to achieve gender equality in the development of the Caribbean<sup>2730</sup>. The minister reportedly made the statement at the opening of a national consultation on the CARICOM Draft Regional Gender Equality Strategy. The consultation reportedly included the participation of 42 people representing 32 governmental and non-governmental agencies of Saint Lucia<sup>2731</sup>.

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<sup>2720</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a Free, Open, and Inclusive Internet. March 2017. OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. para. 63.

<sup>2721</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Transition to an open, diverse, plural, and inclusive digital television. OEA/Ser.L/V/II. zIDH/RELE/INF.13/15. 2015. Para. 174.

<sup>2722</sup> Associate Times. June 27, 2022. [St Lucia shares glimpse of facts about Emancipation Day 2022](#).

<sup>2723</sup> Saint Lucia Government. August 2, 2022. [Prime Minister Pierre restores significance to Saint Lucia's Emancipation Day](#).

<sup>2724</sup> The Voice. September 10, 2022. [NRC Pleased by Public Responses to Emancipation Month 2022](#); Cultural Development Foundation. July 22, 2022. [“Enkindling Our Consciousness” Emancipation 2022-2024](#).

<sup>2725</sup> The Voice. August 24, 2022. [NRC and CDF to co-host NTN Zoom Panel on TransAtlantic Slavery Today](#).

<sup>2726</sup> UNESCO. n.d. [International Day for the Remembrance of the Slave Trade and its Abolition](#).

<sup>2727</sup> The Voice. August 27, 2022. [NRC and CDF to observe International Day for People of African Descent](#).

<sup>2728</sup> United Nations. n.d. [International Decade for People of African Descent 2015-2024](#).

<sup>2729</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on universality and the right to freedom of expression. 2014. Pt. 1.g.

<sup>2730</sup> The Voice. August 22, 2022. [Minister Calls on Government to Commit Resources Towards Gender Equality](#).

<sup>2731</sup> Caribbean Loop News. August 18, 2022. [First Regional Gender Equality Strategy consultations held in St Lucia](#).

1241. The Office of the Special Rapporteur recalls that States are under the obligation to adopt positive measures aimed at guaranteeing the substantive equality of women in the exercise of freedom of expression and the transformation of institutions, systems, roles, and stereotypes that perpetuate their inequality and exclusion from public debate<sup>2732</sup>. In this sense, the Office of the Special Rapporteur also stresses that the inclusion of women in communication, decision-making, and development processes is fundamental so that their needs, opinions, and interests are considered in the design of policies and decision-making<sup>2733</sup>.

1242. In September 2022, the Office of the Special Rapporteur registered with concern information indicating that a 13-year-old student was denied entry to an educational institution because his hair did not conform to the school rules. The child's father reportedly asserted that the school's actions would be unconstitutional and should be resolved by a court.<sup>2734</sup> For its part, the government of Saint Lucia reportedly expressed its commitment to revise the rules of the schools regarding the appearance and grooming of students<sup>2735</sup>. According to public information, the St Lucia Teachers' Union (SLTU) claimed to be "disturbed" by the implications that a change in these regulations would have on school discipline, arguing that "if a student is allowed to break one rule, then inevitably the authority of all other rules will be compromised"<sup>2736</sup>.

1243. The Office of the Special Rapporteur emphasizes that no discriminatory norm, act, or practice based on criteria suspected of discrimination, whether by state authorities or by individuals, can diminish or restrict, in any way, the rights of a person in the exercise of their academic freedom<sup>2737</sup>.

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

1244. On the occasion of the start of the new 2022-2023 school year in September, the Office of the Special Rapporteur learned that the Ministry of Education had provided 2,100 Chromebooks and 2,120 tablets to primary and secondary school students on the island.<sup>2738</sup> According to the information received by this Office, the devices would have Google Workspace for Education technology, allowing students to access Google classroom, Google Meet, Google docs, among other applications. The student endowment would be part of the Caribbean Digital Transformation Program (CARDTP)<sup>2739</sup>.

1245. As the IACHR and its Office of the Special Rapporteur have stated on previous occasions, it is essential to promote and reinforce the digital citizenship of children and adolescents, in order to guarantee their full and future integration in a society and in a world in which new technologies already play a central role. Without connectivity, children lose the ability to access an increasingly significant part of the public sphere<sup>2740</sup>. Likewise, this Office emphasizes that the authorities must promote educational measures aimed at promoting the ability of all people to make autonomous, independent, and responsible use of the Internet and digital technologies, which is known as digital literacy<sup>2741</sup>. In this sense, the Office of the Special Rapporteur welcomes the provision of devices for students in the country and encourages the State to promote digital literacy within the framework of this effort for digital transformation on the island.

1246. On September 13, 2022, the Office of the Special Rapporteur took note of the progress shared within the framework of the consultative forum of the Eastern Caribbean Telecommunications Authority – ECTEL and the National Telecommunications Regulatory Commissions -NTRCs.<sup>2742</sup> Saint Lucia's administrative officer

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<sup>2732</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. para. 69.

<sup>2733</sup> IACHR. Annual Report 1999. Report of the Office of the Special Rapporteur for Freedom of Expression. Women and freedom of expression. 2000. P. 4.

<sup>2734</sup> Caribbean National Weekly. September 7, 2022. [St Lucian government reviewing grooming in schools amid legal threat](#).

<sup>2735</sup> The Voice. September 7, 2022. [Ministry of Education to Review Existing Grooming Positions at Schools on the Island](#).

<sup>2736</sup> Jamaica Observer. September 19, 2022. [St Lucia Teachers' Union warns grooming issue has serious implications for education](#).

<sup>2737</sup> IACHR. Inter-American Principles on Academic Freedom and University Autonomy. 2021. Principle No. 3.

<sup>2738</sup> St Lucia News Now. September 2, 2022. [Primary and secondary school students to receive new devices](#). St Lucia Times. September 10, 2022. [Entrepot Secondary School Students Get Chromebooks](#).

<sup>2739</sup> The Voice. September 3, 2022. [Ministry of Education Rolls out Exciting Programmes for Reopening of School](#).

<sup>2740</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Children, freedom of expression and the media. February 2019. OEA/Ser.L/V/II, CIDH/RELE/INF.23/19. para. 78.

<sup>2741</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 48.

<sup>2742</sup> The Voice. September 21, 2022. [Improving Electronic Communications Services to Consumers](#).

reportedly said that efforts in the country would have focused on informing citizens about the commission's work through media platforms, educational programs, roadshows, and meetings with public opinion. With regard to the implementation of Universal Service Fund (USF) projects, the official asserted that internet connectivity, as well as computers, would be provided to the National Skills Development Center and the Boys Training Center.

1247. The Office of the Special Rapporteur recalls that, in accordance with the principle of universal access and the rights of equality and non-discrimination, regulatory mechanisms must be established, which include price regimes, universal service requirements, and license agreements, to promote broad access to Internet, including vulnerable sectors and the most remote rural areas<sup>2743</sup>. Likewise, this Office reiterates that it is necessary to adopt regulations and public policies that promote the interoperability and interconnection of the Internet at a global level. In this way, the free flow of information of ideas and expressions is encouraged, avoiding the creation of territorial technological barriers or of any other nature that cause the fragmentation of the Internet at a national or regional level, and the consequent limitation of freedom of expression and access to information<sup>2744</sup>.

1248. In late September 2022, the Office of the Special Rapporteur was informed of an online scam that would impersonate the Ministry of Equity, Social Justice, and Empowerment. Information circulating online would indicate that the ministry would be offering financial assistance to parents of students pursuing Technical and Vocational Education and Training -TVET to obtain the Caribbean Secondary Education Certificate<sup>2745</sup>. The scam would be asking parents to share their personal information, such as their name, their cell phone, the name of their children and their date of birth, among others. According to the information received by the Office of the Special Rapporteur, the ministry would have issued a statement assuring that it would be a scam<sup>2746</sup>.

1249. The Office of the Special Rapporteur recalls that given the impact on the private life of individuals, States must establish personal data protection regimes that regulate their storage, processing, use, and transfer<sup>2747</sup>. Therefore, this Office urges the State of Saint Lucia to take measures to prevent fraud and impersonation of public entities on the Internet and digital platforms.

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<sup>2743</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 47.

<sup>2744</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 46.

<sup>2745</sup> The Voice. October 1, 2022. [Ministry of equity Cautions Over Online Scam](#).

<sup>2746</sup> The Voice. October 1, 2022. [Ministry of equity Cautions Over Online Scam](#)

<sup>2747</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 138.



## SURINAME

1250. In 2022, the Office of the Special Rapporteur observed with concern a significant deterioration in freedom of expression in Suriname due to physical and verbal attacks, as well as judicial harassment, that several journalists in the country were reportedly subjected to. This Office received multiple reports on the tensions between the Surinamese journalistic union and the state authorities, which resulted in a boycott of the media and alleged stigmatizing accusations. The deterioration of this fundamental right in the country has reportedly been confirmed by the 2022 Freedom of Expression Index, in which Suriname had fallen by 33 ranks since 2021. Likewise, during this year, the Office of the Special Rapporteur learned of the use of criminal contempt (*desacato*) laws, which would have led to the conviction of opponents of the current administration for allegedly defaming the head of state. Mid-year, this Office recorded massive demonstrations against the current government in the country's capital, however there were only minor clashes with the police and dialogue between demonstrators and authorities prevailed. According to what the Office of the Special Rapporteur was able to learn, the government would have taken into consideration the demands and claims of the protesters. This Office also registered progress in diplomatic relations with the Netherlands and the possibility of an official apology for the role of the European country in slavery in Suriname. Finally, the Office of the Special Rapporteur took note of Suriname's dissatisfaction over a Netflix series that would promote a negative image of the country.

### A. Journalism and democracy

1251. The Office of the Special Rapporteur received with concern reports that the life of journalist Jason Pinas, of the newspaper *De Ware Tijd*, would be in danger after an altercation with the bodyguards of Vice President Ronnie Brunswijk at the end of 2021. On December 14, 2021, this Office learned that Pinas was reportedly knocked down by the official's security team when the journalist tried to photograph him while he was leaving the national parliament. Also, his cell phone would have been confiscated at the scene<sup>2748</sup>. After being transferred to a medical center, Pinas claimed to have pain in his neck, head, and arm<sup>2749</sup>. Likewise, the journalist reportedly assured the Dutch media that he would not dare to go out for fear of his safety<sup>2750</sup>.

1252. The Public Prosecution Office reportedly identified three of the bodyguards involved in the altercation with the journalist. On January 11, 2022, the three suspects reportedly appeared before the Sub district Court where they allegedly faced charges of public violence, assault, destruction, and robbery, offenses under the country's criminal code. The journalist reportedly gave his testimony about the events that same day. The case was postponed to March 8 and then to May 10<sup>2751</sup>. The Office of the Special Rapporteur was informed that on July 12, 2022, the three indicted bodyguards were sentenced to three months in prison with probation for three years<sup>2752</sup>. The journalist also reportedly received compensation equivalent to 28,000 Surinamese dollars and a formal apology from his attackers<sup>2753</sup>.

1253. In the first week of 2022, the Office of the Special Rapporteur was informed that a vehicle with two sticky grenades had reportedly been found in front of the house of journalist Pinas<sup>2754</sup>. Regarding this, the Office of the Special Rapporteur learned that the Public Prosecution Office had opened investigations to clarify

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<sup>2748</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2749</sup> NOS. December 15, 2021. [Journalist mishandeld door beveiligers Surinaamse vicepresident](#).

<sup>2750</sup> NRC. February 13, 2022. [De meest bedreigde journalist van Suriname durft niet meer naar buiten](#).

<sup>2751</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2752</sup> DWT Online. July 12, 2022. [OM overwint in zaak Jason Pinas 'Ik vraag de vicepresident om ook te corrigeren'](#); NOS. July 13, 2022. [Beveiligers Surinaamse vicepresident veroordeeld voor mishandeling journalist](#).

<sup>2753</sup> NU. July 13, 2022. [Rechter straft beveiligers Surinaamse vicepresident voor mishandeling journalist](#).

<sup>2754</sup> Caribbean National Weekly. December 31, 2021. [Call for Journalist Protection After Hand Grenades Found Outside His Home](#); NOS. December 30, 2021. [Handgranaten op erf van Surinaamse journalist gevonden](#).

the facts<sup>2755</sup>. As a result of this alleged attack, this Office learned that the national government had provided the journalist with a security device to protect his integrity and that of his family<sup>2756</sup>.

1254. The Office of the Special Rapporteur reiterates that acts of violence against journalists have a triple effect: (1) they violate the right of victims to express and disseminate their ideas, opinions, and information; (2) they have a chilling and silencing effect on their peers; and (3) violate the rights of individuals and societies in general to seek and receive information and ideas of any kind. Due to the foregoing, the consequences for democracy, which depends on a free, open, and dynamic exchange of ideas and information, are particularly serious faced with these events<sup>2757</sup>.

1255. Likewise, this Office recalls that the obligation to criminally investigate, prosecute, and punish requires States to investigate violence against journalists without delay and using all available legal means, in order to clarify the truth and ensure that aggressors are identified, prosecuted, and punished. In this regard, States must adopt an adequate institutional framework that establishes entities with sufficient independence and capacity to investigate, prosecute, and punish violence against journalists, including, when necessary, specialized investigation units or specialized courts<sup>2758</sup>.

1256. Finally, the Office of the Special Rapporteur emphasizes that the obligation to prevent requires that States adopt a public discourse that contributes to preventing violence against journalists, instruct their security forces to respect the surveillance role played by the media, respect the right of journalists to reserve their sources of information, notes and personal and professional files, and sanction and maintain accurate statistics on this violence against journalists, among other things<sup>2759</sup>.

1257. This Office learned that the attack by members of the security team of Vice President Ronnie Brunswijk against Jason Pinas allegedly resulted in a media boycott of the official. According to the information received by this Office, several journalists in the country have promised to avoid covering all the acts and pronouncements of the vice president as a form of protest for his treatment of the union, which would include the attack against Pinas but also alleged stigmatizing statements in the past<sup>2760</sup>. The boycott reportedly ended on February 16, 2022, the date on which the Suriname journalists' association [*Surinaamse Vereniging van Journalisten (SVJ)*] stated that it would meet with the government and that its protest would have fulfilled its mission of sending a sign against violence and the stigmatization of the press in the country<sup>2761</sup>.

1258. The Office of the Special Rapporteur recalls that, as stipulated in the inter-American legal framework, public officials have the duty to ensure that with their statements they are not harming the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts, such as journalists and the media<sup>2762</sup>. This Office also emphasizes that political and public figures must be more exposed –and not less exposed– to public scrutiny and criticism. The need for an open and broad debate, which is crucial for a democratic society, must necessarily encompass the people who participate in the formulation

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<sup>2755</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2756</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2757</sup> 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. 2013. OEA/Ser.L/V/II. IACHR/RELE/INF.12/13. para. 287

<sup>2758</sup> 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. 2013. OEA/Ser.L/V/II. IACHR/RELE/INF.12/13. para. 293

<sup>2759</sup> 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. 2013. OEA/Ser.L/V/II. IACHR/RELE/INF.12/13. para. 290

<sup>2760</sup> NOS. December 16, 2021. [Surinaamse journalisten laten Ronnie Brunswijk twee maanden niet zien of horen](#).

<sup>2761</sup> Key News. February 16, 2022. [Boycot vicepresident door journalisten beëindigd](#); Suriname Herald. February 15, 2022. [Journalisten beëindigen boycot tegen vicepresident met ernstige kanttekeningen](#).

<sup>2762</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 204.

or implementation of public policy. Since these people are at the center of public debate and knowingly expose themselves to public scrutiny, they must show greater tolerance for criticism<sup>2763</sup>.

1259. The Office of the Special Rapporteur was informed that journalist Mones Nazarali had allegedly been arrested by the Surinamese police in early May 2022<sup>2764</sup>. According to the information received by this Office, Nazarali was reportedly brought before a prosecutor where he was accused of various crimes, including defamation, slander, disturbance of public order, and insulting the police; these crimes would lead to prison sentences according to the criminal code<sup>2765</sup>. This Office learned that the charges reportedly stemmed from a complaint filed by two police officers, including a regional commander, following an unfavorable report broadcast in *Actionnieuws Suriname* in which Nazarali allegedly accused the police of corruption and incompetence. The Committee to Protect Journalists (CPJ) reportedly attempted to communicate with the police, but their messages were blocked by this entity<sup>2766</sup>. On May 5, 2022, two days after his arrest, the Office of the Special Rapporteur was informed of the prosecutor's decision to dismiss the case against the journalist, for which Nazarali was reportedly released<sup>2767</sup>.

1260. The Office of the Special Rapporteur highlights that it is legitimate for politicians and public officials to criticize, correct, or object to specific reports in the media. However, when they do so, they should always be careful to ensure that their comments are accurate, avoid stigmatizing and discrediting the media, and do not threaten journalists or undermine respect for media independence<sup>2768</sup>. In this regard, this Office recalls that media workers who investigate cases of corruption or wrongdoing should not be the target of judicial harassment or any other type of harassment in retaliation for their work<sup>2769</sup>.

1261. This Office recalls that Article 13.2 of the American Convention requires compliance with the following three basic conditions for a limitation to the right to freedom of expression to be admissible: (1) the limitation must have been precisely and clearly defined through of a formal and substantive law, (2) the limitation must be aimed at achieving imperative objectives authorized by the American Convention, and (3) the limitation must be necessary in a democratic society to achieve the imperative objective sought; strictly proportionate to the purpose pursued; and suitable to achieve the imperative objective that it intends to achieve. It is up to the authority that imposes the limitations to demonstrate that these conditions have been met. On the other hand, all the stated conditions must be met simultaneously for the limitations imposed to be legitimate under the American Convention<sup>2770</sup>.

1262. In the framework of the world day for freedom of the press, the Office of the Special Rapporteur learned that the Surinamese journalists association [*Surinaamse Vereniging van Journalisten(SVJ)*] had expressed in a press release its concern about "the great pressure that freedom of the press has faced in Suriname in recent months"<sup>2771</sup>. In its statement, the SVJ also reportedly rejected a recent call in parliament to impose sanctions against the media and their journalists. Additionally, the association would have warned of the surge in people without journalistic training who would have great visibility on digital platforms and could breach the ethical codes of the profession. Finally, the SVJ reiterated its call for a bilateral dialogue between journalists and the government that serves "the interests of society."

1263. In May, this Office noted with concern Suriname's precipitous decline in the 2022 World Press Freedom Index, published by Reporters Without Borders (RSF). According to public information, the country

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<sup>2763</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Report on the compatibility between contempt (*desacato*) laws and the ACHR. 1995. Section IV.C.

<sup>2764</sup> Caribbean Loop News. May 5, 2022. [Suriname: Media Association demands immediate release of journalist](#).

<sup>2765</sup> Caribbean Loop News. May 5, 2022. [Suriname: Media Association demands immediate release of journalist](#).

<sup>2766</sup> Committee to Protect Journalists. May 9, 2022. [Suriname journalist detained, investigated on defamation charges after reporting on police.](#)

<sup>2767</sup> Caribbean National Weekly. May 6, 2022. [Surinamese journalist released after prosecution discontinues case](#).

<sup>2768</sup> OAS, UN, OSCE, ACHPR. Joint Declaration on the independence and diversity of the media in the digital age. 2018. Pt. 4.b

<sup>2769</sup> OAS, UN, OSCE. Joint Declaration on the regulation of the media, restrictions on journalists, and the investigation of corruption. 2003

<sup>2770</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Paras. 67, 68.

<sup>2771</sup> Suriname Herald. May 3, 2022. [SVJ wijst op onafhankelijkheid van media en journalisten](#).

dropped 33 positions from the 2021 ranking, ranking 52nd for this year<sup>2772</sup>. In the past, Suriname had fluctuated between places 19, 20 and 21<sup>2773</sup>.

1264. Following the attack on journalist Jason Pinas and the media boycott against Vice President Ronnie Brunswijk, the Surinamese journalists association [*Surinaamse Vereniging van Journalisten (SVJ)*] and members of the executive reportedly sought to meet to improve their relationship. At the end of April 2022, the association reportedly published a statement regretting that the dialogue had not been able to start until that moment<sup>2774</sup>. In that communication, the union once again urged the government to start a dialogue on freedom of the press in Suriname. On June 20, 2022, this Office learned that the association had met in person in Paramaribo with President Chandrikapersad Santokhi, who in turn was accompanied by Vice President Ronnie Brunswijk and Ministers Albert Ramdin and David Abiamfo<sup>2775</sup>.

1265. According to subsequent statements, both parties reportedly agreed to improve their troubled relationship<sup>2776</sup>. The president, on behalf of the executive branch, reportedly promised to maintain better communication with the media and to address the reasons why the country would have dropped in the World Index of Freedom of Expression 2022. The vice president reportedly referred to the boycott that he was subjected by the press and reportedly promised to communicate normally with journalists and ensure that they are forwarded to the corresponding ministers when they request specific information. The government also reportedly expressed its desire for the Suriname Journalists Association [*Surinaamse Vereniging van Journalisten (SVJ)*] to work on the professionalization and accreditation of journalists in the country, which would have been endorsed by the SVJ. The Office of the Special Rapporteur welcomes the efforts of both parties to settle their differences in favor of freedom of expression, access to information, and the strengthening of democracy in the country. In this sense, this Office encourages the Surinamese authorities and journalists to maintain a cordial, open, and constant dialogue.

1266. In its communication with this Office, the State of Suriname stated that it "recognizes and respects the right to freedom and freedom of the press," ensuring that the right to express ideas and feelings is guaranteed in article 19 of its constitution, as well as in article 19 of the International Covenant on Civil and Political Rights, a treaty ratified by Suriname since December 28, 1976<sup>2777</sup>. Therefore, the State assured that it has national and international obligations to guarantee compliance with both rights<sup>2778</sup>. In this sense, the Office of the Special Rapporteur urges the State to act in accordance with the obligations that it indicates to know and share.

## **B. Freedom of expression, Rule of Law and democratic institutions**

1267. Following the charges against journalist Mones Nazarali, the Office of the Special Rapporteur was informed that in Suriname colonial muzzle laws still prevail in Suriname, which would be used to intimidate members of the press, activists, and citizens critical of the government in power. According to the information received by this Office, these legal procedures were created to protect governments, authorities, and authority figures from public scrutiny<sup>2779</sup>.

1268. In April, the Office of the Special Rapporteur learned that two legislators from Suriname had filed a motion to declare null and void certain sections of the criminal code that would violate freedom of

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<sup>2772</sup> Reporters Without Borders. n.d. [Index 2022: Suriname](#).

<sup>2773</sup> StarNieuws. May 3, 2022. [Suriname keldert 33 plaatsen op lijst persvrijheid](#); Reporters Without Borders. n.d. [Index 2022: Suriname](#).

<sup>2774</sup> Waterkant. April 27, 2022. [SVJ dringt aan op dialoog over persvrijheid](#); Suriname Herald. April 26, 2022. [SVJ dringt aan op dialoog over persvrijheid](#).

<sup>2775</sup> Suriname Nieuws Centrale. June 21, 2022. [Vooruitgang in dialoog regering en SVJ](#).

<sup>2776</sup> Communicatie Dienst Suriname. June 23, 2022. [Surinaamse vereniging van journalisten en regeringstop hadden vruchtbare gesprek](#).

<sup>2777</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2778</sup> Response of the State of Suriname to the request for Article 41 of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (CIDH/RELE/Art.41/01-2022/01). April 11, 2022. Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>2779</sup> La Vanguardia. May 5, 2022. [Exigen liberación de periodista surinamés que denunció corrupción policial](#).

expression<sup>2780</sup>. The initiative was reportedly presented after the arrest of at least three people, among them the political activist Siberano Pique, for comments that would be considered insulting<sup>2781</sup>. The available public information indicate that Pique reportedly published a video in March 2022 in which he allegedly insulted the president and the first lady<sup>2782</sup>. Article 152 of Suriname's criminal code, in force since colonial times in 1910, punishes the intentional insult of the head of state, under which several people have been accused for criticizing the president<sup>2783</sup>.

1269. This Office allows itself to clarify that contempt (*desacato*) laws are a class of legislation that criminalizes the expression that offends, insults, or threatens a public official in the performance of his official duties<sup>2784</sup>. Likewise, this Office stresses that expressions, information, ideas, and opinions about public officials in the exercise of their duties and about candidates for public office also enjoy a special level of protection under the American Convention<sup>2785</sup>. In this sense, in cases of conflict between the right to honor of public officials and the right to freedom of expression, the exercise of weighting must start from the prevalence in principle (or *prima facie* prevalence) of freedom of expression given the interest in the debate on public affairs, this right acquires a higher weighted value<sup>2786</sup>.

1270. The Office of the Special Rapporteur recalls that the application of the criminal offense of contempt (*desacato*) to those who disseminate expressions critical of public officials is, in itself, contrary to the American Convention, since it constitutes an application of subsequent liabilities for the exercise of freedom of expression that are unnecessary in a democratic society, and disproportionate due to their serious effects on the issuer and on the free flow of information in society. Contempt (*desacato*) laws are a means to silence unpopular ideas and opinions and deter criticism by creating fear of prosecution, criminal sanctions, and monetary sanctions. The legislation on contempt (*desacato*) is disproportionate due to the sanctions it establishes in the face of criticism of the functioning of state institutions and their members, for which reason it suppresses the essential debate for the functioning of a democratic system, unnecessarily restricting freedom of expression<sup>2787</sup>.

1271. In July 2022, the Office of the Special Rapporteur was informed of a series of demonstrations against the government of Chandrikapersad Santokhi. Public information indicates that hundreds of took to the streets to protest alleged corruption scandals, instances of nepotism, and the implementation of economic austerity measures, among other things<sup>2788</sup>. This Office learned that the demonstrators were reportedly controlled by agents of the police and the riot unit when they tried to enter the premises of the executive branch<sup>2789</sup>. With the prolongation of the protests, the police would have taken preventive measures and would have reiterated that the alleged instances of vandalism, blockade of roads, incitement and alteration of public order would be sanctioned by law<sup>2790</sup>. The police reportedly rejected an alleged attempt by some protesters to throw Molotov cocktails at a government building. The information received would suggest that trade and traffic have been

<sup>2780</sup> Caribbean National Weekly. April 1, 2022. [Suriname moves to abolish age-old muzzle legislation preventing criticism of the head of state](#); Caribbean Loop News. April 1, 2022. [Suriname: Move to abolish law preventing criticism of head of state](#).

<sup>2781</sup> Caribbean National Weekly. April 1, 2022. [Suriname moves to abolish age-old muzzle legislation preventing criticism of the head of state](#); Suriname Nieuws Centrale. March 4, 2022. [Inverzekeringstelling Sibrano Piqué verlengd met 30 dagen](#).

<sup>2782</sup> GFC Nieuws. March 3, 2022. [Activist Sibrano Pique ingesloten voor beledigen president Santokhi en first lady](#); Waterkant. March 1, 2022. [Video: Komt ordinaire Siebrano Pique weg met beledigen van de president?](#)

<sup>2783</sup> Waterkant. March 1, 2022. [Video: Komt ordinaire Siebrano Pique weg met beledigen van de president?](#)

<sup>2784</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Report on the compatibility between contempt (*desacato*) laws and the ACHR. 1995. Section II.

<sup>2785</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 39.

<sup>2786</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 105.

<sup>2787</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 141.

<sup>2788</sup> NOS. July 19, 2022. [Grote demonstratie in Suriname tegen regering-Santokhi](#); Caribbean Loop News. July 18, 2022. [Suriname: Protesters call for resignation of President Santokhi](#); De Volkskrant. July 25, 2022. [Protesten tegen Surinaamse president breiden zich uit: ook aanhangers Bouterse demonstreren mee](#); Suriname Herald. July 26, 2022. [Protestactie Organic gaat onverkort door](#).

<sup>2789</sup> News Room. July 18, 2022. [Suriname protest gets grimmer, protesters want to storm cabinet](#); NOS. July 20, 2022. [Protest in Suriname gaat door, betogers weigeren gesprek met Santokhi](#).

<sup>2790</sup> Suriname Herald. July 21, 2022. [Politie treft preventieve maatregelen om veiligheid te garanderen](#); De Volkskrant. July 20, 2022. [Surinaamse president Santokhi onder druk door dagenlange protesten tegen regeringsbeleid](#).



affected by the protests against the Santokhi administration, so the national army reportedly took precautions to support the police forces<sup>2791</sup>.

1272. The nation's president reportedly invited members of the Organic Movement to form a delegation to meet and engage in dialogue<sup>2792</sup>. The demonstrators allegedly refused to speak with the president in a closed and private environment, for which they would have requested the presence of the media<sup>2793</sup>.

1273. On July 21, the Surinamese police reportedly repressed at least three protesters from the so-called Organic Movement, who camped out in front of the National Assembly building. According to the authorities, this type of activity would only be allowed with their prior permission. The police reportedly tore down the tents of these campers after they refused to leave the area<sup>2794</sup>.

1274. The Office of the Special Rapporteur was informed that the Organic Movement protests would have lasted until at least August 13, 2022, when more than 400 people, including politicians and trade unionists, gathered in Paramaribo and, especially, in the surroundings of the Independence Square<sup>2795</sup>. Days before, on August 3, members of the movement had asked the government to reinstate two police officers who had been suspended for participating in the anti-government demonstrations<sup>2796</sup>.

1275. As the IACHR and its Office of the Special Rapporteur have expressed on multiple occasions, protests are usually an important means of action and the pursuit of legitimate objectives by organizations and groups, and as such may also be protected by the right to freedom of association. Among the lawful and legitimate purposes of freedom of association are public demonstrations and social protests<sup>2797</sup>. Additionally, when the social protest is framed within the speeches that criticize or denounce public officials and authorities or refer to matters of public interest, they are especially protected by Article 13 of the American Convention<sup>2798</sup>.

1276. Due to the foregoing, this Office reiterates that the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry it out. The legal requirements that establish a basis for a meeting or demonstration to be prohibited or limited, for example, through the requirement of prior permits, are not compatible with the right of assembly or with the exercise of freedom of expression in the Inter-American System<sup>2799</sup>.

1277. The Office of the Special Rapporteur recalls that States have the duty to adopt the necessary measures to prevent acts of violence and guarantee the safety of people and public order. However, when using force in these contexts, States must adopt measures proportional to the achievement of these objectives and not arbitrarily hinder the exercise of the rights at stake in the protests<sup>2800</sup>. In this sense, when the authorities take, legally and legitimately, the decision to disperse a protest, the order to disperse must be clearly communicated and explained, allowing the protesters to understand and comply, offering them time enough to disperse without recourse to police force<sup>2801</sup>.

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<sup>2791</sup> StarNieuws. July 25, 2022. [Leger in verhoogde staat van paraatheid: ondersteunt politie](#); NU. July 26, 2022. [Demonstraties in Suriname tegen regering-Santokhi gaan ook deze week door](#).

<sup>2792</sup> Caribbean Loop News. July 19, 2022. [Suriname: Protestors blank request to meet with President Santokhi](#); Communicatie Dienst Suriname. July 18, 2022. [Statement president Chandrikapersad Santokhi](#).

<sup>2793</sup> The Jamaica Gleaner. July 19, 2022. [Protesters in Suriname blank request to meet with President Santokhi](#).

<sup>2794</sup> De West. July 22, 2022. [Politie treedt hardhandig op bij nachtprotest](#).

<sup>2795</sup> Waterkant. August 13, 2022. [Organic Movement: 'Geen beleidsomgeving meer, maar weg met Chan!'](#); StarNieuws. August 13, 2022. [Organic Movement: Protest zal aanzwellen; regering moet weg](#).

<sup>2796</sup> Radio Jamaica News Online. August 3, 2022. [Suriname: Opposition calls for government to reinstate officers involved in street protests](#); Suriname Herald. August 6, 2022. [VHP: "Laat je niet misleiden door de zogenaamde Organic Movement."](#)

<sup>2797</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 20, 21.

<sup>2798</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 206.

<sup>2799</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 342.

<sup>2800</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 12.

<sup>2801</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 155.

1278. Finally, this Office emphasizes that, in general, the authorities must favor dialogue and negotiation in the management of any form of protest, and not resort to force during demonstrations, occupations, or protests, except when absolutely necessary. Therefore, in no case should force be used indiscriminately in the context of protests<sup>2802</sup>.

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

1279. At the end of July 2022, the Office of the Special Rapporteur learned of the 10th edition of the Panamazonian Social Forum (FOSPA) in Brazil. According to the information received by this Office, the forum would have had the participation of indigenous Surinamese<sup>2803</sup>. This Office learned that the environmental activist Erlan Seur met with the Minister of Territorial Planning and the Environment [*Ruimtelijke Ordening en Milieu (ROM)*] to present him with the joint declaration of stakeholders and indigenous people of the Amazon region, signed in the framework of FOSPA 2022<sup>2804</sup>. Available information would indicate that the declaration asks the national government to take urgent measures to counter threats to indigenous territories and protect the environment in Suriname. The Office of the Special Rapporteur welcomes the fact that activists and indigenous people have the possibility of holding meetings and encounters with public officials to exercise their right to freedom of expression, association, and calls to action.

1280. In mid-August 2022, the Office of the Special Rapporteur was informed of a meeting between the national reparation commission of Suriname [*Nationale Reparatie Commissie*] and a nine-member delegation from the Dutch House of Representatives. The president of the commission, like other political representatives, reportedly assured that the State of Suriname should adopt a position on the past of slavery, the recognition, the apologies, and the reparations to which the Netherlands should be subject<sup>2805</sup>. This Office was informed that, at the end of their visit, the Dutch parliamentarians have concluded that an apology to the Surinamese people would be an “essential beginning for recognition and reparation”<sup>2806</sup>. Therefore, a majority of the chamber of the Netherlands reportedly issued a statement for the first time in favor of apologizing for Dutch slavery. Members of the committee that visited Suriname have also reportedly advised the prime minister's cabinet to increase efforts to provide education about the Dutch role in the transatlantic slave trade and the country's colonial past<sup>2807</sup>.

1281. This Office learned that, in September, the Prime Minister of the Netherlands, Mark Rutte, paid a visit to Suriname. In a speech before the parliament of this country, the president said he did not want to ignore the past, assuring that 2023, during the 150th anniversary of the abolition of slavery in the Netherlands, there could be a possible recognition<sup>2808</sup>. The Office of the Special Rapporteur welcomes the rapprochement between Suriname and the Netherlands in order to reject the slavery past.

1282. At the end of October 2022, the Office of the Special Rapporteur welcomed the policy launched by the government of Suriname against bullying. The initiative was reportedly launched after a 15-year-old student was assaulted because of their sexual orientation, as would have been recorded on a video<sup>2809</sup>. This Office welcomes the fact that the country's Ministry of Education, Science and Culture has reiterated the right of all people to security and protection. The Office of the Special Rapporteur reiterates that it is of particular

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<sup>2802</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 341.

<sup>2803</sup> Brasil de Fato. July 28, 2022. [FOSPA: Fórum reúne lideranças em defesa da Pan-Amazônia](#).

<sup>2804</sup> DWT Online. August 9, 2022. [Fospa-Suriname vraagt bescherming inheemse gebieden](#); Waterkant. August 9, 2022. [FOSPA-Suriname vraagt bescherming inheemse gebieden](#).

<sup>2805</sup> Waterkant. August 15, 2022. [Nederlandse delegatie spreekt president en Nationale Reparatie Commissie Suriname](#); Trow. August 16, 2022. [Kamerleden wagen zich nog niet aan uitspraken over excuses voor de slavernij](#); NRC. August 23, 2022. [Na de 'slavernijreis' begint de puzzel voor de voorstanders van excuses](#).

<sup>2806</sup> NRC. October 19, 2022. [Kamer adviseert kabinet excuses te maken voor slavernijverleden](#); NOS. October 18, 2022. [Kamer tegen kabinet: maak excuses voor slavernijverleden](#).

<sup>2807</sup> NRC. October 19, 2022. [Kamer adviseert kabinet excuses te maken voor slavernijverleden](#).

<sup>2808</sup> NOS. September 13, 2022. [Rutte in Suriname: 'Jaar herdenking slavernij in teken van erkenning'](#); De Volkskrant. September 13, 2022. [Rutte in Suriname: 'Herdenkingsjaar afschaffing slavernij moet in het teken staan van erkenning'](#).

<sup>2809</sup> Caribbean Loop News. October 21, 2022. [Suriname launches zero-tolerance policy against bullying](#).

importance that States adopt positive actions to guarantee the exercise of the right to freedom of expression of groups historically excluded from public debate, such as LGBT+ persons.<sup>2810</sup>

1283. Likewise, this Office recalls that the promotion and protection of the right to freedom of expression must be combined with efforts to combat intolerance, discrimination, hate speech, and incitement to violence, particularly with the promotion of proactive public policies to social inclusion in the media and to ensure that LGBTI individuals and communities can exercise their right to freedom of expression without discrimination. All these efforts must strictly conform in a general way to international human rights law, and, in particular, to the standards on freedom of expression<sup>2811</sup>.

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

1284. The Office of the Special Rapporteur recorded a series of tensions between the States of Suriname and South Korea over a Netflix series that would revolve around a South Korean drug lord in Suriname<sup>2812</sup>. The information received by this Office indicates that the Surinamese government has complained about the publication of this series since it could reinforce a negative image of the country. For its part, South Korea would have issued a security warning for its citizens in Suriname due to the growing tensions between the two countries. This Office learned that Suriname's Ministry of Foreign Affairs claimed to be considering the possibility of taking legal action against the producers of the series<sup>2813</sup>.

1285. The Office of the Special Rapporteur recalls that, in principle, all forms of speech are protected by the right to freedom of expression, regardless of their content and the greater or lesser social and state acceptance they enjoy. This general presumption of coverage of all expressive speech is explained by the State's primary obligation of neutrality with respect to content and, as a consequence, by the need to guarantee that, in principle, there are no persons, groups, ideas or means of expression excluded from prior to public debate<sup>2814</sup>. In this sense, the duty not to interfere with the right of access to information of all kinds, extends to the circulation of information, ideas, and expressions that may or may not have the personal approval of those who represent the state authority at any given time<sup>2815</sup>.

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<sup>2810</sup> IACHR. Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI people. para. 22.

<sup>2811</sup> IACHR. Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. IV. Hate speech and incitement to violence against LGBTI people. para. 9.

<sup>2812</sup> Suriname Herald. September 16, 2022. [Zuid-Korea geeft veiligheidswaarschuwing voor in Suriname wonende Zuid-Koreanen](#); De Telegraaf. September 15, 2022. [Suriname boos op producenten Netflix-serie: 'We zijn geen narcostaat!'](#).

<sup>2813</sup> Hollywood Reporter. September 15, 2022. [Suriname Government Threatens Legal Action Against Netflix Over Korean Series 'Narco-Saints'](#); Manila Bulletin. September 15, 2022. [Suriname looking at legal action against Korean series 'Narco-Saints.'](#)

<sup>2814</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 30

<sup>2815</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 31.

## TRINIDAD AND TOBAGO

1286. In 2022, the Office of the Special Rapporteur learned of the concerns expressed by journalist associations in the country about legislation that could negatively affect freedom of expression on the internet, whistleblower protections, and privacy, among others. This Office registered lawsuits by elected officials and public figures for alleged instances of defamation. The Office of the Special Rapporteur took note of the financial crisis that the public media are going through, resulting in the possible dismissal of hundreds of workers. Likewise, this Office took note of the possible interference of public officials in the operation of the media, their journalistic standards, and the coverage of news of interest to society. In terms of progress, the Office of the Special Rapporteur welcomes the fact that the national authorities have withdrawn their appeal to a judicial ruling that would have determined that the raid of a communication medium in the first half of 2020 would have been unconstitutional. This Office also welcomes the celebration of the 53rd General Assembly of the Caribbean Broadcasting Union (CBU) and all the events that were part of it to strengthen journalism in the region. This year, the Office of the Special Rapporteur registered multiple protests and public demonstrations over the mandatory vaccination against COVID-19, inflation, the salary of public employees, and alleged instances of police violence against young people; these protests would have resulted in strong tensions between demonstrators and police forces. Finally, this Office learned of the start of a frenzied public debate on the use of communications interceptions in the country by state authorities.

### A. Journalism and democracy

1287. Within the framework of the world day for press freedom, the Office of the Special Rapporteur took note of the concerns expressed by the Media Association of Trinidad & Tobago through a press release. Therefore, this Office was made aware of instances of national legislation that, according to the association, could have a "chilling effect" on press freedom in the country.<sup>2816</sup> The 2017 Cybercrime Bill, the Whistleblower Protection Act, the 2011 Data Protection Act, the Broadcast Code, and the 2021 Sexual Offenses Bill (Amendment 3) are within the laws that would cause concern to the journalistic union. This Office learned that the association remains attentive to acts and omissions that could endanger the "free and fair practice" of journalism.

1288. The Office of the Special Rapporteur received information indicating that the minister of youth development and national service had sued the newspaper *Trinidad Express* for allegedly defaming his good name. On May 6, 2022, this Office learned that the outlet had published a report alleging that the minister had participated in illegal activities.<sup>2817</sup> As this Office was able to learn, the editor-in-chief of the outlet, Omatie Lyder, and the journalist Anna Ramdass, would be among the people sued by the public official. The information received indicates that the minister is seeking compensation for defamation, an apology from the newspaper for "breach of trust" and "misuse of private information," as well as the removal of online articles and Facebook posts on the topic.<sup>2818</sup>

1289. This Office recalls that political and public figures must be more exposed –and not less exposed– to public scrutiny and criticism. The need for an open and broad debate, which is crucial for a democratic society, must necessarily encompass the people who participate in the formulation or implementation of public policy. Since these people are at the center of public debate and knowingly expose themselves to public scrutiny, they must show greater tolerance for criticism.<sup>2819</sup>

1290. The Office of the Special Rapporteur learned that the public telecommunications services company of Trinidad and Tobago, Telecommunications Services of Trinidad and Tobago, had announced the dismissal of nearly 500 employees at the end of May.<sup>2820</sup> In response, the Communication Workers Union (CWU) reportedly

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<sup>2816</sup> MATT. May 3, 2022. [Statement from the Media Association of T&T \(MATT\) on the occasion of World Press Freedom Day May 03, 2022.](#)

<sup>2817</sup> News Day. May 28, 2022. [Cummings on Special Branch allegations: My family is strong.](#)

<sup>2818</sup> Daily Express. May 15, 2022. [Cumming goes to court](#); News Day. May 15, 2022. [Lawyers on Special Branch report: Cummings at risk of violence, cyberbullying.](#)

<sup>2819</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Report on the compatibility between contempt (*desacato*) laws and the ACHR. 1995. Section IV.C.

<sup>2820</sup> Caribbean Loop News. May 31, 2022. [TSTT retrenches almost 500 employees, CWU planning action.](#)

said it would challenge the company's decision, which would entail legal decisions as well as public protests.<sup>2821</sup> As this Office was able to learn, the dismissal took place within the framework of a restructuring due to the financial crisis that the company is going through as a result of COVID-19 and technological changes in the country.<sup>2822</sup> Likewise, and according to public information, the company would face minimal growth margins due to the increase in Internet traffic and the drop in the price per gigabyte.<sup>2823</sup>

1291. The Office of the Special Rapporteur recalls that the mandate of public media must be clearly established by law and must include, among other things, contributing to diversity, which must go beyond offering different types of programming, giving voice to and meeting the needs of information and interests of all sectors of society. Likewise, innovative mechanisms should be explored for the financing of public media, in such a way that it is sufficient to allow them to fulfill their mandate of public service, that it is guaranteed in advance for periods of several years and that it is adjusted according to inflation.<sup>2824</sup>

1292. This Office reiterates that the State must ensure that these media have sufficient and stable public funds. Public financing suitable to the mandate established by law is a guarantee against arbitrary interference by public and private sectors. In this sense, although other forms of complementary financing can be foreseen, they cannot condition its public service mission by determining its contents. For the rest, the public media must have a stable budget and financial autonomy that prevents arbitrary interference from the government sector as well.<sup>2825</sup>

1293. The Office of the Special Rapporteur welcomes the new institutional alliance between the Caribbean Broadcasting Union (CBU) and the University of the West Indies so that members of the journalistic union can access online Master's degree in Media Management free of charge and for the sake of improving their skills.<sup>2826</sup> The information received would indicate that there were eleven people who initially benefited from these courses; these people work in six CBU partner organizations and come from Anguilla, Barbados, Jamaica and Trinidad and Tobago. The Office of the Special Rapporteur considers as valuable the collaboration between institutions, the media, and journalistic associations to offer opportunities that strengthen journalism in the region.

1294. The Office of the Special Rapporteur congratulates the Caribbean Broadcasting Union (CBU) for having held its 53rd General Assembly in Tobago between August 15 and 17, 2022, the first face-to-face edition since the beginning of the COVID-19 pandemic.<sup>2827</sup> This Office salutes the collective effort of the journalistic union in the Caribbean to meet and exchange experiences and perspectives on their work, including shared challenges and opportunities. In particular, the Office of the Special Rapporteur highlights the holding of a panel on media literacy, the discussions around disinformation in the region, the conversations on cross-border collaboration and the Caribbean Media Awards (CMA) that highlighted the best productions on radio and television.<sup>2828</sup>

1295. Within the framework of the 53rd edition of the General Assembly of the Caribbean Broadcasting Union (CBU), the Office of the Special Rapporteur was informed of the criticisms against the media that Prime Minister Keith Rowley would have expressed.<sup>2829</sup> According to public information, the president pointed out what he considers to be the lack of verification of information and context by journalists. Likewise, the head of state would have urged the union to review the content and structure of the information they disseminate.

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<sup>2821</sup> Caribbean National Weekly. June 2, 2022. [Trinidad Telecommunication TSTT company retrenches nearly 500 employees](#); Tech News TT. June 14, 2022. [TSTT, CWU reach agreement on retrenchment procedure](#).

<sup>2822</sup> Telecompaper. June 3, 2022. [Trinidad and Tobago's TSTT lays off 468 workers](#).

<sup>2823</sup> Tech News TT. January 17, 2022. [Facing revenue declines, TSTT calls on Unions for cost reduction talks](#).

<sup>2824</sup> OAS, UN, OSCE. Joint Statement on Diversity in Broadcasting. 2007.

<sup>2825</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of expression standards for free and inclusive broadcasting. 2010. OEA Ser.L/V/II. IACHR/RELEA/INF. 3/09. para. 93.

<sup>2826</sup> Caribbean Broadcasting Union. September 16, 2022. [CBU Personnel Join New Cohort of CARIMAC Master's Degree In Media Management](#).

<sup>2827</sup> TV 6. August 11, 2022. [CBU Awards](#).

<sup>2828</sup> Public Media Alliance. August 30, 2022. [PMA highlights: CBU's 53rd Annual General Assembly in Tobago](#); Caribbean Broadcasting Union. n.d. [CBU Caribbean Media Awards](#).

<sup>2829</sup> Daily Express. August 17, 2022. [In journalism, 'there must be context'](#); Caribbean National Weekly. August 16, 2022. [Trinidad PM calls for Caribbean journalists to understand their role in development](#).



Likewise, the prime minister would have expressed his concern about "cultural imperialism" on radio stations since they were replacing national and regional music production with "American pop".<sup>2830</sup> The head of state would also have called for journalism in the Caribbean to preserve the region's identity and focus on development.<sup>2831</sup>

1296. In addition, the Office of the Special Rapporteur was informed of the call made by the Attorney General of Trinidad and Tobago against the media as a result of their coverage of the Firearm User's Licence (FUL) Audit Report in September 2022.<sup>2832</sup> According to the information received, some media reported the postponement of the presentation of the report to parliament, arguing that it had been "shot down." The prosecutor would have argued that the report had not been shot down and that it would be going through "due process," for which he urged the press to avoid "sensational headlines" and to present "fair and balanced" information on the matter.<sup>2833</sup>

1297. The Office of the Special Rapporteur recalls that public officials must be careful to ensure that their comments are accurate, avoid stigmatizing and discrediting the media by resorting to labels that refer to so-called "fake news" or other qualifiers that discredit and not to threaten journalists or undermine respect for the independence of the media.<sup>2834</sup>

1298. The Office of the Special Rapporteur also recalls that the illegitimate interference or direct or indirect pressure from governments regarding any expression or information disseminated through any means of oral, written, artistic, visual, or electronic communication, to influence its content for political reasons, should be prohibited by law. This unlawful interference includes politically motivated actions against independent journalists and media, and the blocking of websites and Internet domains for political reasons. In particular, it is unacceptable for public officials to suggest unlawful acts of retaliation against those who have disseminated classified information.<sup>2835</sup>

1299. In August 2022, the Office of the Special Rapporteur received information indicating that the State withdrew its appeal against a court ruling that declared that the police raid of a media outlet in March 2020 was illegal and unconstitutional.<sup>2836</sup> At the time of the raid, the authorities reportedly sought information on who provided information to investigative journalist Denyse Renne about an investigation being carried out against the deputy commissioner of police.<sup>2837</sup> The outlet would have published a report on the deputy commissioner the day before, pointing out that he had carried out alleged irregular banking transactions between 2014 and 2017.<sup>2838</sup> During the raid, police officers reportedly confiscated four USB flash drives.<sup>2839</sup> The outlet sued the offices of the attorney general, the superintendent of the financial investigations branch of the police, and the police commissioner. The newspaper's legal defense argued that the State had not presented evidence that the newspaper committed any illegal act and that the police had not investigated the alleged internal sources that would have revealed the information.

1300. This Office recalls that, as established in the Declaration of Principles on Freedom of Expression, every social communicator has the right to keep their source of information, notes, personal and professional archives confidential.<sup>2840</sup> In this sense, the Office of the Special Rapporteur recalls that the principle of confidentiality of sources establishes the right of all social communicators to refuse to reveal the sources of

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<sup>2830</sup> News Day. August 16, 2022. [Prime Minister laments calibre of local, regional journalism](#); Jamaica Observer. August 16, 2022. [T&T PM calls for Caribbean journalists to understand their role in development](#).

<sup>2831</sup> TTT TV. August 16, 2022. [PM Urges Media To Fact Check Information](#).

<sup>2832</sup> Caribbean Loop News. September 7, 2022. [Firearms audit report to be laid in Parliament](#); Daily Express. September 8, 2022. [AG: Firearms report not shot down](#).

<sup>2833</sup> TTT TV. September 7, 2022. [Attorney General Reginald Armour Hosts Media Conference On Firearms Audit Report](#).

<sup>2834</sup> IACHR. Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts. 2019. OEA/Ser.D/XV.22. Pages 38, 39.

<sup>2835</sup> OAS. UN. Joint statement on Wikileaks by the Rapporteurs for Freedom of Expression of the IACHR and the United Nations. 2010, para. 4.

<sup>2836</sup> Daily Express. August 4, 2022. [State withdraws appeal against ruling](#).

<sup>2837</sup> Caribbean Loop News. March 11, 2020. [TTPS raids T&T Express over story on cop's million dollar transaction](#); International Press Institute. March 13, 2020. [IPI condemns police raid on Trinidad newspaper](#).

<sup>2838</sup> Daily Express. March 7, 2020. [ACP flagged for suspicious activity](#).

<sup>2839</sup> International Press Institute. March 13, 2020. [IPI condemns police raid on Trinidad newspaper](#).

<sup>2840</sup> IACHR. Declaration of Principles on Freedom of Expression. 2000. Principle No. 8.

information as well as the product of their investigations to private entities, third parties, public, or judicial authorities. Professional secrecy is considered to be the right of the social communicator not to reveal information and documentation that they have received in confidence or as part of their research work. It is worth noting that this right is not constituted as a duty, since the social communicator is not obliged to keep the secret of their sources of information, but for reasons of professionalism and professional ethics.<sup>2841</sup>

1301. On September 21, 2022, the Office of the Special Rapporteur learned that the Minister of Health had put an end to the weekly press conferences on the evolution of the COVID-19 pandemic in Trinidad and Tobago.<sup>2842</sup> According to public information, the minister argued that the decision was due to favorable figures after two and a half years. If there is any important development, the minister assured that he would summon the media again.

1302. This Office recalls that access to information, including information on public health issues, is a citizen's right. As a result, the process for accessing information should be simple, fast, and free or low cost.<sup>2843</sup> Likewise, the right of access to public information imposes on the State the obligation to proactively disclose information on its functions, activities, and management of public resources on a routine basis, even when there is no request for access to public information, guaranteeing that the information be accessible, understandable, and up-to-date.<sup>2844</sup>

1303. The Office of the Special Rapporteur received reports indicating an increase in levels of self-censorship in the country. In September, this Office learned that several citizens in Dow Village, in the Couva–Tabaquite–Talparo region, had refused to speak to the national media out of fear for their safety.<sup>2845</sup> The press would have been present at the scene after Phillip Boodram, a drug trafficker, had died on September 10, 2022 in a confrontation with the police. According to public information, another six people died in clashes with the police that weekend.

1304. This Office clarifies that silenced zones have certain characteristics or common factors: the presence of organized criminal structures; high rates of administrative corruption that facilitates the cooptation of state institutions; the absence of an effective response from the authorities in charge of prevention, protection, and prosecution; or the lack of support or accompaniment for journalists, exposing them to greater risk. All of these factors inhibit journalists from the affected areas from carrying out their work, limit freedom of expression, and have a chilling effect on the free flow of information, generate self-censorship and reinforce the tendency to carry out journalism that avoids report on issues of security, corruption, or influence peddling and to develop journalism aligned with power.<sup>2846</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

1305. In 2022, this Office received multiple reports on social protests, some of which were reportedly dispersed by police forces. On January 13, 2022, the Office of the Special Rapporteur learned that dozens of people had gathered in Queen's Park Savannah, in Port of Spain, to protest against vaccination by COVID-19.<sup>2847</sup> According to the information received, officers attached to the guard and emergency branch responded and ordered the protesters to disperse.<sup>2848</sup> The laws of Trinidad and Tobago require that all demonstrations be notified with advance notice to the police commissioner; the police commissioner reportedly received notification of this protest, although he said that notification would not be sufficient as it must be approved.<sup>2849</sup>

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<sup>2841</sup> IACHR. Background and Interpretation of the Declaration of Principles. 2000.

<sup>2842</sup> Daily Express. September 21, 2022. [Favourable COVID-19 figures. Ministry pulls the plug on weekly press conferences.](#)

<sup>2843</sup> OAS, UN, OSCE. Joint Declaration on Access to Information and on Legislation Regulating Secrecy. 2004.

<sup>2844</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Right to information and national security: Access to information of public interest in the face of the national security exception. July 2020. OEA/Ser.L/V/II, CIDH/RELE/INF.24/20. para. 150.

<sup>2845</sup> Daily Express. September 12, 2022. [Unease after 'The Boss' killed; Trinidad & Tobago Guardian. Philip 'The Boss' Boodram among 3 killed in shootout with cops.](#)

<sup>2846</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Silenced Zones: Highly dangerous regions to exercise freedom of expression. March 2017. OEA/Ser.L/V/II, CIDH/RELE/INF.16/17. para. 27.

<sup>2847</sup> Twitter account of Trinidad and Tobago Express Newspaper (@expressupdates). [January 16, 2022.](#)

<sup>2848</sup> Daily Express. January 19, 2022. [Lalla: Police must grant permission for protests.](#)

<sup>2849</sup> Daily Express. January 19, 2022. [Lalla: Police must grant permission for protests.](#)

1306. The Office of the Special Rapporteur recalls that the holding of demonstrations and protests should not be subject to prior authorization by the authorities. When the law requires prior notification, it must be simple, accessible, non-discriminatory, and not onerous; In the event that a restriction is established, it must be founded in writing and a timely and expeditious appeal must be available before an independent tribunal.<sup>2850</sup> Likewise, this Office reiterates that, when the authorities take, legally and legitimately, the decision to disperse a protest, the order to disperse must be clearly communicated and explained, which allows the protesters to understand and comply, offering them enough time to disperse without resorting to police force.<sup>2851</sup>

1307. In April, the Office of the Special Rapporteur received reports indicating that sectors of civil society and the opposition had mobilized in El Socorro, Barataria, St Joseph, St Augustine, Tunapuna, La Horquetta, Sangre Grande, and Valencia, among others, to protest the increase in the price of fuel.<sup>2852</sup> Although the protests would have been peaceful, traffic disruptions were reported.

1308. In May, hundreds of public employees from various union organizations took to the streets to protest a raise equivalent to two percent over a period of eight years.<sup>2853</sup> Despite other rounds of negotiations, the unions also reportedly moved to reject a four percent increase in August.<sup>2854</sup> The police would have been present throughout the demonstrations but would not have repressed them. The Office of the Special Rapporteur welcomes the fact that the police forces have guaranteed the right to protest and trade union association.

1309. In the same month of May, the Office of the Special Rapporteur was informed of a sit-in at the immigration office in the city of San Fernando by Venezuelan citizens as a result of possible deportation orders.<sup>2855</sup> Venezuelan citizens have demanded that international human rights agencies investigate the violations to which they are subjected. Some lawyers and members of the humanitarian sector have argued that Venezuelans, even those with asylum claims, are being forcibly repatriated.<sup>2856</sup>

1310. The Office of the Special Rapporteur recalls that the protection and guarantee of the right to protest deserve special attention when it is used by underrepresented or marginalized sectors or groups that face institutional frameworks that do not favor their participation, or serious barriers to access to other forms of mass communication.<sup>2857</sup> Likewise, this Office reiterates that the protest as a form of participation in public affairs is especially relevant for groups of people historically discriminated against or marginalized.<sup>2858</sup>

1311. In July, the Office of the Special Rapporteur received reports indicating that the residents of Beetham Gardens and Sea Lots had set tires on fire and blocked the highway for the alleged murder of three young people in a confrontation with the police in Port of Spain. These three people, 17-year-old Isaiah Roberts, 21-year-old Leonardo Brandon Williams, and 22-year-old Fabian Richards, were reportedly shot by police in the early

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<sup>2850</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 342.

<sup>2851</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 155.

<sup>2852</sup> Associates Times. April 20, 2022. [Kamla Persad joins people protesting against fuel price hike in Trinidad and Tobago](#); Caribbean Loop News. April 19, 2022. [UNC shows force in East Trinidad protests](#).

<sup>2853</sup> Trinidad & Tobago Guardian. May 27, 2022. [Hundreds of Public Servants protest against 2% wage offer](#); Caribbean National Weekly. May 30, 2022. [Trinidad Public sector unions demonstrate for higher wages](#); Twitter account of Trinidad and Tobago Express Newspapers (@expressupdates). [May 27, 2022](#); Daily Express. May 27, 2022. [Ready to Rumble](#).

<sup>2854</sup> The Jamaica Gleaner. August 12, 2022. [Workers in T&T protest government's 4% wage offer](#); Radio Jamaica News. August 12, 2022. [T&T public sector workers protest 4% wage offer](#); Caribbean Loop News. September 2, 2022. [Calm: Unions' requests 'unrealistic, unsustainable.'](#)

<sup>2855</sup> Twitter account of Trinidad and Tobago Express Newspaper (@expressupdates). [May 24, 2022](#); CCN TV6. n.d. [Migrant Deportation Orders Issued Daily](#).

<sup>2856</sup> Trinidad & Tobago Guardian. May 24, 2022. [Venezuelans claim legal refugee being deported](#); CCN TV6. n.d. [Migrant Deportation Orders Issued Daily](#).

<sup>2857</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 16.

<sup>2858</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 23.

hours of July 2.<sup>2859</sup> Malakai Glenn, 16, was reportedly injured.<sup>2860</sup> The police version is that several agents would have chased the three young people in a vehicle, who would have opened fire first; the residents assured that the youths would not have weapons and were returning from a party. The protests following the alleged wrongful murder of these youths would have resulted in the initial arrest of at least eight people for blocking the roads.<sup>2861</sup> Nearly 200 police officers were deployed to guarantee the free flow of vehicles. Also, firefighters were present to clear the debris on the highway.<sup>2862</sup> The authorities reportedly urged the residents of Beetham Gardes and Sea Lots to stop blocking the roads, acknowledging that they have the right to protest but should not commit crimes. If they continue to block the roads, the authorities stated that they would proceed to make arrests. The acting police commissioner, McDonald Jacob, reportedly assured that police intelligence indicated that the protests were provoked by an “external force”.<sup>2863</sup>

1312. In view of alleged questions about the circumstances in which these three young people died, the police have promised to investigate the officers involved in the shooting.<sup>2864</sup> The officers were reportedly released on July 6 pending further investigation.<sup>2865</sup>

1313. The Office of the Special Rapporteur states that the participation of societies through social demonstrations is important for the consolidation of the democratic life of societies and that, in general, as an exercise of freedom of expression, it has an imperative social interest, which leaves the State an even tighter framework to justify a limitation to this form of exercise of freedom of expression.<sup>2866</sup>

1314. The Office of the Special Rapporteur recalls that any impact on public order invoked as a justification for limiting freedom of expression must be due to real and objectively verifiable causes that pose a certain and credible threat of a potentially serious disturbance of the basic conditions for the functioning of democratic institutions.<sup>2867</sup>

1315. This Office reiterates that States must stop applying criminal offenses that convert behaviors commonly observed in protests into criminal acts, such as roadblocks or acts of disorder that, in themselves, do not affect goods such as life, the security or liberty of persons, since in the context of protests they constitute forms of exercise of the rights of freedom of expression, assembly, and free association.<sup>2868</sup> Likewise, the Office of the Special Rapporteur reiterates that in the contexts of social protest, States must refrain from engaging in practices of massive, collective, or indiscriminate arrests.<sup>2869</sup>

1316. The Office of the Special Rapporteur emphasizes that States are obligated to guarantee and facilitate the exercise of human rights that are put at stake during demonstrations and protests and implement measures and mechanisms so that these can be exercised in practice, not as a way of hindering them.<sup>2870</sup> In this sense, this Office emphasizes that potentially lethal force cannot be used merely to maintain or restore public order or to protect legal assets less valuable than life, such as property. Only the protection of life and physical integrity in the face of imminent threats can be a legitimate objective to use such force.<sup>2871</sup>

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<sup>2859</sup> Caribbean Loop News. July 4, 2022. [Update: Beetham Highway cleared after fiery protests](#); Trinidad & Tobago Guardian. July 4, 2022. [Beetham residents protests police-involved shooting of 3 youths](#).

<sup>2860</sup> Caribbean Loop News. July 5, 2022. [Beetham Gardens man slapped with six charges following protests](#).

<sup>2861</sup> TV6 TNT. July 4, 2022. [Offices in fatal shooting on desk duty](#).

<sup>2862</sup> Daily Express. July 5, 2022. [Eight protesters arrested](#).

<sup>2863</sup> Daily Express. July 5, 2022. [Eight protesters arrested](#).

<sup>2864</sup> Trinidad & Tobago. July 4, 2022. [Senior cops assure relatives of ‘justice’ after fatal police shooting of 3 men](#).

<sup>2865</sup> Caribbean Loop News. July 6, 2022. [No charge: All three survivors of police shooting released](#).

<sup>2866</sup> IACHR. Annual Report 2002. Report of the Office of the Special Rapporteur for Freedom of Expression. Chap. 4. Freedom of Expression and Poverty. 2003. Para. 3. 4.

<sup>2867</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. December 30, 2009. Para. 82.

<sup>2868</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 208.

<sup>2869</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 138, 229.

<sup>2870</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 28.

<sup>2871</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 116.

1317. In July, this Office was also informed that the national security minister had condemned the protests over the death of Meshach Gibson in the midst of a confrontation with the police.<sup>2872</sup> The circumstances in which Gibson would have died would have resulted in several protests along North Coast Road. Those close to Gibson argue that he was killed by police, while authorities maintain that the man shot them first and they fired back.<sup>2873</sup> The minister reportedly asserted that the demonstrators should not interrupt traffic since citizens have other ways of sharing their nonconformity. Likewise, he explained that the conduct of the police would be subject to investigation and that civil cases against the institution prospered, so there would be no reason to protest.

1318. The Office of the Special Rapporteur reiterates that the general principle of non-discrimination applies especially to demonstrations and protests. Indeed, States cannot limit social protest based on the prejudices and intolerance that governments or societies have towards a person or group. Neither can they establish restrictions with discriminatory effects due to the type of claim, content, or demand that the participants of the demonstrations try to defend.<sup>2874</sup>

1319. Likewise, this Office recalls that the authorities must facilitate the holding of meetings, social protests, or public demonstrations, guaranteeing that they can be carried out, seen and heard by the target public in the space chosen by the conveners, so that the message that the organizers and participants want to spread can be heard. Therefore, as a general rule, the right to demonstrate and protest includes the right to choose the time, place, and manner of doing so.<sup>2875</sup>

1320. In the month of August, the Office of the Special Rapporteur also learned of a series of demonstrations for the six-month ban on the export of scrap iron industry.<sup>2876</sup> Protesters reportedly blocked highways with rubble, so police and firefighters would have had to remove it. The senior superintendent of the traffic branch reportedly ensured that anyone in the presence of an officer obstructing traffic would be arrested.<sup>2877</sup> The Ministry of Works and Transport reportedly criticized the deterioration of the road as a result of the protests, calling the protesters “irresponsible and unpatriotic”.<sup>2878</sup>

1321. This Office recalls that political authorities must refrain from expressing notions that are detrimental or stigmatizing a protest or the people who participate in it or organize it, since it can put certain sectors of the population in a situation of greater vulnerability and risk of new attacks.<sup>2879</sup>

1322. Since the beginning of October, the Office of the Special Rapporteur learned that dozens of workers from the Water and Sewerage Authority (WASA) had mobilized to protest the possible dismissal of nearly 600 workers as a result of a possible restructuring.<sup>2880</sup> Likewise, this Office learned that the residents of Palo Seco had blocked a highway for the second consecutive day with rubble and burning tires in protest against the increase in unemployment, deficient road infrastructure, crime, and the cost of living.<sup>2881</sup> Police and firefighters were reportedly deployed to clear the rubble and reopen the roads.<sup>2882</sup> The demonstrators would have assured

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<sup>2872</sup> Caribbean Loop News. July 19, 2022. [Police kill man after claiming to be shot at, second suspect escapes.](#)

<sup>2873</sup> Trinidad & Tobago Guardian. July 25, 2022. [Hinds: Constant police patrols to stop further protest action.](#)

<sup>2874</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Paras. 46, 47.

<sup>2875</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 73.

<sup>2876</sup> Caribbean Loop News. August 29, 2022. [Major roadways blocked as scrap iron protesters apply pressure;](#) Caribbean Loop News. [Heat on the Street: Claxton Bay scrap iron workers protest Govt's ban;](#) News Day. September 3, 2022. [Scrap-iron dealers' head warns of more protests;](#) News Day. August 17, 2022. [Claxton Bay residents protest scrap-iron export ban.](#)

<sup>2877</sup> Trinidad & Tobago Guardian. [Scrap iron workers protest causes gridlock on highway.](#)

<sup>2878</sup> Daily Express. October 12, 2022. ['Irresponsible and Unpatriotic': Police action against protesters.](#)

<sup>2879</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para. 287.

<sup>2880</sup> News Day. June 30, 2022. [Water and Sewerage Authority \(WASA\) employees protest the possible retrenchment of 600 workers on Thursday;](#) Saturday Express. July 30, 2022. [WASA workers 'demonised.'](#)

<sup>2881</sup> Saturday Express. October 27, 2022. [More protests in Palo Seco.](#)

<sup>2882</sup> Saturday Express. October 28, 2022. [Santa Flora protests continue despite police presence.](#)



that they would continue protesting until the aforementioned problems were resolved. Regarding the state of the road infrastructure, there were also protests and blockades in other locations in June and September.<sup>2883</sup>

1323. As the IACHR and its Office of the Special Rapporteur have expressed, public demonstrations are considered an exercise of freedom of expression, since the expression of opinions, dissemination of information, and articulation of demands constitute central objectives of the protests.<sup>2884</sup>

1324. In mid-January 2022, the Office of the Special Rapporteur was informed that the legal team of a parliamentarian had sent a Pre-Action Protocol Letter to social media blogger Rhoda Bharath asking her to delete and apologize for a post on *Newsauce* alleging that the elected official would play a role in obtaining fake immunization cards for her constituency staff.<sup>2885</sup>

1325. This Office recalls that public officials and those who aspire to be, in a democratic society, have a different threshold of protection, which exposes them to a greater degree to public scrutiny and criticism, which is justified by the nature of interest.<sup>2886</sup>

1326. In March 2022, the Office of the Special Rapporteur was informed that a court in Trinidad and Tobago had ruled in favor of cricketer Dinanath Ramnarine for having been apparently libeled on Facebook by Rafi Ali, a businessman and administrator of the same sport.<sup>2887</sup> The judge would have reasoned in her ruling that the monetary compensation to which the player would be subject should serve as a warning to any citizen using social networks to defame and attack the reputation of other people.<sup>2888</sup> The judge also reportedly found that smears on Facebook are “invasive” and leave “inescapable stigmas,” even when the alleged smears cease to be topics of online conversation. The judge would have indicated that public figures could benefit financially by defaming other personalities through digital platforms.

1327. The Office of the Special Rapporteur reiterates that the protection of honor and reputation, when its affected through the use of the Internet is alleged, must generally respond to weighting criteria similar to those used in other areas of communication.<sup>2889</sup> In this sense, when it comes to information that has circulated through any of the multiple forms of Internet use, in order to define whether damage has occurred that must be repaired, it is essential to take into account the circumstances of the specific case, without appealing to presumptions that cannot be technically supported and that make unjustified distinctions based exclusively on the nature of the medium used to disseminate a certain expression.<sup>2890</sup> The Office of the Special Rapporteur affirms that a law that penalizes, specifically, crimes against honor online and imposes more rigorous penalties than for those perpetrated in the offline world would not be acceptable; this would mean a disproportionate restriction for expression on the Internet, under a paradigm that considers this medium more risky than others. These types of measures would have the effect of restricting and limiting the Internet as a space for the free exchange of ideas, information, and opinions.<sup>2891</sup> Finally, when establishing the remedy to be used, it is

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<sup>2883</sup> Twitter account of Trinidad and Tobago Express Newspapers (@expressupdates). [June 21, 2022](#); TV6 TNT. September 10, 2022. [Lopinot Residents Cry No Water & Poor Roads](#).

<sup>2884</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights. OEA/Ser.L/V/II, IACHR/RELE/INF.22/19. September 2019. Para 18.

<sup>2885</sup> Trinidad & Tobago Guardian. February 14, 2022. [Ameen issues Pre-Action Protocol Letter to social media blogger](#); Caribbean Loop News. January 15, 2022. [UNC MP sends pre-action protocol letter to Rhoda Bharath](#); 103 FM. January 15, 2022. MP Ameen sends Pre-Action Letter to Rhoda Bharath's Newsauce; CNC3. January 11, 2022. [Lee 'sure' UNC will probe claims about Ameen, fake vaccine cards](#).

<sup>2886</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Inter-American legal framework on the right to freedom of expression. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 2/09. para. 40.

<sup>2887</sup> Guyana Chronicle. March 9, 2022. [Former WIPA boss awarded nearly \\$1M in defamation case](#); Saturday Express. March 8, 2022. [Expect consequences for Facebook libel](#).

<sup>2888</sup> News Day. March 7, 2022. [Central businessman to pay ex-WI cricketer \\$800k for Facebook libel](#); SportsMax. March 8, 2022. [Former member TTCB member ordered to pay former WIPA boss Ramnarine thousands in damages for libelous Facebook post](#).

<sup>2889</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 70.

<sup>2890</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 71.

<sup>2891</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 74.

necessary to identify the advantages that the Internet can grant a person to immediately and effectively exercise their right to rectification or response.<sup>2892</sup>

1328. In April 2022, the Office of the Special Rapporteur received information indicating that the Trinidad and Tobago Police Service (TTPS) and the Strategic Services Agency (SSA) had purchased and used the Israeli Pegasus software to spy on the public.<sup>2893</sup> The opposition leader would have assured in a forum that a whistleblower would have provided her with information indicating that a select group of officers would be intercepting the private communications of parliamentarians and members of the press, the judiciary, state agencies, and unions, among others.<sup>2894</sup>

1329. The accusations were reportedly denied by the Acting Commissioner of Police, as well as by the minister of national security and the prime minister Keith Rowley.<sup>2895</sup> The prime minister reportedly argued that only the Strategic Services Agency (SSA) could have an interception suite to ensure that interceptions are only carried out within the parameters of the Interception of Communication Act. and the 2020 Interception of Communications Amendment Act.<sup>2896</sup> The head of state would have explained that the interception software and hardware can only be used by qualified police officers as long as they have prior authorization from the SSA.

1330. The acting police commissioner reportedly confirmed that software to monitor the activities of alleged criminal activities was purchased during the former police commissioner's tenure, although the software would not have the same capability as Pegasus.<sup>2897</sup> Control over this software, whose name would never have been revealed, would have been divided between the Trinidad and Tobago Police Service (TTPS) and the Strategic Services Agency (SSA).<sup>2898</sup> According to public information, the software would never have been used and would have been under the full control of the SSA since September 2021, so the police would not have possession of any software to intercept communications.<sup>2899</sup> The authorities stated that using the software would require extensive training and that it had not been agreed how or who could use this tool.

1331. The Office of the Special Rapporteur recalls that, by virtue of the close relationship between freedom of expression and privacy, States must avoid the implementation of any measure that arbitrarily or abusively restricts the privacy of individuals, understood in a broad sense as any space privacy and anonymity, free from intimidation and reprisals, and necessary for an individual to be able to freely form an opinion and express their ideas, as well as seek and receive information, without being forced to identify themselves or to reveal their beliefs and convictions or the sources they consult.<sup>2900</sup>

1332. Likewise, this Office recalls that the mere existence of surveillance programs produces an indirect limitation that generates an inhibitory effect on the exercise of freedom of expression. Indeed, the threat to the privacy of communications makes people wary of what they say and -consequently- of what they do, installs fear and inhibition as part of the political culture and forces them to take precautions when communicating between them.<sup>2901</sup>

1333. The Office of the Special Rapporteur emphasizes that States should publish global information on the number of approved and rejected interception and surveillance requests, including as much information as possible such as – for example – a breakdown of requests by service provider, type of investigation, time during which investigations are extended, etc.<sup>2902</sup> Additionally, decisions to carry out surveillance tasks that invade

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<sup>2892</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 71.

<sup>2893</sup> Saturday Express. April 10, 2022. [Special Report: The Spy files](#).

<sup>2894</sup> WIC News. April 7, 2022. [Kamla Persad alleges Keith Rowley led govt spying on people with Pegasus](#); Caribbean Loop News. April 5, 2022. [Kamla: Gov't spying on Whatsapp messages, emails](#).

<sup>2895</sup> Caribbean Loop News. April 25, 2022. [T&T: Police deny acquiring Pegasus software to spy on citizens](#).

<sup>2896</sup> TTT Live Online. April 22, 2022. [Political Mischief - PM Rowley Says No Pegasus Spyware In T&T](#).

<sup>2897</sup> Saturday Express. April 25, 2022. [Jacob: Police rejected Pegasus](#).

<sup>2898</sup> News Day. April 23, 2022. [PM: Griffith bought interception software without approval](#).

<sup>2899</sup> Trinidad & Tobago Guardian. April 23, 2022. [Rowley, Griffith spar over Pegasus spyware](#).

<sup>2900</sup> IACHR. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 132.

<sup>2901</sup> IACHR. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 150.

<sup>2902</sup> IACHR. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. Para. 168.

people's privacy must be authorized by independent judicial authorities, who must account for the reasons why the measure is appropriate to achieve the purposes pursued in the specific case; whether it is sufficiently restricted so as not to affect the right involved more than is necessary; and whether it is proportional to the interest that is to be promoted.<sup>2903</sup>

1334. In late July 2022, an appeals court reportedly ruled that Telecommunications Services of Trinidad and Tobago (TSTT) is a public authority subject to the provisions of the Freedom of Information Act. Information Act (FOIA).<sup>2904</sup> The information received by this Office would indicate that the social activist Ravi Balgobin-Maharaj submitted in 2017, unsuccessfully, a request to know details about its management structure, salaries of senior positions, and its shareholder agreement.<sup>2905</sup> Initially, TSTT reportedly refused to provide this information, arguing that the company was not wholly owned or controlled by the State. The appeal would have been successful after it was shown that the presidential cabinet would have approved the appointment of the new president of the TSTT in 2020.

1335. As the IACHR and its Office of the Special Rapporteur have stated with reference to the inter-American legal framework, free access to information is a means for citizens to adequately exercise their political rights in a representative and participatory democratic system. Certainly, political rights presuppose the existence of a broad and vigorous debate for which it is essential to have public information that allows for a serious evaluation of the progress and difficulties of the achievements of the different authorities. Only through access to information under the control of the State is it possible for citizens to know if public functions are being adequately fulfilled.<sup>2906</sup>

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

1336. In the context of Trinidad and Tobago's annual carnival in February 2022, the Rapporteurship received reports of alleged discrimination against women members of the group *Divas Cabaret Calypso Tent*.<sup>2907</sup> The president of the *National Carnival Commission (NCC)* reportedly did not select the all-female group in question to participate in this national celebration despite the fact that they had participated in five previous editions of the carnival.<sup>2908</sup> The group *Divas Cabaret Calypso Tent* stated that it would have a better preparation and track record to participate in these celebrations and accused the national carnival commission of being "sexist" and "misogynistic".<sup>2909</sup> The group reportedly issued a *pre-action protocol letter* prior to possible action in the *High Court* over claims of nepotism, cronyism and gender discrimination. The letter also stated that the group would file a formal complaint with the Equal Opportunity Commission to investigate whether the *NCC* exhibited "inherent bias and entrenched discrimination against women".<sup>2910</sup>

1337. The Office of the Special Rapporteur recalls that the importance of exercising women's right to freedom of expression derives, among other reasons, from the role of this right in achieving effective gender equality and strengthening democracy. While gender equality is essential to freedom of expression as a fundamental right, the exercise of freedom of expression is a key instrument to promote gender equality.<sup>2911</sup> In this sense, this Office states that the restrictions and obstacles to the exercise of the right to freedom of expression of women only reinforce their marginalization from the public space, and structural discrimination prevents them from freely exercising their right to freedom of expression.<sup>2912</sup>

<sup>2903</sup> IACHR. Freedom of Expression and Internet. 2013. OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. para. 165.

<sup>2904</sup> News Day. July 29, 2022. [Court rules TSTT a public authority subject to FOIA](#).

<sup>2905</sup> Trinidad & Tobago Guardian. July 29, 2022. [Appeal Court finds TSTT subject to Freedom of Information Act requests](#).

<sup>2906</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. The right of access to information in the inter-American legal framework. 2010. OEA/Ser.L/V/II. IACHR/RELEA/INF. 1/09. Para. 5.

<sup>2907</sup> Caribbean Loop News. February 19, 2022. [Divas Tent criticizes discrimination, sends pre-action letter to NCC](#).

<sup>2908</sup> News Day. February 20, 2022. [Divas calypso tent wants show in Taste of Carnival](#).

<sup>2909</sup> Saturday Express. February 20, 2022. [All-female tent claims discrimination by Gypsy](#).

<sup>2910</sup> TV6 TNT. February 19, 2022. [Divas Calypso Tent Sends NCC Preaction Letter](#).

<sup>2911</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 65.

<sup>2912</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Women Journalists and Freedom of Expression. October 2018. OEA/Ser.L/V/II, CIDH/RELE/INF.20/18. Para. 67.

1338. With the start of the school year, this Office learned that multiple parents would be having difficulties to pay for their children's schoolbooks. The information received would indicate that several families would not have the resources to buy the school curriculum books since prices had risen substantially compared to the previous year.<sup>2913</sup> Some of the second-hand books were of date, making them unsuitable for boarding.<sup>2914</sup>

1339. The Office of the Special Rapporteur recalls that academic freedom implies the right of every person to seek, generate, and transmit knowledge, to be part of academic communities and to carry out autonomous tasks to carry out educational activities of teaching, learning, teaching, research, discovery, transformation, debate, search, dissemination of information and ideas, and access to quality education freely and without fear of reprisals. Additionally, academic freedom has a collective dimension, consisting of the right of society and its members to receive information, knowledge, and opinions produced within the framework of academic activity and to obtain access to the benefits and products of research and innovation.<sup>2915</sup> Due to the foregoing, this Office expresses its concern regarding the financial barriers that children and adolescents in Trinidad and Tobago may be facing in accessing education and school textbooks.

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

1340. In 2022, the Office of the Special Rapporteur was alerted to several incidents of internet fraud. The Trinidad and Tobago Police Service (TTPS) was reportedly asking citizens to exercise greater caution when making purchases and transactions online in view of the increase in companies defrauding customers.<sup>2916</sup> Likewise, the Physiotherapy Association of Trinidad and Tobago (PATT) is denouncing an increase in the number of people posing as physiotherapists on social networks, which would lead to multiple individuals being treated by unqualified persons.<sup>2917</sup>

1341. In 2022, the Office of the Special Rapporteur was also informed of violent incidents that were reportedly disseminated through social networks. In October, this Office became aware of an attack against a driver and an underage student after numerous pupils beat them outside an educational institution.<sup>2918</sup>

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<sup>2913</sup> Daily Express. September 3, 2022. [Parents complain as new term nears: Prices too high.](#)

<sup>2914</sup> Trinidad & Tobago Guardian; [Parents opt for second-hand books during back to school shopping.](#)

<sup>2915</sup> IACHR. Inter-American Principles on Academic Freedom and University Autonomy. 2021. Principle No. 1.

<sup>2916</sup> Saturday Express. March 19, 2022. [TTPS warns of on-line scam.](#)

<sup>2917</sup> Saturday Express. June 12, 2022. [Physiotherapy association wanders of impersonators.](#)

<sup>2918</sup> Saturday Express. October 19, 2022. [Pupils badly beat maxi driver, in hospital](#); Trinidad & Tobago Guardian. October 27, 2022. [Maxi Taxi driver and student recovering following beating.](#)

## URUGUAY

1342. This Office has reiterated that Uruguay maintains high levels of respect for the right to freedom of expression and democratic institutions. However, in 2022 this Office has received reports on stigmatizing speeches of high-ranking officials against journalists, alleged cases of surveillance where State agents could be involved, threats and harassment against the press, and the progress of a reform that would leave without effect a law that was supported by this Office, by the United Nations and other international bodies. On issues of digital access, a court ordered Google to deindex personal information found in newspaper articles dating back more than 10 years, which sets a precedent in jurisprudence on this issue. The Rapporteurship thanks the Permanent Mission of Uruguay to the OAS for its role in founding the Group of "Friends of Freedom of Expression and Journalism" (GALEP) of the OAS, a group of Member States committed to act jointly to strengthen the exercise and respect for the right to freedom of expression, information and thought, and with the objective of reaffirming that free and independent media are fundamental for democracy.

### A. Journalism and democracy

1343. On September 25, journalist Gabriel Pereyra denounced acts of surveillance allegedly committed by state intelligence groups. In a publication on social networks, the journalist stated: "the third chief of the police intelligence service ordered surveillance and monitoring of me"<sup>2919</sup>. He added that he "never mistrusted" the "president or the interior minister", who denied that they were responsible for the alleged surveillance<sup>2920</sup>. The journalist said he had spoken about this with the Minister of the Interior and with the Director of Coexistence, who assured him that this monitoring did not come from the political leadership<sup>2921</sup>. Pereyra works for *Radio Sarandí*, *VTV* news and is a columnist for the weekly *Búsqueda*, and has dedicated himself to covering police sources and their possible links with corruption and organized crime structures<sup>2922</sup>. According to the information available, these surveillance orders were given after the publications related to questioning acts of corruption in the police forces<sup>2923</sup>. After his denunciations were made public, the authorities of the Ministry of the Interior ordered investigations, but according to the information received, these were closed without finding those responsible for the alleged illegal surveillance, as publicly reported<sup>2924</sup>.

1344. The Uruguayan Press Association (APU) issued a communiqué referring to a meeting held by APU executives with the Minister of the Interior to discuss Pereyra's situation and, in view of the information that the case had been closed after questioning some police officers, requested an independent investigation<sup>2925</sup>.

1345. Likewise, according to public information, Frente Amplio senators Mario Bergara and Charles Carrera were allegedly spied on, allegedly by a former presidential custodian who was arrested in September

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<sup>2919</sup> Twitter Gabriel Pereyra. [September 25, 2022](#); Twitter Edison Lanza. [September 25, 2022](#); Radio Sarandí 690. September 26, 2022. [Gabriel Pereyra denounced that the third chief of Police Intelligence ordered to spy on him](#); San José Ahora. September 26, 2022. [Sindicato policial denunció que tienen teléfonos tapped: situación "es gravísima"](#); Twitter APU. [27 September 2022](#).

<sup>2920</sup> Twitter Gabriel Pereyra. [September 25, 2022](#); Radio Sarandí 690. September 26, 2022. [Gabriel Pereyra denounced that the third chief of Police Intelligence ordered to spy on him](#); San José Ahora. September 26, 2022. [Sindicato policial denunció que tienen teléfonos tapped: situación "es gravísima"](#); Twitter APU. [27 September 2022](#).

<sup>2921</sup> Twitter Gabriel Pereyra. [September 25, 2022](#); Radio Sarandí 690. September 26, 2022. [Gabriel Pereyra denounced that the third chief of Police Intelligence ordered to spy on him](#); San José Ahora. September 26, 2022. [Sindicato policial denunció que tienen teléfonos tapped: situación "es gravísima"](#); Twitter APU. [27 September 2022](#).

<sup>2922</sup> Twitter Gabriel Pereyra. [September 25, 2022](#); Radio Sarandí 690. September 26, 2022. [Gabriel Pereyra denounced that the third chief of Police Intelligence ordered to spy on him](#); San José Ahora. September 26, 2022. [Sindicato policial denunció que tienen teléfonos tapped: situación "es gravísima"](#); Twitter APU. [27 September 2022](#).

<sup>2923</sup> Twitter Gabriel Pereyra. [September 25, 2022](#); Radio Sarandí 690. September 26, 2022. [Gabriel Pereyra denounced that the third chief of Police Intelligence ordered to spy on him](#); San José Ahora. September 26, 2022. [Sindicato policial denunció que tienen teléfonos tapped: situación "es gravísima"](#); Twitter APU. [27 September 2022](#).

<sup>2924</sup> The Observer. September 26, 2022. [Heber closed investigation on surveillance of Pereyra but APU will support him if he decides to denounce in Fiscalía](#); La diaria. 27 September 2022. [Gabriel Pereyra questioned MI investigation on surveillance order against him and said it was "an interrogation of themselves"](#); M24. 27 September 2022. [Interior did not investigate espionage, "it was an interrogation of themselves", questioned Gabriel Pereyra](#).

<sup>2925</sup> Montevideo Portal. September 28, 2022. [APU: Interior investigation into Pereyra complaint is "cursory" and "does not provide guarantees"](#); Subrayado. September 26, 2022. [Interior assures that there was no order to monitor or follow journalist Gabriel Pereyra](#); Telenoche. September 27, 2022. [APU agrees after meeting with Interior over Pereyra's complaint](#).



for falsification of documents to Russian citizens<sup>2926</sup>. The CEO of the company Vertical Skies, who appears in the chats, acknowledged the espionage but denied responsibility to the company, arguing that it had been an action of his partner independently of the company<sup>2927</sup>. Senators of all parties rejected this espionage and those affected filed a criminal complaint asking a prosecutor's office to initiate a separate investigation to the case against Artesiano for forgery<sup>2928</sup>.

1346. This Office considers it essential that the State investigate the facts in an effective and impartial manner. Likewise, the Rapporteurship recalls that both regionally and universally it is recognized that surveillance practices and the unlawful or arbitrary interception and collection of personal data not only affect the right to privacy and freedom of expression but may also be contrary to the precepts of a democratic society<sup>2929</sup>. The Inter-American system, in line with the European and universal systems, established a tripartite test to verify the legitimacy of a state or non-state interference in private life such as electronic surveillance. According to this test, the surveillance measure must be legal, in a formal and material sense, necessary and proportionate<sup>2930</sup>. Likewise, in line with what has already been stated by the Office of the UN High Commissioner for Human Rights, RELE reiterates the call for an immediate moratorium on the sale, transfer and use of surveillance technology until regulatory frameworks in line with human rights are established<sup>2931</sup>.

1347. On the other hand, in 2022 the Office of the Special Rapporteur also received information on alleged threats and intimidation against the press in Uruguay. According to information gathered, on July 20, journalist Silvia Techera, of *AM 1340 La Voz de Melo*, *Subrayado* and *Canal 10*, reportedly received death threats through social networks for her journalistic work, particularly after covering a murder trial related to drug trafficking in the city of Melo, department of Cerro Largo, a region bordering Brazil<sup>2932</sup>. Investigations by the authorities determined that the telephone from which she received the threatening messages belonged to a minor who is being held in a detention center for minors in conflict with the law, and who is related to a person who was convicted of the murder covered by journalist Silvia Techera<sup>2933</sup>. RELE was able to learn that the authorities contacted her to express their solidarity and to provide security measures to guarantee her protection.

1348. In addition, the Inter American Press Association (IAPA) reported threats against journalist Alfonso Lessa, which also reportedly included a car chase<sup>2934</sup>.

1349. RELE also received information on alleged threats and harassment of journalists by political actors. Journalist Antonio Ladra publicly stated that an administrative official of the Municipality of Rio Branco had threatened to sue him for defamation after having published about government irregularities involving a municipal official<sup>2935</sup>.

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<sup>2926</sup> Public Media. December 1, 2022. [Extraordinary session of the Senate for alleged spying on Bergara and Carrera](#); La Diaria Política. December 13, 2022. [CEO of Vertical Skies acknowledged spying on Frente Amplio senators](#); Nodal. December 2, 2022. [Senators from all parties repudiated spying on Frente Amplio legislators](#).

<sup>2927</sup> Public Media. December 1, 2022. [Extraordinary session of the Senate for alleged spying on Bergara and Carrera](#); La Diaria Política. December 13, 2022. [CEO of Vertical Skies acknowledged spying on Frente Amplio senators](#); Nodal. December 2, 2022. [Senators from all parties repudiated spying on Frente Amplio legislators](#).

<sup>2928</sup> Public Media. December 1, 2022. [Extraordinary session of the Senate for alleged spying on Bergara and Carrera](#); La Diaria Política. December 13, 2022. [CEO of Vertical Skies acknowledged spying on Frente Amplio senators](#); Nodal. December 2, 2022. [Senators from all parties repudiated spying on Frente Amplio legislators](#).

<sup>2929</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 212.

<sup>2930</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Standards for a free, open and inclusive internet. OEA/Ser.L/V/II IACHR/RELE/INF.17/17. March 15, 2017. Para. 216.

<sup>2931</sup> IACHR. January 31, 2022. [The IACHR, RELE and OHCHR express concern about the findings on the use of Pegasus software to spy on journalists and civil society organizations in El Salvador. January 31, 2022](#). Press Release No. 022/22.

<sup>2932</sup> Cainfo. July 20, 2022. [Cainfo repudiates threat against journalist Silvia Techera](#); El Observador. July 20, 2022. [Death threat to journalist Silvia Techera: "Your hours are numbered"](#); APU Twitter account. [20 July 2022](#).

<sup>2933</sup> Cainfo. July 20, 2022. [Cainfo repudiates threat against journalist Silvia Techera](#); El Observador. July 20, 2022. [Death threat to journalist Silvia Techera: "Your hours are numbered"](#); APU Twitter account. [20 July 2022](#).

<sup>2934</sup> Twitter MVD News. November 3, 2022. [IAPA analyzes complaint of threats to journalist](#); M24. November 3, 2022. [Journalist Alfonso Lessa denounced threats before the Inter American Press Association](#).

<sup>2935</sup> Twitter account of Antonio Ladra (@antonioladra). [November 6, 2022](#); Portal; November 6, 2022. [THREAT: SPILMAN - LADRA](#)

1350. In this line, Amnesty International warned about a setback in press freedom in Uruguay<sup>2936</sup>. For its part, the APU said that "the arrogance, harassment and violence of *Grupo R Multimedio* against its workers persists. The complaints against this employer are accumulating and the situation remains unchanged"<sup>2937</sup>.

1351. On the other hand, this Office also learned that on February 5, a group of Computer Crimes and Interpol agents had arrived at *Azul FM* in search of access to the computers where material from the program *La Pecera* was stored. The police left the radio station with recordings of the program<sup>2938</sup>. According to public information, a prosecutor of sexual crimes would have ordered the raid of the radio station *Azul FM* and the house of the host of the program *La Pecera*, Ignacio Álvarez, in order to inquire about the sources of the journalists and to access their cell phones, after the broadcasting of intimate audios recorded by the accused for aggravated sexual abuse of a 30 year old woman<sup>2939</sup>. According to public information, this material was not part of the file and was provided by the defense attorney of the defendants<sup>2940</sup>.

1352. This Office recalls that, as stated in Principle 9 of the Declaration of Principles on Freedom of Expression, "intimidation and threats (...) against social communicators violate the fundamental rights of individuals and severely restrict freedom of expression. It is the duty of States to prevent and investigate these acts, punish the perpetrators and ensure that the victims receive adequate reparation". The IACHR and its Special Rapporteurship have understood that this type of attack "seeks to be a tool of intimidation, through which a clear message is sent to all those in civil society who carry out investigative work on irregularities in public administration. This practice seeks to make the press, as a control mechanism, keep silent or become an accomplice of those persons or institutions that carry out abusive or illegal acts or deeds. Ultimately, what is sought is to prevent society from being informed of these events at all costs"<sup>2941</sup>.

1353. As was reported in RELE's last annual report, stigmatizing accusations by public officials against journalists and the media persist. In this regard, the Association of Journalists of Uruguay (APU) reported the continuity of "harassment against journalists", referring particularly to the senator of the National Party, Graciela Bianchi<sup>2942</sup>. According to available information, on August 23 Senator Graciela Bianchi, of the National Party, publicly declared that she would "take care" of journalist Eduardo Preve, after he published a tweet in which the communicator made a timeline about a drug trafficking case and possible links with the Uruguayan government<sup>2943</sup>.

1354. Also, according to available information, during a press conference, the Secretary of the Presidency allegedly told journalist Macarena Vico, with the microphone turned off, "no provoques al pedo. Te mandan eh!"<sup>2944</sup>. This would have happened after the reporter asked about the modifications to the anti-smoking law and about a meeting that the President would have had with a delegate of a tobacco company. Subsequently, Delgado apologized and considered his words as "a mistake"<sup>2945</sup>. Through a press release, the APU denounced

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<sup>2936</sup> Network 21. July 5, 2022. [Amnesty International warns of regression in press freedom in Uruguay and affectation of several human rights](#).

<sup>2937</sup> APU Twitter account. [October 11, 2022](#).

<sup>2938</sup> El País. February 5, 2022. [Radio station and Álvarez's house raided: what a prosecutor asked for and criticism for "attacking" against freedom of the press](#); La Diaria. February 4, 2022. [Raid on Azul FM, radio station that broadcasts Ignacio Álvarez's program](#); El Observador. February 5, 2022. [Raid of Azul FM to find out "origin" of its audios generates questions for "violation of freedom of the press"](#).

<sup>2939</sup> El País. February 5, 2022. [Radio station and Álvarez's house raided: what a prosecutor asked for and criticism for "attacking" against freedom of the press](#); La Diaria. February 4, 2022. [Raid on Azul FM, radio station that broadcasts Ignacio Álvarez's program](#); El Observador. February 5, 2022. [Raid of Azul FM to find out "origin" of its audios generates questions for "violation of freedom of the press"](#).

<sup>2940</sup> El País. February 5, 2022. [Radio station and Álvarez's house raided: what a prosecutor asked for and criticism for "attacking" against freedom of the press](#); La Diaria. February 4, 2022. [They raided Azul FM, radio station that broadcasts Ignacio Álvarez's program](#); El Observador. February 5, 2022. [Raid of Azul FM to find out "origin" of its audios generates questions for "violation of freedom of the press"](#).

<sup>2941</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>2942</sup> The Daily. May 3, 2022. [APU denounces to the IACHR the "permanent hostile attitude against journalists" of Graciela Bianchi](#); Caras & Caretas. May 4, 2022. [APU denounced before the IACHR the "hostile attitude" of Bianchi](#).

<sup>2943</sup> The Observer. August 23, 2022. [APU condemned Graciela Bianchi's statements about the director of TV Ciudad News and asked six questions](#); M 24. 8 November 2022. [Graciela Bianchi said that "she had taken care of Eduardo Preve" and the journalist ended up fired from Channel 10, said APU secretary](#).

<sup>2944</sup> Houses and masks. September 9, 2022. [Delgado to TV Ciudad journalist: Don't provoke the pedro. They send you, eh](#); Twitter account of Nano del Chuy. [September 9, 2022](#).

<sup>2945</sup> M24. September 9, 2022. [Álvaro Delgado apologized after insulting TV Ciudad journalist](#); El Eco. September 12, 2022. [Delgado apologized for assaulting journalist](#).

that "once again, from the highest political level of the country, the workers of TV Ciudad are being attacked".<sup>2946</sup>

1355. Likewise, the APU issued a statement on August 5 in which it expressed "great concern" about the alleged "growing climate of tension" in the conversation on social networks between politicians and journalists<sup>2947</sup>. "It is not a question of parties, leaders or journalists. It is about taking care of democratic coexistence so that everyone, each in their role, can develop their activity with absolute freedom, without pressure and without the level of hostility that is being visualized," said the organization<sup>2948</sup>.

1356. Likewise, according to the information available, Senator Guido Manini Ríos, of the Cabildo Abierto Party, had shared a publication on social networks containing stigmatizing messages against the news program *Búsqueda*, whose work was described as "hired assassin journalism"<sup>2949</sup>. This Rapporteurship received reports that some of the attacks against journalists were allegedly carried out by the media outlet *La Mañana*, which is related to the Cabildo Abierto party, through unsigned notes that would be replicated by the leaders of this party<sup>2950</sup>.

1357. The Office of the Special Rapporteur for Freedom of Expression has pointed out that those who engage in debates of general interest participate in a public space that they are also called upon to protect<sup>2951</sup>. As the Inter-American Court of Human Rights has held, in a democratic society it is not only legitimate, but sometimes a duty, for state authorities to pronounce on issues of public interest<sup>2952</sup>. However, in doing so, they are subject to certain limitations, oriented mainly to verify the facts on which they base their opinions and to address them with even greater diligence than that employed by private individuals, due to their high position, the broad scope and possible effects that their expressions may have on certain sectors of the population<sup>2953</sup>. Likewise, as the Court has held, "they must bear in mind that as public officials they have a position of guarantor of the fundamental rights of individuals and, therefore, their statements cannot disregard these or constitute forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts"<sup>2954</sup>.

1358. The Inter-American Court has also understood that statements made by high-ranking public officials against journalists and the media can lead to an increase in the risk inherent to their profession<sup>2955</sup>. On this point, they have emphasized that "while it is true that there is a risk intrinsic to journalistic activity, people who work for a certain media outlet may see the risk situations they would normally face exacerbated, if that media is the object of official speeches that may provoke or suggest actions or be interpreted by public officials

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<sup>2946</sup> The Observer. September 12, 2022. [Asociación de la Prensa Uruguaya expresó "preocupación por el reiterado señalamiento y estigmatización" de los trabajadores de TV Ciudad](#); M24. 10 September 2022. [APU cuestiona señalamiento y estigmatización a trabajadores de TV Ciudad, tras comentario de Delgado a periodista](#).

<sup>2947</sup> APU Twitter account (@apu\_uy). [5 August 2022](#); Montevideo Portal. August 7, 2022. [APU noted "growing climate of tension" and targeted Lacalle Pou and Fernando Pereira](#).

<sup>2948</sup> APU Twitter account (@apu\_uy). [5 August 2022](#); Montevideo Portal. August 7, 2022. [APU noted "growing climate of tension" and targeted Lacalle Pou and Fernando Pereira](#).

<sup>2949</sup> The Observer. January 15, 2022. [Manini Ríos accused the media of being "hired killers" at the service of "unmentionable interests"](#); Radio Sarandí. March 23, 2022. [Manini: "Hay que tener que tener cuidado \(con lo que se dice\) pero yo digo lo que pienso y acá hay algo raro"](#); UY Press. January 15, 2022. [Manini's harsh attack against Búsqueda and the media](#).

<sup>2950</sup> The Observer. January 15, 2022. [Manini Ríos accused the media of being "hired killers" at the service of "unmentionable interests"](#); Radio Sarandí. March 23, 2022. [Manini: "Hay que tener que tener cuidado \(con lo que se dice\) pero yo digo lo que pienso y acá hay algo raro"](#); UY Press. January 15, 2022. [Manini's harsh attack against Búsqueda and the media](#).

<sup>2951</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 17, 2021. [The Office of the Special Rapporteur for Freedom of Expression calls on people who hold or aspire to hold elected office in Peru to contribute with their speech to the protection of human rights](#). R 126/21.

<sup>2952</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., Case of Perozo et al. v. Venezuela. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>2953</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., Case of Perozo et al. v. Venezuela. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>2954</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194, para. 139; I/A Court H.R., Case of Perozo et al. v. Venezuela. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>2955</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194, para. 143.

or by sectors of society as instructions, instigations, or in any way authorizations or support, for the commission of acts that endanger or violate the life, personal safety or other rights of persons exercising journalistic work or those exercising their freedom of expression"<sup>2956</sup>.

## B. Freedom of expression, Rule of Law and democratic institutions

1359. This Rapporteurship was informed of the executive branch's proposal to repeal the Audiovisual Communication Services Law ("media law"), approved in 2014 and which would have had strong international support<sup>2957</sup>. The initiative was rejected by different actors of civil society and academia<sup>2958</sup>. However, in the end there was no agreement among the ruling party to repeal the media law completely, but instead the government coalition reached an agreement to modify Article 56 of the law<sup>2959</sup>. Thus, on October 6, the Senate approved the Accountability bill, and with this, a new wording of Article 56 of the Audiovisual Communication Services Law<sup>2960</sup> was signed. According to public information, the new text allows cable companies to request licenses from the Executive Branch to provide Internet services in the country<sup>2961</sup>. This reform would have been rejected by Antel's workers' union (Sutel), which through a statement expressed its "strongest opposition to this type of changes in the regulation of communications services being made in the scope of Accountability, especially considering that since April 2020 a new media law is being discussed in the Chamber of Deputies, without agreement and with numerous criticisms"<sup>2962</sup>.

1360. On the other hand, this Office learned that duly identified journalists were denied access to the trial of Alejandro Astesiano, head of the president's custody, who was arrested at the presidential residence for his alleged participation in a document forgery network<sup>2963</sup>. According to available information, the hearing has been declared in reserve by the judge in charge of the case<sup>2964</sup>. In view of this situation, the APU rejected the judge's decision to deny access to the press and sent representatives to engage in a dialogue with the president of the Supreme Court of Justice to express its disagreement<sup>2965</sup>.

1361. The Rapporteurship recalls that transparency and accountability of public authorities strengthen democratic systems, and that the guarantee of the right of access to information, on many occasions, is a necessary condition to guarantee the exercise of other rights<sup>2966</sup>. In ruling on restrictions imposed on journalists or communicators for access to official sources of information at public acts or events, the Inter-

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<sup>2956</sup> I/A Court H.R., Case of Ríos et al. v. Venezuela. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194, para. 143.

<sup>2957</sup> The Daily. June 30, 2022. [Gobierno propone derogar la ley de medios y restablecer normativa de la dictadura](#); La Red 21. June 30, 2022. [Gobierno busca derogar totalmente la Ley de Medios, que evita los monopolios privados y promueve la producción nacional](#).

<sup>2958</sup> University of the Republic of Uruguay. August 9, 2022. [Udelar endorses the concern of the Communication Policy Group regarding the proposal to repeal the Media Law](#); IPYS. July 29, 2022. [IFFEX-ALC urges Uruguayan parliament not to repeal the Media Law](#); Medios Públicos. July 6, 2022. [Cabildo Abierto does not support the repeal of the Media Law](#).

<sup>2959</sup> The Daily. October 6, 2022. [Ley de medios: modification approved in Rendición de Cuentas with rejection of FA and Sutel, while discussion continues in Deputies](#); La Red 21. October 5, 2022. [Senate approved modification of Media Law and cable operators may apply for Internet licenses](#).

<sup>2960</sup> The Daily. October 6, 2022. [Ley de medios: modification approved in Rendición de Cuentas with rejection of FA and Sutel, while discussion continues in Deputies](#); La Red 21. October 5, 2022. [Senate approved modification of Media Law and cable operators may apply for Internet licenses](#).

<sup>2961</sup> Dpl News. October 6, 2022. [Senate approves article allowing cable operators to provide Internet in Uruguay](#); La diaria. October 6, 2022. [Ley de medios: modification approved in Rendición de Cuentas with rejection of FA and Sutel, while discussion continues in Deputies](#); La Red 21. October 5, 2022. [Senate approved modification of Media Law and cable operators may apply for Internet licenses](#).

<sup>2962</sup> The Daily. October 6, 2022. [Ley de medios: modification approved in Rendición de Cuentas with rejection of FA and Sutel, while discussion continues in Deputies](#); Caras & Caretas. October 6, 2022. [Sutel rejects license granted to cable operators by law](#).

<sup>2963</sup> MVD Noticias Twitter account (@MVDNoticias). [September 28, 2022](#); Telemundo. 29 September 2022. [Asociación de la Prensa rechaza que audiencia de imputación de Astesiano haya sido reservada y señala errores en procedimiento](#); El Observador. September 28, 2022. [Press Association to meet with SCJ over reservation of hearing in Astesiano case](#); La diaria. 29 September 2022. [Journalists met with SCJ president over incident at Astesiano formalization hearing](#).

<sup>2964</sup> MVD Noticias Twitter account (@MVDNoticias). [September 28, 2022](#); Telemundo. 29 September 2022. [Asociación de la Prensa rechaza que audiencia de imputación de Astesiano haya sido reservada y señala errores en procedimiento](#); El Observador. September 28, 2022. [Press Association to meet with SCJ over reservation of hearing in Astesiano case](#); La diaria. 29 September 2022. [Journalists met with SCJ president over incident at Astesiano formalization hearing](#).

<sup>2965</sup> The Observer. September 28, 2022. [Press Association to meet with SCJ over reservation of hearing in Astesiano case](#); La diaria. 29 September 2022. [Journalists met with SCJ president over incident at Astesiano formalization hearing](#).

<sup>2966</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [El derecho de acceso a la información en el marco jurídico interamericano](#). OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 64.



American Court has determined that "[w]ith respect to accreditations or authorizations to the press media for participation in official events, which imply a possible restriction on the exercise of the freedom to seek, receive and impart information and ideas of all kinds, it must be demonstrated that their application is legal, pursues a legitimate objective and is necessary and proportional in relation to the objective pursued in a democratic society. The accreditation requirements must be concrete, objective and reasonable, and their application transparent"<sup>2967</sup>.

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

1362. This Office learned that three deputies presented a bill called "Accessible and Inclusive Heritage", which seeks to guarantee access to information for the blind and persons with other disabilities<sup>2968</sup>. This Office reiterates the importance of States adopting positive measures in relation to the right to freedom of expression, access to information and citizen participation of groups that are often excluded from public debate, such as persons with disabilities. In this regard, this Office encourages the State of Uruguay to identify possible obstacles or limitations to the freedom of expression of this group of people, and to continue its efforts to guarantee the full enjoyment of their rights. For RELE, the full guarantee of the right to access to information for all persons, without distinction or discrimination, is an essential precondition for persons with disabilities to be able to exercise other rights and overcome the exclusion they often suffer.

### D. Freedom of expression and the Internet

1363. According to public information, on October 2, in the context of the presidential elections in Brazil, *TV Ciudad's* Twitter account was the target of a cyber attack and was reportedly taken over by a group of supporters of Brazilian President Jair Bolsonaro<sup>2969</sup>. The *hackers* allegedly made a series of publications in favor of the current Brazilian president and published tweets promoting the use of cryptocurrencies. *TV Ciudad* reported that its Twitter account had been hacked by supporters of Jair Bolsonaro<sup>2970</sup>.

1364. On the other hand, this Office learned that the Uruguayan justice system issued a ruling against Google, forcing the company's search engine to de-index personal information that was included in journalistic articles dating back more than 10 years, which arose from a criminal complaint that had already been filed.<sup>2971</sup>

1365. This Office recalls that freedom of expression applies to the Internet in the same way that it applies to all media. The IACHR and its Office of the Special Rapporteur have previously stated that human rights and, in particular, the right to freedom of expression, find in the Internet a unique instrument to deploy its enormous potential in broad sectors of the population, and that its relevance as a platform for the enjoyment and exercise of human rights is directly linked to the architecture of the network and the principles that govern it, including the principle of openness, decentralization and neutrality. In this context, the Rapporteurship reiterates that any measures that have a restrictive impact on the exercise of the right to freedom of expression of individuals in the digital space are only acceptable when they comply with international standards that provide, among other things, that they must be provided by law, pursue a legitimate purpose recognized by international law, and be necessary and proportionate to that purpose.

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<sup>2967</sup> IACHR Court. *Case of Claude Reyes et al. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 93; I/A Court H.R., *Case of Ríos et al. v. Venezuela. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194. para. 375; I/A Court H.R., *Case of Perozo et al. v. Venezuela. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195. para. 346.

<sup>2968</sup> Grupo Multimedio. September 22, 2022. [Project on access to information for the blind and disabled](#); National Party. September 22, 2022. [Project on access to information for the blind and disabled presented](#).

<sup>2969</sup> MVD Noticias Twitter account; October 2, 2022. [TV Ciudad denounced that its Twitter account was hacked by supporters of Jair Bolsonaro](#); Telenoche. October 2, 2022. [They hacked TV Ciudad's Twitter and posted in favor of Bolsonaro](#).

<sup>2970</sup> MVD Noticias Twitter account; October 2, 2022. [TV Ciudad denounced that its Twitter account was hacked by supporters of Jair Bolsonaro](#); Telenoche. October 2, 2022. [They hacked TV Ciudad's Twitter and posted in favor of Bolsonaro](#); El País. October 2, 2022. [TV Ciudad's Twitter profile was hacked and disseminates posts in favor of Bolsonaro](#).

<sup>2971</sup> RRP. June 12, 2022. [The law of oblivion: Uruguay orders Google to remove personal data searches](#); Infobae. November 7, 2022. [Uruguayan justice ratifies ruling forcing Google to deindex data](#); Facebook Comunicación Democrática. July 21, 2022. [Institutions addressed a note to the Office of the Special Rapporteur for Freedom of Expression](#).



## VENEZUELA

1366. As in previous years, the Office of the Special Rapporteur continues to observe significant restrictions on freedom of expression in Venezuela, especially on matters considered to be criticism of the Government or public authorities. In this sense, journalistic work faces obstacles related to fear of violence in an environment ruled by stigmatization, harassment, and threats, as well as fear of criminalization for the exercise of their work. Human rights organizations are facing a similar scenario, in a year in which the government once again proposed legislative reforms that could impact their funding and independence. Criminal legislation, including in some cases legislation against terrorism, continues to be applied for the alleged purpose of silencing voices of criticism. In this context, the SRFOE received information on the selective and disproportionate application of the Hate Law for expressions posted on the internet. Likewise, in 2022 the Office of the Special Rapporteur continued to register complaints about the selective use of powers of state bodies –especially CONATEL–, which reportedly led to the closure of radio stations and blocking of websites. In addition to the closure of civic space, on which the IACHR and its Office of the Special Rapporteur have already ruled, there is high state opacity, despite the new Law on Transparency and Access to Information of Public Interest, in force since September 2021. Likewise, the Office of the Special Rapporteur is particularly concerned about the differentiated impact that restrictions on freedom of expression have on women journalists and indigenous peoples in Venezuela. The SRFOE also observes that in many municipalities “silenced zones” continue to deepen, where journalistic coverage of matters of public interest is scarce or almost non-existent.

### A. Journalism and democracy

1367. As emphasized in a Joint Declaration signed by the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) and by the United Nations (UN) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, they continue to document severe restrictions on the right to freedom of expression and the persistence of a hostile environment for the exercise of journalistic work in Venezuela.<sup>2972</sup> This context is characterized by harassment, persecution, arbitrary arrests, and stigmatizing accusations against those who investigate and actively participate in matters of public and political interest. Likewise, the closure of the media, as well as the seizure of their equipment, directly or indirectly implemented by the government, increasingly limit the access of citizens to reliable information from independent sources, and have generated zones of media silence in Venezuela, aggravated by the infrastructural obstacles of the energy and economic crisis.<sup>2973</sup> All of these measures have created a general environment of self-censorship both among citizens and in the press that reports on matters of public relevance, such as the human rights crisis in Venezuela.<sup>2974</sup> Likewise, professional journalism faces significant challenges for its sustainability<sup>2975</sup>. The facts documented below demonstrate the persistence of the closure of democratic spaces in Venezuela, as reported by the IACHR in previous years.

1368. Within the framework of the public hearing "Situation of freedom of expression in Venezuela," held at the IACHR 184<sup>o</sup> Period of Sessions, civil society organizations denounced that the country is going through a long-term crisis in terms of freedom of expression. The organizations presented information on the criminalization of expressions critical of the Government through the Hate Law; arrests; harassment; violations of freedom of the press; and the closure of the digital civic space as a result of blockades and regulations promoted by CONATEL. For its part, the Permanent Mission of Venezuela to the OAS highlighted the use of criminal proceedings to suppress the dissemination of information and opinions critical of the administration of President Nicolás Maduro. At the hearing, the Special Rapporteur for Freedom of Expression pointed out that, according to the information reported, it is possible to observe that hate speech is confused with speech specially protected by freedom of expression. Likewise, he pointed out that the persecution of people for

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<sup>2972</sup> Joint declaration of UN Rapporteurs and IACHR on freedom of expression in Venezuela. [Libertad de expresión en Venezuela: estado de la cuestión y líneas de actuación](#). August 30, 2022.

<sup>2973</sup> Joint declaration of UN Rapporteurs and IACHR on freedom of expression in Venezuela. [Libertad de expresión en Venezuela: estado de la cuestión y líneas de actuación](#). August 30, 2022.

<sup>2974</sup> Joint declaration of UN Rapporteurs and IACHR on freedom of expression in Venezuela. [Libertad de expresión en Venezuela: estado de la cuestión y líneas de actuación](#). August 30, 2022.

<sup>2975</sup> Joint declaration of UN Rapporteurs and IACHR on freedom of expression in Venezuela. [Libertad de expresión en Venezuela: estado de la cuestión y líneas de actuación](#). August 30, 2022.

expressing their opinions on social networks or demonstrating through humor on political issues contributes to the deterioration of public debate.<sup>2976</sup>

1369. As this Office was able to learn, on January 10, 2022, José Gregorio Urbina, director of the community radio station *Frontera 92.5 FM*, parish coordinator of the Communist Party of Venezuela in Puerto Paez and legal representative of the Las Trincheras Community Foundation, was murdered by unknown individuals in his place of residence after being attacked with a firearm. Despite the fact that, according to the publicly available information, the Seventh Prosecutor's Office with Indigenous competence, Execution of Sentence, and Process in Fundamental Rights of the Apure state had reportedly set up a commission to investigate the crime, throughout the year the Communist Party of Venezuela and other civil society organizations have denounced the lack of progress on the investigation of the facts. According to the information available, in November 2021, José Urbina had reported threats after reporting on alleged human rights abuses and violations by agents of the Bolivarian National Guard in the border region of Puerto Paez.<sup>2977</sup>

1370. The murder of José Gregorio Urbina is part of a hostile context for the exercise of freedom of the press, which includes, for example, acts of threats to life and integrity, harassment, intimidation, physical, and verbal attacks, threats of arrest, confiscation of work equipment, and censorship of journalistic material. The information received indicates that on some occasions said acts were perpetrated both by individuals and by agents of the State.<sup>2978</sup> The NGO Espacio Público has documented, between January and August 2022, at least 58 restrictions on journalistic coverage.<sup>2979</sup> Likewise, on some occasions, journalists have reported that unknown individuals or state agents have taken pictures of them while they are doing their work, which they consider to be an act of intimidation.<sup>2980</sup>

1371. In 2022, the Office of the Special Rapporteur learned of alleged obstructions to the information work in coverage of electoral events<sup>2981</sup>; eviction operations<sup>2982</sup>; emergency situations due to landslides<sup>2983</sup>; the functioning of public transportation in the country<sup>2984</sup>; events that occurred in public hospitals<sup>2985</sup>; and public events.<sup>2986</sup> The Office of the Special Rapporteur notes with particular seriousness the acts of harassment and intimidation against journalists who covered the initiation events of the presidential recall referendum.<sup>2987</sup>

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<sup>2976</sup> IACHR. June 22, 2022. 184<sup>o</sup> session. [Hearing on the Situation of Freedom of Expression in Venezuela](#).

<sup>2977</sup> SwissInfo. January 18, 2022. [Partido Comunista de Venezuela pide a Fiscalía investigar crimen de militante](#); Provea. January 12, 2022. [Provea condena asesinato del activista José Urbina y exige sanción a los responsables](#); IPYS. April 10, 2022. [Asesinato de José Gregorio Urbina cumple tres meses de impunidad](#); Twitter account of PCV (@PCV\_Venezuela). [January 11, 2022](#).

<sup>2978</sup> IPYS. February 8, 2022. [Dgcm limitó a trabajadores de la prensa en Anzoátegui](#); Espacio Público. March 11, 2022. [Funcionario de PoliBaruta intimidó a fotógrafo de Noticiero Digital](#); IPYS. October 5, 2022. [Dirigente político de AD hostigó a periodista en Monagas](#); Voces del Sur Unidas. August 30, 2022. [GNB limitó el trabajo informativo de camarógrafos tras una explosión en Puerto Ordaz](#); El Pitazo. May 6, 2022. [Concejal del Psuv agrede a periodista en sesión del Concejo Municipal de Maracaibo](#); IPYS. August 17, 2022. [Amenazan a periodista por cobertura de abuso sexual infantil en Sucre](#); Espacio Público. April 11, 2022. [Escolta de Diosdado Cabello le arrebató el celular a Nicmer Evans](#); IPYS. March 9, 2022. [Instituciones públicas limitaron el acceso a la información a periodistas en Táchira](#); Voces del Sur Unidas. February 22, 2022. [Conas amedrentó a reportero gráfico en Delta Amacuro](#).

<sup>2979</sup> Espacio Público. September 8, 2022. [Situación general del derecho a la libertad de expresión. Enero – agosto 2022](#).

<sup>2980</sup> Radio Fe y Alegría. August 9, 2022. [Amedrentaron a la corresponsal de Crónica Uno en Lara](#); IPYS. September 13, 2022. [Desconocido intimidó a reporteros durante manifestación en Cojedes](#); Espacio Público. 9 August 9, 2022. [Intimidaron a periodista Yelitza Figueroa mientras cubría una protesta](#); IPYS. March 11, 2022. [Limitan trabajo periodístico de reportero en Mérida](#).

<sup>2981</sup> Twitter account of SNTP (@sntpvenezuela). [January 9, 2022](#).

<sup>2982</sup> IPYS. August 3, 2022. [Labor de reporteros fue limitada por funcionarios de seguridad en el estado Portuguesa](#).

<sup>2983</sup> Twitter account of CNP Caracas. [October 10, 2022](#); Foco Informativo. October 13, 2022. [SNTP denuncia que GNB restringe el acceso de periodistas a Las Tejerías](#); El Diario. October 10, 2022. [El CNP denunció que están limitando a los periodistas para cubrir el deslave en Las Tejerías](#); Espacio Público. October 13, 2022. [GNB impidió acceso de periodistas a Las Tejerías por vía alterna](#); Infobae. October 19, 2022. [Nicolás Maduro y altos jefes militares usan los trágicos deslaves como propaganda mientras niegan el acceso a la prensa](#).

<sup>2984</sup> Merida Noticia. August 15, 2022. [Ataques a la prensa: Elvis Rivas, corresponsal de Globovisión en Mérida fue agredido por equipo del Ministro Padrón](#); Espacio Público. August 30, 2022. [Funcionaria del Metro de Caracas trató de impedir que periodista Luis De Jesús grabara una irregularidad](#); Espacio Público. July 25, 2022. [Funcionario público impidió cobertura a periodista Darvinson Rojas](#).

<sup>2985</sup> Twitter account of SNTP (@sntpvenezuela). [January 4, 2022](#); Voces del Sur. August 4, 2022. [Trabajo de reporteras fue limitado nuevamente en el Hospital Central de San Cristóbal](#).

<sup>2986</sup> Twitter account of SNTP (@sntpvenezuela). [August 4, 2022](#); IPYS. March 10, 2022. [PoliBaruta intimidó a reportero gráfico durante un acto de la alcaldía](#); Espacio Público. September 26, 2022. [GNB impide a periodistas grabar en el puente Simón Bolívar durante reapertura de la frontera](#).

<sup>2987</sup> Twitter account of SNTP (@sntpvenezuela). [January 26, 2022](#); [January 26, 2022](#); [January 26, 2022](#); Espacio Público. January 27, 2022. [Limitan labor periodística durante el proceso de activación del Referéndum Revocatorio](#).

1372. The attacks and assaults committed against journalists violate the right to freedom of expression, both individually and collectively, and cannot be tolerated in a democratic society. The Office of the Special Rapporteur recalls that principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states that "[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation." In turn, the SRFOE reiterates that freedom of expression protects the right to record and disseminate any incident that involves matters of public interest, and that the State must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed.

1373. The Office of the Special Rapporteur notes that the aforementioned hostile climate for journalistic work is fostered by stigmatizing statements by public officials against journalists and the media. In June 2022, the United Nations High Commissioner for Human Rights expressed her concern about the discrediting of the work of the press and the defense of human rights through institutional means.<sup>2988</sup> Once again, the Office of the Special Rapporteur regrets that Diosdado Cabello, former president and current representative of the National Assembly and host of the program "Con el Mazo Dando" on a public television channel in Venezuela, has used this space of communication with the public to send stigmatizing messages against journalists. Among other messages that concern the Office, the representative accused the press of seeking "political destabilization"<sup>2989</sup> and "discrediting people"<sup>2990</sup>, and exposed photos of journalists known for their critical coverage of the government with a message of "all are wanted for being thieves".<sup>2991</sup> Likewise, according to the information reported, the mayor of the municipality of El Tigre publicly accused a journalist of being an "imbecile"<sup>2992</sup>; a legislator from the state of Táchira reportedly described a journalist as "crazy" and a "liar", and disclosed her personal telephone number on social networks<sup>2993</sup>; the governor of the state of Vargas reportedly described a medium as "garbage"<sup>2994</sup>; and the Minister of the Interior reportedly branded the press as "a nuisance" during a coverage.<sup>2995</sup>

1374. This Office recalls that public authorities are called upon to maintain a discourse favorable to public deliberation and freedom of expression. In this sense, they have the duty to refrain from making stigmatizing or intentionally false statements that may increase the risk of attacks on their life and integrity, linked to the profession.<sup>2996</sup> Likewise, international human rights standards require that the authorities treat journalists with respect and fairness in interviews at press conferences. The inter-American human rights system has indicated that stigmatizing statements from public officials could constitute an indirect restriction on the right to freedom of expression.<sup>2997</sup>

1375. In this context, the Office of the Rapporteur is concerned about the use of judicial mechanisms, especially by public officials, with the aim of silencing the criticisms made regarding their actions in the public

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<sup>2988</sup> OHCHR. June 29, 2022. [Venezuela: Bachelet reconoce los avances y plantea el camino por recorrer en materia de derechos humanos](#).

<sup>2989</sup> Con el Mazo Dando. June 8, 2022. [Diosdado Cabello: El Diario 2001 no le juega limpio al país y busca la desestabilización política](#).

<sup>2990</sup> ABC International. February 11, 2022. [Diosdado Cabello amenaza con ir a por la web de 'El Nacional'](#).

<sup>2991</sup> Youtube account of Con el Mazo Dando. [January 19, 2022](#).

<sup>2992</sup> Tal Cual Digital. October 5, 2022. [Alcalde de El Tigre arremete contra el periodista Euclides Sotillo](#); El Vistazo. October 5, 2022. [Espacio Público recopila nuevo caso de hostigamiento e insultos del alcalde Paraqueima, esta vez contra el periodista Euclides Sotillo - Diario El Vistazo](#).

<sup>2993</sup> Monitoreamos. July 29, 2022. [SNTP, Espacio Público e Ipys denunciaron acoso de legisladora del Táchira contra el periodista Gabriel Bastidas - Monitoreamos](#); IPYS. [Legisladora de Táchira hostigó al periodista Gabriel Bastidas](#).

<sup>2994</sup> La Verdad de Vargas. June 30, 2022. [Terán arremete contra La Verdad](#); Espacio Público. July 4, 2022. [Gobernador oficialista hostigó verbalmente al medio regional La Verdad de Vargas](#).

<sup>2995</sup> NTN 24. October 11, 2022. [Ministro califica a la prensa como un "estorbo"](#); Infobae. October 19, 2022. [Nicolás Maduro y altos jefes militares usan los trágicos deslaves como propaganda mientras niegan el acceso a la prensa](#).

<sup>2996</sup> The United Nations (UN) Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. October 20, 2021. [2021 joint declaration on politicians and public officials and freedom of expression](#).

<sup>2997</sup> I/A Court H.R., *Case of Ríos et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194. Para. 139.

sphere. In particular, the Office of the Special Rapporteur condemns the confirmation of the adjudication of the former headquarters of the newspaper *El Nacional* to representative Diosdado Cabello, on January 27, 2022.<sup>2998</sup> The adjudication is part of the process of execution of a conviction of reparation ordered in favor of the representative. In 2021, the Venezuelan Judiciary ordered the newspaper to pay around 13 million dollars for non-pecuniary damage to congressman Diosdado Cabello, for having replicated a work by the Spanish newspaper ABC that, through testimony, indicated the congressman was allegedly linked to drug trafficking businesses.<sup>2999</sup> On March 15, 2022, the International University of Communications began operating at the former headquarters of the newspaper.<sup>3000</sup> In December 2019, the representative had already stated that he hoped that the judicial decision would allow the adjudication of the headquarters of *El Nacional* to turn it into a university. At the same time, in February 2022, the representative stated that the adjudication of the headquarters did not yet correspond to the full value of the compensation determined by the Judiciary and indicated that he could "go after the website" of the newspaper in order to complement the payment, especially since the newspaper *El Nacional* would be "provoking" him to "go one step further".<sup>3001</sup>

1376. The SRFOE reiterates that the imposition of subsequent liabilities for the exercise of freedom of expression requires that the sanctions comply with the principles of legality, legitimate objective, necessity, and proportionality. This Office also recalls that criminal law is not conventionally appropriate to protect the honor of the official<sup>3002</sup>; and that the imposition of eventual civil sanctions must strictly respond to necessity and proportionality, since a disproportionate civil sanction can have an effect that is as intimidating and inhibitory to the exercise of freedom of expression as a criminal sanction.<sup>3003</sup>

1377. The Office of the Special Rapporteur has continued to receive reports on the use of criminal law against journalists with intimidating purposes, including crimes such as terrorism or treason; in addition to the continuity in the application of the Hate Law in a selective and disproportionate way. This law orders fines and up to 20 years in prison for any person who disseminates information considered to promote or incite hatred, discrimination, or violence; and grants legal powers to censor content that may be protected by international human rights law. According to information received at the public hearing on the situation of freedom of expression in Venezuela, within the framework of the 184<sup>o</sup> Period of Sessions of the IACHR, since its entry into force in 2017, this law has been used to delegitimize and criminalize any person who questions or criticizes government management or to people who perform public functions.<sup>3004</sup> The Office of the Special Rapporteur was also informed about the issuance of intermediate precautionary measures against journalists as a condition for arrest warrants to be lifted, and the impact that these may have on the exercise of freedom of expression. According to the information available, said measures would be justified by the need to protect the investigations or the process and would be sustained over time for terms that exceed the legal limit.<sup>3005</sup>

1378. In light of the foregoing, this Office highlights the case of journalist Ronald Carreños, who since October 26, 2020, has been detained in intramural prison for the alleged commission of the crimes of conspiracy, illicit trafficking in weapons of war and ammunition, and terrorist financing.<sup>3006</sup> On July 9, 2021, the judge in charge of the case admitted the accusation and, since May 2022, various oral and public hearings

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<sup>2998</sup> Voz de América. February 7, 2022. [Venezuela: Tribunal adjudica sede de El Nacional a Diosdado Cabello](#); El Nacional. February 8, 2022. [HRW condena entrega de la sede de El Nacional a Diosdado Cabello](#); VTV. February 7, 2022. [Tribunal entrega sede de El Nacional a Diosdado Cabello](#).

<sup>2999</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 892.

<sup>3000</sup> VTV. March 15, 2022. [Universidad Internacional de las Comunicaciones puso en marcha trayecto inicial de estudios](#); Twitter account of the International University of Communications (@lauicom). [March 14, 2022](#).

<sup>3001</sup> Tal Cual. February 10, 2022. [Diosdado Cabello al Nacional: "Me provoca ir por la página web"](#); DW. February 10, 2022. [Diosdado Cabello aún exige pago de indemnización a El Nacional | Las noticias y análisis más importantes en América Latina](#); El País. February 11, 2022. [Venezuela: Diosdado Cabello mantiene sus amenazas a la prensa: "Ahora voy a ir a por la web de 'El Nacional'"](#).

<sup>3002</sup> I/A Court H.R., *Case of Álvarez Ramos v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2019. Series C No. 380. Para. 121.

<sup>3003</sup> I/A Court H.R., *Case of Tristán Donoso v. Panama*. Preliminary Objection, Merits, Reparations and Costs. Judgment of January 27, 2009. Series C No. 193. Para. 129.

<sup>3004</sup> IACHR. June 22, 2022. 184<sup>o</sup> session. [Hearing on the Situation of Freedom of Expression in Venezuela](#).

<sup>3005</sup> IACHR. June 22, 2022. 184<sup>o</sup> session. [Hearing on the Situation of Freedom of Expression in Venezuela](#); IPYS. March 2, 2022. [Niegan decaimiento de la medida cautelar de Jesús Medina Ezaine](#).

<sup>3006</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 891



have been held.<sup>3007</sup> In 2022, the Office of the Special Rapporteur learned that some hearings had been held within the framework of the process against Roland Carreños throughout the first semester of the year.<sup>3008</sup> However, the legal defense of Ronald Carreños has highlighted procedural delays, in addition to other procedural irregularities.<sup>3009</sup> During his detention, Roland Carreño faced a sharp deterioration in his health, for which he had to be transferred to a hospital on at least one occasion.<sup>3010</sup>

1379. This Office also highlights the case of journalist Roberto Deniz, who since October 2021 has been sued in criminal proceedings for the alleged crime of incitement to hatred, linked to his journalistic work. Roberto Deniz currently lives outside of Venezuela, his relatives have been beneficiaries of precautionary measures from the IACHR since February 2020, and since 2021 the journalist has had an arrest warrant in the framework of said criminal proceeding, even with a request for the inclusion of a red alert in Interpol.<sup>3011</sup> Throughout 2022, Roberto Deniz was reportedly the target of online harassment campaigns.<sup>3012</sup> In June, a host for a state television channel pointed out on his social networks that Roberto Deniz was reportedly linked to the possible torture of former Venezuelan diplomat and businessman Alex Saab. Saab has been the subject of various journalistic investigations by Roberto Deniz and is currently detained in the United States on money laundering and corruption charges.<sup>3013</sup>

1380. On the other hand, on August 4, 2022, the Attorney General announced that the Office of the Attorney General requested an arrest warrant against the journalist Carla Angola, who lives in the United States, for alleged defense (apología) for the crime of assassination.<sup>3014</sup> According to the information available, said measure would be based on an interview in which the journalist pointed out that "the United States uses a drone and the second in command of Al Qaeda disappears and the whole world wonders on social networks why they don't do the same with Nicolas Maduro".<sup>3015</sup>

1381. The Office of the Special Rapporteur welcomes the judicial archive and respective suspension of the case of Luis Carlos Díaz<sup>3016</sup>, who, along with his family, has been a beneficiary of IACHR precautionary measures since 2019.<sup>3017</sup> With this, a series of restrictive intermediate measures are lifted, which had been issued against the journalist since March 2019, when, after spending 24 hours in detention, he was released under different conditions of precautionary order, in a process where he was accused of "instigation to commit crimes".<sup>3018</sup>

1382. The Office of the Special Rapporteur recommends that eventual restrictions to prevent speech that incites hatred for various reasons be limited to the definition established in Article 13.5 of the American Convention on Human Rights and Article 20 of the International Covenant on Civil and Political Rights. In addition, that current, certain, objective, and forceful proof is taken as a presupposition that the person was

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<sup>3007</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 891; IPYS. October 26, 2022. [Roland Carreño cumple dos años injustamente privado de libertad](#)

<sup>3008</sup> Tal Cual. July 26, 2022. [Suspendieron audiencia de Roland Carreño por ausencia de efectivos de la PNB](#); Efecto Cocuyo. June 17, 2022. [Sexta audiencia de juicio contra Roland Carreño sin presencia de funcionarios policiales citados](#); IPYS. October 26, 2022. [Roland Carreño cumple dos años injustamente privado de libertad](#); Twitter account of SNTF (@sntpvenezuela). [May 2, 2022](#).

<sup>3009</sup> Punto de Corte. October 26, 2022. [A 2 años de la detención de Roland Carreño denuncian paralización del juicio y la pretensión de iniciar un nuevo proceso](#); IPYS. October 26, 2022. [Roland Carreño cumple dos años injustamente privado de libertad](#).

<sup>3010</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 891.

<sup>3011</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 889.

<sup>3012</sup> Espacio Público. January 24, 2022. [Hostigan nuevamente a Roberto Deniz por redes sociales](#); Espacio Público. March 31, 2022. [Adeptos al oficialismo continúan el hostigamiento hacia Roberto Deniz y el portal Armando.info](#); Radio Fe y Alegría. April 10, 2022. [Hostigan nuevamente al periodista Roberto Deniz](#); Espacio Público. June 16, 2022. [Pedro Carvajalino hostiga nuevamente a Roberto Deniz](#).

<sup>3013</sup> El Pitazo. June 16, 2022. [Ipys denuncia que Pedro Carvajalino amenazó a periodista Roberto Deniz](#); Twitter account of Pedro Karvajalino (@PedroKconductaz). [June 26, 2022](#).

<sup>3014</sup> DW. August 5, 2022. [Venezuela ordena captura de periodista por "apología del delito" | Las noticias y análisis más importantes en América Latina](#); Unión Mundo. August 4, 2022. [Abren investigación en Venezuela contra periodista Carla Angola por incitación al magnicidio del presidente Nicolás Maduro](#).

<sup>3015</sup> DW. August 5, 2022. [Venezuela ordena captura de periodista por "apología del delito" | Las noticias y análisis más importantes en América Latina](#); Unión Mundo. August 4, 2022. [Abren investigación en Venezuela contra periodista Carla Angola por incitación al magnicidio del presidente Nicolás Maduro](#).

<sup>3016</sup> El Nacional. February 1, 2022. [Archivado el caso contra el periodista Luis Carlos Díaz](#); Voz de América. February 2, 2022. [Archivan caso contra periodista venezolano Luis Carlos Díaz: "Vamos a seguir escribiendo"](#).

<sup>3017</sup> IACHR. March 29, 2019. [Resolution 17/2019](#). Precautionary measures No. 250-19. Luis Carlos Díaz and his family nucleus regarding Venezuela; Espacio Público. February 1, 2022. [El Estado decretó archivo judicial en el caso de Luis Carlos Díaz](#).

<sup>3018</sup> IACHR. Annual Report 2019. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 1163.



not simply expressing an opinion (no matter how harsh, unfair or disturbing it may be), and rather that they had the clear intention of committing a crime and that they had a current, real, and effective possibility to achieve their goals.<sup>3019</sup> As the UN, OAS, OSCE, and ACHPR special mandates for freedom of expression noted in a joint statement, “vague notions, such as the provision of communications support for terrorism or extremism, the ‘glorification’ or ‘promotion of’ of terrorism or extremism, and the mere repetition of terrorist statements, which in themselves do not constitute incitement, should not be criminalized”.<sup>3020</sup>

1383. At the same time, there continues to be a closure of independent media outlets in Venezuela based on the alleged non-compliance with the administrative requirements for radio broadcasting or the use of radio space, through administrative processes with few legal guarantees. Throughout the year, the Office of the Special Rapporteur continued to register cases of raids on different headquarters of radio stations, television stations, and print newspapers, many times accompanied by the confiscation of equipment and closure of media outlets. Between January and September of this year, the National Telecommunications Commission of Venezuela reportedly ordered the closure of at least 26 radio stations in Portuguesa, Anzoátegui, Guárico, Barinas, Cojedes, Zulia, and Sucre, in procedures carried out by State agents and security forces agents.<sup>3021</sup> A total of 16 of these stations were closed in September 2022 alone.<sup>3022</sup> At the same time, in just one week in October, another 15 stations were reportedly closed.<sup>3023</sup> A registry carried out by the organization Espacio Público concluded that, between 2003 and 2022, more than 200 stations were closed by order of CONATEL.<sup>3024</sup>

1384. In this context, this Office continued to receive information about closures of local radio programs, on many occasions due to pressure and orders from CONATEL agents. According to the information compiled by this Office of the Special Rapporteur, local journalists also report pressure to close operating programs by public, regional, and local authorities. For example, the radio program of an opposition candidate was reportedly closed five days before the regional elections in the state of Barinas, allegedly as a result of pressure exerted by CONATEL on the radio stations that broadcast his program.<sup>3025</sup>

1385. The Office of the Special Rapporteur recalls that direct or indirect pressure aimed at silencing the informative work of social communicators is incompatible with the right to freedom of expression. Pursuant to Principle 13 of the IACHR Declaration of Principles on Freedom of Expression, “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and the media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law”. Likewise, the SRFOE emphasizes that the allocation of frequencies for radio and television must consider democratic criteria that guarantee equal opportunities, diversity, and pluralism.<sup>3026</sup>

## **B. Freedom of expression, Rule of Law and democratic institutions**

1386. The SRFOE observes, as in previous years, that a pattern of persecution, accusations and harassment of opposition voices persists in Venezuela, in an environment of high opacity of the State, even with the entry into force of the Law of Transparency and Access to Information of Public Interest in 2021. The Office of the

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<sup>3019</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 58.

<sup>3020</sup> The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples’ Rights) Special Rapporteur on Freedom of Expression and Access to Information. [Joint declaration on defamation of religions, and anti-terrorism and anti-extremism legislation](#). 2008.

<sup>3021</sup> Espacio Público. September 28, 2022. [Situación general del derecho a la libertad de expresión. Enero – agosto 2022](#); Espacio Público. October 3, 2022. [Septiembre: censura y más restricciones](#).

<sup>3022</sup> Espacio Público. October 3, 2022. [Septiembre: censura y más restricciones](#).

<sup>3023</sup> Efecto Cocuyo. October 22, 2020. [SNTF denuncia cierre de 15 emisoras de radio en una semana por ordenes de Conatel](#); Infobae. October 22, 2020. [Censura en Venezuela: el régimen de Maduro cerró 15 emisoras de radio en la última semana - Infobae](#).

<sup>3024</sup> Espacio Público. September 28, 2022. [Situación general del derecho a la libertad de expresión. Enero – agosto 2022](#).

<sup>3025</sup> Tal Cual. January 7, 2022. [A Sergio Garrido le cerraron el programa y prohibieron que lo entrevistaron](#); Infobae. January 4, 2022. [Censura en Venezuela: cancelaron el programa radial del candidato opositor en Barinas Sergio Garrido](#).

<sup>3026</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of expression standards for free and inclusive broadcasting](#). OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009. Para. 58.

Special Rapporteur has recorded the continuity of arrests of human rights defenders and protesters, in some cases based on the Hate Law and anti-terrorism legislation. The Office of the Special Rapporteur has also received information on the alleged use of public force during social protests. In 2022, the Office of the Special Rapporteur has highlighted with particular concern the risks of restricting the activity of civil society organizations through new proposals to regulate their operation.

1387. In 2022, one year after the "Law on Transparency and Access to Information of Public Interest" went into force, the Espacio Público organization reported that, of 75 requests for access to information that they submitted to different State bodies, only 62 were received and, of them, 57 were not answered. Only 2 would have been adequately answered.<sup>3027</sup> Likewise, the Supreme Court of Justice of Venezuela declared inadmissible a lawsuit that questioned the failure by the Legislative Assembly to respond to a request for access to information. In its resolution, it indicated that the requests must contain "a sufficiently precise description of the information that it is aspired to receive, to allow it to be located, as well as the reasons that justify the request (which, it insisted, should only refer to information that truly has the character of public interest), and its magnitude must be proportional to the intended use of it".<sup>3028</sup>

1388. This Office notes that it is important to make progress with laws that promote the effectiveness of the right of access to public information in Venezuela. In this sense, this Office warns about the risks of open and ambiguous concepts of requirements and exceptions in the laws on access to information, which the Office of the Special Rapporteur has registered as a characteristic of the current Transparency Law, and of other bills and norms approved by the State of Venezuela.<sup>3029</sup> This is because they can provide excessive discretion to the public agents and organizations in charge of applying it.

1389. In this context, the SRFOE observes that within the framework of a recent law establishing the "Commission to guarantee justice and reparation for victims of crimes against Human Rights" it is generically provided that "in order to guarantee the confidentiality of the sources, as well as the security of the victims, possible perpetrators and witnesses, the actions and documents of the Commission for the Guarantee of Justice and Reparation of the Victims of Crimes against Human Rights will be confidential from third parties".<sup>3030</sup> The SRFOE reiterates that information related to human rights violations is subject to a high presumption of disclosure<sup>3031</sup>; and urges the authorities to refrain from imposing broad confidentiality conditions on such information. In this sense, the Office of the Special Rapporteur reiterates that "when applying a restriction to the right of access to public information, not only the requirements of legality and protection of a legitimate purpose must be met, but also the requirement of necessity and proportionality. The need for the measure will be met when the limitation is not only conducive to achieving the desired achievement, but is also imperative, that is to say that of all the alternatives, those measures that restrict or interfere to the least possible extent the effective exercise of the right to seek and receive information must be chosen".<sup>3032</sup>

1390. The SRFOE observes that there are still challenges regarding the obligation of active transparency on the part of the State of Venezuela. For example, according to a report by the IPYS organization, the Central Bank of Venezuela, the Ministry of Health, the National Assembly, and CONATEL do not publish information on budget allocations or reports on accountability. The lack of active transparency would be even more worrisome in a context where according to the information reported limitations on access to public institutions and access to official sources for journalistic coverage are constantly documented.<sup>3033</sup>

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<sup>3027</sup> Espacio Público. September 26, 2022. [Opacidad sostenida: peticiones de información sin respuesta durante el primer año de la Ley de Transparencia](#).

<sup>3028</sup> Tribunal Supremo de Justicia. Judgment. [Exp. Nro. 2022-0121](#). July 22, 2022.

<sup>3029</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 908.

<sup>3030</sup> Gaceta Oficial de la República de Venezuela. N.º 6.678 Extraordinario. December 27, 2021. [Ley de la Comisión para la Garantía de Justicia y Reparación de las Víctimas de Delitos Contra los Derechos Humanos](#).

<sup>3031</sup> OAS. [Inter-American Model Law 2.0 on Access to Information](#). 2021. Article 27.

<sup>3032</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Right to information and national security](#). OEA/Ser.L/V/II CIDH/RELE/INF.24/20. July 2020. Para. 78.

<sup>3033</sup> IPYS. September 27, 2022. [Balance IPYSve / Información pública en Venezuela: un derecho bajo control y silencio](#).

1391. At the same time, the Office of the Special Rapporteur notes that a climate of stigmatization and persecution prevails towards the work of defending human rights.<sup>3034</sup> In this sense, the SRFOE has been informed about the alleged circulation of lists of names and information of people considered to be opponents of the government, including journalists and human rights defenders, with the alleged purpose of intimidating them. In connection with these events, around 1,600 people were reportedly identified in an online campaign known as “1,600 plugged in”.<sup>3035</sup>

1392. Likewise, according to the information reported to the SRFOE, both individuals and public officials have filed lawsuits against people who report on and denounce matters of public interest. In May 2022, the governor of the state of Carabobo filed a defamation lawsuit against Marino Alvarado, a member of the Venezuelan Human Rights Action Education Program (Provea), and Alfredo Infante, a member of the Gumilla Center. The lawsuit is reportedly linked to public demonstrations by human rights defenders in which they demanded that the possible responsibility of the Governor be investigated in alleged extrajudicial executions in the state of Carabobo.<sup>3036</sup> In June, during a press conference, Marino Alvarado and Alfredo Infante retracted and stated that their request to investigate and establish responsibilities “did not intend to accuse the governor, although it may have been understood that way”.<sup>3037</sup> The defenders reported that they reached a “conciliation agreement” with the governor of Carabobo, who would have reaffirmed commitments to defend human rights and investigations.<sup>3038</sup>

1393. The Office of the Special Rapporteur has also observed with concern the application of criminal figures of incitement to hatred and terrorism against human rights defenders and, in general, people critical of the government. The SRFOE also received information on other cases related to arbitrary arrests against union leaders for alleged political reasons.<sup>3039</sup>

1394. The Office of the Special Rapporteur condemns the fact that the activist José Javier Tarazona, director of the Fundaredes organization, continues to be detained since July 2, 2021. According to the information available, he was charged with the crimes of terrorism, incitement to hatred and treason. Despite the fact that the other human rights defenders who were detained along with him were released on July 2<sup>3040</sup>, José Javier Tarazona remains in detention to this day. The criminal proceedings against Tarazona would be in the oral trial phase and his representation has reportedly denounced a delay in conducting the proceedings.<sup>3041</sup> José Javier Tarazona and his family nucleus are beneficiaries of precautionary measures granted by the IACHR from June 18, 2020, and on October 30, 2022, the IACHR issued a resolution to monitor and modify the precautionary measures with the aim of reflecting the situation of deprivation of liberty of the beneficiary. In particular, the IACHR requested that the State protect the rights to health, personal integrity, and life of Mr. José Javier Tarazona Sánchez, which includes assessing the possibility of adopting alternative measures to prison.<sup>3042</sup>

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<sup>3034</sup> Espacio Público. [Continúa la persecución e intimidación contra defensores de derechos humanos](#). August 26, 2022; El Nacional. January 20, 2022. [Cabelló mostró afiches con el letrero de ‘Se busca’ de varios periodistas](#); IPYS. April 25, 2022. [Esteban Trapiello hostigó a Apevex](#).

<sup>3035</sup> Espacio Público. Informe “Campaña de persecución “1600 enchufados” contra periodistas, defensores de DDHH y miembros de la oposición política en Venezuela”. January 2022. Archive of the Office of the Special Rapporteur.

<sup>3036</sup> Efecto Cocuyo. May 16, 2022. [Lacava demanda por difamación al padre Alfredo Infante y a coordinador de Provea Marino Alvarado](#); Provea. May 16, 2022. [Rafael Lacava demanda por supuesta difamación a Marino Alvarado y Alfredo Infante, defensores de derechos humanos](#).

<sup>3037</sup> EFE. June 23, 2022. [ONG venezolanas se retractan de supuesta difamación a un gobernador chavista](#).

<sup>3038</sup> Carabobo es Noticia. June 24, 2022. [Alfredo Infante y Marino Alvarado llegaron a acuerdo con gobernador Lacava](#); Twitter account of Provea (@\_Provea). [June 23, 2022](#).

<sup>3039</sup> Aporrea. January 15, 2022. [Guayana: Detenido arbitrariamente por el CICPC, el vocero de los trabajadores de MASISA, Jean Mendoza](#); Correo del Caroní. January 17, 2022. [Excarcelan a trabajador de Masisa arbitrariamente detenido desde el sábado](#); Efecto Cocuyo. April 28, 2022. [Excarcelan a sindicalista Eudis Giroi a pocas horas de llegada de comisión de la OIT](#); El Diario. April 26, 2022. [Eudis Giroi: el régimen liberó con medidas cautelares al sindicalista en medio de la visita de la OIT al país](#).

<sup>3040</sup> IACHR. Annual Report 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 902.

<sup>3041</sup> SwissInfo. October 19, 2022. [Juicio a activista venezolano partirá de cero, tras dos meses de proceso](#); SwissInfo. July 25, 2022. [Difieren comienzo del juicio a un activista venezolano detenido hace un año](#); Acceso a la Justicia. No date. [Cronología del caso de la ONG Fundaredes](#).

<sup>3042</sup> IACHR. October 30, 2022. [Resolution 60/22](#). Precautionary Measure No. 258-20 José Javier Tarazona Sánchez regarding Venezuela.

1395. The Office of the Special Rapporteur notes with concern the various operations to arrest social and political activists by agents of the Directorate of Military Counterintelligence (DGCIM) and the Bolivarian National Intelligence Service (SEBIN), which occurred between July 4 and 7, 2022. According to available information, in three days there were detentions under the crimes of “terrorism”, “conspiracy”, and “criminal association” of Gabriel Blanco, trade unionist; of Emilio Negrín, president of the Federation of Workers of the Judiciary; and of Alcides Bracho, Alonso Meléndez, Reynaldo Cortés, and Néstor Astudillo, members of the Red Flag party.<sup>3043</sup> According to the information available, these people played an important role in the mobilizations demanding labor rights that took place throughout the year in Venezuela. In September 2022, SEBIN officials attempted to enter the headquarters of the human rights organization PROVEA, during a press conference with the relatives of the detainees.<sup>3044</sup>

1396. The Office of the Special Rapporteur has also learned of the State's initiative to impose restrictions on the operation and financing of civil society organizations through legal channels. On May 4, 2022, the Permanent Commission on Foreign Policy, Sovereignty, and Integration of the National Assembly released the preliminary draft of the “International Cooperation Law”, which is currently under discussion. The bill contemplates the prohibition, suspension, restriction, or elimination of civil society organizations that “directly or indirectly promote or participate with other associations, organizations, governments, or international organizations, in the application of unilateral coercive measures against the Republic”.<sup>3045</sup> The SRFOE has noted that the initiative uses ambiguous language that could give rise to discretionary interpretations by the authorities and lead to arbitrary cancellations. Likewise, the Office of the Special Rapporteur is concerned about the creation of the Integrated Registration System for non-governmental organizations, the registration of which would be mandatory, and that could prevent, delay or limit the creation or operation of organizations. At the same time, there is concern about the provision that any citizen could request information about the registered organizations, with a detailed specification of their funding sources, which would affect the confidentiality required by the organizations in relation to the causes they promote.<sup>3046</sup>

1397. The Office of the Special Rapporteur has also continued to receive information on the disproportionate use of public force to disperse protests. According to the Venezuelan Observatory of Social Conflict, during the first half of 2021 alone, 52 protests were repressed by state security forces.<sup>3047</sup> Likewise, this Office is concerned about the reports of arrests in the context of protests with the alleged purpose of intimidating and limiting citizen mobilization. According to public information, on February 12, 2022, two citizens were arrested who were trying to put up a banner critical of the government on a walkway in Macut. Both would have been accused of the crimes of incitement to hatred and conspiracy by the Prosecutor's Office.<sup>3048</sup>

1398. Likewise, on June 7, 2022, nine young people were detained in the municipality of Chacao (metropolitan district of Caracas) by members of the Chachao Municipal Police. According to publicly available information, the youths were detained for allegedly vandalizing a municipal mural. Relatives of the detainees affirmed that the whereabouts of the young people were not known for at least 30 hours after their arrest, when five of them were released. The others were only released on June 10, with precautionary measures and, according to the information reported, criminal charges were filed against them.<sup>3049</sup>

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<sup>3043</sup> Provea. July 19, 2022. [Comités Populares de DDHH exigieron ante la Defensoría del Pueblo, libertad para los seis trabajadores detenidos](#); Infobae. July 7, 2022. [El régimen de Maduro detuvo al defensor de derechos humanos Gabriel Blanco: es el séptimo activista detenido en tres días](#).

<sup>3044</sup> Twitter account of Provea (@\_Provea). [September 20, 2022](#).

<sup>3045</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 8, 2022. Press Release 130/22. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge Venezuela to Not Pass International Cooperation Bill](#).

<sup>3046</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. June 8, 2022. Press Release 130/22. [IACHR and Its Special Rapporteurship for Freedom of Expression Urge Venezuela to Not Pass International Cooperation Bill](#).

<sup>3047</sup> OCVS. June 2022. [Conflictividad Social: Venezuela: Primer Semestre 2022](#).

<sup>3048</sup> Crónica Uno. February 15, 2022. [Desde el Frente Amplio interpretan detención de William Echarry y Juan Blanco como mensaje de intimidación](#); Tal Cual. February 14, 2022. [Tribunal en Vargas privó de libertad a dos activistas de Mover por “instigar al odio”](#); Tal Cual. February 17, 2022. [Excrcelaron a los activistas de Mover detenidos por poner una pancarta](#).

<sup>3049</sup> Information sent by Aula Abierta to the SRFOE. Executive Summary: arbitrary detention of university students in Venezuela. June 7, 2022. Archive of the Office of the Special Rapporteur.

1399. In turn, the Office of the Special Rapporteur has received information on restrictions on freedom of artistic expression in Venezuela. This Office stresses that the right to artistic or symbolic expression, to the dissemination of artistic expression, and to access art in all its forms is included in the right to freedom of expression.<sup>3050</sup> The SRFOE observes that the representative Diosdado Cabello, in his program "Con El Mazo Dando", would have used expressions such as "immoral" and "liars" to refer to various international artists. As a result of this stigmatization, at least two concerts have been cancelled. One of the artists stated that he had canceled his concert because he did not feel comfortable with the risks that an event could generate in this context.<sup>3051</sup>

1400. On the other hand, according to the information received by the SRFOE, university autonomy in Venezuela faces different challenges, including budgetary challenges; attacks on university facilities; little possibility of participation of the sector in the design of public policies that affect them; an environment of indirect pressures; and a lack of academic freedom in conducting research.<sup>3052</sup> In 2022, the Legislative Assembly created a "Commission for the formulation of the strategy for the construction of the University Education Law"; according to the information received, one of the objectives of the Commission could include the reform of the current Law on Universities. Likewise, according to the available reports, the process did not have sufficient participation from the university sector and dialogues with civil society.<sup>3053</sup> At the same time, the National Assembly sanctioned the Partial Reform Law of the Decree with Rank Value and Force of Organic Law on Science, Technology, and Innovation, which could restrict the freedom of research in universities by conditioning the granting of public incentives to objectives of the "Plan for the Homeland", whose focus would be close to the interests of the current government.<sup>3054</sup> The Office of the Special Rapporteur has received information that the respective "Plan for the Homeland", in addition to other regulations in force, would contribute to conditioning the exercise of academic freedom, especially those initiatives that could be critical of the Government.<sup>3055</sup>

1401. Likewise, in September, the Superior Court of Justice of the Nation declared inadmissible an appeal for annulment filed by different universities to request that the "ONAPRE instructions" be annulled, due to the violation of the labor rights of university workers. This is an instruction issued last March by the National Budget Office (Onapre), which, according to the universities, would have a negative impact on the remuneration of teachers. Likewise, the court sanctioned the university entities to pay a fine "for fifty (50) times the official exchange rate of the highest value currency, established by the Central Bank of Venezuela." From the organization Aula Abierta, they stated that said ruling could have a chilling effect on the rest of the universities and the public, by sending a message "that there are prohibited topics and actions that should not be exercised before the courts".<sup>3056</sup>

1402. This Office recalls that, as stated in the Inter-American Principles on Academic and University Freedom, "any state interference in the curricula and academic programs must meet the requirements of legality and legitimate purpose within the framework of the American Convention on Human Rights, as well as

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<sup>3050</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Inter-American Legal Framework on the right to freedom of expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Para. 26.

<sup>3051</sup> Espacio Público. September 30, 2022. [Fuera de mi escenario: entretenimiento bajo el ojo del gobierno](#); El País. September 1, 2022. [Juanes cancela un concierto en Caracas después de que Diosdado Cabello lo llame inmoral en público](#); El Nacional. September 29, 2022. [Diosdado Cabello a Olga Tañón: "Hay que cantarle su canción, es mentirosa"](#); Infobae. September 23, 2022. [Luis Fonsi pospuso "hasta nuevo aviso" su concierto en Venezuela luego de las amenazas e insultos de Diosdado Cabello](#).

<sup>3052</sup> ODH-ULA. [Informes mensuales sobre la Situación de Las Universidades en Venezuela](#); January-September 2022. Archive of the Office of the Special Rapporteur.

<sup>3053</sup> ODH-ULA. February 23, 2022. [¿Qué debería contemplar una Ley de Educación Universitaria en Venezuela?](#); Aula Abierta. April 11, 2022. [Estudiantes zulianos rechazan exclusión de actores universitarios en la discusión de una nueva Ley de Universidades](#); Aula Abierta. February 3, 2022. [Estudiantes rechazan la posible reforma a la Ley de Universidades](#).

<sup>3054</sup> Espacio Público. July 4, 2022. [Análisis comparativo: publicación en gaceta de la reforma y proyecto de Ley Orgánica de Ciencia, Tecnología e Innovación](#).

<sup>3055</sup> Aula Abierta. Informe Adoctrinamiento de la Juventud Venezolana e Imposición Ideológica: Especial Referencia a la Situación en la Frontera Binacional de los Estados Zulia y Táchira. October 30, 2022. Archive of the Office of the Special Rapporteur.

<sup>3056</sup> Crónica Uno. September 4, 2022. [TSJ declara inadmisibles dos demandas en contra del instructivo Onapre por considerarlo inexistente](#); Aula Abierta. September 16, 2022. [Sentencias del TSJ contra universitarios son una "respuesta espejo" para quienes pretenden denunciar violaciones a sus derechos](#).



suitability, necessity, and proportionality under the precepts of a democratic society".<sup>3057</sup> Likewise, "the distribution of resources cannot become a tool to attack institutions and academic groups, nor threaten critical thinking" and the "public budget must observe the necessary proportionality so that all higher education institutions can carry out their activities with equal autonomy".<sup>3058</sup>

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

1403. The Office of the Special Rapporteur has observed with particular concern the situation of Venezuelan women, journalists, and activists, who are the target of differentiated attacks based on gender in the exercise of their activities<sup>3059</sup>. Among the information received, the SRFOE learned that the journalist and director of *El Vistazo*, Nilsa Varela, had filed a complaint with the Attorney General's Office for harassment and media and psychological violence against the mayor of El Tigre, three directors of that municipality, and the director of Mundo Oriental, accusing them of "a public campaign carried out through various computer media that can be classified as gender-based violence".<sup>3060</sup> As the journalist pointed out, the individuals denounced undertook "a systematic incitement to hatred" against her since the first quarter of 2022, in relation to her journalistic work.<sup>3061</sup> As far as this Office was able to learn, the campaign included the manipulation of her photos (memes) and accusations that there was speculation about a love affair between the journalist and a former mayor of El Tigre.<sup>3062</sup>

1404. Likewise, according to information received, a councilor from the municipality of Naguanagua described feminist activist Ariana González on her social networks as a "mental scruffy [*saparrastrrosa* (sic)]" and "Peruvian obedience to the dictator," after the activist described certain statements by the official as "sexist". The councilman reportedly deleted the post and made a public retraction hours later.<sup>3063</sup>

1405. The Office of the Special Rapporteur recalls that State officials must publicly and emphatically condemn any attack on women journalists and human rights defenders, and must refrain from making statements that could put them in danger<sup>3064</sup>. The SRFOE emphasizes that respect for and guarantee of the right to freedom of expression requires that the voices of women journalists and human rights defenders –and their interests, needs, and proposals– be heard and taken into account.

1406. Additionally, this Office is concerned about the patterns of exclusion from public discourse that prevail over indigenous peoples, motivated –among other aspects– by the lack of Internet access for these groups. In this context, the SRFOE received serious information about the murder of four indigenous people from the Yanomami community in Parima, a border region with Brazil, during a conflict over Wi-Fi wireless network connectivity.<sup>3065</sup>

1407. The Office of the Special Rapporteur also underlines the challenges for the sustainability of the media in Venezuela, especially those that carry out local journalism in cities outside the capital. According to research

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<sup>3057</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights. [Inter-American Principles on Academic Freedom and University Autonomy](#). 2021.

<sup>3058</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights. [Inter-American Principles on Academic Freedom and University Autonomy](#). 2021.

<sup>3059</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. July 29, 2022. Press Release 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](#).

<sup>3060</sup> El Pitazo. August 15, 2022. [Periodista Nilsa Varela denunció al alcalde de El Tigre por violencia de género](#); Espacio Público. August 16, 2022. [Periodista Nilsa Varela denuncia a alcalde y funcionarios de El Tigre por acoso y hostigamiento](#).

<sup>3061</sup> Diario El Vistazo. August 15, 2022. [Periodista Nilsa Varela denuncia a Sandino Paraqueima, al alcalde Ernesto Paraqueima y tres directores de la Alcaldía de El Tigre por violencia de género](#).

<sup>3062</sup> Twitter account of SNTP (@sntpvenezuela). [May 30, 2022](#); IPYS. August 15, 2022. [Diario El Vistazo y su directora víctimas de campañas de agravios nuevamente](#).

<sup>3063</sup> Monitoreamos. October 4, 2022. [Concejal de Naguanagua, Freddy Millán, denigró a la activista Ariana González](#); Espacio Público. October 6, 2022. [Concejal de Naguanagua hostigó a activista Ariana González por cuestionar a un precandidato presidencia](#).

<sup>3064</sup> The United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. May 3, 2022. [Joint Declaration on Freedom of Expression and Gender Justice](#).

<sup>3065</sup> El País. March 24, 2022. [Yanomami: Cuatro indígenas de la Amazonia venezolana mueren a manos de militares por un conflicto sobre el wifi](#); Provea. March 22, 2022. [Amazonas: militares venezolanos asesinan a cuatro indígenas Yanomami en el Alto Orinoco](#).

conducted by IPYS Venezuela in 2020, of the 317 municipalities in the country that had been studied, 90 of them represent "news deserts" - that is, municipalities where the coverage of information through newspapers, news sites, radio stations, or television channels is insufficient; and 122 are "moderate deserts." The states of Táchira and Zulia, in addition to other border areas and areas with the presence of indigenous peoples, were the territories where the most local information gaps were found. The IPYS study concluded that more than 5,271,753 people live in territories where not enough local information is produced<sup>3066</sup>. The Office of the Special Rapporteur notes, on the one hand, that the restrictions on local radio broadcasting registered in the section "Journalism and democracy" of this report, including the closure of radio stations in the framework of administrative processes conducted by CONATEL, contributes to the intensification of this scenario. This Office recalls that the right to freedom of expression requires States to adopt measures to guarantee its exercise under conditions of equality and non-discrimination. This includes the duty to "remove the obstacles that prevent certain social sectors from accessing the media; and, at the same time, actively promote the inclusion of disadvantaged or currently marginalized groups in the media"<sup>3067</sup>.

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

1408. In 2022, the Office of the Special Rapporteur has monitored cases of application of the Hate Law for publications made on social networks with messages that question the Government. Likewise, it has continued to receive reports on the blocking of websites by different internet providers of the media and organizations considered to be in opposition to the Government. On the other hand, the SRFOE received information that digital platforms had deactivated profiles of people who acted synchronously in the dissemination of ideas favorable to the Government. Likewise, infrastructural difficulties contribute to the closure and deterioration of the digital civic space in Venezuela. On the other hand, this Office learned about the creation of a messaging application by the Government that, although it would facilitate the contact of citizens with government entities, has generated alerts about the security of shared data, especially in a context of complaints about alleged surveillance of opposition members by state bodies.

1409. In 2022, this Office has learned of the application of the Hate Law against citizens who question the Government on social networks. For example, a man was arrested in the state of Apure for "incitement to hatred" against the Bolivarian National Police, after posting a video on social networks in which he criticized police action; likewise, they would have retained his cell phone<sup>3068</sup>. In addition, a citizen was detained in Aragua de Barcelona by officials of the Bolivarian National Guard for allegedly "incitement to hatred", after posting statuses on WhatsApp criticizing said body and the municipality's mayor's office, which the GNB would have described as "vilifications and curses against security agencies and state institutions" in the arrest report<sup>3069</sup>. Likewise, comedian Olga Mata was reportedly arrested on charges of "incitement to hatred" after posting a humorous video on the TikTok social network in which she referred to officials. Olga Mata was reportedly released under precautionary measures, she had to delete the video from her social networks and record another video apologizing.<sup>3070</sup>

1410. The Office of the Special Rapporteur has also registered the continuity of reports on violations of the principle of net neutrality, characterized especially by the blocking of websites of voices considered to be in opposition to the Government, including newspaper pages.<sup>3071</sup> For example, in February the operators Cantv, Digitel, Movistar, Inter, NetUno and Supercable reportedly held a block against the pages of *Efecto Cocuyo*, *EVTV Miami*, *Crónica Uno*, and *TVV Noticias*. In this sense, the Office of the Special Rapporteur highlights that although blockades were already operating on *Efecto Cocuyo* and *EVTV Miami*, this year new blockades were applied

<sup>3066</sup> IPYS. 2020. [Atlas del Silencio](#).

<sup>3067</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of expression standards for the transition to an open, diverse, plural, and inclusive digital television](#). OEA/Ser.L/V/II. IACHR/RELE/INF.13/15. March 9, 2015. Para. 91.

<sup>3068</sup> Espacio Público. June 23, 2022. [Detienen a un ciudadano en Apure por grabar crítica contra la PNB en TikTok](#); Punto de Corte. June 20, 2022. [Detienen a hombre por lanzar críticas a la PNB a través de Tik Tok](#).

<sup>3069</sup> Efecto Cocuyo. June 16, 2022. [Detienen a joven en Anzoátegui por criticar a funcionarios de la GNB a través de WhatsApp](#); Punto de Corte. June 14, 2022. [Detienen a un hombre por lanzar críticas a la GNB a través de WhatsApp](#).

<sup>3070</sup> Crónica Uno. April 19, 2022. [Olga Mata, imputada por incitar al odio en un video de TikTok, graba disculpa a petición del MP](#); El País. April 20, 2022. [Olga Mata: Venezuela detiene a una mujer de 72 años por hacer un chiste sobre la muerte de Maduro en Tik Tok](#).

<sup>3071</sup> CPJ. April 14, 2022. [Cómo el Gobierno de Venezuela utiliza a los proveedores privados de Internet para limitar el acceso a las noticias](#).

through other operators.<sup>3072</sup> Likewise, *El Nacional* denounced the blocking of its website by Cantv, Inter, Digitel, and Movistar, on a date close to the threat made by the representative Diosdado Cabello to "go after the page" of the newspaper as part of a process of execution of a court decision for compensation.<sup>3073</sup> In June, the website of the NGO Justicia, Encuentro y Perdón was reportedly blocked by Cantv and Movistar.<sup>3074</sup> As has been highlighted in previous years, these practices are facilitated, on the one hand, by the control of the provision of Internet access services by state companies and, on the other, by the regulation of operators in Venezuela, which allows attempts to control the circulation of information by decisions of CONATEL.

1411. In the face of blockades, the sustainability of the media depends on newspapers making considerable efforts to try to circulate their stories. For example, *Efecto Cucuyo* would have begun to distribute content through WhatsApp and Telegram.<sup>3075</sup> The Alatakaa podcast, a podcast produced weekly by *El Pitazo* and intended for journalistic coverage in the Wayuu language, is also distributed by WhatsApp.<sup>3076</sup> The digital space also became a space for closed radio stations by order of CONATEL, which has resulted in the migration of these media to the digital format, many times with considerable economic losses.<sup>3077</sup>

1412. As the SRFOE has previously highlighted, freedom of expression applies to the Internet in the same way as to all media. Restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they must be provided for by law and pursue a legitimate purpose recognized by international law and be necessary to achieve said purpose (the "tripartite" test).<sup>3078</sup> In the digital sphere, users have the right to use, send, receive, or offer any content, application, or legal service without the traffic being conditioned, directed, or restricted by means of blocking, filtering, or interference that does not comply with the tripartite test.<sup>3079</sup> In the same way, this Office recalls that subsequent liabilities for the exercise of freedom of expression online under the figure of "incitement to hatred" can only be legitimate if they follow international standards of freedom of expression, particularly those that deal with non-violent speech protected by international human rights law.

1413. In addition to the blocks, newspaper pages also face other obstacles to stay online. For example, on June 4, *El Universal's* Twitter page was hacked.<sup>3080</sup> Likewise, throughout the year, the newspaper *Tal Cual*, the *Primer Informe* page, and the digital outlet *Alberto News* were victims of DDoS attacks with the aim of taking their pages off the air.<sup>3081</sup>

1414. The Office of the Special Rapporteur learned of the launch of the "Ven-App" application by the Government, which would allow sending messages, sharing files, and creating groups. The application also allows, through "Line 58", citizens to connect with government agencies to make claims about the provision of public services.<sup>3082</sup> According to reports from civil society organizations, the application could present risks to the rights of citizens, especially due to permissions to access personal data, geolocation, calendars, and cameras.<sup>3083</sup>

<sup>3072</sup> VE Sin Filtro. May 3, 2022. [Día Mundial de la Libertad de Prensa: VSF denuncia perversa política de censura contra medios de comunicación y exige garantías para el acceso universal a Internet.](#)

<sup>3073</sup> El Nacional. February 11, 2022. [El Nacional sufre bloqueo en proveedores de Internet del país.](#) El Pitazo. February 12, 2022. [Ve Sin Filtro denuncia bloqueo a El Nacional tras amenazas de Diosdado Cabello.](#)

<sup>3074</sup> VE Sin Filtro. June 22, 2022. [Bloquean en Venezuela el sitio web de la ONG Justicia, Encuentro y Perdón.](#)

<sup>3075</sup> Freedom House. 2022. [Venezuela: Freedom on the Net 2022 Country Report.](#)

<sup>3076</sup> Facebook account of El Pitazo. [June 19, 2022.](#)

<sup>3077</sup> Espacio Público. June 5, 2022. [La radio en Venezuela o la censura normalizada.](#)

<sup>3078</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet.](#)

<sup>3079</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and Internet.](#) OEA/Ser.L/V/II. IACHR/RELEA/INF. 11/13. December 31, 2013. Para. 25.

<sup>3080</sup> IPYS. June 21, 2022. [Hackearon cuenta de Twitter de El Universal.](#)

<sup>3081</sup> Tal Cual. February 9, 2022. [Ataques y bloqueos a TalCual y Primer Informe por informar sobre "megarrumba" en un tepuy;](#) IPYS. February 18, 2022. [Portales de TalCual y Primer Informe fueron víctimas de limitaciones;](#) Voces del Sur Unidas. October 14, 2022. [Portal de Alberto News fue víctima de ataque DDoS - Voces del Sur.](#)

<sup>3082</sup> Ven App. No date. [Que és?;](#) VTV. May 20, 2022. [Red Social VenApp ofrecerá Línea 58 para canalizar denuncias ciudadanas.](#)

<sup>3083</sup> Freedom House. 2022. [Venezuela: Freedom on the Net 2022 Country Report;](#) SwissInfo. June 3, 2022. [Ven App, la red social venezolana entre "Gobierno digital" y control de datos.](#)

1415. The facts just mentioned are inserted in a context of complaints about surveillance practices by the Government. In its most recent report on transparency in communications, Telefónica warned that more than 1.5 million lines of its users would have been subject to interception in 2021, which corresponds to approximately 20% of its users.<sup>3084</sup> Likewise, the report of the United Nations independent international fact-finding mission on the Bolivarian Republic of Venezuela, published in September 2022, identified that the General Directorate of Military Counterintelligence has historically collected “information on target persons through leads, military sources, a network of informers, the infiltration of sectors of the opposition or telephone and digital surveillance, often without any judicial order”.<sup>3085</sup> Such acts would allow the activation of operations to detain “dissidents and opponents of the Government, whether real or perceived as such, based on criteria such as their alleged participation in plots against the Government, their leadership roles or their potential leadership, their roles within the political opposition, their public criticism of the Government and, on occasions, whether they could be extorted”.<sup>3086</sup> Similarly, SEBIN would also have monitored “civilians, real opponents, or perceived as such by the Government and other high-profile critical individuals” through different methods, which were lengthened in time the higher the profile of the person being monitored.<sup>3087</sup> Among them opposition politicians, journalists and people working for student organizations, as well as student and protest leaders.<sup>3088</sup>

1416. As the SRFOE has previously stated, “respect for freedom of expression online presupposes the privacy of communications. Indeed, without a private space, free from arbitrary interference by the State or individuals, the right to freedom of thought and expression cannot be fully exercised”.<sup>3089</sup> For this reason, States must avoid the implementation of any measure that arbitrarily or abusively restricts the privacy of individuals.<sup>3090</sup> The duty of the State includes protecting the privacy of digital communications, as well as the confidentiality, integrity and availability of data and computer systems.<sup>3091</sup>

1417. On December 2, 2021, Twitter announced that it removed 227 accounts in Venezuela for amplifying accounts, hashtags, and topics in support of the Venezuelan government and its official narratives.<sup>3092</sup> The “Venezuelan Anti-Blockade Observatory”, an organization linked to the Ministry of People’s Power for Economy, Finance and Foreign Trade, stated that the measure was arbitrary and that it shows that the platform is “categorizing media and users according to their own interests”.<sup>3093</sup>

1418. The Office of the Special Rapporteur also observes that Internet access in Venezuela continues to be subject to significant infrastructural obstacles. There are constant reports of service failures or signal drops. Also, the cost of access would remain high.<sup>3094</sup> According to the organization Freedom House, “Venezuela’s economic crisis, marked by several years of recession and hyperinflation, has affected the country’s electrical and telecommunications infrastructure and the quality of Internet access. The country’s dilapidated infrastructure suffers from failure, theft, and vandalism, resulting in frequent blackouts and poor connection speeds”.<sup>3095</sup> Based on the public information available, this Office of the Special Rapporteur has verified that

<sup>3084</sup> Fundación Telefónica. June 2022. [Informe de Transparencia de las Comunicaciones 2021](#). P. 51.

<sup>3085</sup> OHCHR. September 20, 2022. [Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela](#).

<sup>3086</sup> OHCHR. September 20, 2022. [Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela](#).

<sup>3087</sup> OHCHR. September 20, 2022. [Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela](#).

<sup>3088</sup> OHCHR. September 20, 2022. [Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela](#).

<sup>3089</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. March 15, 2017. Para. 183.

<sup>3090</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. March 15, 2017. Para. 185.

<sup>3091</sup> United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression. Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. [Joint declaration on surveillance programs and their impact on freedom of expression](#).

<sup>3092</sup> Twitter Blog. December 2, 2021. [Disclosing state-linked information operations we’ve removed](#).

<sup>3093</sup> Observatorio Venezolano Antibloqueo. December 2, 2021. [Twitter bloquea 277 cuentas que apoyan al Gobierno de Venezuela](#).

<sup>3094</sup> In this sense, the Office of the Special Rapporteur recorded the different cases that were monitored by VE Sin Filtro, according to alerts published on its Twitter page throughout the year. [Twitter account of VE sin filtro \(@vesinfiltro\)](#).

<sup>3095</sup> Freedom House. 2022. [Venezuela: Freedom on the Net 2022 Country Report](#).

the plans provided by CANTV, the country's main operator, would have values of around 3 to 15 dollars – according to a September 2022 quote– for a 4mbps connection up to 22mbps, in a country whose minimum wage is estimated at approximately 16 dollars a month, according to public information.<sup>3096</sup> Since 2020, CONATEL has not published reports on the telecommunications sector; while the latest data released by the agency reported a penetration rate of 53.66%.<sup>3097</sup> In March 2022, the OVSP reported that only 36.1% of people's homes would have fixed internet.<sup>3098</sup>

1419. Internet access is a *sine qua non condition* for the effective exercise of human rights.<sup>3099</sup> The Office of the Special Rapporteur recalls that the principle of universal access to the network goes hand in hand with other duties on the part of the State, such as "progressively promoting access to the technology necessary for its use and to the greatest possible amount of information available on the net; the duty to remove arbitrary barriers to access to infrastructure, technology, and information online; and the duty to adopt measures of positive differentiation to allow the effective enjoyment of this right to persons or communities that require it due to their circumstances of marginalization or discrimination".<sup>3100</sup>

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<sup>3096</sup> El Tiempo. September 11, 2022. [Conozca las nuevas tarifas del servicio de internet Aba tras aumento de Cantv](#); SwissInfo. September 3, 2022. [El salario mínimo en Venezuela, a la inversa del crecimiento económico](#).

<sup>3097</sup> CONATEL. 2020. [Estadísticas Anuales y Trimestrales](#).

<sup>3098</sup> OSVP. March 18, 2022. [OVSP: 36,1% de los consultados en doce ciudades de Venezuela cuenta con Internet para el hogar](#).

<sup>3099</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. March 15, 2017. Para. 32.

<sup>3100</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF.17/17. March 15, 2017. Para. 7.



### CHAPTER III: CONCLUSIONS AND RECOMMENDATIONS

1. As on previous occasions, the Office of the Special Rapporteur concludes its Annual Report with a chapter of conclusions and recommendations. The purpose of this practice is to establish a fluid dialogue with the member states that will enable the Americas to set an example of respect, guarantee and promotion of the right to freedom of expression.

#### **A. Journalism and democracy**

2. The Office of the Special Rapporteur notes with extreme concern the persistence of high levels of violence against journalists in the region. In 2022, at least 39 journalists, belonging to 10 of the 35 OAS Member States monitored by the Rapporteurship, have been murdered in the Americas for reasons that could be linked to their profession, according to reports from international and local organizations working in defense of press freedom. The murders were reported in Brazil (3), Chile (1), Colombia (4), Ecuador (2), United States (1), Guatemala (1), Haiti (8), Honduras (3), Mexico (15) and Paraguay (1).

3. This is the highest figure recorded by RELE in the last 24 years, since the publication of its first annual report in 1998. In this regard, the Rapporteurship warns about this escalation of violence against journalists, calls for reflection and awareness of the serious implications that this has, and reiterates that the murder of journalists and communicators is the most extreme form of censorship and cannot be tolerated in democratic societies. The Rapporteurship also notes with concern the lack of progress in judicial investigations into the murders of journalists, which contributes to widespread self-censorship of the press.

4. While the murder of journalists is the most extreme form of censorship, violence against the press in Mexico has also manifested itself through other forms, such as threats and intimidation against journalists and attacks on media facilities.

5. RELE recognizes that, in some countries of the region, the phenomenon of violence against journalists is largely associated with the increase of violent organized crime groups, which often have a greater incidence in areas far from large urban centers or in border cities. As the report "Zonas silenciadas: Regiones de alta peligrosidad para ejercer la libertad de expresión" (Silenced Areas: Highly dangerous regions for freedom of expression) points out, in those regions where criminal organizations have a strong presence, journalists are caught in the crossfire and, on many occasions, in order to protect their lives or physical integrity, and even to remain in the profession, they must align themselves with the interests of some power, which means ceasing to report and remaining silent. Despite the efforts of many States in the hemisphere to curb this escalation of violence against journalists and media workers, the Office of the Special Rapporteur continues to document high numbers of murders year after year and notes that significant challenges persist - some of them structural in nature - to ensure that there is effective justice and adequate reparation for the victims.

6. Likewise, RELE considers it crucial that, in the actions undertaken to prevent, protect, investigate, prosecute and punish crimes against the press, the States address the specific needs and risks suffered by women journalists because of their gender. As has been previously highlighted by the IACHR and its Rapporteurship, the social constructions of gender and the historical discrimination against women determine that the patterns of violence that persist in the region against the press have particularities and/or a differentiated impact on women journalists and media workers.

7. The Rapporteurship also highlights that in 2022 there were documented attacks and restrictions on the press in the context of coverage of social protests; activation of judicial mechanisms against journalists for reasons related to their journalistic work on matters of public interest; obstruction of access to public information, coverage of official events and press conferences; among others. In countries facing a breakdown of the rule of law and processes of democratic erosion, the Rapporteurship also observed irregular detentions of journalists, summons to interrogations, confiscation of work equipment, cancellation of news spaces and media outlets, and even prison sentences for reporting and questioning the Government. In addition to the renunciation of independent journalism, the Rapporteurship is extremely concerned that the forced exile of

journalists is increasingly becoming one of the main options for dealing with repression in some countries in the region.

8. On the other hand, this Office warns that the aforementioned facts are inserted in a context of constant stigmatization by public officials and leaders towards the press, which threatens their integrity and increases the risk inherent to their work. This type of stigmatizing and discrediting statements have come from government authorities as well as from leaders of different political sectors, and in some cases also from other actors.

9. In relation to this point, as in previous years, the Office of the Special Rapporteur recommends to the member states:

- A. Adopt adequate prevention mechanisms to avoid violence against communicators, including public condemnation of any act of aggression, omitting any statement that may increase the risk to journalists, respect for the right of journalists to keep sources of information confidential; the training and education of public officials, especially police and security forces, and, if necessary, the adoption of behavioral guides or guidelines on respect for freedom of expression, the determination of appropriate sanctions proportionate to the harm committed, as well as the preparation of accurate statistics on violence against journalists.
- B. Adopt the necessary measures to guarantee the safety of those who are subject to a special risk due to the exercise of their right to freedom of expression, whether the threats come from agents of the State or from private individuals. The protection measures or programs must be adequate and sufficient to fulfill their purpose, in accordance with what is expressed in that report.
- C. Conduct diligent, impartial and effective investigations into murders, assaults, threats and acts of intimidation committed against journalists and media workers, in accordance with what is expressed in this report. This implies the existence of special investigation units and protocols, as well as the identification and exhaustion of all possible criminal hypotheses linking the aggression to the professional practice of the victim.
- D. To try by impartial and independent courts all those responsible for murders, assaults, threats and acts of intimidation due to the exercise of freedom of expression, to remove legal obstacles to the investigation and punishment of such crimes, to ensure the widest possible participation of the victims and their families in the investigation and judicial proceedings, as well as adequate reparation, and to eliminate gender barriers that hinder access to justice.
- E. Adopt the necessary measures so that those who work in the media and had to be displaced or exiled due to being in a situation of risk can return to their homes in safety. When it is not possible for these persons to return, States should adopt measures so that they can remain in the place of their choice in dignified conditions, with security measures and the necessary economic support to maintain their work and family life.
- F. Adopt specific, adequate and effective measures to prevent attacks and other forms of violence perpetrated against women journalists and to prosecute and punish those responsible. The State should adopt effective measures to promote the reporting of violence against women journalists and to combat the impunity that characterizes these crimes.
- G. Promote the repeal of laws that enshrine *desacato*, regardless of the form in which they are presented, given that these norms are contrary to the American Convention and restrict public debate, an essential element of democratic functioning.
- H. Repeal criminal defamation laws and, in particular, refrain from using criminal prosecutions to protect honor and reputation when disseminating information on matters of public interest, on public officials or on candidates for public office. The protection of the privacy or the honor and reputation of public officials or persons who have voluntarily taken an interest in matters of public interest should be guaranteed only through civil law.

- I. Promote the incorporation of Inter-American standards into civil legislation so that civil proceedings brought against persons who have made statements about public officials or matters of public interest apply the standard of actual or actual malice, in accordance with Principle 10 of the Declaration of Principles, and are proportionate and reasonable.
- J. Promote the modification of ambiguous or vague criminal laws that limit freedom of expression in a disproportionate manner, such as those designed to protect the honor of ideas or institutions, in order to eliminate the use of criminal proceedings to inhibit free democratic debate on all matters of public interest.
- K. Refrain from using public power to punish or reward media and communicators, in relation to their editorial line or the coverage of certain information, either through the discriminatory and arbitrary allocation of official advertising or other indirect means aimed at impeding communication and the circulation of ideas and opinions.
- L. Encourage democratic debate through declarations, practices and public policies that promote tolerance and respect for all people, on an equal footing, regardless of their thoughts or ideas.
- M. Urge state authorities to refrain from making public statements or using state media for public campaigns that may encourage violence against individuals because of their opinions. In particular, avoid statements that may stigmatize journalists, media and human rights defenders.
- N. Eliminate any regulation that enables prior censorship by any state body, as well as any prior conditioning that may imply censorship of freedom of expression, such as prior requirements of truthfulness, timeliness and impartiality in information.
- O. Adopt legislation to regulate state powers of control and oversight, and the allocation of public goods or resources directly or indirectly related to the exercise of freedom of expression. At this point, the task is to adjust the institutional frameworks to two fundamental purposes: to prevent the possibility of state powers being used to reward or punish the media according to their editorial line and, on the other hand, to promote pluralism and diversity in the public debate.
- P. Review its legislation to establish the limits to the power to monitor private communications, its necessity and proportionality, in accordance with the universal rights of individuals and the principles of international law that have been included in this report.
- Q. Ensure that the public has access to information on private communications surveillance programs, their scope and the controls in place to ensure that they cannot be used arbitrarily. In any case, States should establish independent control mechanisms capable of ensuring transparency and accountability over these programs.
- R. Refrain from sanctioning journalists, members of the media or members of civil society who have access to and disseminate classified information on this type of surveillance programs, considering it to be in the public interest. Similarly, confidential sources and materials related to the disclosure of classified information should be protected by law.

## **B. Freedom of expression, Rule of Law and democratic institutions**

10. 2022 was also a year marked by protests and demonstrations in different parts of the region. The Special Rapporteurship observed with concern the excessive use of police force to disperse protests, which in some cases resulted in injuries, detentions and deaths.

11. The Rapporteurship followed with particular concern the situation in Peru, where the worsening of social tensions and restrictions on the exercise of freedom of expression in the context of social protests have been observed. Likewise, in Bolivia, the challenges to the guarantees for the exercise of the right to freedom of expression, assembly and association are framed in a context of tension, fragmentation of the social fabric and serious signs of deterioration of public debate, which is rooted in processes of discrimination and racism. The

conflicts surrounding the Civic Strike in Santa Cruz are examples of these social tensions, where both the excessive use of force and acts of violence by some individuals in the context of demonstrations have been reported.

12. In Canada, the first two months of the year were marked by mass demonstrations against COVID-19 vaccination mandates and pandemic restrictions; Ottawa, the Canadian capital, was the epicenter of these protests for three weeks. The disruption of public order reportedly led the federal government to declare, for the first time in history, a state of emergency. In the context of these demonstrations, the Rapporteurship received reports that several journalists were threatened and harassed while covering the protests in Ottawa, but also in other parts of the country.

13. RELE also documented information on the development of social protests in Panama, in protest of the high cost of living, where alleged repressive acts against demonstrators and journalists were denounced. On the other hand, in June, the Inter-American Commission on Human Rights and its Office of the Special Rapporteur for Freedom of Expression expressed their concern about the worsening of social tensions in Ecuador within the framework of the National Strike in Ecuador. This Office also learned of reports of human rights violations in the context of social protests in the province of Jujuy, Argentina. According to public information, on March 3, at least seven demonstrators were allegedly arrested by the police during a demonstration to demand food for soup kitchens and soup kitchens, and charged with the alleged crime of minor and serious injury to the police, assault and resistance to authority, and obstruction of transport and services. The individuals were released a week later and, according to public complaints, were allegedly subjected to cruel, inhuman and degrading treatment while in detention. Reports also indicated that several people, both demonstrators and police officers, were injured in the violent clashes during the protests.

14. In Brazil, decisions of the Federal Supreme Court determined that security force agents should adopt all necessary measures to guarantee the liberation of roads in the face of roadblocks carried out by people protesting after the results of the 2022 elections and - according to decisions of the Federal Supreme Court itself - supporting claims against the integrity and legitimacy of the Brazilian electoral system. Since October, the use of tear gas and other allegedly non-lethal artifacts against demonstrators obstructing roads, whether by blockades, highways or urban and local roads, has been recorded.

15. In Chile, RELE received information on various acts of violence against journalists covering social protests in Santiago de Chile. On May 1, journalist Francisca Sandoval of the local community media *Señal 3 La Victoria*, was shot in the face by a private individual while covering a Workers' Day protest in Barrio Meiggs, in the center of the Chilean capital<sup>[1]</sup>. The journalist died on May 12, after being hospitalized as a result of the attack. During the protest, *Radio 7* reporter Fabiola Moreno and *Prensa Piensa* community media reporter Roberto Caro were also shot and wounded.

16. In the United States, this Office continued to observe attacks against journalists in the context of social protests; most of the attacks recorded by this Office during the year were reportedly in the context of the protests against the repeal of *Roe v. Wade* and the demonstrations in Puerto Rico over the lack of electricity on the island.

17. The Rapporteurship also recorded the development of protests in Caribbean countries, such as Antigua and Barbuda; in the Bahamas, where demonstrations led by the *Bahamas Unified Bus Drivers Union* were reported; in Barbados, where demonstrations were observed by nurses from the *United Workers Union (UWU)* demanding better working conditions and a solution to the shortage of personnel on the island; in Guyana; among others.

18. In Haiti, several reports indicate that since the assassination of former President Jovenel Moïse on July 7, 2021, the country has been in an escalation of violence and humanitarian crisis, which has been aggravated by the economic rise of vital products and which would have provoked protests especially during September and October 2022.

19. On the other hand, in its monitoring of issues related to freedom of expression and its structural relationship with the rule of law and democratic institutions, RELE received information on obstacles to the

full exercise of the right of access to public information, for example in Bolivia, Costa Rica, Panama, Peru, Dominican Republic, and in various Caribbean countries. In Venezuela, one year after the "Law of Transparency and Access to Information of Public Interest" came into force, the organization Espacio Público disclosed that out of 75 requests for access to information submitted to different State bodies, only 62 were received and, of these, 57 were not answered. Only 2 were answered in an adequate manner.

20. The Office also documented several legislative initiatives that could have a negative impact on the right to freedom of expression. In Cuba, on May 15, the National Assembly approved a new Penal Code whose objective would be to "modernize" criminal legislation and update it in accordance with the 2019 Constitution. In this regard, the IACHR and the Office of the Special Rapporteur expressed concern about the creation of criminal definitions that could be used to criminalize the legitimate exercise of freedom of expression, assembly and association.

21. In El Salvador, in the context of the emergency regime declared by the Government, the Legislative Assembly - at the initiative of the executive branch - approved reforms to the Penal Code and the Law for the Prohibition of Maras, Gangs, Groups, Associations and Organizations of a Criminal Nature. The Minister of Justice and Security stated that the purpose of the reform to the Law for the Prohibition of Gangs was to "repress and dissuade the individual from illegitimately using the right to freedom of expression" in a way that could "directly affect public order". According to available information, the reforms were approved on the same day of their presentation, without further parliamentary deliberation. On April 13, 2022, the Rapporteurship issued a press release in which it warned about the risks of severe criminalization of legitimate exercises of freedom of expression presented by the criminal reforms; and called on the State to adapt the legislation to the Inter-American human rights standards on freedom of expression.

22. In Guatemala, Decree 39-2022 created the Law for Prevention and Protection against Cybercrime, approved on August 4, 2022 by the Congress, whose objective was "to protect the personal data of Guatemalans, strengthen the rules of social-digital coexistence in the country, update national legislation in this new technological era and the criminalization of cybercrime, computer fraud and the protection of personal data on the Internet". The norm was questioned by civil society organizations and specialists, who alleged imprecision and vagueness in the normative text; the introduction of restrictive provisions to the right of access to public information; the violation of the right to reserve sources, among other points that they considered incompatible with the Constitution. A few weeks later, on August 24, the Congress decided to shelve this decree, after a series of observations and objections presented by deputies.

23. In terms of academic freedom, RELE learned that university autonomy in Venezuela faces various challenges, including budgetary challenges; attacks on university facilities; limited possibility for the sector to participate in the design of public policies that affect them; and an environment of indirect pressures and lack of academic freedom in the conduct of research.

24. On the other hand, in the United States, the Office of the Special Rapporteur received reports indicating an increase in literary censorship in the United States, mainly in schools. According to public reports, between July 2021 and June 2022, the availability of books in school libraries in the United States would have been significantly reduced, due to the increasing prohibition of various literary works because of their content. In this period, according to the Rapporteurship, at least 2,532 books would have been banned, including 1,648 individual works. Analyses conducted by civil society organizations and the media indicate that the vast majority of banned books were related to LGBTQI+ people and issues, anti-racism, sexual and reproductive rights and sex education, and some perspectives of social activism. Currently, according to a report by *PEN America*, such actions would have been recorded in 138 of the approximately 13,000 school districts in 32 of the 50 states, affecting access to information for about four million of the approximately 56 million students in more than five thousand of the approximately 130,000 schools, according to available information. Likewise, such measures would have affected works by at least 1,261 authors, 290 illustrators and 18 translators between 2021 and 2022. According to the reported data, from July 2022 to date, at least 139 additional bans would have been filed.

25. In relation to this point, as in previous years, the Office of the Special Rapporteur recommends to the member states:



- A. Guarantee the legitimate exercise of social protest and prevent the application of disproportionate restrictions that could be used to inhibit or repress critical or dissident expressions. In order to be compatible with international human rights obligations, any national regulation affecting the right to social protest must comply with requirements of legality, necessity and proportionality;
- B. To initiate the necessary legislative reforms in order to eliminate from the legal system prior authorization or permit requirements for demonstrations and protests in public spaces, and to expressly establish a general presumption in favor of the exercise of this right;
- C. Ensure the protection of individuals and refrain from stigmatizing or stereotyping demonstrators and their demands, avoiding making generalizations based on the behavior of particular groups or isolated events. If security forces must act in a demonstration, they should use the safest and least harmful measures to the rights of individuals. The response of the security forces should be oriented to the protection and facilitation of rights and not to their repression. The general principles on the use of force, applied to the context of protests and demonstrations, require that the management of security operations be carefully and thoroughly planned by persons with specific experience and training for this type of situation.
- D. Within the framework of the positive obligations to guarantee the right and protect those who exercise it and third parties, States must establish specific rules and protocols for the security forces acting in situations of social protest and public demonstrations. These directives should be aimed at ensuring that police officers act with the certainty that their obligation is to protect the participants in a public meeting or demonstration or gathering, insofar as the exercise of a human right is involved.
- E. Ensure that firearms are excluded from the devices used to control social protests. Prohibiting the carrying of firearms and lead ammunition by officials who may come into contact with protesters has proven to be the best measure to prevent lethal violence and deaths in the context of social protests. The operations may contemplate that in some place outside the radius of action of the demonstration, firearms and lead ammunition are available for exceptional cases in which a situation of violence arises that warrants their use. In this extreme case, there must be explicit regulations about who has the authority to authorize their use and the ways in which this authorization is duly documented.
- F. Continue enacting laws that allow effective access to information and complementary regulations that ensure its adequate implementation, in accordance with international standards in this area.
- G. Effectively guarantee, both de jure and de facto, habeas data to all persons, as an essential element of freedom of expression and of the democratic system.
- H. To promote the effective and efficient implementation of the rules of access to information, adequately training public officials and educating citizens in order to eradicate the culture of secrecy and provide citizens with the tools to effectively monitor the functioning of the state, public management and control of corruption, which are essential in the democratic process.
- I. Strengthen the institutional structure for overseeing the implementation of laws on access to public information, in accordance with the highest standards in this area, such as those adopted by the OAS General Assembly in its Resolution AG/RES. 2607 (XL-O/10), through which it adopts the "Model Inter-American Law on Access to Information".
- J. Promote the mass dissemination of information on women's human rights and the ways to enforce them, the protection mechanisms available to women potentially at risk of suffering violence and the ways to access them, the free legal assistance programs available to women victims of violence and discrimination, and the other mechanisms for assistance in these matters.
- K. Intensify efforts to move toward the effective implementation of comprehensive systems for the collection of information on discrimination and violence against women that incorporate information from all state bodies with competence in this area, especially the judicial systems. Based on the

information collected - complete statistics on violence and discrimination against women, as well as other kinds of quantitative and qualitative information on the subject. Such statistics should be updated periodically and should include information disaggregated at least by sex, gender, age, race, ethnicity, socioeconomic status and disability status, so as to build an accurate picture of the specific ways in which violence and discrimination affect the most vulnerable groups among women. Informally publish and disseminate the statistical information produced.

- L. Establish systematic training policies for state officials, particularly judicial officials, on international standards regarding access to information, violence and discrimination against women. Likewise, train civil society organizations in the use of the mechanisms available to make requests for information to the State.
- M. To observe, in its policies and decisions, the Inter-American Principles on Academic Freedom and University Autonomy; and to evaluate the adoption of measures that incorporate these standards into its domestic law.
- N. To provide protection for freedom of artistic expression in accordance with Inter-American standards.

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

26. The Rapporteurship observes that obstacles persist for the effective enjoyment of the right to freedom of expression of various vulnerable groups. Particularly, there are challenges for their realities to be inserted in the public debate.

27. This Office recorded important advances in the region, such as court decisions that seek to guarantee the freedom of expression of women journalists and women who report gender violence; the sanctioning of public officials for stigmatizing statements; the prompt reaction, in some cases, of public authorities to discriminatory speeches; the promotion of measures to guarantee plural public debate and combat violence against representatives of groups in vulnerable situations during electoral periods; and decisions that guarantee the right to freedom of expression of LGBTI+ persons, particularly in relation to gender identity and sexual orientation. On the last point, RELE highlights the declaration of unconstitutionality of the crimes of *buggery* and *serious indelicacy* by the High Court of Justice of the Eastern Caribbean Supreme Court.

28. However, the Rapporteurship underscores the persistence of obstacles that correspond, on the one hand, to speeches that could point to hatred, discrimination and intolerance, including by public officials; to threats, harassment and violence against people who use their voices to bring the claims of vulnerable groups to the attention of society; and to attempts to censor, directly or indirectly, forms of expression and content related to the historical discrimination suffered by vulnerable groups. In environments of high tension, such as electoral contexts, there was an increase in reports of politically motivated violence against groups in situations of vulnerability, which have manifested themselves in threats and in a growing atmosphere of self-censorship.

29. On the other hand, the Rapporteurship has also noted a deficit of spaces for certain discourses to have a place in the public debate. Journalistic initiatives for the defense of human rights and the dissemination of information with a perspective of the rights of women, indigenous peoples, Afro-descendants, and LGBTI+ persons should be recognized for their courage and resilience, but they face socioeconomic and legislative challenges, among others.

30. During 2022, the Rapporteurship was able to record differentiated affectations of violence against women journalists, which, in addition to gender-based stigmatization, included harassment, physical and verbal aggression and even cases of sexual violence. The Rapporteurship also recorded cases of alleged persecution and threats, including the activation of investigations or judicial proceedings, against women journalists covering issues such as access to voluntary interruption of pregnancy and cases of sexual violence. In this sense, RELE also documented restrictions to protests with historical claims of women, some of them in the framework of demonstrations for the International Women's Day, on March 8; and the recurrent denunciations of misogynist attacks in social networks. Additionally, RELE has observed that there are still high levels of violence against trans persons for reasons related to the exercise of freedom of expression.

31. The year was also marked by reports of attempts to restrict debate on issues of gender, sex education or race in schools. This includes not only reports of administrative measures, but also legislative measures that seek to maintain control over education on these topics, especially for children. The Rapporteurship also recorded the attempt to limit the so-called "neutral language" in educational institutions. Similarly, under the alleged justification of child protection, the Rapporteurship learned of restrictions or censorship on the exhibition of works of art and artistic production. Artists belonging to groups in vulnerable situations also denounced that their artistic productions are often subject to attempts at restriction by the State or even by pressure from certain sectors of the citizenry.

32. In 2022, the Rapporteurship also received multiple reports expressing concern about the increase in certain speech that could be covered by the "hate speech" provided for in Article 13(5) of the American Convention. In this regard, questions have grown regarding the scope of the right to freedom of expression over certain speech that is considered close to the threshold of "hate speech". The Rapporteurship rejects situations in which political leaders, especially high-ranking public officials, have failed to address speech that promotes intolerance, discrimination or hatred, or that constitutes disinformation. However, as in previous years, the Rapporteurship warns that expressions of "hate speech" or "extremism" continue to be used as a basis for silencing voices critical of public power. Therefore, in the midst of this debate, the Rapporteurship recalls that the right to freedom of expression protects even expressions that disturb, shock and disturb; and that only those expressions that meet the specific requirements of Article 13.5 of the ACHR, and that pass a contextual test of content and form of speech, such as the threshold test of the United Nations Rabat Plan of Action, can be prohibited.

33. This Rapporteurship emphasizes that censorship of debate on controversial issues will not attack structural inequalities and prejudices against historically discriminated groups. States are called upon to promote preventive and educational mechanisms and to promote broader and deeper debates that address the cultural roots of discrimination. However, the effectiveness of these mechanisms will depend on guaranteeing plurality and diversity in public debate, in access to the media and in institutional channels for groups in vulnerable situations.

34. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:

- A. To counteract by all possible means speech that incites discrimination, hostility or violence, in accordance with international human rights standards.
- B. Recognize social protest and artistic discourse as privileged spaces for historically discriminated groups to enjoy the right to freedom of expression, even considering that it is up to the groups themselves to choose the modalities of protest and artistic expression.
- C. To encourage public officials to contribute, in the exercise of freedom of expression, to counteract discrimination and intolerance, intercultural understanding, social inclusion and respect for diversity.
- D. Invite, within the framework of party autonomy, political parties to participate in inter-party initiatives and adopt good practices aimed at eradicating stigmatization against the press, especially during election periods.
- E. To legislate on community radio broadcasting, so that an equitable portion of the spectrum and the digital dividend is allocated to community radio stations and channels. When allocating these frequencies, democratic criteria should be taken into account to guarantee equal opportunities for all individuals to access and operate these media under equitable conditions, without disproportionate or unreasonable restrictions and with protection against violence, in accordance with Principle 12 of the Declaration of Principles and the "Joint Declaration on Diversity in Broadcasting".
- F. Promote effective policies and practices that allow access to information and equal participation of all sectors of society so that their needs, opinions and interests are taken into account in the design and decision-making on public policies. Likewise, to adopt legislative and other measures necessary to

guarantee pluralism, including laws that prevent the existence of public or private monopolies and undue or excessive concentration of the media.

- G. Adopt clear, fair, objective and equitable procedures for the granting or renewal of broadcasting licenses, taking into consideration the importance of the media for all sectors of society - including those historically discriminated against - to participate in the democratic process in an informed manner.

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

35. In 2022, the Office of the Special Rapporteur has observed the continuity of state and private initiatives to control information that threaten the existence of the Internet as a free, autonomous and pluralistic space. The Rapporteurship recorded a trend of using digital technologies to intimidate journalists, human rights defenders and other Internet users who participate in debates on public interest. In addition, the context of deterioration of public debate resulting from the articulation of stigmatizing discourse, disinformation, hate speech and private control of the flow of information has prompted restrictive state responses to the right to freedom of expression on the Internet.

36. In addition, this Office observed that, following reports of fraud, *ransomware* attacks and the dissemination of defamatory and disinformation speech, there has been an increase in proposals for cybersecurity legislation and policies in the region, many of which are based on criminal law, especially in the Caribbean. The Rapporteurship reiterates its concern with such proposals, which often lack data protection and due process safeguards and therefore may disproportionately impinge on the right to privacy, as well as undermine the rights of access to information, freedom of expression and judicial guarantees. In this context, in Belize the police have reportedly implemented a tool that would allow them to penetrate cell phones, computers and other devices to detect and prevent cybercrime. In Barbados, the government shut down its information technology platforms following a *ransomware* attack. In the Bahamas, the government reportedly announced the national cybersecurity project following alleged data breaches of public infrastructure. RELE recalls that cybersecurity measures must be limited and proportionate to the risk faced and must follow a legitimate purpose, as well as be specifically provided for in the law and have oversight mechanisms so that they are not deployed as tools for surveillance and state control over the citizenry.

37. In 2022, RELE also followed discussions on legal frameworks around content moderation on platforms in the region. In the United States, this discussion has taken place in the Supreme Court, where the liability of intermediaries under section 230 of the Communications Decency Act is analyzed in the cases *Google vs. Gonzalez* and *Tamneh vs. Twitter*. Likewise, in Brazil, the Electoral Court issued Resolution 23714/2022, which allows for the removal of content "knowingly false or seriously out of context that affect the integrity of the electoral process." In addition, the Rapporteurship highlights the continuity of attempts of criminalization of speech by state entities under arguments of confronting violence and disinformation. In this regard, in Bolivia, RELE learned of a determination of preventive detention of a journalist after the publication of a meme on social networks, under allegations that it was discrimination at the discretion of the Mining Administrative Jurisdictional Authority.

38. The Special Rapporteurship notes with concern that the tipping point for freedom of expression on the Internet that it warned of in 2021 continues to worsen around the same problems that undermine democratic coexistence in the Americas. The widespread deterioration of public debate, access and digital literacy gaps, and the prevalence of content governance models that are incompatible with human rights standards, increasingly pose obstacles to the preservation of a free, safe and inclusive Internet for all people. Given the complex and dynamic nature of the current challenges, RELE calls on States to continue building initiatives for dialogue and cooperation with a *multi-stakeholder* perspective that respect the principles of network architecture and are based on the respect and guarantee of human rights, taking as a reference the experiences of the continent and the search for broader consensus.

39. In relation to this point, as in previous years, the Office of the Special Rapporteur recommends to the Member States:

- A. Avoid regulatory frameworks for internet intermediaries for user content circulating on their platforms, which may encourage the dynamics of "private censorship".
- B. Avoid the creation of general and/or ambiguous laws to combat disinformation on the Internet, as well as the use of criminal prohibitions to punish the dissemination of "falsehoods" or "non-objective information".
- C. Engage in multilateral dialogues with the aim of building consensus in line with the principles and standards of international human rights law, especially in the area of online content moderation and Internet governance.
- D. Promote broad, plural and robust consultations with all interested parties on the occasion of any legislative proposal or institutional initiative that arises in this area.
- E. Promote universal access to the Internet to guarantee the universal and effective enjoyment of the right to freedom of expression through this medium.
- F. Carry out positive actions for literacy, awareness and development of digital civic competencies and skills.
- G. Ensure that the processing of data and Internet traffic should not be subject to any kind of discrimination based on factors such as devices, content, author, origin and/or destination of the material, service or application, in accordance with the principle of net neutrality.
- H. Promote good practices so that public officials contribute with their speeches to counteract disinformation on the Internet.