

CHAPTER IV

HUMAN RIGHTS DEVELOPMENTS IN THE REGION

1. This Chapter is dedicated to monitoring the human rights situation in the hemisphere, pursuant to Article 59 of the Commission's Rules of Procedure.¹ In keeping with Article 59(2)(e)(i), in section "A" the IACHR presents a descriptive overview of the human rights situation, highlighting the main trends, problems, challenges, gains, and good practices in respect of both civil and political rights and economic, social, and cultural rights, on this occasion, by country. And in section "B," in keeping with Article 59(2)(e)(ii), it includes special reports on the member states selected in keeping with the criteria established in that article, with detailed analyses of the human rights problems identified in those countries in light of inter-American standards, in which a series of recommendations are made for your attention.

2. With respect to Cuba, Nicaragua, and Venezuela, the IACHR decided to include them in Chapter IV B of its 2018 Annual Report, thus those countries will be analyzed in that section.

A. Overview of the Human Rights Situation by Country

Introduction

- **Methodology**

3. On August 3, 2018, the Commission approved making Chapter IV.A of its 2018 Annual Report an overview of the human rights situation in the 35 States of the region, with a special emphasis on the rights and issues prioritized by the IACHR, as well as on the following cross-cutting themes established by the Commission in its Strategic Plan 2017-2021: Democratic institutionalism, institutionalism of human rights, access to justice and citizen security, and the right to the environment.

4. To prepare this section, the IACHR took into account the information received on the human rights situation in the 35 countries in the region during 2018, in the exercise of its monitoring function. The IACHR validated the information received during country and work visits and *ex officio* investigations, as well as with inputs from the different mechanisms through which the IACHR has followed up on the situation in a country (such as public hearings, requests for information under Article 41 of the American Convention, thematic visits, and precautionary measures), as well as journalism news items, and decisions and recommendations from specialized international bodies, among other methods.

5. Also, pursuant to its authorities established in Article 41 of the American Convention and Article 18 of the American Declaration on the Rights and Duties of Man, in October 2018, the Commission asked for information from the 35 member States on the rights, issues, and crosscutting themes prioritized in the Strategic Plan, as described above.

6. The IACHR received responses from the following 11 member States: Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Peru and Uruguay. The IACHR appreciates and values the information sent, which was included in this chapter as pertinent.²

¹ Artículo 59 inciso e. del Reglamento de la CIDH, específicamente en relación con el Capítulo IV del volumen 1, sección "A".

² Government of Argentina, Diplomatic Note No. OEA 307 of November 20, 2018; Plurinational State of Bolivia, Diplomatic Note No. MPB-OEA-NV257-18 of December 12, 2018; Government of Brazil, Diplomatic note received by the IACHR on December 18, 2018; Government of Chile, Diplomatic Note No. DIDEHU/15.11.2018 of November 16, 2018; Government of Costa Rica, Diplomatic Note n. CROEA-LBS-0188-18 of November 30, 2018; Government of Ecuador, Diplomatic Note No. 4-2-309/2018 of November 16, 2018; Government of El Salvador, Diplomatic Note No. OEA-119/2018 of December 17, 2018; Government of Honduras; Diplomatic note No. SEDH-0681-2018 of November 22, 2018; Government of Mexico, through Note No. OEA-03047 of November 26, 2018 and OEA3165 of

7. Likewise, on October 30, 2018, the Commission made a public announcement that it would be receiving inputs from civil society organizations and from other bodies and stakeholders. The IACHR appreciates the information provided by 34 institutions and organizations, which was included in this section as pertinent.³

8. Following is a descriptive overview of the human rights situation by country, which ends with some general conclusions concerning the more pressing challenges identified in the region.

ANTIGUA AND BARBUDA

- **General considerations**

9. In terms of **progress** this year, democratic general elections were held. The Inter-American Convention against Racism, Racial Discrimination and Related Intolerance was ratified. Workshops were also held for Government officials, focused on the implementation of the Convention on the Rights of Persons with Disabilities in the framework of the implementation of the sustainable development plan 2017-2021 (The Multi-Country Sustainable Development Framework)⁴. It is highlighted that in May, in its session on the adoption of measures to improve the rights of the Rastafarian community in Antigua and Barbuda, before the Permanent Council of the OAS, the government made a public apology to that Rastafarian group for the discrimination they suffered during years⁵.

10. Among the main **challenges** observed the high criminality rate, the existence of trafficking in persons, and the bill that would deprive the indigenous communities of Barbuda of their ancestral lands.

11. The State did not respond to the request for information submitted for the preparation of this chapter.

- **Specific topics**

12. In terms of **democratic institutions**, general elections were held in March, in which Prime Minister Gaston Browne was reelected. He has remained in that position since 2014. With these elections, the Senate and the House of Representatives were renewed. The process was observed by a Caribbean Community Observation Mission (CARICOM). After completing the process, CARICOM issued a report in which it affirmed

December 7, 2018, Government of Peru, Note No. 7-5-M/215 of December 4, 2018; Government of Uruguay, Note No. 171/2018 of December 5, 2018.

³ Ministry of Public Defense, Judiciary of the City of Buenos Aires; Fundación para el Desarrollo de Políticas Sustentables – Abogados y abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales; Clínica de Derechos Humanos e Derecho Ambiental; Ipas Health Access Rights; Tribunal Internacional dos Despejos; Movimiento de Integración y Liberación Homosexual; Observatorio de Violencia Institucional en Chile; Red Latinoamericana y Caribeña de Derechos Humanos y Salud Mental; Colombia Diversa; Londres 38; Alvarez Martinez Law Firm LLC; Centro de investigación y Promoción para América Central de Derechos Humanos; Defensoría del pueblo de Ecuador; ProDiana A.C.; Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos; Centro de Derechos Humanos Fray Matías de Córdova; Transformarte; Observatorio de Derechos Humanos; Universidad de Los Andes; Defiende Venezuela; Instituto Prensa y Sociedad de Venezuela; Observatorio de Libertad de Expresión; SURES Estudios y Defensa en Derechos Humanos; Red Eclesial PanAmazonica; Instituto de Derechos Humanos Universidad Centroamericana de El Salvador; International Bar Association's Human Rights Institute; Unión Sindical Colombiana del Trabajo; Asociación para el Desarrollo Integral de la Mujer, la Niñez y la Familia Manos Unidas; Red Educación Inclusiva; Humanidad Vigente; Aula Abierta Latinoamérica; Grupo de Iniciativa Nacional por los derechos del Niño; Red Muqui; Corporación Caribe Afirmativo; Derecho Ambiente y Recursos Naturales de Perú; Fundación para el Desarrollo de Políticas Sustentables y Abogados y Abogadas del Noreste Argentino en Derechos Humanos y Estudios Sociales.

⁴ PNUD Barbados, [Sub-regional Implementation Plan Report](#), 2017, pág. 24, párr. 2.

⁵NODAL, [El gobierno de Antigua y Barbuda pedirá perdón a la comunidad rastafari ante la OEA](#), 14 de mayo de 2018; OEA, [Convocatoria Sesión Ordinaria Consejo Permanente](#), 14 de mayo de 2018 y [Transmisión Sesión Consejo Permanente](#), 14 de mayo de 2018.

that although they detected some problems in the electoral process, the result of the elections reflects the will of the people of Antigua and Barbuda⁶.

13. With regard to **human rights institutions**, the Commission highlights that Antigua and Barbuda has an Ombudsperson office to defend the rights of its citizens. Also, the Commission observed that on June 1, 2018, the State ratified the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance⁷.

14. On the other hand, it stands out that in response to a request made by the United Nations, on a moratorium on the use of the **death penalty**; Antigua and Barbuda went from a position of opposition to abstention⁸.

15. In relation to **citizen security**, according to figures from the United Nations, Antigua and Barbuda has a high crime rate. According to the 2016 Caribbean Human Development Report, since 1990 homicide rates have shown a tendency to increase, with a percentage of 11% out of 100,000⁹.

16. The IACHR became aware of the bill sent before the Antigua and Barbuda's Senate that would deprive the Barbudans of communal lands where indigenous communities have lived for generations. According to information of public knowledge, investors would seek to corner communally owned lands to transform them into private property and for extractive companies, industry or tourism. This appropriation of **indigenous** lands would be carried out without due process and without adequate compensation¹⁰.

17. In terms of violence against **women** and / or gender, currently the Domestic Violence Act of 1999 only protects the rights of surviving victims of domestic or intra-family violence, and not other types of suppositions. The IACHR is aware that the regulatory framework for public policies on gender equity at the national level is being reviewed with the objective of modifying said law¹¹, the Commission encourages the State to carry out this review in accordance with the inter-American standards. Also, in relation to the elimination of all forms of discrimination against women, Antigua and Barbuda has "strengthened its national statistical body through training and use, as well as the use of gender indicators of the Caribbean Community (CARICOM)".

18. With respect to **LGBTI persons**, the Commission has expressed its concern about the "buggery" or "sodomy" laws that criminalize consensual relations between adult men, which remain on the books in the country.¹²

19. In terms of **access to justice**, the creation of a model court for sexual offenses, designed to provide a timely, gender-sensitive and coordinated response to complaints and the protection of vulnerable witnesses in cases of sexual crimes, is highlighted¹³.

⁶CARICOM, [Misión de observación electoral de la CARICOM, Antigua y Barbuda](#), 22 de marzo 2018.

⁷OEA, [Antigua y Barbuda ratifica la Convención Interamericana contra el Racismo, la Discriminación Racial y Formas Conexas Formas Conexas de Intolerancia](#), 1 de junio de 2018.

⁸Amnistía Internacional, [Pena de Muerte: Apoyo record, en la votación de una comisión, a la petición de la ONU en favor de favor de una moratoria de las ejecuciones](#), 13 de noviembre 2018; [English Speaking Caribbean: Time to make the death penalty history](#), 19 de diciembre de 2018.

⁹PNUD, [Sub-regional country programme document for Barbados and the Organization of Eastern Caribbean States \(2017-2021\)](#), (2017-2021), 12 de julio de 2016.

¹⁰Human Rights Watch, [Antigua y Barbuda: Barbudanos Luchando por sus Tierras](#), 12 de julio de 2018.

¹¹PNUD, [From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean](#), 2017, pág 13, párr. 2.

¹²Sexual Offenses Act 1995 (Law No. 9), Section 12 (Buggery)

¹³NODAL, [Antigua y Barbuda crea tribunal para los delitos sexuales](#), 24 de enero de 2019.

20. Regarding **freedom of expression**, the Office of the Special Rapporteur received information about legal actions initiated for defamation among political actors, despite the fact that, in 2015, the law on defamation repealed the penalty and guaranteed that with the regulation of the defamation offense unreasonable limits would not be imposed on freedom of expression and, in particular, on the publication and discussion of issues of public interest and importance. On the other hand, a draft amendment to several articles of the electronic crimes law is allegedly in process, seeking to amend provisions regarding the interpretation of the definition of “child pornography”, about “sending offensive messages through communication services”, and about “privacy violation”, among other items. Finally, according to the information available, several public institutions have allegedly violated the law on access to public information.

21. During 2018, the IACHR sent two letters requesting information to the State, consulting on the situation of persons deprived of liberty in Her Majesty’s prison¹⁴, as well as the right to vote of persons with disabilities¹⁵. The State did not answer.

ARGENTINA

- **General considerations**

22. In 2018, the IACHR took note of **progress** in Argentina on the institutionality of human rights, particularly the adoption of the first national human rights action plan. Notable progress was also made with the adoption of legislation to protect the rights of women—such as the approval by the Senate of Micaela’s Law and the entry into force of Brisa’s Law. Progress was also made with the implementation of the law on access to public information and the positive development of the humanitarian project in the Falkland Islands. The Commission views positively the progress made on justice throughout the year on issues of gender, the rights of LGBTI persons, the rights of older persons, memory, truth and justice, and migration.

23. Regarding **challenges**, the IACHR particularly took note of the concern expressed by civil society regarding the bill on collective processes; the situation of the right to protest; mobilizations surrounding the debate over access to sexual and reproductive rights of women and potential amendments to restrict the scope of the sexual education law; confrontations between government authorities and indigenous communities; the overall economic and financial situation and its eventual impact on human rights and, in particular, the situation of poverty affecting children; the deportations of migrants; and the detention conditions in police jails.

24. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

25. As far as issues related to the **institutionality of human rights**, the IACHR first underscores that Argentina has a Office of the Ombudsperson that is fully independent and functionally autonomous. Its mission is defending and protecting the rights, guarantees, and interests established in the National Constitution and by law. Civil society organizations are concerned at the failure to appoint the head of the Office of the Ombudsperson of the Nation, noting that the position has been vacant since 2009.¹⁶ Second, it highlights positively the information provided by the State on the launch of implementation of the country’s First National

¹⁴ Request for information dated July 23, 2018. IACHR Archive.

¹⁵ Request for information dated November 7, 2018. IACHR Archive.

¹⁵ Federative Republic of Brazil, response to request for information on nonconsensual sterilization, Janaina Aparecida de Quirino, correspondence with the IACHR dated September 12, 2018. IACHR Archive.

¹⁶ Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) and Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales (ANDHES), Report on the human rights situation in Argentina for preparation of Chapter IV.A of the IACHR’s 2018 Annual Report.

Human Rights Action Plan 2017-2021.¹⁷ It also notes the concerns expressed by social organizations regarding the country's economic and financial situation and its effects on institutions as far as resource allocation and the operation of a variety of State entities in charge of protecting human rights.¹⁸

26. Regarding **citizen security**, the IACHR takes note that in June 2018, the Argentine government issued Decree 703/2018, officially restructuring the Armed Forces based on a need to modernize the military to address current challenges, such as terrorism and drug trafficking. This reform allows the military to be involved in domestic security issues, as well as deploy units to the country's northern border. Regarding this, the Commission reiterates that it is important for the job of maintaining public order and citizen security to be handled by civilian police. The armed forces should participate in security work only in extraordinary situations, subordinated to civilian police and in a complementary role, with strict oversight.¹⁹

27. Regarding **access to justice**, the Commission takes note of the concern expressed by civil society organizations regarding the bill on collective processes prepared by the Ministry of Justice and Human Rights of the Nation, which, according to the information received, should it pass, would seriously limit the use and effectiveness of collective actions by restricting opportunities to bring lawsuits against the State and private enterprises in defense of collective rights.²⁰

28. Regarding the situation of the **rights of women**, the IACHR welcomed the May 2018 approval of the protocol for investigating and prosecuting femicide in Argentina, which represents an important step forward in the prevention, punishment, and eradication of gender-based violence in the country. The IACHR also took note positively of the approval and entry into force of Law 27,452, "Brisa's Law," which grants financial reparations to the children of the victims of femicide in Argentina. The IACHR also views positively the Senate's decision to approve "Micaela's Law" in December 2018, which would provide for training public officials on gender-based violence. In addition, the Commission has also continued to monitor the various obstacles that women, girls, and adolescents continue to face when exercising their sexual and reproductive rights, as well as the mobilization and legislative debate over the exercise of these rights. The Commission observes that given the resurgence of the discussion on amendment of the Sexual Education Act, (Law 6,150), proposals have likewise emerged to revise and amend it, some of which would aim to limit its scope and remove the parts focused on gender diversity and sexual diversity, issues that the Commission has been following in order to ensure that any amendments that are made are in line with inter-American standards on the issue.

29. Regarding the situation of the rights of **LGBTI persons**, in May 2018, the IACHR learned of a decision by Argentine courts to convict the man accused of murdering Diana Sacayán—a trans social activist and defender of the rights of LGBTI persons—of the crime of aggravated transfemicide based on the gender identity of the victim. The IACHR viewed this decision positively and underscored that this is the first time in the region that a court ruling has recognized the criminal offense of transfemicide. Also, during its 167th^o Period of Sessions, the Commission held a hearing on the "Human rights situation of the trans population in Argentina." During the hearing, issues were presented that persist with regarding to respect for and guarantee of the rights of the trans population Argentina, including: repeat institutional violence against trans persons, their excessive imprisonment, exclusion from the workplace, lack of access to education, and others. The Argentine State pointed to the legal frameworks on marriage equality and the gender identity law, and the existing need for making a change to the culture; it also underscored its commitment to continue working with civil society.

¹⁷ Permanent Mission of the Argentine Republic to the OAS, Note OEA N° 174, June 14, 2018.

¹⁸ Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) and Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales (ANDHES), Report on the human rights situation in Argentina for preparation of Chapter IV.A of the IACHR's 2018 Annual Report.

¹⁹ Inter-American Court, Case of Alvarado Espinoza et al. v. Mexico, Judgment of November 28, 2018. Series C No. 370, paras. 181 and 182.

²⁰ Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) and Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales (ANDHES), Report on the human rights situation in Argentina for preparation of Chapter IV.A of the IACHR's 2018 Annual Report.

30. Regarding the rights of **people deprived of liberty**, the Commission is concerned at the situation in the jails of the province of Buenos Aires. In 2018, the IACHR continued to receive information indicating that the jails do not meet the minimum standards for a detention to be compatible with the right to humane treatment. This is principally because detained individuals remain in temporary holding cells for long periods of time, and, among other things, the spaces do not have the infrastructure or the basic services necessary to ensure dignified detention conditions. The IACHR was also informed that the jails that have been closed by the competent authority remained in operation as of November 30, 2018, with a total of 1,885 detained individuals.²¹ The IACHR also emphasizes that 2018 saw the largest number of people detained in jails in the last decade, with a population of 4,129 people (against a holding capacity of 1,007).²² An example of the risk faced by people detained in these types of jails is the fire that took place in Esteban Echeverría Jail 3 on November 15, in which at least 10 people lost their lives. This jail had been closed since January 2018 for "failing to provide the minimum conditions necessary for housing."²³

31. In addition, the IACHR welcomes the implementation of the National Mechanism for the Prevention of Torture and other Cruel Inhumane or Degrading Treatment in Argentina. The IACHR views this action as an important step toward protecting the fundamental rights of people deprived of liberty and complying with international obligations on the subject.²⁴

32. Regarding the situation of **indigenous people**, the IACHR received concerning information on a number of incidents of violence perpetrated by State agents during December 2017 and January 2018 in which three indigenous children from the Wichí community were injured during police operations in the context of a territorial dispute related to a decision by the provincial government to change the titling of lands previously administered by the Institute of Aboriginal Communities of Formosa to allow the construction of homes for nonindigenous people. This situation led to unresolved tension between indigenous and nonindigenous people, and with security forces. The IACHR reminds the State that, in the context of public security operations, States must adopt all necessary and appropriate measures to protect the right to life and humane treatment of children, pursuant to the special duty to protect established under Article 19 of the American Convention on Human Rights.²⁵

33. Regarding the rights of **children and adolescents**, the IACHR learned of reports from civil society submitted to the United Nations Committee on the Rights of the Child²⁶ expressing the need for special emphasis on the guarantee of the rights of indigenous children and adolescents, specifically as regards their rights to access to land, water, a bilingual and intercultural education, health, and the right to identity. The IACHR views with concern the situation documented by the United Nations International Children's Emergency Fund (UNICEF), which found that as of January, 48% of children and adolescents in Argentina were experiencing poverty. According to this report, which was based on government statistics, poverty among

²¹ Comisión Provincial por la Memoria (CPM), Office of the Cassation Defender of the Province of Buenos Aires, and Centro de Estudios Legales y Sociales (CELS), Request to expand MC 496-14 and MC 37-15, on six jails located in the department of Lomas de Zamora and La Matanza regarding Argentina, December 17, 2018.

²² CPM, Office of the Cassation Defender of the Province of Buenos Aires, and CELS, Request to expand MC 496-14 and MC 37-15, December 17, 2018.

²³ CPM, Office of the Cassation Defender of the Province of Buenos Aires, and CELS, Request to expand MC 496-14 and MC 37-15, "New incident reported. Reiterating request for work meeting," November 17, 2018.

²⁴ IACHR. Press release, [IACHR Welcomes the Implementation of the National Mechanism for the Prevention of Torture in Argentina](#), April 4, 2018.

²⁵ For its part, in communication to the IACHR, the State reported that an investigation had been opened into the acts that allegedly took place in December and January, under judicial case files 28/18 and 1/18. Regarding this, the State clarified that the judicial process had begun with the involvement only of the competent magistrates of the jurisdiction. Additionally, the State noted that a number of executive branch bodies of the province of Formosa had taken actions aimed at guaranteeing the physical integrity and the rights of everyone involved and preventing the repetition of similar facts. Argentina, State response to the letter requesting information on Acts of violence committed by the provincial police against Wichí young people in the Cincuenta Viviendas neighborhood of Ingeniero Juárez, to the northeast of Formosa, Argentina, January 12, 2018.

²⁶ ENDEPA, Situation of indigenous children and adolescents in Argentina, April 2018.

people under the age of 18 stood at 48%, 10 points higher than for the general population (38%), meaning that 6.3 million children and adolescents are experiencing poverty. In addition, the IACHR takes note with concern that in 2018 the process of appointing the defender of children and adolescents was not concluded, this being an institution of the comprehensive protection system created in 2005 by Law 26,061.²⁷

34. Regarding the rights of **older persons**, the Ministry on Public Defense of the Autonomous City of Buenos Aires informed the IACHR of the incorporation of the Inter-American Convention on Protecting the Human Rights of Older Persons in the jurisdiction of the City of Buenos Aires. This was a response to an *amparo* action brought in 2018 by two residents of a retirement home housing 700 people over its poor conditions. Local courts granted a precautionary measure and ordered the city government to perform a series of repairs and renovations of the home, based on the obligations acquired by the State through the ratification of the Convention on Protecting the Human Rights of Older Persons in 2017.²⁸

35. Regarding **migration**, on March 22, the Fifth Federal Adversarial Administrative Chamber issued a judgment finding Emergency Decree 70/2017 unconstitutional on finding that the emergency decree had been issued without justification and that the measures taken violated the human rights of migrants, including the rights to due process, personal liberty, family unity, and the right to defense. Also, measures were taken making it difficult for migrants to legalize their status, including a 1000% increase in migration fees, the closure of territorial boarding programs, and a new complex digital system for legalizing status that was difficult for people with few resources to access.²⁹ On August 19, a smart phone app was launched to enable any public official to review the migratory status of migrants, seriously affecting the enjoyment of their rights. Lastly, the IACHR received information on the deportations of people with criminal records and a policy of persecution toward Senegalese migrants who sell goods on the street, under which the police confiscated their merchandise and began criminal proceedings in order to launch deportation processes.³⁰

36. Regarding issues related to **memory, truth, and justice in Argentina**, the IACHR views positively the information sent by the State on the development of the Falklands Humanitarian Project Plan to identify the remains of unidentified Argentine soldiers buried in the Darwin Cemetery (Falkland Islands).³¹ According to publicly available information, 104 soldiers have been identified thanks to the forensic work carried out by the International Committee of the Red Cross (ICRC). The IACHR also recognizes the efforts made by the Argentine justice system during 2018 to secure important convictions over human rights violations that took place during the military dictatorship. In May, the IACHR welcomed the decision of Argentine courts to uphold the convictions and prison terms handed down in the framework of the case known as "Plan Cóndor." The IACHR also receives with satisfaction the judgments handed down in the Ford case, which found for the first time civil liability for human rights violations committed during the dictatorship.³² It also welcomes the decision of the courts to convict a former commander of the Military Institutes and sentence him to 45 years in prison for the kidnapping and torture of 11 pregnant women, as well as for the theft of more than 11 babies during the dictatorship. The IACHR also welcomes the decision of the Supreme Court to not apply the "2x1" benefit in cases of crimes against humanity.³³ On the other hand, there has been little progress in pursuing civil

²⁷ La Nación, Defensor del Niño: ¿Qué estamos esperando?, November 23, 2018.

²⁸ Ministry of the Public Defense of the Autonomous City of Buenos Aires, document prepared to contribute to the preparation of Chapter IV.A of the IACHR's 2018 Annual Report.

²⁹ Information provided by civil society organizations in Argentina, Serious regressive measures regarding the rights of migrants in Argentina, February 8, 2019.

³⁰ Information provided by civil society organizations in Argentina, Serious regressive measures regarding the rights of migrants in Argentina, February 8, 2019.

³¹ Permanent Mission of the Argentine Republic to the Organization of American States, OAS Note No. 118, April 19, 2018.

³² Espacio Memoria y Derechos Humanos, Causa Ford: La complicidad empresaria, September 21, 2018; CELS, Causa Ford: condenas de 10, 12 y 15 años, December 11, 2018.

³³ Judicial Information Center, CRIMINAL. Inapplicability of 2x1 benefit for crimes against humanity, December 4, 2018; CELS, Corte Suprema de Justicia de la Nación: No es aplicable el 2x1 para delitos de lesa humanidad, December 5, 2018.

liability for grave human rights violations; the so-called “domino theory” has reemerged;³⁴ and parole is being extended to people guilty of crimes against humanity on the argument that prisons are overcrowded.³⁵ As regards the executive branch authorities, the IACHR notes an increase in denialism regarding the crimes of the past and a reassertion of the interventionist role of the Armed Forces in internal affairs, with negative consequences for the exercise of the right to protest and to democratic life.³⁶

37. Regarding the right to **freedom of expression** and access to public information, the Office of the Special Rapporteur for Freedom of Expression of the IACHR (RELE) underscores that one year since the entry into force of Law 27,275 on access to public information, government authorities have received more than 3,000 requests for information. Likewise, State authorities reported on the creation of open data websites, including 23 national sites, 11 provincial ones, and 16 municipal ones.³⁷ The RELE received information from the State indicating that in September 2018, the Argentine State signed the Escazú Agreement, the first legally binding treaty in the region on access information, public participation, and environmental justice.³⁸

38. Regarding the guarantee of the freedom to protest, during its 167th^o Period of Sessions, the Commission held an *ex officio* hearing on "The situation of the right to protest in Argentina," where civil society reported that the right to protest in the country was being weakened through the disproportionate use of police force to repress demonstrations; the criminalization of demonstrations; the stigmatization of social movements; and violence against an arbitrary detention of media workers covering the protests. In this regard, the Commission noted that State representatives said that after the intervention of security forces during the demonstrations in December, administrative measures were taken and officials cooperated with prosecutors to determine the responsibilities of police officials. At that time, the Commission emphasized that States have a duty to facilitate protests and guarantee that journalists can do their work while covering them. The IACHR also asked for more information on protocols governing police intervention during such events. For its part, the RELE followed the prosecutions pursued during 2018 on the use of force during protests. The office welcomes the judicial decisions identifying and punishing officials investigated for police abuse during the demonstrations.³⁹

39. Regarding the **right to the environment**, the State said in its response that a national action plan for the struggle against desertification was being prepared. Likewise, the Office of the Secretary on the Environment and Sustainable Development of the Nation has established a number of channels of communication in the framework of national Law 25,831 to guarantee the right to access to environmental information.⁴⁰ Likewise, the State said so far, the National Environmental Education Strategy was being implemented. This public policy lays the groundwork for building intersectional programs on the issue to encourage people, groups, and society as a whole to take action to protect the environment holistically.⁴¹ It also stated that a National Climate Change Cabinet had been established and that it was currently working on coordinating mitigation and adaptation measures for the implementation of the country’s nationally determined contributions. Lastly, indicators are being generated for managing biosphere reserves and private

³⁴ CELS, A un año del 2x1, decimos Nunca Más a la Teoría de los dos demonios, May 3, 2018.

³⁵ CELS, Repudiamos el intento de beneficiar a los genocidas con domiciliarias con el pretexto de la superpoblación carcelaria, March 7, 2018.

³⁶ RESLAC, Repudio a la decisión del presidente argentina Mauricio Macri de avanzar en la militarización de la seguridad interior, July 31, 2018. Página 12, Negacionista y funcionaria, November 9, 2018; Página 12, Un negacionista al que se le termina la beca, March 6, 2018.

³⁷ Republic of Argentina. Agency on Access to Public Information With the passage of the new law, in one year more than 3000 requests for access to public information were processed, September 25, 2018; Télam, La Argentina mostró sus progresos en el manejo de datos abiertos, September 27, 2018.

³⁸ Permanent Mission of the Argentine Republic to the OAS, Note OEA N° 174, June 14, 2018.

³⁹ Republic of Argentina. Supreme Court of Justice of the Nation. The Federal Chamber confirmed the processing and pretrial detention of Dante Barisone for grave injury, Judicial Information Center, March 2, 2018.

⁴⁰ Letter from the Mission of the Argentine Republic to the OAS, No. OAS 907, received on November 30, 2018

⁴¹ Letter from the Mission of the Argentine Republic to the OAS, No. OAS 907, received on November 30, 2018

initiatives to conserve biodiversity.⁴² However, for their part, civil society organizations have stated that environmentally, the use of agrochemicals is one of the most concerning issues facing the country, particularly due to its harmful effects on the lungs and skin, as well as due to the increase in ailments including depression, seizures, and immunodeficiency and endocrine disorders. They also called the IACHR's attention to the increase in the number of people in the village of Monte Maíz in Córdoba during fumigation season.⁴³

BAHAMAS

- **General considerations**

40. Regarding **progress achieved**, in regards to 2018, the IACHR highlights the country's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the reduction of the homicide rate in the Bahamas.

41. With respect to the main **challenges** the country faced in 2018, the IACHR observes that the rights of migrants were particularly affected by violations of the right to nationality and access to justice and the imposition of fines that are disproportionate given their status as undocumented migrants. In addition, the Commission noticed the need to prioritize the adoption of measures that promote and effectively realize parity.

42. The State did not provide a reply to the request for information sent by the IACHR prior to the drafting of this chapter.

- **Specific issues**

43. Regarding the **democratic institutional framework** the IACHR notes with approval that on May 31, 2018, the Bahamas ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On the other hand, the Commission expresses its concern about the low participation of women in political and public life, which was also underlined by the United Nations Committee for the Elimination of Discrimination against Women⁴⁴. Additionally, the IACHR notes that, during 2018, unemployment at the national level increased from 10% to 10.7%⁴⁵.

44. With regard to the **human rights institutional framework**, it is pertinent to note that the country does not have a national human rights system or an Ombudsperson office. However, despite the challenges facing the Bahamas in terms of the institutional framework in human rights, the Commission highlights the country's election to the United Nations Human Rights Council, becoming the first member of the CARICOM to integrate this body.

45. Regarding **public security**, the IACHR observes that based on Transparency International's Corruption Perceptions Index, the Bahamas has been rated with a score of 65 as the fourth country with the lowest level of corruption in the region⁴⁶. Additionally, the Bahamas reported a figure below 100 homicides, which represents an improvement in the last 10 years. However, the IACHR notes with concern that the country had a homicide rate of 11.2 per 100,000 people in 2018⁴⁷. In this regard, the Ministry of National Security

⁴² Letter from the Mission of the Argentine Republic to the OAS, No. OAS 907, received on November 30, 2018

⁴³ Fundación para el Desarrollo de Políticas Sustentables and Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales, Report on the human rights situation in Argentina, received on November 30, 2018, pg. 24. Also, damage to maternal health has been reported, as miscarriage rates have increased considerably according to data obtained from health clinics in fumigated villages. See Fundación para el Desarrollo de Políticas Sustentables and Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales, Report on the human rights situation in Argentina, received on November 30, 2018, pg. 25

⁴⁴ CEDAW, Final observations on the sixth periodic report of the, CEDAW/C/BHS/CO/6, November 14, 2018, para. 29.

⁴⁵ Eyewitness News, [BREAKING NEWS: Unemployment rose to 10.7%](#), January 21, 2019.

⁴⁶ InSight Crime, [Corruption Survey Shows Latin America Still Struggling to Tackle Graft](#), February 22, 2018.

⁴⁷ The Nassau Guardian, [Murders down 32%](#), June 11, 2018.

established a goal of reducing this figure to less than 90 by the next year⁴⁸. On the other hand, the IACHR regrets a 12% increase in the rape cases, which represents, according to the Royal Bahamas Police, 55 incidents⁴⁹.

46. Regarding **access to justice**, the IACHR takes note of the challenges that migrants face in the Bahamas, due to the heavy-handed measures adopted by the government. In this regard, the media outlets have reported that the Court of Appeals of the Bahamas maintained a criterion through which it reiterated the preponderance of the *jus sanguinis* element for access to nationality⁵⁰. Through the case of Jean Rony Jean-Charles, who was born in the Bahamas and is a descendant of Haitians with irregular migration status, the Court of Appeals held that there is a difference between being born in the Bahamas and being born Bahamian, favoring the *jus sanguinis* criterion provided in the Constitution and, therefore, denying his right to access the Bahamian nationality.

47. The Commission was made aware of the case of Taranique Thurston, a stateless adolescent residing in the Bahamas who required emergency medical attention in the United States to treat a brain cyst⁵¹. Based on current legislation, Taranique Thurston had to wait until she turned 18 to begin the naturalization procedures, since her mother is of Haitian descent. The IACHR learned that she received the required medical treatment in Florida⁵² with delay, after waiting for months before her travel documents were issued. Up to now, it appears that no irreparable damages were caused, despite the lack of immediate medical attention.

48. Regarding the alarming situation of **migrants** in the Bahamas, the IACHR notes that a census was conducted in the "Shanty Towns" human settlements in New Providence and Abaco during the month of May⁵³. Subsequently, the State initiated the execution of a plan with the objective of demolishing all the structures built in these communities by July 31, 2019. These communities are mainly made up of undocumented migrants from Haiti⁵⁴. The IACHR expresses its concern about the eviction of some of the residents, who have been evicted by the government authorities without a relocation plan to that effect. The organizations Respect Our Homes Ltd. (ROHL) and Rights Bahamas have promoted legal actions on behalf of 177 residents, obtaining favorable resolutions in some of the cases⁵⁵. The State has informed that it has the acquiescence of the Haitian State in its actions and that it has informed the United Nations, without receiving any response⁵⁶.

49. In addition, the IACHR notes with concern the sanctions adopted by the State against irregular migration. In this regard, the case of five women of Hispanic origin who received a \$1,000 US dollars sanction for exceeding the time limit of stay in the Bahamas was reported. A Jamaican man who confessed to being their guardian, was sentenced to one year in prison for helping the five women⁵⁷. Months later, 116 Haitian migrants were accused of illegal landing, of which 12 were sentenced to a \$300 US dollars fine⁵⁸.

50. The Commission was also made aware of the introduction of several bills related to the education of migrant children. According to the collected information, the proposed legislation considers the

⁴⁸ Tribune 242, [Police Aim To Reduce Murders To Less Than 90 Next Year](#), December 28, 2018.

⁴⁹ Tribune 242, [Rise In Rapes: We Must Get Serious](#), December 20, 2018.

⁵⁰ The Bahama Journal, [JEAN RONY-CHARLES APPEAL DISMISSED](#), October 18, 2018.

⁵¹ Tribune 242, [Taranique Case 'Shows Need For Naturalisation Law'](#), July 31 2018.

⁵² MyCaribbeanScoop, [This Story of Compassion For A Sick Haitian Girl Shows The Beauty of Bahamians](#), September 14, 2018.

⁵³ The Nassau Guardian, ['1,410 residents in 10 shantytowns'](#), May 17, 2018.

⁵⁴ Tribune 242, [500 Remain In Shanty Towns Ahead Of Demolition](#), June 6, 2018.

⁵⁵ Tribune 242, [Govt Seeks To Limit Construction In Shanty Towns](#), October 9, 2018.

⁵⁶ Tribune 242, [Un And Haiti 'Acknowledge' Govt Efforts To Erase Shanty Towns](#), September 10, 2018.

⁵⁷ Tribune 242, [Five Women Fined For Overstaying In The Bahamas](#), November 6, 2018.

⁵⁸ Tribune 242, [116 Haitian Migrants Charged With Illegal Landing](#), December 31, 2018.

citizenship requirement to allow access to the national education system. The Commission considers that if approved, this bill would endanger the right to education of all migrant children in the Bahamas⁵⁹.

51. In regards to the **rights of women and children**, during a promotional visit to the Bahamas, the IACHR was informed by civil society organizations of the worrying situation of sexual violence and abuse against women and girls⁶⁰. On the other hand, the IACHR observes that there are legislative mechanisms to deal with violence that need to be adopted and adequately implemented, among them, the proposed legislation that creates a database of persons who commit sexual offenses⁶¹ and the Children's Protection Act. Regarding cases of children disappearance, the IACHR observes that the AMBER alert system is applied to the registry of complaints. However, the Commission notes the absence of a detailed procedure for the public dissemination of alerts that may enable the rapid identification of their whereabouts⁶².

52. With respect to the **rights of LGBTI persons**, the IACHR learned from civil society organizations that this population is gravely exposed to domestic violence and that they are not inclined to trust police authorities, exposing them to a precarious state of security. Due to this context of violence and fear, the LGBTI population is prone to live in the streets and to seek asylum in other countries, mainly in Canada⁶³. In terms of gender equality, the Commission noted that after a number of referendums that rejected the introduction of this concept in a constitutional reform, discrimination towards LGBTI⁶⁴ persons would have increased.

53. In terms of **freedom of expression**, on April 18, media outlets reported that the Supreme Court of the Bahamas dismissed a defamation suit filed by a former diplomatic official against a national newspaper⁶⁵. In addition, in 2018, some provisions of the law on access to public information enacted in 2017 became fully effective⁶⁶. Finally, according to information of public knowledge, the Attorney General had expressed an intimidating speech against activists and human rights defenders following the publication of an educational brochure on the rights of migrants, considering that its content contains false information.

BARBADOS

- **General considerations**

54. Regarding **progress**, the IACHR highlights the holding of general elections in Barbados, the decrease in crime, and the proposal of bills to promote transparency, the right to access to public information, and the protection of personal information.

55. Regarding the main **challenges** in 2018, the IACHR observes with concern the rejection of Haitian migrants at the border.

56. The State did not respond to the request for information sent to prepare this chapter.

⁵⁹ Eye Witness News, [Rights Bahamas to take legal action over children denied school entrance](#), August 16, 2018.

⁶⁰ IACHR, Promotional visit to the Bahamas, courtesy meeting with civil society, February 20, 2018.

⁶¹ Tribune 242, [Minister Anxious To Establish Sexual Offenders Registry](#), May 18, 2018.

⁶² IACHR, Promotional visit to the Bahamas, courtesy meeting with civil society, February 20, 2018.

⁶³ IACHR, Promotional visit to the Bahamas, courtesy meeting with civil society, February 20, 2018.

⁶⁴ Amnesty International <https://www.amnesty.org/en/countries/americas/bahamas/>, April 2018.

⁶⁵ The Nassau Guardian, [Guardian wins defamation suit](#), July 19, 2018.

⁶⁶ Eleutheran, [Freedom of Information Act \(FOIA\) to be implemented in phases](#), April 23, 2018.

- **Specific issues**

57. Regarding **democratic institutional**ity, on May 24, Barbados held general elections, in which 280,000 people voted to elect a new government. As a result of the election, the Barbados Labour Party (BLP) obtained 30 seats in the House of Assembly of Barbados. The elections went down in history as the first election in the post-independence era of Barbados in which a single political party won all the seats. Additionally, attorney Mia Mottley was the first woman to become prime minister of Barbados.⁶⁷

58. Regarding the crosscutting theme of **institutionality in human rights**, the country has an Office of the Ombudsman whose objective is to investigate complaints, thereby ensuring protection of individual rights and liberties against bureaucratic wrongdoing and the effects of maladministration.

59. As regards **access to justice**, the IACHR welcomes the judgment of the Caribbean Court of Justice finding the mandatory death penalty unconstitutional.⁶⁸ The ruling was handed down on June 27, 2018, in the cases of Jabari Sensimania Nervais and Dwayne Omar Severin, and it found it was indisputable that the nation, through its actions, had acknowledged that it had an obligation to eliminate the death penalty⁶⁹ and that section 2 of the Offences against the Person Act was unconstitutional because it established a mandatory death penalty.

60. The IACHR also granted precautionary measures regarding Barbados during 2018. On May 5, 2018, the IACHR adopted precautionary measures to the benefit of Anderson Grazette in the first case and Dwayne Omar Severin and Jabari Sensimania Nervais in the second. Both requests for precautionary measures stated that the beneficiaries were being held in Her Majesty's Prisons, Dodds, St. Philip after having been convicted and given a mandatory death sentence by hanging, and they were currently on death row. After analyzing the pleadings of fact and law, the IACHR found in both cases that the information presented demonstrated, in principle, that the beneficiaries were facing a situation of gravity and urgency. Consequently, in accordance with Article 25 of the Rules of Procedure of the IACHR, it asked Barbados in both resolutions to refrain from carrying out the death penalty issued to the beneficiaries while the IACHR was ruling on their petition; that it take the measures necessary to protect the lives and personal integrity of the beneficiaries; and that it reach an agreement with the beneficiaries and their representatives on the measures to be adopted.⁷⁰

61. Regarding **citizen security**, the IACHR learned that Transparency International's Corruption Perceptions Index had given Barbados a score of 68, making it the country with the second lowest corruption in the region.⁷¹ In addition, the Commissioner of the Police reported that crime in Barbados was down 3% compared to 2017. He also stated that between January 2018 and October 31, 2018, 2,042 people—0.7% of the total population—were charged with committing a total of 3,823 crimes. Regarding the ages of the people charged, he stated that people between the ages of 20 and 29 were allegedly responsible for 903 crimes; people between the ages of 30 and 39, 526 crime; and those older than 40, 650 crimes. Lastly, he stated that 647 people were first-time offenders, while 751 were repeat offenders.⁷²

62. Regarding the rights of **migrants**, the IACHR notes there were cases of rejecting Haitians trying to enter Barbados. In November, three Haitians arrived to Barbados and were administratively detained in the airport before being repatriated. Of that group, two people escaped and were later detained.⁷³

⁶⁷ Caribbean Elections, [Barbados General Election Results](#), May 24, 2018.

⁶⁸ IACHR, [IACHR Welcomes Ruling by the Caribbean Court of Justice \(CCJ\) Making Mandatory Death Penalty in Barbados unconstitutional](#), July 23, 2018.

⁶⁹ Caribbean Life, [Barbados death penalty unlawful](#), June 29, 2018.

⁷⁰ CIDH, Clyde Anderson Grazette regarding Barbados, (MC 1046/17) and IACHR, Dwayne Omar Severin and Jabari Sensimania Nervais regarding Barbados, (MC 1047/17).

⁷¹ InSight Crime, [Corruption Survey Shows Latin America Still Struggling to Tackle Graft](#), February 22, 2018.

⁷² Barbados News, [Crime down in Barbados and trending downward annually](#), November 20, 2018.

⁷³ Santa Lucia News Online, [Haitian nationals detained after refused entry into Barbados](#), November 5, 2018.

63. On the rights of **women**, the IACHR received information on domestic violence and harassment; the existence of a single shelter for women who are victims of violence; and problems accessing justice for LGBTI women due to gender stereotypes.⁷⁴ In a protocolary meeting with the authorities, the IACHR received information on women victims of violence who are being assisted by an NGO that later transfers the cases to the corresponding ministry for follow-up.⁷⁵ The IACHR also underscores that since 1983, the law has allowed abortion under certain circumstances,⁷⁶ and that the State reported to the IACHR on the impact that access to abortion has had on increasing the life expectancy of women.⁷⁷

64. Regarding the rights of LGBTI persons, the Commission notes with concern that the Sexual Offenses Act, Chapter 154, Section 9, remains in force and criminalizes consensual relations between adults of the same sex. In addition, the 2002 Sexual Offenses Act Crimes Act remains in force; it defines the crime of "serious indecency"⁷⁸.

65. With regard to the rights of **older persons**, in a protocolary meeting with the authorities, the IACHR received information on improvements to the quality of life and increased life expectancy for Barbadians, as well as a significant reduction in the rate of people with Alzheimer's.⁷⁹

66. Regarding **freedom of expression**, the IACHR was informed that the State had made proposals aimed at promoting a law on access to public information and other legal reforms to improve accountability, protect whistleblowers, and implement government transparency policies. The IACHR also takes note that a bill on "integrity in public life" is being processed that would strengthen measures for taking action against corruption.⁸⁰ Lastly, in 2018, the State conducted a consultation process on provisions of a preliminary draft of a bill on data protection.

BELIZE

- **General considerations**

67. Regarding **progress**, the Commission highlights the information reported to the United Nations Human Rights Committee on equal protection and nondiscrimination, the right to a life with dignity, health, and education, as well as the information on the reduction in extended pretrial detention, the rights of women, and the enhanced domestic human rights law framework.⁸¹

68. Regarding **challenges**, 2018 saw citizen insecurity remain high, as well as a lack of institutionality regarding human rights. The State did not respond to the request for information sent to prepare this chapter.

69. The State did not respond to the request for information sent to prepare this chapter.

⁷⁴IACHR, promotional visit to Barbados, Protocolary Meeting with Civil Society Organizations, February 20, 2018.

⁷⁵IACHR, promotional visit to Barbados, Protocolary Meeting with Authorities, February 20, 2018.

⁷⁶ Women on Waves, [Abortion Law Barbados](#); The Guardian, [Why do politicians still force women through unwanted pregnancies?](#), September 28, 2017; Reuters, [In the Caribbean, crossing borders by land and sea for safe abortions](#), May 26, 2016.

⁷⁷IACHR, promotional visit to Barbados, Protocolary Meeting with Authorities, February 20, 2018.

⁷⁸ See: Sexual Offenses Act, Chapter 154, Section 9 (Buggery) and Sexual Offenses Act, 2002 Chapter 154, Section 12.

⁷⁹IACHR, promotional visit to Barbados, Protocolary Meeting with Authorities, February 20, 2018.

⁸⁰ The Barbados Advocate, [Integrity Law Before Year End](#), November 7, 2018.

⁸¹ United Nations Human Rights Committee, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HCR/WG.6/31/BLZ/1, October 2, 2018.

- **Specific issues**

70. Regarding **democratic institutional**ity, municipal elections were held in 2018 with 57% of voters participating. The United Democratic Party (UDP) retained six of the nine municipalities, and the People's United Party three municipalities.⁸²

71. Regarding the crosscutting theme of **institutionality of human rights**, Belize has an Office of the Ombudsman that receives and investigates complaints of injustices, injuries, or abuses carried out by an authority. The IACHR also underscores the establishment of the National Committee against Sexist and Gender Violence; and the creation of an office on the fight against human trafficking of the Belize Police Department, and the Women in Politics Project, whose objective is to increase women's participation in politics.⁸³

72. Regarding **citizen security**, Belize is the sixth most violent country in the region, with the murder rate of 35.9 murders for every 100,000 inhabitants.⁸⁴ The media reported 143 murders in 2018. In March, a state of emergency was declared in the south of Belize City due to the increase in crime rates. Then again in September, a state of emergency was declared in the same area due to violence by gangs and criminal groups linked to drug trafficking, leading to mass arrests.⁸⁵

73. Regarding **access to justice**, it should be noted that despite the fact that the death penalty is provided for under Belizean legislation, it was declared unconstitutional by justice officials,⁸⁶ so judges have discretion as to whether to apply it in less serious crimes.

74. Regarding **migrants**, after 21 years of suspension, the Department of Immigration and Nationality granted refugee status to 15 foreigners.⁸⁷

75. Regarding **freedom of expression**, Rigoberto Escobar, a correspondent for Guatemala's *Prensa Libre*, was allegedly attacked by officers of the Belizean Armed Forces in a border area in dispute by both countries.⁸⁸

BOLIVIA

- **General considerations**

76. Regarding progress, in 2018, the IACHR took note of the efforts made by Bolivia to promote diversity in political representation, especially of indigenous persons; the development of the indicators of the Plurinational System for Follow-up, Monitoring, and Statistics regarding Human Rights Recommendations in Bolivia (SIPLUS-Bolivia); and the validation of indicators for evaluating the progress made on human rights in the country.

⁸² GIS Belice, *Belize Municipal Elections 2018*, Source: *Belize Elections and Boundaries Department*.

⁸³ United Nations, Human Rights Committee, Concluding observations on the initial report on Belize, December 11, 2018.

⁸⁴ *InSight Crime*, *InSight Crime's 2018 Homicide Round-Up* January 22, 2019. Also see *El Periódico*, *Belice con mayor tasa homicida*, April 17, 2018, and *El País*, *Belice, la vida en el país con más homicidios*, April 3, 2018.

⁸⁵ For example, Ambergris Today, *Belize City Southside Declared in State of Emergency Due to Crime*; BBN, *State of Emergency declared on south-side neighborhoods*, September 5, 2018.

⁸⁶ Judicial Committee of the Privy Council (JCPC), *Reyes, v. 2002*.

⁸⁷ UNHCR, *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Belize*, 3rd cycle, session 31, July 2018.

⁸⁸ *Prensa Libre*, *Periodista guatemalteco es agredido en zona de advacencia entre Belice y Guatemala*, January 17, 2018; Amandala, *"Spineless" Sedi on Guatamalan Kaibiles walking into Belize territory as if they owned it*, January 24, 2018; *News 5*, *Showdown at the Border in Guat Journalist's Own Words*, January 19, 2018.

77. Regarding the **challenges** faced by the State, the IACHR paid special attention to issues related to the election; the situation of the right to protest regarding the demonstrations that took place to oppose the amendment of the Penal Code, as well as others demanding changes to the Tax Coparticipation Act during which force was allegedly used excessively; and the situation of violence facing women who participate in politics and journalists because of the work they do.

78. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

79. Regarding **democratic institutional**ity, the IACHR welcomed initiatives in Bolivia to guarantee diversity of representation in the various political and judicial bodies of the State. In particular, the Commission takes note of the process to elect magistrates that requires 50% of the final candidates to be women, and that candidates be included who identify themselves as indigenous.⁸⁹ The IACHR also welcomes the achievement that 51.81% of the members of the Plurinational Legislative Assembly self-identify with one of the indigenous nations or peoples of campesino origin or from intercultural and Afro-Bolivian communities.⁹⁰ In addition, the IACHR has received information on the official status for the indigenous autonomy of Raqaypampa⁹¹ and Uru Chipaya⁹², and will continue monitoring the process of other localities in the State that seek their respective autonomy.⁹³

80. At the same time, the Commission notes with concern the effects of the November 2017⁹⁴ decision of the Plurinational Constitutional Tribunal annulling the results of the Constitutional Referendum carried out in February 2016 in which the "no" had won, rejecting the constitutional amendment approved by the Legislative Assembly that sought to change the presidential administration to allow reelection for more than two terms. Specifically, the Plurinational Constitutional Tribunal decided to "preferentially apply the right to participate in government" contained in Article 23 of the ACHR over and above the articles of the Constitution, thereby permitting unlimited reelection to political positions.

81. Regarding this, on December 5 in the framework of its 170th Period of Sessions, the IACHR held a public hearing in which the requesters argued that the decision of the Constitutional Tribunal violates the Constitution and the expression of the popular will in the 2016 referendum, which would affect the exercise of the right to participate in government in Bolivia protected by the Convention. For its part, the State held that the judgment of the Constitutional Tribunal is legitimate and was based on the case law of the inter-American human rights system, noting that Article 23 of the ACHR establishes that restrictions on the right to participate in government must be limited, for which reason prohibiting reelection would violate the provisions of this article. Lastly, the IACHR took note of the acceptance by the Supreme Electoral Tribunal of Bolivia on December 4 of the registration of President Evo Morales as a candidate for a fourth presidential term in the elections that will take place in October 2019.⁹⁵

82. The IACHR has also monitored the process to reform the Bolivian Penal Code, which has given rise to a significant opposition movement in the country in a variety of sectors of society in the form of walkouts,

⁸⁹ Bolivia, Note No. MPB-OEA-NV257-17: information on the situation of human rights in Bolivia, December 12, 2018, p. 2

⁹⁰ Bolivia, [Vice Presidency of the Plurinational State of Bolivia: statistics](#), accessed on March 1, 2019

⁹¹ Los Tiempos, [Raqaypampa consolida su autonomía indígena con la acreditación de autoridades](#), January 4, 2018.

⁹² La Razón, [En la nación Uru Chipaya se constituye el gobierno indígena por una gestión de 4 años](#), January 31, 2018.

⁹³ Galileu, [Como funciona o primeiro território governado por indígenas na Bolívia](#), May 28, 2018.

⁹⁴ On April 4, 2019, the IACHR decided and proceeded to correct the material error notified by the State through communication GM-Cs-106/2019 dated March 27, 2019 regarding the resolution paragraph of the Plurinational Constitutional Judgment 0084/2017 of November 28, 2017.

⁹⁵ Europa Press, [El Tribunal Electoral de Bolivia acepta la candidatura de Evo Morales de cara a las elecciones de 2019](#), December 5, 2018.

hunger strikes, roadblocks, and other actions of social protest⁹⁶. The protests were opposed by various social groups regarding the development of the Criminal Code that introduced new possibilities for the termination of pregnancy and the aggravation of the punishment for murder in cases of discrimination based on sexual orientation and gender identity⁹⁷. The opposition of transporters, doctors and religious organizations was also registered regarding articles 88, 137, 205, respectively. Following these protests, in January 2018, the president decided to suspend the process to adopt the new Penal Code, which was to take effect starting in June 2019.⁹⁸ However, the country continued to experience demonstrations over multiple issues—for example, to demand changes to Law 195 on tax revenue sharing.⁹⁹

83. In performing its monitoring work, the IACHR learned of concerning information on the excessive use of lethal force during demonstrations that took place on February 21 and May 24. During the former, the police allegedly used tear gas against demonstrators, injuring demonstrator and human rights defender Franco Albarracín.¹⁰⁰ Also, during the demonstration on May 24, Jonathan Quispe Vila was killed. The journalism student of the Universidad Pública de El Alto (UPEA) was participating in the demonstration when he was shot by a shotgun pellet from a shotgun fired by a second lieutenant of the police.¹⁰¹

84. Regarding this, on July 17, the IACHR asked the Bolivian State for information under the authorities established and Article 41 of ACHR. In its response, sent on November 27, the State said the police action was proportionate to the need to restore public order.¹⁰² Regarding these incidents from February and May, the State reported that the corresponding domestic laws had been put in place governing police operations, and in both cases, they “prohibited carrying and using firearms (pistols, shotguns, rifles, etc.)” and the use of “rubber bullets and pellets.”¹⁰³ It also reported that in June, the Public Minister filed a resolution to formally charge Second Lieutenant Cristian Bladimir Casanova Condori with murder, and the Police also expanded the investigation of the Second Lieutenant to failure to comply with administrative orders and unjustified possession of police equipment or weaponry.¹⁰⁴

85. Regarding the **institutionality of human rights**, Bolivia, in its response, notes that it has an Office of the Ombudsperson, whose functions include promoting the defense of the rights of native and campesino indigenous nations and peoples, urban and intercultural communities, and Bolivians abroad.¹⁰⁵ It also has a Plurinational System for Follow-up, Monitoring, and Statistics regarding Human Rights Recommendations in Bolivia (SIPLUS-Bolivia); which provides an important tool for interagency coordination and follow up on the recommendations of the various international bodies. It is part of the State’s initiative to validate more than 400 indicators on structural matters and human rights outcomes.¹⁰⁶ In addition, it notes that 2018 saw the end of the implementation period of the National Human Rights Plan. The Commission recalls the importance of having the information necessary to evaluate the outcomes of the plan, as well as the opportunity to design a new public policy on the matter with the broadest social participation possible.

⁹⁶ Euronews, [Violentas protestas en Bolivia contra el nuevo Código Penal](#), January 9, 2018.

⁹⁷ Deutsche Welle, [Bolivianos contra el código penal de Morales](#), January 17, 2018.

⁹⁸ Tele Sur, [Evo Morales aplaza nuevo Código Penal](#), January 21, 2018

⁹⁹ Bolivia en tus manos, [UPEA retoma movilizaciones y pide modificar la Ley de Coparticipación Tributaria](#), June 11, 2018.

¹⁰⁰ El Deber, [Hijo del rector de la UMSA recibe impacto de granada policial](#), February 22, 2018.

¹⁰¹ El Deber, [El Alto: confirman la muerte de un universitario tras represión policial](#), May 24, 2018.

¹⁰² Bolivia, Office of the Attorney General of the State, Note PGE-DESP-SPDRLE-DGDHMA-Nº 848/2018, November 27, 2018.

¹⁰³ Bolivia, Office of the Attorney General of the State, Note PGE-DESP-SPDRLE-DGDHMA-Nº 848/2018, November 27, 2018.

¹⁰⁴ Bolivia, Office of the Attorney General of the State, Note PGE-DESP-SPDRLE-DGDHMA-Nº 848/2018, November 27, 2018.

¹⁰⁵ The legal framework of the Office of the Ombudsperson is found in the Political Constitution of the State, Second Chapter, Defense of Society, Section I, Office of the Ombudsperson.

¹⁰⁶ Bolivia, Note No. MPB-OEA-NV257-17: information on the situation of human rights in Bolivia, December 12, 2018, p. 8

86. Regarding **access to justice**, in the framework of the process to adopt the new Political Constitution, the State reported in its response that it is implementing a comprehensive justice system reform. The reform began with the establishment of regulations of the position of judge and an evaluation of sitting judges to ensure they fully comply with the minimum criteria for holding their positions, as established in the new law. This has led to resistance from the Association of Magistrates of Bolivia.¹⁰⁷ In this regard, during the 169th Period of Sessions, a public hearing was held in which civil society representatives emphasized the weakness of the judiciary, highlighting, among other things, the fact that only 13% of judges are permanent and the rest are temporary, and the lack of civil society participation in reforming that branch, stating that it was prevented from participating in the Committee on Implementation of the Conclusions of the Judicial Summit. For its part, the State highlighted the distinctions between the public policy work of the Committee and the administration of justice. It stated that it was taking the steps necessary to put in place the permanent career path for judiciary and Public Ministry officials.

87. Regarding the **rights of women**, the IACHR has been aware of the situation of violence and discrimination facing women who participate in politics in Bolivia.¹⁰⁸ The IACHR has welcomed the pioneering role taken by the country and the efforts it has made to address political violence against women, specifically with the adoption of the “Anti-Political Harassment and Violence against Women Act” in 2012. However, the Commission was informed of the obstacles that women continue to face to exercising their right to participate in politics. According to information from the Supreme Electoral Tribunal, sent by UN Women and the Observatorio de Paridad Democrática, a total of 65 cases of political harassment and violence against women took place in the country in the first four months of 2018 alone.¹⁰⁹ The Commission warns that the prevalence of violence against women serving in political roles is an indication of the challenges that the State continues to face to implementing existing law.¹¹⁰ Specifically, the Commission views with concern the information obtained on the obstacles facing women wishing to report these incidents and the impunity surrounding them.¹¹¹ Regarding this, the IACHR has recommended enhancing effective implementation of the “Anti-Political Harassment and Violence against Women Act” with a view to eradicating political violence against women and guaranteeing the full exercise of their right to participate in government, without discrimination.¹¹²

88. As regards the rights of **indigenous peoples**, the IACHR learned about and expressed its concern with the possible displacement of indigenous communities due to the Chepete-El Bala and Rositas hydroelectric megaprojects¹¹³, with guarantee of the right to prior, free, and informed consultation. In this regard, the IACHR recalls that the states should comply with their international obligations in this regard, and guarantee the rights of indigenous peoples affected by megaprojects in the name of development.

89. Regarding the **general context of freedom of expression**, in 2018, the Office of the Special Rapporteur of the IACHR received information on incidents in which the Police used excessive force when intervening in social demonstrations. Additionally, civil society organizations indicate that a number of journalists are designated as “members of the opposition” by government officials, discrediting them to the public and exposing them to risk of attacks; also, they pointed to cases of self-censorship in some government media outlets, along with threats and intimidation against journalists.¹¹⁴ In this context, the Office of the Special Rapporteur received information on situations of violence against journalists for reasons related to the work

¹⁰⁷ Correo del Sur, [Plan de reforma judicial avanza sin premuras](#), July 28, 2018.

¹⁰⁸ Latin American Post, Bolivia, [La violencia hacia las mujeres en la política no disminuye](#), September 3, 2018;

¹⁰⁹ La Razón, [ONU condena la violencia política hacia las mujeres en Bolivia y pide esclarecer denuncias](#), June 12, 2018.

¹¹⁰ IACHR, Annex to Press Release 220/2018, [Summaries of Hearings 169th Period of Sessions in Boulder, Colorado](#), October 19, 2018.

¹¹¹ Página Siete, [Juana Quispe, seis años de un asesinato político impune](#), April 16, 2018.

¹¹² IACHR, Annex to Press Release 220/2018, [Summaries of Hearings 169th Period of Sessions in Boulder, Colorado](#), October 19, 2018.

¹¹³ Los Tiempos, [Comunidades de Bolivia se unen a nivel regional contra megaproyectos](#), June 24, 2018.

¹¹⁴ IACHR, 167th Period of Sessions. Hearing on the Situation of the Right to Freedom of Expression in South America. Also see: RPP, [Periodistas de Bolivia denuncian amenazas a la libertad de prensa](#), May 10, 2018.

they do.¹¹⁵ Likewise, there are questions surrounding the placement of State advertising, which is allegedly used as a mechanism to support or punish media outlets based on their alignment with the government.¹¹⁶ Additionally, civil society organizations reported on a series of laws passed in recent years that could have a negative impact on, among other things, the finances and sustainability of the media.¹¹⁷ Lastly, the Office of the Special Rapporteur received information on incidents in which journalists were required by judicial authorities to reveal their sources of information.¹¹⁸

90. Lastly, regarding the right to the **environment**, the State reported, in its response, that both the Constitution of Bolivia and Law 300 of October 15, 2012, known as the Framework Law on Mother Earth and Holistic Development for Well-being, establish the basic principles on the environment and development for Bolivia, as does the institutional framework on the environment.¹¹⁹ The IACHR also notes that the Ministry of the Environment and Water has implemented a project aimed at reducing and managing polluting waste that concludes in July 2019. There is also an environment dissemination program aimed at establishing actions on environmental education to promote the construction of an environmental culture and enhance citizen participation for the conservation and sustainable use of natural resources.¹²⁰ For their part, civil society organizations reported that Tacana II of the Bolivian Amazon has become an area with oil activities with the superimposition decreed by the government of the Nueva Esperanza block, which, together with the Beni block, are the first hydrocarbon exploration projects in the Bolivian Amazon.¹²¹ They also expressed concern at the fact that the Toromona people—who live in voluntary isolation—are located on that territory. They also informed the IACHR of the approval of the construction of a highway crossing the Isiboro-Secure Indigenous Territory and National Park. REDESCA is concerned at the environmental effects involved in lifting the area's protected status, as well as the lack of prior, free, and informed consultation with the indigenous communities of the sector.¹²²

BRAZIL

- **General considerations**

91. Regarding **progress** during 2018, the IACHR highlighted a number of measures taken by the Brazilian Judicial Branch to expand protection of the rights of vulnerable groups, such as women deprived of liberty, children and adolescents, and trans persons. The IACHR also recognizes and appreciates the technical and logistical support provided by State authorities for the *in loco* visit made to Brazil on November 5-12, 2018, with the aim of observing and analyzing the human rights situation in the country.

92. Regarding the **challenges** identified by the IACHR in the preliminary observations issued to close the *in loco* visit, they include high rates of violent death in the country; the impacts of the federal

¹¹⁵ Urgentebo. March 22, 2018. Dan 4 días de baja a camarógrafo de Abya Yala agredido por coccaleros. Also see: Abya Yala TV Cocaleros afines a Franklin Gutiérrez agreden físicamente al camarógrafo y periodista de Abya Yala Televisión, March 20, 2018; Agencia de Noticias Fides, Monitoreo de ANP reporta agresión a periodista y reporteros gráficos, March 21, 2018. La Voz de Tarija, Ministra López repudia actitud 'misógina' de seguidores de Leyes que agredieron a equipo de prensa de Bolivia Tv, April 20, 2018.

¹¹⁶ IACHR/YouTube. 167th Period of Sessions Hearing on the Situation of the Right to Freedom of the Press in South America. February 28, 2018.

¹¹⁷ ANP, ANP alerta asfixia financiera y amenazas a las libertades de prensa y de expresión, February 28, 2018. Also see: Inter-American Press Association, Critica la SIP nueva imposición del gobierno de Bolivia a los medios, September 28, 2018; Infobae, Evo Morales promulgó la polémica "Ley de Organizaciones Políticas" que habilita la realización de elecciones primarias, September 4, 2018.

¹¹⁸ ATB Digital, La Fiscalía pide a la Red ATB revelar la fuente de origen del audio que involucra a la juez Pacajes, September 20, 2018. Also see: Los Tiempos, Caso Alexander: Fiscalía pide a medio de comunicación revelar fuente del audio, September 20, 2018; ANP, ANP exige respeto a la Ley de Imprenta, September 21, 2018.

¹¹⁹ Note from the Mission of the Plurinational State of Bolivia to the OAS, MPB-OEA-NV257-18, December 12, 2018, p. 10-11

¹²⁰ Note from the Mission of the Plurinational State of Bolivia to the OAS, MPB-OEA-NV257-18, December 12, 2018, p. 12

¹²¹ Organizaciones Ambientales de la Región Andina, Abusos de Poder contra defensores y defensoras de los derechos humanos, del territorio y del ambiente, March 2018, p. 20

¹²² Centro de Documentación e Información de Bolivia, Tipnis Resiste: Dossier de Publicaciones 2010-2017, p. 27-28

intervention in the state of Rio de Janeiro and the increase in the numbers of shootings and people killed by the police, according to the Observatory on the Intervention;¹²³ the critical situation of violence against human rights defenders, specifically *quilombolas*, indigenous, and campesinos; the repeat violent incidents and deaths of adolescents housed in criminal juvenile correction centers; and the incidence of violence in prisons resulting from confrontations between two rival organized criminal groups. The IACHR also observes with extreme concern the reports received about an increase in speech that incites violence on discriminatory grounds in the public spaces and in social networks, especially with respect to women, LGTBI persons, persons of African descent from urban sectors, and social movements that struggle for land, housing, and the environment.

93. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

94. Regarding **democratic institutional**ity, the IACHR highlights the state and federal legislative and executive-branch elections held in 2018. The IACHR takes note of the success of these elections as described by the OAS Electoral Observation Mission, particularly as regards their organization and the technology used, campaign finance, freedom of expression, the political participation of women, electoral justice, and the participation of indigenous and Afro-descendant peoples.¹²⁴ However, the IACHR condemns the threats and incidents of violence that led to attacks on the candidates, including on the individual who is now president, Jair Bolsonaro.¹²⁵

95. In addition, the IACHR observed with extreme concern the dissemination before and after the vote of fake news items attributed to followers of different political groups over social media and Internet messaging services.¹²⁶ In particular, the IACHR rejects the fake news that stigmatized political leaders and human rights defenders, intensifying threats and violence in the country. Specifically, the IACHR issued a [press release](#) repudiating the murder of state Deputy Marielle Franco and her driver, Anderson Gomes, in March 2018. The IACHR also observes with concern the death threats against state Deputy Marcelo Freixo and Congressman Jean Wyllys—the latter a beneficiary of a [precautionary measure](#) issued by the IACHR.¹²⁷

96. Regarding the crosscutting theme of **institutionality of human rights**, Brazil has a human rights protection system comprised of an Office of the Attorney General of the Republic under the Federal Public Ministry, as well as other bodies at the state level.

97. Regarding **citizen security**, according to figures from the Brazilian Forum on Public Security, in the state of Rio de Janeiro—where a federal military intervention was staged in 2018—murders declined by 8.2% compared to the same period in 2017. However, the number of shootings increased by 56%, while the number of people killed by the police increased by 40%. The Observatory also notes that a total of 1,375 people were killed by the police between February and December 2018, and that 75% of the victims were people of African descent.¹²⁸ The IACHR is concerned at the levels of violence in the country, both urban and rural. Specifically, the Commission underscores that the citizen security crisis in urban areas has caused an increase in the excessive use of force by the police, with a corresponding increase in lethality rates. Likewise, citizen security policies are increasingly militarized. In this regard, the distinction between the functions of the armed forces—limited to defending national sovereignty—and police forces—exclusively responsible for citizen

¹²³ Observatorio da Intervenção Federal e Centro de Estudos de Segurança e Cidadania, [Intervenção Federal: um modelo para não copiar](#), January 2019.

¹²⁴ Organization of American States(OEA), [OAS Mission Congratulates the Brazilian People for Peaceful Vote and Highlights the TSE's Professional Work](#), October 2018.

¹²⁵ Folha de São Paulo, [Eleição de 2018 será lembrada pelos casos de violência, dizem analistas](#), October 28, 2018.

¹²⁶ Organization of American States(OEA), [OAS Mission Congratulates the Brazilian People for Peaceful Vote and Highlights the TSE's Professional Work](#), October 2018.

¹²⁷ El País, Las amenazas a defensores de los derechos humanos ponen en jaque a la democracia brasileña, December 17, 2019.

¹²⁸ Observatorio da Intervenção Federal e Centro de Estudos de Segurança e Cidadania, [Intervenção Federal: um modelo para não copiar](#), January 2019.

security—is an essential starting point when designing and implementing this type of public policy. Also, in the specific case of Brazil, the State must adopt comprehensive citizen security policies that include measures for combating institutional racism in the context of actions taken by its police officers, such as the use of racial profiling and ostensive police persecution of people of African descent.

98. Regarding **access to justice and judicial independence**, the IACHR observes with concern the very high number of Afrodescendant persons in the prison system, as they account for 64% of the total prison population.¹²⁹ The IACHR notes that 38% of Brazil’s prison population is made up of persons being held in pretrial detention.¹³⁰ It is therefore crucial to revise criminal policies and legislation, particularly those regarding drugs, as they disproportionately impact people who have been detained for consumption or possession of drugs or who have committed minor crimes. The IACHR underscores that adopting this approach would particularly have an impact on the protection of the rights of people of African descent and imprisoned women. In the same regard, the IACHR urges the Brazilian State to guarantee the judicial independence and freedom of expression of judges, specifically judges who have issued decisions that depart from traditional case law to align with inter-American and universal human rights standards on criminal justice and the Brazilian prison system.

99. Regarding the rights of **women**, the Commission views positively that on December 19, 2018, the government passed a package of bills with measures to protect the rights of women,¹³¹ especially in the context in which the IACHR has observed intersections between violence, racism, and misogyny that are deeply ingrained in the country—in particular, murders of black women.¹³² The measures adopted include increasing the punishment in cases of femicide when the attacker has violated measures of protection such as restraining orders or measures related to carrying guns; and a ban on photographing or filming nudity or sexual acts without consent, in order to protect personal privacy.

100. In addition, the Commission learned of the case of the forced sterilization of Janaína Aparecida Quirino, pregnant with her eighth child, a woman of African descent, and living on the street. In execution of a court judgment, her tubes were tied in Mococa, São Paulo.¹³³ The Commission asked for information from the State. In its response, the State provided information on “Motion of Repudiation 01/2018,”¹³⁴ whereby the Coordinator of the Policies on Women of the State of São Paulo rejected that judicial action.¹³⁵ The Commission welcomed the response from the State to the effect that social vulnerability cannot be used as grounds for maintaining or eliminating fundamental rights, as well as the State’s actions to guarantee access to healthcare services and the protection of the sexual and reproductive rights of women.¹³⁶

¹²⁹ Departamento Nacional Penitenciario y Ministerio Nacional de Justicia y Seguridad Pública, Levantamiento Nacional de Información Penitenciaria (Infopen), actualización a junio de 2016. Brasília - DF, 2017, p. 32. In this regard, in the case of Maranhão, Pernambuco and Mato Grosso this condition is not included in their prison statistics, which would affect the figures that end the percentage of people of African descent in prisons. This, taking into account the high number of people detained in these states (8.835, 34,556, y 10.362, respectively). Mattos Filho, “Report of the rights of people deprived of liberty in Brazil”, octubre de 2018. Information delivered to the IACHR on February 26, 2018.

¹³⁰ Departamento Nacional Penitenciario y Ministerio Nacional de Justicia y Seguridad Pública, Levantamiento Nacional de Información Penitenciaria (Infopen), update to June 2016. Brasília - DF, 2017, p.8.

¹³¹ GLOBO, [Temer sanciona aumento de pena para feminicídio e prisão domiciliar para grávidas](#), December 19, 2018.

¹³² IACHR Press Release annex [IACHR Concludes Visit to Brazil](#). Washington, D.C., November 12, 2018

¹³³ El País, [Como um promotor e um juiz do interior de SP esterilizaram uma mulher à força](#), June 15, 2018. Noticero 52, [La esterilización “forzada” de una mujer genera polémica en Brasil](#), June 14, 2018. Folha de Sao Paulo, [Esterilização de mãe de 8 no interior de São Paulo vira alvo de investigação](#), June 11, 2018.

¹³⁴ IACHR, Letter Requesting Information dated August 24, 2018, IACHR archive.

¹³⁵ Federative Republic of Brazil, response to request for information on nonconsensual sterilization, Janaina Aparecida de Quirino, correspondence with the IACHR dated September 12, 2018. IACHR Archive.

¹³⁶ Federative Republic of Brazil, response to request for information on nonconsensual sterilization, Janaina Aparecida de Quirino, correspondence with the IACHR dated September 12, 2018. IACHR Archive.

101. Regarding the rights of **children and adolescents**, the Commission expressed dismay over the prevalence of poor detention conditions and situations of violence taking place in criminal juvenile detention centers. In 2018, the IACHR learned of the following: on February 24, two adolescents died in the Centro Educandário Santo Expedito, in the state of Rio de Janeiro, as a result of a fight among inmates; a fire that took place on May 25 in the Provisional Detention Center of the 7th Battalion of the Military Police in Goiânia, Goiás, started by the adolescents to protest poor conditions and resulting in the death of 10 adolescents; a dispute among inmates on June 6 at the Centro Socioeducativo Cardeal Aloísio Losheider (Cecal) in Fortaleza, Ceará state, during which adolescents and facility staff were beaten, leading to the death of one of the adolescent inmates, nine wounded, and damage to the facilities due to a fire. The IACHR also learned of the deaths of two adolescents found lifeless in their cells with signs of having been strangled who had been in State custody in the Centro Socioeducativo Dr. Zequinha Parente, in the municipality of Sobral, Ceará state. In the framework of its *in loco* visit,¹³⁷ the IACHR obtained information on a series of structural and general challenges facing the juvenile justice system, particularly as regards the prevalence of high rates of violence, overcrowding, and unsanitary conditions of criminal juvenile detention centers, as well as the lack of effective programs for social reintegration. Additionally, the Commission also views with concern the poverty that specifically affects children and adolescents. According to official data from the Brazilian Geographic and Statistics Institute,¹³⁸ in 2018, 5.2 million children between the ages of 0 and 14 were experiencing extreme poverty, particularly impacting their access to health and education services. This is a 1.1% increase compared to 2016.

102. Regarding **people of African descent**, the IACHR's concern persists with regard to high rates of violence toward this group. The IACHR is disturbed at the ethno-racial breakdown of the violence in Brazil. According to publicly available data, in 2006-2016, the number of murders of non-Afro-descendant people declined by 6.8%, while during that same period, the murder rate for people of African descent increased by 23%. Along those same lines, while lethal violence against non-Afro-descendants dropped significantly over this period, the murder rate for women of African descent is 71% higher than for women of other ethno-racial origins.¹³⁹ In this regard, in addition to the need for a citizen security policy that focuses on combating institutional racism, the IACHR underscores the need for the Brazilian State to adopt public policies that place a priority on running an efficient institutional structure that guarantees that people of African descent can effectively enjoy their economic, social, and cultural rights, as well as policies aimed at reducing the effects of poverty and historic social disparities, which create an aggravated situation of vulnerability and discrimination.

103. Regarding the rights of **indigenous peoples**, and 2018, the IACHR observed serious structural problems affecting the indigenous peoples of Brazil. In the framework of its *in loco* visit, it received information on the failure to comply with the duty to conduct free, prior, and informed consultations, as well as on delays and failure to establish boundaries and demarcate indigenous territories. Regarding this, the IACHR notes that one of the major obstacles to completing these processes is a lack of attention from public services, as well as difficulties in applying the temporary framework.¹⁴⁰ The IACHR likewise noted the progressive institutional weakening of the Fundação Nacional do Índio (FUNAI), which is currently under the Ministry of Agriculture, Livestock, and Provisioning. Another problem noted by the IACHR is the harassment, threats, and attacks against indigenous defenders, leaders, and communities defending their territories,¹⁴¹ as well as the vulnerability of peoples in voluntary isolation or initial contact in the Amazon as a result of the presence of outside individuals and activities related to extractive industries and agriculture industry.¹⁴² Regarding this, the Commission views with concern the urgent health situation affecting the Yanomami indigenous communities living in the south of Venezuela and the north of Brazil. During its visit, the IACHR was also informed of the mass removal of indigenous children from their families. Additionally, during the visit the IACHR was also informed of cases of indigenous families who have lost custody of their minor children. In

¹³⁷ IACHR, Annex to Press Release 238/2018, Preliminary observations on the IACHR working visit to Brazil, October 30, 2018.

¹³⁸ Globo, Brasil tem 5,2 milhões de crianças na extrema pobreza e 18,2 milhões na pobreza, December 9, 2018.

¹³⁹ Instituto de Pesquisa Econômica Aplicada (IPEA), Atlas da Violência, 2018.

¹⁴⁰ IACHR, Annex to Press Release 238/2018, Preliminary observations on the IACHR working visit to Brazil, October 30, 2018.

¹⁴¹ Europapress, El asesinato de un líder indígena en Brasil muestra la amenaza de la tierra en el país, August 17, 2018.

¹⁴² Survival, "Guardianes de la Amazonia" interceptan a madereros ilegales para proteger a tribu no contactada, May 22, 2018.

response to this, it called for the State to address the structural causes that place obstacles on the exercise of the rights belonging to indigenous peoples.

104. Regarding the situation of **people deprived of liberty**, in a [press release on March 14](#), the IACHR welcomed the decision on pretrial detention issued by the Second Chamber of the Supreme Federal Tribunal on February 20, 2018, ordering the incorporation of a gender perspective and differentiated approaches. The judgment establishes a precedent granting house arrest to women and adolescents in pretrial detention who are pregnant, have children under the age of 12, or are caretakers for persons with disabilities. Likewise, the Constitutional Court's decision establishes that at the time of detention, all women and teen girls must be examined to establish whether they are pregnant, and if so, granted house arrest immediately. Elsewhere, the IACHR also reiterates its concern over the incidents of violence occurring regularly in Brazilian prisons and that have led to the deaths and severe violations of the personal integrity of people held in State custody. Thus, during 2018, the IACHR issued statements on acts of violence in Brazilian prisons in Pará, Ceará, and Goiás that led to the deaths of at least 24 people deprived of liberty.¹⁴³

105. Regarding the **migration** of Venezuelans, the State reported in its response that it implemented “Operation Welcome” with an investment by the federal government of 190 million reais.¹⁴⁴ Despite this, starting in August, acts of discrimination and xenophobia have intensified in Roraima, where the local population burned the belongings of Venezuelans and attacked them physically and verbally with the aim of expelling them from the country.¹⁴⁵ Also, discriminatory discourse and measures were observed coming from the local government, such as requiring passports to access health and education services¹⁴⁶ and negotiating with President Nicolás Maduro to repatriate them.¹⁴⁷ In addition, the border in Roraima was closed for more than 15 hours by a judicial decision on August 5, 2018.¹⁴⁸ Elsewhere, a significant process was launched to enroll Warao children in school. This indigenous people has faced a more significant situational vulnerability.¹⁴⁹

106. Regarding **lesbians, gays, bisexuals, and trans and intersex persons (LGBTI)**, in a [press release dated April 23, 2018](#), the Inter-American Commission congratulated the State of Brazil for the decision of the Supreme Federal Tribunal of Brazil recognizing the right of trans people to change their names in the country's civil registries through self-declaration, without needing a judicial, medical, or psychological ruling and without need to have sex reassignment surgery.

107. Regarding the situation of **human rights defenders**, in 2018, the Commission condemned the murders of human rights defenders, particularly of those who worked to defend the environment, rural workers, and the land. Regarding this, the IACHR observes that in recent years, Brazil has led the world in murders of environmental defenders, according to a number of civil society reports. Also, according to information received during its *in loco* visit to the country in 2018, the Commission notes that murders of human rights defenders in urban areas are underreported.

108. Indeed, in order to present these murders as incidents of urban violence unrelated to the defense of human rights, several of the murders of human rights defenders are reported to be the result of

¹⁴³IACHR, press release 084/18 [IACHR Condemns Deaths of at least 21 People in Brazilian Prison](#). Washington, D.C., April 23, 2018; IACHR, press release 030/18, [IACHR Condemns Deaths of 10 People in Prison in Ceará, Brazil](#). Washington, D.C., February 16, 2018; IACHR, press release 003/18, [IACHR Condemns Deaths People Deprived of Liberty in Prisons in Brazil](#). Washington, D.C., January 11, 2018.

¹⁴⁴ Brazil, [Provisional Measure n.823](#), March 12, 2018.

¹⁴⁵ Carta Capital, [Ataque a venezuelanos em Roraima mostra como a xenofobia se alimenta](#), August 24, 2018.

¹⁴⁶ Folha de São Paulo, [RR obrigará venezuelanos a mostrar passaporte para ter atendimento médico](#), August 1, 2018.

¹⁴⁷ G1, [Governo de Roraima anuncia acordo para ajudar Maduro a repatriar imigrante venezuelanos](#), September 20, 2018.

¹⁴⁸ G1, [Luiz manda suspender entrada de venezuelanos no Brasil pela fronteira de RR](#), August 6, 2018.

¹⁴⁹ UNHCR, Venezuelan children of the Warao indigenous people enrolled in schools in Manaus, Brazil, April 3, 2018.

conflict between individuals or related to drug trafficking. Likewise, attempts are observed in cities to discredit, criminalize, and commit violence against human rights defenders.¹⁵⁰ On March 16, 2018, the IACHR repudiated the murder of Marielle Franco—a well-known human rights defender and member of the Rio de Janeiro City Council—and her driver, Anderson Pedro Gomes, which took place on March 14, 2018, in Rio de Janeiro, Brazil. The Commission urges the State of Brazil to streamline the strengthening of the Program for Protecting Human Rights Defenders and provide the program, as soon as possible, with a structure sufficient to efficiently and comprehensively support and protect the human rights defenders accessing it.

109. Regarding **freedom of expression**, the Office of the Special Rapporteur received positive information indicating that communicators threatened in connection with their work were officially included in a program of the Human Rights Ministry of Brazil for protecting human rights defenders. At the same time, the Office of the Special Rapporteur documented the murder of four communicators in Brazil for reasons presumably related to their work as journalists. No case was documented in 2017. The IACHR and its Office of the Special Rapporteur are concerned at this increase in the number of communicators murdered in the country, as well as at the information received during the *in loco* visit indicating that the high rates of impunity for crimes against journalists and social communicators persists in Brazil.

110. Regarding the right to the **environment**, in addition to the above described situation of human rights defenders, the Commission observes that there is great concern regarding hydroelectric power projects that impact the natural course of life for indigenous peoples and do not comply with current environmental regulations, especially court orders to halt activities.¹⁵¹ Lastly, the IACHR is concerned that three years since the Fundão en Mariana Dam broke on November 5, 2015, little progress has been made to investigate and punish those responsible and provide reparations for the victims affected.¹⁵²

CANADA

- **General considerations**

111. Regarding **progress** during 2018, the IACHR celebrated the establishment of the Canadian Ombudsman for Responsible Enterprise (CORE); the elimination of solitary confinement for persons with disabilities in detention centers in Ontario and their response to the calls to action by the Truth and Reconciliation Commission of Canada; the extension of the deadline to submit information for the report of the National Inquiry into Missing and Murdered Indigenous Women; and the finding that provisions of the information and privacy protection law were unconstitutional because they violated human rights, among other progress on institutionality of human rights.

112. Regarding **challenges**, in 2018, concerns emerged surrounding the increase in suicides of young indigenous people and access to their rights, and the persistence of impunity surrounding cases of the forced sterilization of indigenous women. The State did not respond to the request for information sent to prepare this chapter.

113. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

114. Regarding the **institutionality of human rights**, Canada has a Human Rights Commission in charge of handling human rights-related complaints. The IACHR underscores the need for a ombudsman forum in Canada to bring together the local ombudsmen and those of each of the provinces. Also, in 2018, CORE was

¹⁵⁰ IACHR, Preliminary observations on the IACHR working visit to Brazil, October 30, 2018.

¹⁵¹ Federal Public Prosecutor's Office, Attorney General's Office in Matto Grosso, Office of Indigenous Peoples and Traditional Communities, Public Civil Action, received December 15, 2018

¹⁵² IACHR, Preliminary observations on the IACHR's *in loco* visit to Brazil, p. 7.

created to address complaints related to the alleged human rights abuses during the operations of a Canadian company abroad, along with a multisector Multi-stakeholder Advisory Body on Responsible Business Conduct abroad. The Commission also celebrates that the State of Canada joined international conventions on disability, refugees, the indigenous, programs for the prevention of gender-based violence, and human trafficking. These mechanisms enhance Canada's institutional structure for the defense of human rights.

115. The IACHR remains concerned at the increase of suicides of indigenous people in the country¹⁵³. According to available statistics, the suicide rate of indigenous people is twice that of nonindigenous people, the age range is between 15 and 24, and the main victims are girls and young women¹⁵⁴. The IACHR received information during a hearing on the alarming suicide rates among young indigenous people, as well as on the need for a national information system on suicide, a national suicide prevention strategy, and programs and services for First Nations children and families. The organizations reported on the State's slow progress toward complying with a judgment of the Canadian Human Rights Tribunal to end inequality in services for First Nations. They also called on the State to implement the Spirit Bear plan and described the failure to apply Jordan's Principle. As regards **the indigenous women who are deprived of liberty**, the IACHR observes that from 2008 to 2018, the numbers of indigenous women sentenced in the federal system has climbed some 30%.¹⁵⁵ In particular, the Commission highlights that this population constitutes more than 50% of the total number of women imprisoned in the Pacific and Prairie regions.¹⁵⁶

116. The State has recognized that the suicide of indigenous people has reached "epidemic proportions" and has recently made efforts in this regard. Agencies on the protection of the rights of **children and adolescents** issued reports with recommendations for the government, and although some of them have been adopted, it has not helped reduce the suicide rate.¹⁵⁷ The IACHR sends a request for information to the state on this issue, but it has not responded. Elsewhere, the IACHR welcomes the application of the national plan of indigenous peoples on the need to address indigenous crime. The IACHR also welcomes that the National Inquiry into Missing and Murdered Indigenous Women of Canada will extend the deadline for its final report¹⁵⁸ to April 30, 2019, allowing more families and survivors to give testimony to be taken into account in the investigation and the recommendations of the report.

117. Regarding the **rights of women**, the Commission welcomes the implementation of the strategy to prevent gender-based violence and the appointment of the first Canadian ambassador to promote the agenda on "women, peace, and security, as well as the conversion of the Status of Women of Canada section to the Department for Women and Gender Equality.¹⁵⁹ The Commission also takes note that in October, the government announced the "Act to Establish a Proactive Pay Equity Regime within the Federal Public and

¹⁵³ For example, two teens in the Fond-du-Lac community in Saskatchewan took their lives in January. CTV News, [Two Fond du Lac teens take own lives as community recovers from plane crash](#), January 15, 2018. The four Inuit regions in Canada have suicide rates between five and 25 times higher than the rest of Canada, which is a symptom of social and economic inequality with the majority of Canadian provinces, as the Inuit were impacted by colonization and settlement transfers. Inuit Tapiriit Kanatami, [2018 Inuit Statistical Profile](#).

¹⁵⁴ CBC, [Coroner's office starts releasing stats on suicide deaths in Saskatchewan](#), August 16, 2018; Radio Canada International, [Consternación por ola de suicidios en Nunavik, norte de Quebec](#), October 16, 2018; *El País*, [El poblado esquimal en el que 11 de sus 1.779 habitantes se han suicidado este año](#), December 29, 2018.

¹⁵⁵ The Office of the Correctional Investigator, [Annual Report 2017-2018](#), Canada, pág. 82.

¹⁵⁶ Canada House of Commons, [A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems](#), June 2018, pág. 1.

¹⁵⁷ CBC, [Suicide shouldn't be 'normal' in Indigenous communities, says 2018 Massey Lecturer Tanya Talaga](#), November 12, 2018. *Counter Punch*, [Indigenous Suicide in Canada](#), October 16, 2018; *The Star*, [Indigenous children are crying out for help in Canada. Will you hear them?](#), April 27, 2018.

¹⁵⁸ Government of Canada, [National Inquiry into Missing and Murdered Indigenous Women and Girls, 2018](#); CBC, [MMIWG inquiry commissioner may quit after Ottawa grants limited extension](#), June 5, 2018; Cision, [Statement from Minister Bennett on the National Inquiry into Missing and Murdered Indigenous Women and Girls request for an extension and Interim report](#), June 5, 2018.

¹⁵⁹ Federica Mogherini, [Foreign Ministers vow to champion women's rights at first all-female summit](#), September 23, 2018.

Private Sectors (Pay Equity Act).” The objective of the project is to address the structural discrimination women continue to face in the workplace, as they remain overrepresented in part-time work and significantly underrepresented in decision-making positions.¹⁶⁰ Additionally, the Commission received information during a hearing on the persistence of impunity surrounding cases of the forced sterilization of indigenous women. It sent a request for information on this to the State, which did not respond. The Commission recognizes positively that the Truth and Reconciliation Commission has addressed these cases,¹⁶¹ as well as the efforts announced by the Prime Minister to guarantee indigenous women’s access to culturally appropriate services.¹⁶²

118. Regarding **people deprived of liberty**, in a press release on January 30, the Commission welcomed the elimination of the use of solitary confinement for **persons with disabilities** in detention centers in Ontario. Regarding this, based on a decision issued in January by the Human Rights Tribunal of Ontario, the government has consented to adopt immediate measures to end long-term solitary confinement of this population in the province’s 26 detention centers. These measures include identifying persons with mental disabilities in detention centers and evaluating the use of solitary confinement and its impact on health. The Commission also welcomes Canada’s joining of the Optional Protocol of the United Nations Convention on the Rights of Persons with Disabilities.

119. Regarding **migrants**, the IACHR welcomes the establishment of refugee resettlement plans, the introduction of a wide-ranging program by the Canada Border Services Agency to offer alternatives to detention, as well as the National Action Plan to Combat Human Trafficking.

120. Regarding **memory, truth, and justice**, the government of Ontario implemented a program designed to help the province respond to the call to action from the Reconciliation Commission of Canada. The program’s goals include support for the revitalization of the indigenous language and building capacity for knowledge sharing in communities traditionally ignored by organizations that make cultural grants.¹⁶³ The Commission also welcomes the fact that after its 2017 recognition and apology for the persecution and rights violations resulting from the policy to purge **LGBTI persons**, the Canadian State has set aside US\$85 million to provide reparations to the victims.

121. Regarding **freedom of expression**, the IACHR welcomes that the Superior Court of Justice of Ontario has declared unconstitutional certain legal provisions of the law on information and privacy protection regarding authorizations granted to public officials to deny administrative tribunals access to documents on the consideration and presumption that they contain “personal information.” On the other hand, the Supreme Court of Canada ruled to require journalist Ben Makuch to turn over all the communications he had with his source for a story published in 2014,¹⁶⁴ which violates Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR on source confidentiality.

CHILE

- **General considerations**

122. In 2018, the IACHR took note of the progress made in Chile, particularly the implementation of the gender quotas law; the implementation of the first National Human Rights Plan and National Agreement on Childhood; and the creation of the Subsecretariat on Children. Likewise, it notes the progress made on the

¹⁶⁰ Gobierno de Canadá, Government of Canada introduces historic proactive pay equity legislation, October 29, 2018.

¹⁶¹ CBC, TRC heard concerns about coerced sterilization of Indigenous women, says Murray Sinclair, November 22, 2018.

2018.

¹⁶² Canadá, Open Parliament Debates of Nov. 21st, 2018.

¹⁶³ *Canada’s National Observer*, Ford guts grant to help further truth and reconciliation, December 14, 2018.

¹⁶⁴ Canada, Supreme Court, Case in Brief. R. v. Vice Media Canada Inc., November 30, 2018; y R. v. Vice Media Canada Inc. 2018 SCC 53, November 30, 2018.

presentation of the bill to modify SENAME's structure; the creation of the Office of the Ombudsperson on Children; the decision of the Constitutional Tribunal finding legislation to punish the use of over the air telecommunications to be unconstitutional; the implementation of a process to legalize the status of people in the country illegally; and passage of the Gender Identity Act.

123. Regarding **challenges**, the IACHR paid specific attention to the situation of Mapuche peoples and the application of the Antiterrorist Act; the situation of children and adolescents housed in SENAME centers, and specifically the situation of violence to which children and adolescents held in the CREAD in Playa Ancha are subjected; the obstacles that women face regarding their sexual and reproductive rights; the gender-based violence facing women in educational institutions; the use of violence during social demonstration; the decision of the Supreme Court to grant conditional release to people convicted of crimes against humanity; the adoption of measures to block the entry of Haitians and Venezuelans; the mass expulsion of foreigners in the country illegally with criminal records; and deficiencies in processing requests for refugee status.

124. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

125. Regarding **democratic institutional**ity, the IACHR noted positively that for the parliamentary elections that took place in November 2017, the law on gender quotas was implemented,¹⁶⁵ and according to a study conducted by the UNDP,¹⁶⁶ it led to an increase in the political representation of women: from 6 senators to 10, and from 19 deputies to 35. At the same time, during these elections and for the first time, the law giving Chileans the right to vote from abroad and the law on financing for parliamentary and presidential election campaigns were implemented.¹⁶⁷

126. Regarding the **institutionality of human rights**, Chile has a National Human Rights Institute incorporated as an autonomous public body established by Law 20,405. Its purpose is to promote and protect the human rights of all people living in the country. The Commission wishes to welcome the First National Human Rights Plan 2018-2021,¹⁶⁸ led by the Subsecretariat of Human Rights of the Ministry of Justice and Human Rights, which took effect in January 2018; the processing through the Congress of the bill creating the National Mechanism for the Prevention of Torture,¹⁶⁹ which gives the National Institute on Human Rights that responsibility;¹⁷⁰ and the awareness raising campaign launched by the government to promote respect for human rights, with a special emphasis on older people, children (for which Chile moved forward in establishing the Office of the Ombudsperson on Children), and adolescents, persons with disabilities, migrants, indigenous peoples, and others.

127. Regarding **citizen security**, the IACHR expressed its concern about the acts of violence that occurred in the Indigenous Community of Temukuikui, in the Araucanía region, on November 14. Information indicates that a police special operations group conducted a police operation in the community after reports of the theft of three vehicles in the area. During the police operation in the Temukuikui community, Camilo Catrillanca, a 24-year-old Mapuche community member who was driving a tractor along with an adolescent,

¹⁶⁵ Chile, Ministry of Foreign Affairs, Situation of Human Rights in Chile, Chapter IV.A, 2018 Annual Report, IACHR, November 16, 2018, pg. 1.

¹⁶⁶ UNDP Chile, La representación política de las mujeres en Chile ha mejorado, pero aún hay desafíos: PNUD lanza nuevo informe, March 19, 2018.

¹⁶⁷ Chile, Ministry of Foreign Affairs, Situation of Human Rights in Chile, Chapter IV.A, 2018 Annual Report, IACHR, November 16, 2018, pg. 1.

¹⁶⁸ Ministry of Justice and Human Rights, Undersecretary of Human Rights, First National Plan for Human Rights 2018-2021, 2017.

¹⁶⁹ Ministry of Justice and Human Rights, Undersecretariat of Human Rights, bill designating the NHRI as a National Mechanism for the Prevention of Torture, 2017.

¹⁷⁰ Chile, Ministry of Foreign Affairs, Situation of Human Rights in Chile, Chapter IV.A, 2018 Annual Report, IACHR, November 16, 2018, pg. 2.

was shot in the lower part of his head, killing him. During that same operation, an adolescent identified as M.P.C. was detained and severely beaten. The detention was declared illegal by the Collipulli Guarantees Court.¹⁷¹

128. Regarding **access to justice**, the Commission notes a significant challenge in the application of Antiterrorist Law 18,314 against individuals belonging to the Mapuche indigenous people over the alleged commission of crimes charged under that law as terrorism. In this regard, the IACHR has received concerning information indicating that between 2017 and 2018, two trials were held of 15 Mapuches in the framework of investigations launched into fires that took place on the Granja Lumahue Estate, causing the death of a couple living in the house; and in the Iglesia Evangélica del Señor (the Lord's Evangelical Church) in the Padre Las Casas county. According to Amnesty International,¹⁷² there have been complaints that the trials failed to provide the necessary procedural guarantees, and that other irregularities took place, including the harassment of and threats toward the relatives and defense attorneys of the defendants in those cases; illegal collection of evidence and lack of investigation of complaints to that effect; and the coherence of the grounds for the judgments due to discriminatory and stigmatizing elements alluding to the Mapuche indigenous identities of the individuals being prosecuted.¹⁷³ Despite this, on October 10, the Supreme Court of Chile upheld the convictions of the three Mapuche community members in the Luchsinger-Mackay case. Although the punishments of the three individuals accused were reduced on finding that the crime was not one of terrorism, their criminal responsibility as the perpetrators of the fire resulting in death was upheld.¹⁷⁴

129. Regarding the **rights of children and adolescents**, the IACHR underscores as progress the establishment of the Office of the Ombudsperson on the Rights of Children in March 2018, the head of which was appointed in April 2018.¹⁷⁵ The Commission welcomed this appointment in [Press Release 046/18](#). Also, on May 30, the government presented the National Agreement on Childhood, calling for the execution of 94 measures to provide universal protection, protection to at-risk children, and protection to children whose rights have been violated.¹⁷⁶ However, the Commission remains concerned that the situation of children housed in centers run by the National Service on Minors (*Servicio Nacional de Menores*, SENAME) in view of the deaths resulting from the violations of their rights. Specifically highlighted is the status of the Directly Administered Center for Specialized Rehabilitation (CREAD) of Playa Ancha, which is the subject of [precautionary measures](#) granted on March 15, 2018. The violation of rights in the SENAME was the subject of a public hearing held in the framework of the 170th Period of Sessions, in which those requesting the hearing reported a series of incidents of torture and cruel and degrading treatment to which the children and adolescent victims were subjected. For its part, the State recognized the challenges and reported that the government was implementing measures to replace SENAME with the Child Protection Service and close the Playa Ancha CREAD.¹⁷⁷ The State also invited the IACHR to make a working visit to Chile on this issue and the Commission is grateful for the State's openness and states its interest in making such a visit as soon as possible in 2019.

130. The Commission also obtained information on the murder of Ámbar Lezcano.¹⁷⁸ She was one year and eight months old when she suffered injuries indicating sexual assault. In May 2018, the IACHR asked the State for information pursuant to the authorities established in Article 41 of the ACHR. In the response sent on September 20, the State said that temporary care of the girl had been granted to her aunt because of

¹⁷¹ IACHR. Press release, "IACHR expresses its concern about the acts of violence that occurred in the Indigenous Community of Temukuikui in Chile," November 21, 2018.

¹⁷² Amnesty International, [Pre-juicios injustos: Criminalización del pueblo mapuche a través de la Ley "Antiterrorista" en Chile](#), August 9, 2018, pg. 4.

¹⁷³ Amnesty International, [Pre-juicios injustos: Criminalización del pueblo mapuche a través de la Ley "Antiterrorista" en Chile](#), August 9, 2018, pg. 29-30.

¹⁷⁴ El desconcierto, [Corte Suprema quita pena terrorista pero confirma condena a tres comuneros mapuche en caso Luchsinger Mackay](#), October 10, 2018.

¹⁷⁵ Cooperativa, [Senado ratificó a abogada Patricia Muñoz como primera Defensora de la Infancia](#), April 18, 2018.

¹⁷⁶ Chile, [National Agreement on Childhood](#), May 30, 2018.

¹⁷⁷ Chile, [Legislative work begins on establishing the Child Protection Service](#), September 4, 2018.

¹⁷⁸ 24 horas, [El brutal asesinato de Ámbar, una niña de 1 año y 7 meses conmociona a Chile](#), May 2, 2018.

mistreatment at the hands of her mother, and that when the girl died, the State took immediate action to launch an investigation in less than 24 hours.¹⁷⁹

131. Regarding the **rights of women**, the Commission followed up on the obstacles that women, girls, and adolescents continue to encounter when seeking to legally end their pregnancies under conditions provided for by law, especially in the form of conscientious objection by both individuals and institutions, by sending a request for information. In response,¹⁸⁰ the State said that in order to comply with the legal mandate to regulate the use of conscientious objection, on June 29, the Ministry of Health issued Decree 67, approving regulations on the exercise of conscientious objection. The decree is obligatory for all individual and institutional service providers, both public and private, and establishes that when a woman needs immediate and urgent care involving ending a pregnancy to prevent risk to her life, the person raising the conscientious objection cannot be excused from performing the abortion when there is no other medical professional available to perform it. Also, it establishes that public healthcare facilities cannot raise a conscientious objection.

132. Additionally, in 2018, the Commission monitored the mobilization of women, girls, and adolescents, demonstrating in universities throughout the country against gender-based violence, sexual harassment, and the various forms of gender-based discrimination that women still face in educational institutions.¹⁸¹ In response to the countrywide mobilizations that paralyzed universities for more than 70 days, the Government of Chile presented a list of measures to correct gender inequality, including by amending the Constitution to establish a State duty to promote and guarantee full equality of rights between men and women.¹⁸²

133. Regarding **transitional justice**, through a press release on August 17, 2018, the Commission expressed concern at a decision by the Criminal Chamber of the Supreme Court of Chile to grant conditional release to people convicted of crimes against humanity committed during the dictatorship who were serving their prison sentences. The Commission was also informed of the decision by the Appellate Court of Santiago convicting six members of the National Intelligence Directorate of the forced disappearance of 11 people.¹⁸³

134. Regarding **LGBTI persons**, the Commission underscores the progress made toward approving the Gender Identity Act in September. The law states that at the age of 14, trans and gender diverse persons may, based on their perceptions of themselves, change their names, sex, and photographic records in all public and private documents throughout the country.¹⁸⁴

135. On **migration**, in 2018, a special process to legalize migration status was launched to grant residency to people in the country illegally. A requirement was also established requiring Haitians to get tourist visas limiting them to 30 days in the country;¹⁸⁵ temporary work visas whose length of the residency exceeded the length of the work contract were eliminated; and changes were announced to requirements for obtaining a temporary residency visa for Venezuelans, with official documents being required. Also, a plan was

¹⁷⁹ Ministry of Justice and Human Rights, RE: Sexual violence against and death of girl named Ámbar Lezcano in Chile. Request for information under Article 41 of the ACHR, September 20, 2018.

¹⁸⁰ Foreigner Minister, RE: CIDH/SE/Art.41/06-2018/31 “Regulation of conscientious objection with regard to the provision of legal abortion services. Chile,” September 06, 2018.

¹⁸¹ https://elpais.com/internacional/2018/05/16/america/1526477379_243906.html;
<https://www.france24.com/es/20180517-chile-revolucion-feminista-educacion-protestas>
https://elpais.com/internacional/2018/05/17/america/1526508857_241171.html ;

¹⁸² PlayGround, [Las tomas feministas de Chile consiguen reformar la Constitución](#), May 24, 2018.

¹⁸³ El Mostrador, [“43 años después: justicia condena a 6 ex agentes DINA por desaparición de cúpula PS en dictadura”](#), December 18, 2018.

¹⁸⁴ IACHR. Press release, IACHR Welcomes Progress towards the Recognition of Gender Identity in the Region, December 21, 2018.

¹⁸⁵ Ministry of the Interior and Public Security, [Official Gazette of the Republic of Chile, Ministry of the Interior and Public Security to Require Tourism Visa for Haitian Nationals](#), April 17, 2018.

implemented to deport foreigners illegally in the country who had criminal records. According to publicly available information, 2,049 people were deported in 2018. The Commission received information indicating that the deportations are being carried out without an individualized evaluation that weighs other rights, such as the right to family unity and the best interest of the child. Regarding asylum, civil society organizations reported difficulties accessing asylum procedures starting in April 2018, specifically taking the form of refusals by the Investigative Police of Chile and the Immigration and Alien Affairs Department to process requests for refugee status pursuant to the law.

136. Regarding the general context of **freedom of expression**, the Office of the Special Rapporteur observed with concern incidents involving journalists who report on issues sparking heightened public interest, such as cases of sexual abuse or other issues related to public figures. A number of social demonstrations took place over the year, and in this context, there were several situations involving excessive use of force by security forces. Likewise, information was provided on the destruction of video recordings by security officials who were involved in the aforementioned operation leading to the death of a young Mapuche man. Additionally, the Commission is concerned at information on a criminal conviction for “slandering accusation,” brought against a woman who said she had been sexually abused by a prosecutor. Additionally, a decision of the Supreme Court of Justice ordered a media group to publish a series of corrections regarding information published by this group that the court concluded was incomplete. Additionally, the Office of the Special Rapporteur highlights as progress the decision of the Constitutional Tribunal of Chile on September 25 finding Article 36.B of General Communications Law 18,168 unconstitutional. The article punishes the operation or utilization of radiofrequency services or installations operated without authorization of the competent authority.¹⁸⁶

137. Lastly, regarding the **right to the environment**, the State underscored as an action of protection the establishment of a council to implement Agenda 2030, overseen by the Ministry of Foreign Affairs.¹⁸⁷ However, the National Institute on Human Rights of Chile said there is a problem in the Puchuncaví area along Chile’s coast involving the release of toxic gases by enterprises operating there. Specifically, on March 23, 2011, a bluish toxic cloud was released into the environment by the Windows Division of CODELCO-Chile, composed of sulfur dioxide or sulfur trioxide, polluting gases whose harmful effects on human health fell most immediately on the residents of the communities of La Greda, Ventana, Campiche, La Chocota, Horcón, and Mallen.¹⁸⁸ It was also reported that cases of industrial pollution in the country tend to concentrate around three areas: the north, particularly the regions of Antofagasta, Atacama, and Coquimbo; Biobío and La Araucanía; and the region of Valparaíso. There are also three interregional controversies (the Pampa Hermosa mining project, the exploitation of the lithium reserves, and Andina 244), as well as three controversies not associated with a particular area, as they involve legal initiatives over natural resources: a bill on plant breeders, the Fishing Act, and a bill on protecting and conserving glaciers.¹⁸⁹

COLOMBIA

- **General considerations**

138. Regarding **progress** in 2018, the IACHR welcomes the various measures taken by the State on human rights. Among others, it highlights the election held with significant voter turnout, as well as the resulting plurality of Congress; the gender parity of the new cabinet; and the implementation of the Comprehensive Truth, Justice, Reparation, and Non-Repetition System (SIVJRNR or “Comprehensive System”).

¹⁸⁶ Diario UChile. October 3, 2018. [Fallo histórico: TC descarta la aplicación de prisión contra representante de radio comunitaria](#); Radio Konciencia. Undated. [No pudieron contra Radio Aukan: TC Desestima aplicación de prisión contra comunicador comunitario](#).

¹⁸⁷ Note from the Ministry of Foreign Affairs of Chile No. DIDEHU/15.11.2018, received November 16, 2018, p. 3.

¹⁸⁸ National Human Rights Institute of Chile, Quintero-Puchuncavi visit report, September 14, 2011, p. 2.

¹⁸⁹ National Human Rights Institute of Chile, [Informe Anual 2016: Situación de los Derechos Humanos en Chile](#), p. 158

139. Regarding **challenges**, the protection of human rights defenders, social and territorial leaders, and indigenous and Afro-Colombian communities remain of particular concern. At the same time, another challenge is the full implementation of the SIVJRNR and the coordination and articulation of all the components of the Peace Agreement System. For its part, the Commission continues to pay special attention to situations affecting the rights of migrants, women, children, adolescents, indigenous peoples, Afro-Colombians, and LGBTI persons.

140. The State did not respond to the request for information sent in preparation of this chapter.

- **Specific issues**

141. The Commission wishes to underscore the State's willingness to comply with its obligations before the inter-American human rights system, reflected in its signing of a Cooperation Agreement between the Office of the Secretary General of the OAS and the Republic of Colombia for the implementation and dissemination of international human rights instruments, with the aim of providing technical assistance from the IACHR's Executive Secretariat in the process to implement the Peace Agreement in Colombia.¹⁹⁰ In addition, special mention should be made of the work of the Office of the Human Rights Ombudsperson (Defensoría del Pueblo) of Colombia as regards following up on the recommendations made by the Inter-American human rights system, from both the I/A Court HR and the IACHR.

142. Regarding **democratic institutional**ity, the Commission highlighted both progress and challenges in the State of Colombia. In terms of progress, in March 2018, the first legislative elections were held following the signing the General Agreement for the End of the Conflict and Building of a Stable and Lasting Peace (Peace Agreement). They included the participation of the FARC as a political body after more than half a century of armed conflict.¹⁹¹ Voter turnout of 47% was four points higher than the previous elections in 2014. Another significant feature was the plurality of political movements, with 18 parties now in both chambers.¹⁹² In the presidential elections in May and June, voter turnout was historically high, reaching 53.04% in the second round.¹⁹³ However, challenges persist regarding the adoption of effective mechanisms to guarantee effective political participation for the victims of the armed conflict. Although there are legislative initiatives to guarantee that the areas most affected by the armed conflict have representatives in Congress,¹⁹⁴ the Commission notes that they have not been approved and have lost momentum in the legislature.¹⁹⁵

143. On June 18, the IACHR asked the State for information on the potential diversion of reserve expense funds of the General Command of the Armed Forces in which a scheme was discovered to intercept and illegally monitor communications involving members of the Armed Forces.¹⁹⁶ In its response, the State indicated that, among other measures, it had ordered the chief of Joint Military Intelligence and Counterintelligence to suspend, until May 30, 2018, the execution, allocation, use, or delivery of resources from the reserve expense account of the Joint Regional Military Strategic Intelligence (RIMEC) It also reported on the suspension of the Joint Intelligence Command with the aim of ensuring that going forward, the tactical work of collecting information is not conducted at the strategic level but rather at levels where the corresponding

¹⁹⁰ Cooperation agreement signed by the Office of the Secretary General of the OAS for the Executive Secretariat of the Inter-American Commission on Human Rights and the Republic of Colombia for applying and disseminating international human rights instruments, signed on February 22, 2018, in Bogotá.

¹⁹¹ *El Tiempo*, "En su debut, Farc obtuvo poco más de 85.000 votos", March 12, 2018.

¹⁹² Infobae, "[La derecha se impuso en las elecciones legislativas de Colombia y calienta el debate presidencial](#)", March 12, 2019; *El Espectador*, "[Así quedó conformado el Congreso 2018-2022](#)", March 12, 2018.

¹⁹³ Press release from the Electoral Observation Mission of the Organization of American States (EOM/OAS), June 19, 2018.

¹⁹⁴ [Senate of the Republic, Bill on the victims of the armed conflict, Colombia 2018.](#)

¹⁹⁵ RCN Radio "[Curules de las víctimas y la reforma de la JEP se hundieron en el Congreso](#)", November 14, 2018.

¹⁹⁶ *La República*, "[Procuraduría abrió investigación por posible corrupción en las FFMM](#)", April 16, 2018

tactical control and direction can be ensured. However, the Office of the Attorney General of the Nation stated that no investigation had been launched into the facts alleged.¹⁹⁷

144. Regarding the **institutionality of human rights**, progress was made on legal provisions for the functioning of the agencies comprising the Comprehensive Truth, Justice, Reparation, and Non-Repetition System (“SIVJRNR” or “Comprehensive System”), in accordance with Point 5 of the Peace Agreement;¹⁹⁸ the Special Jurisdiction for Peace (JEP);¹⁹⁹ the Truth, Coexistence, and Non-Repetition Commission (CEV);²⁰⁰ and the Special Missing Persons Unit for finding people disappeared in the context of and because of the armed conflict (UBPD).²⁰¹ On September 11, 2018, the IACHR and the CEV signed a cooperation agreement establishing a regulatory framework for the mechanisms of cooperation between the parties.²⁰² Regarding the UBPD, the year was characterized by challenges to putting into action the search mechanisms, for which it is crucial that all the financial resources and staff necessary be provided and agreements be signed on interagency coordination, with the involvement of victims in order to ensure the search for disappeared persons is comprehensive.²⁰³

145. The institution of the Office of the Ombudsperson of Colombia is also worth highlighting. Its mission consists of protecting the human rights and freedoms of all people from illegal, unjust, unreasonable, negligent, or arbitrary acts, threats, or actions from any authority toward private parties. In October 2018, the Ombudsperson of Colombia was selected as the secretary of the Global Alliance of National Human Rights Institutions (GANHRI), which facilitates and supports management of the national human rights institutions with the United Nations.

146. Regarding **citizen security**, violence once again increased in 2018, with 12,311 murders, compared to 11,381 in 2017. This means that the murder rate increased by one point, as in 2018, it stood at 25 per 100,000 inhabitants, while in 2017 it stood at 24. Colombia maintains one of the highest homicide rates in Latin America.²⁰⁴ Although murders have declined since the cease-fire under the Agreement, the Commission is concerned at the reconfiguration and emergence of armed actors in areas left by the FARC as well as the persistence of the conflict and the emergence of new forms of violence.²⁰⁵ In this regard, the IACHR condemned the terrorist attack perpetrated by the Ejército de Liberación Nacional (ELN) against the Cadet School of the National Police of Colombia, which took place on January 17, 2018, killing at least 21 people and injuring 68.

147. The IACHR is particularly concerned at the increase in violence against **human rights defenders, social leaders, the indigenous, and people of African descent**. According to figures recognized by the State and based on the figure issued by the United Nations High Commissioner on Human Rights, between January 2016 and October 2018, 213 cases of murders of human rights defenders and social leaders were reported, with the most affected departments being Antioquia, Cauca, Norte de Santander, Nariño, Valle

¹⁹⁷ Republic of Colombia, Note S-GAIIID-18-037774, July 17, 2018.

¹⁹⁸ Final Agreement for the End of the Conflict and Building of a Stable and Lasting Peace. Point 5.1. November 24, 2016.

¹⁹⁹ El Espectador, “[JEP abre sus puertas al público](#)”, March 14, 2018; Law [1.922, through which Rules of Procedure are adopted for the Special Peace Jurisdiction, Colombia, July 18, 2018](#); Judgment C-080/18, automatic constitutional review of Draft Statutory Law 08 of 2017 from the Senate, 016 of 2017 from the Chamber, “Statute on the Administration of Justice by the Special Jurisdiction for Peace.” Colombia, August 15, 2018.

²⁰⁰ Information available on the Truth Commission website.

²⁰¹ Republic of Colombia, [Decree 288 of 2018 partially establishing the structure of the UBPD, February 15, 2018](#); Decree No. 289 of 2018 UBPD Nomenclature of February 15, 2018; Decree No. 290 of 2018 UBPD partial staffing of February 15, 2018; Decree No. 1393 of 2018, UBPD Nomenclature, August 2, 2018.

²⁰² Cooperation agreement between the IACHR and the Truth, Coexistence, and Non-Repetition Commission of Colombia, signed in Bogota on September 11, 2018.

²⁰³ W Radio, “Entrará en funcionamiento la Unidad de Búsqueda de Personas dadas por Desaparecidas”, September 3, 2018; El Tiempo, “La Unidad de Búsqueda de Desaparecidos no tiene dinero para funcionar, July 25, 2018.

²⁰⁴ InSight Crime, Balance de Insight Crime sobre los homicidios en Latinoamérica en 2018, January 22, 2019.

²⁰⁵ IACHR Hearing, Human rights and following up on the peace agreement in Colombia, 168th Period of Sessions, May 2018.

del Cauca, and Chocó. In August 2018, the IACHR decided to ask for the adoption of precautionary measures to the benefit of Giomar Patricia Riveros Gaitán, in Colombia. In granting them, the Commission considered the information provided, which indicated that the human rights defender and representative to the National Roundtable of Victims was being threatened over her work.

148. Finally, during the last week of November, the IACHR conducted a joint working visit with the OHCHR in the framework of the Joint Action Mechanism to Contribute to Protection of Human Rights Defenders, focused on the high rates of murders of human rights defenders and social leaders. During the working visit, the IACHR received information on harassment, threats, and murders of **indigenous human rights defenders and leaders**. Effectively, since the signing of the Peace Agreement, 31 murders have been recorded of leaders of indigenous peoples, including directors of indigenous reservations, indigenous guard members, spiritual leaders, educators, and others. The department where the largest number of murders of indigenous leaders took place was Cauca, with 11 murders in 2018. Meanwhile, the IACHR is concerned at the large number of investment and extraction projects being carried out on indigenous lands without due consultation or through consultative processes that do not measure up to international standards.²⁰⁶

149. Regarding the rights of **people of African descent**, the IACHR is also concerned at the specific impact of violence perpetrated by criminal groups in regions with significant populations of people of African descent—especially the department of Nariño²⁰⁷ and the department of Chocó²⁰⁸— due to the increasing involvement of criminal organizations in legal extractive activities, such as the illicit exploitation of mineral and timber resources in these regions.²⁰⁹ The main challenge for the State is the adoption of urgent measures to strengthen systems intended to prevent violence and protect these groups. The Commission notes that it is extremely important to include an ethnic-racial perspective when designing and implementing security measures, as well as to pursue investigations into crimes committed against them with all due diligence.

150. Regarding **migrants**, the Commission welcomed as a step forward the fact that Colombia has established an Administrative Registry of Venezuelan Migrants in Colombia with the aim of designing humanitarian programs to support this population. The Commission also notes the issuance of Decree 1,288,²¹⁰ adopting a Special Residency Permit to legalize the status of Venezuelan migrants for two years and allow them access to their rights. Likewise, the Constitutional Court of Colombia recognized in judgment T-210/18 of June 1, 2018, the right of undocumented Venezuelan migrants to enjoy physical and mental health to the greatest possible degree. The IACHR is concerned at the situation of binational Yukpa indigenous people, who have crossed the border into Colombia and have been subject there to the constant threat of being returned to Venezuela. Reports indicate that on May 18, more than 100 Yukpa indigenous people were displaced as the result of an armed attack by a paramilitary group.²¹¹ According to the United Nations High Commissioner for Refugees (UNHCR), as of the end of 2017, Colombia had the second largest displaced population in the world, with 7.9 million victims of the conflict, outranked only by Syria.²¹² For its part, the Single Registry of Victims (Registro Único de Víctimas, RUV) had 8,794,542 registered victims as of the end of 2018, of which 8,427,910 are victims of the armed conflict.²¹³

151. Regarding the **rights of women**, the Commission asked the State for information on the murders and acts of violence against women human rights defenders after receiving information on the

²⁰⁶ ONIC, Congresistas solicitaron retiro de Proyecto de Ley que pretende limitar el derecho fundamental a la Consulta Previa en Colombia, October 10, 2018.

²⁰⁷ Human Rights Watch, Recycled Violence, December 13, 2018.

²⁰⁸ Proceso, En un año, 77 mil víctimas por conflicto armado en Colombia pese a acuerdo de paz: ICRC, March 1, 2018.

²⁰⁹ El Tiempo, Minería ilegal: los cráteres que devoras a Colombia, 2018.

²¹⁰ Republic of Colombia, Decree 1,288 of 2018.

²¹¹ Amnistía Internacional, Colombia: Indígenas Yukpa enfrentan desalojo, March 16, 2018.

²¹² UNHCR, Global Trends: Forced Displacement in 2017, pg. 6.

²¹³ Victims Unit, RUV through October 7, 2017.

increase in acts of violence against this group. Regarding this, the IACHR reminds the State of its duty to adopt preventative measures, to investigate incidents, and to incorporate a differentiated approach, including gender and ethnic-racial perspectives. Thus far, the State has not responded to this request.²¹⁴ Elsewhere, the Commission welcomed the gender parity in the cabinet ministers of the new administration, which also has a woman vice president. It is noteworthy that, for the first time in the history of Colombia, a woman will lead the Ministry of the Interior. The IACHR also learned of a decision by the Constitutional Court of Colombia upholding a 2006 judgment on the validity of three grounds for voluntary interruption of pregnancy (when the woman's life is in danger, when extrauterine survival is impossible, and when the pregnancy is the result of rape or incest).²¹⁵ Profamilia calculates that 400,000 clandestine abortions are performed every year, putting these mothers' lives at risk.²¹⁶

152. Regarding **children and adolescents**, in a public hearing, the IACHR learned about the grave human rights situation of indigenous children and adolescents, characterized by extreme poverty; malnutrition and poor healthcare; State underreporting on mortality rates and high suicide rates; structural racism; and the absence of effective State mechanisms to guarantee those rights. The Commission also expressed concern at the increase in the number of stateless children born in Colombia due to the significant number of Venezuelan women who are the victims of displacement who are not able to legalize their migratory status in the country and face barriers to declaring their children's country of origin. Estimates are that more than 8,200 pregnant women are in the country without having legalized their immigration status.²¹⁷ This issue leads to children born with no nationality, which increases their vulnerability. The Commission is concerned at the situation of sexual violence and exploitation victimizing approximately 37,000 girls and adolescents,²¹⁸ a phenomenon associated with the increase in so-called "sex tourism." The Commission asked for information from the State, which indicated that measures were being taken to prevent and eradicate these practices, including a program for comprehensive care for victims of all forms of sexual violence, as well as programs and strategies from the Office on Childhood and Adolescence. It was also informed that between 2013 and July 2018, the Office of the Attorney General of the Nation had conducted 7,015 investigations into sexual violence and sexual and commercial exploitation of children and adolescents in Cartagena and Santa Marta.²¹⁹

153. The Commission also expresses extreme concern over the death, due to malnutrition, of 209 children ages 5 years and younger in 2018, according to information from the Office of the Human Rights Ombudsperson of Colombia.²²⁰ In addition, the Commission expresses its concern that throughout the period of the precautionary measures granted by the IACHR, difficulties continue in the access of food, which has resulted in child mortality due to malnutrition in the region of La Guajira.²²¹

154. Regarding **older persons**, in July, the IACHR asked the State for information on living conditions in care centers in the city of Villavicencio, basing its requests on information received on treatment that allegedly violated their rights, as well as on information indicating a lack of palliative medications and

²¹⁴IACHR, note CIDH/SE/Art41/09-2018/64, addressed to the Republic of Colombia on September 19, 2018.

²¹⁵ El Tiempo, Seis claves del fallo de la Corte Constitucional sobre el aborto, October 17, 2018; El Espectador, Corte Constitucional mantiene reglas para abortar tal cual como estaban, October 17, 2018. Constitutional Court, Republic of Colombia, PRESS RELEASE No. 42, October 17, 2018.

²¹⁶ Semana, Corte Constitucional mantiene el aborto sin límites de tiempo, October 17, 2018.

²¹⁷ El Espectador, ¿Qué pasa en Colombia con las venezolanas embarazadas?, July 21, 2018; El Tiempo, Los bebés sin patria que podría dejar el éxodo venezolano en Colombia, October 8, 2018; Infobae, La dramática situación de las venezolanas que llegan embarazadas a Colombia y tienen hijos apátridas, November 10, 2018; El país, Huir para ver la luz: el éxodo de las embarazadas venezolanas, May 6, 2018.

²¹⁸ El Tiempo, La dolorosa historia de los niños que son explotados sexualmente en Colombia, June 13, 2018.

²¹⁹ Republic of Colombia, Note MPC-OAS No. 1168/18, October 5, 2018.

²²⁰ Defensoría del Pueblo, Muerte por desnutrición y causas asociadas, November 2018.

²²¹ IACHR, Precautionary Measure 51/15, Children and adolescents of the communities of Uribia, Manaure, Riohacha, and Maicao of the Wayúu people, department of La Guajira, Colombia, December 11, 2015.

timely medical care, insufficient food, and verbal and psychological mistreatment of older persons. According to the information available, the older persons were not receiving adequate care and attention, as the geriatric homes were overcrowded and did not have sufficient resources to provide care to the older people. Regarding this, the State reported that it had conducted oversight in the care centers and that the people housed there were stable and receiving the medications that each one needed, according to their age, medical records, and individual ailments. The State also reported that the older people receive care from the subsidized social security health system, and should they need medical attention, they were taken to a health clinic or hospital in accordance with their medical needs.²²²

155. Regarding **LGBTI persons**, the Commission recognized positively the inclusion of the LGBTI population as special subjects of protection in the Peace Agreement, although challenges persisted with regard to its implementation.²²³ However, the Commission reiterates its concern at the overall situation of violence and discrimination against LGBTI persons, with the deaths of 22 trans people reported in Colombia as of November 2018, making it the third most violent country in Latin America for trans people and second in South America.²²⁴

156. Regarding the right to vote of **persons with disabilities** during the recent elections held in Colombia, at the request of the IACHR, the State reported that the National Civil Registry did not have statistics on the number of voters with disabilities registered nationally. However, the State reported that actions were taken including the issuance of Circular 124 of July 31, 2018, by the National Civil Registry aiming to make polling stations available to persons with disabilities on the first floors of voting locations. It also conducted a diagnostic through the Territorial Disability Committees on polling stations to ensure their accessibility.²²⁵

157. Regarding **freedom of expression**, in 2018, the above-mentioned situation of violence also affected social leaders, human rights defenders, journalists, and the media.²²⁶ The IACHR urged the government to grant precautionary measures to protect certain groups and grant precautionary measures to members of political and social movements that were dealing with a variety of threats and harassment during the election. Regarding progress, two court rulings are worth highlighting: One upheld source confidentiality as a tool enabling the performance of journalism and the protection of freedom of expression and information, as it is one of the cores of democracy;²²⁷ and the other case affirmed that an opinion column on the Office of the Prosecutor's actions in the Odebrecht was not subject to the right to rectification.²²⁸

COSTA RICA

- **General considerations**

158. Regarding **progress**, the IACHR notes positively a number of measures taken by the State of Costa Rica on human rights. Among them, the Commission highlights the national elections held with an increase in voter participation; the recognition of same-sex marriage; and the government's willingness to address the situation of the immigrant population from Nicaragua.

²²² Republic of Colombia, Note S-DIDHD-18-043780 of August 9, 2018.

²²³ GPAZ, Informe Gpaz: Observaciones sobre la incorporación del enfoque de género en los Acuerdos de Paz, October 16, 2018.

²²⁴ Report from Transgender Europe (TGEU), available at Transrespect versus transphobia worldwide tvf tmm update, trans day of remembrance 2018.

²²⁵ Republic of Colombia, Note MPC/OEA 1020/18, August 24, 2018.

²²⁶ *El Espectador*, 2018, el año más violento contra la libertad de prensa en una década, February 8, 2019.

²²⁷ Republic of Colombia. Supreme Court of Justice, Source confidentiality is not a privilege of the press, it is part of the core of democracy: Supreme Court, February 27, 2018.

²²⁸ *Semana*, Tras polémica sobre libertad de expresión, juez falla a favor de María Jimena Duzán, October 2, 2018; *El Espectador*, Juez niega tutela contra María Jimena Duzán por columna de opinión, October 2, 2018; FLIP, Juez protege libertad de opinión de María Jimena Duzán, October 3, 2018.

159. Regarding **challenges**, high levels of citizen insecurity remains a points of concern for the IACHR, especially the high murder rates. The Commission also notes setbacks on economic, social, and cultural rights with the passage of the Public Finances Enhancement Act, due to regressive taxation. Lastly, and in the framework of protests against this law, the IACHR regrets the use of excessive force against the population by State agents.

160. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

161. In terms of **democratic institutional**ity, the State reports that national elections were held in 2018 in which 14 of the 19 national parties participated.²²⁹ The candidate of the Liberación Nacional party (PLN), Carlos Alvarado, obtained the most votes for president and began his term in May 2018. The State also reported that the voter participation rate increased by 7.9% in 2018, compared to 2014.²³⁰ The IACHR views positively the electoral process, as well as the fact that Ms. Epsy Campbell became the first woman of African descent to serve as the vice president of the country.

162. Regarding the crosscutting theme of **institutionality of human rights**, the significant role of the Office of the Ombudsperson of the Republic²³¹ should be noted with regard to its promotion and protection of human rights.

163. Regarding **citizen security**, the State recognizes that challenges persist regarding the increase in murders, estimated at more than 600 during 2018,²³² putting the murder rate at 12.1 per 100,000 residents.²³³ Specifically regarding femicides, according to information provided by the State, as of April 13, 2018, 19 cases have been reported.²³⁴ In this context, the Commission calls on the State to redouble its efforts to reduce homicide and femicide rates and reminds the State that investigations into these crimes must be conducted with due diligence and in adherence to international standards on the subject. The IACHR also expresses concern at police repression in response to citizen protests against the Public Finances Enhancement Act. According to publicly available information, the process to pass the law was followed by demonstrations with significant participation by students, making it the largest strike in 18 years. In this context, the members of the Police Force entered the campus of the Universidad de Costa Rica in the city of San Jose to arrest students who had blocked the street and then run to take refuge in the University. The police arrested four students and beat one.²³⁵ Also, in the framework of repressing these protests, a 17-year-old boy died from a shot to the head.²³⁶

164. Regarding **LGBTI persons**, in a press release dated August 14, 2018, the IACHR welcomed the decision of the Constitutional Chamber of the Supreme Court of Justice of Costa Rica finding unconstitutional the article of the Family Code explicitly prohibiting marriage between people of the same sex, pursuant to the standards established in Advisory Opinion 17/24 of the Inter-American Court. The Court ordered the Costa Rican Congress to change its legislation within 18 months to recognize marriage equality between people of

²²⁹ Response from the Permanent Mission of Costa Rica, CROEA-LBS-0188-18, November 30, 2018 p. 25.

²³⁰ Response from the Permanent Mission of Costa Rica, CROEA-LBS-0188-18, November 30, 2018 p. 25.

²³¹ <http://www.dhr.go.cr/>

²³² Insight Crime, Costa Rica lucha contra el crimen y rechaza la militarización, December 17, 2018.

²³³ Insight Crime, ¿Cuál es la causa de la creciente violencia en Costa Rica?, August 16, 2018.

²³⁴ Response from the Permanent Mission of Costa Rica, CROEA-LBS-0188-18, November 30, 2018 p. 27.

²³⁵ Universidad de Costa Rica, Fuerza pública ingresa al campus universitario y agrede estudiantes, September 12, 2018.

²³⁶ Semanario Universidad, OIJ allana delegación de Fuerza Pública en Limón por muerte de adolescente en disturbios, September 14, 2018.

the same sex. It also found that failure to comply with this mandate would mean the current law would expire and marriage equality would be recognized automatically.

165. Regarding **migration**, estimates are that between January and September 2018, around 52,000 Nicaraguans entered Costa Rica and remained there. Also, as of October, total of 40,386 people have stated they need international protection in Costa Rica. Regarding this, the Costa Rican State has implemented an open borders policy and opened two shelters with capacity to house 2,000 people to aid people fleeing the situation in Nicaragua.²³⁷ In October 2018, the Commission made a work visit to Costa Rica during which it received information on challenges to the effective enjoyment of human rights of Nicaraguans, including the cost to access the asylum procedure process through a system of phone calls; the long duration of the procedures; the lack of access to the right to work from the moment the request for asylum is made; the limited list of jobs they are allowed to do; the lack of information; the lack of psychosocial support; the difficulty securing effective enjoyment of economic, social, and cultural rights. The Commission also received information on Nicaraguans who were rejected and returned to Nicaragua without an analysis of their needs for international protection or situations of vulnerability.²³⁸

166. Regarding **freedom of expression**, the Office of the Special Rapporteur was informed of significant political polarization during the election that took place over the first few months of the year. In this context, the Office of the Special Rapporteur received information on an increase in violence and expressions of intolerance and hate against LGBTI persons and defenders of the rights of women. Lastly, the Office of the Special Rapporteur observes that a bill is currently before Congress on protecting honor on social media, some provisions of which could negatively affect the right to freedom of expression.

DOMINICA

- **General considerations**

167. Regarding the **progress** made in 2018, the IACHR celebrates the steps toward reconstruction made on the island of Dominica, especially the efforts to repair the schools and homes damaged by hurricane María in September 2017.²³⁹ In this regard, the Prime Minister of Dominica has stated that they have been able to reopen schools, reconnect all the country's communities to power and water, repair thousands of homes, restart exports of agricultural products to foreign markets, and normalize business activities.²⁴⁰ The IACHR also celebrates the government's announcement that starting in 2019, all plastic and polystyrene containers and utensils will be banned. This is relevant in light of findings indicating that plastic pollution damages marine and land ecosystems and threatens the health of human beings.²⁴¹

168. Regarding **challenges**, the Commission observes with concern that the effects of climate change on the island—in the form of floods, droughts, and/or hurricanes—are limiting its capacity to produce food.²⁴² Also concerning is the increase in criminal activity,²⁴³ as well as the State's need to continue working to ensure a full return to normality following hurricane María.

169. The State did not respond to the request for information sent to prepare this chapter.

²³⁷ IACHR, [Preliminary observations on the working visit to monitor the situation of Nicaraguans forced to flee to Costa Rica](#), November 1, 2018.

²³⁸ IACHR, [Preliminary observations on the working visit to monitor the situation of Nicaraguans forced to flee to Costa Rica](#), November 1, 2018.

²³⁹ 14ymedio.com, [El Gobierno envía constructores a Dominica para reparar los daños del huracán María](#), June 14, 2018.

²⁴⁰ Agencia EFE, [Dominica y Barbuda se recuperan de los huracanes de 2017 todavía un año después](#), September 18, 2018.

²⁴¹ Global Citizen, [La Isla de Dominica lanza una de las prohibiciones de plástico más fuertes del mundo](#), August 13, 2018.

²⁴² El País, [Islas arrasadas buscan agricultura resistente](#), March 8, 2018.

²⁴³ Jamaica Gleaner, [Dominica Moving To Tighten Firearm Legislation To Deal With Gun Crimes](#), August 27, 2018.

- **Specific issues**

170. Regarding **democratic institutionalism**, the IACHR learned that the Concerned Citizens Movement called social protests against the Electoral Commission of Dominica for having failed, in the framework of its mandate, to conduct an electoral reform after alleged irregularities in recent elections. The police described this support for electoral reform in Dominica as illegal.²⁴⁴ Since 2014, a variety of electoral organizations and observers, including the Organization of American States, have made recommendations to conduct a comprehensive electoral reform including updating voter rolls, changing voter ID cards, redrafting campaign-finance rules, and addressing gender equity in national political positions.²⁴⁵ Also, since 2017, the United Workers' Party has called for social protests against the current government. The party has expressed concern over how the funds from the Citizenship by Investment Program and from the foreign aid for rebuilding the island after hurricane Maria in September 2017 have been managed, and it withdrew from the governing coalition in January 2018.²⁴⁶

171. Regarding the crosscutting theme of **institutionality of human rights**, the country does not have a national human rights system or an ombudsperson's office.

172. As concerns **judicial independence**, the Dominica Bar Association has asked for the establishment of a trust fund to provide financial support to the judicial system. The funds will provide the system with independence, which is important for its operations to be conducted with precision. The backlog of contributions due to the Court stands at a little more than \$22 million, representing a real risk to administration of justice, as it affects the Court's capacity to plan and implement programs and deploy vital resources to carry out reforms and keep the Court running as it should.²⁴⁷

173. Regarding **citizen security**, in August 2018, the Ministry of National Security asked for more decisive actions by justice system stakeholders to stop the increase in criminal activity in Dominica, as it announced moves by the administration to strengthen existing legislation.²⁴⁸ Additionally, the parliament revoked the firearms law and passed new laws establishing strict penalties. The government's goal is to push for additional amendments to the firearms law with the explicit aim of making the possession of a firearm illegal and a crime of objective responsibility, in which guilt or intent do not need to be proven by the prosecutor. The amendments are also aimed at establishing provisions on detention related to the illegal carrying of firearms, under which anyone illegally in the possession of a firearm would go directly to prison.²⁴⁹

174. As regards the rights of LGBTI persons, the Commission notes with concern that Dominica is one of the states of the region that continues the criminalization of sexual relations between adults of the same sex.²⁵⁰

ECUADOR

- **General considerations**

175. Regarding the **progress** made in Ecuador, the Commission takes note of efforts to strengthen human rights during 2018. In this regard, the IACHR underscores the actions taken by the State to approve

²⁴⁴ Dominica Vibes, *UWP members appear before court, Protesters gather*, November 22, 2018.

²⁴⁵ Dominica News Online, *Concern Citizens Movement concerned over 'paralysis' in electoral reform*, January 8, 2018.

²⁴⁶ Guarda World, *Dominica Country Report*, November 14, 2018.

²⁴⁷ Dominica Vibes, *Dominica Bar Association calls for establishment of an independent trust fund for the justice system*, November 20, 2018.

²⁴⁸ Jamaica Gleaner, *Dominica Moving To Tighten Firearm Legislation To Deal With Gun Crimes*, August 27, 2018.

²⁴⁹ Jamaica Gleaner, *Dominica Moving To Tighten Firearm Legislation To Deal With Gun Crimes*, August 27, 2018.

²⁵⁰ Sexual Offenses Act 1998, Section 15 (Sodomy).

legislation guaranteeing greater freedom of expression; the coordinated work with the State of Colombia on access to justice and citizen security and crimes against journalists taking place on the northern border; the recognition by the Constitutional Court of the ties that bind diverse families; the approval of the protocol on providing care to migrant children; and the approval by the National Assembly of the Inter-American Convention on Protecting the Human Rights of Older Persons.

176. Additionally, regarding the **challenges** faced by the State, the Commission observed with concern the potential use of a popular referendum without following the constitutionally mandated procedures; the early cessation of their term and the resignation of all the Constitutional Court judges, the Attorney General, and other oversight body authorities. The Commission also continued to follow cases of disappearance and murder of women, girls, and adolescents in the country; the high number of people documented as disappeared; and the criminal persecution of indigenous authorities.

177. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

178. Regarding **democratic institutionalism**, the State reported in its response to the Commission that the Constitution of Ecuador guarantees direct democracy through referendums, enabling citizen inclusion and participation in decision-making in the country. It added that transparency and social oversight of the democratic system falls under the Council on Citizen Participation and Social Control (CPCCS). It also provided information indicating that following the referendum, on February 4, 2018, the Ecuadorian people opted to dissolve the CPCCS and set up a transitional Council to evaluate and select State authorities.²⁵¹

179. Regarding this, the Commission alerted the State to the possible failure to adhere to the Constitution in the process of calling the referendum without a prior constitutional review by the Constitutional Court.²⁵² It also highlights that the referendum led to a constitutional amendment restructuring the CPCCS, the members of which saw their constitutional mandates terminated early and were replaced by a transitional Council²⁵³ with broad authorities to appoint and dismiss. On this issue, the IACHR observed with concern that the transitional Council dismissed all the judges of the Supreme Court,²⁵⁴ along with other authorities. In addition, during its 168th period of sessions, the Commission expressed its concern about the use of Article 109(7) of the Organic Code of the Judicial Function, which provides for “inexcusable error,” which allows for the administrative removal of judges for an error of law. The Commission recalls that the State has the obligation to guarantee and ensure judicial independence and to ensure that the work of judges is not the result of political influences based on lack of stability in their positions. Moreover, the State must ensure respect for the established constitutional forms, so as to avoid endangering judicial independence, a fundamental requirement for democracy.

180. Regarding the crosscutting theme of **institutionality of human rights**, it should be highlighted that the country has an Office of the Ombudsperson of Ecuador,²⁵⁵ that being the National Institute on Human Rights, which promotes, disseminates, and protects the rights of individuals, communities, peoples, nationalities, and collectives residing in the country, as well as Ecuadorians living abroad.

181. Regarding **citizen security and access to justice**, in response to the kidnapping and murder of *El Comercio* journalists along the northern border, the IACHR granted precautionary measure 309/18. In a press release, the authorities of the corresponding countries were urged to continue working to identify and

²⁵¹ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁵² IACHR, Press Release 21/2018 - IACHR submits request for provisional measures for members of the Council on Citizen Participation of Ecuador, February 6, 2018.

²⁵³ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁵⁴ CPCCS, CPCCS-T Dismisses Constitutional Court Judges, August 23, 2018.

²⁵⁵ <http://www.dpe.gob.ec/>

punish those responsible for the crime, and to continue in their efforts to facilitate delivering the bodies to the families.²⁵⁶ In response to the request from the relatives of the victims, the IACHR formed a Special Monitoring Team on May 25, 2018, with financial and political support from Ecuador. Its mandate was through December, but it was extended until March 2019 by the State.²⁵⁷ In July, the IACHR and the RELE, together with the representatives of the governments of Ecuador and Colombia, installed the Special Monitoring Team on this case in Quito.²⁵⁸ The IACHR viewed positively the State's willingness to form the international monitoring team, and in this regard, welcomed the initiatives on continuing dialogue and cooperation between Colombia and Ecuador toward maintaining border security. The Commission also took note of the state of emergency decree intended to enhance security in cities bordering Colombia. The decree was issued first in January²⁵⁹ and then again in April²⁶⁰ after attacks in the region.

182. Regarding the phenomenon of **disappearances and forced disappearances**, the IACHR observes with concern the information submitted by the Office of the Attorney General of the State indicating that 42,953 people have been documented as missing since 2018. According to the information, the disappearances face a series of issues regarding the exercise of the right to truth and access to justice; the lack of regulation, scope, and specialization of the units established by the State to address the phenomenon of people missing in the country; the absence of unified response protocols; the lack of procedures for documenting the cases and producing statistics that are unified, specific, and trustworthy with regarding two cases of disappearance in the country; and the stigmatization and revictimization as a result of the reports filed.²⁶¹

183. Regarding the rights of **LGBTI persons**, the Commission learned of the decision by the Constitutional Court of Ecuador in August ordering a girl—the child of two English mothers and born in Ecuador—to be registered as an Ecuadorian citizen with a birth certificate containing the names of her two mothers. The decision is an important step forward in the recognition of diverse families and the protection of children.²⁶² Also, Ecuador has moved forward in protecting and recognizing sexual orientation and identity and gender expression of women through the Comprehensive Organic Law to Prevent and Eradicate Violence against Women and by guaranteeing the right to vote in a way that respects gender identity.²⁶³

184. Regarding the rights of **women**, the Commission has monitored the situation of violence and discrimination they continue to face in the country despite the existing legal frameworks to protect them. The Commission was informed that 6 out of every 10 Ecuadorian women suffer some type of violence at some point in their lives. These incidents remain in impunity due to the obstacles victims continue to face to accessing justice.²⁶⁴ In particular, the Commission has monitored the situation of missing persons in Ecuador, specifically the cases surrounding the disappearances of women, girls and, and adolescents in the country. According to the information provided to the IACHR, Ecuador does not have a specialized legal framework on the search for

²⁵⁶ IACHR, [Press Release No. 106/18: IACHR and its Rapporteurship for Freedom of Expression Report on Follow-up after the Murder of Members of a Team of Ecuadorian Reporters](#), May 11, 2018.

²⁵⁷ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁵⁸ IACHR, [Press Release No. 165/18 - IACHR and its Office of the Special Rapporteur installed in Quito Special Follow-Up Team for the murder of members of El Comercio's journalistic team](#), July 26, 2018.

²⁵⁹ Decree 296 - Declaration of state of emergency in the Cantons of San Lorenzo and Eloy Alfaro (Esmeraldas), January 27, 2018.

²⁶⁰ Decree 381 - Declaring a state of emergency in the cantons of San Lorenzo, especially the towns of Mataje, El Pan, and La Cadena; and Eloy Alfaro, from the province of Esmeraldas, in order to safeguard the effective exercise of the rights of the population, April 27, 2018.

²⁶¹ IACHR, thematic hearing on the situation of disappeared persons in Ecuador and the right to truth and justice, 169th Extraordinary Period of Sessions, October 3, 2018.

²⁶² Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁶³ Observatorio de Igualdad de Género de América Latina y Caribe, [Ley Orgánica Integral para Prevenir y erradicar la Violencia contra las Mujeres](#), February 5, 2018.

²⁶⁴ IACHR, human rights situation of women in Ecuador, thematic hearing held during the 167th Period of Sessions. February 28, 2018.

missing persons, nor does it have consolidated figures on this phenomenon.²⁶⁵ Additionally, 67% of the missing in Ecuador are women; reports of the disappearances are not processed with seriousness nor diligence due to discriminatory gender stereotypes; and in most cases, the investigations are not diligent or impartial.²⁶⁶ In this regard, the IACHR learned of the case of Juliana Campoverde, missing since 2012 and whose body was found in 2018. Police investigations into her disappearance were limited and deficient.²⁶⁷

185. Regarding the **rights of migrants and refugees**, the Commission highlights that as of January 31, 2019, 101,404 visas and 2,500 requests for asylum have been issued to Venezuelans.²⁶⁸ The Commission recognizes the leadership of the Ecuadorian State in the signing of the Quito Action Plan and the Quito Declaration on the Human Mobility of Venezuelan Citizens in the Region, which underscores the need to accept expired travel documents as identification documents, as well as the need to fight discrimination and xenophobia. However, as of August 16, 2018, Ecuador began requiring a valid and current passport from Venezuelans, not including children and adolescents.²⁶⁹ The requirement was suspended for 90 days by the Third Family Court in a hearing in which the Office of the Ombudsperson requested an injunction. The State stopped requiring passports and announced the Comprehensive Plan for Response and Rights Protection in the context of the increase in the flow of Venezuelan migrants to Ecuador.²⁷⁰ Later, the gender-based murder of a woman by a Venezuelan unleashed incidents of harassment, stigmatization, and episodes of violence against Venezuelans.²⁷¹ Also, starting January 21, 2019, they were required to present their certified passports or national identification cards, along with their certified police records, properly stamped or legalized, in order to enter the country. These requirements have exceptions for children and adolescents, as well as other exceptions, established in Interministerial Agreement 0002/2019. In addition, starting on February 15, 2019, pedestrian traffic was limited over the International Bridge and police/migratory control was set up on the bridge without the implementation of adequate safeguards for identifying and dealing with cases of international and special protection.²⁷² The Commission expressed concern at the incidents of violence and urged the Ecuadorian State to guarantee the rights to seek and receive asylum, the right to not be deported, and the right to equal protection and nondiscrimination. It also urged Ecuador to adopt measures in line with its Resolution 2/18 on the forced migration of Venezuelans.

186. On the **rights of children and adolescents**, the Commission takes note of the promulgation of a protocol to protect Venezuelan migrant children in Ecuador.²⁷³ The protocol establishes mechanisms to guarantee the rights of the child for all children who enter the country, whether they are accompanied or not, with documentation or not.²⁷⁴

187. The IACHR observes that the **rights of older persons** were reinforced by the State of Ecuador with the approval by the National Assembly on December 14, 2018,²⁷⁵ of the Inter-American Convention on

²⁶⁵ *El Comercio*, Familiares de desaparecidos aseguran que las cifras de la Policía Nacional y la Fiscalía son inconsistentes, August 30, 2018.

²⁶⁶ *La Vanguardia*, El mayor número de desaparecidos en Ecuador son mujeres, August 15, 2019.

²⁶⁷ *El Comercio*, La madre de Juliana Campoverde presentó su acusación particular en contra de pastor evangélico, December 21, 2018.

²⁶⁸ IACHR, press release 47/19: IACHR Concerned about Ecuador's New Measures to Address Forced Migration of Venezuelans, February 27, 2019.

²⁶⁹ Ministry of Foreign Affairs and Human Mobility, Ministerial Agreement 000244, August 24, 2018.

²⁷⁰ *El Universo*, Ecuador impulsa un plan para la protección de derechos de migrantes venezolanos, November 10, 2018

²⁷¹ IACHR, press release 47/19: IACHR Concerned about Ecuador's New Measures to Address Forced Migration of Venezuelans, February 27, 2019.

²⁷² IACHR, press release 47/19: IACHR Concerned about Ecuador's New Measures to Address Forced Migration of Venezuelans, February 27, 2019.

²⁷³ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁷⁴ UNICEF, UNICEF celebra el nuevo protocolo para proteger a los niños migrantes en Ecuador, November 7, 2018.

²⁷⁵ *Prensa Latina*, Aprueba Ecuador convención sobre protección de adultos mayores, December 14, 2018.

Protecting the Human Rights of Older Persons, adopted by the Organization of American States. Also, in July 2018, the State adopted the National Agenda on Intergenerational Equality, which proposes public policies aimed at an equitable society free from all discrimination.²⁷⁶

188. Lastly, on the **rights of indigenous peoples**, the State has reported on the issuance of the Organic Law on Comprehensive Planning of the Amazon Territory, with the aim of sustainable development and providing intercultural and plurinational services, as well as bilingual and intercultural education.²⁷⁷ However, the IACHR obtained information indicating that the regular domestic courts have criminally prosecuted and convicted 23 indigenous leaders for exercising indigenous jurisdiction and the lack of legal provisions protecting their exercise, even when recognized in the Political Constitution.²⁷⁸

189. In the framework of guaranteeing **freedom of expression**, in August 2018, the Office of the Special Rapporteur for Freedom of Expression of the IACHR (RELE) made an official visit to Ecuador to evaluate the situation of freedom of expression in the country at the invitation of the government as part of the Ecuadorian State's process to reach out to civil society, the media, journalists, and international organizations that monitor human rights.²⁷⁹ The visit was made in coordination with the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who also made an official visit to the country in October 2018. During the country visit, the Commission learned that Ecuador's public institutions were undergoing a transition process to address the authoritarianism implanted by the previous government and dismantle the repressive practices aimed at closing democratic spaces. The Office of the Special Rapporteur recognizes the measures adopted by the current administration in Ecuador as a significant step toward halting violations of the right to freedom of expression and reversing their effects. It also welcomes the measures adopted to ensure public recognition of the importance of the work the media and human rights defenders do to a democratic society through statements by State leaders, public events, and dialogue initiated with these sectors of society.

190. Lastly, as regards **environmental** rights, the State reported that a referendum held in February 2018 included questions on the prohibition with no exceptions of all stages of metal mining in protected areas, untouched areas, and urban centers; expansion of the untouched area created to protect the rights of peoples in voluntary isolation; and reduction of the oil exploitation area in Nacional Yasuní National Park.²⁸⁰ There are also proposed regulations for the Organic Environmental Code that entered into force on April 13, 2018.²⁸¹ The Commission also takes note that the Ministry of the Environment issued Ministerial Agreement 102, restructuring the National Citizen Council on the Environment, a space for participation and exchange between civil society and the national environmental authority.²⁸² At the same time, REDESCA observes that there are still serious environmental conflicts, including incidents involving the rural county of Tundayme, located in the Condor Range, which runs along Ecuador's southeast border with Peru. A mining project was concessioned in the sector, affecting a population comprised of mestizo communities, mountain indigenous peoples, and the Shuar indigenous from the Amazon. The IACHR received information on clashes between the police force and residents of the area, as well as on legal actions brought to stop the project, leading to incidents of repression, harassment, stigmatization, forced displacement, and even murder.²⁸³

²⁷⁶ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁷⁷ Input from the State of Ecuador for Chapter IV of the 2018 Annual Report of the IACHR, November 19, 2018.

²⁷⁸ IACHR, Thematic hearing on reports of criminalization of the exercise of indigenous jurisdiction in Ecuador, 169th Extraordinary Period of Sessions, October 3, 2018.

²⁷⁹ IACHR, [Press release R188/18 - Office of the Special Rapporteur concludes its visit to Ecuador and presents its preliminary observations and recommendations on freedom of expression in the country](#), August 24, 2018.

²⁸⁰ Letter from the Mission of the Republic of Ecuador to the OAS, No. 4-2-309/2018, of November 16, 2018, p. 6

²⁸¹ Letter from the Mission of the Republic of Ecuador to the OAS, No. 4-2-309/2018, of November 16, 2018, p. 6

²⁸² Letter from the Mission of the Republic of Ecuador to the OAS, No. 4-2-309/2018, of November 16, 2018, p. 7

²⁸³ Organizaciones Ambientales de la Región Andina, [Abusos de Poder contra defensores y defensoras de los derechos humanos, del territorio y del ambiente](#), March 2018, 18-19, p. 18-20

EL SALVADOR

- **General considerations**

191. The IACHR salutes some progress in human rights that occurred in the country during 2018. In particular, El Salvador's adherence to the Inter-American Convention on Protecting the Human Rights of Older Persons; the ruling of the Constitutional Chamber of the Supreme Court of Justice, which recognized the existence of a phenomenon of forced displacement of persons in the context of violence and insecurity in the country; the decision of the First Instance Court of San Francisco Gotera that qualified the facts of the El Mozote massacre as war crimes and crimes against humanity; and the decision of the Supreme Court that ordered investigations into the whereabouts of victims of forced disappearance during the internal armed conflict. In addition, The IACHR highlights the State's technical cooperation with the Commission to strengthen the capacities of justice officials in the area of transitional justice.

192. In relation to the challenges, the IACHR notes that high levels of violence – especially high numbers of homicides, femicides, disappearances, and forced displacement – as well as legislation affecting fundamental rights, such as the total criminalization of abortion, continue to be of special concern. In particular, the IACHR is concerned about the permanent regulation of extraordinary measures that are contrary to the rights of persons deprived of their liberty.

193. The State responded to the request for information sent in preparation of this chapter.

- **Specific issues**

194. With regard to the cross-cutting theme of human rights institutions, it is pertinent to note that the country has a Public Prosecutor for the Defense of Human Rights²⁸⁴, an agency in charge of ensuring the validity of the rights of Salvadoran people. Similarly, the IACHR recognizes the effort of the Salvadoran State to promote a process of integral reparation for victims. In this regard, the State referred to the installation of the Directive Council of Serious Human Rights Violations Victims Registry on the case of the El Mozote Massacre and to the creation of the National Commission to Search for Persons Disappeared in the Context of the Armed Conflict (CONABUSQUEDA).²⁸⁵

195. In terms of **citizen security**, El Salvador is one of the most violent countries in the world, with homicide rates of 51 per 100,000 inhabitants in 2018.²⁸⁶ The country recorded 3,340 homicides in 2018, a decrease of 15%.²⁸⁷ As for disappearances, as of December 18, the Attorney General's Office received a total of 3,514 reports of missing persons, almost 200 more than the previous year.

196. With regard to **access to justice**, the Commission is concerned about the delay in the selection process for judges of the Constitutional Chamber of the Supreme Court. The Commission warns that due to this delay, the Supreme Court was without a Constitutional Chamber from July 15 to November 16, 2018. In this regard, civil society organizations observing the selection process denounced the lack of transparency of the process, as well as the absence of clear and defined rules regarding the criteria for applying for the position of

²⁸⁴ <http://www.pddh.gob.sv/>

²⁸⁵ Report of the State of El Salvador to the Inter-American Commission on Human Rights, regarding the IV A Chapter "Annual Report IACHR 2019", of December 12, 2018.

²⁸⁶ El Nuevo Diario. "El Salvador cierra 2018 con nuevo descenso en cifra de homicidios", January 2, 2019.

²⁸⁷ National Civil Police, El Salvador. [Estadísticas "Feminicidios y Homicidios de Enero a Septiembre 2015"](#), November 18, 2015.

Supreme Court magistrate, giving rise to subjective criteria at the time of the election of the magistrates.²⁸⁸ On the other hand, the IACHR held a hearing within the framework of its 170th Period of Sessions in which civil society organizations indicated that the selection process of the Attorney General in El Salvador did not comply with the reinforced standards required for this type of selection process of high state officials. Among other aspects, the process allegedly did not comply with the standards of publicity, deliberation and public debate, objective evaluation criteria, or formal mechanisms for civil society participation. In particular, the Commission is especially concerned that the process is not regulated in any internal law and that candidates' files have not been made public.

197. In terms of **forced displacement**, around 5.2% of the Salvadoran population was displaced due to threats or acts of violence in 2018, according to a national survey conducted by the Central American University (UCA).²⁸⁹ In its ruling of July 13, 2018, the Supreme Court declared that in El Salvador there is a phenomenon of forced displacement of persons that has its origin both in the context of violence and insecurity that seriously affects vulnerable groups in different geographical areas of the country controlled by gangs, as well as in the systematic effects on fundamental rights caused by organized crime, mainly by the aforementioned criminal groups.²⁹⁰

198. Regarding **transitional justice**, in a press release dated April 2, 2018, the IACHR urged the Salvadoran state to comply with the recommendations of the Final Report of the Commission on the Truth for El Salvador, 25 years after its publication. In this regard, according to information from the Attorney General's Office dated November 2018, this institution is currently investigating 149 cases related to crimes committed during the Salvadoran armed conflict, of which there are only 23 open cases in the procedural stage of investigation. All the cases are being investigated under the 1973 Criminal Code (inquisitorial process), the law that was in force at the time of the commission of the facts.²⁹¹ Likewise, in a press release date February 20, 2018, the IACHR welcomed two decisions of the Constitutional Chamber of the Supreme Court of Justice, which ordered the State to conduct an internal investigation and provide information on military operations involving cases of forced disappearance of children during the Salvadoran armed conflict. Also, during 2018 the Commission repeatedly expressed its concern over the lack of access to the archives of the Ministry of Defense for investigating the crimes that were committed during the armed conflict.²⁹²

199. With respect to the situation of **persons deprived of their liberty**, the IACHR has expressed its concern about the existence of extraordinary measures in Salvadoran prisons, and the consequent effect on the life and integrity of persons in the custody of the State. In particular, through a press release dated March 26, the IACHR urged the State not to renew these measures, which were due to be decided by the Legislative Assembly in April 2018. Despite this, by decree dated April 6, 2018, the Legislative Assembly approved their renewal. Subsequently, the State informed the IACHR that through Legislative Decree No. 93 of the Legislative Assembly, the extraordinary measures had been repealed in order to be introduced permanently in the Penitentiary Law.²⁹³ The permanent validity of the so-called "extraordinary measures" is of particular concern to the Commission, considering that they result in serious violations of the human rights of persons deprived

²⁸⁸ La Prensa, No hay reglas claras ni garantías de transparencia en proceso de elección de magistrados CSI: observadores, May 29, 2018; El Salvador, Consortio por la Transparencia exige a diputados elegir magistrados, November 15, 2018.

2018.

²⁸⁹ University Institute of Public Opinion – Central American University, Boletín de prensa Año XXXII, No.1. "Los salvadoreños y salvadoreñas opinan sobre el desplazamiento interno forzado por violencia y las medidas extraordinarias", January 9, 2019.

²⁹⁰ Supreme Court of Justice, El Salvador, Sentencia 411-2017, Decision of July 13, 2018.

²⁹¹ Attorney General of the Republic, Access to Public Information Unit, El Salvador, Request No. 325-UAIP-FGR-2018, November 7, 2018.

²⁹² IACHR, Press Release 32/18 - IACHR Welcomes Decisions on Clarifying Forced Disappearances in El Salvador, February 20, 2018; IACHR, Hearing 25 years of the El Salvador Truth Commission, 167th period of sessions, February 26, 2018; IACHR, Press Release 74/18 - IACHR Urges El Salvador to Comply with the Recommendations from the Truth Commission's Final Report, April 2, 2018; IACHR, Hearing Process of searching for persons disappeared in the armed conflict in El Salvador, 169th period of sessions, October 1, 2018.

²⁹³ Report of the State of El Salvador, "Impacto de las Medidas Extraordinarias sobre los derechos de las Personas Privadas de Libertad", Note from the Permanent Mission of El Salvador to the OAS, NV- OEA-75/2018, September 11, 2018.

of their liberty, such as prolonged and indefinite isolation under inhuman conditions, health problems, suspension of the regime of visits, and obstacles to guaranteeing due process.

200. With regard to **women's rights**, the legislation criminalizing abortion in all circumstances remains a cause for concern. As the Commission observes in the [Conclusions on the working visit to El Salvador](#), published in January 2018, the absolute criminalization of abortion, even in cases where the pregnancy endangers the women's life or health, is the result of rape and/or when the fetus has malformations incompatible with extra-uterine life, has direct consequences on maternal morbidity and mortality figures, having the severest effects on the most vulnerable girls and women due to their socio-economic situation and lack of access to education and health services.

201. In terms of **internal displacement**, by Decision 411/17 of July 13, 2018,²⁹⁴ the Constitutional Chamber of the Supreme Court of Justice of El Salvador recognized the existence of a phenomenon of forced displacement of persons originating in the context of violence and insecurity in El Salvador, which systematically affects human rights, constituting an unconstitutional state of affairs and ordered, among other measures: a) recognizing victims and categorizing them in normative terms; b) designing and implementing public policies and action protocols aimed at preventing displacement; c) protecting displaced persons and guaranteeing them the possibility of returning to their residences; and d) entering into national and international cooperation agreements to ensure the protection of victims and witnesses.

202. In relation to the rights of **LGBTI persons**, in January 2018, the Constitutional Chamber of El Salvador ordered the Legislative Assembly not to ratify a constitutional reform agreement that would seek to prohibit marriage between people of the same sex because it considered that this reform was made without informing the population about it.²⁹⁵

203. With regards to **freedom of expression**, during 2018 in El Salvador aggressions and threats against journalists by public officials continued to occur. In some cases, initiating lawsuits were threatened. At the same time, there were cases of limitations to the exercise of journalism and access to information during highly relevant electoral and judicial processes. The Special Rapporteur notes that civil society continued to work to promote adequate mechanisms for the protection of journalists, security forces were trained and a bill was drafted to guarantee the safety of journalists. On the other hand, the dismissal of dozens of media workers and the precariousness of work in the journalistic sector has generated concern in organizations of journalists and in the Ministry of Labor. A diagnosis by the Public Prosecutor for the Defense of Human Rights revealed that poor working conditions are aggravated for women journalists, most of whom also claimed to be exposed to verbal violence and sexual harassment during the performance of their duties.

204. As regards the **environment**, the IACHR observes that El Salvador, since 2016, has had a National Climate Change Plan. During 2018, the government of El Salvador has implemented various measures in favor of the environment. According to the information provided by the State, these measures include the expansion of three sanitary landfills situated in Santa Ana, La Unión, and Chalatenango, reducing by 45% the production and consumption of ozone-depleting substances with respect to 2014, and a total, on record, of 126,482 hectares with restoration processes as per the National Program for Restoration of Ecosystems and Landscapes.²⁹⁶

²⁹⁴ Supreme Court of Justice, El Salvador, [Sentence 411-2017](#), Decision of July 13, 2018.

²⁹⁵ El Salvador, [Sala de lo Constitucional impide a Asamblea ratificar reforma sobre el matrimonio entre personas del mismo sexo](#), January 31, 2018; El Mundo, [Asamblea no podrá ratificar prohibición a los matrimonios homosexuales: Sala](#), February 1, 2018.

²⁹⁶ Informe del Estado de El Salvador a la Comisión Interamericana de Derechos Humanos, en relación con el Capítulo IV A "Informe Anual CIDH 2019", December 12, 2018

UNITED STATES

- **General Considerations**

205. With respect to **progress** made during 2018, the IACHR recognizes the United States' long tradition of representative democracy, commitment to the rule of law, and a strong system of checks and balances, which was reflected in the progress the State made to protect human rights. The Commission welcomes the various measures taken by the United States, specifically, the government took steps to reform the criminal justice system; there was progress at the federal and state level to increase gun control; and a reaffirmation of the press and media's purpose, credibility and importance in a democratic society.

206. Concerning the **challenges** experienced during 2018, the government's continued actions to close all legal avenues for migrants and refugees to reach and remain in the United States. Further, the record number of shootings, high incarceration rates, continued use of the death penalty, and increase in hate crimes and violence against groups who have historically been subject to discrimination and marginalization reflect serious concerns with regard to citizen's security and access to justice. Finally, there were instances throughout the year of the government undermining the media's role of holding government accountable, honest and transparent. Finally, during the year there were situations in which the government tried to undermine the role of the media.

207. The State did not respond to the request of information sent for the elaboration of this chapter.

- **Specific Topics**

208. On **democratic institutions**, it is important to highlight that mid-term elections were held on November 6, resulting in the Republicans holding onto the majority in the Senate (51%) and the Democrats achieving a majority in the House of Representatives (220 Democrats and 194 Republicans).²⁹⁷ Of the 36 state governor elections, the Republicans won 25, and the Democrats won 22.²⁹⁸ In this regard, it is important to highlight the victories of the youngest congresswoman in history; the first openly gay governor in the United States after his win in Kansas; the first Native American woman to reach Congress; the first Muslims; the first black congresswoman from Massachusetts; Tennessee's first female U.S. Senator; and the first Latina lawmakers to represent Texas in Congress.²⁹⁹

209. With regard to **citizen security**, in 2018, it was reported that there were 57,055 shooting incidents; this includes 340 mass shootings³⁰⁰ and a total of 97 school shootings.³⁰¹ Within these incidents, there were a total of 14,660 individuals killed and 28,180 individuals injured.³⁰² The Commission notes that in 2018 compared to recent years, the total number of shootings and deaths has declined, but the total number of school shootings increased dramatically.³⁰³ The IACHR held an ex officio hearing on the Regulation of Gun Sales and Social Violence in the United States, where civil society organizations addressed the impact of weak gun control laws on the extremely high levels of gun violence in the United States.³⁰⁴ Throughout the year there

²⁹⁷ New York Times, [2018 Midterm Election Results](#), updated November 27, 2018.

²⁹⁸ New York Times, [2018 Midterm Election Results](#), updated November 27, 2018.

²⁹⁹ New York Times, [2018 Midterm Election Results](#), updated November 27, 2018.

³⁰⁰ Gun Violence Archive defines '[Mass Shooting](#)' as "Four or more shot and/or killed in a single event [incident], at the same general time and location not including the shooter."

³⁰¹ Gun Violence Archive, [Past Summary Ledgers](#), February 8, 2019; Center for Homeland Defense & Security, [K-12 School Shooting Database, Incidents by Year](#), visited February 8, 2019.

³⁰² Gun Violence Archive, [Past Summary Ledgers](#), February 8, 2019.

³⁰³ Gun Violence Archive, [Past Summary Ledgers](#), accessed February 13, 2019.

³⁰⁴ IACHR, 167 Period of Sessions, [Regulation of Gun Sales and Social Violence in the United States](#), February 27, 2018.

were numerous tragedies that were especially concerning to the Commission.³⁰⁵ In light of the school shootings and gun violence, the Commission commends steps taken by the Federal Government and individual States to improve gun control and limit access to weapons.³⁰⁶ Specifically at the end of 2018, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reclassified ‘bump stocks’ as machine guns, thus banning them from possession, use and sale.³⁰⁷ The Commission calls on the State to continue to advance gun control legislation.

210. With regard to **national human rights institutions**, it is pertinent to note that the country has a decentralized federal system for the protection of human rights. The role of the Federal Human Rights Special Prosecutor's Office is to prosecute human rights violators under the federal criminal statutes that prohibit torture, war crimes, genocide and the recruitment or use of child soldiers. Similarly, the State Department has an office specializing in democracy, human rights and labor issues.

211. Regarding the **rights of migrants and refugees**, on January 8, 2018, the U.S. Department of Homeland Security (DHS) announced their decision to end Temporary Protected Status (TPS) for nationals from El Salvador, with termination becoming effective on September 9, 2019.³⁰⁸ At that time, the Commission expressed its concern and urged the United States to reconsider and reinstate TPS.³⁰⁹ The Commission notes that this action by DHS was temporarily halted when the U.S. District Court for the Northern District of California issued a preliminary injunction enjoining DHS from implementing or enforcing their decision to terminate TPS.³¹⁰ In 2018 several lawsuits were filed against the cancellation of the Deferred Action for Childhood Arrivals (DACA). As a result, three nationwide injunctions were issued by the Courts in California, New York and the District of Columbia. The injunction allows people to continue to renew their deferred action. Nevertheless, the cases are still pending a final resolution.³¹¹

212. On April 7, 2018, The United States announced a “zero tolerance” policy calling for every individual who crosses the border illegally to be prosecuted.³¹² As a result of the implementation of this policy, it was reported that nearly 2,000 children were separated from their families between April 19 and May 31, 2018.³¹³ In response the IACHR condemned the separation of families and called for the end of the policy.³¹⁴ Later, Executive Order No. 13841 (“Affording Congress an Opportunity to Address Family Separation”) was issued; this effectively ended the administration’s practice of separating children from their parents.³¹⁵ Following this, the IACHR granted two precautionary measures: first, to five migrant families and second, to all

³⁰⁵ See, [Marjory Stoneman Douglas High School](#), Parkland, Florida, February 14, 2018; [Santa Fe High School](#), Santa Fe, New Mexico, May 18, 2018; [The Capital Gazette](#), Annapolis, Maryland, June 28, 2018; [Tree of Life Synagogue](#), Pittsburgh, Pennsylvania, October 27, 2018; [Borderline Bar and Grill](#), Thousand Oaks, California, November 7, 2018.

³⁰⁶ According to [Giffords Law Center](#), 67 gun safety bills were passed and signed into law in 26 states and the District of Columbia in 2018. These laws include: tightening the minimum age, safe storage, removal of firearms from mentally ill individuals, waiting periods for purchasing, and prohibition factors for gun ownership.

³⁰⁷ Bureau of Alcohol, Tobacco, Firearms, and Explosives; 27 CFR 447, 478, and 479; [Bump-Stock-Type-Devices](#); December 26, 2018; Effective March 26, 2019; CNN, [Trump administration officially bans bump stocks](#), updated December 18, 2018.

³⁰⁸ U.S. Citizenship and Immigration Services, 83 FR 2654, [Termination of the Designation of El Salvador for Temporary Protected Status](#), January 18, 2018.

³⁰⁹ IACHR, Press Release No. 06/18, [IACHR Expresses Concern for Decision of the United States Regarding Temporary Protected Status](#), January 19, 2018.

³¹⁰ Ramos, et al. v. Nielsen, et al., [case no. 18-CV-01554](#) (N.D. Cal. Oct. 3, 2018).

³¹¹ National Immigration Law Center, [DACA Litigation Timeline](#), February 11, 2019.

³¹² Department of Justice, [Zero-Tolerance Memorandum](#), April 6, 2018.

³¹³ ABC News, [Not necessary to justify separating kids, parents at border, ‘it’s zero tolerance’: Bannon](#), June 17, 2018.

³¹⁴ IACHR, Press Release No. 130/18, [IACHR Expresses Concern over Recent Migration and Asylum Policies and Measures in the United States](#), June 18, 2018; The Hill, [13 GOP Senators Ask Administration to Pause Separation of Immigrant Families](#), June 19, 2018; ABA Journal, [Separating families violates civil rights, won’t work and is inhumane, ABA president says](#), June 12, 2018.

³¹⁵ White House, Office of the Press Secretary, [Executive Order No. 13841: Affording Congress an Opportunity to Address Family Separation](#), June 20, 2018.

of the children who were separated from their parents as a result of this policy.³¹⁶ In response to these facts, the Permanent Council of the Organization of American States (OAS) approved by consensus a resolution rejecting the separation of child migrants at the border, in which it urged the IACHR to visit the southern border of the United States.³¹⁷ The Commission sought consent for the working visit on June 26, 2018, for the purpose of monitoring the human rights situation of migrants, asylum-seekers, and refugees.³¹⁸ The U.S. government provided points of contact for coordinating the IACHR's visit to the country, so that it may take place in the first half of 2019.

213. Likewise, on November 9, 2018, the government adopted an interim final rule³¹⁹ and the President issued a proclamation addressing mass migration through the southern border of the United States, stating that "aliens who enter the United States unlawfully through the southern border in contravention of this proclamation will be ineligible to be granted asylum."³²⁰ A federal judge in San Francisco issued a preliminary injunction blocking this ban on asylum seekers.³²¹ In relation to migrant caravans, the State sent more than 5,000 troops to the border³²² considering a threat to national sovereignty and security. Further, on November 26, U.S. Customs and Border Protection agents fired tear gas at migrants and refugees, including children, of the Caravans who were attempting to cross into the United States from Tijuana, México.³²³ The IACHR expresses its deep concern over reports that two migrant children, Jakelin Caal Maquin and Felipe Gómez Alonzo, from Guatemala died while in the custody of the U.S. Customs and Border Patrol.³²⁴ The Commission urges the State to take all measures necessary to guarantee human rights of migrants, including the rights to life, integrity, and health.³²⁵

214. On December 20, 2018, the Department of Homeland Security announced the promulgation of the Migration Protection Protocols (MPP), citing Section 235(b)(2)(C) of the Immigration and Nationality Act. Under this Protocol, the United States would begin to return to Mexico those persons who enter the country, regularly or irregularly, to continue their immigration proceedings.³²⁶ That agreement could entail violations of the principle of non-refoulement and expose asylum-seekers to violations of their human rights in Mexican territory, especially by criminal groups.

215. Finally, regarding the identification of the remains of missing migrants at the U.S. border, the Commission held a hearing where organizations claimed that there was a lack of political will to cooperate with

³¹⁶ IACHR, PM 505/18, [Wilma Aracely López Luc de Coc and others regarding the United States of America](#), August 16, 2018; IACHR, PM 731/18, [Migrant Children affected by the "Zero Tolerance" Policy regarding the United States of America](#), August 16, 2018.

³¹⁷ Consejo Permanente de la OEA, [Impacto de la política de separación de familias migrantes por parte del gobierno de Estados Unidos de América sobre los derechos humanos de las personas migrantes](#), 29 de junio de 2018.

³¹⁸ IACHR, Request for a Working Visit to the US Southern Border, 26 June 2018.

³¹⁹ Department of Homeland Security, [Aliens subject to a Bar on Entry Under Certain Presidential Proclamations: Procedures](#), November 7, 2018.

³²⁰ [Presidential Proclamation Addressing Mass Migration through the Southern Border of the United States](#), November 9, 2018. November 9, 2018.

³²¹ NBC, [SF Judge Issues Injunction to block asylum restrictions](#), December 19, 2018.

³²² The New York Times, [Trump sending 5,200 troops to the Border in an Election-Season Response to Migrants, October, 29, October](#), 29, 2018.

³²³ The New York Times, [Border Agents Shot Tear Gas Into Mexico. Was It Legal?](#), November 28, 2018.

³²⁴ Vox, [The death of 7-year-old Jakelin Caal Maquin in Border Patrol custody isn't an isolated outrage](#), December 18, 2018; CNN, [The final days of Felipe Alonzo-Gómez, the 8-year-old migrant who died in US custody](#), December 26, 2018.

³²⁵ IACHR, [IACHR Expresses Deep Concern over the Deaths of Two Migrant Children in the Custody of Immigration Authorities](#), January 7, 2019.

³²⁶ Department of Homeland Security, [Press Release: Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration](#), December 20, 2018; NBC News, [DHS to begin returning asylum-seekers at border to Mexico to await decisions](#), December 20, 2018; Mexico News Daily, [Mexico will take back migrants awaiting asylum after US changes policy](#), December 20, 2018.

the families to identify and repatriate the remains of missing migrants. In response, the State expressed its deep concern over the situation.³²⁷

216. Regarding **people deprived of liberty**, the United States has the largest criminal justice system and the highest incarceration rate in the world, incarcerating around 698 individuals for every 100,000 people.³²⁸ Additionally, based on data available from 2016, over 60% of individuals in prison are people of color and Latino.³²⁹ According to an April 2018 report by the U.S. Department of Justice, Bureau of Justice Statistics, in 2016 there was roughly 6,613,500 individuals under the supervision of the U.S. correctional systems,³³⁰ of this number, 2,162,400, were incarcerated either in local jails or state and federal prisons.³³¹ While these numbers are still exceedingly high, the Commission does recognize that there has been a steady decline in the total number of individuals incarcerated and under community supervision.³³²

217. The Commission takes notice of the measures taken to enact the FIRST STEP Act of 2018³³³ and the Juvenile Justice Reform Act of 2018.³³⁴ The first one allows judges more discretion in sentencing, as well as lowering the mandatory federal sentences for certain crimes, it also added additional ways for prisoners to earn reduced jail times through good behavior and participation in vocational and rehabilitative education programs;³³⁵ the second one includes provisions banning placement of children in adult jails, calling for more research to address racial disparities, and a limitation on incarcerating children for “status offenses.”³³⁶

218. On January 30, 2018, Executive Order No. 13823 (“Protecting America through Lawful Detention of Terrorists”) was issued; this order allowed the Guantánamo Bay Detention Center at the U.S. Naval Base in Guantánamo Bay, Cuba, to remain open and further authorized the transfer of additional detainees to the detention center.³³⁷ The Commission condemned the decision by the United States to allow this center to remain open, after numerous calls by the IACHR for its permanent closure.³³⁸

219. Concerning the **death penalty**, the Commission has continually monitored its use in the United States throughout the years.³³⁹ While the Commission recognizes that the number of individuals sentenced and executed has declined since 1999, there were 42 individuals sentenced to death and 25 individuals executed in 2018.³⁴⁰ The IACHR urged to stay the execution³⁴¹, and later condemned the execution of Roberto Moreno Ramos on November 14, 2018, despite the IACHR’s grant of precautionary measures in his

³²⁷ IACHR, 169 Period of Sessions, [Identification of Remains of Missing Migrants at the US border](#), October 5, 2018.

³²⁸ Prison Policy Initiative, [States of Incarceration: The Global Context 2018](#), June 2018.

³²⁹ The Sentencing Project, [Fact Sheet: Trends in U.S. Corrections](#), updated June 2018.

³³⁰ Bureau of Justice Statistics, [Correctional Populations in the United States, 2016](#), April 2018.

³³¹ Bureau of Justice Statistics, [Correctional Populations in the United States, 2016](#), April 2018.

³³² Bureau of Justice Statistics, [Correctional Populations in the United States, 2016](#), April 2018.

³³³ United States Congress, S. 756, [FIRST STEP Act of 2018](#), introduced May 7, 2018, signed December 21, 2018.

³³⁴ United States Congress, H.R. 6964, [Juvenile Justice Reform Act of 2018](#), introduced September 28, 2018, signed 21, 2018.

³³⁵ Vox, [The First Step Act explained](#), February 5, 2019.

³³⁶ The Marshall Project, [The Criminal Justice Reform Bill You’ve Never Heard Of](#), December 13, 2018; Coalition for Justice & National Criminal Justice Association, [Summary of the Juvenile Justice Reform Act of 2018](#), accessed February 21,

³³⁷ White House, Office of the Press Secretary, [Executive Order No. 13823: Protecting America Through Lawful Terrorists](#), January 30, 2018.

³³⁸ IACHR, Press Release No. 31/18, [IACHR Condemns Decision of the United States to Maintain Guantánamo Prison](#) February 20, 2018; IACHR, [Toward the Closure of Guantánamo](#), OAS/Ser.L/V/II. Doc.20/15, June 3, 2015.

³³⁹ See, e.g., IACHR, [The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition](#), OEA/Ser.L/V/II. Doc. 68, December 31, 2011.

³⁴⁰ Death Penalty Information Center, [Facts about the Death Penalty](#), January 30, 2019

³⁴¹ CIDH, CIDH insta a Estados Unidos a suspender la ejecución de Roberto Moreno Ramos, 1 de noviembre de 2018.

case on November 8, 2002.³⁴² On the other hand, the Commission has closely followed the case of Russell Bucklew, a recipient of precautionary measures in 2014.³⁴³ The Commission commends the United States Supreme Court for granting a stay of execution pending the disposition of Bucklew's petition for a writ of certiorari.³⁴⁴ In 2018, the Commission granted precautionary measures to one individual, Ramiro Ibarra Rubí, who continues to sit on death row.³⁴⁵ The Commission notes that the death penalty remains legal in 30 of the 50 states; while three of these states have a Governor-imposed moratorium.³⁴⁶ The Commission commends the Supreme Court of the State of Washington, who on October 11, 2018, declared their death penalty statute unconstitutional as applied and ended the state practice of capital punishment, considering racially directed.³⁴⁷

220. Regarding the **rights of human rights defenders of migrants**, nine human rights defenders gave testimonies issued in a hearing held by the Commission, such as surveillance, threats, arbitrary deportation processes, arbitrary arrests, the separation of families, deportations to countries where the lives and safety of their families would be endangered, and shortcomings in due process. They expressed their concern over the fact that those affected do not have legal representation 80% of the time. With this lack of legal protection and inability to access their files, individuals find themselves unable to defend themselves appropriately. It has also been reported that there is a lack of transparency in surveillance policies and a lack of accountability mechanisms.³⁴⁸ The IACHR called on the State to guarantee that human rights defenders can exercise their work without fear of reprisals and restrictions³⁴⁹.

221. Regarding the **rights of lesbian, gay, bisexual, trans, and intersex persons (LGBTI)**, the Commission expresses its concern regarding the report released in November 2018, by the Federal Bureau of Investigation (FBI), which indicated that there was an increase in hate crimes by 17% compared to previous year.³⁵⁰ It was further reported that in 2017 there were 1,130 reported hate crimes that were based on sexual-orientation and 119 based on gender-identity.³⁵¹ The Commission highlights the steps taken by California to become the first state to pass a resolution that guarantees the physical autonomy of intersex people and secures their right to decide on aesthetic surgeries that alter their bodies even from childhood.³⁵² Further, the IACHR notes that during 2018, the states of Washington, Hawaii, Delaware, Maryland and New Hampshire all adopted laws prohibiting therapies that seek to change an individual's sexual orientation.³⁵³ At the end of 2018, there were a total of 14 states and the District of Columbia that prohibit the practice.

³⁴² IACHR, PM, [Roberto Moreno Ramos Precautionary Measure](#), visited February 6, 2019; USA Today, [Roberto Moreno Ramos' Moreno Ramos' last words: 'Lord, send me a chariot. I'm ready'](#), November 15, 2018.

³⁴³ IACHR, PR No. 54/18, [IACHR concludes that the United States Violated Russell Bucklew's Fundamental Rights, that His that His Execution Should Not Proceed and His Sentence Should be Commuted](#), March 19, 2018; IACHR, PM 177/14, [Matter of Russell Russell Bucklew and Charles Warner regarding United States of America](#), May 20, 2014.

³⁴⁴ U.S. Supreme Court, Order in Pending Case 17-8151, [Bucklew, Russell v. Precythe, Dir., MO DOC, et al.](#), March 20, 2018; AP, 2018; AP, [Missouri inmate gets 2nd stay of execution from high court](#), March 20, 2018.

³⁴⁵ IACHR, PM 82/18, [Ramiro Ibarra Rubí regarding the United States of America](#), October 1, 2018; Diario de Yucatan, Yucatan, [Authorized Continue Appeal of Mexican Criminal Sentenced to Death in the US](#), June 20, 2018.

³⁴⁶ Death Penalty Information Center, [States With and Without the Death Penalty](#), last updated October 11, 2018.

³⁴⁷ ACLU, [Washington Supreme Court Abolishes the Death Penalty](#), October 11, 2018.

³⁴⁸ IACHR, [Situation of human rights defenders of migrants in the United States](#), December 5, 2018, 170 Period of Sessions. Sessions.

³⁴⁹ IACHR, Press Release No. 29/18, [IACHR Expresses Concern over Situation of Immigrant Defenders in the United States, States](#), February 16, 2018.

³⁵⁰ Federal Bureau of Investigation, [2017 Hate Crime Statistics Released](#), November 13, 2018.

³⁵¹ Federal Bureau of Investigation, [2017 Hate Crime Statistics – Incidents and Offenses](#), accessed February 14, 2019. 2019.

³⁵² NBC News, [California lawmakers denounce infant intersex surgeries](#), August 28, 2018.

³⁵³ Washington, [Senate Bill 5722](#), signed March 28, 2018; Hawaii, [Senate Bill 270](#), signed May 25, 2018; Delaware, [Senate Bill 65](#), signed July 23, 2018; Maryland, [Senate Bill 1028](#), signed May 15, 2018; New Hampshire, [House Bill 587-FN](#), signed June 8, 2018.

222. In relation to the **rights of African descendants**, the IACHR notes with concern the alarming overrepresentation of Afro-descendants in the prison system. In particular, the IACHR highlights the fact that in 2018 Afro-descendants represented 40% of the incarcerated population, despite representing only 13% of the residents in the United States.³⁵⁴ Likewise, the IACHR expresses its deep concern regarding the rate of police violence against people of African descent. According to information received by the Commission, only in the first half of 2018, African descent represented 38% of the unarmed citizens killed by the police, which is three times the percentage of African descendants in the U.S. population. In this regard, the IACHR urges the State to adopt comprehensive citizen security policies that incorporate measures to fight institutional racism within the framework of the actions of police agents, such as the use of racial profiling and the ostensive police persecution of African descendants.

223. Regarding the **rights of indigenous women and communities** in Alaska, in a hearing held by the Commission, organizations described the rates of violence against women, girls, and adolescents as “devastating”. They reported that 84% of Native Alaskan women have experienced violence at some point in their lives, lack of access to justice, and of proper investigation. The delegation from the State informed that it was committed to taking steps to eradicate violence against women in Alaska.³⁵⁵

224. Regarding **freedom of expression**, there has been a climate of increasing hostility towards the practice of journalism and free operation of the media. The disparaging statements by government officials against the press, in which the press is characterized as “dishonest,” “corrupt,” and “the opposition,” who spread “fake news,” undermines the role of the press.³⁵⁶ Further, there have been concerning accounts of journalists being denied access to press conferences, events and buildings, while trying to report and cover stories.³⁵⁷ In addition to this, there have also been reports of journalists being required by law to reveal their sources and requiring journalists to appear as witnesses in connection with events they have reported or investigated.³⁵⁸ On May 23, the U.S. District Court for the Southern District of New York ruled in *Knight First Amendment Institute v. Trump* that President Trump’s practice of blocking individuals from his personal Twitter account violates the First Amendment, as the President’s account is a designated public forum.³⁵⁹ The Commission has repeatedly expressed its concern over the continued attacks on the media and has urged the government to end these harmful tactics and respect the freedom and independence of the press. The Commission notes that on August 16, 2018, the Senate passed a resolution reaffirming, *inter alia*, that “the press is not the enemy of the people,” condemning “the attacks on the institution of the free press,” and warning about “efforts to systematically undermine the credibility of the press as an attack on the democratic institutions of the United States.”³⁶⁰ Additionally, the Commission takes notice of the additional steps taken by the U.S.

³⁵⁴ Prison Policy, [Mass Incarceration: The Whole Pie 2018](#), 14 March, 2018.

³⁵⁵ IACHR, [Reports of Killings, Disappearances, and Multiple Forms of Discrimination against Indigenous Indigenous Women in Alaska](#), United States, May 10, 2018, 169 Period of Sessions.

³⁵⁶ See, e.g., U.S. Press Freedom Tracker, [Trump blames reporters for ‘creating violence by not writing the truth’](#), 2018; RealClearPolitics, [Trump Refuses Question from CNN’s Jim Acosta: ‘CNN is Fake News’](#), July 13, 2018; Official Twitter Donald J. Trump, [@realDonaldTrump](#), “Twitter is getting rid of fake accounts at a record pace. Will that include the Failing Times and propaganda machine for Amazon, the Washington Post, who constantly quote anonymous sources that, in my exist – They will both be out of business in 7 years!”, July 7, 2018.

³⁵⁷ See, e.g., AP, [White House suspends CNN’s Acosta after Trump confrontation](#), November 7, 2018; Politico, [punishes reporters over tough coverage](#), August 16, 2018; CNBC, [Op-Ed writer for the Nation forcibly removed from Trump-presser](#), July 16, 2018; U.S. Press Freedom Tracker, [EPA security guards refuse entry to AP reporter, then shove her out the](#) 2018; Des Moines Register, [Steve King bars ‘leftist propaganda’ outlet Des Moines Register from election night event](#),

³⁵⁸ See, e.g., U.S. Press Freedom Tracker, [Republican fundraiser subpoenas AP for documents related to anonymous](#) May 24, 2018; U.S. Press Freedom Tracker, [DOJ secretly seized phone and email records belonging to New York Times Watkins](#), June 11, 2018; San Francisco Chronicle, [ICE subpoenas immigration lawyer in leak hunt](#), October 17, 2018.

³⁵⁹ Knight First Amendment Institute, [Federal Court Rules that President Trump’s Blocking of Twitter Critics Violates First Amendment](#), May 23, 2018.

³⁶⁰ United States Congress, Senate Res. 607, [A resolution reaffirming the vital and indispensable role the free press serves](#), introduced August 16, 2018.

Congress to protect journalists from harm and physical intimidation.³⁶¹ On May 30, the independent music journalist Zachary Stoner, was murdered.³⁶² On June 28, a mass shooting occurred inside the *Capital Gazette's* newsroom in Annapolis, Maryland. The attack resulted in the death of 4 journalists and 1 employee of the newspaper. The Special Rapporteur issued a [press release](#) condemning the acts and called on the authorities to investigate the crime and punish the individual responsible.³⁶³

225. In relation to the situation to the human rights situation in Puerto Rico, the [IACHR expressed](#) its concern in the wake of the devastation wrought by two hurricanes in September 2017, leading to scarcity and shortages of basic services, such as drinking water, lighting and electricity, food, medicine and general health care, and telecommunications; as well as obstacles to the exercise of civil, political, economic, social, cultural, and environmental rights. Puerto Rico is the territory with the highest rates of poverty and extreme poverty in the United States. In addition, the Commission has received information about shortages of materials for the island's reconstruction, as well as complaints about the lack of access, in practice, to humanitarian assistance offered by the Federal Emergency Management Agency (FEMA). Finally, hundreds of thousands of people could find themselves forced to move from the island in the coming months because of the lack of access to resources. The Commission urged the State to continue offering the island humanitarian assistance to mitigate the effects of the hurricanes, and sustained support to rebuild its infrastructure, as well as to adopt measures to respond effectively to the situation of the displaced population, in accordance to the Guiding Principles on Internal Displacement³⁶⁴.

GRENADA

- **General considerations**

226. Regarding **progress** made in 2018, the Commission welcomes the holding of general elections in March with broad voter participation, as well as the 5% decline in crime reported in 2018. It also welcomes the increase in the political participation of women, with a significant number of women members of the House of Representatives. In addition, it underscores the implementation of a strategic plan to address the consequences of climate change.

227. Regarding **challenges**, the death penalty remains in effect, even though it has not been applied since 1978. Also, on freedom of expression and the rights of LGBTI persons, legislation remains in place that is not in line with inter-American standards.

228. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

229. Regarding **citizen security**, in 2016, Grenada saw the homicide rate of 10.2 murders per 100,000 residents³⁶⁵ (latest available figure). In 2018, the Royal Grenada Police Force reported a 5% decline

³⁶¹ United States Congress, H.R. 4935, [Journalist Protection Act](#), introduced February 5, 2018; United States Congress, S. 2967, Congress, S. 2967, [Journalist Protection Act](#), introduced May 24, 2018. Both typify as a federal crime minor or serious bodily harm committed against journalists either because of their profession, while they are newsgathering, or there is an intention to intimidate or hinder their work.

³⁶² Comité para la Protección de los Periodistas (CPJ) – Committee to Protect Journalists (CPJ), [Independent music journalist journalist Zachary Stoner killed in Chicago](#), June 4, 2018.; WGNTV, May 30, 2018. [Popular Chicago vlogger fatally shot while driving, crashes driving, crashes car in South Loop](#).

³⁶³ IACHR, PR R143/18, [Office of the Special Rapporteur of the IACHR expresses alarm and condemns mass shooting inside inside Capital Gazette newsroom in the United States](#), July 2, 2018.

³⁶⁴ IACHR, Press Release No. 4/18: [IACHR Expresses Deep Concern about the Human Rights Situation in Puerto Rico](#), January 18, 2018.

³⁶⁵ Knoema, [Grenada homicide Rate](#), 2016.

in crime—with 74% of crimes solved—compared to the previous year. It did not specify the crime rate that year.³⁶⁶

230. Regarding **democratic institutional**ity, Parliament announced on January 28 that general elections would be held and was dissolved the next day. The elections were held on March 13 and monitored by an OAS observation mission. Voter turnout for the election reached 88% of registered voters. Prime Minister Keith Mitchell won a second term.³⁶⁷ Also, on August 6, the IACHR sent a request to the State for information on the measures implemented to guarantee the full and effective exercise of the right to vote of **persons with disabilities** in the general elections.³⁶⁸ The State did not respond.

231. Regarding the crosscutting theme of **institutionality of human rights**, Grenada has an Office of the Ombudsman,³⁶⁹ which was established to provide assistance to people who believe they have suffered injustices at the hands of public officials employed by government agencies and departments as a result of maladministration.

232. Regarding **access to justice**, in November, the Grenadians voted in a referendum for the second time in two years to not grant jurisdiction to the Caribbean Court of Justice and maintain the Privy Council in London as its final court.³⁷⁰

233. In addition, although Grenada's Penal Code still allows for the death penalty, it has not been applied since 1978, and Grenada is considered an abolitionist State. In 2007, the Judicial Committee of the Privy Council confirmed that Article 230 of the Penal Code should be interpreted as a discretionary standard, and that individuals who did not have the full opportunity to challenge the constitutionality of a death sentence should be resentenced.³⁷¹ Grenada has not ratified the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

234. Regarding the rights of **LGBTI** persons, the Penal Code still establishes that consensual sexual contact between people of the same sex can be punished with 10 years in prison. This is discriminatory and violates Inter-American standards on the subject.³⁷²

235. Regarding **freedom of expression**, the Commission notes that no adequate legal framework is in place for regulating and disclosing expenses and financing for media. Elsewhere, following a complaint from the country's airport authority on alleged interference with its air traffic control signals, and after an investigation carried out by officials from the communications regulator, action was taken against two radio stations—one of them a community radio station—for violating the terms of their licenses.

GUATEMALA

- **General considerations**

236. Regarding **progress** made in 2018 on human rights, the IACHR welcomes the reduction in the rates of murders and impunity in Guatemala; the progress made toward achieving gender parity in judicial

³⁶⁶ *The New Today*, Less crime being reported in 2018, December 10, 2018.

³⁶⁷ Caribbean Elections, Grenada General Elections Results, March 13, 2018.

³⁶⁸ Request for information sent to the State on August 6, 2018, under Article 41 of the American Convention on Human Rights.

³⁶⁹ <http://www.ombudsman.gd/>

³⁷⁰ *Jamaica Observer*, Grenada PM disappointed with 'No' vote against CCJ, November 7, 2018.

³⁷¹ Judicial Committee of the Privy Council, *Coard v. A.G. of Grenada*, para. 34, Appeal No. 10 of 1996, JCPC, February 7, 2007.

³⁷² IACHR, Violence against LGBTI Persons, para. 85.

bodies; the case law issued by the Constitutional Court on the rights of indigenous peoples; and the efforts made to move forward with the establishment of a public policy on the protection of human rights defenders.

237. Regarding **challenges**, the Commission underscores the measures adopted by the Government of Guatemala to weaken in the capacity of the International Commission against Impunity in Guatemala (ICIG); the failure to comply with orders issued by the Constitutional Court; and the campaign of harassment against the Court's members. Likewise, the IACHR continues to be alarmed at the rise in murders and threats against human rights defenders and at the situation of migrants in the country.

238. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

239. Regarding **democratic institutionalism**, the IACHR underscores the intimate relationship between corruption, the exercise and enjoyment of human rights, and the need to have effective mechanisms to eradicate corruption and guarantee effective access to justice.³⁷³ In this regard, in press releases dated September 4, 2018, and January 10, 2019, the IACHR expressed deep concern at the different measures adopted by the Government of Guatemala to weaken the capacity of the ICIG. The most recent move took place in January 2019, when the government announced it was ending the ICIG's mandate early. Regarding this, the IACHR reiterates that the ICIG and the Public Ministry have played a significant and complementary role in Guatemala in the fight against corruption by dismantling criminal networks and organized crime structures. The ICIG's departure could present a setback in the fight against corruption and, consequently, in the efforts made to enhance the rule of law in the country.

240. Regarding the **institutionality of human rights**, the IACHR notes the existence of the Office of the Human Rights State's Attorney³⁷⁴ (PDH), whose mission is to promote respect for human rights.³⁷⁵ In the case of the PDH, the IACHR observed the efforts made to defend the institutions in charge of combating corruption and protecting human rights in full exercise of their independence and autonomy, which must be guaranteed by the State. In addition, the Commission notes that Guatemala had a National Human Rights Plan through 2017. Regarding this, the IACHR reiterates the importance of giving continuity and ensuring the permanence of these types of policies on the promotion and protection of human rights in the country.

241. In terms of **citizen security**, the IACHR welcomes the drop in the murder and impunity rates in Guatemala. According to data from the National Civilian Police and the National Institute on Forensic Sciences, the murder rate has declined by between 50% and 40%.³⁷⁶ The IACHR observes that, according to studies conducted by the International Crisis Group; this progress is the result of the joint work of the ICIG and the Public Ministry, attributable to better investigative methods and enhanced interagency collaboration.³⁷⁷

242. Regarding **access to justice**, the IACHR observes with concern the failure by the Executive Branch to comply with the resolutions issued by the Constitutional Court of Guatemala. In 2017, the Constitutional Court granted constitutional protection (*amparo*) ordering that Iván Velásquez be allowed to enter the country. However, the Government of Guatemala announced that the Commissioner would not be allowed to enter the country.³⁷⁸ Likewise, in January 2019, ICIG investigator Ylsen Osorio was detained for more than 20 hours by immigration authorities in La Aurora International Airport. This was despite the fact

³⁷³ IACHR, Resolution 1/17 - Human Rights and the Fight against Impunity and Corruption, September 12, 2017.

³⁷⁴ <http://www.pdh.org.gt/>

³⁷⁵ <https://www.pdh.org.gt/>

³⁷⁶ AGN, Guatemala reduce a la mitad su tasa de homicidios en nueve años; hecho histórico Fuentes: Informe sobre la violencia homicida en Guatemala, June 19, 2018; Washington Post, How Guatemala achieved what was once thought impossible: major reductions in homicides, November 13, 2018

³⁷⁷ International Crisis Group, Saving Guatemala's Fight Against Crime and Impunity, October 24, 2018.

³⁷⁸ La Celsía, El gobierno de Jimmy Morales no acata una resolución del Constitucional, September 18, 2018

that at the time he tried to enter the country, an order of *amparo* had been issued by the Constitutional Court ordering he be granted visas and access to members of the body.³⁷⁹ The IACHR calls for the independence of the branches of government to be respected and underscores the importance of complying with court decisions in order for the rule of law to be fully in effect. Additionally, the IACHR observes with concern the harassment campaign carried out against the magistrates of the Constitutional Court. The IACHR learned that in January 2019, billboards in several locations throughout Guatemala City appeared with the words “Traitors to the Fatherland” and showing photographs of the four magistrates of the Constitutional Court who voted to suspend Decree 2/2019 that annulled the agreement with the ICIG.³⁸⁰

243. Regarding the constitutional reform process on justice launched in 2015, the IACHR has learned it is stalled in Congress, and political will is lacking to move it forward.³⁸¹ For its part, the ICIG has supported this constitutional reform with the aim of promoting judicial independence and establishing judicial bodies that are suitable, capable, and honest.³⁸² The IACHR reiterates the importance of this reform in the strengthening of the independence of the administration of justice and urges the State to adopt it as soon as possible and in keeping with international standards on the subject.

244. Regarding the **death penalty**, in the report on the Human Rights Situation in Guatemala, the IACHR observed that it had not been applied in Guatemala since 2000 and noted that a public discussion was taking place on reactivating it. The IACHR reiterates its concern over the fact that this punishment is still provided for under Guatemalan law, even as it recognizes the judgment of the Constitutional Court finding it unconstitutional to use the dangerousness of the perpetrator of a crime as a factor for judges applying the death penalty, based on which the Supreme Court has banned the death penalty in particular cases. The IACHR urges the State to ratify the Protocol to the American Convention on Human Rights to Abolish the Death Penalty and eliminate the death penalty from its legislation.

245. Regarding **transitional justice**, the Report on the Human Rights Situation in Guatemala indicated that progress on cases that took place during the internal armed conflict was limited compared to the number of human rights violations perpetrated and the State of Guatemala's obligations in this regard. Thus, the IACHR highlights the conviction of a soldier considered responsible for crimes committed during the massacre of the Dos Erres community in December 1982, and in a press release dated July 2, 2018, it welcomed the historic decision against impunity in the case of the forced disappearance of Marco Antonio Molina Theissen³⁸³. Regarding the latter, the Commission views positively the judgment of the Greater Risk Tribunal C establishing measures of memory and reparation for the victims, as well as measures related to the establishment of a National Commission on the Search for Victims of Forced Disappearance and Other Forms of Disappearance.³⁸⁴ Additionally, the IACHR notes with concern the acquittal of the former intelligence chief of the Joint Chiefs of Staff, José Mauricio Rodríguez Sánchez, for the crime of genocide against the Ixil people.³⁸⁵ As regards the adequate protection of public archives, according to information received from national and international civil society organizations, the Historical Archive of the National Police (AHPN) of Guatemala has been undergoing various changes in the functional and administrative structure, in addition to facing difficulties to ensure the maintenance of the technical corps and the financial resources needed for its operations.³⁸⁶

³⁷⁹ La Jornada, Gobierno guatemalteco retiene a funcionario de la CICIG, January 6, 2019.

³⁸⁰ Publinews, Instalan mantas donde señalan de “traidores” a magistrados de la CC, January 9, 2019.

³⁸¹ Agencia EFE, El jefe de la CICIG advierte del reparto político de la Corte Suprema en Guatemala, December 7, 2018;

³⁸² *La Nación*, Misión de la ONU en Guatemala pide reforma constitucional para combatir corrupción, November 9, 2018

³⁸³ AP News, “Condenan a exmilitar por masacre de Dos Erres, en Guatemala”, November 21, 2018; “El mundo. Cuatro militares de Guatemala, condenados por la desaparición de un menor y la violación de su hermana durante la guerra civil”, May 23, 2018.

³⁸⁴ Agencia EFE, “Tribunal de Guatemala ordena crear la Comisión de búsqueda de desaparecidos”, May 29, 2018.

³⁸⁵ *El Periódico*, “Tribunal absuelve a Mauricio Rodríguez Sánchez en caso por genocidio”, September 26, 2018; Prensa Libre, Tribunal absuelve por mayoría a Mauricio Rodríguez Sánchez del delito de genocidio, September 26, 2018

³⁸⁶ Prensa Libre, “ONU cambia al coordinador del Archivo Histórico de la Policía Nacional”, 4 de agosto de 2018.

246. Regarding the rights of **children and adolescents**, the Commission continued to follow up on the situation of their institutionalization. Specifically, the IACHR observes with concern the lack of progress toward complying with the precautionary measure granted to the benefit of the children and adolescents housed in the Hogar Seguro Virgen de Asunción, a children's home that caught fire on March 8, 2017. Specifically, the IACHR notes a failure to follow up on the status of the girls who were institutionalized and returned to their families, the lack of comprehensive support for survivors and relatives of the victims, and the failure to make progress on prosecuting those responsible. In this regard, in a [press release](#) dated March 8, the IACHR expressed concern at this situation. Additionally, the Commission has taken note of the prevalence of variety of violations of the human rights of children and adolescents housed in a number of residences run by the Secretariat on Social Welfare, including mistreatment, overcrowding, and failure to meet their specific needs.³⁸⁷ According to publicly available information, in order to raise the alarm regarding these violations, several children have caused disturbances and damage to the facilities,³⁸⁸ while others have tried to flee the residences.³⁸⁹

247. As regards **indigenous peoples**, during the course of 2018 the IACHR paid special attention to the situation of forced evictions and internal displacement in Guatemala, which has primarily impacted members of indigenous peoples, laborers, persons in poverty, women, children, and older persons.³⁹⁰ In 2018 the IACHR granted precautionary measures to persons evicted and displaced from indigenous families of the Community of Chaab'íl Ch'och', the Maya Q'eqchi Community "Nueva Semuy Chacchilla," and the Maya Q'ueqchi Community "La Cumbre Sa'kuxhá,"³⁹¹ In addition, the Commission received information on the major difficulties that the indigenous communities face when it comes to recognition and registration of their lands, such as the lack of a legal framework or adequate mechanisms for the indigenous communities to be able to access their territory, which has facilitated these force evictions and episodes of displacement in the country.³⁹²

248. The IACHR also learned of the lack of recognition of the collective intellectual property rights of indigenous women in Guatemala, who are said to be harmed by companies that appropriate their designs³⁹³ and asked the State to accelerate the procedure of the law that recognizes the intellectual property rights of Mayan women leaders over their creations.³⁹⁴

249. Regarding **migration**, toward the end of 2018, caravans of migrants and asylum-seekers crossed Guatemalan territory en route to the United States. On October 19, these individuals jumped the border control fences between Guatemala and Mexico and were able to reach the international bridge connecting the two States, where they have not received humanitarian aid. The Guatemalan State returned and deported several hundred people to Honduras, while other people left the bridge after hours or days of waiting. A confrontation was reported on October 29 between the National Civilian Police of Guatemala and more than 2000 migrants, who broke through the metal fence in order to enter Mexico, leaving a number of people injured.³⁹⁵

³⁸⁷ *La Hora*, [Gobierno sin atender crisis en casas de SBS](#), October 24, 2018.

³⁸⁸ *Prensa Libre*, [Disturbios evidencian falencias de la Secretaría de Bienestar Social](#), October 8, 2018.

³⁸⁹ *La Hora*, [Ocho adolescentes se escapan de casa de SBS](#), July 25, 2018.

³⁹⁰ IACHR, [Denounces of human rights violations in the context of forced evictions in Guatemala](#), May 9, 2018.

³⁹¹ IACHR, Resolution 3/2018, Precautionary measure No. 860-17, [Familias indígenas de la Comunidad Chaab'íl Ch'och' respecto de Guatemala](#), January 25, 2018; CIDH, Resolution 7/2018 Precautionary measure No. 872-17, [Familias desalojadas y desplazadas de la Comunidad Maya Q'eqchi "Nueva Semuy Chacchilla"](#), February 10, 2018; IACHR, Resolution 43/2018, Precautionary measure No. 44-18, [Familias de la Comunidad Maya Q'ueqchi "La Cumbre Sa'kuxhá" respecto de Guatemala](#), June 18, 2018.

³⁹² IACHR, [Rights of indigenous families Maya Q'eqchi affected by forced evictions in Guatemala](#), October 1, 2018.

³⁹³ IACHR, [Situation of cultural rights of indigenous women in Guatemala](#), February 26, 2018

³⁹⁴ IACHR Press release 041A/18, [Public Hearings, Working Meetings, Promotional Activities and Bilateral Meetings. Annex to Press Release 41/18](#) 41/18, 06 de abril 2018.

³⁹⁵ IACHR, Request for information under Article 41, Measures to protect and respect the human rights of migrants and those seeking asylum, November 19, 2018.

250. Regarding the rights of **women and LGBTI persons**, the IACHR received information on the forward progress of Law 5,272 on "the protection of life and family," currently under consideration. Should it be approved, the bill would place new restrictions on women's access to reproductive health; ban teaching the gender perspective and sexual diversity in schools; reaffirm the institution of marriage as a right belonging exclusively to people of the opposite sex; and eliminate the criminal offense of discrimination when such act is committed against people of diverse sexual orientations and gender identities.

251. Regarding the situation of **human rights defenders**, in 2018, the IACHR on several occasions condemned the murders of and attacks against people who defend human rights in the country. In this regard, in a press release on June 27, the IACHR and the OHCHR condemned the murders of human rights defenders who are part of indigenous and campesino organizations that took place during the first half of the year, noting the situation of risk they face and the increase in the number of acts of violence and attacks against them. Also, in a press release on October 31, the IACHR expressed alarm over the increase in murders of and attacks against human rights defenders in Guatemala. In this regard, the Commission urged the Guatemalan State to move forward with approving the public policy to protect human rights defenders, in compliance with the findings of the judgment from the Inter-American Court of Human Rights in the case Human Rights Defender *et al.*³⁹⁶ The Commission also followed up on Initiative 5257, a bill to reform the Non-Governmental Organizations Act. According to the United Nations, this legislative initiative would limit the work of human rights defenders and civil society in general by establishing requirements and legal and administrative regulations that could, in practice, lead to these NGOs no longer being able to fully perform their work.³⁹⁷

252. Regarding **freedom of expression**, in 2018, the country continued to face structural problems preventing citizens from receiving information from a variety of sources, such as the high concentration of ownership and control of radio and broadcast and cable television. Additionally, in the context of the measures adopted by the State of Guatemala to weaken the work of the ICIG, several journalists said they had been harassed, threatened, and persecuted for reporting on this news. Additionally, three journalists were murdered, allegedly for motives connected to their work.

GUYANA

- **General considerations**

253. Regarding progress, in 2018, the IACHR celebrated the State's efforts to maintain institutional stability, both within the State and outside it. It particularly highlights that in November 2018, Guyana filed documents with the International Court of Justice arguing that the ICJ has competence to resolve the border dispute with Venezuela.³⁹⁸ This is relevant to moving forward in resolving the case and reducing tension resulting from the territorial dispute that has cost Guyana significant financial resources in potential oil, mining, and hydroelectric projects and has affected citizen security.³⁹⁹

254. According to publicly available information, Guyana, Russia, and the United States led the world in oil and gas discoveries in 2018.⁴⁰⁰ This could be relevant for guaranteeing economic and social rights

³⁹⁶ Inter-American Court. [Case of Human Rights Defender *et al.* v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs](#). Judgment of August 28, 2014. Series C No. 283.

³⁹⁷ United Nations, [Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and of the Special Rapporteur on the situation of human rights defenders](#), April 27, 2018.

³⁹⁸ DW, [Guyana lleva a La Haya disputa fronteriza con Venezuela](#), March 31, 2018.

³⁹⁹ Demerara Waves, [Venezuela cannot 'blow hot and cold' on ICJ's jurisdiction on border controversy with Guyana](#), June 19, 2018.

⁴⁰⁰ La Patilla, [Guyana, Rusia y los EEUU con los mayores descubrimientos de petróleo y gas en 2018](#), December 17, 2018

in Guyana, as 35% of its population lives below the poverty line.⁴⁰¹ The Commission also celebrates measures to enhance citizen security and increase public trust in the current administration.

255. In terms of **challenges**, the IACHR notes with particular concern the increase in the number of corruption investigations into public officials. Of particular concern is the alleged participation of the police in illegal activities, as they have been accused of complicity with drug traffickers, gun traffickers, smugglers, and others.⁴⁰² Also concerning is the alleged involvement of officials in acts of misconduct. The increase in violence in the area bordering Venezuela is also cause for concern.⁴⁰³

256. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

257. Regarding **democratic institutional**ity, the Commission learned that on December 22, it was announced that the Government of Guyana, formed by A Partnership for Unity and Alliance for Change, did not survive a vote of confidence⁴⁰⁴ led by opposition leader Bharat Jagdeo of the People's Progressive Party. The vote was 33 in favor and 32 opposed.⁴⁰⁵ According to the Constitution of Guyana, as a result of the no-confidence vote, elections must be held within 90 days—that is, before the end of March 2019.⁴⁰⁶

258. Additionally, in November 2018, local government elections were held, with approximately 573,000 eligible voters. In time for the democratic process, which was restarted following a gap of 23 years, four new cities were established, along with several new Neighborhood Democratic Councils, with the aim of expanding the scope of democracy in the country. Many of the political parties participated in the 2018 elections, including the country's three main political parties: A Partnership for National Unity, the People's Progressive Party/Civic, and the Alliance for Change.⁴⁰⁷

259. The IACHR is concerned over alleged incidents of corruption that have come to light implicating senior officials from the previous administration. They are being charged with maladministration of the Georgetown Hospital.⁴⁰⁸ The bringing of these private criminal charges against the ministers took place approximately one week after the Special Organized Crime Unit charged the former finance minister and the former Head of the National Industrial and Commercial Investments Limited with misconduct in public office⁴⁰⁹

260. Regarding the crosscutting theme of **institutionality of human rights**, it should be noted that the country does not have a national human rights system or an ombudsperson's office.

261. Regarding **citizen security**, the IACHR received information on a security reform being proposed by the government of Guyana. According to the president, the objective of the reform is to help the public to regain public trust in the Guyana Police Force through its independence and impartiality, in light of

⁴⁰¹ United Explanations, [Conflicto en Esequibo: ¿Qué sucede en la frontera este de Venezuela?](#), February 21, 2019.

⁴⁰² Demera Waves, ["New materials" for security sector reform, says Granger at swearing in of new Police Commissioner](#), January 3, 2018.

⁴⁰³ [El Diario.es, Los pueblos de la frontera de Guyana, amenazados por las bandas violentas venezolanas](#), August 7, 2018.

⁴⁰⁴ See Constitution of the Republic of Guyana, Article 106. (6) "The Cabinet including the President shall resign if the Government is defeated by the vote of a majority of all the elected members of the National Assembly on a vote of confidence."

⁴⁰⁵ Primerahora, [Cae el gobierno de Guyana al no superar el voto de confianza de la oposición](#), December 22, 2018.

⁴⁰⁶ INews Guyana, [Speaker upholds passed no-confidence motion](#), January 3, 2018.

⁴⁰⁷ St. Luzia News, [Guyanese go to the polls today in Local Government Elections](#), November 12, 2012.

⁴⁰⁸ Demera Waves, [PPP files private criminal charges against two govt ministers](#), April 19, 2018.

⁴⁰⁹ Demera Waves, [PPP files private criminal charges against two govt ministers](#), April 19, 2018.

problems with contraband, gun-running, narcotics trafficking, violence against women and robberies.⁴¹⁰ Therefore, the president made new appointments to the police force to enhance its capacity to combat crime;⁴¹¹ specifically, he tasked Police Commissioner Leslie James and his four deputies with implementing security the reform.⁴¹² The Commission also observes with concern the increase in violence in Essequibo, a region that is in dispute by Venezuela and Guyana, with an increase in violent gangs that attack the local community.⁴¹³ Therefore, the IACHR continues monitoring the murder rate, which stood at 17 per 100,000 residents in 2012.⁴¹⁴

262. Regarding **judicial independence**, the Attorney General and the Minister of Legal Affairs ordered that the Judicial Review Act come into operation on January 1, 2019.⁴¹⁵ The Act provides that the rules of procedure in respect of how the Court is to be approached by a litigant to access remedies under the Act are contained in the Civil Procedure Rules, since the “rules of court,” which were extant at the time, made no provisions whatsoever for judicial review applications.⁴¹⁶

263. Regarding the rights of **children and adolescents**, the Commission takes note of the October 31 inauguration of the first Children's Court, which is housed in the Georgetown Magistrates' Courts. According to publicly available information,⁴¹⁷ it was established to ensure that the objectives of the Juvenile Justice Act are advanced and achieved in terms of ensuring a more rehabilitative and restorative system of juvenile justice.

HAITI

- **General considerations**

264. Regarding **progress** in 2018, the IACHR notes the change in the government, as well as the measures adopted to ensure participation of women.

265. Regarding challenges, the IACHR expresses concern at the excessive use of force against demonstrators, as well as at the absence of recovery and prevention systems for natural disasters.

266. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

267. Regarding **democratic institutional**ity, the IACHR observes that Haiti saw important changes to its government. In January, a new President of the House of Deputies was elected.⁴¹⁸ Later, on September 5, 2018, the new Prime Minister was chosen⁴¹⁹ after his predecessor stepped down following days of violent protests against increases in gas prices. At a public hearing during the 167th period of sessions, the Commission was informed of the situation of impunity that persists within the judicial branch in Haiti. The

⁴¹⁰ Demera Waves, [“New materials” for security sector reform, says Granger at swearing in of new Police Commissioner](#), January 3, 2018.

⁴¹¹ Guyana Times, [Security Sector Reform report still being reviewed](#), 2018.

⁴¹² Demera Waves, [“New materials” for security sector reform, says Granger at swearing in of new Police Commissioner](#), January 3, 2018.

⁴¹³ El Diario.es, [Los pueblos de la frontera de Guyana, amenazados por las bandas violentas venezolanas](#), August 7, 2018.

⁴¹⁴ Pan American Health Organization, [Health in the Americas](#), 2017.

⁴¹⁵ Sta Broeke News, [AG issues order to bring judicial review law into force next year](#), August 19, 2018

⁴¹⁶ Ibidem.

⁴¹⁷ Guyana Times, [First Children's Court opens in Guyana](#), November 1, 2018.

⁴¹⁸ *Haiti Libre*, [Gary Bodeau élu Président](#), January 11, 2018.

⁴¹⁹ *El Universo*, [Haití: Renuncia el primer ministro Jack Guy Lafontant tras disturbios](#), July 14, 2018.

members of civil society noted in this regard, among other things, the existence of a delay in judicial procedures, as well as widespread corruption and the lack of institutional capacity of the Haitian justice system.⁴²⁰

268. The IACHR also emphasizes that a series of demonstrations took place in Haiti⁴²¹ to express opposition to the increase in the price of gasoline⁴²² and demand the resignation of the country's president for his failure to properly respond to corruption in the country. The IACHR learned of tensions between the population and the State following public revelations of information indicating alleged embezzlement of public funds worth more than US\$3.8 billion from the PetroCaribe program, as well as the investigation and eventual charging of several government officials for their alleged participation in this criminal act. Effectively, the IACHR observes with concern that Transparency International's Corruption Perceptions Index had given Haiti a score of 22, making it the country with the second most corrupt country in the region.⁴²³

269. The IACHR also received information on the lack of infrastructure and medical care for people affected by the earthquake that took place in October 2018,⁴²⁴ in which 12 people died and 135 were injured.⁴²⁵

270. Regarding the crosscutting theme on the **institutionality of human rights**, Haiti has an Office on Citizen Protection,⁴²⁶ which is a national and independent institution for the promotion and protection of human rights.

271. Regarding **access to justice**, according to the United Nations Mission for Justice Support in Haiti (MINUJUSTH), as of October 23, 2018, 63.6% of people deprived of liberty in pretrial detention had been there for more than two years, 2.5 percentage points higher compared to the 61.1% recorded in the previous report. It was also reported that the two legal aid offices of the Port-au-Prince Bar Association open 2,249 new cases, handled 1,961 consultations, and filed 100 writs of habeas corpus. They contributed to freeing 250 people from pretrial detention during the period covered by the aforementioned report.⁴²⁷

272. Regarding **citizen security**, the IACHR also learned of violent confrontations between Haitians and Dominicans at different places along the border with the Dominican Republic. The IACHR especially notes a confrontation in Belladère⁴²⁸ in August that involved shooting on both sides of the border and left at least four people injured. Although these facts led to a statement from the president⁴²⁹ on the importance of protecting national sovereignty, information from the Haitian and Dominican media is not clear on the location and circumstances in which the incidents took place.⁴³⁰

⁴²⁰ IACHR, Public hearing, "Haiti: Impunity and the Judicial Branch," 167th period of sessions, February 28, 2018.

⁴²¹ Miami Herald, [After riots, Haiti still doesn't have a working government, lawmakers say](#), September 6, 2018.

⁴²² The New Yorker, [Haitians Want to Know What the Government Has Done with Missing Oil Money](#), October 19, 2018; Caribbean News Now, [Widespread Haitian protests call for PetroCaribe transparency and accountability](#), October 19, 2018.

⁴²³ InSight Crime, [Corruption Survey Shows Latin America Still Struggling to Tackle Graft](#), February 22, 2018.

⁴²⁴ France 24, [Terremoto en Haití dejó 15 muertos y más de 300 heridos](#), October 9, 2018.

⁴²⁵ CNN, [Terremoto en Haití: al menos 12 muertos y 135 heridos, reportan las autoridades](#), October 7, 2018.

⁴²⁶ <http://www.protectioncitoyenhaiti.org/>

⁴²⁷ UN, [Report of the Secretary-General, United Nations Mission for Justice Support in Haiti, S/2018/1059](#), November 28, 2018, p.8.

⁴²⁸ *Primera Hora*, [Dominicana culpa a "haitianos" por tiroteo en la frontera con Haití](#), August 19, 2018.

⁴²⁹ *Hoy Digital*, [Iovenel Moïse llama "tomar medidas para respetar la integridad de Haití" tras tiroteo en la frontera](#), August 19, 2018.

⁴³⁰ *El día*, [Intenso tiroteo en la frontera dominico-haitiana](#), August 18, 2018; Acento.do, [Conflicto militar con haitianos se produjo en territorio dominicano, dice ministro de Defensa](#), August 19, 2018; Le Nouvelliste, [Six Haïtiens blessés par balles par des soldats dominicains à la frontière de Belladère](#), August 19, 2018; LoopHaiti, [Belladère: Les chauffeurs Haïtiens ont tiré en premier, selon le maire](#), August 21, 2018.

273. The IACHR also emphasizes that during protests that took place in October, at least 10 people were reported dead, including a police officer and a man whose body was found burning near a barricade.⁴³¹ In another incident, six people died when a Haitian government automobile lost control. This latter incident led to further disturbances, as the demonstrators lit the vehicle on fire.⁴³² Regarding this, the IACHR notes with concern the abusive use of force by security bodies when dispersing social protests.

274. Regarding the **rights of migrants**, the IACHR learned that Haitians continue to be expelled and deported from the Dominican Republic. Lack of access to documentation also persists, especially access to passports, which has affected the Haitian population in the Dominican Republic following a decision by the Embassy of Haiti to suspend issuance of passports.⁴³³

275. The IACHR also takes note of the adoption in Chile of the Humanitarian Plan for an Ordered Return to Country of Origin by Foreign Citizens,⁴³⁴ which has had a significant impact on the repatriation of migrants of Haitian origin.⁴³⁵ Along with this, the IACHR observes with concern the information it received on the trafficking of Haitians and notes the discovery and dismantling by Chilean authorities of a human trafficking network that used travel agencies to trick Haitians to bring them to Chile.⁴³⁶

276. Regarding the **rights of women**, in April, the Senate Committee on Gender Equity was established, led by a woman Senator from the Tèt Kale party. Its purpose is to create spaces for dialogue between parliamentarians and members of feminist organizations.⁴³⁷

277. Along with this, regarding the **rights of children and adolescents**, the Commission observes with particular concern the persistence of the practice known “*restavèks*,” which involves using boys and girls—60% are girls—as domestic workers.⁴³⁸ The girls and boys tend to come from families with few economic resources, and are thus sent to live with wealthy families in the hope that they receive a good education. However, the IACHR warns that this practice places boys and girls at risk of becoming the victims of a variety of forms of violence and abuse, while at the same time denying them access to education.⁴³⁹

278. The Commission also notes with concern that children and adolescents have been prevented from attending schools during the days of protests that took place in the country, preventing them from exercising the right to education.⁴⁴⁰

279. In terms of the rights of LGBTI persons, the Commission continued monitoring with concern the situation of two legal initiatives that would have a discriminatory and stigmatizing effect on those persons. The first excludes LGBTI persons from the issuance of certificates that would “attest to morality” or a “certificate of good living”; these certificates are usually used in searches for jobs or housing, and even to seek public positions. The second would criminalize any type of demonstration or public expression in favor or in

⁴³¹ *Listin Diario*, [Suman 11 los muertos por protestas en Haití](#), November 24, 2018.

⁴³² VOA News, [6 Killed in Haiti After Police Say Government Car Loses Control](#), November 21, 2018.

⁴³³ Acento.com.do, [Haití suspende emisión de pasaportes en República Dominicana tras denuncias](#), October 1, 2018.

⁴³⁴ Library of the National Congress, [Plan Humanitario de Regreso Ordenado al País de Origen de Ciudadanos Extranjeros](#), October 26, 2018.

⁴³⁵ Reuters, [Chile sends 176 Haitian migrants home on criticized 'humanitarian flight'](#), November 7, 2018; INDH, [INDH monitorea Plan de Retorno Voluntario de ciudadanos haitianos](#), November 7, 2018.

⁴³⁶ InSightCrime, [Insecurity in Haiti Laid Groundwork for Trafficking Ring in Chile](#), April 18, 2018.

⁴³⁷ Haiti Libre, [Le droit des femmes encore d'importants défis à relever](#), April 8, 2018.

⁴³⁸ Restavek Freedom, [RESTAVEK](#), 2018.

⁴³⁹ Children's Defense Fund, ["Haiti's Restavèk Children: the child servitude crisis"](#), May 21, 2018.

⁴⁴⁰ NBC News, [Strike shuts down Haiti capital after three days of protests](#), July 9, de 2018.

defense of homosexuality, in addition to formalizing the prohibition on equal marriage. Those laws were adopted by the Senate in 2017 and as of this writing were in the process of being ratified by the lower house.⁴⁴¹

280. With respect to the situation of **persons deprived of liberty**, in the context of the public hearing held during its 170th regular period of sessions, the IACHR received information on overcrowding and the excessive and prolonged use of pretrial detention that is prevalent in Haiti. In addition, the IACHR was informed of the deplorable conditions that prevail in Haitian prisons which represent an attack on the life and integrity of persons detained, and are characterized, among other things, by negligent medical care, inadequate food, and failure to separate persons facing charges from convicts. Similarly, the requesting organizations indicated that from June to October 2018, a total of 118 persons detained lost their lives as a result of said conditions.⁴⁴²

281. Regarding **freedom of expression**, on March 14, 2018, several media outlets reported that journalist Vladjimir Legagneur had disappeared while reporting in Grand Revine.⁴⁴³ In response, on June 1, the Office of the Special Rapporteur for Freedom of Expression of the IACHR asked the Haitian State for information on these incidents. However, it has so far received no response. Additionally, the IACHR observes that a bill on defamation that defined criminal offenses that would restrict freedom of expression had been shelved by the Chamber of Deputies. Lastly, a case was reported of security officers assigned to the Haitian Parliament threatening to kill journalists who tried to cover an event that was in the public interest.

HONDURAS

- **General considerations**

282. Regarding **progress** during 2018, the IACHR welcomes the reduction in the murder rate and the establishment of the Secretariat on Human Rights as separate from the previous Secretariat on Human Rights, Justice, Governance, and Government Decentralization of the Republic of Honduras. The Commission also notes that the State of Honduras reported on the creation and implementation of the Recommendations System of Honduras.⁴⁴⁴ The IACHR also recognizes and appreciates the technical and logistical support provided by State authorities for the *in loco* visit made to Honduras on July 30-August 3, 2018, with the aim of observing and analyzing the human rights situation in the country.

283. Regarding **challenges**, the situation of violence and impunity Honduras has historically faced remains of particular concern, as does the population's lack of trust in State institutions. In this regard, in its preliminary observations on the *in loco* visit, the Commission expressed concern at the lack of progress toward investigating the deaths that took place in the context of the postelection crisis. Also, during 2018, the Commission received a variety of information on cases involving corruption—among others, the matters known as the "Deputies Network," the "Impunity Pact," and "Pandora's Box." Lastly, the Commission notes the increase in poverty and extreme poverty in 2018 compared to the previous year.⁴⁴⁵

284. The State responded to the request for information sent in preparation of this chapter.

⁴⁴¹ Voice of America, [In Haiti, Slight Progress for LGBT Rights Seen as Victory](#), August 14, 2018.

⁴⁴² IACHR, Public hearing "Situación de las Personas Privadas de Libertad en Haití", December 5, 2018.

⁴⁴³ Radio Canadá Internacional, [Periodistas haitianos manifiestan después de la desaparición de uno de los suyos](#), March 29, 2018.

⁴⁴⁴ Report of the State of Honduras for Chapter IV of the Annual Report of the IACHR 2018, Official Letter SEDH-0683-2018, November 30, 2018, p. 3.

⁴⁴⁵ Once Noticias, [La ONU confirma que Honduras recayó tres puntos en los índices de pobreza extrema](#), March 15, 2018; El Nuevo Diario, [Pobreza en Honduras aumento 1,5 % pese a millonaria inversión, según estudio](#), June 26, 2018.

- **Specific issues**

285. Regarding **democratic institutional**ity, the IACHR notes that challenges persist that affect the country's democratic institutions, including violence, impunity, and corruption. During the country visit, the State reported to the Commission that one factor generating the violence and affecting the rule of law is drug trafficking and the organized crime that has permeated a number of State institutions. For its part, the Commission was able to confirm that the situation of structural impunity and corruption has eroded trust in public institutions. Additionally, the Commission observes that in the context of the postelection crisis, in order to address it, on August 28, a space for dialogue was established, moderated by the United Nations.⁴⁴⁶ However, after several parties left the table, on October 16, 2018, the United Nations said the dialogue would be suspended.⁴⁴⁷

286. Likewise, regarding the **institutionality of human rights**, the Commission notes the existence of the National Commissioner for Human Rights as an autonomous body intended to guarantee respect and promotion of the human dignity of all people.⁴⁴⁸ Additionally, in a press release dated January 22, 2018, the IACHR welcomed the establishment of the Secretariat on Human Rights as separate from the previous Secretariat on Human Rights, Justice, Governance, and Government Decentralization of the Republic of Honduras. The entity began operating in January 2018 with the goal of promoting and implementing the Public Policy and National Action Plan on Human Rights. Likewise, the Secretariat on Human Rights has taken a series of actions on this subject, including training 26,627 members of security forces between 2014 and 2018; preparing pamphlets on human rights procedures for the Military and Public Order Police; and training 24,837 police officers and candidates at the Technological Police Institute.⁴⁴⁹

287. Regarding **access to justice**, during its visit in 2018, the IACHR confirmed that structural problems continue to weaken guarantees of independence and impartiality. Civil society organizations have informed the Commission on the existence of "selective justice," that on one hand takes delayed action in response to human rights violations, but on the other supports the interests of a series of actors with connections to government power. It also found that the Supreme Court and its president maintain excessive control over the system for appointing and removing judges. As stated in its preliminary observations, disciplinary provisions are still applied that, because they are vague or ambiguous, allow for excessive discretion and unpredictability regarding which conduct can be sanctioned. All this despite the fact that this system has been declared in violation of the American Convention by the Inter-American Court of Human Rights in its judgment in the case of López Lone.⁴⁵⁰ Regarding this case in particular, the IACHR welcomes the decision of the Supreme Court of Justice to reinstate Tirza Flores Lanza as a magistrate of the Labor Appellate Court in San Pedro Sula and Guillermo López Lone to his position as a sentencing judge in San Pedro Sula.⁴⁵¹

288. Additionally, the "national jurisdiction" judges and prosecutors assigned by the National Council on Defense and Security continue to operate. The IACHR reiterates its concern over whether these judges and prosecutors have independence and impartiality to investigate and punish in cases that come before them, and why they can hold hearings without needing to determine a physical location, virtually, and even outside the country, as established by the National Council on Security and Defense, thus making them subordinate to the Council.

⁴⁴⁶ La Prensa, Honduras instala hoy el diálogo y las mesas de trabajo, August 27, 2018; Agencia EFE, El diálogo para resolver la crisis postelectoral en Honduras comienza mañana, August 27, 2018.

⁴⁴⁷ El Libertador, Honduras: suspenden diálogo nacional hasta nuevo aviso, October 16, 2018; EuropaPress, Finaliza el diálogo nacional liderado por la ONU en Honduras sin un acuerdo para poner fin a la crisis, December 13, 2018.

⁴⁴⁸ <http://conadeh.hn/>

⁴⁴⁹ Report of the State of Honduras for Chapter IV of the Annual Report of the IACHR 2018, Official Letter SEDH-0683-2018, November 22, 2018, p. 11.

⁴⁵⁰ Inter-American Court, Case of López Lone et al. v. Honduras, Judgment of October 5, 2015. Series C No. 302.

⁴⁵¹ CEJIL, Honduras: Magistrada y juez destituidos durante golpe de Estado son reincorporados en sus puestos, September 24, 2018; El Pulso, Restituyen a jueces despedidos por criticar el golpe de Estado, September 24, 2018.

289. For its part, the IACHR was informed that the State has a 2018-2027 Strategic Plan and a 2018-2019 Operating Plan for combating the crime of human trafficking. In the framework of these measures, the Interagency Commission against Sexual and Commercial Exploitation and Human Trafficking has handled more than 180 cases, and of the 128 reports received in 2017, more than 65% of the cases have been prosecuted.⁴⁵²

290. Regarding **citizen security**, the IACHR highlights the drop in murders in the country. In this regard, the State informed the Commission that between 2012 and 2018, the violent murder rate dropped by more than 40 points as a result of efforts taken to combat crime, as well as preventative measures established in the Comprehensive Policy on Coexistence and Citizen Security 2011-2022 and the National Violence Prevention Strategy.⁴⁵³ According to publicly available information, in 2018, the homicide rate dropped by 6% compared to the previous year.⁴⁵⁴ The IACHR notes that murders of women based on their gender have not declined at the same rate as other homicides in the country. The Commission also views with particular concern the fact that these crimes are committed with particular viciousness against women, indicating a pattern of extreme violence against them.

291. The Commission is concerned that in recent years, the Armed Forces have increasingly participated in efforts to maintain public safety in multiple areas and ways, including with the establishment of the Military Police, the militarization of penitentiaries, and education camps, such as the "Guardians of the Fatherland" program for children and adolescents. Inter-American case law establishes that maintaining public order and citizen security must be primarily the responsibility of civilian police forces, and when the military participates in security work, it must do so only in extraordinary situations, subordinated to civilian police, and in a complementary role, with strict oversight.⁴⁵⁵ Regarding the protests that took place during the conflict following the election, between December 2017 and January 2018, the IACHR notes that they were repressed using indiscriminate and disproportionate force. The armed forces also participated in the repression, in violation of inter-American standards on the subject. As a consequence of the State response to the demonstrations, at least 22 people died violent deaths.⁴⁵⁶

292. Regarding **human rights defenders**, although the number of human rights offenders murdered in the country has declined significantly since 2016, the IACHR notes that the overall number of attacks in recent years remains concerning. The Commission expresses its concern at the practice of criminalizing human rights defenders. In its preliminary observations, the Commission highlighted multiple testimonies reporting that in order to prevent their work to defend human rights, a number of criminal charges have been used—such as usurpation, defamation, and calumny—along with threats of lawsuits. The IACHR also noted that social media and other media outlets were regularly used to disseminate messages to stigmatize and discredit human rights defenders. Through a press release on November 28, 2018, the IACHR and the OHCHR expressed their concern over the exclusion of the private accusation in representation of the victims and the unwarranted delays in the trial concerning Berta Cáceres, and they noted that justice for the victims will be effective and integral only when all the direct perpetrators and masterminds of the crime are prosecuted and held liable. Additionally, in a press release dated November 28, 2018, the IACHR and the OHCHR expressed concern at the exclusion of private prosecution on behalf of victims and unjustified delays in the Berta Cáceres case, stating that justice for the victims is effective and comprehensive only when all the perpetrators and masterminds of a crime are prosecuted and held responsible. For its part, the State reported that, in the

⁴⁵² Report of the State of Honduras for Chapter IV of the Annual Report of the IACHR 2018, Official Letter SEDH-0683-2018, November 22, 2018, p. 11.

⁴⁵³ Report of the State of Honduras for Chapter IV of the Annual Report of the IACHR 2018, Official Letter SEDH-0683-2018, November 22, 2018, p. 21.

⁴⁵⁴ *La Prensa*, Homicidios en Honduras se redujeron 6% en comparación con el año pasado, December 31, 2018; *El País*, Honduras: Homicidios bajan más del 6% en el 2018, December 1, 2018.

⁴⁵⁵ Inter-American Court, Case of Alvarado Espinoza et al. v. Mexico, Judgment of November 28, 2018. Series C No. 370, paras. 181 and 182.

⁴⁵⁶ United Nations En Honduras las protestas por las elecciones se reprimieron con fuerza excesiva y letal - informe de la ONU, March 12, 2018.

framework of application of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, more than 370 requests for protection have been attended to, of which 260 are the responsibility of the General Office of the Protection System.⁴⁵⁷

293. Regarding the **rights of women**, the Commission observes that abortion in Honduras is fully criminalized, including when the pregnancy puts the woman's life at risk.⁴⁵⁸ This has had a direct affect on maternal morbidity and mortality figures. Without legal, safe, and timely options, many women have to subject themselves to dangerous and even fatal practices; they refrain from seeking medical services; or experience obstetric emergencies without the medical care they need. To maintain their sexual and reproductive health, women, girls, and adolescents need access to correct and timely information, and to a contraceptive method of their choice that is legal, safe, effective, affordable, and acceptable.⁴⁵⁹

294. Regarding the rights of **LGBT persons**, according to information received by the IACHR, in August 2018, the National Congress of Honduras approved amendments to the Adoption Law to explicitly prohibit adoption by same-sex couples. The Commission notes that the change would mean same-sex couples are treated differently, violating the principles of equal protection and non-discrimination, and that this legislation could in itself constitute an act of discrimination.

295. As regards **indigenous peoples**, in 2018 the Commission received information on various activities involving mining exploration and tourist and hydroelectric projects in the territories of the indigenous and Afrodescendant peoples without any prior, free, and informed consultation. The Commission takes note that the State reported during the onsite visit, that a bill is currently before the National Congress on prior consultation to guarantee the rights of the indigenous and Afrodescendant peoples. The Commission also received information on many violations the Miskito divers continue to suffer during spearfishing.⁴⁶⁰

296. Regarding **migrants**, between 2012 and 2017, the number of Hondurans recognized as refugees and requesting asylum increased, by 452.12% and 7281.23%, respectively.⁴⁶¹ Also, 2018 saw caravans of migrants and asylum-seekers—the majority of Honduran nationality—try to reach the United States and, to a lesser degree, Mexico. Many of these people continue their journey, while more than 3,700 have requested asylum in Mexico, and 8,500 have returned to Honduras and El Salvador.⁴⁶²

297. Lastly, the Commission finds that **freedom of expression** faces an extremely complex outlook in Honduras. The persistence of high rates of violence against journalists and impunity for most crimes continues to be a grave problem. Since 2014, the IACHR and its Office of the Special Rapporteur have documented 18 murders of journalists and media workers in the country and have been informed of dozens of physical assaults, attacks and threats. Impunity rates in cases of threats against and attacks on journalists are even higher. Victims and human rights organizations have said repeatedly that they have been given no information on the status of the processing of their complaints filed over murders and violence against journalists. Impunity has led to fear and self-censorship among journalists, as well as a deep lack of trust that government authorities will obtain justice.

⁴⁵⁷ Report of the State of Honduras for Chapter IV of the Annual Report of the IACHR 2018, Official Letter SEDH-0683-2018, November 22, 2018, p. 18.

⁴⁵⁸ *Diario El Herald* Honduras, Congreso Nacional aprobó seguir con la penalización del aborto, May 4, 2017.

⁴⁵⁹ IACHR, Press release No.171A/2018, Preliminary observations on the IACHR visit to Honduras, August 3, 2018.

⁴⁶⁰ IACHR, Press release No.171A/2018, Preliminary observations on the IACHR visit to Honduras, August 3, 2018.

⁴⁶¹ UNHCR, Global Trends Reports, 2012 to 2017.

⁴⁶² UNHCR, Respuesta Inter-Agencial. Movimientos mixtos desde el Norte de Centro América (NCA), October 15-December 15, 2018.

JAMAICA

- **General considerations**

298. Regarding **progress** during 2018, the IACHR welcomes the application of measures other than pretrial detention; the implementation of social reintegration programs for people deprived of liberty; and the verbal commitment made by the government to strengthen measures to protect the rights of women, children, and adolescents.⁴⁶³

299. Regarding **challenges**, Jamaica reports the third highest homicide rate in Latin America and the Caribbean. The State has declared a public emergency in certain areas and disproportionate use of force by the police continues to be alleged—including lethal force. The following continue to be especially concerning: laws affecting the rights of LGBTI persons and the struggle against impunity on issues of sexual violence, mainly against girls and women; detention conditions of people deprived of liberty, as well as the lack of updated official government information on this; delayed access to the right to memory, truth, and justice for the victims of the Tivoli Gardens incidents.

300. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

301. Regarding the crosscutting theme of the **institutionality of human rights**, Jamaica has an Office of the Public Defender of Jamaica, whose fundamental role is to investigate complaints filed by people who believe they have been harmed by the State or some State entity.⁴⁶⁴ Additionally, the IACHR has received information indicating that in 2018, the State's commitment to establish a National Human Rights Institute was not fulfilled.⁴⁶⁵ The IACHR was also informed of the lack of a general law on discrimination.⁴⁶⁶ Additionally, the IACHR welcomes the establishment in December of the Cabinet Committee on Sexual Violence within the Ministry of Justice, the entity responsible for protecting human rights in Jamaica. The Committee submitted a report to enhance legislation and ensure that nonconsensual sexual relations are considered sexual violence.⁴⁶⁷

302. Regarding **citizen security**, Jamaica had 1,287 murders in 2018, for a murder rate of 47 per 100,000 residents.⁴⁶⁸ This contrasts to the Jamaica Constabulary Forces figures from 2017, when it documented 1,616 violent homicides—that is, approximately 55.7 per 100,000 residents.⁴⁶⁹

303. The measures adopted to address the violence tend to prioritize repressive actions and declarations of states of emergency in some of the country's parishes, with repeated extensions.⁴⁷⁰ The 2017

⁴⁶³ IACHR, promotional visit to Jamaica, Protocolary Meeting with Authorities, February 25, 2018.

⁴⁶⁴ For more information, see the official webpage at: <http://www.opd.gov.jm/about-us/our-role>.

⁴⁶⁵ Amnesty International, Jamaica, International Report 2017/2018. Available at: <https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica/>.

⁴⁶⁶ IACHR, promotional visit to Jamaica, Protocolary Meeting with civil society, February 25, 2018.

⁴⁶⁷ IACHR, promotional visit to Jamaica, Protocolary Meeting with Authorities, February 25, 2018. See Report of the Joint Select Committee Appointed to Complete the Review of the Sexual Offences Act along with the Offences against the Person Act, the Domestic Violence Act and the Child Care and Protection Act, December 2018.

⁴⁶⁸ InSight Crime, Balance de Insight Crime sobre los homicidios en Latinoamérica en 2018, January 22, 2019.

⁴⁶⁹ *The Gleaner*, 2017 Murders by Divisions...St James Leads with 335 homicides, January 5, 2018.

⁴⁷⁰ For example, St. James Parish had the highest number of homicides in 2017 at 335. *Jamaica Observer*, State of Emergency in St. James: military takes charge, January 18, 2018; see notification of Jamaica from the Secretary General of the OAS on the state of emergency in St. James, January 18, 2018. As a result of the operations carried out during the state of emergency, as of January 30, more than 400 people had been detained, and some of the relatives did not have information on their whereabouts.

legal reform that allows certain areas to be declared Zones of Special Operations⁴⁷¹ and the deployment of joint operations by the JCF and the Jamaica Defense Force have led to numerous arrests. Relatives of detainees said they had not been informed of the whereabouts of their relatives. The legal reform establishes an emergency powers review tribunal and protects security forces from any legal action brought against them for actions taken "in good faith" in the exercise of their duties during the period of emergency. The measures have led to a reduction in homicides in the target areas, but not in the rest of the country, as the gangs have moved to other less violent areas.

304. Although a large portion of the violence is attributable to criminal gang activity, a percentage of the annual deaths is attributable to the police. There is evidence of the disproportionate use of force—including lethal force—by the police, as well as extrajudicial executions as an "alternative to detention and long criminal processes."⁴⁷² As of September 1, 100 deaths had been documented,⁴⁷³ most of them linked to the actions of the JCF. This year, civil society called on the authorities to end impunity in deaths of individuals at the hands of the police. They also called on authorities to guarantee the relatives of the victims access to justice, free from intimidation and threats.⁴⁷⁴ In its response to a request for information sent by the IACHR on the state of the public emergency in St. James Parish, the State said the measures had been implemented with full respect for human rights, as evidenced by the fact that no reports or complaints in this regard had been received. It said the police forces were trained to follow the directives of the decree and respect human rights, and that measures had been adopted to restore public order, mainly with regard to the murder rate and shootings. It indicated that 912 people had been detained and 37 remained in State custody, none of which were younger than the age of 18.

305. Regarding **judicial independence**, publicly available information describes the reactions to the statements of the Prime Minister when he announced in February the appointments of Bryan Sykes as the interim president of the Supreme Court, stating that "Actions that bring results will determine the assumption of [that] role." Judges from the high court and lower courts walked out on February 12—causing the judicial system to close down—to publicly express their serious concern at the interim appointment to this position despite its clear vacancy, and to the tone of the statements with serious implications for the fundamental principles of separation of powers and independence of the judiciary. Parliamentarians, civil society organizations, academia, and the Jamaica Bar Association joined the protest. Finally, on March 1, the Governor-General swore in Bryan Sykes as the president of the Supreme Court of Jamaica. The IACHR is concerned at the information received on the lack of trust in the institutional administration of justice, particularly by women, with fewer than 12% of women using it.⁴⁷⁵

306. The human rights situation of **LGBTI persons** in Jamaica is complex due to the existence of laws criminalizing consensual sexual relations between adults of the same sex. The impact of "sodomy laws" leads to violence and discrimination against LGBTI persons. According to information received by the Commission, a constitutional challenge of the law brought in 2015 has yet to be resolved. On the other hand, the Commission highlights the State's decision to prohibit Pastor Steven Anderson, of the Faithful Word Baptist Church, from entering the country in January, based on his repeated statements inciting violence against homosexuals. The IACHR takes note that the authorities took disciplinary measures against the police involved in an incident in which photographer Rudolph Brown was sprayed with pepper gas while trying to photograph

⁴⁷¹ Law Reform 15-2017, Zones of Special Operation, permits detention, entry into private property without a court declaration of curfews, installation of security perimeters, etc.

⁴⁷² Request for a hearing before the IACHR presented by Jamaicans for Justice and Amnesty International in the framework of the 165th PS.

⁴⁷³ Independent Commission of Investigation, established in 2010 with the objective of investigating actions taken by security forces or other members of State agencies (including the Jamaica Constabulary Force, JCF; District Constables, Jamaica Defense Force, JDF; and the Correctional officers at the Department of Correctional Services, DCS) resulting in death or injury, among other related abuses.

⁴⁷⁴ Amnesty International, "Jamaica: Amnesty International supporters take half a million actions to end impunity for unlawful police killings, March 15, 2018.

⁴⁷⁵ IACHR, promotional visit to Jamaica, Protocolary Meeting with civil society, February 25, 2018.

an arrest in Cross Road.⁴⁷⁶ The Commission also welcomes the fact that the mayor of Kingston made statements supporting the LGBTI community.⁴⁷⁷

307. Regarding the situation of **women**, laws that discriminate against women persist, along with legal gaps that present obstacles to the struggle against impunity and the exercise of the right to a life free of violence. The 2009 Sexual Offences Act defines rape as “nonconsensual penetration of a vagina by a penis.” This definition is limited and does not protect women victims in accordance with inter-American standards.⁴⁷⁸ The law also penalizes conjugal rape only in certain circumstances,⁴⁷⁹ which is discriminatory and does not comply with Inter-American standards on domestic violence, rape, and consent. Currently, there is no legislation on sexual harassment or legal remedies available to victims of this form of violence.

308. Regarding **memory, truth, and justice**, in a hearing before the IACHR,⁴⁸⁰ INDECOM and the Special Coroners Court were denounced for delays in their work on reparations for the violent Tivoli Gardens incidents in 2010 due to a lack of collaboration by justice officials, including an alleged bias in favor of the police by the Director of Public Prosecutions. As of September 2017, INDECOM had secured a total of nine convictions of State agents. It should be emphasized that in December 2017, the Prime Minister of Jamaica issued a public apology and announced approval of 200 million Jamaican dollars in reparations for the victims. The apologies were criticized for being vague and bland, especially as regarding the attribution of responsibility to State agents. In July 2018, the Supreme Court allowed INDECOM to execute a search warrant on the JDF on finding it was not an “unreasonable exercise of power.”⁴⁸¹ The order was issued as part of the investigations into the use of mortars in the military operations conducted in Tivoli Gardens. Nevertheless, it has not been possible to execute the order.⁴⁸² The IACHR will continue to follow up on this process.

309. Regarding the rights of **children and adolescents**, impunity persists for those responsible of sexual crimes against them, which enables them to continue committing them, mostly affecting girls.⁴⁸³ The Sexual Offences Act does not protect adolescents between the ages of 16 and 18, who, although they are children, do not receive the corresponding protection.⁴⁸⁴ The treatment provided to children in detention is concerning, especially as far as the education they receive and insufficient psychological care. Corporal punishment remains legal, meaning that children are more exposed to becoming the victims of violence. According to UNICEF, approximately 80% of Jamaican children experience some form of physical or psychological violence as a form of discipline.⁴⁸⁵ Additionally, access to health remains difficult for children who live in rural areas or disadvantaged neighborhoods.⁴⁸⁶ The IACHR is concerned over information indicating that 15% of pregnancies are to girls and adolescents, with 10 times as many poor girls pregnant as girls who are not poor.⁴⁸⁷ Information was also received indicating that 40% of children and adolescents are

⁴⁷⁶ *The Gleaner*, September 27, 2018, [ICF Takes Action Against Cops Involved In Pepper-Spraying Of Photo Journalist](#).

⁴⁷⁷ *The Guardian*, [Welcome to Jamaica – no longer ‘the most homophobic place on Earth’](#), December 6, 2018.

⁴⁷⁸ Inter-American Court, Case of Miguel Castro Castro Prison v. Peru, judgment of November 25, 2006, para. 310.

⁴⁷⁹ When separated, when divorce procedures have begun, when the husband is under court order, when the husband is aware he has a sexually-transmitted disease.

⁴⁸⁰ IACHR, [Reports of Extrajudicial Executions and Excessive Use of Preventive Detention against Afro-descendants in Jamaica, in Jamaica](#), October 23, 2017.

⁴⁸¹ Loop News, [INDECOM gets the go-ahead to search JDF headquarters](#), July 31, 2018; Jamaica Observer, [INDECOM has right to probe firing of mortars by soldiers, says court](#), July 31, 2018.

⁴⁸² *Jamaica Gleaner*, [INDECOM’s search of army based on hold](#), August 14, 2018.

⁴⁸³ *Amnesty International*, [Amnesty International Report 2017/2018](#), 2018, pg. 215.

⁴⁸⁴ Ministry of Justice, [The Sexual Offences Act, Part IV. Sexual Offences against Children and Indecent Assault](#), Article 8.

⁴⁸⁵ UNICEF and Caribbean Policy Research Institute, [Situation Analysis of Jamaican Children - 2018](#), pg. 8.

⁴⁸⁶ UNICEF and Caribbean Policy Research Institute, [Situation Analysis of Jamaican Children - 2018](#), pg. 39.

⁴⁸⁷ IACHR, promotional visit to Jamaica, Protocolary Meeting with civil society, February 25, 2018.

affected by bullying.⁴⁸⁸ The Commission also highlights that the Ministry of Justice presented a policy to highlight the importance of restorative measures for children and adolescents in conflict with criminal law.⁴⁸⁹

310. Regarding **persons with disabilities**, the Commission is concerned that the Disabilities Act, promulgated in 2014, still has not taken effect.⁴⁹⁰ At the same time, in the Senate, the 2018-2019 budget allocated to the Jamaica Council for Persons with Disabilities, which would not increase despite a need for more staff and funding to execute its mandate.⁴⁹¹ Aside from its alleged non-applicability, Article 6(c) of the Aliens Act of 1946 remains in effect, banning people with disabilities from entering the country.⁴⁹²

311. Regarding **persons deprived of liberty**, social reintegration programs were implemented, including the multi-door justice system and the Agricultural Self-Sufficiency Programme.⁴⁹³

312. Regarding the **right to freedom of thought and expression**, civil society organizations reported concerns over the bill on the protection of personal information. This project requires people and organizations—including the media—regarded as "data controllers," to submit to a new Information Commissioners Office a description of personal data received, stored, or otherwise processed, granting it wide powers over individuals and organizations (including the media) to obtain information, such as the identity of sources, to demand rectification, amongst various other powers. Penalties for failure to comply with the proposed Act are varied and include imprisonment.⁴⁹⁴ Were it approved, it would violate the standards established in the IACHR's Declaration of Principles on Freedom of Expression.⁴⁹⁵

313. Regarding **economic, social, cultural, and environmental rights**, access to education and jobs are identified as decisive factors for promoting organized crime and preventing the reintegration of young people who were involved in these illicit activities.⁴⁹⁶

MEXICO

- **General considerations**

314. Regarding **progress** in 2018, the IACHR welcomes the various measures taken by the Mexican State on human rights. They include the actions taken to guarantee citizen participation in federal and local elections; the implementation of a protocol in the prosecutor's offices for addressing cases involving sexual orientation or gender identity; and the legislative reforms adopted by the State that represent a step forward toward full recognition of LGBTI persons. The Commission also views positively the codification of the crime of femicide as a crime throughout the country; the support provided to the indigenous population on access to justice; the conclusion of the processes of the Temporary Migratory Legalization Program that granted temporary legal status for four years to 5,730 people; and the inclusion of a focus on people of African descent in the framework of preparation for the 2020 Population and Housing Census.

⁴⁸⁸ IACHR, promotional visit to Jamaica, Protocolary Meeting with civil society, February 25, 2018.

⁴⁸⁹ IACHR, promotional visit to Jamaica, Protocolary Meeting with Authorities, February 25, 2018.

⁴⁹⁰ Jamaica. [Disabilities Act](#) (Act No. 13 of 2014), Part I-Preliminary, Article 1, enacted on October 31, 2014. Also see: [Morris Wants Disability Law to Come into Force](#), March 24, 2018.

⁴⁹¹ The Gleaner, [Morris Wants Disability Law To Come Into Force](#), March 24, 2018.

⁴⁹² Jamaica. [The Aliens Act of 1946](#), February 28, 1946. Also see: Committee on the Protection of the Rights of All and Members of their Families, Concluding observations on Jamaica in absence of a report, May 23, 2017, para. 28.

⁴⁹³ [Jamaica Observer](#), [\\$1m saved under prison farm programme](#), June 13, 2018.

⁴⁹⁴ SIP, March 16, 2018. [La SIP solicita a Jamaica salvaguardar a los medios en proyecto legal sobre datos personales](#); 20, 2018. [Jamaican legislators called on to safeguard news media in data protection bill](#); Reporters without Borders. May 16, 2018. - [RSF concerned over proposed Data Protection Act's potentially "chilling effect" on press freedom](#); [Global Voices](#). June 15, 2018. [de protección de datos de Jamaica proteger a los políticos del escrutinio periódico?](#)

⁴⁹⁵ Principles 8 and 10 of the Declaration of Principles on Freedom of Expression of the IACHR.

⁴⁹⁶ Voz Porvos, Jamaica, [La creación de empleo y una mejor educación permitirían reducir el delito](#), May 27, 2018.

315. Regarding **challenges**, the high numbers of disappeared persons and murders without a proper investigation remain particularly concerning, and these aspects reflect the challenges regarding citizen insecurity facing the State. To address this situation, legislative initiatives have been presented that led to constitutional reforms creating a National Guard and an increase in the list of crimes for which pretrial detention can be applied *ex officio* or automatically. Additionally, the Commission remains particularly concerned at the special situation of risk facing women; children and adolescents; migrants; indigenous peoples; people deprived of liberty; human rights defenders; and journalists.

316. The State responded to the request for information sent in preparation of this chapter.

- **Specific issues**

317. Regarding **democratic institutional**ity, the State reported that the 2017-2018 election has been the largest in Mexico's history, with voter turnout of 63.42%.⁴⁹⁷ For its part, the IACHR appreciates the various measures reported by the State regarding actions taken to guarantee the democratic process and participation of the citizens in federal and local elections. The State's report specifically highlights actions intended to guarantee that people living abroad and people in public hospitals in all federal entities were able to vote by setting up polling stations.⁴⁹⁸ The Commission also welcomes the adoption of the Protocol on the Inclusion of Persons with Disabilities, the aim of which is to ensure this population is able to participate by, for example offering candidate lists and ballots with braille translations, special screens, and ramps to the ballot boxes.⁴⁹⁹

318. Additionally, in a press release from May 10, 2018, the Commission noted the special situation of risk facing numerous political actors during this election, including primary candidates and candidates from a variety of movements and political affiliations. In this regard, numerous sources reported dozens of murders of political actors during the primaries and between campaigns, threats against political actors, and attacks on women politicians. In this context, the Commission calls on the State to conduct the investigations into the incidents reported with due diligence and respect for international standards on the subject. Likewise, it urges the State to take all actions necessary to ensure that incidents of this nature are not repeated during the next election.

319. Regarding the **institutionality of human rights**, Mexico has a National Human Rights Committee,⁵⁰⁰ which is in charge of monitoring the application and guarantee of human rights in the country.

320. Regarding **citizen security**, according to official figures, in 2018 alone, 30,499 murders were documented in local forums and 790 were documented federally.⁵⁰¹ The IACHR observes that these figures represent a 22% increase locally and 60% increase federally compared to the data from 2017.⁵⁰²

321. In order to adopt measures to address the citizens security situation in Mexico, and after months of discussions and multiple drafts, in February 28, 2019, Congress approved the establishment of the National Guard and sent it to local legislatures for approval. The National Guard is considered a "civilian police force" that answers exclusively to the Secretary of Citizen Security; the new recruits will not be active-duty armed forces; and they will be subject to civilian courts. Also, in the five years during which the decree is implemented and the National Guard develops its structure and capacities, the Army and the Navy will perform

⁴⁹⁷ Input from the Mexican State for Chapter IV of the 2018 Annual Report of the IACHR, November 23, 2018.

⁴⁹⁸ Input from the Mexican State for Chapter IV of the 2018 Annual Report of the IACHR, November 23, 2018.

⁴⁹⁹ Input from the Mexican State for Chapter IV of the 2018 Annual Report of the IACHR, November 23, 2018.

⁵⁰⁰ <http://www.cndh.org.mx/>

⁵⁰¹ Executive Secretariat of the National Public Security System, Reporte de incidencia delictiva del fuero federal por entidad federativa 2012-2018, January 20, 2019.

⁵⁰² Specifically, in 2017, 25,036 murders were documented locally and 493 federally.

its public security work. In this context, and pursuant to inter-American standards, the Commission recalls that maintaining public order and citizen security must be primarily the responsibility of civilian police forces. When the military participates in security work, it must do so only in extraordinary situations, subordinated to civilian police, and in a complementary role, with strict oversight.⁵⁰³

322. Regarding **pretrial detention**, in a press release dated January 9, 2019, the Commission expressed concern at the various constitutional and legislative reform initiatives presented at the beginning of 2018 seeking to expand the list of crimes for which pretrial detention can be applied automatically and without a court order in Mexico. For their part, the OHCHR, the United Nations Working Group on Arbitrary Detention, and the CNDH rejected these initiatives. In this context, the IACHR reiterated to the Mexican State that obligatory pretrial detention based on the type of crime is a violation of the right to personal liberty; turns pretrial detention into a preemptive punishment;⁵⁰⁴ and constitutes illegitimate interference by legislators with the judiciary's authority to judge.⁵⁰⁵ Nevertheless, on February 19, 2019, Congress approved the Constitutional amendment expanding the list of crimes for which pretrial detention can be used without a court order. It was then sent to local legislatures for approval.

323. Regarding **disappearances and forced disappearances**, the IACHR observes that this issue continues to be highly concerning. According to the National Registry of Information on Missing or Disappeared Persons, as of April 30, 2018, 37,435 people were missing.⁵⁰⁶ Regarding the disappearance of children and adolescents, federally, between January 2014 and April 30, 2018, 165 people between the ages of 0 and 19 were missing; locally, that number came to 8,195. In public statements, the Undersecretary of Governance stated that as of February 2019, the figure stood at more than 40,000 people disappeared, with more than 1,100 mass graves documented and approximately 26,000 bodies unidentified.⁵⁰⁷ Specifically, although the enactment of the General Law on Forced Disappearance and Disappearance Committed by Private Parties of November 2017 has been a significant step forward, the CNDH and civil society organizations reported there were a number of obstacles to effectively implementing it. They include a lack of budget, insufficient infrastructure, delays in adopting the necessary regulations, and scant involvement of victims.⁵⁰⁸ The IACHR also observes that significant challenges persist regarding searches and investigations, as well as identifying remains and providing support to the victims. The IACHR underscores that the Follow-up Mechanism on the Ayotzinapa Matter—established on July 29, 2016, to follow up on the precautionary measures granted (MC/409-14) and the recommendations issued by the Interdisciplinary Group of Independent Experts in its two reports—completed its second year in operation and published its Final Report on November 28, 2018. The report describes the actions taken by the Mexican State to investigate, conduct searches, and attend to the victims and family members, as well as measures of non-repetition.⁵⁰⁹

324. Regarding **internal displacement**, civil society organizations have calculated that more than 329,917 people were the victims of forced displacement due to the presence or use of violence. Despite the situation, the Mexican State still has not implemented measures to recognize and address this issue.⁵¹⁰

⁵⁰³ Inter-American Court, Case of Alvarado Espinoza et al. v. Mexico, Judgment of November 28, 2018. Series C No. 370, paras. 181 and 182.

⁵⁰⁴ IACHR, Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 91; IACHR, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 151; IACHR, Merits Report 86/09, Case 12,553. Merits. Jorge, Jose, and Dante Peirano Basso. Uruguay August 6, 2009, para. 141.

⁵⁰⁵ IACHR, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II. Doc.46/13, December 30, 2013, para. 137.

⁵⁰⁶ Government of Mexico, Executive Secretariat of the National Public Security System, National Registry of Data on Missing or Missing Persons.

⁵⁰⁷ ADNPolítico, La estrategia de búsqueda de personas. un primer paso con grandes retos enfrente, February 5, 2019.

⁵⁰⁸ CNDH, Contribution in the framework of review of compliance with recommendations, November 30, 2018, pg. 5 and 6; and Movimiento por nuestros desaparecidos en México, Informe presentado al Comité de las Naciones Unidas contra las Desapariciones Forzadas, November 2018, pg. 7.

⁵⁰⁹ For more details, see the section entitled "Follow-up on the Ayotzinapa Matter" in Chapter V "Mexico" of this Annual Report.

⁵¹⁰ Mexican Commission for the Defense and Promotion of Human Rights, Entre la invisibilidad y el abandono: un acercamiento cuantitativo al desplazamiento interno forzado en México, p. 25.

Regarding migration, the Commission notes that the procedures for the Temporary Migration Legalization Program have been completed, with temporary residency granted for four years to 5,730 foreign nationals. However, migrants continue to be detained and deported automatically, even in the case of children and adolescents. Additionally, 2018 saw caravans of migrants and refugees that involved a series of challenges, including security problems; lack of humanitarian aid; problems with managing the borders and use of force; deportations without analysis of the need for international protection; obstacles to requesting asylum, including waiting lists in Tijuana; xenophobia and discrimination on the part of authorities and the general population; and a series of abuses and human rights violations.⁵¹¹ Lastly, 2018 saw the highest number ever of recognized persons with refugee status: 29,600, most of them from Honduras, Venezuela, El Salvador, Guatemala, and Nicaragua.⁵¹² The Commission notes that almost all the individuals of Venezuelan nationality who have requested asylum have been recognized as refugees, with many of them recognized under the expanded definition of refugee established in the Cartagena Declaration.⁵¹³

325. Regarding the situation of **human rights defenders**, in a press release dated November 2, 2018, experts from the United Nations and the Commission highlighted that Mexico continues to be one of the most dangerous countries in the world for human rights defenders. In this regard, in 2018, the IACHR learned of a number of murders and attacks on human rights defenders. Among other cases, the Commission received information on the murder of Rarámuri indigenous leader Julián Carrillo, a member of Alianza Sierra Madre A.C. The Commission notes that this murder took place despite the human rights defender having measures of protection from the Federal Mechanism for the Protection of Human Rights Defenders and Journalists since 2014 and having been threatened and attacked a number of times in recent years.⁵¹⁴ Regarding this mechanism, in the aforementioned press release, the Commission called on the Mexican State to ensure it receives sufficient and continuous funding to enable effective protection of human rights defenders in the country. The Commission also urged the State to increase its capacity to investigate these crimes.

326. Regarding the rights of **LGBTI persons**, based on publicly available information, the IACHR learned of important progress toward recognizing their rights on both the state and federal levels. According to publicly available information, the Congress of the State of Coahuila approved an amendment to the Family Act and passed a new Civil Registry Act to include procedures for changing gender identities on birth certificates through administrative procedures.⁵¹⁵ Also, the Supreme Court of Justice of the Nation recognized the family bond that forms with assisted reproduction with the case of a same-sex couple from Yucatan that conceived a child using assisted reproduction.⁵¹⁶ The Mexican Senate passed a series of reforms to laws on the Mexican Institute for Social Security and the Institute on Security and Social Services for State Employees to guarantee the rights to social security and retirement pension for same-sex couples.⁵¹⁷

327. Regarding the **right to freedom of expression**, the IACHR observes that the situation of violence against journalists remains critical. The Office of the Special Rapporteur documented at least 12 murders of journalists for motives allegedly related to their work. It also took note of reports of a variety of attacks on a number of communicators, an indication that the work of journalists remains an essential motivating factor in the violence perpetrated against them. During the election, dozens of attacks on journalists for reasons related to the election were documented. In this context, the IACHR takes note of the approval of

⁵¹¹ IACHR, Regional hearing: Human rights situation of people forming part of the migrant caravans, December 6, 2018.

⁵¹² Secretary of Interior Affairs, Statistical bulletin on refugees in Mexico, 2018.

⁵¹³ COMAR, Transparencia Focalizada, Statistics 2013 – 2017.

⁵¹⁴ Amnesty International, México: Asesinato de líder rarámuri demuestra falta de protección estatal para personas defensoras de derechos humanos, October 25, 2018.

⁵¹⁵ *El Universal*, Aprueban cambio de identidad de género en Coahuila, November 13, 2018; *Vanguardia*, Personas trans e Coahuila ya podrán cambiar de género en sus actas de nacimiento, November 13, 2018.

⁵¹⁶ Aristegui Noticias, Corte reconoce derecho de pareja homosexual a convertirse en padres vía reproducción asistida, November 21, 2018; *El Universal*, SCJN concede amparo a pareja homoparental para registrar a su hijo en Yucatán, November 21, 2018.

⁵¹⁷ Aristegui Noticias, Avala Senado reforma que termina con discriminación a población LGBT en IMSS e ISSSTE, November 6, 2018, *La Jornada*, Aprueba Senado dictamen que reordena leyes del IMSS e ISSSTE, October 25, 2018

the “Protocol for the Investigation of Crimes committed against Freedom of Expression”⁵¹⁸ as a crucial step toward eradicating impunity and advancing policies on protection, prevention, and administration of justice. The IACHR also takes note of a series of steps forward on this issue, including the approval of Guidelines on the Recognition of the Work of Human Rights Defenders and Journalists⁵¹⁹ and the elimination of defamation and slander laws in the states of Guanajuato and Colima.⁵²⁰

PANAMA

- **General considerations**

328. Regarding **progress** made by the State, the IACHR highlights the implementation of the Comprehensive Development Plan for Indigenous Peoples of Panama,⁵²¹ which also includes a focus specific to the situation of indigenous women.⁵²² Also, the area of human rights of women saw a number of accomplishments, including the implementation of the Women Entrepreneurs Program, a reduction in cases of femicide, and support for a subprogram of scholarships for victims of gender-based violence and their children.⁵²³

329. Regarding **challenges**, the Commission notes implementation of Law 29 from May 2017 amending the Unified Text of the Electoral Code. The Commission is also concerned at the situation of indigenous people as regards land and territory, as well as the high rates of poverty facing this group.

330. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

331. Regarding **democratic institutional**ity, the IACHR notes the protest against the addition of several articles to the Electoral Code through amendment of Law 29 of May 2017. The reform limits the number of people who can run as independent candidates for a number of popularly-elected positions to three, including for the presidency of the country. For its part, based on electoral law, the Electoral Tribunal established that for the 2019 presidential elections, candidates need a minimum of 18,542 signatures to participate as independent candidates—that is, not affiliated with any party.⁵²⁴ In this context, a constitutional challenge was brought against the initiative limiting the number of independent candidates. This challenge was rejected by the Supreme Court on November 12, 2018.⁵²⁵ Demonstrations later took place on November 27 and

⁵¹⁸ United Mexican States. Office of the Attorney General of the Republic. Undated. [Press release 1072/18. Protocol approved on the investigation of crimes committed against freedom of expression](#).

⁵¹⁹ United Mexican States. Mechanism for Protecting Human Rights Defenders and Journalists. [Guidelines for Recognizing the Work of Human Rights Defenders and Journalists](#). January 2018.

⁵²⁰ United Mexican States. Congress of the State of Guanajuato. March 15, 2018. [Crimes of defamation and slander eliminated; reparation for nonpecuniary damages added](#); United Mexican States. Congress of the State of Colima. August 25, 2018. [Opinión ciudadana; National Human Rights Commission. August 28, 2018. Reconoce CNDH trascendencia de la determinación del Congreso de Colima al derogar el delito de calumnia del Código Penal de esa entidad](#).

⁵²¹ Involves three thematic areas: social, political-legal, and economic, [Ministry of the Government, project to support the implementation of the comprehensive development plan for indigenous peoples](#).

⁵²² Ministry of the Government, World Bank, [Evaluación Sociocultural \(ESC\) para el proyecto apoyo para la implementación del plan de desarrollo integral de los pueblos indígenas de Panamá](#), January 17, 2018, p. 39.

⁵²³ National Institute on Women, [“Panamá presenta en la ONU, logros por los derechos humanos de las mujeres panameñas”](#), March 13, 2018, pg. 1.

⁵²⁴ [Electoral Code](#), Article 312 paragraph 4, published in the Official Digital Gazette on December 11, 2017. The Electoral Code limits the number of independent candidates to three not only for the presidency but also for deputies, mayors, village representatives, and councilmembers, [Electoral Code](#), articles 228, 312, 314, 326, 338, and 340, published in the Official Digital Gazette on December 11, 2017.

⁵²⁵ Regarding this, See [En Segundos, CSJ mantiene artículo que limita a tres candidaturas presidenciales por libre postulación](#), November 23, 2018.

December 10, 2018—both of them led by independent candidates—before the Electoral Tribunal’s offices. Specifically, the IACHR notes that out of a total of 20 independent candidates, seven obtained the necessary 18,542 signatures, but only three would be allowed to participate as independent candidates.⁵²⁶

332. Regarding the crosscutting theme of **institutionality in human rights**, Panama has an Office of the Ombudsperson of the Republic of Panama.⁵²⁷ This office was established through Law 7 of February 5, 1997, to monitor the protection of the human rights of all residents of the Republic of Panama. It is functionally, administratively, and financially autonomous and fully independent and takes no orders from any State authority or body. Its functions center around exercising nonjurisdictional control over public administration and defending human rights vis-a-vis government authorities.

333. Regarding the **rights of indigenous peoples** in Panama, in 2018, the IACHR received information on the challenges facing these groups with regard to the recognition of their economic, social, and cultural rights. According to information issued by the United Nations Development Program (UNDP), poverty and extreme poverty in Panama are concentrated in rural areas, and particularly in indigenous areas, where 90% of the population is affected by extreme poverty. However, in absolute terms, urban poverty has reached concerning levels and outstrips rural and indigenous poverty. Whereas urban poverty is basically income poverty, rural and indigenous poverty involves shortages that endanger human survival.

334. Along with this, during the 169th Period of Sessions of the IACHR, civil society organizations indicated that the State declined to demarcate and provide title to the collective lands of the Emberá, Wounaan, Kuna, Buglé, Ngöbe, Naso, and Bribi peoples. They also indicated that the State has allowed extractive industries to advance onto their lands, constituting a serious threat to their environmental and cultural rights. Regarding this, the IACHR observes with concern the insufficient domestic regulation of the indigenous peoples’ right to free, prior, and informed consent.

335. Regarding **migration**, Decree 613 of October 22, 2018 entered into force. It allows for Venezuelans to file a request to be reunited with family members up to the fourth degree of consanguinity and the second degree of affinity.⁵²⁸ Also, an office on humanitarian affairs was established to serve Venezuelan residents needing to process those visas.⁵²⁹ The State of Panama has granted 61,200 visas to Venezuelans.⁵³⁰ However, according to publicly available information, as of the end of October 2018, Panama had deported 5,598 individuals: 3,111 Venezuelans, 933 Colombians, and 803 Nicaraguans.⁵³¹ The Commission is concerned that many of these individuals could need international protection due to the current situations in Venezuela and Nicaragua. In addition, in October 2018, the IACHR decided to grant precautionary measures to M.B.B.P., Of Venezuelan nationality, who was at risk of deportation for being HIV-positive. In granting the measures, the Commission found that the deportation order would expose the beneficiary to risk should she be returned to her country of origin, as she would not be able to receive the medical care and treatment required by her condition.

336. Regarding the rights of **people deprived of liberty**, on December 6, 2018, resolution 130-R-089 of the Ministry of Government was enacted. The resolution requires the Punta Coco Pretrial Detention Center to make the changes necessary to respect the human rights of people deprived of liberty.⁵³² This was after the Supreme Court of Justice ordered it closed.

⁵²⁶Electoral Tribunal, Table No. 3, signatures received, accepted, and rejected for the office of president, according to name: 2019 elections, January 11, 2019.

⁵²⁷ See official website of the Office of the Ombudsperson of the Republic of Panama. Available at: http://www.defensoriadelpueblo.gob.pa/index.php?option=com_k2&view=item&layout=item&id=3817&Itemid=142.

⁵²⁸ Official Gazette Panama, October 22, 2018.

⁵²⁹ Official Gazette Panama, October 22, 2018.

⁵³⁰ UNHCR, Situation of Venezuela.

⁵³¹ *El Nacional*, Panamá ha expulsado y deportado a 3.111 venezolanos durante el año 2018, November 20, 2018.

⁵³² Ministry of Government, Official Gazette, December 6, 2018, p. 19.

337. Regarding **freedom of expression**, the Office of the Special Rapporteur observed with concern the context in which journalists and the media had been subject to multiple criminal and civil suits seeking to protect the privacy and honor of political figures or over the disclosure of information on facts in the public interest. The Commission is specifically concerned that these disproportionate actions endanger the economic sustainability of media outlets due to the large sums of financial resources they would be required to pay out to defend themselves.

PARAGUAY

- **General considerations**

338. The Commission takes note of the **progress** in Paraguay regarding measures adopted to strengthen democratic institutionalism with the selection of judges of the Supreme Court of Justice and the commitment to the fight against corruption and organized crime; as well as the State's efforts to strengthen human rights, especially regarding the rights of children and adolescents, the institutionalism of the Ministry of Children and Adolescents, the vote for persons of disabilities, and protection of stateless people.

339. However, the IACHR underscores the **challenges** the State faces in terms of citizen security and the threats in Paraguay from organized crime, particularly drug trafficking gangs; the autonomy of judges, sexual violence that particularly affects girls; and the State campaign incentivizing adolescents to register for Obligatory Military Service.

340. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

341. Regarding the strengthening of **democratic institutionalism**, the Commission takes note of the 2018 presidential elections carried out with adherence to inter-American standards on democratic participation. At the same time, the IACHR takes note of information on the low representation of women in State politics.⁵³³ Regarding this, the IACHR recalls that the participation of women in public affairs and equal access to public positions is a fundamental right in the inter-American human rights system, which opens a path toward an inclusive democracy where the voices of all women are heard and laws and public policies are put forward that take their interests and needs into account.⁵³⁴

342. The Commission also noted the information on the process to restore the Supreme Court of Justice with the aim of addressing cases of corruption, manipulation, and political interference in the judiciary. According to information obtained by the IACHR, at least three judges resigned following allegations of corruption and influence peddling.⁵³⁵ On this issue, the Commission recalls that corruption is a threat to human rights and underscores that the procedures to restore the justice system must be transparent and respect all legal and constitutional procedures in order to avoid violating the autonomy and independence of the judiciary as a fundamental requirement for democracy.

343. In terms of the **institutionality of human rights**, Paraguay has an Office of the Ombudsperson that defends human rights, channels citizen complaints, and protects community interests.⁵³⁶ The Commission also recognizes the State's initiative to create a follow-up tool for monitoring and implementing the National Human Rights Plan, called the Human Rights Control Panel. According to the

⁵³³ OAS, Preliminary Report of the Electoral Observation Mission to Paraguay of the Organization of American States, April 23, 2018.

⁵³⁴ IACHR, The Road to Substantive Democracy: Women's Political Participation in the Americas, April 18, 2011.

⁵³⁵ Chamber of Deputies, Retirement of judges facilitates restoration of the Supreme Court of Justice.

⁵³⁶ <http://www.defensoriadelpueblo.gov.py/> Official webpage of the Office of the Ombudsperson. At various points during the drafting of this report, it was undergoing maintenance.

information provided to the IACHR, this tool makes it possible for the Human Rights Network to consolidate National Plan implementation and follow-up mechanisms, including both public institutions and civil society organizations. Regarding this, the IACHR recalls the importance of guaranteeing the broadest social participation possible throughout the process of drafting and implementing public policies with the human rights focus.

344. During the 169th period of sessions, the IACHR also had an opportunity to learn of the progress in the production of the Inter-American System for Follow-up and Monitoring of Recommendations of the IACHR (Inter-American SIMORE), developed in cooperation with the State of Paraguay. The Inter-American SIMORE is an online tool that systematizes, organizes, and makes it possible to keep tabs on the recommendations issued by the IACHR through its various mechanisms, so as to strengthen supervision.

345. Regarding **judicial independence**, the Commission noted with concern the information indicating that three magistrates of the Supreme Court were being investigated over their decision to acquit and release 11 campesinos in the Curuguaty Massacre case. The magistrates were being persecuted because of the decision they made under their jurisdiction.⁵³⁷ The Commission reiterates that magistrates must have enhanced guarantees of stability in order to ensure the independence necessary for them to do their judicial work.⁵³⁸

346. Likewise, in the context of **citizen security**, the IACHR received information describing challenges in Paraguay related to organized gun and drug trafficking by criminal groups operating in Brazil.⁵³⁹ Regarding this, the Commission recognizes the State's efforts in the struggle against organized crime and corruption to push for legislative changes with new bills and amendments to existing laws to combat money laundering and organized crime in the country.⁵⁴⁰ However, the IACHR observes with concern the government's proposal to enhance security using the armed forces.⁵⁴¹ Regarding this issue, the IACHR reiterates that it is crucial for internal security as a police function to be clearly and precisely separated from the national defense as a function of the Armed Forces, as these are two substantially different institutions in terms of the reasons for which they were created and their training and preparation.⁵⁴²

347. Regarding the **rights of women**, the IACHR is concerned at the security situation of women who report gender-based violations. In this regard, the Commission views with concern the increase in the murders of women for reasons of their gender, as described by the Gender Observatory of the Ministry of Women.⁵⁴³ The Commission also learned of the reporting done by journalist Noelia Díaz in Paraguay. Regarding this, the Experts Committee of Follow-up Mechanisms of the Convention on the Prevention, Punishment, and Eradication Of Violence against Women "Convention of Belém do Pará" and the Office of the Special Rapporteur for Freedom of Expression of the IACHR expressed concern at the risk and insecurity to Noelia Díaz Esquivel, a recognized journalist and the General Secretary of the Journalists Union of Paraguay, who received death threats over social media after publicly addressing a femicide that took place in Asunción⁵⁴⁴.

⁵³⁷ OHCHR, Los casos contra jueces en Paraguay perjudican la independencia del Poder Judicial, dice experto, November 5, 2018.

⁵³⁸ IACHR, Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas, December 5, 2013.

⁵³⁹ *New York Times*, En la frontera de Paraguay y Brasil, el narcotráfico produce escenas 'de película', December 15, 2018.

⁵⁴⁰ Presidency of the Republic of Paraguay, Executive presents a package of legislative proposals to combat money laundering and organized crime, November 22, 2018.

⁵⁴¹ Ministry of the Interior, President of the Republic announces the empowerment of the FTC to restore peace to people in the northern zone, August 24, 2018.

⁵⁴² IACHR, Press Release No. 251/2018 - IACHR Welcomes Mexican Supreme Court of Justice Ruling on Unconstitutionality of Domestic Security Law, November 26, 2018.

⁵⁴³ *La Nación*, Feminicidio: 57 mujeres fueron asesinadas este año en Paraguay, December 28, 2018.

⁵⁴⁴ IACHR Press Release No. R228/2018 - Committee of Experts and Special Rapporteurship of the IACHR express their concern over the threats against journalist Noelia Díaz Esquivel in Paraguay, October 30, 2018.

348. The IACHR also learned of the process on bill 5833/2017 establishing a record of deaths of fetuses in the civil registry in which the House of Deputies and the Senate overrode the presidential veto and approved the bill, which was finally enacted at the end of 2018.⁵⁴⁵ During the 2018 elections, the IACHR observed little participation by women heading candidate lists; fewer seats will therefore be held by women both in the Congress and in the Senate; also, no woman was elected governor in the country.⁵⁴⁶⁵⁴⁷ The Commission also noted that the president of Paraguay vetoed the Democratic Parity Act with Decree 596, as it did not provide the adequate and necessary mechanisms for achieving the initial objective of parity and rotation between men and women.⁵⁴⁸

349. Additionally, regarding the **rights of children and adolescents**, the Commission notes the establishment of the Ministry on Children and Adolescents, the objective of which is to make progress on and consolidate the right to childhood in the various State institutions.⁵⁴⁹ The IACHR also observes with concern the campaign launched by government authorities to use the return to Obligatory Military Service for young people as a form of education and social inclusion.⁵⁵⁰ According to information received by the Commission, the presence of 23 adolescents in the Center on the Military Instruction of Students for Training Reserve Officers has been confirmed,⁵⁵¹ along with 400 adolescents unofficially in military training institutes performing their obligatory military service.⁵⁵² Elsewhere, according to data obtained by the Commission, 650 girls between the ages of 10 and 14 become mothers every year in Paraguay, many of them as a result of sexual violence.⁵⁵³ The Commission reminds the State that children have the same rights as all human beings, and they also have special rights derived from their status, from which are derived specific duties for the family, society, and State to provide special, adapted, and enhanced protection.⁵⁵⁴

350. Regarding the rights of **migrants and stateless individuals**, the IACHR takes note that on September 19, 2018, Law 6149 on the Protection and Facilitation of Naturalization of Stateless Individuals entered into force in Paraguay. The law is the first in the region to specifically address this issue through legislation. The law establishes a procedure overseen by the National Commission on Refugees to identify and protect stateless individuals within a period of 180 days and resolve their situations through naturalization.⁵⁵⁵ The IACHR also emphasizes the importance of establishing a procedure for delayed registration of births in the law, as well as the inclusion of a paragraph allowing access to Paraguayan nationality through consulates and embassies for the children of Paraguayans born abroad who, for legal reasons in their country of birth, are stateless.

351. Regarding the rights of **indigenous peoples**, the Commission received with concern the allegations of evictions of members of the Ava Guaraní Jejty Mirí community in Ybirarobana. According to the information, on December 7, 70 people were violently evicted and had their houses burned by State agents.⁵⁵⁶ For its part, the State said the eviction was not violent and took place in compliance with a court order to return

⁵⁴⁵ Centro de Documentación y Estudios, Una Ley para a dar identidad y dar derechos a no nacidos avanza en Paraguay, August 24, 2017.

⁵⁴⁶ ABC, Pocas mujeres candidatas, December 16, 2017.

⁵⁴⁷ Última Hora, Ninguna mujer fue electa gobernadora, April 25, 2018.

⁵⁴⁸ Sputniknews, Presidente paraguayo veta ley de paridad de género por no cumplir con el fin inicial, November 17, 2018.

⁵⁴⁹ Senate of Paraguay, Law to raise the National Secretariat on Children and Adolescents to the rank of Ministry and rename it Ministry on Children and Adolescents, September 13, 2018.

⁵⁵⁰ Sputniknews, Ministro del Interior paraguayo: la seguridad interna requiere potenciar las FFAA, August 29, 2019.

⁵⁵¹ Última Hora, 23 adolescentes hacen el servicio militar obligatorio en Cimefor, January 23, 2019.

⁵⁵² La Nación, SMO: Denuncian que menores de edad manejan armas en cuarteles, January 18, 2019.

⁵⁵³ Centro de Documentación y Estudios, Embarazo y maternidad de niñas en Paraguay, December 2018.

⁵⁵⁴ IACHR, Towards the Effective Fulfillment of Children's Rights: National Protection Systems, November 30, 2017.

⁵⁵⁵ Congress of the Nation, Protection and Facilities for the Naturalization of Stateless Persons, November 7, 2018.

⁵⁵⁶ IACHR, information in IACHR archives.

lands invaded by people who did not represent the Jejty Mirí community to their owners.⁵⁵⁷ The Commission recalls that indigenous and tribal communities are affected by the illegal sale or theft of their ancestral lands, arbitrary evictions and burning of their homes, destruction of their agricultural products, and other actions. It also underscores that forced displacement directly endangers the very existence of indigenous and tribal peoples, as it breaks their fundamental bond with their territories, in terms of both physical survival—as they derive their subsistence from that territory—and cultural survival, as their culture is tied directly to that territory.⁵⁵⁸

352. Regarding the **rights of persons with disabilities**, the Commission notes the progress made on the right to democratic participation for voters with mobility difficulties through the implementation of the "Vote at Home" program, which allows people with mobility difficulties to vote in their place of residence. The program benefited 380 voters.⁵⁵⁹

353. Regarding **freedom of expression**, the Office of the Special Rapporteur observed that significant progress was made in different areas on enhancing the transparency of public institutions.⁵⁶⁰ At the same time, the IACHR received information on episodes of violence, attacks, and legal measures against journalists in the context of protests, as well as incidents in which prosecutors subpoenaed journalists in attempts to force them to reveal the sources used to report on publicly-relevant subjects. Also, professional and civil society organizations warned of death threats, physical attacks, measures of censorship, the ongoing workplace instability of the sector, and the repetition of unjustified dismissals.

PERU

- **General considerations**

354. During 2018, the IACHR took note of **progress** made in Peru; specifically, approval of the National Plan on Integrity and the Fight against Corruption; the establishment of the Gene Data Bank for finding people disappeared during the 1980-2000 period of violence; and the nullification of the pardon of Alberto Fujimori. There was also notable progress in a number of decisions and changes to legislation to guarantee the right of every woman to be free from violence;

355. Regarding **challenges**, the IACHR notes particularly the issues related to incidents of corruption in the judicial system and its particular effect on access to justice; the declaration and extension of a state of emergency, suspending the exercise of constitutional rights in a number of districts and provinces; the possible violation of the guarantee of the independence of the Public Ministry; the improper use of police forces for natural resources exploration and exploitation; the sexual violence facing girls and adolescents in educational establishments, the persistence of obstacles that women victims and their relatives continue to face in obtaining justice in cases of forced sterilization and situations of gender-based violence; and harassment of a group of journalists who reported on the corruption story.

356. The State responded to the request for information sent out for drafting this chapter.

⁵⁵⁷ State del Paraguay, information in IACHR archives.

⁵⁵⁸ IACHR, Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities, December 31, 2015.

⁵⁵⁹ ABC, Voto en Casa beneficia 380 votantes, April 22, 2018.

⁵⁶⁰ See: Republic of Paraguay. Ministry of Justice. June 19, 2018. 200 municipalities have Access to Public Information offices: Access to Information Group. Press release: Available at: <http://www.gjai.org.py/noticias-gjai>; ABC Color. May 18, 2018. Catastro libera datos de inmuebles y propietarios; IDEA. Twitter account. @InstIDEA. May 20, 2018; Republic of Paraguay. Judicial Branch. Available at: <http://www.pj.gov.py/transparencia-documentos>; Republic of Paraguay. Judicial Branch. Press release. August 2, 2018. Judiciary releases agreed-up information under the Access to Public Information provision.

- **Specific issues**

357. Regarding **democratic institutionalism**, in March 2018, the IACHR learned of the impeachment process brought against President Pedro Pablo Kuczynski. It was admitted on March 15 and debate by the plenary of the Congress of the Republic was scheduled for March 22, 2018.⁵⁶¹ The Commission asked the State for information on the impeachment proceeding. In the end, the debate did not take place due to the president's resignation on March 21, 2018. Vice President Martín Vizcarra then took office.⁵⁶²

358. The Commission also received concerning information on incidents of corruption within the judiciary involving influence peddling and other crimes, implicating at least four members of the National Council of the Magistrature, as well as other judicial and government officials. On July 16, the IACHR sent a request to the State for information on this, and in its response, it described the measures taken to guarantee an independent and impartial investigation of the justice officials involved. The IACHR takes note of the various measures taken by the State in the fight against corruption.⁵⁶³ They include the 2018-2021 National Plan on Integrity and the Fight against Corruption,⁵⁶⁴ the investigation of senior authorities who may have taken part in the incidents alleged, and the dismissals of high-level justice officials.⁵⁶⁵ Regarding this, the Commission welcomes the inclusion of a gender approach in the bill establishing the National Justice Council, the body that would replace the National Council of the Magistrature following its temporary suspension. On July 28, 2018, the administration submitted four constitutional amendments to Parliament that would reform the justice system and fight corruption. They were later subject to ratification by referendum.⁵⁶⁶ The referendum took place on December 9, and three of the four proposals were approved.⁵⁶⁷

359. The IACHR has also received concerning information on the declaration and extension of a state of emergency that suspends the exercise of constitutional rights in a number of districts and provinces of the departments of Arequipa, Apurímac, Ayacucho, Cusco, Huancavelica, Junín, Lambayeque, and Loreto through decrees issued during 2018, as well as the use of the Armed Forces to support the Police in keeping the peace domestically,⁵⁶⁸ a situation that it has monitored since 2016.

360. Regarding the **institutionality of human rights**, the IACHR notes the existence of an Office of the Ombudsperson of Peru as a constitutionally autonomous body for the defense of fundamental rights.⁵⁶⁹ It also welcomes the information provided by the State on the drafting of the Third Human Rights Plan 2018-2021, approved by Executive Decree 002-2018-JUS in February 2018; the opening of the Office on Human Rights Policies and Administration, responsible for preparing and following up on the human rights plan, which will maintain a participatory methodology in the process of implementing the plan;⁵⁷⁰ and the enactment of Legislative Decree 1407, strengthening the Public Defender Service with emphasis on people who are vulnerable or have no financial resources.⁵⁷¹

⁵⁶¹ *La República*, [Congreso admitió nueva moción de vacancia presidencial contra PPK](#), March 15, 2018.

⁵⁶² *The New York Times*, [Pedro Pablo Kuczynski renuncia a la presidencia del Perú](#), March 21, 2018.

⁵⁶³ IACHR, [IACHR completes working visit to Peru](#), November 16, 2018.

⁵⁶⁴ *El Peruano*, [Normas Legales](#), April 26, 2018.

⁵⁶⁵ Telesurtv, [Congreso de Perú aprueba remover a todos los magistrados](#), July 20, 2018.

⁵⁶⁶ BBC, [Cuestión de confianza en Perú: las 4 reformas que quiere aprobar el presidente Martín Vizcarra y por las que podría llegar a cerrar el Congreso](#), September 19, 2018.

⁵⁶⁷ BBC, [Referéndum Perú: aprobadas 3 de las 4 reformas constitucionales que pretenden acabar con la corrupción en el país](#), December 11, 2018.

⁵⁶⁸ Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/006.

⁵⁶⁹ The legal framework of the Office of the Ombudsperson is found in the Political Constitution of Peru, articles 161 and 162. <https://www.defensoria.gob.pe/>.

⁵⁷⁰ Peru, Ministry of Justice and Human Rights, Report N° 062-2018-JUS/DGDH-DAIPAN, December 4, 2018, pp. 2-3.

⁵⁷¹ Peru, Ministry of Justice and Human Rights, Report N° 062-2018-JUS/DGDH-DAIPAN, December 4, 2018, pg. 7.

361. Regarding **access to justice and judicial independence**, the Commission observes that the situation of corruption facing Peru has led to a crisis in the judicial branch that extends to the country's democratic institutionality and also affects rights related to judicial guarantees and judicial protection, as well as access to independent, impartial, and effective justice. This especially affects women, children, and adolescents who are victims of sexual abuse and gender-based violence in the case of women when negotiating punishments applicable to these crimes.⁵⁷² Likewise, the alleged corruption and influence-peddling that affected the processes of selecting justice officials foment impunity.

362. The Commission is also concerned that the guarantee of the Public Ministry's independence may be affected by controversial disciplinary procedures brought against prosecutors investigating corruption involving high-ranking current and former government officials that culminated in their dismissals.⁵⁷³ The IACHR observes that these measures could be an obstacle to conducting a quick, serious, diligent, and transparent investigation to establish whether crimes were committed and prosecute and punish those responsible. Based on this, the Commission sent a request to the State for information under Article 41 of the ACHR. In its response,⁵⁷⁴ the State provided information on the current status of investigations into people involved in the Odebrecht case and the composition of the special prosecutors team investigating cases of corruption. Lastly, the IACHR took note that the prosecutors who had been dismissed were reinstated.⁵⁷⁵

363. Regarding **citizen security**, in a hearing during the 169th Period of Sessions, the Commission received concerning information on allegations of the improper use of police forces for natural resource exploration and exploitation activities in Peru. Specifically, in the hearing, it was stated that police forces are privatized by signing agreements favoring the interests of extractive Enterprises, threatening the constitutional roles of the Police and the Armed Forces. For its part, the State argued that the police force was not privatized because the officers are not working private security for the enterprises, nor is there a work or a command relationship; rather, the purpose of the agreements is to maintain domestic and public order and citizen security. Regarding this, the IACHR reiterates its concern at the existence of decrees allowing the special offering of private security services to companies, even though constitutionally, the public function of the police is specifically to protect domestic order. The Commission is also concerned at the impact on the labor rights of the police officers.

364. Regarding the **rights of women**, the Commission learned of decisions, judgments, and legislative amendments tending toward guaranteeing the right of women to live lives free from violence. These include a conviction and sentencing in a case of rape, kidnapping, and torture of a university student that took place in Lima in 1992,⁵⁷⁶ as well as the decision of the Constitutional Tribunal of Peru condemning the use of gender-based stereotypes to judge cases involving sexual violence.⁵⁷⁷ Also, in a press release related to its visit to the country, the IACHR emphasized the enactment of Law 30,838-2018, which amends the Penal Code to eliminate prescription of criminal action for crimes of sexual violence, as well as approval of Legislative Decree 1,368 protecting women and punishing violence against them and their family members and the establishment of 93 Emergency Women Centers in police stations across the nation.⁵⁷⁸ On the other hand, on the issue of the forced sterilizations of women carried out during the Alberto Fujimori administration, the IACHR was informed

⁵⁷² Kausa Justa, Panorama TV: "Jueces Supremos César Hinostroza y Ángel Romero compartiendo resoluciones que absuelven a violadores", July 24, 2018.

⁵⁷³ This issue was addressed in hearing 26, "Human rights and independence of the Office of the Public Prosecutor of the Nation of Peru," held during the 167th Period of Sessions, in which the requesters contributed information on constitutional allegations against key actors in the judiciary with the aim of obstructing the Public Ministry's actions in the framework of investigations into a broad network of corruption involving a number of members of Peru's political class.

⁵⁷⁴ Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/014, January 18, 2019.

⁵⁷⁵ La República, Chávarry retrocede y repone a Vela y Pérez en equipo Lava Jato, January 2, 2019.

⁵⁷⁶ El País, Perú condena por primera vez a militares por violaciones sexuales cometidas en los años de conflicto interno, February 9, 2018.

⁵⁷⁷ El Peruano, Justicia con enfoque de género, March 26, 2018.

⁵⁷⁸ Ministry of Justice and Human Rights of Peru, Report N° 062-2018-JUS/DGDH-DAIPAN, December 4, 2018, pp. 8-10.

of a number of obstacles that women who were victims and their relatives continue to face to justice and reparation.⁵⁷⁹ The Commission also expressed its concern at the prevalence of murders and attempted murders of women, girls, and adolescents based on their gender and called on the State to implement comprehensive strategies to prevent these incidents, comply with its obligation to investigate, prosecute, and punish those responsible, and offer protection and comprehensive reparation to all the victims.⁵⁸⁰

365. Regarding the **rights of children and adolescents**, during the course of 2018, the Commission received concerning information on acts of sexual violence against girls and adolescents in educational institutions in Peru, especially to the detriment of indigenous girls in adolescents and girls and adolescents of African descent. The IACHR was specifically informed that in schools, processes for reporting, documenting, investigating, and effectively providing reparations to girls and adolescents who are victims of sexual violence are not adequately and comprehensively addressing the issue, and that high levels of impunity accompany these crimes. In particular, the Commission was informed that statistical information is incomplete and there are no coordinated or prioritized actions to help those with the greatest vulnerability. According to the Specialized System on Cases Involving School Violence, between September 2013 and March 2018, there were 2,262 cases of sexual violence in educational institutions in the country. Based on this, on May 3, the IACHR sent a request for information to the State under Article 41 of the ACHR, but received no response.

366. Regarding rights of **persons with disabilities**, the Commission welcomes Legislative Decree 1,384, which made changes to the Civil Code to recognize the full legal capacity of persons with disabilities up to the inclusion of provisions for support and safeguards.⁵⁸¹

367. With respect to the rights of the **indigenous peoples**, the IACHR and the United Nations Special Rapporteur expressed concern at the approval of Law No. 30,723, which declares the construction of highways in border areas and the maintenance of passable unpaved roads in the department of Ucayali, which has a detrimental impact on protected natural areas, indigenous reserves, territorial reserves for peoples in isolation and initial contact. The issue was the subject of a joint press release by which the State was called upon to respect its relevant domestic and international legal framework.⁵⁸² In a public hearing during the 168th period of sessions, the IACHR was informed that the right to water of the indigenous communities of Cuninico and Vista Alegre was impaired by oil spills from the North Peruvian pipeline.⁵⁸³ The Commission learned of the problems affecting the community of Santa Clara de Uchunya, in particular the effects of the agroindustrial crops of oil palm in ancestral territories and the violence that is faced by indigenous leaders and defenders from this territory. The issue was the subject of a public hearing during the 170th period of session⁵⁸⁴ in which representatives of the State participated.

368. Regarding the **general context of freedom of expression**, in 2018, the Office of the Special Rapporteur observed that investigative journalism was threatened by political and legal harassment of a group of journalists reporting on a story of corruption involving members of the legislative and judicial branches, politicians, and businessmen. The Office of the Special Rapporteur also learned of and expressed its concern over summonses issued to journalists by a prosecutor and the Congress of Peru that threatened their right to maintain the confidentiality of their sources in the context of journalistic investigations that revealed incidents

⁵⁷⁹ IACHR, "Gender equality, sexual and reproductive rights, and allegations of forced sterilization of women in Peru," Thematic hearing held in the framework of the 169th Period of Sessions in Boulder, Colorado, United States, October 2018.

⁵⁸⁰ IACHR. Press Release No. 144/2018 - IACHR Expresses Concern over Prevalence of Murder and Other Forms of Extreme Violence against Women in Peru, July 2, 2018.

⁵⁸¹ IACHR. Press release IACHR Welcomes Measures Recognizing the Legal Capacity of People with Disabilities in Peru, October 2, 2018.

⁵⁸² IACHR and the Special Rapporteurship on the rights of indigenous peoples, Press release 026/2018: Expertas en materia de Derechos de Pueblos indígenas de la CIDH y de Naciones Unidas expresan su preocupación ante la adopción de ley que declara de prioridad e interés nacional la construcción de carreteras en la Amazonia peruana, February 13, 2018.

⁵⁸³ IACHR, Public hearing regarding the Situación de derechos humanos de las comunidades indígenas afectadas por derrames de petróleo en Cuninico y Vista Alegre, Perú, May, 2018

⁵⁸⁴ IACHR, Public hearing on the situation of indigenous peoples in the Peruvian Amazon, land and environment, December 2018.

of corruption within the judicial branch and the National Council of the Magistrature. The Office of the Special Rapporteur also highlighted a number of examples of progress. On April 26, Executive Decree 044-2018-PCM was approved, establishing the National Plan on Integrity and the Fight against Corruption 2018-2021.⁵⁸⁵ Also, on September 25, the Ministry of Justice and Human Rights reported that the National Authority on Transparency and Access to Public Information issued a binding opinion finding that institutional e-mail and messaging applications must be considered covered by the right to access to public information.⁵⁸⁶ And lastly, on November 3, the National Radio and Television Institute of Peru launched an informational program in the Asháninka language seeking to give the Asháninka ethnic group a national presence.⁵⁸⁷

369. Regarding **migration**, the IACHR notes that starting on August 25, Peruvian authorities began requiring Venezuelans attempting to enter the country to have a valid passport. The measure is currently being litigated following an appeal of a judgment by the Fifth Criminal Court for Defendants on Pretrial Release, which revoked the passport requirement. However, the Peruvian State is part of the Quito Declaration on the Human Mobility of Venezuelan Citizens in the Region, which recognized the need to accept expired travel documents as identification documents, and therefore, Venezuelans traveling with expired passports are currently allowed to enter the country.

370. Regarding **memory, truth, and justice**, the Commission learned of the approval of Legislative Decree 1398 of September 8 creating the Gene Data Bank for the search for disappeared persons in Peru during the period of violence in 1980-2000,⁵⁸⁸ in the framework of the Law on the Search for People Disappeared 1980-2000. Also, in May 2018, the Inter-American Court of Human Rights issued a resolution in monitoring compliance with the judgments in the cases of Barrios Altos and La Cantuta,⁵⁸⁹ finding that the State of Peru had not complied with its international obligations and the provisions of those decisions with regard to compliance with the obligation to investigate, prosecute, and punish those responsible for the human rights violations found in those cases. The Inter-American Court gave the State five months for constitutional review of the pardon granted to former President Alberto Fujimori for humanitarian reasons; in 2009, he had been convicted by the Supreme Court and sentenced to 25 years in prison for crimes against humanity. Later, the Commission learned of the ruling from the Supreme Tribunal of Pretrial Investigation of the Supreme Court of Justice of Peru to repeal the Fujimori pardon. On October 5, the IACHR welcomed this decision and highlighted it as an important step forward in the struggle of victims of grave human rights violations for their rights to memory, truth, and justice.

371. Regarding the **right to the environment**, the State reported that the National Human Rights Plan contains guidelines on the institutional design and strengthening of the public policy to promote and protect economic, social, cultural, and environmental rights.⁵⁹⁰ The State also indicated that using economic-ecological zoning, 52.71% of the national territory was covered, with the instrument contributing to the conservation and sustainable use of the country's natural resources; the State also indicated that one of the central themes of the National Strategic Development Plan is natural resources and the environment. This theme includes objectives on conservation and sustainable use of natural resources, climate change policy, and responsible consumption. Civil society has also indicated that the evaluation processes, criteria, and mechanisms for granting rights to conduct hydrocarbon projects (like Peru's Southern Gas Pipeline) must be

⁵⁸⁵ High Level Anticorruption Commission. April 26, 2018. [Executive Branch approves the National Plan on Integrity and the Fight against Corruption 2018-2021](#).

⁵⁸⁶ Ministry of Justice and Human Rights. September 25, 2018. [E-mails of officials and public servants are accessible to the public, says the National Transparency Authority of the MINIUSDH](#).

⁵⁸⁷ National Radio and Television Institute of Peru. November 12, 2018. [Presidente del IRTP destaca lanzamiento de Ashi Añang; Centro Knight para el Periodismo en las Américas – Knight Center for Journalism in the Americas. November 20, 2018. \[Radio y televisión públicas de Perú lanzan programa informativo con comunicadores de etnia amazónica\]\(#\)](#).

⁵⁸⁸ Peru, Ministry of Justice and Human Rights, Report N ° 062-2018-JUS/DGDH-DAIPAN, December 4, 2018, pg. 12.

⁵⁸⁹ Inter-American Court of Human Rights, Order of the Inter-American Court of Human Rights, Barrios Altos case and La Cantuta case v. Peru, monitoring compliance with judgment, obligation to investigate, prosecute and, if applicable, punish, May 30, 2018.

⁵⁹⁰ Letter from the Mission of the Republic of Peru to the OAS, No. 7-5-M-215 of December 4, 2018, p. 13-14

more widely disseminated to the public.⁵⁹¹ It also indicated that the elimination of primary forests classified as land "with capacity for agricultural use" and the increasing purchase of parcels with natural forest from small farmers by large agribusinesses are practices that could endanger the sustainability of an ecosystem.⁵⁹² Lastly, regarding the human right to water, it was noted that the Ica-Villacurí aquifer is in crisis due to technologically enabled overexploitation. Likewise, rivers and coastal waters are being used as dumping grounds for urban wastewater and solid waste.⁵⁹³

DOMINICAN REPUBLIC

• General considerations

372. In 2018, the IACHR learned of a number of instances of **progress**, including the presentation of the National Human Rights Plan in the Dominican Republic, the measures adopted to reduce penitentiary overcrowding, and the implementation of Law 169-14 and the National Plan to Legalize the Status of Foreigners.

373. Regarding human rights **challenges**, the IACHR is concerned at the high rates of maternal mortality, teen pregnancy, and femicides in the Dominican Republic, as well as the grave situation that migrants and their offspring are still subjected to.

374. The State did not respond to the request for information sent to prepare this chapter.

• Specific issues

375. Regarding **democratic institutional**ity, the IACHR welcomes that on December 12, the National Council of the Magistrature of the Dominican Republic, led by its President, swore in new judges to fill four vacancies on the Constitutional Tribunal. In addition, regarding the exercise of social protest, the IACHR observed a series of demonstrations during 2018 in the Dominican Republic.⁵⁹⁴ They included demonstrations over the increase in fuel prices;⁵⁹⁵ protests over electricity scarcities; "the march of a million," in which thousands of Dominicans protested State corruption and impunity; and demonstrations rejecting a constitutional amendment that would allow the current president to be reelected.

376. Regarding the **institutionality of human rights**, on December 10, 2018, the Dominican Republic presented its first National Human Rights Plan, which will cover a period of three years. The State said this instrument is intended to expand liberties and meet the real needs of citizens, while at the same time complying with international human rights commitments with a crosscutting approach, seeking to have a positive impact on public policies between 2018 and 2022.

377. Regarding **access to justice**, the IACHR took note of the government's efforts to reduce the number of people deprived of liberty in pretrial detention. In this regard, a total of 867 judicial processes and 125 administrative requests have completed the preliminary investigation phase in mobile tribunals, which operate under a pilot plan in the La Victoria and Najayo-Hombres prisons. Additionally, the Dominican Republic has adopted a National Plan on the Fight against the Judicial Backlog, under which 78,324 resolutions were issued in October, with 5,297 case files remaining in the judicial backlog.⁵⁹⁶

⁵⁹¹ Derecho, Ambiente y Recursos Naturales, "Gobernanza en las APP: Lecciones aprendidas del gasoducto sur peruano," 2017, p. 70

⁵⁹² Derecho, Ambiente y Recursos Naturales en el Perú: Quinquenio 2011-2016, 2016, p. 202

⁵⁹³ Derecho, Ambiente y Recursos Naturales en el Perú: Quinquenio 2011-2016, 2016, p. 207

⁵⁹⁴ *Listin Diario*, El 2018 marcado por el reclamo de dominicanos, December 11, 2018.

⁵⁹⁵ CNN, El gobierno de República Dominicana envía policías a las calles por las protestas por el alto costo de los combustibles, October 24, 2018.

⁵⁹⁶ *Listin Diario*, Los tribunales móviles ventilaron 867 procesos, December 31, 2018.

378. Regarding the **rights of women**, the IACHR received information on the high maternal mortality rate in the Dominican Republic. In this regard, through November 2019, 176 maternal deaths had taken place. Also, 2,830 newborns died between January and October, an increase of 346 deaths compared to the same period in 2017.⁵⁹⁷ Additionally, the Pan-American Health Organization reported that 15% of annual pregnancies are to women and girls under the age of 20, meaning the Dominican Republic has the highest teen pregnancy rate in the Caribbean.⁵⁹⁸ The IACHR was also informed of the guilty verdict handed down by the Second Collegiate Tribunal of San Francisco de Macorís in the case of the murder of Emely Peguero, a minor who was five months pregnant and died from an abortion and a blow to the head. This decision led to violent protests by a broad sector of the population who felt the sentence of 30 years in prison for Marlon Martínez and five years in prison for her mother did not correspond to the gravity of what took place.⁵⁹⁹

379. The IACHR also took note that the Dominican Republic Observatorio de Seguridad Ciudadana documented 107 femicides, a decline of 14 compared to 2017.⁶⁰⁰ It also noted that the majority of perpetrators took their own lives after committing the crime.

380. Regarding **citizen security**, the IACHR observes with concern that the murder rate in the Dominican Republic remains above 10.4 murders per 100,000 residents.⁶⁰¹ The Observatorio de Seguridad Ciudadana stated that it documented 801 murders in the country in the first three quarters of 2018, 145 fewer than the 946 murders documented during the same period in 2017.⁶⁰² The IACHR underscores that this is an indication that public safety remains one of the major concerns of the Dominican population.

381. Regarding the **rights of migrants**, the IACHR notes progress in implementing Law 169-14. However, it underscores that challenges in the fight against discrimination toward migrants persist, especially regarding discrimination against people of Haitian origin and their descendants and the guarantee of their right to nationality.⁶⁰³

382. The IACHR received information indicating that the National Plan to Legalize the Status of Foreigners concluded on August 26, 2018. The State informed the IACHR that at least 180,000 people benefited under the plan.⁶⁰⁴ Later, on October 22, the General Migration Office reported that more than 132,000 foreign nationals from 35 countries who were in the country illegally or did not qualify under the provisions of Law 285-04 were repatriated or not admitted between January and December 2018.⁶⁰⁵

383. In addition, reports indicate that the Sugar Cane Workers Union demonstrated in front of the Haitian Embassy in Santo Domingo to demand passports, birth certificates, and residency documents for more than 2,000 of its members affected by the ending of the National Plan to Legalize the Status of Foreigners due to lack of documents to legalize their status in the Dominican Republic, therefore putting them at risk of expulsion or deportation.⁶⁰⁶

⁵⁹⁷ Acento, Muertes maternas no bajan en República Dominicana: 176 hasta noviembre, December 21, 2018; El Nuevo Diario, La mortalidad materna sigue en ascenso en República Dominicana, May 27, 2018.

⁵⁹⁸ Diario Libre, RD, país del Caribe con más embarazos en adolescentes, March 1, 2018.

⁵⁹⁹ Listin Diario, Ministerio Público deposita recurso de apelación sentencia caso Emely Peguero, January 31, 2019.

⁶⁰⁰ Listin Diario, El 2018 estuvo marcado por 93 feminicidios, December 31, 2018.

⁶⁰¹ InSight Crime, Balace de Insight Crime sobre los homicidios en Latinoamérica en 2018, January 22, 2019.

⁶⁰² Listin Diario, Director de la Policía dice que este año terminará con 200 muertos menos que el pasado, December 18, 2018.

⁶⁰³ UN, Draft report of the Working Group on the Universal Periodic Review. Dominican Republic, A/HRC/WG.6/32/L.13, February 6, 2019, para. 94,172.

⁶⁰⁴ Civil Society, Response to the questionnaire for the Second Working Table on Implementation of Human Rights Policies in the Dominican Republic, 2018, pg. 2, IACHR Archive.

⁶⁰⁵ CDN, Más de 132 mil extranjeros fueron deportados y no admitidos por Migración durante 2018, January 8, 2019.

⁶⁰⁶ CDN, Cañeros exigen a embajada de Haití pasaportes y actas de nacimiento, September 3, 2018.

384. A violent confrontation took place in August 2018 between Haitians and Dominicans along the border with Belladère, at the Carrizal, Elías Piña border crossing, in which several people were injured.⁶⁰⁷ Additionally, in November, the media reported that seven Dominicans were kidnapped by a group of Haitians who were protesting in Restauración, in the province of Dajabón. Following the intervention of other Dominicans from the area, the Dominicans were released.⁶⁰⁸

385. The IACHR also observes with concern that on December 23, 2018, several dozen people attended a march in Santo Domingo called by nationalist organizations that view the presence of Haitians in the country as a threat to national sovereignty. The march took place in the Mirador del Sur park in Santo Domingo, right where the Haitian community in the Dominican Republic was planning to hold a sporting event to celebrate International Migrants Day. The community decided to suspend the event due to threats from the nationalist groups.⁶⁰⁹

386. Regarding **freedom of expression**, on April 10, the Collegiate Tribunal of the San Pedro de Macorís Judicial Circuit convicted Matías Avelino Castro and sentenced him to 20 years in prison for ordering the kidnapping and murder of journalist José Agustín Silvestre Maldonado in August 2011.⁶¹⁰ Also, in 2018, a variety of activities organized by civil society, professional organizations, and State entities were held to discuss and provide training on the situation of freedom of expression in the Dominican Republic.⁶¹¹ On February 16, the Dominican government launched 65 new online public services provided by nine government agencies through which citizens and businesses are able to do bureaucratic procedures and access government information.⁶¹² The IACHR also received information on judicial decisions holding journalists liable under a legal framework that is not compatible with inter-American standards. The Commission also observes with concern legislative initiatives that could present setbacks on the right to freedom of expression. The National Commission on Public Spectacles and Radio Broadcasting issued a series of resolutions imposing prior restraint and sanctions on journalists and artists for alleged violations of "morals" and "good customs." Lastly, despite progress on transparency policies and e-government, a broad array of public agencies still does not comply with the obligations that apply under the Access to Public Information Act.

⁶⁰⁷ *Listin Diario*, [Soldados dominicanos repelen ataque de haitianos intentaban cruzar frontera con cargamento de cemento](#), August 18, 2018.

⁶⁰⁸ *Acento*, [Reconocido cardiólogo Pedro Ureña y otros 6 dominicanos fueron secuestrados por haitianos; militares dominicanos no los defendieron](#), November 12, 2018.

⁶⁰⁹ *El Nuevo Herald*, [Marcha en Dominicana contra los 'invasores' haitianos se torna violenta](#), December 23, 2018.

⁶¹⁰ *Diario Libre*. April 11, 2018. [El caso de Avelino Castro desde su captura hasta su condena de 20 años](#); El Día. April 10, 2018. [Tribunal condena a 20 años de prisión Matías Avelino Castro por asesinato del periodista José Silvestre](#).

⁶¹¹ Comisión Nacional Dominicana para la UNESCO. [Seminario La libertad de expresión en la era digital. Internet, redes sociales, poder y Estado](#); *El Nacional*. February 23, 2018. [Analistas plantean retos libertad de expresión en la era digital](#); *Diario Digital RD*. July 24, 2018. [Experta dice legislación sobre libertad de expresión de RD es deficiente y arcaica](#); *Diario Libre*. June 22, 2018. [Adriano Miguel Tejada defiende el derecho de los medios al acceso a las fuentes](#); UNI. September 3, 2018. [El Centro Montalvo llama a preservar la libertad de prensa en República Dominicana](#); Informativo Teleatillas. September 2, 2018. [El Centro Juan Montalvo Llama A Preservar La Libertad De Prensa](#); Escuela de Formación Electoral y del Estado Civil. August 7, 2018. [Inicia diplomado en Acceso a la Información Pública y Servicio al Ciudadano](#); Dominican Republic. Superintendency on Guards and Private Security. [Talk on General Law on Free Access to Public Information 200-04](#); Dominican Republic. Constitutional Tribunal. August 18, 2018. [Constitutional Tribunal offers talk for communicators in El Seibo](#).

⁶¹² Dominican Republic. Office of the President. Undated. Available at: <https://presidencia.gob.do/plan-de-gobierno/republica-digital>; Dominican Republic. OPTIC. [Danilo Medina inaugura y pone en operación Datacenter del Estado](#). February 16, 2018; *Diario Libre*. February 15, 2018. [Danilo Medina inaugura un moderno datacenter](#).

SAINT KITTS AND NEVIS

- **General considerations**

387. As a **result**, the rehabilitation of housing and infrastructure through a Hurricane Response Fund, which has benefited mainly people affected by hurricanes Irma and María, stands out in the country⁶¹³.

388. Among the **challenges** the country is facing with remains the death penalty, in addition to the high rate of violent crimes and insecurity faced by women and children, as well as the violence and discrimination suffered by the LGTBI community.

389. The State did not respond to the request of information sent for the elaboration of this chapter.

- **Specific topics**

390. With regard to the cross-cutting theme of **human rights institutions**, it is pertinent to indicate that the State has the Office of the Ombudsman. The Office of the Ombudsman in the concerned State Ombudsperson is in charge of presenting claims against any administrative action of public authorities and statutory organs; and formulates recommendations on the means to improve practices and administrative proceedings and to strengthen the democratic process in the country⁶¹⁴.

391. In terms of citizen **security**, the Federation of Saint Kitts and Nevis is facing high rates of organized crime and insecurity, equivalent to 34% out of 100,000. Women and children remain the most vulnerable groups⁶¹⁵.

392. In Saint Kitts y Nevis domestic violence and the rape of **women** are penalized, however, the marital violence is not addressed, which is not in accordance with inter-American standards in the matter.

393. With regard to the situation of the **LGBTI** community, the law punishes homosexual relations and there is no legislation in place against discrimination based on sexual orientation.⁶¹⁶

394. **Death penalty** is established in the legislation of Saint Kitts and Nevis, and the last execution took place in 2008.⁶¹⁷ The State has voted consistently against the moratorium of the death penalty within the United Nations.

395. In terms of ESCER, the government is implementing the 90-90-90 plan, promoted by UNAIDS. One of the main objectives of it is that by 2020, 90% of people know their HIV status⁶¹⁸.

⁶¹³ Cision PR Newswire, [Noticia "Gobierno de San Cristóbal y Nieves rehabilita 900 viviendas con Fondo de Ayuda por Huracán"](#), September 10, 2018.

⁶¹⁴ See: Government/Departments/Office of the ombudsman en <https://www.gov.kn/>

⁶¹⁵ UNDP, [Sub-regional country programme document for Barbados and the Organization of Eastern Caribbean States \(2017-2021\)](#), July 12, 2016.

⁶¹⁶ HRW, [I Have to Leave to Be Me](#), March 21, 2018; See Equaldex, [LGBT Rights in Saint Kitts and Nevis](#).

⁶¹⁷ Charles Laplace execution in December 2008, HRW, [English-Speaking Caribbean: Time to make the Death Penalty History](#), December 19, 2018.

⁶¹⁸ St. Kitts and Nevis Observer, [Noticia "Ministry of Health sets 'tall-order' target for HIV"](#), December 5, 2018. Véase ONUSIDA, ["90-90-90: Un ambicioso objetivo de tratamiento para contribuir al fin de la epidemia de sida"](#), 2014.

ST. VINCENT AND THE GRENADINES

- **General considerations**

396. The country's **progress** includes a bill on juvenile justice that makes changes with the objective of protecting the rights of children pursuant to the standards of international law.

397. The main **challenges** include the high crime rate, crime against the LGBTI community, and the minimum age of criminal responsibility for children and adolescents.

398. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

399. Regarding the crosscutting theme of **institutionality of human rights**, it should be noted that the country does not have a national human rights system or an ombudsperson.

400. Regarding **citizen security**, San Vicente and the Grenadines has a high crime rate, mainly from the operation of organized crime, at 27 murders per 100,000 residents.⁶¹⁹

401. The Commission observes with concern the existing criminalization of the **LGBTI** community, with discrimination, violence, and stigmatization impacting many aspects of their lives.⁶²⁰

402. Regarding **children and adolescents**, the Commission has learned of a bill to increase the minimum age of criminal responsibility from 8 to 12 years old,⁶²¹ which would still put this legislation in conflict with inter-American standards. The bill would also introduce reforms on family issues and social service provision.⁶²²

403. In St. Vincent and the Grenadines, the **death penalty** remains in place in legislation and no death sentence has been carried out since 1995. One person is on death row, and the process for that person is taking its course.⁶²³

ST. LUCIA

- **General considerations**

404. The main **progress** made in 2018 on human rights includes the feasibility study and the environmental and social impact study conducted by the government on development of a geothermal project aiming to ensure the project will not adversely impact the lives of people in Soufriere and neighboring communities.⁶²⁴

⁶¹⁹ UNDP, [Sub-regional country programme document for Barbados and the Organization of Eastern Caribbean States \(2017-2021\)](#), July 12, 2016.

⁶²⁰ Human Rights Watch, [Eastern Caribbean: LGBT People Face Bias, Violence](#), March 21, 2018.

⁶²¹ Saint Vincent and the Grenadines, [Child Justice Bill](#), 2018. Also see [Summary of Key Areas of the Child Justice Bill](#), 2018.

⁶²² Saint Vincent and the Grenadines, Publication of draft [Child Justice Bill 2018](#), August 27, 2018.

⁶²³ Amnesty International, [Condenas a muerte y ejecuciones 2017](#), pg. 14; Jamaica Observer, [St. Vincent's sole death row inmate gets favourable Privy Council ruling](#), June 22, 2017.

⁶²⁴ Piensa en Geotermia, [Gobierno de Santa Lucía informó sobre requisitos para avanzar en proyecto geotérmico](#), June 20, 2018.

405. The main **challenges** in 2018 include the guarantee of the right to freedom of expression and the right to protest, as well as addressing the human rights perspective of the situation of forced migration of Venezuelans.

406. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

407. Regarding the crosscutting theme of **institutionality of human rights**, the State has an Office of the Ombudsman.⁶²⁵

408. Regarding **migrants** and refugees, on August 4, 2018, National Security Minister Hermangild Francis said visas were going to be required for Venezuelans to enter the country due to an alleged increase in drug and arms trafficking.⁶²⁶ The Commission expresses concern at this measure and reminds the State of its obligation to ensure access to its territory and guarantees the right to seek and receive asylum, as well as its obligation to not return people who may need protection. The Commission also urges the State to consider its Resolution N 2/18 on the forced migration of Venezuelans.⁶²⁷

409. On the rights of **LGBTI persons**, the Commission states its concern over the persistent levels of violence and discrimination these persons experience, and the IACHR emphasizes that the Criminal Code continues to define the crimes of “sodomy” or “buggery” and “serious indecency,” which have a stigmatizing effect on this population.⁶²⁸

410. Regarding the **death penalty**, it still exists, although it is not applied. The Eastern Caribbean Court of Appeal established in 2001 that the mandatory death penalty of St. Lucia and St. Vincent violated the prohibition of inhumane treatment.⁶²⁹ Domestic courts later found in the case of *The Queen V Hughes* that the mandatory death penalty was unconstitutional.⁶³⁰ This gives judges in St. Lucia the discretion needed to apply less severe punishments.

411. Regarding the **right to freedom of expression**, according to information published by the Association of Caribbean Media workers, on March 30, the organization expressed concern at a statement by the Minister of Tourism, Information, and Broadcasting on his administration's intention to “impose” additional regulations on private media.⁶³¹ Additionally, on September 9, thousands of people took to the streets to protest the government regarding a number of issues in the public interest and demand general elections. The mobilization was organized by the party opposing the current administration.⁶³² According to local news, the protests demanded the reopening of St. Lucia's State radio station, which was closed due to financial issues in 2017.⁶³³ Elsewhere, in January, two young people were arbitrarily arrested for expressing a series of criticisms of the government. The criticisms were disseminated in the form of a video on social media. The arrest was reported by a parliamentarian, who rejected it and condemned the actions of police authorities. According to

⁶²⁵ See the official website: https://archive.stlucia.gov.lc/agencies/office_of_the_ombudsman.htm

⁶²⁶ *El Tiempo*, *Venezuela y Santa Lucía analizan tráfico de drogas y contrabando*, August 16, 2018.

⁶²⁷ IACHR, *Forced Migration of Venezuelans*.

⁶²⁸ See: Penal Code, Section 132 “Serious Indecency” and Subsection 133 (Sodomy).

⁶²⁹ Eastern Caribbean Court of Appeals, *Newton Spence v. The Queen, Peter Hughes v. The Queen*, appeal 20 of 1998 and 14 of 1997, Judgment, April 2, 2001.

⁶³⁰ IACHR, *The Death Penalty in the Inter-American Human Rights System: from Restrictions to Abolition*, para. 27.

⁶³¹ Association of Caribbean Mediaworkers. March 30, 2018. [Proposed Media Law in Saint Lucia Concerns ACM](#).

⁶³² St. Lucia Times. September 10, 2018. [Thousands protest policies of Saint Lucia government, call for fresh elections](#); Kyss. September 11, 2018. [National protest rally in St Lucia attracts record turnout](#); Caribbeans News Now! September 10, 2018. [National protest rally in St Lucia attracts record turnout](#).

⁶³³ St. Lucia Times. September 10, 2018. [Thousands protest policies of Saint Lucia government, call for fresh elections](#);

this parliamentarian, the young people arrested were required to issue a video apology in order to avoid being charged. Several months later, in November, the case was dismissed by a court and the young people released without charges.⁶³⁴

SURINAM

- **General considerations**

412. Regarding the progress made on human rights in 2018, the IACHR welcomes the actions taken by the State of Suriname regarding the rights of tribal peoples and women. The IACHR specifically takes note of the State's efforts regarding the right to prior consultation with national tribal peoples.⁶³⁵ The IACHR also welcomes the increased representation of women in the country's National Assembly as a result of a project to increase the number of women in decision-making positions.⁶³⁶

413. Regarding **challenges**, incidents of corruption and nepotism continue to be of particular concern, as do attacks on judicial independence and restrictions to the right to freedom of expression.⁶³⁷ The Commission also expresses concern at the persistence of human trafficking, which particularly affects migrant women and workers.⁶³⁸

414. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

415. Regarding the crosscutting theme of **institutionality of human rights**, it should be noted that the country does not have a national human rights system or an ombudsperson's office.

416. Regarding **judicial independence**, the Commission noted the administrative and legislative measures that may affect the independence of the Office of the Public Prosecutor and the magistrates, especially with regard to crimes from the past. The IACHR emphasizes that in contrast to other public officials, justice officials enjoy certain guarantees due to the independence needed to conduct their work in the judiciary. These guarantees are a corollary to the right to access to justice that belongs to all people. The guarantees must take the form of, for example, enhanced guarantees of stability, a budget set by law, and clear and predictable rules on promotions and professional mobility in order to ensure the necessary independence of these officials.

417. Regarding the rights of **women**, the IACHR emphasizes the States effort's to implement the Law on Combatting Domestic Violence, particularly the mechanisms to provide immediate protection to the victim and the imposition of restraining orders. However the IACHR expresses concern regarding the underreporting of cases of domestic violence. In this regard, the IACHR welcomes the adoption of programs to improve collection of data on these cases.⁶³⁹ The Commission also calls on the State to ensure that the

⁶³⁴ The voice. S.f. [Vieux Fort Men With Case Dismissed Say Theirs Was a Victory For Freedom Of Speech!: Loop. November 14, 2018. Anthony celebrates dropped charges for 'obscene' Facebook video pair.](#)

⁶³⁵ Response of the State of Suriname to the Request for Information (Article 41 Letter), Appointment of the Head of the Saramaka Authority in Suriname, 2018.

⁶³⁶ Republic of Suriname, Opening statement by Mr. Nasier Eskak on behalf of the Minister of Home Affairs for the consideration of the combined fourth to sixth Periodic Report of the Republic of Suriname to the Committee on the Elimination of Discrimination against Women (CEDAW), February 28, 2018.

⁶³⁷ Freedom House, Freedom in the World 2018 [Suriname](#). No date.

⁶³⁸ Freedom House, Freedom in the World 2018 [Suriname](#). No date.

⁶³⁹ Republic of Suriname, Opening statement by Mr. Nasier Eskak on behalf of the Minister of Home Affairs for the consideration of the combined fourth to sixth Periodic Report of the Republic of Suriname to the Committee on the Elimination of Discrimination against Women (CEDAW), February 28, 2018.

information collected is disaggregated by ethnic-racial origin, sexual orientation, gender identity, and age group.

418. Regarding the rights of **children and adolescents**, the Commission is concerned that the practice of corporal punishment is still not fully banned; on the contrary, it is an accepted practice in the raising of children and adolescents. According to information obtained during its monitoring, the IACHR learned corporal punishment has yet to be banned in a number of spaces in which children live their lives, including in the home, alternative care spaces, daycares, schools, and penal institutions.⁶⁴⁰

419. Regarding **tribal Afro-descendant peoples** in the country, the IACHR highlights the structural discrimination facing Maroons. Although they account for approximately 21% of the population, they face inequality in areas including education and employment.⁶⁴¹ For its part, the State has presented information on the implementation of a roadmap for implementing the judgment of the Inter-American Court of Human Rights in the framework of the case of the Saramaka People v. Suriname.⁶⁴² The IACHR takes note of the measures taken by the State of Suriname and invites it to present detailed information on the legislative and administrative measures being carried out.

420. Regarding the right to **freedom of expression**, according to available information, independent photojournalist Regilio Derby was arrested on May 18 after taking a picture of the scene of a deadly shooting perpetrated by a police officer in Paramaribo.⁶⁴³ The Office of the Special Rapporteur also learned of a generalized context of corruption in Suriname, characterized by a lack of legal mechanisms requiring accountability from officials and the release of public information.⁶⁴⁴⁶⁴⁵ According to the information available, in March, the Association of Surinamese Journalists publicly criticized the launch of a judicial investigation into leaks of information to the media on issues related to Surinam Airways. The organization expressed concern at the lack of whistleblower protections and potential measures of repression, persecution, and punishment.⁶⁴⁶

TRINIDAD AND TOBAGO.

- **General considerations**

421. The main **progress** made in 2018 includes the resolution of the Supreme Court finding the laws criminalizing sexual relations between adults of the same sex unconstitutional. Also, in a protocolary meeting with government authorities, the Commission received information indicating that two special courts on children and adolescents were established, and public policies were put in place on gender, children, HIV, and domestic violence.⁶⁴⁷

⁶⁴⁰ End Corporal Punishment, Country Report for Suriname, March 2018.

⁶⁴¹ Freedom House, Freedom in the World 2018 Suriname, No date.

⁶⁴² Response of the State of Suriname to the Request for Information (Article 41 Letter), Appointment of the Head of the Saramaka Authority in Suriname, 2018.

⁶⁴³ Dwtonline.com, May 18, 2018. Dwtonline.com, Vluchtende verdachte dodelijk geraakt door politie, fotograaf hard aangepakt; May 19, 2018. Fotojournalist op hondse wijze opgepakt door politie; Suriname Herald, May 20, 2018. Intimidatie van journalisten door politie moet stoppen.

⁶⁴⁴ Dwtonline.com, Vluchtende verdachte dodelijk geraakt door politie, fotograaf hard aangepakt; May 18, 2018. Dwtonline.com, Fotojournalist op hondse wijze opgepakt door politie, May 19, 2018. Suriname Herald, Intimidatie van journalisten door politie moet stoppen, May 20, 2018.

⁶⁴⁵ Freedom House, Freedom in the World 2018 Suriname, No date. Dwtonline.com, Toegang tot overheidsinformatie met de dag moeilijker; November 3, 2018. Suriname Tribune, Overheid is afhankelijk van de media, de media niet van de overhead, November 4, 2018.

⁶⁴⁶ Dwtonline.com, SVI tegen onderzoek klokkenluider SLM-kwestie, March 14, 2018. Starnieuws, SVI tegen justitieel onderzoek naar klokkenluiders, March 15, 2018. Dagblad Suriname, SVI kan zich niet terugvinden in justitieel onderzoek naar klokkenluiders, March 15, 2018.

⁶⁴⁷ IACHR, promotional visit to Trinidad and Tobago, Protocolary Meeting with Authorities, February 22, 2019.

422. The main **challenges** in 2018 include the situation of insecurity—with 2018 being the second most violent year in the country's history—and addressing the situation of Venezuelans and Cubans who have fled their countries and asked to be recognized as refugees in Trinidad and Tobago.

423. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

424. Regarding **democratic institutional** progress made on the participation of women in politics should be highlighted. Toward the beginning of 2018, Paula-Mae Weekes was sworn in as the first woman president in the history of Trinidad and Tobago, as well as the second woman head of State, after Queen Isabel II.⁶⁴⁸ Kamla Persad-Bissessar became the first woman prime minister of Trinidad and Tobago in 2010.

425. Regarding the crosscutting theme of **institutionality of human rights**, the State has an Office of the Ombudsman.⁶⁴⁹ The Office of the Ombudsman was established with the sole purpose of providing support to people who believe they have suffered injustices at the hands of public officials employed by government agencies and departments.

426. Regarding **citizen security**, Trinidad and Tobago have seen a steady increase in murders in recent years: 2014, 403; 2015, 410; 2016, 462; and 2017, 495 (this latest figure produces a murder rate of 36.5 per 100,000 residents).⁶⁵⁰ Thus, according to Insight Crime, 2018 was the second most violent year in the history of the country, with 516 murders, outstripped only by 2008, when 550 people were murdered.⁶⁵¹ The violence tends to be related to organized crime, especially the drug trade.⁶⁵² Additionally, impunity has been a serious problem, and law enforcement officials report that at least 83% of the cases in 2018 remained unsolved.⁶⁵³

427. Regarding the **rights of LGBTI persons**, in April 2018, the Supreme Court of Trinidad and Tobago found that laws criminalizing consensual sexual relationships between adults of the same sex were unconstitutional. The lawsuit on which the case was based was filed by activist Jason Jones, who argued that sections 13 and 16 of the Sexual Offences Act violated his rights to privacy, liberty, and freedom of expression.⁶⁵⁴ The Supreme Court found that the provisions were “unconstitutional, illegal, null, void, invalid and of no effect to the extent that these laws criminalize any acts constituting consensual sexual conduct between adults.” The IACHR celebrated this decision and highlighted that the existence of “buggery” laws is used as a mechanism for social control and domination that enables States to legitimize and contribute to the stigma of LGBT persons as “immoral” individuals.

428. Regarding the situation of **children and adolescents**, the Commission notes the existence of the Children's Authority, a specialized agency responsible for providing care and protection to children and adolescents,⁶⁵⁵ as well as the existence of a juvenile system focused on restorative justice.⁶⁵⁶ The Commission also welcomes the establishment of two specialized courts on children and adolescents, one in Port of Spain and the other in the country's south. The Commission welcomes this step forward, as it means decisions

⁶⁴⁸ *Daily Express*, A proud moment for T&T: President-elect Paula Mae-Weekes, January 18, 2018.

⁶⁴⁹ Trinidad and Tobago Office of the Ombudsman.

⁶⁵⁰ T&T Police Service, Total Crime by Offence Comparative Report, 2017.

⁶⁵¹ Chris Dalby y Camilo Carranza, Balance de InSight Crime sobre homicidios en 2018, January 22, 2019.

⁶⁵² Insight Crime, Trinidad y Tobago ve empeorar situación de seguridad, March 1, 2019.

⁶⁵³ Chris Dalby y Camilo Carranza, Balance de InSight Crime sobre homicidios en 2018, January 22, 2019.

⁶⁵⁴ Telesur, Trinidad & Tobago Court Declares Sodomy Laws Unconstitutional, April 12, 2018.

⁶⁵⁵ Children's Authority of Trinidad and Tobago.

⁶⁵⁶ UNDP, Trinidad and Tobago Juvenile Court Project.

relating to the protection of children will be focused on the rights of children and adolescents,⁶⁵⁷ as the Commission established in its report on [Fulfillment of Children's Rights](#).⁶⁵⁸ Finally, the Commission observes challenges on this subject, including the need for secondary legislation supporting the implementation of policies on children, especially on caring for children and adolescents and on child marriage. Sufficient resources are also needed for implementing these policies.

429. Regarding the rights of **women**, in a protocolary meeting with civil society organizations, the Commission received information indicating that access to justice for women is problematic and their cases face many delays, particularly in completing the procedure and securing justice.⁶⁵⁹

430. Regarding the alarming situation of **migrants and refugees** in Trinidad and Tobago, the Commission has observed that the country is a destination for thousands of people, especially from Venezuela, Cuba, and Haiti. The forced migration of Venezuelans has increased significantly in recent years as a consequence of massive human rights violations and the severe food and health crisis facing the Venezuelan State. In this regard, it is estimated that 60,000 Venezuelans have fled to Trinidad and Tobago.⁶⁶⁰

431. Regarding this, the State has conducted multiple roundups in different parts of the country, leading to the mass detention of migrants in the country illegally at the Migrant Detention Center, police stations, and prisons. The Commission also received information on people intercepted at sea or rejected at the border despite their intention to seek asylum.⁶⁶¹ Specifically, on April 21, 2018, 82 Venezuelans were deported—53 men and 29 women—who had been in detention, and 18 of them had charges pending against them related to their illegal entry. None of them had access to support from the UNHCR or legal representation. Regarding this, the UNHCR alleged that among these deported individuals, there were registered asylum-seekers and individuals who had expressed an intention to seek asylum.⁶⁶² Later, the State reported that as of September, there were 118 people being held in the Immigration Detention Center: 75% of them for entering the country illegally and almost all of them of Venezuela nationality.⁶⁶³ For their part, civil society organizations have reported that they have had limited access to that detention center since 2014.⁶⁶⁴ Likewise, in May 2018, Venezuelans conducted a "blood strike" in the Immigration Detention Center to protest their extended detention despite assurances that court rulings had granted some of them their freedom. Situations of labor and sexual exploitation, discrimination, and xenophobia have received regular coverage in the media.⁶⁶⁵ Politicians have issued statements indicating that their country is not able to accept Venezuelans en masse and that they will not let "UN spokespeople turn it into a refugee camp."⁶⁶⁶ Due to concerns over the situation, the Commission requested information from the State in May 2018. However, it received no response. Lastly, the National Assembly of Venezuela alleged that the human rights of approximately 207 Venezuelans detained in Trinidad and Tobago have been violated in the form of poor food.⁶⁶⁷ Months later, the National Assembly

⁶⁵⁷ Judiciary Trinidad and Tobago, [Family and Children Court Notice](#), February 25, 2018.

⁶⁵⁸ IACHR, [Fulfillment of Children's Rights](#), para. 202

⁶⁵⁹ IACHR, promotional visit to Trinidad and Tobago, Protocolary Meeting with Civil Society, February 22, 2018.

⁶⁶⁰ NPR, [Trinidad faces humanitarian crisis as more Venezuelans come for refuge](#), December 18, 2018.

⁶⁶¹ IACHR, request for information: Situation of migrants, asylum seekers and refugees, May 2018.

⁶⁶² UNHCR, [ACNUR lamenta las deportaciones de personas venezolanas desde Trinidad y Tobago](#), 23 de abril de 2018.

⁶⁶³ *El Nuevo Herald*, [La cárcel o el hambre: los venezolanos que viven fuera de su país enfrentan opciones difíciles](#), November 19, 2018.

⁶⁶⁴ *El Nuevo Herald*, [La cárcel o el hambre: los venezolanos que viven fuera de su país enfrentan opciones difíciles](#), November 19, 2018.

⁶⁶⁵ Venezuela al día, [Migrantes venezolanos detenidos en Trinidad hacen "huelga de sangre"](#), May 11, 2018.

⁶⁶⁶ *El Carabobeño*, [Trinidad y Tobago no está dispuesto a aceptar venezolanos en su país](#), July 31, 2018.

⁶⁶⁷ *Noticia al día*, [Asamblea Nacional denuncia abusos contra venezolanos presos en Trinidad y Tobago](#), July 4, 2018.

unanimously passed a resolution urging the governments of Venezuela and Trinidad and Tobago to repatriate 135 individuals detained for having illegally entered Trinidad and Tobago.⁶⁶⁸

432. Regarding Cuban migrants, protests lasting two weeks were held on November 12 at UNHCR headquarters over the cancellation of the financial aid provided to them. They demanded responses regarding their migratory status in the country and improved living conditions.⁶⁶⁹ Later, at least 84 Cubans who had joined the protest outside the headquarters were arrested for obstructing a public right-of-way. They were later released, although they allege they were mistreated while in custody.⁶⁷⁰

433. Regarding **freedom of expression**, in a letter to the editor published on March 10 in the Trinidad and Tobago News Day⁶⁷¹ with the headline “Declare your hand,” the People’s National Movement vice president, current parliamentarian, and Planning and Development Minister⁶⁷² Camille Robinson-Regis accused a group of analysts who wrote newspaper columns critical of her party and the administration of being openly politically biased.⁶⁷³ Also, two radio hosts have been ordered to pay a fine of more than \$400,000 for defamatory statements made against a businessman and his business group during a radio program on More FM Limited in 2015.⁶⁷⁴ Additionally, the Office of the Special Rapporteur sent a technical opinion to the State of Trinidad and Tobago on a cybercrime bill submitted in 2017, offering the State a series of recommendations to ensure the bill adheres to international standards.

URUGUAY

- **General considerations**

434. In 2018, Uruguay made **progress** on protecting women and gender equality; protecting freedom of expression, protecting certain groups comprehensively, such as persons with disabilities and trans persons; establishing a specialized prosecutor’s office on crimes against humanity; and improving the prison system. As regards the crimes committed in the period of the dictatorship, the Commission continues monitoring the threats to judicial officers and human rights defenders by the group that calls itself Comando Barneix, and, moreover, takes note of the establishment of the office of the prosecutor specialized in crimes against humanity.

435. Regarding **challenges**, the IACHR noted attacks on spaces and sites set aside for memory, as well as threats against human rights defender groups and individuals investigating crimes committed by State agents during the civilian-military dictatorship.

436. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

437. With regard to **democratic institutionalism**, Uruguay remains one of the most solid countries in the region, and the same holds true for respect for human rights and citizen security. In this regard, given the consolidation of its system, the Commission notes that the State’s greatest challenge is ensuring the progress made is maintained and consolidated through coordinated work with the different bodies, proper

⁶⁶⁸ *El Nacional*, [AN exhortó a Trinidad y Tobago repatriar a 135 venezolanos presos](#), December 4, 2018.

⁶⁶⁹ Telemundo 51, [Se acrecienta la crisis humanitaria de los cubanos en Trinidad y Tobago](#), November 14, 2018.

⁶⁷⁰ Telemundo 51, [Arrestan al menos a 80 cubanos en Trinidad y Tobago](#), November 16, 2018. Cubanet, [Desalojan a refugiados cubanos de sede de ACNUR en Trinidad y Tobago](#), November 16, 2018. Cicer Cuba, [En libertad, los cubanos detenidos por protestar frente a Acnur en Trinidad y Tobago](#), November 23, 2018.

⁶⁷¹ Trinidad and Tobago News Day, March 10, 2018. [Declare your hand](#).

⁶⁷² Government of the Republic of Trinidad and Tobago. [The Honourable Camille Robinson-Regis, MP](#). Undated.

⁶⁷³ Newsday, [Declare your hand](#), 10 March 2018.

⁶⁷⁴ Newsday, [Radio to pay Junior Sammy \\$4m for “talk show” libel](#), 19 July 2018.

allocation of resources and funding, effective mechanisms for monitoring and evaluation, and participation and oversight by civil society.

438. Regarding the crosscutting theme of the **institutionality of human rights**, Uruguay has a National Human Rights Institution and Office of the Ombudsperson.⁶⁷⁵ Its role is to defend, promote, and protect all human rights recognized under the Constitution and international law.

439. Regarding the protection of the rights of **women**, the State in its response reported that in 2018, the Gender-Based Violence against Women Act was approved.⁶⁷⁶ Its purpose is to guarantee the right of all women to a life free from gender-based violence by establishing mechanisms, measures, and comprehensive policies for prevention, response, protection, punishment, and reparations.⁶⁷⁷ In this regard, the IACHR received information on the first two convictions in the Uruguayan legal system for the crime of femicide since it was codified in 2017. In May, the IACHR received public information on a man who was convicted and sentenced to 45 years in prison for the rape and murder of a 9-year-old Uruguayan girl in November 2017. Also, in November 2018, a man was convicted and sentenced to 25 years in prison for the crime of “especially aggravated homicide via femicide” for murdering his wife in 2018. Despite the progress made, the IACHR is concerned that, according to official data, between the months of January and October 2018, 46 murders of Uruguayan women were reported, of which 60% involved domestic violence.⁶⁷⁸

440. Also, during the month of November, several State institutions join together to establish the Observatory on Gender Violence, provided for in the framework of the Gender-Based Violence against Women Act. At that time, the authorities announced that the National Statistics Institute would conduct the Second National Survey on the Prevalence of Gender-Based Violence in 2019, with the aim of measuring the extent of the violence experienced by women in Uruguay.⁶⁷⁹

441. In 2018, Uruguay took significant steps toward passing laws to protect the rights of vulnerable groups. Regarding the rights of **persons with disabilities**, in October, both the Senate and the House of Deputies unanimously passed a law to support persons with disabilities in the workforce, establishing that all private enterprises with 25 or more permanent employees must, when hiring, hire persons with disabilities.⁶⁸⁰

442. Regarding the rights of **LGBTI persons**, on November 14, Uruguay reported in its response that it enacted law 19,684, the Comprehensive Trans Persons Act,⁶⁸¹ guaranteeing the right to gender identity for trans people pursuant to inter-American standards, centering their right to self-determination and dignity.⁶⁸² The law establishes that identification documents can be changed through administrative processes that mainly use the gender identity selected by the individuals, without imposing pathologizing or stigmatizing requirements. It also includes protections for a broad array of rights, including economic, social, and cultural rights of trans persons. Furthermore, it guarantees reparations and compensation for trans people who were the victims of the military dictatorship in Uruguay.⁶⁸³

⁶⁷⁵ See the official website: <http://inddhh.gub.uy/>

⁶⁷⁶ Center for Official Information of Uruguay, Law Nº. 19,580 - Gender-based Violence against Women Act, January 9, 2018.

⁶⁷⁷ Input from the State of Uruguay for Chapter IV of the 2018 Annual Report of the IACHR, December 5, 2018.

⁶⁷⁸ Ministry of the Interior of Uruguay, Presentation of annual figures on gender violence, November 29, 2018.

⁶⁷⁹ Office of the President of Uruguay, Observatory on Gender-based Violence will help optimize public policies, November 7, 2018.

⁶⁸⁰ Office of the President of Uruguay, Law 19,691 - Support for People with Disabilities in the Workplace Act, October 29, 2018.

⁶⁸¹ Center for Official Information of Uruguay, Law Nº. 19,684 - Comprehensive Trans Persons Act, November 7, 2018.

⁶⁸² Input from the State of Uruguay for Chapter IV of the 2018 Annual Report of the IACHR, December 5, 2018.

⁶⁸³ IACHR Press Release No. Press 275/2018 - IACHR Welcomes Progress towards the Recognition of Gender Identity in the Region, December 21, 2018.

443. In November, the United Nations Independent Expert on the enjoyment of all human rights by **older persons** recognized the Uruguayan government's efforts on the protection of the rights of older persons.⁶⁸⁴ In its response to the IACHR, the State reported that it ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance (Law No. 19,517), and the Inter-American Convention against all Forms of Discrimination and Intolerance (Law No. 19,584), becoming one of the first countries of the region to comply with all the necessary stages for their entry into force. In December, during the 170th Extraordinary Period of Sessions, Uruguay informed the Commission on the agreements made in the framework of the Permanent Commission on Aging of the Meeting of Senior Human Rights Authorities of MERCOSUR and presented the progress made by the Uruguayan State in terms of the public policies it had developed, focusing on four areas: the right to health, participation, social protection, and care.⁶⁸⁵

444. Regarding its **prison system**, the IACHR observes that Uruguay continues to have high rates of imprisonment. A report prepared by the Parliamentary Commissioner for the Prison System stated that according to official figures, as of the first quarter of 2018, 63.4% of people deprived of liberty had not yet been convicted.⁶⁸⁶ With the implementation of the new Criminal Procedural Code of 2017, the number of people deprived of liberty began to decline in 2018.⁶⁸⁷ However, poor conditions in prisons persist.⁶⁸⁸ The same report of the Parliamentary Commissioner indicated that conditions for 44% of the penitentiary population were not sufficient for their social integration, while 30% face cruel, inhuman, or degrading treatment.⁶⁸⁹ Also, 2018 saw 19 homicides in prisons, a record number and twice the number of homicides in 2017.⁶⁹⁰

445. Regarding the rights of **children and adolescents**, the IACHR noted that during a visit conducted in March 2018, the United Nations Subcommittee on Prevention of Torture also observed that the juvenile justice system is carceral and urged the State to opt for a system ensuring the adolescents are rehabilitated and educated.⁶⁹¹

446. On the issue of **migrants and stateless** individuals, on November 7, 2018, Law 19,682 on Recognition and Protection of Stateless Individuals took effect in Uruguay. The law includes the adoption of a process for determining whether someone is stateless within a maximum of 270 days. This is only the second law in the region to focus specifically on this issue.

447. Regarding the issue of the right to **memory, truth, and justice**, the IACHR received information indicating that in February, the Office of the Specialized Prosecutor on Crimes against Humanity was established with the objective of exclusively dealing with criminal prosecutions on human rights violations that took place during the civilian-military dictatorship (1973-1985).⁶⁹² In September, the Specialized Prosecutor announced that there were 220 cases on human rights violations committed during the last military dictatorship, and that it was getting involved in 46.3% of those cases.⁶⁹³ However, it stated that more than 50

⁶⁸⁴ OHCHR, [Uruguay: Experta de Naciones Unidas llama a más acciones para proteger a las personas de edad](#), November 30, 2018.

⁶⁸⁵ IACHR Press Release No. 271/2018 - IACHR Concludes 170th Period of Sessions, December 18, 2018.

⁶⁸⁶ Parliamentary Penitentiary Commissioner, [2017 Report](#), April 2018, pgs. 17-18; [Búsqueda, Hay 600 presos menos desde que se aplica el nuevo sistema penal](#), February 15, 2018.

⁶⁸⁷ Parliamentary Penitentiary Commissioner, [2017 Report](#), April 2018.

⁶⁸⁸ OHCHR, [Uruguay debe mejorar las condiciones penitenciarias, dice órgano de la ONU para la prevención de la tortura](#), 20 de marzo de 2018.

⁶⁸⁹ [El País, El 44% de los presos en Uruguay esta reclusos en malas condiciones](#), May 17, 2018.

⁶⁹⁰ El Observador, [En 2018 hubo 19 homicidios en cárceles, una cifra record](#), January 18, 2019.

⁶⁹¹ OHCHR, [Uruguay debe mejorar las condiciones penitenciarias, dice órgano de la ONU para la prevención de la tortura](#), 20 de marzo de 2018.

⁶⁹² Office of the Attorney General of the Nation, [Specialized Prosecutor's Office on Crimes against Humanity Established](#), February 22, 2018.

⁶⁹³ Office of the Attorney General of the Nation, [Office of the Specialized Prosecutor on Crimes against Humanity already involved in almost half the cases revealed](#), December 2018.

cases are stalled in the courts. For its part, the IACHR received information on civil society's concerns regarding the passiveness of the courts with respect to delays of trials as a result of strategies used by military defense attorneys, defendants who also enjoy a privileged status compared to other common criminal defendants. They also expressed their concern over the destruction of spaces set aside to commemorate and pay homage to the victims of the military dictatorship. The Commission observes that a number of commemoration plaques have been vandalized in recent months, including the plaque commemorating Wilson Ferreira Aldunate and the plaque on the 13th Armored Infantry Battalion.⁶⁹⁴

448. The IACHR also continued monitoring civil society's allegations on the failure to investigate death threats issued by the group Comando Barneix against authorities, **justice officials, and human rights defenders** acting in the context of court cases on grave human rights violations that took place during the dictatorship in Uruguay. Regarding the State's actions, despite the launch of criminal investigations, no progress has been made in establishing responsibility.⁶⁹⁵

449. Lastly, regarding the context of **freedom of expression**, the Office of the Special Rapporteur of the Commission continued to observe that the Access to Public Information Act was still being used by the media and journalists to access information. In March, the government of Canelones reported that, in the framework of that law, the municipality decided to establish an access to information office. In communication dated March 16, the municipality asked the Office of the Special Rapporteur for technical assistance to implement the law and the transparency policies. On March 20, the Office of the Special Rapporteur sent a letter expressing its willingness to provide the requested assistance. Additionally, on July 10, the House of Deputies passed a bill to regulate government advertising. According to the information received, the project includes a number of the recommendations that the Office of the Special Rapporteur for Freedom of Expression has made in this regard. As of the close of this report, the bill was before the House of Senators.

CONCLUSIONS

450. Having seen this overview of the human rights situation in the hemisphere, the Commission identifies the following points as the main trends in terms of human rights problems and challenges observed through its monitoring work in 2018: the persistence of discrimination and violence against women, LGBTI persons, Afrodescendants, indigenous persons, children and adolescents, and in particular human rights defenders, journalists, and social leaders; increased repression of social protest, and militarization and excessive use of force as measures for addressing citizen insecurity; the scourge of corruption, with a direct impact on the phenomenon of forced migration; the persistence of impunity around forced disappearance; and the seriousness of the situation of persons deprived of liberty in the region.

451. One of the main ways in which discrimination found expression in the region is through the high levels of violence against women, children and adolescents, LGBTI persons, Afrodescendants, indigenous communities, and human rights defenders, among other groups. These challenges include, among others, the high numbers of assassinations motivated by gender and gender identity and expression, the specific risks and violence faced by human rights defenders because of the work they do, and the lack of due diligence to clarify these cases.

452. In particular, in 2018 a trend of growing violence against human rights defenders was maintained in the region, making the Americas the most dangerous region for defending human rights. Among the most alarming trends, the Commission warns that this region includes the countries with the largest number of assassinations of human rights defenders in the world. In addition to the attacks on life, various campaigns were undertaken to criminalize, harass, and stigmatize those who defend human rights. The IACHR noted the aggravated risk faced by human rights defenders who are indigenous, women, and environmentalists, and the impunity that surrounds the acts of violence perpetrated against them. In addition, patterns of violence

⁶⁹⁴ Resumen Latinoamericano, [Uruguay. Más ataques contra Placas de la Memoria: esta vez se las llevaron](#), December 7, 2018.

⁶⁹⁵ Information provided by the State of Uruguay, IACHR Archive.

continue to be observed against journalists and media outlets, and a persistent climate of impunity for the crimes and violence against journalists reported in previous years. The IACHR also observes with concern that stigmatization of journalists, media outlets, and activists by high-level authorities persist in several countries of the region. The IACHR calls on the states of the region to take concrete, adequate, and effective measures for protection, prevention, investigation, and access to justice to ensure that human rights defenders, journalists, and media outlets can perform their important work freely and safely.

453. Structural racism persists in the region, and one observes the adoption of laws and other state measures contrary to the principles of equality and non-discrimination, as well as disinformation campaigns and initiatives that disseminate stigmas and stereotypes of the above-noted groups. The IACHR has identified the permanence and extent of violations of the rights of women, girls, and adolescent females, including their sexual and reproductive rights. In addition, the IACHR is concerned about the advance of sectors with agendas contrary to the recognition of the rights of LGBTI persons in positions of state authority, which translates into the adoption of state measures that reinforce and promote intolerance.

454. The IACHR appeals to the member states of the OAS to adopt and develop legal frameworks, as well as other measures, to especially protect women, LGBTI persons, Afrodescendants, indigenous communities, human rights defenders, children and adolescents, and journalists from all forms of discrimination and violence, as well as to prevent violations of their human rights. It also urges the states to promote the education and greater awareness of these persons as regards their rights and how to access the existing protection systems. At the same time, the Commission appeals to the states of the region to ratify the Inter-American Convention against All Forms of Discrimination and Intolerance.

455. The Commission observes with concern the trend in the region to implement iron-fist policies to address citizen insecurity by greater militarization of the public security forces, without properly addressing the causes of the problem. In this respect, the Commission reminds the states that such responses increase levels of violence and lead to human rights violations. The IACHR emphasizes that in keeping with Inter-American standards, security and internal order should correspond exclusively to the civilian policy bodies, duly organized and trained, and not the military armed forces. Nonetheless, when the armed forces do participate in security tasks, their participation should be extraordinary, subordinated, complementary, regulated, and subject to oversight. In addition, one finds an increase in the **excessive use of force** by security agents as a mechanism for controlling citizen security in the face of organized crime and gang activity, even having recourse to lethal force by selective or indiscriminate assassinations, depending on the place, the nature of the operations, or the security force in charge. One also observes the excessive use of force by members of the police when intervening in demonstrations and social protests, and which have resulted in serious injuries, arbitrary detentions, and hundreds of deaths. At the same time, several journalists have been targets of attacks in the context of these protests, arbitrary arrests, and dispossession or destruction of their work tools. The IACHR calls on the states to implement measures for citizen security compatible with the principles of a democratic society and respectful of human rights and fundamental freedoms. In addition, it calls on the states to redouble their efforts to promote dialogue, guarantee the right to protest, protect the right to peaceful demonstration, and adopt public policies whose priority is to respect and ensure the rights to life and humane treatment, and other fundamental human rights.

456. The Commission notes with concern how the scourge of **corruption**, as an aggravated phenomenon in the region, affects the construction of democratic and transparent societies and the effective enjoyment of human rights, in particular to those groups that have suffered discrimination historically. The Commission calls on the states to strengthen their capacities to proactively access public information, which is crucial for fighting corruption; to strengthen their mechanisms of active transparency and accountability with respect to spending and investment in infrastructure, campaign finance, and transparency in the operations of the political parties; and to promote an environment with guarantees for the freedom to report acts of corruption. It also encourages them to continue efforts or adopt measures that render international cooperation effective, including the establishment of multilateral investigative units that can foster a coordinated policy of identifying flows of assets for corrupt purposes, and the recovery of assets, along the lines established in Resolution No. 1/18.

457. According to figures from the UNHCR, as of yearend in 2017, in the Americas there were more than 7,923,109 internally displaced persons, 878,723 asylum-seekers, and 644,200 refugees.⁶⁹⁶ The phenomenon of **forced migration** of persons in the Americas persists as a response to a complex combination of circumstances in search of protection in different places, whether crossing international borders or becoming displaced in their own countries. Among the greatest challenges in the region are the forced migration of Venezuelans who have been obligated to leave their country as a result of massive human rights violations, as well as the serious food and health crisis Venezuela faces. This situation has become the leading cause of forced migration in the region, and one of the largest-scale episodes in the world at this time. In addition, special mention should be made of the forced migration of persons from the Northern Triangle of Central America due mainly to the violence of organized crime, with a drastic increase in asylum-seekers and refugees. Thousands of these persons migrated through “caravans,” seeking greater visibility and protection in the face of human rights abuses and violations. Finally, the Commission noted how a large number of Nicaraguans were also forced to displace as a result of their political opinions and the serious human rights violations in the context of the serious crisis affecting Nicaragua.

458. Throughout the continuum of migration, persons are subject to numerous violations of their human rights and are generally found in a special situation of vulnerability, to which is added the fear they have of turning to the authorities and being detained and subsequently deported. The Commission recognizes the importance of the measures that several states of the region have adopted to address the forced migration of persons, especially the open borders policy and the use of measures to regularize immigration status, such as recognizing persons as refugees. Nonetheless, the Commission also observes that the response in several countries of the Americas has been characterized by a discourse and a policy of national security, repression, and deterrence, with the main objective of protecting borders, using violence and the detention and deportation of migrants without sufficiently identifying their individual needs for protection, and externalizing border control to the high seas and even third countries. In addition, there has been a spike in speech aimed at fostering hatred, violence, and discrimination against these persons. The Commission calls on the states of the region to address the situation of forced migration in the Americas in a framework of shared responsibility and with a human rights-based response, guaranteeing the rights of migrants and refugees, such as the rights to seek and receive asylum, to non-refoulement, non-discrimination, and respect for economic, social, and cultural rights. It also urges the states to refrain from adopting measures such as closing borders, restricting the entry of persons who may have needs for international protection, immigration detention, criminalization for entering or being in the country without papers, the need to present official documents to enter, and hate speech. In particular, the Commission calls on the states to adopt measures in line with what is provided for in its Resolution No. 2/18 on Forced Migration of Venezuelans.

459. Regarding another challenge in the region, the Commission notes with concern the persistence of impunity around the **disappearance of persons**. Overwhelming figures are cited on the failure to investigate and punish these crimes of the past that continue occurring at present. In this regard, the Commission issues an appeal to the states to take the measures necessary to investigate these acts with due diligence, so as to clarify the truth and determine and sanction those responsible. The Commission also takes note of the cumulative experience of searches and investigations involving measures such as consolidating data bases, systems for genetic identification, identification of common graves, and the creation of interdisciplinary investigative groups. In addition, the Commission considers that the states should make progress to specialize their institutions so as to provide a rapid response to disappearances of which they come to learn, and to address those cases that have yet to be clarified.

460. Finally, as a challenge that affects the whole region, the IACHR notes the situation of persons deprived of liberty. In particular, it reiterates its concern over the high levels of overcrowding and the excessive use of pretrial detention, at odds with the relevant international standards. In this regard, the IACHR notes with concern the initiatives that have increased the list of crimes for which pretrial detention is imposed automatically; such measures are contrary to the principles that should guide the use of this measure, turning it into an anticipated punishment. Moreover, the IACHR observes that drug policies continue to have a clear

⁶⁹⁶ ACNUR, Tendencias Globales: Desplazamiento Forzado en 2017, pág. 68.

impact on the prison population in the region. Actions aimed at regulating and treating conduct related to these substances start from an approach based on criminalization rather than a public health and human rights-based approach. In addition, such policies have a disproportionate effect on women. Through its extensive work of documentation, the IACHR found that conditions of detention prevail that are incompatible with the dignity of persons deprived of liberty, and contrary to their lives and integrity. Mindful of the foregoing, the IACHR calls on the states to adopt the necessary measures to guarantee the rights of persons deprived of liberty through actions aimed at reducing the levels of overcrowding and using pretrial detention on an exceptional basis only, as its nature requires. It also urges the states to develop drug policies that are based on human rights, and that have an integral approach focused on social reinsertion that accords priority to a public health perspective and incorporating a gender perspective. The IACHR also reiterates to the states their special obligation to guarantee the human rights of those persons under their custody.