

**178**  
PERIOD OF  
SESSIONS  
VIRTUAL  
**IACHR**

December 3rd to 15th, 2020

**Public  
Hearings**  
#IACHRHearings

**Annex to Press Release 311/20**  
**178th Period of Sessions**

## **1. Human rights situation of victims of human trafficking in the Americas**

The petitioner organizations provided the IACHR with information on the lack of a comprehensive response and access to justice for victims of trafficking in the Northern Triangle. They also discussed the particular vulnerability faced by children and adolescents, especially those who are recruited by criminal groups. They also drew attention to various problems relating to this crime in the region: i) obstacles to access to justice; ii) the presence of criminal organizations; iii) corruption and the complicity of authorities with human traffickers; iv) the lack of reparation in cases of trafficking; and v) the lack of financial, human, and logistical resources for victim care. The IACHR noted the multidimensional aspect of human trafficking and how important it considers the issue. It drew attention to the various international and domestic legal instruments accepted and created by States, which are the starting point for eradicating this crime. It also highlighted the importance of adjusting domestic legal frameworks in order to effectively eradicate trafficking and provide protection for particularly vulnerable populations.

## **2. Impunity Around Sexual Abuse of Children and Adolescents in Religious Institutions**

The petitioner organizations provided the IACHR with information regarding the sexual abuse of children and adolescents in religious institutions. They reported on the high levels of impunity in these cases and the challenges that States are facing when it comes to preventing sexual violence and adopting comprehensive reparation mechanisms for victims. They also noted that States and religious authorities have been involved in covering up this abuse, which translates into impunity in the form of reports not being accepted and the lack of due investigation. The petitioners also expressed their views on attacks against journalists who try to make the sexual violence committed by religious authorities more visible. The IACHR expressed its solidarity with these victims by committing to prioritizing the issue within its agenda, welcomed the documentation of cases by civil society organizations, and underlined the need to improve care for children and adolescents who have been victims of sexual violence by religious authorities.

## **3. The Situation of People Deprived of Their Freedom During the COVID-19 Pandemic in El Salvador, With a Gender Perspective**

The petitioners expressed their concern over the situation of women who are deprived of their freedom in El Salvador, particularly because of the extraordinary measures that have been imposed and the deplorable conditions of detention that are endemic in Salvadoran prisons. Specifically, they spoke out against the arbitrary nature of the detention of some women following obstetric emergencies. They also noted that the risk this population is facing has been aggravated by the COVID-19 pandemic. In response, the State acknowledged that the present situation is one of the greatest challenges facing the current administration in terms of security. It also reported on preventive and control measures that have been adopted to prevent the spread of the COVID-19 virus within prisons. The IACHR expressed concern over the structural challenges facing prison systems in the region, which have been exacerbated by COVID-19. On this point, it stressed the importance of reducing overcrowding. Likewise, the IACHR urged the Salvadoran State to release the 14 women who were convicted following obstetric emergencies.

## **4. Situation of Freedom of Expression in El Salvador**

The petitioner organizations reported that freedom of expression has deteriorated dramatically in El Salvador, as evidenced by the continual attacks against journalists; restrictions on their ability to go about their profession; limitations on access to press conferences and a ban on asking questions at these; defamatory social media campaigns to discredit journalists, especially women, and other practices. The petitioners pointed out that according to information gathered by the Association of Journalists of El Salvador (APES), between January 1, 2018, and April 30, 2020, a total of 263 violations of the rights of journalists were documented. In response, the State claimed that the constitutional regulation of these rights in El Salvador is in line with the provisions of the Inter-American System of Human Rights and the universal human rights system. It also acknowledged the importance of the role of the media and journalism in democratic society and denied the existence of State censorship. The IACHR deemed the petitioners' allegations to be extremely serious and urged the State to open channels of dialogue with media organizations. It also consulted the State on the measures it has adopted to prevent and punish crimes against the press and asked how these would contribute to creating an environment that is conducive to public debate.

## **5. The Role of Prosecutors' Offices in Protecting Human Rights in the Americas**

At this regional hearing, the petitioner organizations expressed concern over the institutional weakening of prosecutors' offices in the region. They argued that there is an ongoing lack of transparency regarding the selection and removal of prosecutors, budgetary shortfalls, and that prosecutors' independence and autonomy are being affected by threats, intimidation, and harassment. They also stated that prosecutors' offices and prosecutors play a direct role in investigating and prosecuting corruption, and thus a lack of protection can directly compromise countries' efforts to combat this. For its part, the IACHR stressed the need to strengthen democratic institutions as being key to enforcing human rights and the rule of law. It is therefore necessary to guarantee transparency and accountability in the functioning of public prosecutors' offices. On this point, the IACHR also asked about how the COVID-19 pandemic was impacting investigations. Finally, the organizations asked the IACHR to monitor the situation of prosecutors' offices, issue a thematic report on the matter, and expand its recommendations because the current guarantee standards are insufficient and open to political interference.

## **6. Situation of Human Rights Institutions in Mexico, With a Gender Perspective**

The petitioner organizations reported on the lack of a public human rights policy in the country and the budget cuts to institutions that defend human rights and provide victim assistance. They emphasized how this is having a particular impact on institutions working toward gender equality and eradicating violence against women, especially as regards the rights of indigenous women and Mexican women of African descent, as reflected in budget cuts to the Houses of Indigenous Women and Mexican Women of African Descent (CAMIS) and the State's decision to prioritize government megaprojects rather than human rights institutions. The State reported on the legislative and administrative measures adopted in the area of women's rights and victim support, particularly the implementation of the Program to Strengthen the Implementation of a Crosscutting Gender Perspective and the publication of the National Indigenous Peoples' Institute (INPI) institutional program for 2020–2022. The IACHR expressed its concern over the disappearance of public trust funds to finance mechanisms to assist victims and protect human rights defenders and journalists, and urged the State to guarantee the effective protection of users of these mechanisms.

## **7. Case 13.425—Ernestina Ascencio Rosario and Others v. Mexico**

This case concerns the death of Ernestina Ascencio Rosario, a 73-year-old Nahua indigenous women, in February 2007 in Veracruz, Mexico, and the subsequent investigation into these events. The purpose of the hearing was to receive statements from both sides of the case. The petitioner stated that Ms. Ernestina Ascencio had been raped by members of the Army in Veracruz, which constituted an act of gender-based violence that caused her suffering, physical pain, and mental, emotional, and cultural damage. They also claimed that this act jeopardized the collective and cultural identity of her community. The petitioner stated that it constituted an act of torture and a situation of multiple forms of discrimination due to the victim being an elderly, non-Spanish-speaking, indigenous woman living in poverty. They also discussed obstacles to accessing information and ascertaining the truth during the criminal investigation. The State indicated that it has diligently investigated the facts and that any irregularities found in the autopsy reports were subsequently corrected to clarify the facts of the case, and that this had not jeopardized the human rights of Ms. Ernestina Ascencio or her relatives. In this regard, it argued that the results of the investigation indicate that the death was due to external causes that derived from the alleged victim's health issues. It also indicated that Ms. Ascencio's relatives had access to the case file, in accordance with the applicable parameters, and were informed of the proceedings. It concluded that the American Convention on Human Rights had not been violated in any count. The IACHR will continue to analyze this case and will rule on its merits in the report it adopts on the matter.

## **8. Combating Torture in Mexico**

The petitioner organizations reported on the persistent impunity surrounding cases of torture in Mexico and the lack of implementation of the Torture Act at different levels of government. Specifically, they highlighted the fact that the National Registry on the Crime of Torture is not operational and that the National Program to Prevent Torture has not been published, and noted the failure of the judiciary to comply with international standards prohibiting the use of evidence obtained under torture. The State pointed out that the National Human Rights Program for 2020–2024 contains provisions regarding specific lines of action to assist and care for victims of torture and ill-treatment and reported that two cases of torture were prosecuted in 2020. The IACHR expressed its concern over the suspension of the National Survey of People Who Are Deprived of Their Freedom (ENPOL), as this is a mechanism for obtaining information on the current predicament of people who have been deprived of their freedom and how this relates to torture, and underlined the importance of including the gender and intercultural perspectives in the management of prisons, migratory facilities, and health centers in which acts of torture, sexual torture, obstetric violence, and mistreatment may occur.

## **9. Human rights situation of LGBTI people in the Caribbean**

The petitioner organizations stated that practices involving psychological and physical violence that seek to modify, divert, or suppress the sexual orientation or gender identity/expression of LGBTI people and those who are perceived as such continue to exist in Caribbean States. The petitioner stated that despite the language traditionally used to refer to these practices, they should not be considered “therapies” but rather as human rights violations that seek to modify essential aspects of a person's identity as early as

from childhood onward, so as to make them conform to heterocisnormative gender stereotypes, which have lasting effects on mental health and personal integrity. On this point, survivors of such practices in religious or psychological institutions and the petitioner organization called on the IACHR to urge States to prohibit these practices. The IACHR welcomed the testimonies that were presented and pointed out that the practices they spoke out against were human rights violations that could even constitute torture, which the State has the obligation to prevent, sanction, investigate, and provide reparation for. It also reiterated the importance of generating spaces for debate and research that shows how these practices impact individuals' health and integrity. Finally, it confirmed the main standards on equality and nondiscrimination and reiterated its concern around the persistence of laws that criminalize consensual relationships between LGBTI people in the region.

## **10. Commission for the Clarification of Truth, Coexistence, and Nonrepetition of Colombia: Overview and Challenges**

The Truth Commission presented the results it achieved since it began operations, including having interviewed around 16,000 people through individual interviews and collective listening spaces, the application of ethnic, gender, and psychosocial approaches, and the holding of over 720 events. It also reported that its legitimacy as an institution had been called into question, as had the impartiality and veracity of its findings. It reported a range of difficulties in accessing information held by State institutions, such as the refusal to grant direct access to documentation, the delivery of fragmented and/or incomplete responses or untimely ones, which allegedly jeopardized the drafting of the Final Report that the Truth Commission has to conclude by the end of 2021. The IACHR acknowledged the importance of the Truth Commission and its findings and indicated that it had told the State of its concern over difficulties in accessing State information. It also committed to providing close monitoring on the issue and underlined its willingness to provide the Truth Commission with support through the existing technical cooperation.

## **11. The Human Rights Situation in Colombia**

At this hearing, civil society organizations claimed that the human rights situation in Colombia has deteriorated in response to multiple factors. These included the lack of sufficient financing for implementing the peace agreement; the spraying of illegal crops with glyphosate; the assassination of social leaders and human rights defenders; the criminalization of protest; the impunity surrounding complaints of excessive use of force and sexual violence by State agents during protests; and the escalation of violence in different departments of Colombia, such as Chocó and Nariño, which are home to indigenous peoples and people of African descent. In response, the State once again noted that it has adopted concrete measures to improve security in the different parts of the country, including by implementing development projects and deploying the Armed Forces. The State also noted that the greatest threats to human rights in Colombia are illegal crops, illegal mining, and illegal armed groups. The IACHR once again expressed its commitment to monitoring the implementation of the peace agreement in Colombia and its willingness to conduct a working visit to the country.

## **12. Reports of Forced Evictions of Land Rights Defenders in Brazil**

The petitioner organizations spoke out against forced evictions during the COVID-19 pandemic and the use of discriminatory criteria in public policies concerning access to land, settlement rights, and agricultural production in rural areas. In response, the State presented eviction protocols, emphasizing that these were implemented peaceably by police authorities and also showed figures concerning the program to protect human rights defenders and rural economic development initiatives. The IACHR expressed its concern regarding forced evictions during the COVID-19 pandemic and observed the importance of the right to housing, shelter programs, moratoriums on evictions, and tools to guarantee the comprehensive protection of the human rights of all those affected by these.

### **13. The Situation of Indigenous Peoples in Isolation and Initial Contact in Peru**

At the hearing, indigenous organizations gave a presentation on the situation of indigenous peoples in isolation and initial contact in Peru, who were affected by extractive, oil, forestry, and mining activities that jeopardize their lives and territories, all of which have been aggravated by the COVID-19 pandemic. They discussed the excessive delays in responding to requests that special reserves be created to protect indigenous peoples in isolation and initial contact, some of which have exceeded 15 years. They also addressed the impacts of mercury pollution on Nahua people in initial contact and discussed the need for the State to conduct appropriate investigations. The State of Peru reported on different measures to address the health situation of indigenous peoples, including differentiated health protocols, food kits and protective equipment, information on COVID-19 in indigenous languages, and the activation of early warning monitoring systems. It also reported on territorial control and surveillance measures. The IACHR expressed its concern over the delays in providing official protection for the territories of indigenous peoples in isolation and initial contact and the impact of COVID-19 on these peoples. It also requested information regarding how far indigenous peoples and organizations are involved in and have been consulted regarding the design and implementation of different healthcare measures for indigenous peoples in isolation and initial contact. The IACHR highlighted that the human rights situation of indigenous peoples in isolation and initial contact is a priority issue, as is reflected in two reports it has published: Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas (2013) and Indigenous and Tribal Peoples of the Pan- Amazon Region (2019). It also noted the importance of the right to free determination for people in isolation.

### **14. Police Violence and Racism Against People of African Descent in the Americas**

At the hearing, civil society organizations from several countries presented information on the persistence of common patterns of police violence against people of African descent that are part of a context of racial discrimination in the Americas. They reported that racial profiling practices are used by police officers, especially during arrests and searches, and discussed different forms of violence based on ethnic or racial origin that have a disproportionate effect on people of African descent. These practices have intensified under measures to contain the COVID-19 pandemic. They also highlighted how people of African descent are overrepresented among the prison populations in the region as a result of institutional and structural racism, which is particularly evident in countries such as Brazil, Ecuador, Colombia, and the United States. The petitioner organizations also noted that trans women of African descent are much more exposed to sexual violence and aggression by the police force, and that there is insufficient public awareness of this situation. The IACHR highlighted the importance of ratifying inter-American treaties to combat racial

discrimination and the importance of including an intersectional approach in measures to combat racial discrimination, one that includes migratory status. Finally, it recalled the need to recognize and provide comprehensive symbolic reparation for people of African descent who have been victims of police violence.

#### **15. Search Commissions in the Americas**

Search mechanisms for missing people in El Salvador, Colombia, Peru, and Mexico discussed the importance of developing robust standards based on a broader definitions of the concepts of missing person, the act of searching for them, and the right of every person to be searched for. They asked the IACHR to draft a thematic report and requested an Advisory Opinion on the respective issues. These search mechanisms also discussed different challenges they have faced in recent disappearance cases compared to longer-standing ones and pointed out the distinctions between searches and criminal investigations. They also noted how important it was for family members to be provided psychosocial support during the search process. The IACHR noted how important the work of search commissions in the region is and acknowledged the struggle and role of family members in these processes. It also acknowledged the value of the results of search policies, drawing particular attention to how these mechanisms have reunited living missing people with their relatives. Finally, the IACHR expressed its interest in learning more about good practices on the stages in search processes and related issues, the identification of missing people, and the process of reuniting them with their families or returning their mortal remains.

#### **16. Situation of Persons Deprived of Their Freedom for Political Reasons in Nicaragua**

The petitioner organizations reported to the IACHR that arbitrary detentions have continued in Nicaragua, as have human rights violations against people deprived of their freedom for political reasons as a result of deplorable conditions of detention, a lack of healthcare, beatings and ill-treatment, including sexual violence, among other issues. According to their statements, the relatives and children of detainees were also continually ill-treated during prison visits. Defense lawyers also reported experiencing obstacles to their work, including threats and other acts of harassment. The IACHR regretted the fact that the State of Nicaragua was absent from the hearing. It reiterated the findings and recommendations of its thematic report on people who have been deprived of their freedom since the crisis that began on April 18, 2018, particularly the recommendation that all people who remain in arbitrary detention be released immediately.

#### **17. Access to Justice and Judicial Independence in Haiti**

The petitioner organizations expressed concern over the human rights violations committed against the people of Haiti and the human rights violations that took place under the Duvalier regimes (1957–1986), which have not yet been investigated due to the lack of access to justice and the general impunity that has persisted over the years. They spoke out against acts of corruption perpetuated by government officials, especially the alleged perpetrators of human rights violations who have allegedly continued to occupy positions within the security forces. They also requested that Haiti be included in Chapter IV.B of the IACHR's Annual Report. The State denied responsibility for the lack of judicial independence and emphasized that it is the duty of all groups involved in the justice system, including civil society organizations, to ensure that the judiciary functions fairly and effectively. The IACHR noted that it has

been monitoring the status of judicial independence in Haiti through various mechanisms and is deeply aware of these issues, which derive from a lack of institutional capacity that permeates the justice system. The IACHR called on the Haitian government to ensure people have access to justice, guarantee the independence of the judiciary, and implement a cooperation mechanism with all groups working to improve justice in Haiti.

#### **18. Human Rights Situation of People in Movement in Mexico and the Northern Triangle**

Petitioner organizations expressed their concern over the increase in forced migration to Mexico and the south of the United States of America, the criminalization of migrants and human rights defenders, and the increase in hate speech resulting from observations that people in movement may be spreading COVID-19. They added that some policies implemented to contain the COVID-19 pandemic, such as border closures, constitute human rights violations. The IACHR also noted that migration should be considered from a human rights perspective and that the Inter-American standards and Principles on the human rights of all migrants, refugees, stateless persons, and victims of trafficking require an integrated, coordinated response. It also emphasized the importance of including a human rights approach and intersectionality in implementing measures to address the structural causes behind forced migration.

#### **19. Case No. 13.144: Embera Katío People of Alto Sinú v. Colombia**

This case concerns the alleged responsibility of the State of Colombia regarding respect and guarantees for the human rights of the Embera Katío people of Alto Sinú. The petitioners reported that the Urrá hydroelectric project was implemented without prior consultation and allegedly flooded indigenous lands, eliminating a river, displacing the people in question, and endangering their survival. Among other issues, they argued that although the Constitutional Court had issued a ruling acknowledging the effects of the absence of a consultation, this people's worldview was not taken into account during the implementation of the project, including their collective form of life. Most of their population are children, and they have been most affected by the project. In response, the State argued that it was not responsible for the alleged violations. It highlighted the importance of the Colombian Constitutional Court's decision to provide reparation for the victims' rights in response to the complexity of the case. It also underlined the progress that has been made on investigations regarding how the project has impacted this people's rights. It added that the land is being cleaned up, that environmental management programs have been implemented, as have measures to protect the Embera Katío people. The IACHR expressed concern over the alleged effects on this people, the implications of displacement on their cultural identity and inquired about their current predicament, particularly that of children. The IACHR will continue to analyze this case and will rule on its merits in the report it adopts on the matter.