# CHAPTER IV

# HUMAN RIGHTS DEVELOPMENT IN THE REGION

## Overview of the Human Rights Situation by Country

### **METHODOLOGY**

1. The Commission decided that Chapter IV.A of its 2021 Annual Report should offer an overview of the human rights situation in the States of the region, with a special emphasis on the rights and issues prioritized by the IACHR, as well as the following cross‑cutting themes established by the Commission in its Strategic Plan 2017-2021: Democratic Institutionality, Institutionality in Human Rights, Judicial Independence and Access to Justice, Citizen Security, Gender Equality and Diversity, and Interculturality.
2. To prepare this section, the IACHR considered the information received in the performance of its monitoring function on the human rights situation in 31 countries in the region during 2021. The IACHR used input from the different mechanisms through which it has monitored the situation in the countries, such as public hearings, thematic visits, requests for information under Article 41 of the American Convention, and precautionary measures, as well as information from civil society organizations, journalistic articles, decisions and recommendations from specialized international organizations.
3. Under the powers vested in it by Article 41 of the American Convention and Article 18 of the IACHR Statutes, in August 2021, the Commission requested information from the member states on the rights, issues, and cross‑cutting themes prioritized in the aforementioned Strategic Plan. The IACHR received responses from 12 member States: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Honduras, Mexico, Paraguay, and Uruguay. The IACHR is grateful for and appreciates the information sent, which has been included in this chapter, where relevant.
4. The Commission is also grateful for the information provided by institutions and civil society organizations over the year through the different monitoring mechanisms, which has likewise been included in this section.

### **TRENDS**

1. Below, the IACHR presents an overview of the human rights situation in the region observed during 2021, the second year of the COVID‑19 pandemic. From the information reviewed, the IACHR identified numerous trends related to human rights challenges, many of which were also observed in the previous year.
2. In 2021, countries throughout the Americas and the world continued to face the different challenges brought about by the COVID‑19 pandemic caused by the virus SARS-CoV-2 and its variants. In this context, the Commission notes that the States of the region continued to adopt strategies to contain the spread of the virus and vaccinate their populations. Mitigation measures included ongoing partial border closures in numerous countries and additional measures to control the circulation of people based on health criteria, such as possessing a vaccination card and/or proof of a negative polymerase chain reaction (PCR) test; the partial or full closure of workplaces and public establishments, the suspension of events and activities in public spaces, and the partial or total suspension of in‑person classes and, in some cases, even virtual classes given the challenges that large sectors of the population with internet connectivity.
3. The IACHR notes that, in some cases, mitigation measures and initiatives taken to ensure access to vaccines had a negative impact on human rights, particularly when it came to historically excluded groups. Furthermore, the IACHR understands that the severe global economic recession caused by the pandemic has exacerbated poverty, inequality, and social exclusion in certain sectors. In some cases, the measures taken by States to mitigate the effects of the pandemic and COVID‑19 vaccination campaigns were discriminatory to migrants, refugees, and displaced and stateless persons.
4. The IACHR noted that a particularly affected population was persons deprived of liberty, whose prison living conditions, already precarious in many countries in the region, became even worse during the pandemic in 2020 due to issues like overcrowding and a lack of appropriate health and hygiene measures. This situation persisted in 2021.
5. The IACHR also notes with concern certain trends involving the erosion of democratic institutionality and judicial independence. During 2021, the IACHR noted actions taken in States by the different branches of government that could undermine judicial independence in the region. The Commission reminds the States of their obligation to protect justice operators from attacks, intimidation, threats, and harassment, and to investigate those who violate their rights and effectively punishing such perpetrators. If States fail to protect their justice operators from all types of outside pressures, the work of the judiciary may be severely undermined, which would hinder access to justice.
6. The IACHR and the Inter‑American Court of Human Rights have stated that the irremovability of judges is fundamental to judicial independence. Therefore, judges should only be removed from the bench for previously established reasons, through a process that strictly adheres to the principle of legality and due process of law. The States must preserve democratic institutionality by respecting the separation and independence of the different branches of government.
7. The IACHR has also observed the weakening of national human rights institutions, as well as the closure of democratic spaces and violence against human rights defenders and journalists, including murders, harassment, intimidation, and criminalization of their work.
8. The IACHR notes with concern that levels of impunity for human rights violations, both historical and current, are persistently high. The Commission is equally concerned about the high rates of corruption in the region that permeate the multiple levels of government.
9. The Commission also received information about the increased use of the military in the region for law enforcement‑related tasks and to commit violence repressive acts during protests. Additionally, the IACHR also expresses concern over the increase in gender violence and deepening socioeconomic inequality and discrimination throughout the region in the context of the pandemic.
10. Furthermore, the IACHR noted actions taken by States to crack down on protests through the disproportionate use of force, which also led to a high number of arbitrary detentions, criminalization, intimidation, threats, acts of sexual violence against protestors, and a lack of due process of law.
11. The IACHR has also been monitoring the situation of migrants and persons in situations of human mobility. In this regard, the Commission notes with concern the different crises and challenges that characterize the region: (i) the humanitarian crisis of Venezuelans in the region involving more than 6 million migrants and refugees according to UNHCR figures; (ii) the increased displacement of Nicaraguans; (iii) migration movements from Central to North America; (iv) successive migration movements of Haitians; (v) situations of risk and insecurity at borders; (vi) human trafficking; (vii) and historical and recent occurrences of forced internal displacement.
12. To highlight these and other human rights trends observed in the region, below, the IACHR presents an overview of the human rights situation observed in 2021 country by country.

**ARGENTINA**

* General Considerations
1. The IACHR highlights that Argentina has solid human rights institutions. In 2021 the Commission took note of **progress** made in institutional strengthening, highlighting in particular measures to combat violence and promote gender equality, strides made with respect to memory, truth, and justice, as well as affirmative actions for persons with disabilities and People of African Descent.
2. At the same time, the IACHR highlights the **challenges** to human rights like ongoing cases of police violence and use of excessive force. It also notes cases of violence against women, LGBTI persons, and continued vulnerability of indigenous peoples.
3. On September 10, 2021, the State presented a response to the request for information sent in order to prepare this chapter.[[1]](#footnote-1)
* Specific issues
1. With respect to **human rights institutions**, the IACHR notes positively progress made. It welcomes the initiative of the Office of the Public Defender of the Nation [*Defensoría del Pueblo de la Nación*] to include changes regarding the election of its Chief and his/her respective powers;[[2]](#footnote-2) however, the Commission notes that the Chief Public Defender has still not been appointed although the post has been vacant since 2009.[[3]](#footnote-3)
2. As for institutional strengthening measures, the Commission welcomes the implementation of the 2021-2023 agenda of the Federal Network of Municipios for the Strengthening of Human Rights. The objective of this Network is to mainstream a human-rights approach in the design, implementation, and monitoring of public policies and strengthen state interjurisdictional capacities for promoting and protecting rights.[[4]](#footnote-4)
3. With respect to promoting and training in human rights, the IACHR takes note of the training sessions provided by the National Institute against Discrimination, Xenophobia, and Racism (INADI, for its acronym in Spanish) to officials from the Judicial Branch,[[5]](#footnote-5) as well as the development of the course on “Human Rights and Security Policies.”[[6]](#footnote-6) In this same vein, the Commission takes note of the first iteration of the training course for municipal officers that provide services in human rights units of local government, carried out by the Secretariat for Human Rights.[[7]](#footnote-7) Furthermore, the Commission was informed that a new virtual education platform in human rights (CampusDH) had been created in order to strengthen democracy and ensure a culture of human rights.[[8]](#footnote-8)
4. With respect to cooperation, the IACHR takes note of the publication of the Framework Protocol on Actions of Offices of the Public Defender for Business and Human Rights. This is a joint project between the Office of the Public Defender and the Office of the United Nations High Commission for Human Rights (OHCHR), which seeks to guide actions to promote and protect human rights in business activities.[[9]](#footnote-9) It also highlights the cooperation agreement entered into by the Ministry of Tourism and Sports of the Nation and the Undersecretariat for Human Rights Promotion in order to institutionalize human rights in sports organizations based on positive practices with a human rights approach.[[10]](#footnote-10) At the same time, the Commission values the establishment of the National Working Group on Integrity and Transparency, the objective of which is to coordinate strategies for assistance, follow up, and evaluation of public policies on integrity and transparency in the Argentine public sector.[[11]](#footnote-11) The IAHCR has also been informed about the publication of the Guide to strengthen an intercultural perspective and human rights, in the framework of a joint effort by the International Organization for Migration and the National Directorate for Racial Equity, Migrants, and Refugees of the Secretariat for Human Rights of the Nation.[[12]](#footnote-12)
5. The Inter-American Commission also welcomes the measures adopted in 2021 to fight gender inequality and ensure the exercise of rights on equal terms. In that respect, it specifically highlights the presentation in May 2021 of the National Plan for Equality in Diversity (2021-2023). The Plan aims “to bring about concrete, effective, and sustainable transformations to overcome inequality based on gender,” and to create conditions that enable women and LGBTI+ persons equal access to and exercise of their rights.[[13]](#footnote-13) Furthermore, it welcomes the Argentine State’s ratification of ILO Convention 190 on violence and harassment in the world of work in February 2021;[[14]](#footnote-14) the launching of the Federal Care Map, which seeks to render an account of the unequal distribution of care and design public policies in this respect;[[15]](#footnote-15) and the initiative of the Council to Coordinate Financial Inclusion and the Ministry of Women, Gender, and Diversity to develop a diagnostic assessment and public policies to implement financial education initiatives with a gender perspective.[[16]](#footnote-16)
6. With respect to **citizen security,** the IACHR values the adoption of Resolution No. 32/2021, which established a working group for each one of the police and federal security forces of the States with the aim of scheduling training and retraining practices in the framework of an operational model of rational use of force[[17]](#footnote-17).
7. Nevertheless, the Commission notes with great concern that throughout 2021 acts of police violence and excessive use of force persisted, and it condemns the deaths of individuals in these contexts.[[18]](#footnote-18) According to data compiled by organized civil society, 63 deaths of individuals were reported due to acts of violence in which security forces were involved,[[19]](#footnote-19) while the Provincial Committee for Memory reported 114 deaths due to the use of force by the police in the Province of Buenos Aires in 2021.[[20]](#footnote-20) The Commission notes with great concern the acts of lethal violence by the police perpetrated against individuals with mental health problems,[[21]](#footnote-21) trans women,[[22]](#footnote-22) and adolescents.[[23]](#footnote-23) With regard to the latter, the IACHR made a statement regarding the killing of a young man, Lucas González, by the police and appealed to the State to undertake a thorough, serious, and impartial investigation of the killing, punish those responsible, and prevent its repetition.[[24]](#footnote-24)
8. The Commission also condemns the violence and excessive use of force by provincial police officers in Formosa in March 2021 against demonstrators who were protesting the return to the most restrictive phase of the COVID-19 pandemic lockdown.[[25]](#footnote-25) Additionally, the Commission became aware of reports of State agents’ excessive use of force in evictions of a settlement of over 100 families on September 30, 2021, in an area known as “La Containera” in the Villa 31 of Autonomous City of Buenos Aires, which is mostly made up of women and children who are victims of gender-based violence.[[26]](#footnote-26) The Commission is grateful for the information the State provided in this regard and takes note of the report of women who have been evicted that are in the program Acompañar, which provides direct assistance to persons facing gender-based violence so that they can develop an plan for an independent life.[[27]](#footnote-27)
9. With respect to **judicial independence**, the State reported on the presentation in July 2020 of the Draft Law on Federal Justice Organization and Jurisdiction in the Autonomous City of Buenos Aires and provinces, which continues to be considered by Congress. The IACHR notes that the Draft Law seeks to improve the functioning of federal criminal and administrative justice, in keeping with standards on judicial independence.[[28]](#footnote-28)
10. As for **access to justice,** the IACHR takes note of the 843 initiatives organized in the country by the Center for Access to Justice in the first half of 2021. According to information furnished by the State, under these initiatives actions are coordinated to bring legal advisory services and improve access to justice for vulnerable people.[[29]](#footnote-29) Furthermore, the Commission welcomes the launching in June 2021 of the program *Acercar Derechos* [Rights Engagement], the objective of which is to provide greater access to the justice system for women and LGBTI+ persons facing violence, through comprehensive and intercultural support nationwide.[[30]](#footnote-30)
11. Regarding **women’s rights**, the Commission welcomes the 2021 adoption of measures for the prevention and comprehensive attention to gender-based violence. Specifically, it highlights the establishment in February 2021 of the Comprehensive System for Cases of Gender-Based Violence (SICVG, for its acronym in Spanish), a tool developed to systematize data on consultations and complaints of gender-based violence. It includes an approach using risk prediction in order to contribute to the design and monitoring of public policies for prevention, assistance, punishment, and eradication of violence.[[31]](#footnote-31) Furthermore, the Commission welcomes the implementation of the program for modernization, optimization and dissemination of the 144 telephone hotline, whose purpose is to offer guidance, support, coordination, and follow-up on cases and consultations regarding situations of gender-based violence;[[32]](#footnote-32) the launching of the construction of 14 Comprehensive Territorial Centers for Gender and Diversity Policies around the country, which have venues for training, conducting activities on prevention and promotion of equality, as well as, in some cases, lodging for persons facing gender-based violence; [[33]](#footnote-33) the signing of a Federal Agreement for a United Argentina against Gender-based Violence, whose aim is to coordinate policies, resources, and working teams at all levels of the State to assist and protect victims of gender-based violence;[[34]](#footnote-34) and the publication of the report on Guidelines for appropriately addressing, intervening, and preventing gender-based violence within the police and security forces.[[35]](#footnote-35)
12. Nevertheless, the Commission notes with concern the prevalence of different kinds of gender-based violence against women. According to official public data, between January and September 2021, 83,784 calls were received for gender-based violence, of which 93% were due to domestic violence. 98% of the calls were made by women.[[36]](#footnote-36) Additionally, according to figures from the Office of the Public Defender of the Nation, as of June 30, 2021, 137 femicides had been reported, which included 14 homicides of individuals related to victims of gender-based violence, 6 trans individuals and 5 feminicide suicides, underscoring that the majority of the cases occurred within families or with an intimate partner.[[37]](#footnote-37) Furthermore, the Commission welcomes the report on feminicide suicides—which are when women take their own lives as a result of the violence perpetrated against them—since this makes the lethal impact of gender-based violence on the exercise of other human rights visible.
13. With respect to reproductive rights, the Commission welcomes the publication of the Law No. 27,610 which establishes the voluntary interruption of pregnancy[[38]](#footnote-38). Moreover, notes positively the Ministry of Health’s updated Protocol for Comprehensive Care of Persons with the Right to Abortion, which seeks to guide health personnel carrying out legal abortions and providing post-abortion care[[39]](#footnote-39).Nevertheless, the IACHR notes with concern the differentiated impact on pregnant women of isolation measures adopted as a result of the COVID-19 pandemic. According to publicly available information, a woman allegedly lost her unborn child at an isolation center in Formosa due to the conditions she was subject to during isolation[[40]](#footnote-40).
14. As to the rights of **LGBTI persons**, the Commission welcomes the enactment of the “Diana Sacayán - Lohana Berkins” Law.[[41]](#footnote-41) Said Law provides that trans persons must hold no less than 1% of government jobs in the three branches of the State and other entities,[[42]](#footnote-42) under all of the existing regular hiring modalities.[[43]](#footnote-43)
15. Furthermore, the Commission celebrates the decision of the State to recognize the “X” marker in the “gender” field on Argentine passports, in order to include non-binary gender identities of all those who are not covered by the categories of male/female.[[44]](#footnote-44)
16. In the same vein, the Commission welcomes the establishment in February 2021 of the Federal Council to Prevent and Address Femicides, Transvesticides and Transfemicides pursuant to [Decree No. 123/2021](http://servicios.infoleg.gob.ar/infolegInternet/anexos/345000-349999/347256/norma.htm). The Council’s mission is to create a work area that ensures a comprehensive and coordinated approach by the various competent State organizations at a federal and provincial level. The Commission likewise welcomes the training aimed at personnel of the judicial branch to include a gender perspective in their work. The Commission highlights the expansion in March 2021 of the mandatory curriculum to include topics related to gender-based violence, LGBTI+ persons’ access to justice, and the duty of due diligence.[[45]](#footnote-45)
17. Despite this progress, the Commission has received worrisome report about acts of violence against LGBTI persons. Based on publicly available information, it underscores the cruelty seen in several of the cases reported, as well as the prevalence of violent acts against trans people.[[46]](#footnote-46)
18. In connection with **persons deprived of liberty,** the Commission welcomes the approval of the Protocol for the Transfer of Persons Deprived of Liberty under the custody of the Federal Penitentiary Service, which provides that persons who are in detention are to be housed, where possible, in facilities close to their family, community, defense attorney, and competent judicial authority. This Protocol further provides that defense counsel and the competent authorities must be notified about transfers at least 72 hours prior to their scheduled date.[[47]](#footnote-47) Furthermore, the Commission takes note of the official data that indicates that, as of November 22, 2021, approximately 53% of persons in detention were vaccinated against COVID-19;[[48]](#footnote-48) It also notes that during the same period, a total of 101 individuals died from this illness.[[49]](#footnote-49)
19. The Commission reiterates its concern about the situations of individuals detained for prolonged periods of time at police stations or police detention centers. Specifically, the Commission condemns the death of four women deprived of liberty who perished in a fire at the Tucumán police station on September 2, 2021. In keeping with reports from civil society, these events occurred in a context of overcrowding and deplorable detention conditions. These reports indicated that the police station lacked fire safety protection and the electrical installation was not in good condition.[[50]](#footnote-50) On top of this, the IACHR notes that according to the most recent data from the National Committee for the Prevention of Torture (CNPT, for its acronym in Spanish), there continues to be sustained use of these sites. As a result thereof, as of May 10, 2021, the level of overcrowding at city government sites was 43%.[[51]](#footnote-51)
20. With respect to **memory, truth, and justice**, the IACHR welcomes the establishment of sites of remembrance in conjunction with provincial and municipal governments, and with the support of human rights and other civil society organizations. It highlights that in the last five years 90 sites of remembrance have been inaugurated and demarcated nationwide. The Commission likewise welcomes the presentation of a publication with recommendations for responsible media coverage of the civilian-military dictatorship and the memory, truth, and justice process, the preparation of which was based on joint work by the Secretariat for Human Rights and the Office of the Ombudsperson for Audiovisual Communications Services; the creation of a joint working group to document intelligence on human rights violations in order to provide common criteria for addressing the cache of documents found in different formats at the Federal Intelligence Agency; and the creation of a website with information on the trials for crimes against humanity committed during [the era] of State-sponsored terrorism.[[52]](#footnote-52)
21. The Commission welcomes the efforts of the Argentine State to shed light on the facts, and identify and punish those responsible for gross violations of human rights during the military dictatorship.[[53]](#footnote-53) In this sense, it welcomed the judgment handed down by Oral Federal Court 4 of San Martín, which meted out life sentences to 5 out of the 6 defendants accused of crimes against humanity that affected 94 members of the *Contraofensiva de Montoneros*.[[54]](#footnote-54) The Commission also highlights the first judgment for crimes against sexual integrity committed at the School of Naval Mechanics (ESMA, for its acronym in Spanish), which considered these acts crimes of humanity in and of themselves, separate from the torture suffered by the victims.[[55]](#footnote-55)
22. Additionally, the Commission values the launching of the Strategic Plan for Bringing Trials of Crimes against Humanity, which seeks to establish a road map for actions aimed at expediting trials of crimes against humanity, strengthening investigations, and providing greater support to victims. The foregoing through the reestablishment of the Special Investigations Unit under the Secretariat for Human Rights which gathers information on corporate responsibility and crimes against humanity committed for economic reasons.[[56]](#footnote-56)
23. As for the rights of People of **African Descent and against racial discrimination**, the Commission welcomes the significant advances made. According to information provided by the State, the National Directorate for Ethnic and Racial Equity, Migrants, and Refugees of the Secretariat for Human Rights is developing the “National Afro Plan (2021-2024),” which seeks to offer a road map for managing public inclusion policies and improving living conditions for Afro-Argentine, Afrodescendant, and African populations. Furthermore, the State indicated that the Secretariat for Human Rights presented the “Guide for strengthening an intercultural and human rights perspective,” geared toward trainers in Argentina. The Guide aims to provide inputs for teaching workshops and training government implementers, municipal human rights units, and social organizations. The Guide includes Afrodescendants as a priority ethnic population.[[57]](#footnote-57)
24. The IACHR also noted progress such as the launching of the “National Census of Afro-Argentine Community Organizations” by the National Institute against Discrimination, Xenophobia, and Racism (INADI), focused on offering Afro-Argentines legal assistance, training, and sponsorship by institutions and different agencies.[[58]](#footnote-58) Furthermore, the Commission highlights the official presentation of the “Federal Advisory Council to the Commission for Historical Recognition of the Afro-Argentine Community,”[[59]](#footnote-59) and the publication of “Afrodescendants and racial equity,” a normative and public policy resource for the Afro-Argentine Community.[[60]](#footnote-60)
25. As for **indigenous peoples’ rights**, the Commission notes that in the context of the COVID-19 pandemic and lockdown measures, indigenous communities in the northeast and northwest were particularly hard hit due to the “worsening of historical problems such as the lack of access to safe, clean drinking water, health services, and medications, as well as persistent evictions. Furthermore, they had to face new difficulties, such as the mandatory protocols that were in conflict with their lifestyle and cultural practices.”[[61]](#footnote-61)
26. Additionally, the IACHR received information on Law No. 26160 regarding emergency land possession and ownership, which ordered the National Institute of Indigenous Affairs to conduct a technical—legal—property survey regarding ownership of lands occupied by indigenous communities. This Law became an effective tool for stopping multiple illegal attempts to evict indigenous families and communities.”[[62]](#footnote-62) Nevertheless, the Commission has been informed that the evictions continue, despite the existing legislation.[[63]](#footnote-63)
27. Furthermore, the Commission notes that as of said Law’s entry into force, 42% of the indigenous communities have been surveyed. This means that more than 1,000 communities are still missing.[[64]](#footnote-64) The IACHR notes with concern that this legislative instrument does not constitute a permanent mechanism to protect indigenous peoples’ territorial rights and has had to be extended on several occasions.
28. What is more, the Commission is concerned about situations of violence against indigenous peoples given the lack of effective mechanisms to resolve their territorial demands. The Commission was informed of the murder of a young Mapuche, Elias Garay, that took place on November 21, 2021 in Río Negro, in the context of a conflict due to economic interests in lands considered to be State-owned, but which are claimed by the Mapuche community as part of its ancestral lands.[[65]](#footnote-65) Furthermore, according to available information, members of the Quemquemtrew Mapuche community took action to recover their ancestral territory in the Cuesta del Ternero zone in September, after which the police evicted them using excessive force.[[66]](#footnote-66)
29. As to the rights of **persons with disabilities**, the IACHR welcomes approval of the draft law to amend Law 26,310, approved on December 9, 2021. The draft law provides that persons with disabilities, without exception, have the right to provide informed consent, with assistance of support systems and reasonable accommodations, to access tubal ligation or vasectomy at health system services, without the need for authorization by a court.[[67]](#footnote-67)
30. The Commission also underscores the efforts with respect to COVID-19 immunization for this group and the prioritization of persons with Down syndrome.[[68]](#footnote-68) Additionally, it welcomes the offer of courses and training in sign language and web accessibility,[[69]](#footnote-69) management of inclusive competitions and workshops,[[70]](#footnote-70) and consolidation of strategies to increase the inclusion of persons with disabilities in the public sector. [[71]](#footnote-71) The IACHR also welcomes the court ruling that orders the judicial branch of the Province of Buenos Aires to comply with the work quota for persons with disabilities.[[72]](#footnote-72)
31. Nevertheless, the IACHR takes note with concern about public information that indicates persistent challenges in inclusion of persons with disabilities in the educational system,[[73]](#footnote-73) non-compliance with the 4% hiring quota for persons with disabilities in the public sector,[[74]](#footnote-74) and mobility difficulties in exercising the right to vote.[[75]](#footnote-75) It likewise takes note with concern of the reports about the alleged use of excessive force by the police against individuals with psychosocial disabilities.[[76]](#footnote-76)
32. With regard to the **rights of the children and adolescents**, the Commission welcomes the sanctioning on December 30, 2020, of Law No. 27,661 on Comprehensive Treatment and Health Care during Pregnancy and Early Childhood, which seeks to: (i) reduce mortality and malnutrition; (ii) prevent violence; and (iii) protect early bonding, neurodevelopment, and health in a comprehensive manner.[[77]](#footnote-77) It further welcomes approval by the Chamber of Deputies of the draft law that creates the National Program for Comprehensive Care of Children with Cancer, which would provide children with cancer 100% coverage of required services and furnish economic assistance equivalent to the amount of the universal allocation for a child with disabilities through the Public Health System, health insurance, and pre-paid health coverage.[[78]](#footnote-78) Despite the foregoing, the IACHR expresses its concern about the situation of poverty in which children and adolescents are living in the country. According to official data, in the first quarter of 2021, 54.3% of children between 0 and 14 years of age lived in poverty. Of these, 16.6% were in conditions of indigency inasmuch as they did not have sufficient revenue to meet the minimum threshold for their caloric and protein needs.[[79]](#footnote-79)
33. The Commission welcomes the advances in the rights of **persons in the context of human mobility.** In this respect the Commission welcomed the publication of Decree of Necessity and Urgency No. 138/21 of March 4, 2021, abrogating Decree 70/17, which had restricted the scope of the Migration Law by hindering access to immigration rights and guarantees in the country.[[80]](#footnote-80) It likewise welcomes the publication of Provision 1891/2021 of the National Directorate of Migration, which contains the “Special Regularization Regime for Venezuelan Migrant Children and adolescents.”[[81]](#footnote-81) The State also reported on the inauguration of the center for integration of migrants and refugees on June 18, 2021.[[82]](#footnote-82)
34. In relation to **human trafficking**, the Commission takes note of the actions taken by the State to use search warrants to rescue victims of trafficking for purposes of labor exploitation on farms and ranches, principally in the provinces of Rio Negro, La Rioja, Corrientes, Misiones, and Santa Fe.[[83]](#footnote-83) The Commission also welcomes the design of a special statute for housing access for victims rescued from sexual and labor exploitation, adopted in February 2021, thanks to the Executive Committee to Fight Human Trafficking and Exploitation and Provide Victims Protection and Assistance and the Ministry of Territorial Development and Housing of the Nation.[[84]](#footnote-84) The Commission likewise takes note of a national campaign for decent rural employment that the State and trade organizations have created,[[85]](#footnote-85) and a state textile hub established for the reintegration of victims of trafficking.[[86]](#footnote-86) The IACHR is also pleased about the launching of 100 measures to be carried out in 2021-2022 against human trafficking and to support victims, including in the Two-Year 2021-2022 Plan on prevention, prosecution, assistance, and institutional strengthening.[[87]](#footnote-87)

**ANTIGUA AND BARBUDA**

* **Overview**
1. Regarding **progress made**, the IACHR highlights the adoption of legislation that aims to reduce the case backlog accumulated during the pandemic. The IACHR also applauds the adoption of measures to inform women about the existing services on gender-based violence, and about the decrease in domestic violence figures during the pandemic. Likewise, the Commission highlights the actions taken to ensure migrants access to antivirus vaccines.
2. With respect to **challenges**, the IACHR notes that the State has not yet set up a national human rights institution. It is also concerned about the high rate of homicides and the use of force against demonstrators in contravention of international standards. Regarding the situation of women and girls, the IACHR is concerned about the high rates of teenage pregnancy and maternal mortality, the criminalization of voluntary interruptions of pregnancy, and reports of harassment on the street. The Commission also regrets that the State has not fully abolished corporal punishment, and that the criminalization of consensual same-sex sexual relations persists. Similarly, the IACHR notes the lack of prior and informed consent with respect to decisions on communal lands, the persistent deplorable conditions faced by persons deprived of their liberty, and the continued existence of the death penalty in domestic law.
3. The State did not respond to the request for information for the preparation of this chapter.
* **Specific issues**
1. Regarding the crosscutting issue of the **institutional framework for human rights**, the Commission notes that although Antigua and Barbuda has an Office of the Ombudsman to defend its citizens’ rights and an Integrity Commission created in 2004, it has not yet established a national human rights institution. This is despite the fact that the State accepted the recommendation to establish an NHRI at the 2011 United Nations Universal Periodic Review.[[88]](#footnote-88) The IACHR also notes that the Ombudsman’s Office is a member of the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies, the Commonwealth Forum of National Human Rights Institutions, and the Caribbean Ombudsman Association. The office has also been accredited as a national human rights institution by the International Coordinating Committee of National Human Rights Institutions, but with the lowest status (‘C’). Therefore, to date, its participation in the Network of National Institutions for the Promotion and Protection of Human Rights in the Americas has been limited.
2. In the same vein, the report of United Nations Universal Periodic Review that took place on November 8, 2021, which formed the basis for the review, , also notes that the Office of the Ombudsman is inadequately resourced and has limited power.[[89]](#footnote-89) In addition, the office only deals with administrative violations in the public sector, but not with human rights violations.[[90]](#footnote-90) In this regard, the IACHR restates the importance of establishing a national human rights institution in accordance with the Paris Principles, equipped with the budget and human resources necessary to discharge its tasks.
3. Regarding **democratic institutionality**, the Commission notes that according to the World Justice Project and its Rule of Law Index, Antigua and Barbuda’s overall rule of law score remained the same as in 2020.[[91]](#footnote-91) Across Latin America and the Caribbean, Antigua and Barbuda ranks sixth out of 32 countries.[[92]](#footnote-92)
4. In the area of **citizen security**, the Commission observes that the Commissioner of Police reported a drop in homicides during the first quarter of 2021 compared to the corresponding period in 2020.[[93]](#footnote-93) However, the IACHR notes that according to public information, as of December 30, 2021, the number of homicides increased by 80%, compared to the nine murders registered in 2020.[[94]](#footnote-94)
5. Also, according to public information, on July 26 and August 8, protests were held to express disagreement with the Prime Minister’s public statement of July 17 calling for civil servants and front-line workers to be vaccinated against the COVID-19 virus.[[95]](#footnote-95) Reportedly, the demonstrators were dispersed forcibly when the police fired tear gas at them.[[96]](#footnote-96) The Commission notes that both the Prime Minister and the official opposition condemned the use of force under these terms.[[97]](#footnote-97) The IACHR underscores that the use of force during protests must be governed by international principles of exceptionality, legality, necessity, and proportionality.[[98]](#footnote-98)
6. As regards **access to justice**, the Commission notes that in order to reduce the procedural delays caused by the pandemic, on May 28 the Senate adopted the Act for Judge Alone Trials,[[99]](#footnote-99) which allows a presiding judge, without the presence of a jury –and always with the consent of the accused—to rule on certain offenses and serious crimes.[[100]](#footnote-100) The Commission will continue to monitor the implementation of this law.
7. Regarding **the human rights of women**, the IACHR takes note of the efforts of the Directorate of Gender Affairs to publicize information on services and support centers available to women survivors of violence;[[101]](#footnote-101) it also notes public information indicating that domestic violence rates did not increase during the COVID-19 pandemic.[[102]](#footnote-102) However, reports of harassment on the street against women and the normalization of this type of violence remain a cause for concern.[[103]](#footnote-103) Another source of concern is that during 2021 the World Health Organization (WHO) reported a teenage pregnancy rate of 42.8 per 1,000 among adolescents between 15 and 19 years of age and a maternal mortality rate of 42 per 100,000 births.[[104]](#footnote-104) In this regard, it should be noted that the voluntary termination of pregnancy remains illegal, except in cases when the woman’s life is in danger.[[105]](#footnote-105) Finally, the participation of women in decision-making positions remains low: in particular, as of February 2021, only 11.1% of the elected positions in Parliament were held by women.[[106]](#footnote-106)
8. Regarding **children and adolescents**, the Commission highlights the government’s decision, adopted at the cabinet meeting of June 24, 2021, to hold consultations on the abolition of corporal punishment in public and private schools.[[107]](#footnote-107) This proposal follows up on the State’s 2020 decision to abolish corporal punishment as a sentence for adolescents convicted of a crime.[[108]](#footnote-108) The IACHR further notes that during that meeting, the Child Justice Board acknowledged that corporal punishment at school—as provided for in the Education Act—was in breach of the Child Justice Act (2015) and several international treaties ratified by the State.[[109]](#footnote-109) Nevertheless, to date no legislative amendments or repeals of laws governing corporal punishment at home or at children’s homes, orphanages, and other places have been reported. The IACHR reiterates its call for the State to prohibit all forms of violence, including the corporal punishment of children and adolescents in all contexts, and to take steps to eradicate this form of violence.[[110]](#footnote-110)
9. With respect to **persons in situations of human mobility**, the Commission observes that as part of the implementation of its regulations to address the COVID-19 pandemic, the Prime Minister reportedly stated that migrants who may be subject to removal or deportation proceedings in the State should not be prosecuted for seeking access to the coronavirus vaccine.[[111]](#footnote-111) Additionally, the Commission takes note of the government’s decision to: (i) eliminate the need to purchase return tickets, (ii) waive accumulated fins, and (iii) allow adults who failed to regularize their immigration status in the country during their childhood to obtain police records, so that they could continue to enjoy the benefits obtained in the State.[[112]](#footnote-112)
10. In addition, the Commission notes that the Prime Minister stated that worsening weather conditions could affect workers in productive sectors, a situation that could lead to a forced displacement crisis.[[113]](#footnote-113) In line with the above, the IACHR notes that Antigua and Barbuda, together with the other members of the Organization of Eastern Caribbean States (OECS), is working with the International Organization for Migration (IOM) to analyze national policies and systems for the management and presentation of information relating to the forced displacement of persons due to climatic and environmental factors.[[114]](#footnote-114)
11. In relation to **trafficking in persons**, the Commission notes that according to the report of the United Nations High Commissioner for Human Rights, Antigua and Barbuda adopted a national action plan against trafficking for the 2019 to 2021 period. In addition, the IACHR notes that the State has introduced standard operating procedures for the referral of victims to specialized care agencies.[[115]](#footnote-115)
12. With respect to the rights of **LGBTI persons**, the Commission reiterates its concern that Section 12 of the Sexual Offences Act, which criminalizes the offense of buggery, remains in force, thereby criminalizing consensual same-sex relations.[[116]](#footnote-116) Public information indicates that in July 2020, a constitutional motion was filed against this provision.[[117]](#footnote-117)
13. The Inter-American Commission has stated that laws that punish a particular group of persons for engaging in a consensual sexual act or practice with another person of the same gender are unacceptable, as they stand in direct opposition to the prohibition of discrimination on the basis of sexual orientation.[[118]](#footnote-118) Furthermore, the IACHR reiterates that such laws reinforce preexisting social prejudices and significantly heighten the negative effects that those prejudices have on the lives of LGBTI persons.[[119]](#footnote-119)
14. In relation to the rights of **indigenous peoples**,[[120]](#footnote-120) the Commission received information on the denial of the right of the inhabitants of Barbuda to make decisions about their communal lands.[[121]](#footnote-121) Information provided to the IACHR by the Barbuda Council and civil society also reports that after Hurricanes Irma and Maria in 2017—which damaged 95% of buildings in Barbuda[[122]](#footnote-122)—the Central Government decided on leases for development projects in Barbuda without the full consent of the island’s inhabitants, as required under Section 7 of the Barbuda Land Act of 2007. In addition, the Barbuda Council informed the Commission that Parliament subsequently voted to amend the Barbuda Land Act, changing the status of all Barbuda residents from collective owners[[123]](#footnote-123) to private owners.[[124]](#footnote-124)
15. Regarding **persons deprived of liberty**, the IACHR reiterates its concern about the deplorable prison conditions at the country’s only prison, which are contrary to applicable international standards. In this regard, civil society organizations informed the Commission that Her Majesty’s Prison in St. John’s continues to suffer from overcrowding, archaic sanitation facilities, and unhygienic detention conditions in general.[[125]](#footnote-125) In this context, although the prison population was lower in 2020 than the previous year, the current occupancy level is reportedly still 12% above its maximum capacity.[[126]](#footnote-126)
16. Although the **death penalty** is not mandatory under current legislation, no one is currently under a death sentence in the country, and no executions have taken place since 1991.[[127]](#footnote-127) The IACHR notes that no progress has been made in abrogating this form of punishment from national law. According to public information, an Advisory Committee on the Prerogative of Mercy was appointed on January 19 in accordance with the provisions of Sections 84 and 85 of the Constitution of Antigua and Barbuda.[[128]](#footnote-128) The Commission notes that this Committee serves to advise the Governor-General on the granting of pardons and remissions to convicted persons. The Commission once again urges the government to abolish the death penalty.

**BAHAMAS**

* **General Considerations**
1. With respect to **progress** achieved by the Commonwealth of The Bahamas, the Commission notes the democratic process that took place during the general elections that permitted electoral observation from international organizations. Furthermore, the IACHR highlights the efforts of the State to fight crime and reduce the backlog of court cases, as well as the decrease in the rates of sexual violence against women. With respect to children and adolescents, the Commission welcomes the implementation of a public alert system to locate missing children, the elimination of all forms of corporal punishment at alternate care institutions for children, and efforts to reduce the number of cases of statelessness among the population. The Commission also takes note of social reintegration programs implemented for persons deprived of liberty.
2. With respect to **challenges**, the Commission notes that the State has not made progress in putting into effect a national human rights system. It further notes the need to create mechanisms to more closely scrutinize political party and electoral campaign financing. Additionally, it takes note of women’s limited representation in politics and the complaints about police brutality. At the same time, the IACHR is concerned about the State’ immigration policy of responding to forced displacement of people by limiting territorial access, detention, and collective expulsion without considering possible needs for international protection. The IACHR takes note of overcrowding and excessive use of pre-trial detention that persons deprived of liberty face, as well as the existence of the death penalty in the country’s domestic legislation.
3. The State did not respond to the request for information to prepare this chapter.
* **Specific topics**
1. With respect to the cross-cutting pillar of **human rights institutionality**, the Commission notes that the State has not made headway in implementing a national human rights system or an Office of the Ombudsperson; nevertheless, draft legislation has been prepared in this regard.[[129]](#footnote-129) The IACHR recalls the importance of the Ombudsperson to address complaints in connection with human rights. At a budgetary level, the IACHR understands that giving effect to human rights means that the State has the obligation to program, allocate, mobilize and spend public resources in keeping with its obligations under international human rights treaties.
2. As for **democratic institutionality**, the Commission takes note that there were early general elections and monitoring by international organizations of the electoral process. With respect to general elections, the IACHR highlights that in keeping with the country’s constitution, elections were to have been held in May 2022.[[130]](#footnote-130) However, the Prime Minister decided to call early elections for September 16, indicating that this way the electorate could determine the most appropriate party to lead the reconstruction of The Bahamas post COVID-19 .[[131]](#footnote-131) According to the Parliamentary Registration Department—the agency that manages the country’s elections—the opposition Progressive Liberal Party won 32 of the 39 parliamentary seats with the 7 remaining seats going to the Free National Movement.[[132]](#footnote-132)
3. The IACHR highlights the observation of the general elections by the OAS, CARICOM, and the Commonwealth,[[133]](#footnote-133) and the post-election preliminary statements that voters had cast their vote without “intimidation or fear”[[134]](#footnote-134) and that the electoral processes had been “credible, inclusive, and transparent.[[135]](#footnote-135)” Furthermore, the Commission took note of the concerns expressed by the OAS Electoral Observation Mission regarding women’s ongoing underrepresentation in politics and the failure to create mechanisms that allow for a more rigorous scrutiny of political party and electoral campaign finance.[[136]](#footnote-136)
4. The IACHR likewise notes that in keeping with Transparency International’s Corruption Perception Index 2020,The Bahamas fell one point in comparison to 2019 and is now in 29th place.[[137]](#footnote-137) Additionally, according to the World Justice Project’s Rule of Law Index, The Bahamas placed 9th out of 30 countries in the Latin American and the Caribbean region.[[138]](#footnote-138) The Commission also takes note that civil society is requesting greater transparency in governance, urging a more transparent process for public servants to divulge their assets, and demanding greater regulation of the campaign finance system.[[139]](#footnote-139)
5. On the issue of **citizen security,** the IACHR takes note of an increase in homicides in the country. The Ministry of National Security reported that the number of homicides from January to May 2021 was 52% higher than the same period in 2020.[[140]](#footnote-140) The IACHR underscores the Government’s efforts to fight crime,[[141]](#footnote-141) and in this respect takes note that the Government has integrated emerging technologies in its police operations and inaugurated a Real-Time Crime Center to focus its resources in high-crime areas.[[142]](#footnote-142) The Commission also recognizes the State’s ongoing efforts undertaken from January to May 2021 to remove unlawful firearms from circulation.[[143]](#footnote-143)
6. As for complaints about police brutality, in keeping with information presented by the police, in 2020 a total of 20 police shootings were reported; this figure represents an increase of 54% in comparison to the 13 shootings reported in 2019.[[144]](#footnote-144) In addition to this, information in the public domain indicates that in 2021 different acts of police brutality were reported. The most notable among these were: beatings, murders, intimidation, and harassment of citizens by the police.[[145]](#footnote-145) The IACHR will continue monitoring cases of alleged police brutality and urges the States to investigate the facts with due diligence, identifying and punishing those responsible and making reparations to victims.
7. With respect to **access to justice,** the IACHR takes note of the adoption of an array of measures to reduce the backlog of court cases and make the justice system more efficient. In this respect, the Supreme Court moved court hearings onto a virtual platform, which reduced the number of cases accumulated in the second quarter of 2020 due to the restrictions imposed by the COVID-19 regulations.[[146]](#footnote-146) Furthermore, the Office of the Attorney General reported that other technological initiatives introduced to modernize and make judicial proceedings more efficient had enabled courts to hold 98 % of its meetings virtually, including all the hearings of the Court of Appeals.[[147]](#footnote-147) Additionally, with the goal of reducing the procedural backlog, the Judicial and Legal Service Commission appointed five justices to the Supreme Court and four judges to lower courts.[[148]](#footnote-148)
8. As for **women’s human rights**, the IACHR appreciates the funding the Department of Gender and Family Affairs has granted to two local non-governmental non-profit organizations, under the violence prevention program for perpetrators. The aim of this program is to address the deep-seated causes of gender-based violence.[[149]](#footnote-149) It also takes note of the Bahamas Development Bank’s launch of its AWE Microloan Program in September 2021. This Program will provide loans to women who have graduated from the Academy for Women Entrepreneurs of the Embassy of the United States, with the aim of promoting gender equality and economic empowerment.[[150]](#footnote-150)
9. Furthermore, according to official data, sexual violence against women has decreased 13% in comparison to the previous year, with a total of 131 incidents recorded between January and September 2021—these include rape, attempted rape, incest, and sexual assault—while during the same period in 2020 there were 151.[[151]](#footnote-151) Finally, the IACHR takes note that out of the total number of candidates endorsed by political parties for the 2021 General Elections, only 18% are women.[[152]](#footnote-152)
10. As for the **rights of the child**, the Commission takes note of the implementation of a public alert system for missing children, the decision of the State to end corporal punishment at some institutions, and its progress in reducing cases of statelessness. The IACHR highlights the efforts the Government of The Bahamas has undertaken to implement the public alert system, “MARCO ALERT,” to locate missing children. [[153]](#footnote-153) The IACHR further highlights that during a working visit to the country in 2019, the State reported that the amendment of the Child Protection Act of 2013 created the public alert system, but its implementation would begin in 2019 when the Government signed a contract with a private technology firm.[[154]](#footnote-154) The Commission notes that in 2021, a second contract was signed to increase the system’s capacity.[[155]](#footnote-155) The Commission will continue monitoring the system’s implementation.
11. With respect to corporal punishment, the IACHR underscores the State’s decision of February 2, 2021, that ended all forms of corporal punishment in institutions for children’s alternative care; this, in response to complaints about abuse in the foster care home, Children's Emergency Hostel[[156]](#footnote-156). Nevertheless, the Commission takes note that measures have not been adopted to prohibit corporal punishment at home and at schools, and that this practice is still allowed under Article 110 of the Criminal Code.[[157]](#footnote-157) The IACHR once again urges the State to prohibit all forms of punishment of children and adolescents in all settings.
12. In terms of **persons in the context of human mobility**, the Commission notes with concern the operation of April 8, 2021, which resulted in the detention of migrants with an irregular immigration status in the Bahamas, as well as the destruction of the community known as the *Farm*, located close to *Treasure Cay*, Abaco.[[158]](#footnote-158) In this context, the IACHR notes that a group of United Nations Rapporteurs urged the State to stop the demolition of approximately 600 houses at two informal settlements known as the *Farm* and *Farm Road* on the island of Abaco. They added that if the demolitions scheduled for May 7 were to take place, some 2,000 Haitian migrants, including women and children, would be at serious risk of becoming homeless.[[159]](#footnote-159)
13. In addition, the IACHR cautions that the State is implementing an immigration policy aimed at containing the forced displacement of people through measures such as: limiting access to its territory, applying immigration detention, and executing procedures for collective expulsion that do not identify potential needs for international protection.[[160]](#footnote-160) In keeping with official information, at least 1,386 Haitians would have been expelled from the country in 2021.[[161]](#footnote-161) Also, the Commission observes that persons who entered outside of regular entry channels are being accused of the crime of illegal entry, as well as of other violations of the Immigration Act. As a result , these people are sentenced to pay a fine and ordered to be expelled from the country. In some cases, they are also made to serve a prison sentence at a State-run correctional center.[[162]](#footnote-162) In this respect, the Commission recalls that the fact that an immigrant is in an irregular situation in a State does not cause harm to any fundamental legal interest that requires protection from the State’s correctional authorities. Therefore, the imposition of a penalty for irregular entry, presence, stay, or immigration situation is disproportionate under criminal law.[[163]](#footnote-163)
14. With respect to reducing the number of cases of **statelessness**, the IACHR welcomes the Court of Appeals’ judgment of June 21, 2021, which upholds the Supreme Court’s judgment of May 2020—this allows children born in the Bahamas to acquire nationality upon birth when one of their parents is Bahamian, regardless of the parents’ marital status.[[164]](#footnote-164) Prior to this decision, these children had to wait until they were 18 years old before requesting citizenship.[[165]](#footnote-165)
15. In relation to **human trafficking**, the Commission takes note of the Ministry of Security's anti-trafficking awareness campaign titled "no one is for sale," that would attempt to involve the general population in denouncing possible cases of human trafficking.[[166]](#footnote-166)
16. As for **persons deprived of liberty**, the IACHR observes overcrowding at Her Majesty’s Prison, Fox Hill—the only penitentiary in the country—with a 161.7% level of overcrowding, as well as the high number of persons in prevention detention, which is equivalent to 37% of the total prison population.[[167]](#footnote-167). With regard to recidivism of individuals who have been incarcerated, according to official data, the rate of recidivism fell to 12% in 2020 as compared to 14% in 2019.[[168]](#footnote-168) Likewise, the Government has highlighted its efforts to implement social reintegration programs to make the criminal justice system more effective, in particular through the use of integrated emerging technologies.[[169]](#footnote-169) The IACHR also takes note of the commitment of The Bahamas’ to expunge the criminal records of first-time non-violent offenders.[[170]](#footnote-170) According to public information, more than 100 applications have been submitted for the expungement of criminal records.[[171]](#footnote-171)
17. The Commission takes note that this year the **death penalty** has not been applied, no one has been condemned to death since 2000, and no one is currently on death row. Nevertheless, there has been no progress in eliminating the death penalty from domestic legislation.[[172]](#footnote-172) In this respect, the IACHR once more urges the State to adopt the necessary measures to abolish this punishment.

**BARBADOS**

* **Overview**
1. Regarding **progress made**, the IACHR applauds the democratic process undertaken for the State’s transition to a Republic. In this context, it highlights the election of Sandra Mason as the country’s first president and the announcement that a new constitution is to be drafted. It also notes the decrease in crime and the priority placed by the State on the distribution of COVID-19 vaccines to persons deprived of liberty. The Commission also highlights the initiatives adopted to improve accessibility for persons with disabilities and the approval of the National Action Plan to Combat Human Trafficking.
2. As regards **challenges**, the Commission notes its concern regarding the adoption of measures that limit the protection of women victims of violence, the lack of updated information on situations of violence faced by women, the increase in domestic violence cases during the pandemic, and reports of acts of sexual abuse and street harassment against tourists. The IACHR also notes that pretrial detention is enforced in contravention of applicable international standards and that the death penalty remains on the country’s statute books. Similarly, the IACHR expresses concern about the criminalization of consensual same-sex sexual relations, and about the lack of equal housing and education opportunities for persons with disabilities. The State did not respond to the request for information for the preparation of this chapter.
* **Specific problems**
1. As regards **human rights institutions**, the IACHR has noted that Barbados has an Office of the Ombudsman,[[173]](#footnote-173) which is a member of the Caribbean Ombudsman Association,[[174]](#footnote-174) the Commonwealth Forum of National Human Rights Institutions,[[175]](#footnote-175) and the International Ombudsman Institute.[[176]](#footnote-176) The office lost its accreditation as an NHRI in 2001 because it was deemed not to be in compliance with the Paris Principles;[[177]](#footnote-177) it currently operates in the absence of that accreditation. On the other hand, the Commission highlights the training of immigration and security officers of the Defense and Security Division carried out by the Immigration Department, which covered such human rights issues as human trafficking.[[178]](#footnote-178)
2. With respect to **democratic institutionality,** the Commission applauds the democratic process instituted for the State’s transition to a Republic. In this regard, it takes particular note of the election of the country’s first president and the announcement of the drafting of a new constitution. In its press release of December 10, the IACHR noted that DameSandra Mason had officially replaced Queen Elizabeth II as head of state on November 30, and it applauded the formal transition of Barbados to a republican State, eliminating its last colonial link after nearly 400 years of British rule.[[179]](#footnote-179) This was done in accordance with the vote held on October 20, 2021, in which Mason was elected by Parliament as the country’s first president, a development that was welcomed by the Commission at the time.[[180]](#footnote-180) The IACHR reiterates that Barbados’s transition to a Republic strengthens its democratic institutions and that representative democracy is indispensable for the effective exercise of human rights.
3. In this context, the Republican Status Transition Advisory Committee was created on May 22, 2021, to strengthen the State’s transition to a republic.[[181]](#footnote-181) In particular, among its other functions, the Committee is responsible for: (i) establishing the necessary constitutional requirements for the transition, (ii) determining the roles of different governmental institutions, and (iii) addressing issues related to the rights and freedoms of the inhabitants of Barbados.[[182]](#footnote-182) The Commission also notes that the Committee was tasked with ensuring full public participation throughout the consultation process.[[183]](#footnote-183) In addition, in the context of strengthening the country’s democratic institutions, the IACHR welcomed the announcement made by the Prime Minister on August 21 regarding the start of public consultations in January 2022 for the drafting of a new constitution.[[184]](#footnote-184)
4. Regarding **citizen security**, the Barbados Police Service reported during a public interview that between January 1 and June 5, 2021, and compared to the corresponding period in 2020, a decrease of 26% in the total number of reported crimes, 34% in serious crime , and 47% in the number of homicides.[[185]](#footnote-185) The Commission also notes that although the police data indicate a reduction in serious crime, fear of crime had reportedly increased due to the publicity given to the commission of this type of crimes. The IACHR notes that to address this perception of crime, the Barbados Police Service raised the visibility of its actions and implemented an outreach strategy to strengthen its community ties.[[186]](#footnote-186)
5. As regards **access to justice,** the Commission takes note of the launch of an electronic filing system and a Court Case Management System (CCMS) for a more expeditious administration of justice. Thus, on September 15, 2021, the judiciary launched the *APEX Curia* electronic filing system, which was created to manage the duration of cases and evaluate the overall performance of the courts. According to the Bar Association, this tool is expected to improve the processing of civil and family cases.[[187]](#footnote-187) The IACHR further notes that the State launched the CCMS project for the management of case schedules, including cases involving the collection and distribution of child support.[[188]](#footnote-188) According to the State, the success of the CCMS will require additional staff training to improve access to the justice system.[[189]](#footnote-189)
6. With reference to the **human rights of women**, the IACHR welcomes the March 2021 launch of the Gender Violence in the Workplace Project,[[190]](#footnote-190) in collaboration with UN-Women, which seeks to increase knowledge on the subject through various training tools. However, the IACHR notes the lack of updated information on situations of violence faced by women. In that regard, it points to the 2020 statistics, which show a 38% increase in domestic violence cases during the pandemic.[[191]](#footnote-191) It also expresses concern about reports of sexual abuse and street harassment against tourists.[[192]](#footnote-192) At the same time, the IACHR regrets the Appeals Court’s decision that adds a time limit to the definition of “former spouse” contained in the Domestic Violence Protections Orders Act, restricting access to protection orders by those women victims of violence who are no longer in a relationship with their aggressors.[[193]](#footnote-193)
7. Regarding the **rights of persons deprived of liberty**, the IACHR is concerned about the denial of bail for certain types of offenses and the spread of COVID-19 among detainees at Dodds Prison, the country’s sole penitentiary. The IACHR notes that under the Bail (Amendment) Act,[[194]](#footnote-194) persons charged with serious firearms offenses or homicide cannot apply for bail: instead, those suspected of such offenses must be remanded in custody for 24 months, unless a High Court judge determines that the case against the accused is “weak.”[[195]](#footnote-195) According to available information, a judge of the Barbados High Court ruled on May 18 that the Bail (Amendment) Act was unconstitutional as it violates the fundamental rights of the accused, including personal liberty, the presumption of innocence, and the right to a fair trial.[[196]](#footnote-196) In that context, the IACHR calls on the State to implement the necessary measures to reduce the use of preventive custody and to guarantee that it is enforced on an exceptional basis and is constrained by the principles of the presumption of innocence, legality, exceptionality, proportionality, rationality, and necessity. In particular, it is recommended that the State regulate and implement alternative measures, such as bail.
8. The Commission also notes that according to public information, in September 2021 the State prioritized the vaccination of persons detained at Dodds Prison. The Commission applauds this decision, which is in line with the call made in IACHR Resolution 1/21 on COVID-19 vaccines for States to prioritize the vaccination of persons who are at greater danger of infection due to their special situations of risk.[[197]](#footnote-197)
9. With respect to the **death penalty**, the Commission notes that the number of persons sentenced to death remains at 10, as reported by the IACHR in 2020,[[198]](#footnote-198) and that no progress has been made with removing this penalty from the statute book. This is despite the fact that no executions have been carried out since 1984.[[199]](#footnote-199) The IACHR once again urges the State to abolish capital punishment.
10. As regards the rights of **LGBTI persons**, the IACHR notes that the proposed “Charter of Barbados” includes protection against discrimination on the grounds of gender and sexual orientation.[[200]](#footnote-200) Nevertheless, the Commission notes with concern that Chapter 154, Section 9, of the Sexual Offences Act, which criminalizes same-sex relations between consenting adults, remains in force, as does the offense of “serious indecency.”[[201]](#footnote-201)
11. The Inter-American Commission has stated that laws that punish a particular group of persons for engaging in a consensual sexual act or practice with another person of the same gender are unacceptable, as they stand in direct opposition to the prohibition of discrimination on the basis of sexual orientation.[[202]](#footnote-202) Furthermore, the IACHR reiterates that such laws reinforce preexisting social prejudices and significantly heighten the negative effects that those prejudices have on the lives of LGBTI persons.[[203]](#footnote-203)
12. With respect to the **rights of children and adolescents**,the Commission notes that the Ministry of Home Affairs prohibited the use of prolonged solitary confinement as a disciplinary measure at the Government Industrial School (GIS), a public institution responsible for providing alternative care for minors.[[204]](#footnote-204) The Commission notes that the decision was taken by the government at the conclusion of its investigation into the abuse—reported on social networks—of one of the residents of the Industrial School for Girls, who was stripped naked and placed in solitary confinement.[[205]](#footnote-205) According to information from the government, the incident was the culmination of several years of this practice.[[206]](#footnote-206) In this respect, the IACHR notes that the State began an investigation into the facts and into disciplinary practices at the GIS, imposed an immediate ban on that form of punishment,[[207]](#footnote-207) and appointed a new board of directors for the institution.[[208]](#footnote-208)
13. Regarding the **rights of persons with disabilities**, the Commission takes note of the initiative for adequate management of public spaces[[209]](#footnote-209) and the adaptation of public transport to facilitate access by persons with disabilities.[[210]](#footnote-210) Similarly, the IACHR has recorded the challenges faced by such persons in accessing adequate housing[[211]](#footnote-211) and the education system, under conditions of equality.[[212]](#footnote-212)
14. In relation to **trafficking in persons**, the IACHR notes that the 2021-2023 National Action Plan to Combat Human Trafficking was approved at the beginning of the year, with the aim of determining the nature and scope of this crime at the national level.[[213]](#footnote-213) It also takes note of the development of e-learning modules by the Attorney General’s Office to train immigration agents, customs officials, and the Royal Barbados Police on human trafficking issues.[[214]](#footnote-214)

**BELIZE**

* **General**
1. Concerning **progress** made by the Government, the Commission highlights the efforts to investigate and punish acts of corruption. It likewise observes the measures taken to lower the backlog of judicial cases. The IACHR also highlights actions taken to launch a campaign against gender-based violence and to implement a plan to advance children’s rights. It welcomes the measures taken to prioritize the protection of migrant children, the COVID-19 vaccination of persons in human mobility, and the granting of special work permits to asylum-seekers in the country. Finally, the Commission takes note of the actions undertaken by the State for the protection of and eventual reparations to persons of African descent, and highlights the inter-agency agreement between Belize and Honduras to protect victims of trafficking.
2. As for **challenges**, the IACHR notes that the new Ombudsman has not yet been appointed. The Commission is concerned about the increase in homicide reports in some districts of the country and about the low percentage of women appointed to decision-making positions nationally. The Commission also expresses deep concern about reports of an increase in cases of child sexual abuse and the vulnerability of children in the context of the pandemic. On the other hand, it cautions the practice of arresting migrants and reiterates the lack of progress by the State with abolishing the death penalty.
3. The State did not respond to the request for information for the preparation of this chapter.
* **Specific Issues**
1. On the cross-cutting axis of **human rights institutions**, the IACHR takes note of the institutional change promoted in the office of the Ombudsman. In this context, the Commission calls for the appointment of a new head of the institution[[215]](#footnote-215) and for strengthening the body under the principles of independence and autonomy in accordance withthe Paris Principles to promote and protect human rights in the country.
2. On the other hand, the IACHR has pointed out that a complementary aspect of human rights institution-building is the revision of fiscal policies and state budgets to finance human rights. In this regard, the Commission takes note of the information published by the Ministry of Finance to promote transparency in budget forecasts.[[216]](#footnote-216) This presupposes that the Government has timely, complete, sufficient, and reliable data and information to make the decisions that will give effect to human rights.[[217]](#footnote-217)
3. Likewise, as part of the institutional framework to promote and protect the human rights of vulnerable individuals and groups, the IACHR notes the reformulation and relaunch of the Joint Sexual Violence Prevention and Response (JSVPR) Programme, within the global *Spotlight* initiative. This program proposes ending sexual violence against women within the Belize Security Forces and would provide services in response to acts of sexual violence.[[218]](#footnote-218) The IACHR recalls the importance of promoting capacity-building on the causes and consequences of gender-based violence for security personnel and other public servants throughout the government.[[219]](#footnote-219)
4. Concerning **democratic institutionality**, the Commission notes the Government’s efforts to combat corruption and, in particular, to enforce the Prevention of Corruption Act against officials involved in acts of corruption. With respect to the fight against corruption, public information indicates that the Government announced that it would investigate all acts of corruption committed in previous years.[[220]](#footnote-220) In this context, the Supreme Court of Belize issued a ruling on the unconstitutionally of the use of public funds by the former Prime Minister and the Minister of Finance without the approval of the National Assembly of Belize.[[221]](#footnote-221)
5. As to enforcement of the Prevention of Corruption Act (2007), the IACHR notes that the Government filed a complaint under Articles 3 and 4 of that Act concerning the investigation of the former Minister of Finance for embezzlement of government resources for private purposes.[[222]](#footnote-222) Thus, on September 7, 2021, the former Minister of Finance was charged with corruption, abuse of authority, and for causing harm to the public while in office.[[223]](#footnote-223) Accordingly, the Commission recalls that the obligation of governments to investigate any conduct that harms the rights protected by the American Convention holds regardless of which officials may eventually be indicted for such violations. In addition, where the conduct in question may involve the participation of state agents, governments have a special obligation to clarify the facts and to prosecute those responsible.[[224]](#footnote-224)
6. As for **citizen security**, the Commission notes an increase in crime by organized criminal groups, particularly in the Southside of Belize City. Accordingly, the IACHR notes that 125 homicides were reported during January and December 2021, a 23% increase over the 102 homicides reported in 2020.[[225]](#footnote-225) The Commission also notes that most of the killings during the period were in the districts of Belize City and Cayo, with 53.6% and 24.8%, respectively.[[226]](#footnote-226)
7. The Commission also notes that the Belize Police Force (BPF) identified the Southside of Belize City as a focus of armed violence and crimes perpetrated by organized criminal groups.[[227]](#footnote-227) As a result, on August 18, 2021, the Government declared a state of emergency in that area, in accordance with article 18 (3) of the Constitution of Belize.[[228]](#footnote-228)
8. As for **access to justice**, the Commission notes the Government’s efforts to lower the backlog of cases in the country. Accordingly, the IACHR notes that the Judicial Reform and Institutional Strengthening (JURIST) Project, in conjunction with the Belize Judiciary, would be working to establish procedures and systems to reduce and prevent court delays. Also, in February 2021, this project started to provide technical assistance to achieve a better enforcement of the rules, procedures, and practices related to the Lower Court of Appeals.[[229]](#footnote-229) The Commission notes that the JURIST Project has trained court officials, judicial staff, and other stakeholders, and has revised the existing rules and procedures to enhance access to justice for the people of Belize.[[230]](#footnote-230)
9. Regarding **the human rights of women**, the IACHR notes that, within the framework of the 16 days of activism around the International Day for the Elimination of Violence against Women, the National Women’s Commission launched a Resource Package that seeks to involve the government, non-governmental organizations, and the private sector in an activism campaign to further the struggle against gender-based violence.[[231]](#footnote-231) Conversely, the Commission highlights that official records report a drop in the cases of violence against women compared to 2020. Accordingly, from January to September 2021, there were six femicides, 10 rape cases, 35 cases of statutory rape (under age 16), and 1,391 reports of family violence against women, as compared to 2020, which reported nine femicides, 20 rape cases, 45 cases of statutory rape (under age 16), and 1,918 reports of domestic violence against women.[[232]](#footnote-232) In addition, the IACHR notes the low representation of women in decision-making positions. According to official information, a mere 4% of cabinet positions are held by women and only 20% of local representatives are female.[[233]](#footnote-233)
10. Concerning **children’s rights**, the Commission expresses deep concern for the cases of child sexual abuse in the country. According to the Ministry of Human Development and the Office of the Special Envoy for the Development of Families and Children, 220 sexual abuse reports were received during January to June 2021, in comparison to the 366 reports received in 2020.[[234]](#footnote-234) Also according to official information, sexual abuse is still the second most reported form of child abuse in Belize. The Government has recognized the need to increase the protection of children, since the COVID-19 pandemic would have increased their vulnerability to such incidents.[[235]](#footnote-235) The Commission urges the Government to take all necessary measures to guarantee their safety and provide them with medical and psychological care. It recalls that States have a strong obligation to take specific and special measures, and to incorporate a holistic, multi-sectoral and comprehensive approach that addresses the structural and endemic causes of violence, in particular sexual violence.[[236]](#footnote-236)
11. On another note, the Commission highlights the Government’s partnership with UNICEF to implement the 2021-2022 Work Plan of the Sustainable and Child-Friendly Municipalities Initiative (SCFMI). According to official information, this is a rights-based, child-centered initiative that seeks to support the implementation of programs that promote children’s rights in municipalities.[[237]](#footnote-237)
12. As for **persons in human mobility**, the IACHR notes the actions taken by the Government in June 2021, to validate the Protocol for the Care of Accompanied and Unaccompanied Migrant Children in Belize. According to official information, this protocol is governed by national, regional, and international conventions that give priority to children’s rights to life, survival, security, and shelter.[[238]](#footnote-238)
13. The Commission welcomes the decision of the Ministry of Health and Welfare to facilitate COVID-19 vaccination for asylum seekers, refugees, and migrants holding identity cards issued by Belizean authorities or by authorities from their country of origin.[[239]](#footnote-239) According to UNHCR information, the Government has decided to grant special work permits to 600 asylum-seekers in the country. The UNHCR stresses the significance of this decision in the current context of recovering from the socio-economic impacts of the pandemic.[[240]](#footnote-240) The Commission notes that the Human Rights Commission of Belize (HRCB), in conjunction with the UNHCR, will be offering asylum-seekers in the country access to legal services.[[241]](#footnote-241)
14. Finally, the Commission notes with concern that, according to the Belize Crime Observatory, the number of persons deprived of liberty rose in June 2021, due to the detention of migrants from neighboring Central American countries such as El Salvador, Guatemala, and Honduras.[[242]](#footnote-242)
15. Concerning **the rights of persons of African descent and against racial discrimination**, the Commission notes the motion submitted by the first deputy minister and member of the House of Representatives regarding the plan of reparative justice for the transatlantic trafficking in enslaved persons and slavery in British Honduras. According to public information, the Government proposes presenting the case to determine whether the United Kingdom is responsible for the illegal seizure, transport, and subsequent enslavement of African people in Belize under the British colonial regime up to 1833. If it is found liable, the United Kingdom, among other things, should provide reparations, on behalf of the enslaved, to their descendants in Belize, the then British Settlement in the Bay of Honduras.[[243]](#footnote-243) In this context, the IACHR encourages Belize to continue pursuing comprehensive reparation measures for people of African descent and tribal communities for serious human rights violations, in the framework of discrimination and related forms of intolerance based on ethnic-racial origin.
16. With regard to **human trafficking**, the Commission notes that the Governments of Belize and Honduras are taking inter-agency measures to protect persons from this crime. These actions are reportedly aimed at: (i) discussing and analyzing the trends and dynamics of the crime of human trafficking; (ii) identifying the support services offered by both countries; and (iii) establishing a road map for the protection of victims.[[244]](#footnote-244)
17. Regarding the **death penalty**, the Commission notes a lack of progress in striking it from the statutory books, even though the State has not carried out executions since 1985 and no person is currently sentenced to death.[[245]](#footnote-245) The IACHR once again urges the State to work toward the abolition of the death penalty.
18. As for the **rights of indigenous peoples**, the Commission notes that, according to civil society organizations, on June 16, 2021, the Supreme Court ruled that the Jalacte community had the right to free, prior, and informed consent to its customary lands. In particular, the Court noted that the State had violated the constitutional rights of the Mayan peoples, determined that it was responsible for returning the lands taken without community consent, and ordered the payment of compensation equivalent to 3.12 million dollars. [[246]](#footnote-246)
19. The Commission emphasizes that the decision of the Supreme Court of Belize, in addition to being a fundamental recognition of territorial rights and reparation for the Jalacte Maya community, represents an important advance in the application of compliance with human rights conventions by domestic courts.

**BOLIVIA**

* **General considerations**
1. In the course of 2021, the IACHR took note of **progress** made in Bolivia, including measures for modernizing the justice system and ensuring access to justice with a gender and diversity perspectives, as well as actions to prevent violence against women and LGBTI persons and initiatives to guarantee the rights of persons of African descent.
2. In addition, the IACHR supports the commitment of the State to address the recommendations of the final report of the Interdisciplinary Group of Independent Experts (GIEI-Bolivia) to ensure the right to justice and reparation for the victims of the human rights violations committed in the last quarter of 2019.
3. The IACHR also notes **challenges** in the area of human rights, mainly the prevalence of situations of violence motivated by historic social tensions and on occasion fomented by racial discrimination, with negative impacts on citizen security.
4. The State responded to the request for information sent by the IACHR for preparing this chapter.
* **Specific issues**
1. In the area of the **institutional framework for human rights**, the IACHR takes note of the designation of the Office of the Human Rights Ombudsperson (Defensoría del Pueblo) as the National Mechanism for the Prevention of Torture.[[247]](#footnote-247) In addition, the Commission notes the work of the Office of the Human Rights Ombudsperson as the national human rights institution by the signing and execution of interinstitutional agreements for the promotion of human rights[[248]](#footnote-248) and for carrying out training activities.[[249]](#footnote-249) Nonetheless, the IACHR notes no titular ombudsperson has been designated; the Office is currently steered by an interim Ombudsperson.[[250]](#footnote-250)
2. As for the democratic institutional framework, the Commission noted that elections were held for departmental, regional, and municipal authorities, without reports of any incidents affecting the celebration of the elections in peaceful conditions. In this respect, reports from the observation missions concluded that the election process was successful.[[251]](#footnote-251)
3. As regards **citizen security,** the State reported on the creation of a Gender Unit within the Bolivian Police to investigate reports of physical, psychological, and sexual violence against women.[[252]](#footnote-252) Moreover, the IACHR takes note of the implementation of the plans “Mi Barrio Seguro” and “Bol-110,” whose objective is crime prevention and response.[[253]](#footnote-253)
4. The IACHR also followed up on situations of violence reported during demonstrations in Bolivia as from November 8, 2021.[[254]](#footnote-254) According to information from the Office of the Ombudsperson, in that context the death of one person was reported in Potosí – it is currently under investigation[[255]](#footnote-255) – as well as attacks on and obstacles to the exercise of journalism[[256]](#footnote-256), confrontations among citizens[[257]](#footnote-257), threats against persons who exercise social leadership or who hold public office[[258]](#footnote-258), and acts of harassment directed against the Casa de la Mujer in Santa Cruz[[259]](#footnote-259), among others.
5. Based on the information received, the IACHR issued an appeal to strengthen dialogues for generating points of consensus in Bolivia.[[260]](#footnote-260) The Commission notes that historical social tensions in Bolivia have an impact on the situation of citizen security and the general human rights situation, as was brought to light during the November 2021 demonstrations. Accordingly, the IACHR reiterates the importance of bringing about an environment conducive to dialogue, reconciliation, and the easing of latent tensions and hostilities in Bolivian society.
6. As regards **access to justice and judicial independence,** the State reported on measures implemented in 2021 to ensure and improve effective access to criminal justice by means of IT tools, with gains in access to electronic records of cases processed by the Office of the Attorney General and the Supreme Court of Justice.[[261]](#footnote-261) The State noted that the process of improving the IT systems is also used to facilitate access by various institutions of the criminal justice system to the information needed to reduce overcrowding in prisons.[[262]](#footnote-262)
7. In addition, the State reported on training of the personnel the Office of the Attorney General for protecting the rights of women, LGBTI persons, and other populations in situations of vulnerability.[[263]](#footnote-263) Along the same lines, the State reported that the Departmental Courts of Justice received guidelines for administering justice with gender, intersectional, and intercultural perspectives[[264]](#footnote-264), which the IACHR considers a positive development. The State also highlighted the working groups for addressing judicial backlogs in the various jurisdictions.[[265]](#footnote-265)
8. As regards access to justice for the serious human rights violations committed in the last quarter of 2019, the Commission notes the submission of the final report by the Interdisciplinary Group of Independent Experts (GIEI-Bolivia) on August 17, 2021.[[266]](#footnote-266) In this respect, the IACHR reiterates that it welcomes the acceptance by the Plurinational State of Bolivia of the installation of the GIEI and its offer to the experts – as well as their technical team – of the conditions necessary for carrying out their work in a climate of security, free from interference.[[267]](#footnote-267) In addition, the Commission is pleased to observe the willingness expressed by the State to carry out the recommendations of the GIEI-Bolivia.[[268]](#footnote-268)
9. Along those lines, the IACHR took note of the repeal of Presidential Decree 4461 “Granting Amnesty and Pardon for Humanitarian Reasons and for Persons Persecuted for Political Reasons,” mindful of the observations of the GIEI-Bolivia.[[269]](#footnote-269) The Commission notes that while the Decree had aims that may be consistent with inter-American standards for handling complaints of political persecution, it included vague and indeterminate language that could have a negative impact on the right to truth, justice, and reparation of victims of human rights violations.[[270]](#footnote-270)
10. The IACHR also took note of the judicial proceedings for the crimes of sedition, terrorism, and conspiracy against various persons, including some of those who held public office during the last quarter of 2019.[[271]](#footnote-271)
11. In this respect, the Commission highlighted the recurrence of complaints of acts and patterns of judicial persecution of political opponents, in different administrations of the Government of the Plurinational State; such persecution, it was reported, was carried out by using the criminal statutes on sedition and terrorism, among others.[[272]](#footnote-272) Along those lines, without prejudging the specific criminal cases, the IACHR reiterates, as it did in its press release, that certain national laws on anti-terrorism violate the principle of legality by including definitions of terrorism that inevitably end up being excessively broad and vague.[[273]](#footnote-273)
12. On the situation of **persons in human mobility**, the IACHR takes note of the adoption of Supreme Decree No. 4576 of August 26, 2021, which makes it possible to regulate – for up to two years – the immigration status of those persons who are in Bolivia with irregular status.[[274]](#footnote-274) It was also learned that the Ministry of Health and Sports, in conjunction with the International Organization for Migration (IOM), authorized the registration of foreign persons in the Single Health System in order to provide free access to comprehensive health services to migrants, and in particular to the populations in vulnerable circumstances.[[275]](#footnote-275)
13. As regards **human trafficking,** the Commission takes note of the strategy adopted by the State to prevent human trafficking by awareness-raising and giving visibility to this crime.[[276]](#footnote-276) It also highlights the actions carried out by the Plurinational Council against Trafficking and Smuggling of Persons to analyze the amendments to the Comprehensive Law against Trafficking and Smuggling of Persons, number 263, whose objective is to fight the trafficking and smuggling of persons and related crimes and to guarantee the fundamental rights of the victims by consolidating measures and mechanisms for prevention, protection, attention, prosecution, and criminal punishment of these offenses.[[277]](#footnote-277) The IACHR observes that according to reports by the State, in all 200 victims were reported, 70% of them children and adolescents, in the first half of 2021.[[278]](#footnote-278)
14. As regards the rights of **LGBTI persons**, the State informed the IACHR of Resolution 1/2021 of the National Committee against Racism and All Forms of Discrimination, on crafting policies of respect for LGBTI persons in all public institutions for the purpose of preventing discrimination.[[279]](#footnote-279)
15. The IACHR received information from civil society organizations regarding acts of discrimination during the pandemic, including the proliferation of stigmatizing and pathologizing messages to LGBTI persons, violations of the rights of trans persons engaged in sex work, discrimination against older, indigenous, and peasant LGBTI persons, and LBT women, as well as the undersupply of medicines for persons living with HIV.[[280]](#footnote-280) The IACHR recognizes the commitment of the State to incorporate a gender-diversity perspective in the measures to address the pandemic in response to the complaints from civil society.[[281]](#footnote-281)
16. The IACHR also received information on the lack of systematic and disaggregated statistical information to understand and address the phenomenon of violence against LGBTI persons in Bolivia. In that connection, the IACHR regrets the reported assassination of a 19-year-old trans woman in Cochabamba.[[282]](#footnote-282)
17. As regards the **rights of older persons**, the Office of the Human Rights Ombudsperson reported a 104% increase in complaints referring to violations of the human rights of older persons, of which there were 1,027 as of July 2020; and as of July 2021 the figure to date for 2021 totaled 2,094 cases.[[283]](#footnote-283) According to the report by that Office, there were reports of violations of dignity, preferential treatment, individual private property and holdings, due process guarantees, and access to justice.
18. As regards the rights of **Afro descendant persons and against racial discrimination**, the State reported on the program “Solidarity Social Fellowships” (“Becas Social Solidaria”), geared to students with scant economic resources, social organizations, Indigenous nations and peoples, peasant communities, and intercultural and Afro-Bolivian communities for university studies. In addition, the State reported that the Office of the Human Rights Ombudsperson and the National Afro-Bolivian Council (CONAFRO: Concejo Nacional Afroboliviano) signed a framework agreement for interinstitutional collaboration that will enable them to implement joint actions to contribute to implementing the Decade of the Afro-Bolivian People.[[284]](#footnote-284)
19. In its monitoring work the IACHR also observed that Municipal Law No. 1038 was promulgated in the municipality of Cochabamba; it guarantees the protection and promotion of the cultural, material, and non-material heritage of the Afro-Bolivian people. That law is aimed at preserving their identity and fostering, protecting, revitalizing, and disseminating the rights of those persons.[[285]](#footnote-285)
20. The Commission encourages the State of Bolivia to continue making progress with the adoption of special measures to guarantee the rights of Afro descendant persons and to eradicate racial discrimination.
21. As regards the rights of **persons with disabilities**, the Commission took note of the Ombudsperson Resolution that made recommendations aimed at ensuring the right to protest for persons with disabilities, and issuing instructions for police personnel that establish a protocol for action during demonstrations that involve persons with disabilities.[[286]](#footnote-286)
22. The Commission has received reports on the persistence of barriers to accessing medical services, the lack of accessibility for engaging in transactions in the public administration, and the violations entailed in the low number of interpreters for persons with auditory disability.[[287]](#footnote-287)
23. As regards the rights of **children and adolescents,** the IACHR welcomes the approval, by the Legislative Assembly, of the reforms to the Code on Children and Adolescents, amended by the Law on Abbreviated Procedures for Guaranteeing Restitution of the Human Rights to the Family for Children and Adolescents.[[288]](#footnote-288) According to the official information, the purpose of that reform is to facilitate and expedite the procedures of temporary urgent or exceptional protection (*acogimiento circunstancial*), judicial determination of filiation (*filiación judicial*), extinction of paternal or material authority, and adoption, with the aim of ensuring restitution of the right to the family for children and adolescents without parental care who are under the extraordinary tutelage of the State.
24. In addition, the IACHR learned of the introduction of a bill to create a national scholarship program for orphaned children and adolescents who are victims of COVID-19, with scant resources, at a superior professional level in technical and technological programs and undergraduate higher education.[[289]](#footnote-289)
25. On **persons deprived of liberty**, the IACHR observes with concern that of the countries of the region, Bolivia is fourth in the percentage of persons deprived of liberty who are being held in pretrial detention. In particular, according to official data, 65% of persons facing charges are held in pretrial detention.[[290]](#footnote-290) According to civil society organizations, this figure is closer to 70%.[[291]](#footnote-291)
26. In this regard the Commission notes that these figures show that pretrial detention is not being used in keeping with its exceptional nature. In addition, civil society groups informed the IACHR of the increased use of pretrial detention.[[292]](#footnote-292) In this context, the IACHR urges the State to adopt the measures necessary to reduce its use and to ensure it is applied exceptionally and limited by the principles of presumption of innocence, legality, exceptionality, proportionality, rationality, and necessity.
27. With respect to the **rights of women,** the Commission notes the installation of the National Commission for Monitoring Cases of Femicide[[293]](#footnote-293) and the legislative proposal of the Office of the Human Rights Ombudsperson for the creation of a bond for children who are orphans as a result of femicide[[294]](#footnote-294). In addition, the Commission takes note of the publication of the Protocol for processing information on gender-based violence[[295]](#footnote-295), which establishes guidelines for standardizing the processing of such information[[296]](#footnote-296); in addition, the Commission notes regulation of the procedure for addressing complaints of workplace harassment and sexual harassment of women in the workplace applicable to both the public and private sectors.[[297]](#footnote-297)
28. Nonetheless, the IACHR notes with concern official figures that report 97 femicides from January 1 to November 8, 2021, and 32,016 cases of family or domestic violence.[[298]](#footnote-298) In addition, the IACHR reiterates its concern over the persistence of cases of sexual violence, especially against girls and adolescents.[[299]](#footnote-299) The IACHR observes with concern the persistent reports of political violence against women, with 23 reports from January to November 2021, according to official data.[[300]](#footnote-300)
29. As for sexual and reproductive rights, the IACHR notes with concern the publicly available information that points to Bolivia as one of the countries with the highest rates of teenage pregnancy in the region[[301]](#footnote-301) According to official figures, from January to July 2021 there were 22,221 pregnancies in persons under 18 years of age; an increase is anticipated towards yearend.[[302]](#footnote-302)
30. Moreover, the IACHR expresses concern over the persistent *de facto* limitations that stand in the way of girls and adolescent females accessing the legal interruption of pregnancies in cases of statutory rape and rape (*estupro* and *violación*). According to information provided to the IACHR, only 8% of 277 health care providers at 44 health centers nationwide know in which cases a legal interruption of a pregnancy may be performed.[[303]](#footnote-303)
31. At the same time, the Commission notes the reports from civil society with respect to the barriers and lack of access to sexual and reproductive health services, particularly in rural areas during the COVID-19 pandemic. Such barriers include demanding a negative test as a condition for accessing the services, as well as the limited provision of these services at hospitals.[[304]](#footnote-304) The IACHR also observes that the COVID-19 pandemic became the leading cause of death of pregnant women in Bolivia, with a rate of 10.1 per 100,000 live births.[[305]](#footnote-305)
32. In addition, the Commission takes note of the lack of gender parity in candidacies for public office during the subnational elections of 2021, highlighting that only 14% of the candidates for mayors’ offices were women, and only 8% of gubernatorial candidates.[[306]](#footnote-306)
33. As regards the **rights of indigenous peoples**, the Commission received information on mobilizations of the peoples of the Oriente, the Bolivian Amazon, and the Bolivian Chaco in defense of their territories, identity, and culture, to demand of the Government respect for their lands, protesting the invasion and destruction of their territories.[[307]](#footnote-307)
34. The IACHR was informed of the reactivation of the Chepete and El Bala hydroelectric project by the state-owned Empresa Nacional de Energía Eléctrica (Ende), whose implementation would negatively impact more than 5,000 members of indigenous communities who live in the areas of the Madidi National Park and Integrated Management Area and the Pilón Lajas Biosphere Reserve and Indigenous Community Land, in the department of La Paz. Press reports indicate that one member of the national coordinating group for indigenous territories and protected areas Coordinadora Nacional de Defensa de Territorios Indígenas Originarios Campesinos y Áreas Protegidas (Contiocap) noted that implementation of the project would entail the forced displacement of the communities from the territory.[[308]](#footnote-308)
35. In addition, the Commission takes note of the continuation of the activities of extractive enterprises, including in mining, forestry, oil, and hydroelectric power. The Commission has also noted complaints because of the invasion by peasants and drug-trafficking interests of the spaces and areas occupied by indigenous peoples in voluntary isolation, placing these peoples in an even more vulnerable situation[[309]](#footnote-309) and at risk of extinction.
36. The IACHR further underscores the information with regard to instituting a criminal trial for the crimes of racism and discrimination after the affront to the Wiphala flag and other incidents in the department of Santa Cruz.[[310]](#footnote-310) Similarly, the report of the Office of the Human Rights Ombudsperson concluded that the state policy on prevention and management of COVID-19 lacks an intercultural, differentiated approach that takes account of cultural belonging, such as native language, cosmovision, ancestral traditional medicine, and that the Epidemiological Notification Data Sheet of the Ministry of Health does not include a section for the cultural identification of patients suspected of or actually having COVID-19.[[311]](#footnote-311)
37. As regards **memory , truth, and justice**, the IACHR welcomes the delivery of the Report of the Truth Commission to the Presidency of the Republic and the installation of Houses of Memory (Casas de la Memoria) in different regions of Bolivia.[[312]](#footnote-312) The IACHR received information from civil society organizations and victims of the dictatorship who criticized the limits in the actions and results of the work of the Truth Commission and denounced state initiatives that have restricted access to measures of reparation for the human rights violations that were perpetrated from 1964 to 1982.[[313]](#footnote-313) In this respect, the Commission reiterates its appeal to disseminate to the public the findings of the Truth Commission and to further pursue the forums for dialogue with victims to guarantee their rights.

**BRAZIL**

* **General considerations**
1. The Commission takes note of the **progress** that different State institutions have made in adopting interinstitutional measures for the implementation of human rights programs, especially in the areas of gender, human mobility, racial discrimination, and human rights defenders. The IACHR also welcomes the promulgation of the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance[[314]](#footnote-314), which was ratified on May 12, 2021[[315]](#footnote-315).
2. Concerning **challenges**, the IACHR notes with concern legislative actions that would threaten the rights of indigenous peoples. It also notes the reversals in the areas of memory, truth, and justice, as well as those in the rights of children and adolescents. The IACHR also underscores the challenges in the area of citizen security due to the increase in cases of police violence leading to deaths from the excessive use of force. The Commission further notes challenges to democratic institutions in connection with the independence of the different branches of government.
3. On October 15, 2021, the State submitted its response to the request for information sent for the preparation of this chapter[[316]](#footnote-316).
* **Cross- cutting themes**
1. Concerning **human rights institutions,** among the measures adopted, the Commission welcomes the plan of the Public Defenders’ Office (DPU) and the UN High Commissioner for Refugees (UNHCR)[[317]](#footnote-317) to assist migrants and refugees; the DPU agreement with the Brazilian Association of Afro‑descendant Investigators (ABPN) to promote activities to combat racism[[318]](#footnote-318); the coordination between the National Human Rights Council (CNDH), the Federal Prosecutor’s Office (MPF), the DPU, and the Chamber of Deputies Commission to monitor human rights violations[[319]](#footnote-319); the updating of the National Pact for the Eradication of Forced Labor, which a number of states and municipalities have sign onto[[320]](#footnote-320); the creation of the National Program to Combat Violence against Children and Adolescents, under the ministries of Women, Family, and Human Rights[[321]](#footnote-321); as well as the launch of reports on torture and institutional violence in the prison system[[322]](#footnote-322).
2. The IACHR also welcomes the new regulation providing for the creation of mechanisms for the promotion of human rights in federal public administration units[[323]](#footnote-323); the updating of Decree No. 9937/2019 on the program for the protection of human rights defenders, communicators, and environmentalists[[324]](#footnote-324). Similarly, it welcomes the approval of the bill institutionalizing the program for the protection of human rights defenders in Rio de Janeiro[[325]](#footnote-325).
3. Nonetheless, the Commission observes with concern the institutional weakening widely reported in the available public sources[[326]](#footnote-326) and noted by the IACHR in its 2021 country report[[327]](#footnote-327). The IACHR takes particular note of action to weaken the institutions and forums for social participation charged with public policy on socioenvironmental matters, indigenous peoples, Afro-descendants, housing, health, and social protection mechanisms for workers[[328]](#footnote-328).
4. Concerning **access to justice**, the IACHR takes note of the launch of the National Strategy for the Promotion of Justice Policies (EJUS) through Ordinance No. 864/2019 of the Ministry of Justice and Public Security, which operates through interinstitutional coordination with entities of the Justice System[[329]](#footnote-329). It also takes note of Law No. 14.253, passed on December 1, 2021, increasing the number of magistrates in the five Federal Regional Courts (TRF)[[330]](#footnote-330).
5. Concerning **democratic institutions** , the IACHR acknowledges the soundness of democratic institutions in Brazil, but notes the conflict between the different branches of government – in particular, the challenges to the independence of the judicial system reflected in the current administration’s attacks against the Supreme Court. The Commission especially notes the public statements of the President of the Republic indicating that he “might cancel” or “cannot permit” the 2022 elections, referring to “maintaining the current electoral system.” According to the available public sources, Brazil’s Supreme Court has become one of the principal checks on the President’s initiatives, including his alleged attempt to suspend the law on access to information[[331]](#footnote-331).
6. It should also be pointed out that the IACHR has noted the dissemination of false information (“fake news”) by State agencies, especially related to institutional management of the COVID-19 pandemic[[332]](#footnote-332). Here, the Commission notes the progress of the Supreme Court’s investigations[[333]](#footnote-333), as well as the procedures adopted by a parliamentary investigation committee[[334]](#footnote-334).
7. Within this context, through available public sources, the IACHR also took note of the use of the National Security Law, which dates back to the days of the military dictatorship, to intimidate human rights defenders critical of the current administration. The Commission points out that this act, repealed in 2021[[335]](#footnote-335), was also used to justify judicial proceedings against people who subverted democratic institutions, the rule of law, and judicial independence in Brazil[[336]](#footnote-336).
8. Concerning **citizen security**, the State informed the IACHR that it was advancing initial strategies to finance projects for improving the Service for the Care of Victimized Police in the Military Police of Rio de Janeiro and another to promote psychological services and the mental health of members of the Federal Highway Police. It also stated that the activities promoted for the prevention and control of violence and crime in Brazil include the monitoring of Community Public Safety Councils, as well as state and municipal crime prevention programs[[337]](#footnote-337). The State also reported on the "Public safety in the promotion of racial equality” project, whose main objective is to train members of the Unified Public Security System (SUSP) in the promotion of ethnic and racial equality[[338]](#footnote-338).
9. The Commission nonetheless expresses concern about cases of police violence that have resulted in deaths in the favelas. The IACHR especially condemns the police raids of May 6, 2021, in the Jacarezinho favela in Rio de Janeiro State, which left 28 civilians dead, and of November 20 and 22, 2021, which resulted in the deaths of at least nine civilians[[339]](#footnote-339). The Commission reminds Brazil of its duty to ensure compliance with international standards governing the use of force, based on the principles of legality, proportionality, and absolute necessity with a view to reforming its public security policies. At the same time, it urges the State to punish acts of institutional violence associated with patterns of racial discrimination.
* **Specific topics**
1. Concerning the rights of **indigenous peoples**, in 2021 the Commission expressed its concern about a series of bills that could constitute serious setbacks for the rights of indigenous peoples. These proposals were related, among other things, to the denunciation of Convention 169 of the International Labour Organization (ILO) on Indigenous and Tribal Peoples, limitations on the demarcation of indigenous territories, and the weakening of legal protections against extractive, agroindustrial, energy, and infrastructure activities on indigenous land [[340]](#footnote-340). The Commission also expressed its concern about the development and application of the “temporal landmark thesis” by the Federal Supreme Court, whereby in complaints involving the right to collective property, indigenous peoples would only have the right to claim territories they held when the Federal Constitution was passed in 1988[[341]](#footnote-341).
2. Concerning the Yanomami and Munduruku indigenous peoples, the Commission, jointly with the Regional Office for South America of the United Nations High Commissioner for Human Rights, expressed its extreme concern about the acts of violence against these peoples and urged the State to comply with its duty to protect the lives, personal integrity, territories, and natural resources of these peoples[[342]](#footnote-342). On January 4, 2020, the Commission granted precautionary measures in favor of members of the Guajajara and Awá indigenous peoples of the Araribóia Indigenous Land, the latter group in voluntary isolation, given their situation of extreme vulnerability due not only to the COVID-19 pandemic but to an alleged history of violence against members of these peoples due to their efforts to defend their rights[[343]](#footnote-343).
3. The Commission was also informed about the increased risk to the Yanomami[[344]](#footnote-344) and Ye'kwana, Munduruku[[345]](#footnote-345), Guajajara, and Awá indigenous peoples[[346]](#footnote-346) - all beneficiaries of precautionary measures– from the presence of intruders in their lands, which implies an increase in the spread of diseases such as COVID-19 and mercury pollution from illegal mining. At the time, the State acknowledged the persistence of challenges to the implementation of the precautionary measures and reported on police raids to combat illegal mining in indigenous lands and activities to protect the territories in question[[347]](#footnote-347).
4. Concerning **people of African descent and the fight against racial discrimination**, the Commission notes that, according to information provided by the State, the Federal Government benefitted more than 7 million people of African descentwith payment of the guaranteed income. The State further noted that to increase food security, basic baskets of food were distributed to 403,000 quilombola and indigenous households. It also reported on the Ethnic-Racial Policy Monitoring System (SIMOPE), the Plan to Fight COVID‑19 with the quilombola population, and the COVID-19 Vaccination Monitoring Panel, which monitors vaccination of the quilombola population[[348]](#footnote-348). At the same time, the Commission welcomes the creation of the National Flow of Assistance to Victims of Forced Labor. An initiative under the National Commission for the Eradication of Forced Labor (CONOTRAE), with support from the International Labour Organization (ILO), its aim is to provide a systematized and specialized service, as well as better coordination among the responsible agencies[[349]](#footnote-349).
5. At the same time, the IACHR notes with concern that, according to available public sources, quilombola families have been evicted from the Sítio Conceição territory in Barcarena (PA) by police, military personnel, and representatives of the municipality due to sanitation work[[350]](#footnote-350). The Commission also takes note of the available statistics for 2021 on the matter of public security, which indicate that 78.9% of the victims of lethal force by the police are people of African descent [[351]](#footnote-351).
6. Concerning **women’s rights**, the IACHR takes note of the legislative and public policy measures introduced by the State to combat violence against women. In this regard, it points to Decree No. 10.568 creating the intersectoral committee responsible for drafting the National Plan to combat femicide, and takes note of the progress made in this regard[[352]](#footnote-352). The Commission also welcomes the passage of Law No. 14.188/2021, which establishes the “Red Light” (*Sinal Vermelho*)” cooperation program as one of the violence prevention measures provided for under the Maria Da Penha Law and creates the criminal offense of psychological violence against women[[353]](#footnote-353). It likewise welcomes the passage of Law No. 14.192/2021, which sets standards for preventing, eradicating, and combatting political violence against women[[354]](#footnote-354).
7. Notwithstanding, the Commission received information about the prevalence of political violence against women in the country[[355]](#footnote-355), as well as the rise in domestic violence, pointing to the 44% increase in protection measures granted in São Paulo State from 2019 to 2021[[356]](#footnote-356). The IACHR also notes with concern the uptick in the maternal mortality rate, which rose from 55 deaths per 100,000 live births in 2020[[357]](#footnote-357) to 59.1 in August 2021[[358]](#footnote-358). Finally, the Commission takes note that 1 out of every 4 adolescent girls has no access to menstrual sanitary products[[359]](#footnote-359) and laments the veto of Law No. 14.214, an initiative that would permit the free distribution of menstrual sanitary products to women, girls, and adolescents in situations of socioeconomic vulnerability and deprivation of liberty[[360]](#footnote-360).
8. Concerning the **rights of children and adolescents**, the IACHR takes note of the Policy for Modernization and Universalization of the Civil Registry and Basic Documentation, whose objectives include making early childhood policies more effective, eradicating the disappearance of children and adolescents, and combatting child trafficking.[[361]](#footnote-361).
9. However, the IACHR notes with concern the context of violence affecting children and adolescents in the country. According to recent information published by UNICEF, between 2016 and 2020, at least 34,918 children and adolescents aged 0 to 19 were violently murdered. This figure represents an average of 7,000 murders per year. Moreover, between 2017 and 2020, a total of 179,277 cases of sexual violence were reported – that is, 45,000 cases per year. Added to this, the report in question notes that the main victims in these violent deaths are Afro-descendant boys and adolescents, while in cases of sexual violence, 80% of the victims are girls, mainly between the ages of 10 and 14[[362]](#footnote-362).
10. The Commission also expresses its concern about the proposed amendment to the Constitution — PEC 18/2011— to lower the minimum working age from 16 to 14[[363]](#footnote-363). According to the most recent data from the United Nations Children’s Fund (UNICEF), approximately 1.758 million children and adolescents aged 5 to 17 were performing child labor in Brazil before the pandemic. Furthermore, these data indicate that at least 706,000 children and adolescents are exposed to the worst forms of child labor, and 66.1% of this total are African descents[[364]](#footnote-364).
11. Concerning **memory, truth, and justice,** the Commission expressed its concern about the note of March 31 published by the Ministry of Defense praising the Amnesty Law as a national peace agreement[[365]](#footnote-365). Civil society organizations[[366]](#footnote-366) denounced[[367]](#footnote-367) the State’s support for a rhetoric of denial about the military dictatorship, expressed mainly in statements by public authorities praising former dictators and perpetrators and denying the serious violations that had occurred during that period[[368]](#footnote-368); the institutional commemoration of the military coup[[369]](#footnote-369); and the dismantling of transitional justice mechanisms and policies. They criticized the fact that the Amnesty Commission (CA) and the Special Commission on Political Deaths and Disappearances (CEMDP) were repeating these statements and practices, revictimizing victims and their families, blocking their access to reparations and reviewing reparations granted in the past.
12. Furthermore, the Commission learned about the cutback in the budget of the CEMDP, which in recent years had received resources from the Executive Branch exclusively for its mandate to grant reparations and not for searching. The IACHR was also informed of the invalidation of 612 reparations in March 2021 and requested information from the State about these decisions and respect for due process and procedural guarantees for the affected persons[[370]](#footnote-370). In response, the State indicated[[371]](#footnote-371) that the reparations that had been invalidated involved military personnel affected by an administrative regulation of 1964 that did not describe the act of political persecution, and that it was up to the interested party to prove that the invalidation was a mistake.
13. Concerning criminal trials, civil society organizations have indicated the following challenges: failure to recognize the dictatorship’s crimes as crimes against humanity; application of the statute of limitations; application of the Amnesty Law; [and] failure to apply conventionality control.[[372]](#footnote-372) As of June 30, 2021, there were 51 complaints, 10 of which had received a definitive judgment. As of now, only one sentence has been handed down for serious human rights violations during this period – which was noted by the IACHR.[[373]](#footnote-373).
14. Concerning **human rights defenders**, the State reported that it was implementing the Program for the Protection of Human Rights Defenders (PPDDH) in the federative states of Bahía, Paraíba, Pernambuco, Ceará, Maranhão, Minas Gerais, Pará, and Río de Janeiro, would be doing so in the states of Rio Grande do Sul and Amazonas; and was in the negotiation phase in the state of Paraná. It indicated that it had invested an average of R$ 8 million per year in this program and that the PPDDH currently includes some 600 defenders throughout the country[[374]](#footnote-374). The IACHR further noted the September 28, 2021 publication of Decree No. 10.815/2021 (Annex XII), promoting civil society’s role in implementing the Program for the Protection of Human Rights Defenders, Communicators, and Environmentalists (PPDDH) and in the Deliberative Council of the Program for the Protection of Human Rights Defenders, Communicators, and Environmentalists[[375]](#footnote-375).
15. Notwithstanding, the Commission was also informed about the advances in Bill No. 1595/2019 amending the Anti-terrorism Law of 2016 to create a parallel intelligence unit in the Federal Executive Branch. This bill would significantly broaden the definition of terrorism under domestic law, which could lead to greater criminalization of human rights and social movements and organizations, as well as limits on the exercise of fundamental freedoms.[[376]](#footnote-376). In this regard, the IACHR learned of the assassination on January 26, 2021 of Fernando dos Santos Araújo, a defender of land rights and witness to the 2017 Pau D'Arco massacre[[377]](#footnote-377), as well as an attack on the headquarters of the Munduruku Wakoborûn Women’s Association in the city of Jacareacanga in southwestern Pará State on March 25, 2021[[378]](#footnote-378).
16. Concerning **persons deprived of liberty**, the Commission notes with the concern that Brazil has the world’s third largest prison population[[379]](#footnote-379). According to the most recent official figures published by *World Prison Brief,* as of December 2020, the total prison population was 811,707, with an occupancy rate of 146.8%[[380]](#footnote-380). Furthermore, concerning at-risk groups, the Commission welcomed the Federal Supreme Court’s (STF) decision guaranteeing the rights of trans women deprived of liberty to decide whether to be confined to a women’s facility or a separate area in a men’s facility[[381]](#footnote-381).
17. Concerning the COVID-19 pandemic, the IACHR notes that according to the latest data from the National Penitentiary Department (DEPEN), 278 persons deprived of liberty have died of the virus since the start of the pandemic[[382]](#footnote-382). Concerning vaccination, as of November, a total of 488,635 detainees had received the first dose of the vaccine and 418,319, both doses[[383]](#footnote-383). These figures represent roughly 50% of the total prison population.
18. Concerning **torture,** civil society organizations informed the IACHR that the replacement of in-person custody hearings with remote hearings had resulted in an 83% drop in reports of torture since the start of the pandemic. The National Mechanism for Preventing and Combatting Torture, in turn, has indicated the need for custody hearings to be held in person, calling on the courts to amend their procedures[[384]](#footnote-384) – this, in a context in which deaths from police violence in 2020 had increased by 53% over those of the previous year[[385]](#footnote-385).
19. Concerning the rights of **LGBTQ persons**, the Commission welcomed the Federal Supreme Court’s decision guaranteeing the right of trans women and transvestites deprived of liberty to decide whether they wished to be placed in a women’s facility or a separate area in a men’s facility.7  The IACHR also welcomed[[386]](#footnote-386) the National Council of Justice’s publication of the manual for the treatment of LGBTQ persons deprived of liberty in the context of the criminal and juvenile justice systems to offer guidance on human rights to courts throughout the country.8
20. The Commission, in turn, notes among the progress in this area the change in the school enrolment system to cover LGBTQ families in São Paulo State following a judicial decision in a complaint lodged by a same-sex couple that put the name one of the [male] parents in the field designated for the boy’s “mother”9. The IACHR also takes note of the Federal Supreme Court’s suspension of Law No. 5.123[[387]](#footnote-387) of Rondônia State that expressly prohibited the use of neutral language in public and private institutions, as well as public tenders 10.
21. At the same time, the Commission notes that Brazil continues to exhibit numerous cases of violence against LGBTQ persons.11 Here, it points to the patterns of cruelty seen in several of the cases reported, as well as the prevalence of violence against Afro-descendant trans women12. In this regard, the Commission notes the case of a trans women who was burned alive in the city of Recife, as well as that of a transvestite who was tied by the feet and beaten in Piauí State13. In the same vein, the Commission has expressed[[388]](#footnote-388) its concern about the violence experienced by trans, transvestite, and intersex councilmembers and their teams in Brazil, which it received detailed information about during a thematic hearing held during the 179th Regular Period of Sessions.
22. Concerning the **rights of persons with disabilities**, the IACHR takes note of the resolution of the National Council of the Public Prosecutor’s Office seeking to enforce the rights of this population group through annual inspections of institutions for adults with disabilities by the nation’s prosecutors, who should take legal action when they find abuses[[389]](#footnote-389). The Commission also learned of the judgment of the Rio de Janeiro Court of Justice ordering that reasonable action be taken to guarantee equity for persons with disabilities in competitions for public posts[[390]](#footnote-390). The IACHR has further noted the efforts of the Rio de Janeiro Public Defender’s Office and the State Council on the Policy for the Integration of Persons with Disabilities, aimed at promoting discussions on accessibility and human mobility to guarantee their inclusion[[391]](#footnote-391).
23. The Commission notes with concern, however, the reports about the National Special Education Plan, which proposes the creation of a specific educational system for persons with disabilities, in violation of the right to an education under equal conditions without discrimination[[392]](#footnote-392). It likewise notes the challenges facing hearing-impaired pregnant women due to the lack of interpreters during the necessary care – a situation that has worsened during the COVID-19 pandemic[[393]](#footnote-393).
24. Concerning the **rights of older persons,** the Commission notes the information provided by the State about the National Operational Plan for COVID-19 Vaccination[[394]](#footnote-394), which makes the immunization of people over 60 residing in long-term care facilities such as nursing homes, asylums, or shelters a priority group. The IACHR also learned of Decree [No. 10.643/2021](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/decreto/D10643.htm#view), containing various provisions affecting the National Council on the Human Rights of Older Persons and notes with concern the change in the procedure for the selection and appointment of civil society representatives to this Council[[395]](#footnote-395).
25. Concerning the rights of **persons in human mobility,** the Commission notes that, according to the United Nations High Commissioner for Refugees (UNHCR), more than 50,000 Venezuelans have been relocated as part of the internal relocation strategy, which appears to have helped to alleviate the pressure on border communities and promote the local integration of migrants and refugees[[396]](#footnote-396).
26. Nonetheless, in its press release of April 1, 2021, the Commission noted with concern the adoption of Ordinance No. 62/2021 by the Ministry of Justice and Public Security[[397]](#footnote-397), replaced by Ordinance No. 86/2021[[398]](#footnote-398), which ordered the National Public Security Force, a military police force, to plan and sporadically assist public security forces in the states with exceptional activities to temporarily block the flow of foreigners out of the country. In this regard, the State informed the IACHR that the regulations and measures adopted are exceptional, temporary, and a public health measure; thus, they do not reflect Brazil’s migration policy[[399]](#footnote-399).
27. Concerning the migration of Venezuelans in particular, the IACHR takes note that under the Operation Welcome (*Operação Acolhida*)program, state and municipal authorities in Roraima and Amazonas – in association with Platform R4V – drafted a contingency plan that included setting up a field hospital in Boa Vista with the capacity to care for up 2,200 Venezuelans and members of the receiving community[[400]](#footnote-400). It notes with concern, however, the public information about budget cuts to the program in 2022, which could make its continuation unfeasible[[401]](#footnote-401).
28. Concerning **trafficking in persons** , the Commission takes note of the Public Awareness Campaign against Human Trafficking and for the Collection of Data and Training of Professionals, to be launched in strategic federative states such as Acre, Amazonas, Amapá, Bahía, Ceará, the Federal District, Goiás, Maranhão, Minas Gerais, Mato Grosso, Pará, Pernambuco, Paraná, Rio Grande do Norte, Rio de Janeiro, Rio Grande do Sul, and São Paulo[[402]](#footnote-402). Furthermore, concerning cooperation, the Commission takes note of the signing of the Joint Declaration against Human Trafficking, Forced Labor, and the proposal for a New Socio-occupational Declaration by the ministries of labor of Brazil, Uruguay, and Paraguay and representatives of Argentina and Venezuela to combat—mainly— forced child labor[[403]](#footnote-403).

**CANADA**

* **General considerations**
1. With respect to **progress**, the IACHR welcomes the action taken by the government to guarantee the safe administration of elections in the context of COVID-19. It also acknowledges the measures introduced to ensure mechanisms for the protection of persons at risk of becoming victims of hate‑motivated crimes. In addition, the Commission notes the creation of a community child-care and early-learning system. It further notes the implementation of a program to protect refugee human rights defenders and other vulnerable groups and action taken to support the survivors of human trafficking. The Commission also welcomes the entry into force of the United Nations Declaration on the Rights of Indigenous Peoples Act and welcomes with satisfaction amendment C-4 to the Criminal Code banning attempts to modify or suppress an individual’s sexual orientation, gender identity, or gender expression.
2. With respect to **challenges**, the IACHR expresses its concern about the increase in reports of online sexual extortion (sextortion) of children and adolescents. It further notes the discovery of unidentified skeletal remains in former residential schools for indigenous children in Saskatchewan and British Columbia. The IACHR likewise observes with concern alleged cases of racial profiling and killings of Afro-descendants as a result of the use of excessive force by police officers. Finally, it notes with concern the situation of migrants with psychosocial disabilities who are deprived of liberty.
3. The State did not respond to the request for information sent by the IACHR in preparation for this chapter.
* **Specific issues**
1. With respect to **human rights institutions**, the Commission notes that the State has a Human Rights Commission charged with following up on reports in this regard[[404]](#footnote-404).
2. With respect to **democratic institutions**, the IACHR takes note of the penalty in the amendment to the Canada Elections Act, which establishes temporary rules to guarantee the safe administration of elections in the context of COVID-19. In particular, this Act: i) extends the power of the Chief Electoral Officer to adapt the provisions of the Act to ensure the health or safety of electors or election officers; ii) provides for a polling period of three consecutive days; and iii) provides for opening and closing measures at polling stations[[405]](#footnote-405). In this context, in September 2021, Canada held its 44th general election, in which the Liberal Party won its third consecutive mandate[[406]](#footnote-406). In addition, the members of Parliament elected the 37th Speaker of the House of Commons for the 44th Parliament[[407]](#footnote-407).
3. With respect to **public safety,** the Commission notes that the Government of Canada is seeking to improve the security infrastructure in gathering places to provide greater security to people from communities at risk of becoming victims of hate-motivated crimes[[408]](#footnote-408). The Commission notes in particular that the projects that would be financed are part of the Security Infrastructure Program (SIP), so that people living in Canada can practice their culture or faith without fear, whatever their race, ethnicity, sexual orientation, gender identity, or religion[[409]](#footnote-409). Furthermore, a percentage of the total budget would be allocated to address hate-motivated crimes committed against members of Asian communities[[410]](#footnote-410).
4. With respect to **access to justice**, the Commission takes note of the introduction of legislation to promote greater confidence in the judicial system[[411]](#footnote-411). According to the information at the Commission’s disposal, the legislative amendments to the Judges Act would strengthen the judicial complaints’ process to streamline it in a cost-efficient manner, thereby increasing citizen’s confidence in the judicial system[[412]](#footnote-412). In addition, the Government of Canada would support the Canadian Juries Commission through the project to provide support and training in mental health[[413]](#footnote-413). This project would be supported by the Department of Justice for four fiscal years and would have the following objectives: i) promote the support and participation of Canadian citizens in jury duty; ii) provide in‑trial and post-trial support; iii) stress the importance of mental health in the justice system; and iv) create a Jury Duty Peer Support Group[[414]](#footnote-414). The Commission further notes that one impact of the COVID-19 pandemic on Canada’s judicial system has been a backlog of cases, leading to trial delays in the criminal justice system[[415]](#footnote-415).
5. With respect to the rights of **children and adolescents,** the Commission welcomes the federal government’s decision to create a quality countrywide community child-care system giving all families access to flexible, affordable, high-quality child care and early learning regardless of where they live. It would also lower the fee for child care to Can$10 per day for the next five years[[416]](#footnote-416).
6. The Commission learned that, according to the Canadian Centre for Child Protection, between March and September 2021 there was a 62% increase in reports of online sextortion of children and adolescents, adolescent males aged 15-17 being the most affected group[[417]](#footnote-417).
7. With respect to the human rights of **persons in human mobility**, the IACHR welcomes the decision of the Ministry of Immigration, Refugees, and Citizenship to create a program for refugee human rights defenders and vulnerable groups. According to information from UNHCR, the project will accommodate 250 individuals and their families per year and focus on the protection of people at higher risk, such as women, journalists, and LGBTQ rights defenders.[[418]](#footnote-418).
8. Nevertheless, the Commission has continued to note with concern the detention of migrants, asylum seekers, and others seeking international protection. In this regard, the most recent figures from Canada’s Border Services Agency (CBSA) indicate that 799 persons were detained in fiscal year 2021. Within this context, the CBSA stated that it would continue working to find alternatives to immigration detention[[419]](#footnote-419).
9. In addition, a report published by Human Rights Watch and Amnesty International noted that even though migrants are detained for administrative reasons, Canada appears to be subjecting them to some of the country’s most restrictive detention conditions. It added that the CBSA has the exclusive power to decide whether migrants are confined to immigrant detention centers, provincial jails, or other facilities. This report points out, moreover, that both lawyers and immigrant detainees have stated that the population in human mobility is confined to the same wings and cells as people detained for criminal prosecution or to serve a sentence[[420]](#footnote-420).
10. With respect to **human trafficking**, the Commission notes that the Minister of Public Safety and the Minister of Emergency Preparedness presented an official report on human trafficking in Canada. This report takes a comprehensive approach to prevention, protection, punishment, and international cooperation. It also includes a new line of “empowerment” designed to emphasize the important role of both victims who are survivors of human trafficking and at-risk populations and to ensure informed, gender-sensitive, and culturally appropriate trauma support[[421]](#footnote-421). The Commission further notes that the new strategy to combat human trafficking is backed by a budget allocation of Can$75 million for the periods 2019-2020 and 2023-2024[[422]](#footnote-422). In this regard, the Commission has been recommending that States design public policies consistent with a framework that respects human rights and allocate the necessary budget to guarantee their effective implementation and sustainability[[423]](#footnote-423).
11. The Commission also takes note of the bill in Ontario Province that would give the police greater jurisdiction to access information in human trafficking investigations. This would allow them to request hotels to share information about their guests if it could help to identify or protect a victim or locate people suspected of committing the crime of human trafficking[[424]](#footnote-424).
12. With respect to **indigenous peoples**, the IACHR welcomes the passage and entry into force of the United Nations Declaration on the Rights of Indigenous Peoples Act, designed to create a legislative framework for the Declaration’s application in Canada. It also establishes that the Government of Canada, in consultation and collaboration with [the nation’s] indigenous peoples, will prepare a plan of action to meet the established objectives[[425]](#footnote-425).
13. Notwithstanding, the Commission expressed its consternation at the discovery of unidentified human remains in former residential schools for indigenous children in Saskatchewan and British Columbia. According to the Truth and Reconciliation Commission of Canada, residential schools were part of a policy to culturally assimilate indigenous peoples, deemed the “cultural genocide” of the 150,000 indigenous children interned in them. In this context, the IACHR urged the State to heed the Truth Commission’s calls for action, taking effective steps to investigate and compensate the indigenous peoples affected[[426]](#footnote-426).
14. The Commission was also informed about the tensions between the Canadian police and indigenous communities and environmentalists who have been protesting logging on the ancestral lands of the PacheedahtFirst Nation since August 2020. According to public information, logging has led to divisions between the Pacheedaht political authorities who signed agreements with the Teal Cedar Products corporation and traditional authorities and other members of the Pacheedaht First Nation who oppose such activities on their ancestral lands[[427]](#footnote-427). Due to this act of resistance, considered the greatest act of civil disobedience in Canada, the Supreme Court of British Columbia issued an injunction against the blockades set up by the demonstrators, which has resulted in the detention of more than 1,100 demonstrators and reports of abuse by the police charged with enforcing the injunction[[428]](#footnote-428). Due to the actions of the police, a Supreme Court justice denied the request to extend the injunction[[429]](#footnote-429). A Court of Appeal judge subsequently granted a temporary injunction while a decision on the company’s appeal of the denial of the extension was pending[[430]](#footnote-430).
15. The Commission notes the need to investigate with due diligence the reports of police abuse of demonstrators – this, to identify and punish the individuals responsible. It also reiterates that the unique relationship between indigenous peoples and their ancestral lands is recognized by international law, creating specific obligations for States to recognize, respect, protect, and guarantee their rights to ancestral communal property.
16. With respect to the **rights of Afro-descendants and the fight against racial discrimination**,the IACHR notes the progress made in the prevention and eradication of racial profiling – particularly the punishment of police officers responsible for the use of excessive force and illegal searches of Afro-descendants[[431]](#footnote-431). The Commission also notes the call of public officials to cut down on the number of street checks by police officers to reduce racial profiling and change the way the police interact with minority communities[[432]](#footnote-432). In this regard, the Commission urges Canada to continue taking steps to combat patterns of racial discrimination in the public safety and justice systems.
17. In addition, the IACHR notes with concern that, according to available public sources, there have been reports of alleged cases of racial profiling and killings of Afro-descendants stemming from the excessive use of force by police officers[[433]](#footnote-433). In this regard, the IACHR, calls on the State to swiftly, diligently, and thoroughly investigate such events, punish those responsible, and comprehensively compensate victims and their families.
18. With regard to the rights of **LGBTQ persons**, through its press release of December 16, 2021, the Commission welcomed amendment C-4 to the Criminal Code banning attempts to modify or suppress an individual’s sexual orientation, gender identity, or gender expression, and the removal of LGBTQ children and adolescents from Canada to subject them to these harmful practices. This amendment also prohibits the promotion or advertising of so-called “conversion therapies,” as well as the receipt of financial or other material benefits derived from it[[434]](#footnote-434).
19. Moreover, in a meeting with the State, the IACHR received updated information on implementation of the 2SLGBTQQIA+ action plan, which, *inter alia,* establishes guidelines for capacity building and the development of infrastructure with culturally relevant 2SLGBTQIA+ facilities throughout the country and the creation of a national 2SLGBTQQIA+ committee and eventually, a specific Secretariat[[435]](#footnote-435).
20. With regard to the rights of **persons with disabilities**, the IACHR welcomes the rulings that recognize the existence of systematic discrimination against this population and seek to guarantee community-based services to support persons with disabilities[[436]](#footnote-436). It also takes note of the legislation to create the Canadian Disability Benefit that would supplement federal and territorial support to combat poverty in this population[[437]](#footnote-437). The Commission also underscores [Canada’s] efforts to develop participatory processes to obtain the opinions of persons with disabilities when developing inclusion strategies[[438]](#footnote-438) and to grant financial benefits for this purpose, including the Skills Development Fund for training persons with disabilities[[439]](#footnote-439) and investments in social programs for the creation of accessible and inclusive jobs[[440]](#footnote-440).
21. The Commission was also informed about amendments to the assisted suicide law in March 2021. In particular, the IACHR notes with concern that the law applies only to people with disabilities experiencing intolerable suffering to avail themselves of this procedure but not to people with or without a disability. This could imply it is a discriminatory measure and could result in the reinforcement of prejudices and stereotypes[[441]](#footnote-441). The Commission also takes note of reports of losses of financial support upon marriage[[442]](#footnote-442). In addition, it received information indicating that 51% of persons with disabilities who are over the age of 25 are unemployed, in part due to lack of adapted workplaces[[443]](#footnote-443). It also learned of reports of a lack of attention to the needs of persons with disabilities during the electoral season[[444]](#footnote-444).
22. Finally, the IACHR is concerned about reports from civil society organizations indicating the lack of a national plan for the protection of persons with disabilities during heat waves[[445]](#footnote-445), as well as the situation of migrants with psychosocial disabilities who are deprived of liberty and sent to temporary cells[[446]](#footnote-446).

**CHILE**

* **General considerations**
1. The Commission takes note of **progress** related to democratic institutions and human rights, particularly advancement with respect to the Constitutional Convention. The Commission also highlights progress in the areas of women's rights and gender equality, LGBTI rights and marriage equality, the rights of persons with disabilities, and matters related to ethno-racial diversity.
2. Regarding **challenges**, the IACHR notes with concern measures adopted with respect to citizen security, particularly the declaration of states of emergency in the Araucanía region, which could have a differentiated impact on indigenous peoples and intensify the historic intercultural conflict in that area.
3. On September 14, 2021, the State submitted its response to the request for information sent for the preparation of this chapter.[[447]](#footnote-447)
* **Cross-cutting topics**
1. With respect to **the institutional framework for human rights**,the IACHR takes note that the First National Human Rights Plan 2018-2021 and the National Action Plan on Human Rights and Business 2017-2020[[448]](#footnote-448) have concluded. The Commission also welcomes the initiative included in the Public Treasury’s 2021 budget, which allows compensation for those who have been victims of human rights violations as from October 18, 2019 and who, as a result of their injuries, saw their ability to work compromised. According to available information, this is a mechanism whereby the National Human Rights Institute will certify victims’ status in the context of the reasoning and scope of the Budget Act’s provisions, based on available background information gathered during the accreditation process.[[449]](#footnote-449)
2. Regarding **access to justice**, the IACHR observes, based on available civil society reports, the impact the pandemic has had on access to justice, in particular the emergence of new challenges associated with the use of technology for online mediation.[[450]](#footnote-450) The State also reported that the measures adopted to promote gender equality between men and women in access to the jobs in the judiciary have been strengthened, as well as the participation of judges and their unions in the development and implementation of these measures. It was highlighted the establishment of a recruitment and selection policy action that promotes gender parity in the judiciary entering positions. The state also mentioned the strengthening of the Consultative Council for Gender Equality and Non-Discrimination of the Judiciary, and the Gender and Non-Discrimination Committees of the Courts of Appeals.[[451]](#footnote-451)
3. The IACHR reaffirms that Chile has a solid **democratic institutional framework**, particularly highlighting progress made in relation to the constitutional process underway. In this connection, the IACHR notes positively that, according to publicly available information, 6,114 proposals were reportedly received from the public for the Constitutional Convention. The Committee receiving the largest number of proposals was the Fundamental Rights Committee (2,296), followed by the Political System Committee (1,088), and the Environment Committee (751). Of the 6,000 initiatives, 5,485 have been reviewed and 629 are under review.[[452]](#footnote-452)
4. The IACHR further takes note of the elections in which, for the first time, both regional governors[[453]](#footnote-453) and delegates to the Constitutional Convention were elected. The Commission also welcomes the election of Dr. Elisa Loncon Antileo,[[454]](#footnote-454) who is Mapuche and a prominent defender of indigenous peoples’ linguistic rights, as first president of the Constitutional Convention.
5. On matters of **citizen security**, the IACHR emphasizes the various proposals for reforming law enforcement and security forces, with a view to fostering necessary institutional change in light of acts of institutional violence observed during the "social outburst;" in particular, the IACHR takes note of the proposal to reform the *Carabineros* [national law enforcement police], which spells out actions to make this institution more efficient and effective when it comes to safeguarding and maintaining public order with a focus on the defense and protection of people, but guided by democratic principles, a gender approach and unrestricted respect for human rights; the creation of a Specialized Prosecutor's Office for Crimes against Human Rights; the increase in the budget of the INDH [national human rights institution], the Ombudsman for Children and the Legal Medical Office; and, the creation of a Working Group by the Permanent Coordination Commission of the Criminal Justice System whose objective is to unblock the IACHR’s findings regarding the investigation and judicial processing of the cases for human rights violations complaints occurred as of October 18, 2019 [[455]](#footnote-455).
6. The Commission also takes note of the declarations of Constitutional States of Emergency in four of Chile’s provinces—two in the Araucanía region and two in the Bío-Bío region—based on an uptick and concentration of acts of violence allegedly linked to drug trafficking, terrorism, and organized crime in those areas of the country. It should be noted that the decree declaring the state of emergency authorized the deployment of armed forces to provide logistical support to the police.[[456]](#footnote-456) In this regard, the IACHR notes that, in the context of the so-called "Araucanía Conflict,” the Chilean State has, on various occasions, resorted to declarations of a states of emergency and enforcement of the law on terrorist conduct as a solution, in a context of stigmatization, prejudice, intolerance, and criminalization based on ethnic-racial origins.
7. In this connection, the State reported that the regional authorities in the Araucanía region had organized and held a public consultation on extending the constitutional state of emergency. Anyone 18 years of age or older and registered to vote in the region was eligible to participate. Official tallies reportedly showed 144,994 electronic votes, 81% of which favored extending the state of emergency.[[457]](#footnote-457)
8. In this context, the Commission notes the importance of recognizing, respecting, and ensuring indigenous peoples’ cultural identity, as well as their rights to their lands, territories, and natural resources, as recognized in international and inter-American human rights standards. The Commission considers these to be necessary elements for fostering opportunities for intercultural dialogue as the most effective way to transcend the conflict.
9. Regarding the **rights of indigenous peoples**, the Commission notes that the constitutional reform process has reportedly instituted a regulation aimed at guaranteeing the participation of preexisting nations throughout the process, pursuant to international standards on the human rights of indigenous peoples.[[458]](#footnote-458) The Commission likewise values the actions undertaken by the State of Chile toward formal recognition of the Selk'nam people, who for years have been asking to be recognized as a native people.[[459]](#footnote-459)
10. In this regard, the State reported on the measures that have been carried out to guarantee the rights of indigenous peoples considering a diversity and interculturality approach. The State also highlighted the initiatives to strengthen the leadership of indigenous women and to prevent of violence; recognition of the quality of the Traditional Educator and support for their performance in the classroom; the new Education Curriculum integrating the subject of Indigenous Language and Culture from the 1st to 6th year; the presidential instructions regarding the respect of languages and intercultural ceremonies; the respect of the traditional Mapuche medicine, establishing the role of *Machis* in it, as well as the respect of the Traditional Authorities of indigenous peoples, such as the *Longko* and *Machi* in the Mapuche culture; the revision of school textbooks of History, Geography and Social Sciences including indigenous contents; among others[[460]](#footnote-460).
11. The Commission further values judicial decisions that have recognized the rights of indigenous peoples, such as an August 31 ruling by virtue of which the Third Chamber of the Supreme Court admitted an "appeal for protection filed by the Aymara community of Umirpa against the Canadian mining interest Andex Minerals Spa and ordered an end to exploration efforts the company had been carrying out since 2018 in the sacred hill Anocarire, located in the *comuna* [township] of Camarones, region of Arica and Parinacota" for not having consulted the affected indigenous communities.[[461]](#footnote-461) At the same time, the IACHR notes with satisfaction the October 28, 2021 decision of the First Chamber of the Court of Appeals of Concepción rejecting an appeal filed by the company Forestal Mininco S.A. against the judgment of the Court of Cañete, which recognized the Mapuche Rucañirre community’s ownership of a property located in the *comuna* due to that community having registered title to the land since 1897.[[462]](#footnote-462)
12. As to **memory, truth and justice**, the IACHR learned that in January 2021, the Supreme Court of Justice decided to redistribute cases related to the dictatorship among nine judges appointed full-time for a period of six months.[[463]](#footnote-463) This action was criticized by civil society organizations, which pointed out the failure to consult with the victims and their representatives on the change, as well as the lack of information on the effectiveness of this model or of actions that were reportedly going to be taken to boost the state's capacity to process the approximately 1,500 ongoing cases.[[464]](#footnote-464) The Commission has likewise monitored judicial proceedings for purposes of verifying the lawfulness of pardons granted by the Executive Branch to individuals convicted of crimes against humanity.[[465]](#footnote-465) The IACHR appreciates the launch of a digital platform[[466]](#footnote-466) that systematizes the Undersecretariat for Human Rights’ memory projects and has catalogued and geolocated at least 1,016 memory sites.[[467]](#footnote-467)
13. The Inter-American Commission repudiates the new attack on the “Londres 38” memory space in Santiago, as well as actions that have resulted in the nearly complete destruction of the memorial "Political prisoners from Santa Barbára and Quilaco detained, disappeared, and executed in September 1973," located in Santa Bárbara.[[468]](#footnote-468)
14. With respect to the situation of **persons in human mobility**, the IACHR followed up on the implementation of collective expulsion procedures that apparently do not include individual assessments, or take into account possible international protection needs, family reunification, or the best interests of children and adolescents.[[469]](#footnote-469) In this context, the Commission noted with concern that on November 4, 2021, the Chilean government reportedly expelled at least 120 Colombians and Venezuelans. These would be added to other expulsions observed by the IACHR during 2021.[[470]](#footnote-470) In addition, civil society organizations claimed that prior to these actions being executed, the individuals in question were detained and held incommunicado. Furthermore, as a consequence of the expulsions, cases of family separation were reported, as was the failure to take steps to guarantee the principle of family unity and reunification.[[471]](#footnote-471) They also indicated that no access to legal assistance or possibility of filing effective judicial appeals against expulsion orders was being provided. The civil society organizations also referred to cases in which the expulsion orders had been ordered suspended after the individuals had already been deported.[[472]](#footnote-472)
15. The IACHR further condemned the violent and xenophobic acts carried out by private individuals against Venezuelan migrants in Iquique, Chile. It also expressed concern over the eviction of migrants—most of them Venezuelan—from public spaces, also in Iquique, with reports of acts of violence, and without being offered a prior solution for their relocation.[[473]](#footnote-473) In this context, the Commission learned of the announcement made by the State regarding the adoption of new humanitarian measures aimed at migrants.[[474]](#footnote-474) The Commission also learned of the decision of the Third Chamber of the Supreme Court recognizing that the measures implemented by the State in the area of Iquique were not effectively responding to the existing humanitarian and migratory situation. The ruling therefore ordered various state agencies, in coordination with the Municipality of Iquique, to implement a plan for the comprehensive protection of persons or social groups whose rights have been violated, in order to address the humanitarian and migratory crisis. It likewise, ordered protection for the rights of migrants entering the national territory through border crossings in the affected area.[[475]](#footnote-475)
16. As to **trafficking in persons,** the Commission takes note of Chile’s ratification of the 2014 Protocol to ILO Convention Number 29 on Forced Labor.[[476]](#footnote-476)
17. With regard to the **rights of children and adolescents**, the IACHR welcomes the signing of a cooperation agreement between the Constitutional Convention authorities and the Office of the Ombudsperson for Children, which aims to promote the participation of children and adolescents in the constitutional reform process.[[477]](#footnote-477)
18. Additionally, the IACHR received information on human rights violations against children and adolescents in residences and centers run by the National Service for Minors (SENAME).[[478]](#footnote-478) According to available information, between 2005 and 2020, a total of 1,188 children and adolescents died while in a SENAME network program; of these, at least 65% were in programs under the Protection or Juvenile Justice areas.[[479]](#footnote-479) In addition, 2,071 cases of abuses against minorMs were reported and evidence of human rights violations was found in all homes managed directly by SENAME. In this context, the IACHR takes note of the establishment of the National Service for the Special Protection of Children and Adolescents starting on October 1. According to official information, this Service will be the successor and legal continuation of SENAME, excepting matters taken on by the National Juvenile Social Reinsertion Service, the draft bill for which is currently being reviewed.[[480]](#footnote-480)
19. The Commission also notes its concern regarding the proposed amendments to the bill establishing a system of guarantees for children's rights, which would undermine recognition of the progressive autonomy of children and adolescents and the secular and non-sexist nature of comprehensive sexual and emotional education. According to information available to the IACHR, in a July 15, 2021 ruling, the Constitutional Court ordered the provisions referring to both the progressive autonomy of children and adolescents and the "secular and non-sexist" nature of comprehensive sexual and emotional education to be eliminated from the text of the law, arguing parents’ preferential right and duty to educate their children.[[481]](#footnote-481) In the opinion of the IACHR, elimination of the above text from the bill would show disregard for the guiding principles of the Convention on the Rights of the Child, particularly progressive autonomy and everything related to Article 5 thereof.
20. Regarding the situation of **human rights defenders**,the Commission became apprised of threats against and harassment of environmental defenders.[[482]](#footnote-482) On March 21, Uriel González, a water activist, was reportedly approached in Santiago by strangers, who, armed with knives, kidnapped, assaulted, threatened, and intimidated him, saying "Don't mess with the water."[[483]](#footnote-483) On June 23, 2021 in Antuco, three shots were fired in front of the home of human rights defender Diego Ovalle Valenzuela, spokesperson for the *Antuko Resiste* Socioenvironmental Movement.[[484]](#footnote-484) The Commission also learned of death threats against environmental defender Verónica Vilches.[[485]](#footnote-485)
21. With respect to **the human rights of women**, the Commission welcomes the publication of the Manual for the use of inclusive, non-sexist language in the Chilean Judiciary, the purpose of which is to recommend practices to help combat discrimination in access to justice that occurs through the use of language that disadvantages women and other vulnerable groups.[[486]](#footnote-486) The Commission likewise welcomes the launch of the platform "*Saludablemente Mujer*" whose objective is to provide relevant information and guidance on support for women victims of violence.[[487]](#footnote-487) In the area of political participation**,** the Commission welcomes the election of 77 women delegates to the Constitutional Convention in the elections held on May 15-16, 2021.[[488]](#footnote-488)
22. The IACHR notes with concern, however, the prevalence of different forms of gender-based violence against women. According to official figures, as of November 20, 2021, there had been 35 femicides committed and 141 attempted femicides;[[489]](#footnote-489) in this connection, the Commission takes note of records from organized civil society, which report 44 femicides and two femicide-related suicidesduring the same period.[[490]](#footnote-490) Likewise, according to crime statistics from the Center for Crime Studies and Analysis, as of that date in 2021, there had been 75,976 cases of domestic violence, 1,688 cases of rape, and 5,844 cases of abuse and other sexual crimes against women.[[491]](#footnote-491)
23. With respect to sexual and reproductive rights, the Commission regrets the rejection and shelving in November 2021 by the Chamber of Deputies of a bill that sought to decriminalize the voluntary termination of pregnancy within the first 14 weeks of gestation.[[492]](#footnote-492)
24. Regarding the rights of **LGBTI persons**, the IACHR welcomes the passage of a law, on December 7, 2021, recognizing marriage equality and the protection of diverse families in Chile.16 According to public information, this law, in addition to recognizing marriage equality, enhances legal protections for diverse families, including guarantees for equality and non-discrimination in the areas of membership and the health care system, among others.17 In this connection, the Commission highlights the inclusion of pre- and post-natal work leave without discrimination based on sexual orientation or gender identity, as well as the repeal of the requirement that trans persons who exercise their right to correct public records get divorced.
25. Despite this progress, the Commission takes note of reports of an escalation in violence against trans women sex workers, including one on the attack perpetrated against Alejandra Soto, president of the Amanda Jofré Union of Trans and Transvestite Sex Workers.19 In this same vein, the Commission has received information regarding various “oversight letters” sent by two congressional deputies to different institutions, including ministries, universities, and hospitals, requesting information on programs, services, and funding for LGBTI individuals. In this connection, civil society organizations have condemned these requests as violations of the privacy and confidentiality of LGBTI persons by requiring, in the case of hospitals, information on who receives health benefits associated with gender reaffirmation.20
26. With regard to **people of African descent and against racial discrimination**, the Commission notes that the plenary of the Constitutional Convention approved seven thematic committees to work on the new Constitution, one of which is the Constitutional Principles Committee, whose topics include mechanisms for popular participation by indigenous and African descenttribal peoples. Along these lines, some delegates to the Constitutional Convention proposed adding, by way of an amendment, that this Committee should address within its main topics the autonomy of Afro-descendant tribal people.[[493]](#footnote-493)
27. The Commission noted with concern the death of Louis Alix Gentil, an Afro-descendant of Haitian origin, on August 31, 2021. According to available information, Carabinero officers allegedly shot him in the chest.[[494]](#footnote-494) In its monitoring work, the IACHR also observed that Afro-descendant organizations had filed an appeal for protection after having been left without reserved seats at the Constitutional Convention, pointing out that this situation constituted arbitrary discrimination.[[495]](#footnote-495)
28. As to the **rights of persons with disabilities**, the IACHR highlights the early prioritization of persons with disabilities who were more susceptible to infection,[[496]](#footnote-496) as well as vaccine mobilization to persons with disabilities’ places of residence.[[497]](#footnote-497) The Commission also learned that there had been calls from civil society urging the State to take into account the challenges faced by persons with disabilities in the new Constitution, emphasizing issues in the areas of education, social inclusion, and accessibility.[[498]](#footnote-498)
29. Regarding the **rights of older persons**, the IACHR welcomes the Judiciary’s adoption of a Protocol on Access to Justice for Older Persons,[[499]](#footnote-499) which contains recommendations to be used by judges in their legal work, thereby contributing to equal access to justice, guaranteeing the principle of equality and non-discrimination based on age, and the effective exercise of the rights of older persons. The Commission notes with concern, however, the increase in cases received by the National Service for the Elderly (SENAMA) related to mistreatment and/or violation of older persons’ rights nationwide in 2020,[[500]](#footnote-500) with 5,771 cases, which represents a 35% increase compared to 2019.

**COLOMBIA**

* **General considerations**
1. Regarding **progress**, the IACHR welcomes the various measures taken by the State on human rights. In particular, it highlights the progress made on implementing the Peace Agreement as far as the institutions that make up the Comprehensive Truth, Justice, Reparation, and Non-Repetition System, such as the progress made on investigating macro-cases 01, 03, and 07, as well as the holding of prior, free, and informed consultations in the different ethnic territories of the country.
2. Regarding **challenges**, the IACHR observes with concern the human rights violations verified to have taken place during the demonstrations in the country, as well as the violations of the right to protest and freedom of expression. Likewise, the Commission highlights the structural persistence of violence in the country, which has especially affected human rights defenders, social leaders, representatives of indigenous peoples, peasants, persons of African descent, women, LGTBI persons, and children and adolescents. In addition to this, the IACHR highlights the increase in the number of displaced persons and persons in confinement, as well as the overrepresentation of indigenous and Afro-descendant persons among the victims.
3. On September 8, 2021, the State submitted a response to the request for information sent to prepare this chapter.
* **Specific issues**
1. Regarding **human rights institutions**, the Commission highlights the Office of the Ombudsperson’s approval of Institutional Strategic Plan 2021-2024, "Your rights unite us.” This plan seeks to influence public policies aimed at protecting and defending the human rights that guarantee peaceful coexistence, reduce rights violations, and enable the enjoyment of a dignified and inclusive life for the inhabitants of the national territory and Colombians living abroad.[[501]](#footnote-501) The IACHR also takes note of the publication of the Guidelines and Actions of the National Government Toward Respecting and Guaranteeing Human Rights in Colombia 2021-2022, which constitute progress toward developing the National Action Plan on human rights.[[502]](#footnote-502) In this regard, the Commission urges the State to continue strengthening human rights institutions, highlighting the importance of drafting, implementing, monitoring, and evaluating national rights plans with broad participation from the different social sectors at each stage of the process. In particular, it expresses willingness to continue providing technical assistance in the process of preparing and monitoring these instruments.
2. The IACHR has indicated that a complementary aspect of human rights institutions is the analysis of fiscal policies and the State budget to fund human rights. In this sense, the IACHR takes note of the creation of the Future Zone for the Chocó region, one of the regions most affected by the escalation of violence. The program includes a large investment of resources aimed at strengthening the legitimacy of institutions and initiating social transformation through education, security, and environmental protection in communities to foster the transition from illegal to legal economies. The Commission recalls the importance of budget allocation from the moment of public policies are drafted, implemented, and evaluated.
3. In terms of **democratic institutions**, the State reported on the amendment of the Electoral Code, which requires the Constitutional Court to uphold its constitutionality in order to enter into force, and it highlighted equal representation of men and women candidate lists as one of its objectives.[[503]](#footnote-503)
4. Additionally, the State underscored the importance of the elections held on December 5 for the Youth Councils,[[504]](#footnote-504) which, pursuant to Law 1622 of 2013, are autonomous mechanisms for participation, dialogue, and government oversight and control by young people with respect to the territorial youth agendas, before the public institutions of each territorial entity to which they belong.[[505]](#footnote-505)
5. Additionally, the Commission took note of the expressions of concern from civil society about the functioning of democratic institutions in the country, especially surrounding violations of the right to protest, freedom of expression, and the risks faced by people who defend human rights in the country. In the framework of its working visit to Colombia on June 8, 9, and 10 of this year, the Commission received information on serious human rights violations, including: the disproportionate use of force; violence based on gender and ethnic-racial criteria in the context of protest; violence against journalists and against medical missions; violence against human rights defenders; irregularities in the use of protective transfers; reports of the disappearance of persons; and the use of the military, disciplinary powers and military criminal jurisdiction.[[506]](#footnote-506)
6. Likewise, following the complaints made by social organizations about how the system of institutional checks and balances was operating,[[507]](#footnote-507) the Commission took note of the actions of the Office of the Attorney General with respect to at least 20 popularly elected authorities, including 3 members of Congress, 1 governor, 10 mayors, and 6 council members.[[508]](#footnote-508) Some officials informed the IACHR that they feared facing disciplinary processes that could lead to sanctions like removal from their offices or disqualification from serving in government. Similarly, information was received from mayors, governors, and even members of Congress who said their capacity to prioritize dialog during the protests had been undermined because of the possibility of facing disciplinary proceedings.[[509]](#footnote-509)
7. The IACHR also took note of the complaints of social and union organizations[[510]](#footnote-510) about the Office of the Ombudsperson’s lack of independence from the Executive Branch during the protests that took place that year.[[511]](#footnote-511)
8. The Commission has expressed its concern over the discrepancies between the statistical data presented by the Office of the Attorney General of the Nation on human rights violations in the context of the protests and the records kept by civil society organizations,[[512]](#footnote-512) as well as the numbers tallied by the UN Office of the High Commissioner for Human Rights (OHCHR).[[513]](#footnote-513) Additionally, the IACHR received complaints from civil society organizations accusing the Office of the Public Prosecutor and members of the police of monitoring, profiling, and persecuting human rights defenders and high-profile social leaders during the protests.[[514]](#footnote-514)
9. Regarding **access to justice**, the State reported on the digitalization of justice services enabling the justice system to, among other things, operate within the framework of measures implemented to mitigate the effects of the COVID-19 pandemic. The State also noted the creation of 114 judicial offices and the creation of 824 positions with the objective of balancing and reducing congestion in the judiciary’s operations in certain municipalities. Along these lines, the Superior Council of the Judiciary decided to temporarily create, for all jurisdictions and specialties, a total of 709 temporary positions to provide additional support with managing judiciary offices in the national territory.[[515]](#footnote-515)
10. In addition, the IACHR has received information regarding the operation of the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition (SIVJRNR), responsible for promoting measures of memory, truth, justice, reparation, and non-repetition of serious human rights violations within the context of the internal armed conflict. The IACHR takes note of the efforts of the SIVJRNR to articulate and adopt a differential approach in its different instruments and procedures. In this regard, it underscores the rapprochement in terms of access to justice represented by the efforts by the entities comprising the SIVJRNR to carry out prior, free, and informed consultations with ethnic organizations and territories.
11. Additionally, the Commission took note of the reports from civil society decrying the high levels of impunity in the country. According to the global impunity index, 19 of the 32 departments show high and very high levels of impunity.[[516]](#footnote-516) These levels of impunity are explained by the structural weakness of the justice system in Colombia. This classification is supported by a comparative study that, among other variables, considers the proportion of judges per 100,000 inhabitants, which in Colombia is 5.53, compared to 17.83 for the average of the 69 countries studied; the ratio of people before the courts having had formal contact with the police and the criminal justice system, 26.26 in Colombia compared to the average of 80.52 for the other countries; and the ratio of persons before the courts according to the number of prosecutors, 3.17 in Colombia compared to 106.55 for the average of the other countries.[[517]](#footnote-517)
12. Additionally, the Commission received information on the status of the judicial proceedings related to the protests of September 9 and 10 in the country, during which 14 murders were recorded, 11 of them allegedly linked to the illegal use of force by the National Police; 75 people injured by gunshot wound; 43 injured with bladed weapons; and 187 protesters and 216 police officers with other types of injuries.[[518]](#footnote-518) According to the social organizations providing support in nine of the homicide cases and various incidents of people injured during these demonstrations, they indicated that the investigations into the murders are focused on the perpetrators, and—with the exception of the case of Javier Ordóñez—the remaining investigations into the nine murders have seen little progress with practically no progress on the investigations into the cases of people injured with firearms.[[519]](#footnote-519) In this regard, the report of the group of independent experts on these facts concludes that, although the delays in the investigations into these cases cannot be considered unjustified, urgent measures must be taken to arrive at a comprehensive understanding of these acts of violence and of the institutional contexts in which the decisions leading to what happened were made.[[520]](#footnote-520)
13. In terms of **citizen security**, the State reported on the instances of institutional coordination within the framework of the "Peace with Legality"[[521]](#footnote-521) policy and the joint actions between the Ministry for Interior Affairs and the Ombudsman's Office through the Technical Secretariat of the Intersectoral Commission for Rapid Response to Early Warnings (CIPRAT) in territories where Development Programs with a Territorial Approach (PDET) are implemented.[[522]](#footnote-522) Regarding the safety of community leaders who support the Comprehensive National Program for the Replacement of Illegal Crops (PNIS), the State highlighted the strategy of the Presidential Council on Stabilization and Consolidation (CPEC) and its coordination with the territorial authorities responsible for establishing and/or activating support routes for rapid and effective reaction to risks and threats, as well as defining how cases and territories are prioritized by these authorities.[[523]](#footnote-523) Additionally, through sessions held during 2019 and 2020, the Plan for Coordinating Security Actions for the target population of the Comprehensive National Program for the Substitution of Illegal Crops—PNIS, was prepared, under which a baseline for PNIS leadership and an impact matrix were established.[[524]](#footnote-524) The State also underscored the activation of the Commission for Support and Monitoring of Security Impacts, which was in session until July 31, 2021, and the formation of a committee to define and implement actions on gender, an ethnic and territorial approach, and security for the leaders supporting the implementation of illegal crop substitution models.[[525]](#footnote-525)
14. The Inter-American Commission has expressed on several occasions and through different means its extreme concern about the levels of violence in the country. This situation manifests in the number of murders registered over the course of 2021, in the increase in clashes between non-State armed groups; and in the acts of violence against human rights defenders, social leaders, and ex-combatants, as well as in massacres.
15. During that period, the IACHR was able to observe an increase in the number of murders in the country, which, according to statistics from the Ministry of Defense, totaled 11,509 cases as of [November 4](https://www.policia.gov.co/contenido/homicidios-2021). This figure represents an increase in homicides of 15.5% compared to the 9,962 homicides registered during the same period of the previous year.[[526]](#footnote-526) Additionally, the United Nations Verification Mission in Colombia has indicated that, between January and September of this year, 44 ex-combatants who signed the Peace Agreement have been murdered.[[527]](#footnote-527) Since the signing of the Peace Agreement, 292 reinserted persons have been murdered—283 men and 9 women.[[528]](#footnote-528) Likewise, the Verification Mission and OHCHR have reported on the preliminary verification of 43 massacres that occurred in 2021, while another 36 cases of massacres are pending confirmation.[[529]](#footnote-529) Through November 15, 2021, civil society organizations have documented 88 massacres, with 313 victims killed.[[530]](#footnote-530)
16. The IACHR observes that there is an overrepresentation of acts of violence against human rights defenders, leaders, ex-combatants, and massacres. These incidents are concentrated in the departments of the Pacific region, particularly in the departments of Cauca, Chocó, Nariño and Valle del Cauca, as well as in Antioquía and Norte de Santander, and disproportionately affect indigenous peoples, persons of African descent, and peasants. The United Nations Verification Mission indicates that the murders of ex-combatants, as well as of those who exercise social or community leadership and human rights defenders, continue to be concentrated in 25 municipalities, 20 of which are PDET municipalities.[[531]](#footnote-531)
17. Likewise, the IACHR noted that 47% of the homicides registered in Colombia are concentrated in the departments of the Pacific region and Antioquia.[[532]](#footnote-532) These territories are characterized by, among other aspects, a limited presence of the State, which especially impacts guarantees for full enjoyment of economic, social, cultural, and environmental rights. They are also characterized by the presence of non-state armed groups in conflict over the control of the operation of illegal economies. In this regard, the Commission was informed of the upsurge in violence in the territories of ethnic communities, the occupation of these spaces by non-State armed groups, and clashes between these groups and security forces. This has resulted in murders, massacres, and threats to life and integrity, as well as the confinement and massive displacement of ethnic communities. In addition, the integration of these territories into the operations of illegal economies leads to deforestation and pollution in these areas, particularly of the waterways affected by the mercury used in mining.
18. Regarding these situations, the IACHR also received the early warnings from the Office of the Ombudsperson reporting imminent risk to the population due to the reemergence of the violence and the presence of armed actors on Colombian territory, with differentiated impact on indigenous peoples and Afro-descendants.
19. In this context, the Commission condemned the massacre in which, according to publicly-available information, young Afro-descendants Yesid Mera, Sergio Bandera, and Gustavo Zapata were murdered on August 22, 2021, in the rural area of Santander de Quilichao, Cauca. The victims were between the ages of 17 and 27.[[533]](#footnote-533) In addition, it took note of the information presented by the Regional Indigenous Council of Cauca (CRIC) indicating that between January and September 2021, 74 indigenous people were murdered in Cauca.[[534]](#footnote-534) In October 2021, attacks against members of the Awá[[535]](#footnote-535) and Nasa[[536]](#footnote-536) indigenous communities continued to be reported in the departments of Nariño and Cauca, including the attempted assassination of Nasa community leader Oveimar Tenorio.[[537]](#footnote-537)
20. Additionally, the IACHR also repudiated the femicide of an 11-year-old Afro-descendant girl in the municipality of Guapi, Cauca, reported on January 12, 2021. According to preliminary reports, the girl was the victim of disappearance starting on January 10, 2021, and allegedly suffered torture and sexual violence.[[538]](#footnote-538) At the same time, the Commission noted with concern the murder of three Afro-descendant children, ages 17, 12, and 11, in Quibdó, Chocó, on April 20, 2021; according to available information, the children worked as recyclers and were shot with firearms after being tortured by members of an illegal group.[[539]](#footnote-539) The IACHR took note of publicly-available information indicating that 585 young people had been murdered in Chocó in the last six years as a result of the surge in violence; in June 2020 alone, 97 homicides of young people were reported in Quibdó.
21. On the other hand, the Commission observes with special concern the persistence of high rates of gender-based violence. According to information from the Attorney General's Office, 1,074 complaints of femicide were registered between January and September 2021, comprising 555 complaints of femicides and 519 attempted femicides.[[540]](#footnote-540) Civil society organizations have reported an increase of more than 20% in the number of femicides registered in 2021[[541]](#footnote-541) compared to 2020.[[542]](#footnote-542)
22. Likewise, according to official figures from the National Institute of Legal Medicine and Forensic Sciences, between January and August 2021, 24,492 cases of domestic violence against women, girls, adolescents, and older adults were registered; and 11,523 forensic medical examinations were carried out in connection with alleged crimes of sexual violence, an increase of 12.8% compared to 2020.[[543]](#footnote-543)
23. Additionally, the IACHR takes note of the lack of official records on the situation of violence faced by Venezuelan migrant women and takes note of the complaints from civil society organizations who report 13 cases of femicide in Tibú, Norte de Santander, in the first six months of 2021. This amounts to a 400% increase over the previous year.[[544]](#footnote-544) Additionally, 14 women were reported missing in Cúcuta and its metropolitan area.[[545]](#footnote-545) The IACHR has also taken note of available public information indicating that during the first half of 2021, a total of 335 Venezuelans experienced sexual violence, highlighting that 65.9% of the victims are minors, and of them, 75% were 13 years old or younger.[[546]](#footnote-546) In this regard, the Commission observes with concern the enhanced risk faced by Venezuelan migrant and refugee women—especially girls and adolescents—of becoming the victims of trafficking for the purposes of sexual exploitation.
24. Additionally, the Commission has taken note of reports of violence against lesbian, gay, bisexual, trans and intersex (LGBTI) persons in Colombia. Based on the information available, the IACHR reiterates its warning regarding the situation of human rights, discrimination, and violence facing trans women in Colombia.[[547]](#footnote-547) The Office of the Ombudsperson indicated it had dealt with 72 cases of violence based on prejudice between January and May 2021, with a majority of the victims being trans women.[[548]](#footnote-548) Data collected by social organizations indicate that, as of August 2021, at least 20 trans women had been murdered in the country.[[549]](#footnote-549) During 2021, the Commission followed up on the investigations into the death of Juliana Giraldo Díaz, a trans woman who, in September 2020, was shot to death by a member of the Third Division of the National Army in Cauca.[[550]](#footnote-550) According to publicly-available information, these investigations were conducted using a gender approach, taking into account the gender identity of the victim.[[551]](#footnote-551)
25. Additionally, civil society organizations have alleged that State information systems underreport acts of violence against LGBTI persons, making the phenomenon invisible.[[552]](#footnote-552) In addition, civil society has expressed concern about failure during 2021 to implement the public policy aimed at guaranteeing the rights of LGBTI people. According to information received by the IACHR, this policy includes mechanisms such as the Urgent Cases Desk, which have the potential to contribute to the prevention of discrimination and structural violence based on prejudice.
26. The IACHR reiterates its deep concern over the magnitude of the violence in Colombia and its high cost in terms of the number of people who have lost their lives to violence in that country. Likewise, it urges the State to comply with its international obligations as a party to the American Convention on Human Rights and other international human rights instruments. Along these lines, the Commission reminds the Colombian State of its duty to protect and guarantee the lives and personal integrity of all people in a practical and effective manner. Likewise, it urges the State to redouble its efforts to investigate these facts and punish the material and intellectual authors. Additionally, the IACHR underscores the importance of clarifying these facts, both for the purpose of providing full redress to the victims and as a central measure of prevention and non-repetition.
27. As regards the **rights of indigenous peoples**, the IACHR takes note of the information provided by the State on actions aimed at strengthening and revitalizing the organizational structures that defend the lives of indigenous peoples and the spaces for consultation within the framework of the Commission on the Human Rights of Indigenous Peoples.[[553]](#footnote-553) In addition, it reported that actions have been taken to technically strengthen the National Commission of Indigenous Women and that the Office of Roma and Minority Indigenous Affairs (DAIRM), with the support of the International Organization for Migration and Border Management, hired a consulting team to prepare a preliminary diagnosis on the indigenous population on the move from the Bolivarian Republic of Venezuela.[[554]](#footnote-554)
28. Regarding the support for the Health Subcommittee of the Permanent Roundtable for National Coordination with Indigenous Peoples and Organizations (MPC), the State reported that consultation and articulation continue to guarantee a differentiated approach in the COVID-19 vaccination plan.[[555]](#footnote-555) Regarding the Indigenous Intercultural Health System (SISPI), it points out that different spaces have been coordinated with the Ministry of Health for acting jointly. It likewise reported that the Directorate of Indigenous, Roma and Minority Affairs (DAIRM) provided support in July to the Colombia Pact with the Youth space to support the second phase of the Colombia Pact "Parchemos para Construir" and the technical and coordination roundtable was supported with the Delegation of Indigenous Youth (DENAJI).[[556]](#footnote-556)
29. The IACHR learned of the concerns of the indigenous peoples with regard to the State's sustained attempts to promote initiatives to establish regulations on the right to prior consultation without discussing the contents of such initiatives or the need for them beforehand with the peoples themselves and their national consultation bodies. The Commission reiterates that the State must consult indigenous peoples and Afro-descendent communities in a prior, free, and informed manner, deploying administrative and legislative initiatives to secure their consent in order to protect their fundamental rights to their lands, territories, natural resources, and other rights.
30. Regarding the situation of **human rights defenders**, which will be addressed in greater depth in Chapter V of this report, the Commission observed that during 2021, the situation of violence against these groups continued to be of concern. In this regard, the State highlighted that it considered the situation faced by human rights defenders to be a priority. It indicated that the Presidential Council for Human Rights and International Affairs prepares a quarterly "Report on murders of social leaders and human rights defenders in Colombia" that aims to assess the phenomenon of violence against these groups.[[557]](#footnote-557)
31. Likewise, the State indicated that, through the Timely Action Plan (PAO), it has managed to change the upward trend in the number of homicides of human rights defenders.[[558]](#footnote-558) It highlighted that, through Resolution 090 of January 18, 2021, of the Office of the Ombudsperson, Institutional Strategic Plan 2021-2024 "Your rights unite us" was approved, whereby the Office of the Ombudsperson seeks to influence public policies aimed at protecting and defending human rights.[[559]](#footnote-559)
32. However, the Commission observed with concern that the acts of violence against these groups continued during 2021 and condemned on different occasions and by various means the murders of human rights defenders and social leaders.[[560]](#footnote-560) According to State figures, as of August 2021, 40 murders of social leaders and human rights defenders had been registered.[[561]](#footnote-561) Between January and November 2021, the Ombudsman's Office registered, 130 murders of social leaders and human rights defenders, and highlighted that 75% of these homicides are concentrated in eight 8 departments, including the Pacific region, Antioquia, Putumayo, and Norte del Santander.[[562]](#footnote-562) Additionally, OHCHR figures indicate that as of November 31, 2021, it was aware of 191 alleged murders of human rights defenders, of which 73 were verified, 35 were in the process of verification, and 83 were inconclusive or unverifiable.[[563]](#footnote-563) Meanwhile, the Programa Somos Defensores indicated that between January and September 2021 there were 86 murders of human rights defenders.[[564]](#footnote-564) Other civil society organizations indicate that the murder of 135 human rights defenders was recorded through September 2021.[[565]](#footnote-565)
33. The Commission has learned of the progress in the investigations into crimes against human rights defenders. In this regard, the State informed the Commission that, as of August 10, 2021, the Office of the Attorney General of the Nation secured the conviction of 89 perpetrators in 69 cases of homicides against human rights defenders and 8 social leaders, as well as the conviction of 10 masterminds in 8 homicide cases. Regarding investigations into threats, the State indicated that between January 1, 2021 and July 31, 2021, the Office of the Attorney General of the Nation investigated 961 cases of threats against human rights defenders, in which cases no convictions have yet been secured.[[566]](#footnote-566)
34. In this regard, the Commission underscores that the most effective means for protecting human rights defenders is to effectively investigate acts of violence against them and punish those responsible in order to identify and solve the cases, and thereby prevent repetition.[[567]](#footnote-567)
35. Regarding threats, according to available information, during the first half of 2021, threats were the most repeated aggression, with a total of 158 cases, 13.7% more than what was registered in 2020. Social leaders were the ones the most affected by these acts of violence.[[568]](#footnote-568) Between the months of July and September 2021, threats remained the most common form of aggression.[[569]](#footnote-569)
36. The Commission also observed that during 2021 the violence against human rights defenders remained concentrated in the departments of Antioquia, Valle del Cauca, Cauca, Nariño, and Chocó.[[570]](#footnote-570) Indeed, the IACHR notes that the violence in these departments has continued since its work visit to the country in November 2018.[[571]](#footnote-571)
37. Regarding the **rights of persons of African descent and against racial discrimination**, the Inter-American Commission welcomes the progress in this area reported by the Colombian State. In this regard, the adoption by external circular No. 1640 of 2021 of Decree No. 1640 of 2020 stands out. It aims to improve and strengthen the Single National Public Registry of Community Councils, and other organizational expressions of the Black, Afro-Colombian, Raizal, and Palenquero Communities.[[572]](#footnote-572) Likewise, the State reported on the implementation by the Ministry of Interior Affairs of the strategy “Afro-Colombian Women, from participation to the guarantee of rights, the power of the 3 E’s: Equity, Empowerment, and Ethnodevelopment” in order to respond to the specific needs and strategic interests from the worldview of black, Afro-Colombian, Raizal, and Palenquera Women.[[573]](#footnote-573) In this regard, the Commission welcomes the prior consultation carried out to adopt and implement a public policy on black, Afro-Colombian, Raizal and Palenquero communities in the Huila department. According to the information available, the government carried out this process with legal representatives of 11 related organizations.[[574]](#footnote-574)
38. Additionally, the IACHR welcomes the strengthening of the Special Fund for Black Communities administered by ICETEX, which seeks to expand the availability of forgivable loans to Afro-Colombian, Raizal and Palenquero students by adding 400 more spots than the previous year. According to public sources, this announcement was made by the Minister Interior, reaffirming that the aim of this program was to increase access to higher education for students from this ethnic-racial group.[[575]](#footnote-575) In addition, the Commission takes note of the bill filed in the House of Representatives, which aims to ensure that 20% of the most senior decision-making positions in the State are held by persons of African descent. According to this bill, positions must be filled from a list provided by the shortlist system that must include at least one person from the black, Afro-Colombian, Raizal and Palenquero communities.[[576]](#footnote-576) The IACHR also welcomes the decision of the Plenary Chamber of the Constitutional Court of Colombia finding that the members of the black, Afro-Colombian, Raizales, and Palenqueras communities are excluded from compulsory military service.[[577]](#footnote-577)
39. Despite this progress, the Commission observes persistent challenges in this area. According to public information, in **Colombia, two million hectares of Afro-descendant territories are not titled. Through October of this year, in Colombia, about 5.5 hectares would have been titled to black communities, mostly in the Pacific region.**[[578]](#footnote-578) In this context, the Commission takes note of the social demonstrations over annulment of the collective title of the Community Council of La Boquilla pursuant to a ruling of the Administrative Court of Bolívar, which was appealed by the black community.[[579]](#footnote-579) Along these lines, the IACHR took note of the public declaration in the framework of the Summit of the Black, Afro-Colombian, Raizal and Palenquero People held on October 27, 2021, in which Afro-descendant organizations asked the State to act with urgency to establish the regulations for and implement Law 70 of 1993, particularly the chapters related to titling collective territories pending recognition.[[580]](#footnote-580) This request was supported by the Representative of the Office in Colombia of the United Nations High Commissioner for Human Rights, as well as by the Office of the Ombudsperson, entities that intervened in this space.[[581]](#footnote-581) The Commission therefore calls on Colombia to implement special measures that recognize, guarantee, and protect the collective property territorial rights of black, Afro-Colombian, Raizal, and Palenquero communities. In particular, it urges the State to put in place the regulatory frameworks and institutional mechanisms necessary to grant titles and enable them to secure possession of their territories. In this sense, it urges the State to regulate and implement Law 70 of 1993, especially the chapters related to the titling of the collective territories of black communities pending recognition.
40. In this context, the Commission was informed that on March 26, 2021, the Ministry of the Interior submitted the draft decree on “guidelines for the exercise of the duty of prior consultation by authorities, especially as related to inter-agency coordination and relations with ethnic communities.”[[582]](#footnote-582) The civil society organizations argued that the draft decree is a decisive step backwards for the fundamental rights of ethnic communities, in the sense that the talks held between government institutions and ethnic groups in the framework of the prior consultation processes would be subject to peremptory conditions amounting to a barrier to holding a reciprocal dialogue. Likewise, according to these organizations, the established timeframes are not appropriate to the cultural processes of the communities, affecting the guarantees of the differential approach that should prevail in this type of process. Additionally, the organizations pointed out that, although progress had been made in consulting with ethnic organizations on this draft decree, some indigenous peoples and black communities had not participated in the prior consultations.[[583]](#footnote-583)
41. The IACHR thus reminds Colombia to adopt the proper institutional policies to guarantee the full exercise of the right to free, prior and informed consultation and consent for Afro-descendant and indigenous communities in accordance with the principle of self-determination, guaranteeing their participation at all applicable stages, which entails respecting these ethnic populations’ internal protocols when consulting them.
42. Regarding violence against Afro-Colombian social leaders, the IACHR took note, among the various things documented, of the murders of Danilo Torres, Afro-descendant leader of the Manos Unidas Community Council of the Patía River, Nariño, on June 27, 2021 in Magüí Payán,[[584]](#footnote-584) **Henry Perea Montaño**, a member of the Afromayo Community Council,[[585]](#footnote-585) and Edinson Valenzuela, of the Raposo Community Council, Buenaventura.[[586]](#footnote-586) Lastly, the Commission notes with concern the reports of the disappearance of social leaders Abencio Caicedo and Edison Valencia in the Yurumanguí river basin on November 28, 2021.[[587]](#footnote-587)
43. Finally, with regard to the situation of Afro-descendant women, the Commission received a consolidated report from civil society organizations on the obstacles faced by groups of Afro-Colombian women in relation to collective reparation processes under Decree Law 4635 of 2011. In particular, they note that with regard to the process in 250 cases of sexual violence against black women in the context of the armed conflict, and with a favorable resolution issued in favor by the Unit for Victims in 2018, no progress has been observed toward implementing the measures of collective reparation.[[588]](#footnote-588) Regarding this, the Commission urges the Colombian State to adopt special measures to ensure Afro-descendant women can live a life free of violence and combat the different forms of multiple and aggravated discrimination that impact them differentially. At the same time, it is urgent for the State to guarantee effective compliance with comprehensive reparation measures for Afro-descendant women for serious human rights violations based on ethnic-racial origin and gender, particularly violations committed in the context of the armed conflict.
44. Regarding **persons in a state of human mobility**, the Commission welcomes the adoption of the Temporary Protection Statute for Venezuelans (ETPV), through which the State hopes to legalize the residency in the country of more than 1.8 million Venezuelans for 10 years.[[589]](#footnote-589) However, the Commission observes with concern that there is still a high number of undocumented Venezuelans in the country. In this regard, according to the most recent data from Migración Colombia through August 2021, a total of 1,842,390 million Venezuelans entered Colombia; of these, 344,688 were documented; 1,182,059 were in the process of getting their migration documents; and 315,643 were undocumented.[[590]](#footnote-590) In addition to this, the IACHR expresses its concern regarding the difficulties that undocumented Venezuelans face in accessing rights and integrating locally.
45. Additionally, the Commission has observed a significant increase in transit migration through the Necoclí region—mainly of Haitians—and the consequent worsening of the conditions faced by this population. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), between January and August 2021, more than 45,000 migrants passed through the region.[[591]](#footnote-591) It added that these persons had needs related to food security, shelter, and access to services such as water, sanitation and hygiene. Likewise, information available to the Commission indicates that these persons seek to enter Colombia through unauthorized and dangerous routes in order to reach the United States and are subsequently stranded in Necoclí.[[592]](#footnote-592)
46. Additionally, the Commission welcomes the progress made in reducing cases of **statelessness** for the children of Venezuelans born in Colombia.In this context, the IACHR observes that the National Registry Office and the Ministry of Foreign Affairs extended the “Children First” measure for a period of two years, through Resolution 8617 of August 19, 2021.[[593]](#footnote-593) According to data from the Registry, from January 2015 to March 31, 2021, a total of 52,693 children born in Colombia benefited.[[594]](#footnote-594) Also, the most recent figures from the UNHCR indicate that through August 12, 2021, the implementation and extension of the measure benefited more than 63,186 children.[[595]](#footnote-595)
47. Regarding **forced internal displacement**, in a press release dated September 30, 2021, the IACHR expressed concern about the notable increase in this phenomenon in the country. In particular, the IACHR highlighted: i) the significant increase in the number of displaced persons in Colombia and; ii) the disproportionate impact of these incidents on indigenous and Afro-descendant ethnic communities, as well as on the peasant population; iii) the relationship between this phenomenon and the lack of progress on implementing the Peace Agreement, especially the components intended to mitigate the structural causes of violence by substituting illegal crops (PNIS) and providing economic development with a territorial approach (PDET); iv) the practical and effective implementation of the Ethnic Chapter and; v) related to this, the reorganization and expansion of non-state armed groups that threaten and expel the local population from their territories.[[596]](#footnote-596)
48. Lastly, with regard to incidents of confinement, the IACHR observes that a high number of confinement situations and incidents of mobility restriction continue to take place in Colombia. According to the [United Nations Office for the Coordination of Humanitarian Affairs (OCHA)](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/290421_alerta_por_confinamiento_alto_baudo_choco_vf.pdf), between January and September 2021, at least 50,900 people were subject to confinement in Colombia, of which 96% belonged to ethnic groups.[[597]](#footnote-597) Of special concern is the situation in Chocó, which, according to OCHA data, accounted for more than 63% of confined persons in 2021.[[598]](#footnote-598)
49. The Commission has noted that the main causes of situations of confinement are closely related to the facts that give rise to forced displacement. Additionally, it observes that situations of confinement are linked to the planting of antipersonnel mines (MAP) and the devastating effects this has, especially on the daily activities of indigenous and Afro-descendant communities.[[599]](#footnote-599)
50. Regarding this issue, the Commission was informed of the death of María Lina Pedroza from an antipersonnel mine on October 15 while she was on her way to tend her subsistence crops, in Pueblo Embera La Divisa, Alto Baudó, Chocó. The planting of anti-personnel mines in this municipality had been reported by the Office of the Ombudsperson through warnings [041/19](https://alertasstg.blob.core.windows.net/alertas/041-19.pdf),[[600]](#footnote-600) [016-21](https://alertasstg.blob.core.windows.net/alertas/016-21.pdf),[[601]](#footnote-601) and [020-21](https://alertasstg.blob.core.windows.net/alertas/020-21.pdf)[[602]](#footnote-602)issued recently on areas contiguous to it, as well as in a [press release on the humanitarian crisis in Chocó.](https://www.defensoria.gov.co/es/nube/comunicados/10441/Emergencia-humanitaria-en-Choc%C3%B3-requiere-intervenci%C3%B3n-urgente-Choc%C3%B3-emergencia-humanitaria.htm)[[603]](#footnote-603) The [United Nations Office for the Coordination of Humanitarian Affairs (OCHA)](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/290421_alerta_por_confinamiento_alto_baudo_choco_vf.pdf)[[604]](#footnote-604) also issued an alert on April 29, 2021, regarding the planting of antipersonnel mines in indigenous and Afro-Colombian community territories in this region.
51. Regarding **human trafficking**, the Commission observes that the Ministry of the Interior, with the support of the Group to Combat Human Trafficking, trained immigration officials working on human trafficking issues throughout the country. At that time, the New National Strategy for the Fight against Human Trafficking 2020-2024 was disseminated and the National Prevention Plan was presented, which seeks to: i) reduce the crime of human trafficking; and, ii) decentralize the #CeroComplicidadConlaTrata prevention campaign.[[605]](#footnote-605) Additionally, the Situation Report presented by the Ministry of the Interior and the United Nations Office on Drugs and Crime (UNODC) on the relationship between human trafficking and mixed migratory flows indicates that the percentage of women victims of human trafficking in Colombia is, at 83%, higher than the global average, which stands at 65%. It added that the risks vary by area and migratory movement at the borders.[[606]](#footnote-606)
52. Regarding the **rights of children and adolescents**, the Commission welcomes the passage of Law 2089 of May 14, 2021, prohibiting physical punishment, cruel, humiliating or degrading treatment, and any type of violence as methods of correction for children and adolescents. It also establishes the National Pedagogical and Prevention Strategy for the elimination of physical punishment and cruel, humiliating, or degrading treatment of this population group.[[607]](#footnote-607)
53. Regarding forced recruitment, the State reported that the Subcommittee on Prevention, Protection, and Guarantees of Non-Repetition approved the proposal for the systemic harmonization of routes for preventing recruitment, exploitation, and sexual violence against children and adolescents.[[608]](#footnote-608) It also noted that during 2021 the sixth edition of the "Mambrú, strengthening of protective environments for children, adolescents and young people" program would be implemented. Its aim is to strengthen collective initiatives that promote protective environments for the early prevention of recruitment and use of NNA by organized criminal groups and armed groups operating outside the law.[[609]](#footnote-609) Additionally, within the framework of the "Súmate por mí" strategy that began implementation in 2020, the Manual on Territorial Establishment of Routes to Prevent the Recruitment of Children and Adolescents was prepared, which contains instructions for territorial entities to build and activate recruitment prevention routes.[[610]](#footnote-610)
54. However, in a press release dated March 18, 2021, the IACHR expressed concern over the forced recruitment of children and adolescents in Colombia by illegal armed groups and condemned the death of at least one adolescent during a military operation on March 2 in the department of Guaviare. It also noted with concern public information about the possible death and injuries of other children and adolescents during this operation. The IACHR notes with concern the lack of public information on these incidents and urges the State, in accordance with its international obligations and the early warnings of the Office of the Ombudsperson, to redouble its efforts to adopt measures to prevent the forced recruitment of children and adolescents.[[611]](#footnote-611)
55. In the same sense, the Office of the Ombudsperson indicated that the situation in Guaviare demonstrated the seriousness of the forced recruitment of children and adolescents in the areas subject to territorial control and combat by armed groups. The institution also noted that since the approval of the Early Warning System Regulations in December 2017, a total of 200 alerts have been issued. Of them, at least 156 warned of the risk of forced recruitment, exploitation, and deployment of children and adolescents.[[612]](#footnote-612) Likewise, the IACHR took note of the public complaints issued by social leaders in the department of Chocó about the 113% increase in forced recruitment during the COVID-19 pandemic.[[613]](#footnote-613) Similarly, the most recent figures from the Observatorio de Niñez y Conflicto Armado indicate that between January and June 2021, a total of 126 armed conflict incidents were documented that directly affected approximately 14,321 children and adolescents.[[614]](#footnote-614)
56. With regard to **memory, truth, and justice**, although it will, along with other aspects, be analyzed in Chapter V of this report, the Commission makes a special acknowledgment of the important steps that have been taken towards establishing the truth about the facts in the framework of macro-cases 01[[615]](#footnote-615) and 03[[616]](#footnote-616) that, using different strategies, have made progress toward determining the identities of victims; identifying and measuring the scope, type, and impact of victimization during the armed conflict; the policies and patterns providing the framework for the violence; and institutional and individual responsibility for the facts, among other aspects. Likewise, it takes note that macro-case 07[[617]](#footnote-617) has preliminarily established how many children and adolescents were the victims of illicit recruitment and use in the armed conflict by the former FARC-EP, and the internal prioritization strategy for this case has been disseminated. Notwithstanding the foregoing, the IACHR takes note of the demands and recommendations issued by different actors regarding the opening of macro-cases that specifically address sexual violence; forced disappearance; forced displacement; and the use of illicit methods of warfare.[[618]](#footnote-618) The Commission also expresses its concern regarding legislative proposals that seek to make changes to the functions of the Special Jurisdiction for Peace (JEP), which would have the effect of weakening it or limiting its operation, and calls on the State to refrain from promoting reforms that hinder the fight against impunity.[[619]](#footnote-619)
57. The IACHR welcomes Judgment C-337/21 of the Constitutional Court, which considers the effects of the pandemic on the work of the Commission for Clarifying the Truth, Coexistence, and Non-Repetition and orders the adoption of the measures necessary to ensure its effective operation until June 27, 2022, as well as the dissemination of the report on August 27.[[620]](#footnote-620) On the other hand, it has learned of concerning facts in relation to the National Center for Historical Memory, including the alleged censorship of materials from the exhibition “SaNaciones, diálogos de la memoria” in a failure to recognize the victims of eight indigenous peoples who had participated in the process of putting it together.[[621]](#footnote-621) In this regard, the IACHR observes that, on March 26, 2021, the JEP adopted, *ex officio*, precautionary measures addressing the possible alteration of the aforementioned exhibit. Likewise, in February 2021, the JEP ratified precautionary measures to preserver and conserve the integrity of another exhibition—”Voces para Transformar Colombia”—as handed down by the court upon finding that the collection in question had been changed without the participation of the victims.[[622]](#footnote-622)
58. Additionally, the Commission has learned of acts of violence against victims, representatives of groups of victims of the internal armed conflict, and workers for and collaborators with the institutions responsible for promoting truth, justice, and reparation.[[623]](#footnote-623) The Commission repudiates such incidents and urges the State to carry out a prompt, diligent, and effective investigation, in which the work in defense of human rights and the search for truth, justice, and reparation for the facts of the internal armed conflict is considered the central hypothesis. Likewise, it recalls that the State has a special obligation to adopt the measures necessary to guarantee that judicial officers, prosecutors, investigators, and other justice officials have an adequate security and protection system that takes into account the circumstances of the cases for which they are responsible and the locations where they work, enabling them to carry out their duties with due diligence while also protecting witnesses, victims, and their family members.[[624]](#footnote-624) The IACHR also emphasizes that it must be ensured that State officials and any other person involved in or supporting search, exhumation, and identification work have, where applicable, proper security guarantees, and the necessary investigations must be launched in response to any situation, threat, or aggression against such persons.[[625]](#footnote-625) In this sense, it joins the recommendations of the Committee on Enforced Disappearances of the United Nations regarding protection and investigation of acts of this nature, as well as strengthening the work of these organizations.[[626]](#footnote-626)
59. Regarding the rights of **LGBTI persons**, the IACHR welcomes the decision of the Constitutional Court of Colombia in which it recalled the obligations of prison authorities regarding the treatment of persons with diverse sexual orientation or gender identity, including the obligation to have the means to prevent other inmates, as well as prison staff, from threatening the inmate's life or dignity.[[627]](#footnote-627) Likewise, the Commission highlights progress in the design, approval or implementation of public policies on the rights of LGBTI persons in different parts of the territory.[[628]](#footnote-628) Along these lines, the Commission welcomes the order issued by the Office of the Attorney General of the Nation to continue prioritizing the investigations into cases with LGBTI victims in areas with the highest concentration of cases, including Cali, Medellín, Bogotá, Barranquilla, Antioquia, Santander, Magdalena, and Arauca.[[629]](#footnote-629) In addition, the IACHR took note of progress in investigations with a diversity perspective during 2021, including the arrest of the alleged perpetrator of two homicides, allegedly motivated by the sexual orientation of the victims,[[630]](#footnote-630) and recognizes the efforts of the Prosecutor's Office to train prosecutorial staff to guarantee criminal investigations are carried out from a perspective of diversity.[[631]](#footnote-631)
60. Despite these advances, the Commission has taken note of reports of violence against LGBTI persons in Colombia. The IACHR has noted with concern the human rights situation of discrimination and violence against trans women in Colombia.[[632]](#footnote-632) The Office of the Ombudsperson indicated it had dealt with 72 cases of violence based on prejudice between January and May 2021, with a majority of the victims being trans women.[[633]](#footnote-633) Likewise, the Office of the Ombudsperson indicated that as of December 20, 2021, 35 trans women had been murdered in 2021, including Cristina Cantillo, defender of the human rights of LGBTI persons.[[634]](#footnote-634) Also, the data collected by civil society organizations indicate that, as of August 2021, at least 20 trans women had been murdered in the country.[[635]](#footnote-635) Additionally, the Commission observes that civil society organizations have alleged that State information systems underreport acts of violence against LGBTI persons, making the phenomenon invisible.[[636]](#footnote-636)
61. In addition, during its visit, the IACHR received information about acts by security forces agents indicating they use gender-based violence as a mechanism of repression against women, girls, and LGBTI persons.[[637]](#footnote-637) In this regard, the Commission learned of the arrest of three men who, during an alleged arbitrary detention, suffered physical and sexual violence while being held at the Metropolitan Rapid Response Center of Barranquilla. According to the complaint, one of the men was also insulted for his sexual orientation. In this regard, the IACHR took note that the Metropolitan Police of Barranquilla had expressed their intention to investigate the facts; however, according to information from civil society, to date, no progress has been reported in determining the responsibility of police officers for actions or omissions related to these incidents.[[638]](#footnote-638)
62. Regarding the **rights of persons with disabilities**, the IACHR took note of the bills put forward at the national level to protect the dignity of persons with disabilities, such as the passage of Law 2096 of 2021, promoting the use of inclusive facemasks and/or masks with transparent elements in order to ensure and guarantee communication.[[639]](#footnote-639) It also highlights the draft decree regulating the provision of the service of support validation that public and private entities must undertake pursuant to Law 1996 of 2019, establishing the regime for persons with disabilities of the age of majority to exercise their legal capacity.[[640]](#footnote-640) In this regard, it learned that the Constitutional Court declared the law constitutional, finding that it should not be processed as a statutory law.[[641]](#footnote-641) Additionally, the IACHR takes note of the appointment of Jairo Clopatofsky, a public official with a disability, as ambassador to Jamaica[[642]](#footnote-642) and underscores the importance of including persons with disabilities in public and government work.
63. Regarding challenges, the Commission expresses concern at allegations from the students of the Universidad de Antioquia that although sign language is part of the university, accessing it is impossible.[[643]](#footnote-643) It also expresses concern at the bill on caregivers of persons with disabilities, since its content is a departure from international standards on the matter in that it describes persons with disabilities as "objects of care," failing to center their autonomy.[[644]](#footnote-644)
64. Regarding **persons deprived of liberty**, the Commission welcomes the adoption of the National Criminal Policy Plan 2021-2025, which seeks to: i) reduce the use of deprivation of liberty and pretrial detention by encouraging alternative measures; ii) guarantee humane treatment and decent detention conditions; iii) develop social reintegration strategies to prevent recidivism; and, v) establish social reintegration routes for people who have served prison sentences.[[645]](#footnote-645) Likewise, the Commission took note of the reduction in the overcrowding rate in penitentiary centers[[646]](#footnote-646) and the implementation of a pilot project to promote alternatives to prison.[[647]](#footnote-647)
65. Additionally, the Commission was informed of the deplorable detention conditions faced by persons deprived of liberty in penitentiary and police jails, which are contrary to the standards in this area.[[648]](#footnote-648) The IACHR takes note that the Office of the Ombudsperson has identified overcrowding as the most serious problem in prison and police detention centers and that it has also highlighted the need to combat violence against women and LGBTI persons in detention centers and deficient medical care for persons deprived of liberty.[[649]](#footnote-649) The Commission has also been informed that the health protocols for addressing the COVID-19 pandemic in prisons are imprecise, and the State has restricted the civil society organization access to prisons in the context of the pandemic, thus preventing monitoring of the human rights situation of persons deprived of liberty.[[650]](#footnote-650) The IACHR also expresses concern about reports of violent searches,[[651]](#footnote-651) inadequate food,[[652]](#footnote-652) and the suspension of conjugal visits.[[653]](#footnote-653)

**Violations of the right to protest and human rights violations in the context of demonstrations**

1. During 2021, the Inter-American Commission followed closely the human rights situation related to the right to freedom of expression and protest. In this context, it observed that the protests, which began on April 28, are linked to structural and historical demands of Colombian society, and that the State's response, in certain circumstances, was characterized by the excessive use of force. Likewise, it was able to establish that these demonstrations are closely related to the protests that took place in 2019 and 2020, as well as to discussions held within the framework of approval of the Political Constitution of 1991 and the Peace Agreements of 2016.
2. The Commission also verified a broad consensus among representatives of the State and civil society on the causes leading to these protests, associated with profound wealth inequality, poverty, extreme poverty, and access to economic, social, and cultural rights—in particular, education, work, and health. All of the above takes place in a context of high rates of violence and impunity, as well as patterns of ethnic-racial, gender, and age discrimination. These historical and structural challenges have been exacerbated by the measures necessary to contain and respond to the COVID-19 pandemic.
3. Additionally, the IACHR verified the existence of a climate of social polarization that makes it difficult to use dialogue as a mechanism for overcoming the aforementioned historical and structural problems. In the Commission's view, this polarization is directly related to structural ethnic, racial, gender, and socioeconomic discrimination, as well as political factors. This phenomenon is present across social sectors and manifests itself in the form of stigmatizing speech that has accelerated the deterioration of the public discourse. The Inter-American Commission finds it especially worrying when such speech comes from authorities.
4. Likewise, the Commission took note that the logic of the armed conflict had been extended to interpretation and response to the demonstrations. In this sense, the IACHR emphasizes that, in a democratic society, the rights to freedom of expression and protest are essential for the functioning of democratic institutions and the State has the duty to guarantee them. The Commission reiterates that the disagreements arise from persons requiring protection, not enemies that must be fought.[[654]](#footnote-654)
5. In this way, the Commission notes that the social polarization observed, the stigmatization, the violence and the persistence use of the logic of war hinder any effort at dialogue as a mechanism to reach solutions to the structural problems underlying the current conflict.
6. The IACHR took note of the information presented by the State on the spaces for dialogue established at the national and regional levels, as well as through the National Roundtable for Evaluating Guarantees and the Unified Command Posts.[[655]](#footnote-655) Similarly, it has received complaints from civil society of a lack of willingness to reach consensus, as well as breaches of the agreements reached.
7. In light of this, the IACHR reiterates its call to the State, civil society, and the various social and political actors to engage in broad, deep, and inclusive dialog that takes a territorial approach and involves young people, human rights defenders, indigenous and Afro-descendant people, women, LGBTI persons, persons living in poverty, the elderly, persons with disabilities, persons in situations of human mobility, and victims of violations of human rights. It is essential to build bridges between the State and the various social groups in order to seek alternatives and opportunities that can draw up a work agenda that addresses historical violations of human rights in Colombia.
8. Hereinafter, the IACHR will address a series of aspects of concern deriving from the State's response to the demonstrations that took place in the country and their differentiated impacts on groups that face the historical and structural violation of their rights.

**Principle human rights violations in the context of the protests**

***Disproportionate use of force***

1. The Inter-American Commission has verified multiple human rights violations in the State's response to the demonstrations that took place starting on April 28 of this year in different regions throughout the country.
2. In its monitoring work, the Inter-American Commission was informed that, in compliance with decision STC 7641-2020 of the Supreme Court of Justice, the Colombian State issued Decree 003 of 2021, entitled "Statute of reaction, use, and verification of legitimate force by the State and protection of the right to peaceful citizen protest.” This regulation establishes guidelines for the actions of the police "in its functions of guaranteeing fundamental rights and safeguarding citizen coexistence and public order in the framework of public and peaceful demonstrations." In particular, article 2 of this decree establishes the primacy of dialogue and mediation in protests, "even when peaceful means of intervention are considered exhausted and force is used under the terms of this protocol."[[656]](#footnote-656)
3. Likewise, the Colombian State informed the IACHR that, through Directive 05 of March 1, 2021, the National Police established the “institutional parameters for activating the public demonstration and riot control anticipation and response system.”[[657]](#footnote-657) In addition, Temporary Operational Directive No. 018 on "Strengthening the police service to guarantee the peaceful public demonstrations held since April 21, 2021” was issued on May 7, 2021.[[658]](#footnote-658)
4. Additionally, the State indicated that pursuant to the protocols of the National Police, there are two different mechanisms used during demonstrations—one to provide support and protection and to guarantee the right to demonstrate, and another of surveillance using police patrols, aimed at ensuring citizen security and coexistence, where carrying weapons is authorized.
5. Despite existing regulations and protocols, the IACHR has been able to verify that, in the context of the protests, in different circumstances and regions throughout the country, the State's response was characterized by excessive and disproportionate use of force that, in many cases, included the use of deadly force. This can be cross-verified using information received in the form of audio recordings, videos, and photographs, as well as from meetings with social organizations and individual and collective testimonies collected in the framework of the visit, as well as the progress of the judicial investigations into several of these incidents.
6. It is the Commission's view that the proper application of the protocols on the use of security forces should be governed by the criteria of legality, necessity, and proportionality. Faced with complex scenarios, the actions of authorities must not be indiscriminate. Rather, they must identify the violent actors and distinguish them from those exercising their legitimate right to protest.
7. Nevertheless, the Commission received multiple reports indicating that, from the start of the social protests, a considerable portion of the actions of security forces were aimed at discouraging participation in them. This also impacted those who were not participating in the protests, which contributed to escalating tensions. In this regard, reports were received of excessive use of force with less lethal weapons—for example, the indiscriminate use of expired irritant gases, or the use of Venom grenade launchers, the use of which was prohibited by an administrative judge in Popayán on June 2[[659]](#footnote-659)—and the use of these gases in residential areas in a way that affected, among others, older persons.
8. The IACHR also received serious allegations of the indiscriminate use of firearms against demonstrators and persons who were not participating in the protests, especially in Cali and the different municipalities of Valle del Cauca, as well as in Pereira, Risaralda department. The reports received describe the use of these types of weapons allegedly by some members of the security forces, some of whom are not fully identified. The Commission also received extremely concerning information on the possible involvement of armed persons dressed as civilians, some of whom apparently operated with the acquiescence of the police. According to publicly-available information, this took place on multiple dates and in multiple locations, culminating on May 28 in the city of Cali, when 13 people were killed and 36 injured.[[660]](#footnote-660)
9. The IACHR also received reports indicating that in some departments—such as Valle del Cauca—the armed civilians traveled on motorcycles and in SUVs with the license plates covered as they intimidated, attacked, and harassed demonstrators or people fleeing the clashes. For example, the Commission took note of publicly-available information on a group of civilians carrying firearms who traveled in a truck allegedly registered as the property of the National Police of Colombia.[[661]](#footnote-661) Regarding this, State authorities indicated that the Office of the Attorney General had been asked to conduct the corresponding investigations.
10. It should be noted that the IACHR has received reports that consistently describe the disproportionate use of force by agents of the Mobile Anti-riot Squads of the National Police (ESMAD). According to these accounts, ESMAD officers broke up different demonstrations, points of resistance, and other peaceful gatherings using physical, sexual, and verbal aggression. Likewise, the testimony received described the use of marbles and rubber bullets or munitions, as well as the indiscriminate and nonstop deployment of teargas, sometimes fired directly at the heads and chests of demonstrators. This caused a high number of injuries, including eye injuries and deaths. Specifically, the Commission received the testimony of at least a dozen persons who suffered eye injuries of varying severity.
11. The IACHR also received consistent reports that, in some cases, the teargas was fired directly into spaces where demonstrators were seeking refuge and shelter; improvised medical posts; and even into residences, disproportionately impacting older adults, children, and adolescents who were not participating the protests.
12. Considering that the impacts of the use of force can be irreversible, the IACHR views it as a last resort that, limited qualitatively and quantitatively, is intended to prevent events of greater gravity than what would be caused by the State’s reaction. Within this framework of exceptionality, both the Commission and the Inter-American Court have agreed that in order for the use of force to be justified, it must effectively satisfy the principles of legality, absolute necessity, and proportionality.[[662]](#footnote-662) This generally means that it must be provided for by law and pursue a legitimate aim; that an evaluation must be conducted to verify the existence and availability of less harmful measures; and that the degree of force used must be in accordance with the real risk posed to persons and the level of resistance, meaning a balance must be struck between the situation faced by the official and their response, considering the potential damage that could be caused.
13. Likewise, in accordance with the principle of exceptionality, States must, where possible, use nonviolent measures prior to employing force and firearms. This restriction on the use of force does not apply solely to lethal weapons. Measures considered "nonlethal" or "less lethal" must also be among the measures whose use is controlled. This category can include different types of rubber bullets, tear gas, rubber projectiles, plastic bullets, sound devices, etc.
14. Regarding this, the IACHR takes note of the information provided by the State on the institutional reform to strengthen the civilian nature of the police force, guaranteeing the exercise of public liberties and citizen coexistence with a focus on human rights.[[663]](#footnote-663) The State recently reported that the process to comprehensively transform the police consists of three central elements: An advisory panel made up of seven experts who will guide their work around eight thematic areas; a process of dialogue with civil society; and devising a Comprehensive Plan for Police Innovation, Transparency, and Effectiveness, which seeks to strengthen training, professionalize security forces, update disciplinary regulations, transforming the organic structure, and build institutional identity.[[664]](#footnote-664)
15. Additionally, it has taken note of the progress made in the investigations, resulting in 160 charges filed, 643 crime reports, and 49 precautionary measures. Likewise, it was reported that 278 cases of persons appearing as victims of abuse of authority and personal injury are under investigation.[[665]](#footnote-665) In order to investigate the various incidents that took place in the context of the demonstrations, the State reported that the Office of the Attorney General of the Nation set up a team with more than 3,000 people.[[666]](#footnote-666)
16. Additionally, the State informed the IACHR of the status of the disciplinary and criminal investigations into the security forces officials allegedly responsible for illegal acts during the protests. Between April 28 and July 20, 231 disciplinary investigations were launched at the national level by the National Police; 94 of these processes were archived because it was established that the conduct was in accordance with the law; 149 have been closed, 45 of them due to the Office of the Attorney General’s exercise of prosecutorial discretion; 73 cases are at the preliminary inquiry stage; 6 are at the public hearing stage; 2 cases have met with rulings to dismiss; 2 cases have been suspended; and one fine, one written reprimand, and four acquittals have been handed down.[[667]](#footnote-667) In addition, the Attorney General's Office has 472 records of disciplinary actions against National Police officers related to incidents that took place during the protests. Of these records, 306 are under preliminary investigation, 94 were archived, 52 were transferred to the Office of Internal Disciplinary Control, an investigation was opened in 18, and charges were filed in 2.[[668]](#footnote-668)
17. Lastly, the IACHR condemns the high number of human rights violations reported in the context of social protest and urges the Colombian authorities to investigate with due diligence, identify and punish those responsible, and duly report the results to citizens, providing reparations to victims and their families.

***Reports of persons killed, disappeared, injured, and victims of gender-based violence***

1. The Inter-American Commission received information on grave human rights violations and a number of obstacles to guaranteeing social protest that emerged over the course of 2021. The central concerns identified were the following: the disproportionate use of force; gender-based violence during protests; ethnic-racial violence during protests; violence against journalists and volunteer medics; violence against human rights defenders; irregularities during protective transfers; and reports of disappearances. Also concerning was the use of military support, military disciplinary authority, and military criminal jurisdiction.
2. According to the information provided by the State, during the National Strike from April 28 to August 26, approximately, 8,577 rallies, 2,670 marches, 735 demonstrations, and 52 assemblies were held in 860 municipalities across 32 departments.[[669]](#footnote-669)
3. According to the information provided by the State, in the context of the demonstrations that began on April 28 in the country, 57 people died. Of these deaths, 29 are connected to the demonstrations, with the remaining cases having taken place during the days of the national strike but with no a direct connection to the protests.[[670]](#footnote-670) The Office of the Attorney General indicates that in 17 of these cases, progress has been made toward solving them.[[671]](#footnote-671) Regarding the victims, the State reported that they were all men, 25 were civilians—including an indigenous person and a minor—and the remaining 4 victims were members of security forces.[[672]](#footnote-672)
4. The Presidential Council for Human Rights and International Affairs reported that, between April 28 and September 10, 1,140 civilians and 1,754 members of security forces were injured.[[673]](#footnote-673) Of these cases, the Office of the Ombudsperson documented 18 persons with eye injuries.[[674]](#footnote-674) The State reported that there were 72 victims of eye injuries in the context of the protests.[[675]](#footnote-675)
5. For its part, the Office of the Ombudsperson also reported receiving 783 missing persons reports. The Office of the Attorney General reported that as of June 15, the Urgent Search Mechanism (MBU) remained active in 84 cases and on September 14, it indicated that, of these 84 cases, 52 remained active before the MBU and the remaining 32 cases were inactive.[[676]](#footnote-676) In the framework of the hearing entitled "Follow-up of the observations and recommendations of the working visit to Colombia," held during the 181st period of sessions of the IACHR, the State indicated that the Urgent Search Mechanism had registered 627 missing persons reports related to the protests, with 276 located and the mechanism still active for 27 persons, while the remaining cases were declared inadmissible or duplicates. In addition, the Office of the Public Prosecutor reported six cases of forced disappearance, one of which has been solved.[[677]](#footnote-677)
6. Additionally, the Office of the Ombudsperson indicated 113 acts of gender-based violence had been reported, of which 112 cases were allegedly perpetrated by members of security forces, 99 of them against women and 13 against LGBTI persons. The complaints include 27 cases of sexual violence, 5 incidents of rape, and 22 incidents of groping. Additionally, a case was reported of sexual violence experienced by a woman police officer during the demonstrations.
7. In an update to the information sent to the IACHR by the State, it notes that 17 cases of gender-based violence were registered in the context of the demonstrations, of which 6 were archived due to a lack of the minimum objective elements necessary to investigate the criminal offense in question. The remaining 11 cases involve 4 cases of sexual acts, 3 of rape, 2 of personal injury, 1 of torture and 1 of violence against a public servant.[[678]](#footnote-678)
8. Additionally, the IACHR received information from the civil society organization Temblores indicating that 73 people died during the demonstrations, of which deaths 44 were allegedly related to the actions of the security forces and the remaining 29 cases are in undergoing the verification process.[[679]](#footnote-679) The Campaña Defender la Libertad Asunto de Todas reported that 84 persons had died in the context of the demonstrations, with evidence in 28 cases indicating the involvement of members of security forces as possible perpetrators; another 7 incidents attributable to unidentified civilians; and the attacker unidentified in the remaining cases.[[680]](#footnote-680)
9. The IACHR took note of the information from civil society reporting eight murders of social leaders and human rights defenders related to occurring directly within the framework of the national strike.[[681]](#footnote-681) The organizations also reported attacks on 298 human rights defenders in the framework of the demonstrations that took place in the country, a good portion of which took place in the framework of their work supporting the protests or as members of Civil Society Verification and Intervention Committees.[[682]](#footnote-682)
10. Regarding injured persons, the organizations comprising the Campaña Defender la Libertad documented 1,790 persons injured, of which 84 experienced eye injuries and 114 had gunshot wounds. They also reported attacks on 298 human rights defenders during the protests.[[683]](#footnote-683)
11. For its part, Temblores counted 1,617 victims of physical violence and provided a list of 82 people with ocular trauma. Additionally, it reported on 2,005 arbitrary detentions that took place in the framework of the protests and 4,687 cases of police violence.[[684]](#footnote-684) With regard to incidents of sexual violence, the organization reported 25 cases allegedly committed by security forces agents, 18 against female victims and 9 against male victims.[[685]](#footnote-685)
12. Additionally, the Commission took note of the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the protests taking place in the country. The OHCHR indicated that between April 28 and July 31, they received information on 63 people who died in the context of the protests, of which they verified 46 cases; 4 cases remain in the verification process; and in 13 cases, not enough information is available to reach a conclusion. Of the verified cases, 44 were civilians and 2 were members of the police. According to the information provided by the OHCHR, of the 46 people who died, in 28 cases, the alleged perpetrators were members of security forces; in 10 cases they were non-State actors; and in 8 cases, the Office was not able to obtain enough information to identify to the alleged perpetrator.[[686]](#footnote-686)
13. Regarding the socio-demographic profile of the victims who died during the protests, the OHCHR indicates that the majority were young people between the ages of 17 and 26 who lived in poor and outlying neighborhoods. They were the children of peasant, indigenous and Afro-descendant parents, and displaced by violence, and they did informal work or were engaged as artists, athletes, students, or not in school.[[687]](#footnote-687)
14. Additionally, OHCHR received 60 allegations of sexual violence, of which it was able to verify 16 acts allegedly committed by members of the National Police. Likewise, the OHCHR highlighted the number of people injured was significantly underreported, a result of the fear these persons have of being prosecuted when they go to health centers.[[688]](#footnote-688)
15. The IACHR reiterates its concern about the differences in the number of victims registered by the State and the number documented by civil society. Its view is that these inconsistencies could lead citizens to lose trust in the authorities. The State must therefore maintain a registry with consistent, up-to-date, and public information, the design and implementation of which include the participation of civil society. The State also must be transparent as to the criteria it uses in the investigations and their respective progress. The right to access to public information means that States have a duty—among other duties—to provide reliable and disaggregated information. In the same way, States are required to preserve and facilitate access to State archives on human rights violations, not only to preserve the investigations but to ensure such violations are not repeated.
16. The IACHR also notes that the handling of the records and widely disparate hypotheses regarding—for example—the persons dead and injured during the protests is an obstacle to access to justice for the persons who allege having been the victims of human rights violations. Whatever the case may be, the high numbers of the different reports are extremely concerning to the Commission, and it therefore reiterates its emphatic condemnation of them and issues once again a call for the State to diligently investigate all the incidents reported and punish the perpetrators of and masterminds behind all human rights violations. The Commission recalls that impunity contributes to the repetition of such acts.

***Gender-based violence during protests***

1. In the framework of its visit, the IACHR received testimony on the different types of gender-based violence. Based on the information gathered, the Commission noted multiple reports of acts committed by security forces agents, indicating the use of gender-based violence as a mechanism of repression against women, girls, and LGBTI persons. Such violence was used against both persons found in the protest and against persons located in areas away from the protest.
2. In this regard, the IACHR received information on the grave case of an adolescent who was sexually assaulted by several security forces agents in the city of Popayán and who later committed suicide on May 12.[[689]](#footnote-689) The Commission takes note of the progress in investigating these facts and of the charges filed by the Office of the Attorney General against three members of the ESMAD and two members of the GOES, with regard to the alleged illegal holding of the adolescent and the excessive use of force.[[690]](#footnote-690) These charges do not address the alleged acts of sexual violence, and therefore the Commission will continue monitoring to ensure that the investigations are carried out in accordance with inter-American standards on violence against women.
3. Additionally, there was information on other acts of violence against women allegedly committed by police forces in the framework of the National Strike. In this regard, the Commission takes note of a case of sexual violence in the demonstrations of July 20, 2021,[[691]](#footnote-691) and a case of assault with a taser on the genitals during an eviction procedure on August 3, 2021.[[692]](#footnote-692) Likewise, the IACHR was informed of the case of a woman beaten and exposed to nudity, allegedly by ESMAD agents on July 14 when they intervened in an occupation where a community soup kitchen was being held; a case of harassment of a member of the Autonomous Health Brigade allegedly by two agents of the National Police who prevented her from leaving a bathroom on July 17; and flashing of genitals by an individual presumed to be a member of the National Police at women who were recording violations of the human rights of young people during a demonstration.[[693]](#footnote-693)
4. The Commission also notes with extreme concern the cases of grave gender-based violence alleged, including sexual violence against indigenous women who report having been abused and stigmatized for their cultural expressions and ancestral symbolism during the demonstrations. In this context, the testimony of an indigenous woman was received in Puerto Madera, Cali, who was stopped by two police officers traveling by motorcycle. They then proceeded to physically and sexually abuse her.
5. Likewise, the IACHR received testimony from women who recounted having been groped during their detentions, threatened with rape and sexual abuse, and subjected to stigmatization by police officers who called them "vandals" or “guerrillas" for having been at the demonstrations. Other women interviewed by the IACHR reported having been shot at point-blank range in their genitals, causing serious injuries.
6. Additionally, the Commission learned of the occurrence of 15 cases of gender-based violence against women of African descent in the framework of the national strike. The IACHR recalls the specific risks to which women of African descent and indigenous women are exposed due to historical patterns of racial and structural discrimination.
7. Lastly, the Commission received repeated complaints of acts of gender-based violence committed by security forces agents as mechanisms of repression against women, adolescents, girls and LGTBI persons.[[694]](#footnote-694) Likewise, in the context of the national strike in Colombia, the IACHR received consistent complaints about the effects of tear gas on children and adolescents who were not participating in the protests.[[695]](#footnote-695)
8. The Commission learned of the arrest of three men who, during an alleged arbitrary detention in the context of the strike, suffered physical and sexual violence while being held at the Metropolitan Rapid Response Center of Barranquilla. According to the complaint, one of the men was physically and sexually assaulted, as well as insulted for his sexual orientation. The IACHR took note that the Metropolitan Police of Barranquilla had expressed their intention to investigate the facts; however, according to information from civil society, to date, no progress has been reported in determining the responsibility of police officers for actions or omissions related to these incidents.[[696]](#footnote-696)
9. Similarly, the Commission received complaints of sexual assaults on trans women in Tunja, Boyacá, and Pasto.
10. Likewise, the IACHR reaffirms its condemnation of the sexual violence suffered by a female security forces officer when a police station was vandalized in Cali on April 29.[[697]](#footnote-697)
11. Lastly, civil society organizations pointed to the persistent challenges in access to information and transparency. In this regard, the organizations state that on September 24, 2021, a request for information was submitted on the measures adopted by the authorities to guarantee access to justice for women victims of gender-based violence. However, according to the organizations, the response provided is incomplete, does not provide disaggregated data by type of crime, and is limited to reporting its referral to other State agencies without reporting any type of follow-up.[[698]](#footnote-698)
12. The Commission received information from the State indicating that between April 28 and July 30, 2021, the Office of the Attorney General of the Nation and the Presidential Council for Women’s Equality reported 37 disciplinary actions related to acts of alleged violence based on sex and gender. Of them, 34 are in the preliminary inquiry stage and 3 are undergoing the process to determine which body has priority to handle them. They include 14 acts of physical violence, 6 of sexual violence, and 2 of psychological violence, along with 13 cases of abuse of authority and 2 of irregular detentions. In 35 of the cases, the victims are women, and in 7 of the cases the victims are adolescents.[[699]](#footnote-699)
13. With regard to reports of gender-based violence, the Commission reminds the State of its obligation to investigate these acts, taking into account the principle of enhanced due diligence and in line with its duty to protect and prevent violence against women and ensure the investigation is carried out from an intersectional gender approach that incorporates other factors of discrimination. It is also reminded to make the necessary mechanisms available to ensure that victims receive effective access to justice and reparations.
14. The IACHR reiterates the State’s duty to adopt the measures to strengthen mechanisms of access to justice for LGBTI victims of gender-based violence in the context of social protest, including mechanisms for reporting, addressing, investigating, and providing reparations from an approach that is differentiated, proximate, and provided by specialized personnel. The Commission reiterates that States must guarantee that their justice systems have the capacity to thoroughly and effectively investigate all instances of police abuse and all cases of torture or cruel, inhuman, and degrading treatment. Consequently, States must adopt protocols and guidelines aimed at law enforcement agents, as well as training and awareness-raising on human rights, sexual orientations, gender identities, and diverse sex characteristics, and, in general, the rights of LGBTI people.
15. Lastly, it warns that violations of the rights of indigenous and Afro descendent women and girls not only impact them individually but also negatively affect their peoples of origin, causing grave damage to the social fabric and increasing the sense of defenselessness and impunity. In the specific case of indigenous women and women of African descent, the State must consider all risk factors that they may encounter due to their ethnic-racial origin and age, pursuant to the provisions of articles 6 and 9 of the Inter-American Convention on the Prevention, Punishment, and Eradication Of Violence against Women. The IACHR recalls that impunity for such crimes sends the message that this violence is tolerated, fostering their commission.

***Ethnic-racial discrimination-based violence during protests: Indigenous Peoples, People of African Descent, and Tribal Communities***

1. The Commission has indicated that historical ethnic-racial discrimination lays the groundwork for structural inequality in the present.[[700]](#footnote-700) In this regard, the IACHR observes that the historical accumulation of violations of the rights of indigenous peoples, persons of African descent, and tribal communities impacts the enjoyment of their economic, social, cultural, and environmental rights, as stated in the background section, but it also impacts their right to protest and to political participation, and therefore their right to free self-determination.
2. Likewise, the Commission notes that ethnic-racial discrimination also impacts how institutions respond to the different demands of indigenous peoples, persons of African descent, and tribal communities. In this framework, the IACHR has indicated that members of ethnic communities, as well as residents of geographic areas inhabited by people living in poverty, are more exposed to racial profiling[[701]](#footnote-701) by State security forces and the system of justice. Consequently, they are more exposed to abuse and arbitrary actions.[[702]](#footnote-702)
3. In this regard, the IACHR received a consolidated report by different civil society organizations denouncing the militarization of and excessive use of force by the national police and ESMAD in areas with large populations of persons of African descent.[[703]](#footnote-703) According to the information received, cities such as Cali and regions with the most cases of excessive use of force—including lethal force—by security forces are also areas populated predominantly by persons of African descent and where a high percentage of residents live in poverty, with their basic needs unmet. Additionally, these areas of Cali are also recipients of a large portion of the displaced population from the Pacific region.[[704]](#footnote-704)
4. According to reports provided by ethnic organizations to the IACHR, in the context of the protests, there have been 50 documented cases of attacks against members of the National, Social, Popular, and Community Minga since the demonstrations started on April 28, 2021. Specifically with regard to indigenous peoples, reports have indicated 2 deaths, 3 physical assaults, 159 incidents of harassment, and 21 alleged victims attended to in the framework of social protest.[[705]](#footnote-705)
5. The IACHR received with concern testimony from members of indigenous communities in the department of Valle del Cauca on the grave impact on their communities of both deaths of their traditional authorities or leaders and aggressions against them. The IACHR also received information on attacks, acts of intimidation, harassment, and stigmatization committed by civilians who associated these peoples with the demonstrations in Cali. The Commission also noted with extreme concern cases of grave gender-based violence, including sexual violence against indigenous women who were abused and stigmatized for their cultural expressions and ancestral symbolism during the demonstrations.[[706]](#footnote-706)
6. The Commission reiterates its concern at public statements that stigmatize demonstrators from ethnic peoples, and in that regard, it reminds the State of its duty to prevent and combat direct and indirect racial discrimination, as well as provide comprehensive reparations to the victims.
7. The Commission also urges the State to adopt urgent measures to investigate, prosecute, and punish those responsible for incidents of ethnic-racial violence, as well as grant comprehensive individual and collective reparations with an ethnic-racial focus to victims and their family members.
8. The IACHR emphasizes the urgency of adopting comprehensive citizen security policies to prevent and combat the use of discriminatory criteria in police actions in order to eradicate racial profiling and the excessive use of force, in line with principles of equal protection and nondiscrimination. The IACHR urges the State to combat ethnic-racial and structural discrimination that mainly affects persons living in poverty.

***Violence against journalists in the context of the protests***

1. The Commission received various testimonies and information from civil society organizations reporting violence against journalists who were carrying out their work in the context of the demonstrations. According to the information provided, there were at least 300 attacks and 342 victims between the start of the protests on April 28 and July 19. These attacks included physical violence, threats, and theft, as well as the seizure and erasure of audiovisual files, harassment, obstruction of journalism work, illegal detentions, attacks on the media, and other incidents. According to the Foundation for Freedom of the Press, 60% of all reported attacks are attributable to security forces, 26% to individuals, and for the rest, the perpetrators are unknown.[[707]](#footnote-707)
2. Also, on August 28, the IACHR granted precautionary measures to journalists José Alberto Tejada Echeverri and Jhonatan Buitrago, journalist and cameraman, respectively, of *Canal 2* of Cali, who had been subjected to harassment and threats over their coverage of the protests and acts of violence within the framework of the protests that took place in Colombia.[[708]](#footnote-708) Among other incidents reported to the IACHR and its Office of the Special Rapporteur, on June 4, 2021, in the context of the demonstrations, ESMAD agents reportedly shot at the reporters, even when they identified themselves as members of the media.[[709]](#footnote-709) They were also subjected to surveillance, photographing of the channel's headquarters, and threatening messages by people presumed associated with the police, one of the reasons leading to the forced displacement of Jhonatan Buitrago and his family.[[710]](#footnote-710) The journalists also denounced an alleged assassination plot in which 30 million pesos were offered for the life of journalist Alberto Tejada.[[711]](#footnote-711)
3. In turn, the IACHR learned of a case of sexual violence against a journalist in the city of Cali and about the fear among women journalists of sexual violence when reporting. Likewise, according to the testimonies received from more than 40 reporters from Bogotá, Cali, Popayán, and Suba, the harassment of the media has come both from security forces agents and from demonstrators and armed civilians. The State has reported the launching of at least eight disciplinary investigations for attacks against journalists, and complaints were also received indicating that most of these attacks had not been diligently addressed by the authorities.[[712]](#footnote-712)
4. Additionally, the IACHR observes with concern the reports of attacks on media offices by some protesters and harassment—mainly of female journalists—on social media. For example, the offices of *RCN* and the magazine *Semana* were reportedly subjected to attacks, putting in jeopardy the physical integrity of journalists and the news service operations, according to reports.[[713]](#footnote-713)
5. According to the information received, these situations took place in a context of stigmatization of journalists and some media outlets by the authorities, as well as by political and social leaders. According to the complaints received by the IACHR, the acts of violence against the media, coupled with the weak institutional response to them, have produced a general climate of silencing and self-censorship over fear of retaliation.
6. The IACHR deems it essential that plural, alternative, and diverse views be respected on matters that concern everyone as citizens and recalls that nothing fosters the repetition of violence against the media more than the absence of a decisive institutional response to it.[[714]](#footnote-714)
7. Violence against the media affects the right to freedom of expression not only in its individual dimension but also in its social and collective dimension, as it limits opportunities for society to stay informed on matters of public interest.[[715]](#footnote-715) In this regard, the IACHR views positively the adoption of Directive 011 of 2021 of the Office of the Procurator General of the Nation, urging members of the national government, mayors’ offices, governors’ offices, security forces, and all public servants in general to serve as guarantors of the rights to freedom of expression and information. According to the Office of the Procurator, this is especially important given the circumstances the country has been facing since April 28 with citizens exercising their right to demonstrate peacefully, "which should be respected and protected the same as the expressions of those who are not in agreement and have staked out a different position."[[716]](#footnote-716)
8. The Commission urges the State to publicly condemn all acts of violence against the media and reminds it of its obligation to investigate, prosecute, and punish the perpetrators of such attacks. At the same time, the Commission invites the Colombian media to follow the highest standards in order to provide the highest quality journalism possible, ensuring the trustworthiness of the facts and information. The strengthening of democratic institutions requires journalism that follows a methodology and takes work, which in turn contributes to providing society with diverse, balanced, and well-sourced points of view on the facts of public interest being covered.

***Violence against medical missions***

1. Additionally, the IACHR and its REDESCA received information indicating attacks on medical missions and obstruction of the passage of ambulances, by both security forces and demonstrators during the 2021 protests.
2. Additionally, reports were received from the State and medical personnel about the existence of threats and harassment of medical units and health personnel, especially those who would be providing support to people on the front line, as well as students who had organized to support the demonstrations. Information was also received on alleged moves by security forces—especially the ESMAD—to prevent injured demonstrators from receiving timely care. These persons were also afraid to go to health centers due to the risk of being prosecuted.
3. The Commission also received information that State agents had allegedly told medical and nursing staff to refuse care to persons injured during the demonstrations. It was also alleged that healthcare personnel were pressured and threatened to not say anything about the protests, as well as to turn over the medical records of persons injured during the demonstrations on threat of punishment and in violation of their obligation to maintain professional confidentiality. The IACHR reminds the State of its obligation to investigate, prosecute, and punish the perpetrators of these aggressions.

***Abuse of protective transfers***

1. According to information from the Presidential Council for Human Rights and International Affairs, in the context of the protests, more than 7,020 people were arrested through the legal figure called “protective transfer,” regulated in article 155 of the National Police Code. The declared purpose of such detentions is to protect the lives and safety of persons or third parties when they are at risk or in danger and only if the transfer is the sole available means of doing so. As reported by the State in its response, the transfer for protection does not constitute a sanction, and the transferred person must be provided with all the necessary guarantees.
2. In this regard, the Commission learned that the Constitutional Court of Colombia found in Judgment C-281/17 of 2017 that this form of detention as regulated in article 155 "does not offer sufficient prior or subsequent due process guarantees.” In this regard, the court found it was constitutional, but on the condition that certain guarantees be observed, confirmed by Supreme Court of Justice judgment STC 7641-202068, cited as background.
3. The IACHR also learned that the police and the Office of the Procurator General of the Nation developed the “Citizen mobilization guidelines: Scope of Public Ministry intervention,” which reiterated that these "transfers" are exceptional in nature and shall not be used to take people to places intended for deprivation of liberty. The protocol also requires the preparation of a report indicating the circumstances of the detention and identifying the police officer who carried it out.[[717]](#footnote-717)
4. However, in view of the supposed exceptional nature of the measure, the high number of protective transfers reported by the State stands out to the Commission. The IACHR received reports indicating that the objective parameters used by the police to make these detentions are unknown. Additionally, it was also learned that protective transfers were used to detain persons in order to intimidate protesters, as well as to avoid the requirements to prove flagrancy or have a court order for an arrest for the alleged commission of criminal acts.
5. Likewise, civil society, the Office of the Ombudsperson,[[718]](#footnote-718) and the Office of the Procurator General repeatedly described difficulties accessing information on the detentions and the deficiencies in the intake and release records for detained persons, something that could have led to the high number of reports of disappeared persons. In this regard, the civil society organizations pointed out that the detentions were not logged at intake—as required by the regulations—but upon release. According to the organizations, this meant persons could be held for longer than the 12 hours permitted under the law; that persons could be held detained incommunicado for longer than provided for by law; and that they could be held in unauthorized locations.
6. The IACHR also received complaints of situations of violence and even of cruel, inhuman, and degrading treatment that could amount to torture and that took place during the protective transfers. Specifically, the persons interviewed informed the IACHR that the victims were constantly beaten and abused during the transfers. In some cases, they were threatened with being disappeared for participating in the protests.
7. A number of statements also indicated that the options to turn detained persons over to their families are not used, nor was transparent information available on the places where detained persons were being transferred. In addition, civil society organizations informed the IACHR that people were held in vehicles for more than 24 hours and in other unauthorized settings, several of them with inhumane conditions, as well as in overcrowded places, with convicted prisoners, without access to water or food, and with no access to a bathroom. Additionally, theft during the detention of cell phones and the information they contained was reported.
8. The testimonies collected in the framework of the visit carried out by the IACHR were consistent in pointing out that transfers for protection are being applied in several cases for purposes of a punitive nature, or as a means of dissuading protest. In the Commission's view, it is especially grave that these transfers, as designed, lack judicial oversight, meaning they amount to a restriction on liberty that depends solely on the judgments of the police officer implementing it.
9. The IACHR consequently urges the State to avoid depriving persons of liberty through the arbitrary use of protective transfers. In the case of *Fernández Prieto and Tumbeiro v.* *Argentina*, the Inter-American Court establish that in the event of a condition making it possible to carry out a detention without a court order or a crime in progress, in addition to complying with the requirements of legitimate aim, suitability, and proportionality, it "must require the existence of objective elements, such that it is not merely police intuition or subjective unverifiable standards that lead to a detention.” As the Inter-American Court found in this case, "these types of regulations must also follow the principle of equal protection and nondiscrimination, so as to avoid hostility against social groups […]."[[719]](#footnote-719)

***Reports of missing persons***

1. The IACHR received allegations of persons reported as disappeared in the framework of the protest. According to information provided by the Office of the Attorney General of the Nation, as of June 15, the Urgent Search Mechanism (MBU) was still active with respect to 84 cases.[[720]](#footnote-720) In the information update provided by the State on September 14, of these 84 cases, 32 were inactive and in the remaining 52, the MBU remained active.[[721]](#footnote-721) In the public hearing held during the 181st session of the IACHR, the State indicated that the MBU continues to be active in 27 cases and reported on 6 cases of forced disappearance in the context of the protests.[[722]](#footnote-722)
2. Additionally, the Commission received with extreme concern reports that some persons initially reported as disappeared have been found dead. According to civil society organizations, these are the cases of Brahian Gabriel Rojas López, who was found dead on May 9, in Risaralda; leader Cristian Torres, found dead on May 16 in Nariño; Andrés Córdoba Tamaniza, 17 years old, a member of the Embera Chami community in the Totumal indigenous reserve in Belalcazar, Caldas, whose body was found on May 29 in the Cauca River; Daniel Stiven Sanchez, whose burned body was found on June 2 in a commercial establishment in Siloé, to the southwest of Cali, after being reported detained, presumably by members of the ESMAD; Shirley Osnas Orozco and José David Díaz Hormiga from the indigenous reservation of Tacueyó, Toribío, were found dead on June 8 in Caloto, Cauca; Hernán David Ramírez, whose body was found in the Tuluá River on June 23; Santiago Ochoa, whose head was found in the district of Aguaclara, Tuluá, on June 20; Alquímedes Santana, whose body was found on July 11 after he was reported missing on May 27.
3. Additionally, the organizations reported to the IACHR that the persons reported missing in Bogotá have a distinct sociodemographic profile: mostly young people between the ages of 17 and 32, belonging to families that have been the victims of forced displacement and are living in poverty, working informally or unemployed.
4. The Commission welcomes the existence of the Urgent Search Mechanism, created by Law 971 of July 15, 2005,[[723]](#footnote-723) which can be activated by anyone before a judge or prosecutor and whose main objective is for judicial authorities to be able to immediately order all procedures necessary for locating disappeared persons. However, the IACHR observes with great concern the complaints raised by civil society as to the functioning of the mechanism, especially regarding the delay of several days in appointing Prosecutor responsible for carrying out the search, the lack of urgent actions on the ground, the exclusion of families and social organizations from the search process and the designing of the search plan; and little or no communication between the judicial police and the families. Additionally, they pointed to the impact of the statements made by authorities describing these situations as "persons not located" when launching the *ex officio* investigations.
5. In this regard, the Inter-American Commission reiterates that, whenever there is reason to suspect the disappearance of a person, a serious, impartial, and effective investigation must be launched *ex officio* and without delay, aimed at determining the truth. The Commission has also emphasized that States must undertake a rigorous search by the pertinent judicial and administrative route. It must do so systematically, by establishing specialized units or commissions and providing adequate and suitable human, technical, and scientific resources for locating and identifying the disappeared victims. This procedure must have clear and specific search strategies and mechanisms for coordinating the different State bodies and institutions. States have a fundamental obligation in this matter to guarantee the participation of family members throughout the search process.

**COSTA RICA**

* **General considerations**
1. In terms of **progress**, the IACHR highlights the implementation of a mechanism to ensure the availability of vaccines against COVID-19 for all persons in a human mobility context. Likewise, the IACHR welcomes the signing of Law No. 10001 "Affirmative Actions in favor of Afro-descendants", which establishes that all public institutions may allocate at least 7% of vacant jobs per year to be filled by Afro-descendants.
2. As regards **challenges,** the Commission notes with concern the complaints received about measures that could affect the independence of the Judiciary, the persistence of acts of violence committed against members of the Teribe and Bribri indigenous peoples in the province of Punta Arenas, and the prevalence of different forms of violence against women in the country.
3. The State replied to the request for information sent for the preparation of this chapter.[[724]](#footnote-724)
* **Specific issues**
1. Regarding the robustness of **democratic institutions,** during 2021, the Inter-American Commission received information on various acts of high-level corruption that could have an impact on democratic institutionality. The IACHR was informed, inter alia, of investigations, searches, and the arrest of six mayors of the country's main cities for the alleged payment of gifts and bribes in connection with bidding procedures relating to the construction of public works, including a project financed by the Inter-American Development Bank (IDB).[[725]](#footnote-725) According to the information available, these cases point to the increasingly alarming presence of corruption as a phenomenon that impacts every area of Costa Rican society.[[726]](#footnote-726)
2. On the other hand, the IACHR takes note of the creation of the Economic and Social Advisory Council (CCES), made up of 54 representatives of social, business, trade union, religious, academic, civil society and institutional sectors, which will function as an advisory body to the Executive Branch on actions, programs and public policies.[[727]](#footnote-727)
3. In a report sent to the IACHR, the Costa Rican State indicated that Article 9 of the Constitution establishes that the Government of the Republic is popular, representative, alternative, and responsible. It is comprised of three distinct and independent branches: Legislative, Executive and Judicial. There is also a Supreme Electoral Tribunal, which in accordance with Article 99 of the Constitution is in sole -- and independent -- charge of ̈ the organization, direction, and supervision of all suffrage-related acts. The other electoral bodies answer to the Tribunal.[[728]](#footnote-728)
4. Regarding the cross-cutting issue of **human rights institutions**, the Commission highlights the participation of the Ombudsperson in the meeting held in August 2021 among the Ombudspersons of Colombia, Panama, Ecuador, and Costa Rica, convened to agree on joint work to address the extra-continental and Caribbean migration crisis.[[729]](#footnote-729)
5. The Costa Rican State highlighted the work of the Inter-agency Commission for the Follow-up and Implementation of International Human Rights Obligations and its various sub-commissions.[[730]](#footnote-730) The State indicated, inter alia, that it is working on the presentation of the next national compliance report to the Committee on the Elimination of Racial Discrimination (CERD). To that end, on August 20, 2021, it held the first session of the Subcommission in which a roadmap and a timetable were approved for working on and submitting the compliance report. It also indicated that, on May 26, 2021, a Costa Rican delegation met with the Working Group for the Analysis of the National Reports envisaged in the Protocol of San Salvador (GTPSS) and the Secretariat for Access to Rights and Equity (SADyE) of the Organization of American States, in order to analyze the main conclusions, observations, and recommendations that the Working Group made in response to the First, Second, and Third Consolidated National Report of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), in the area of Economic, Social and Cultural Rights (Protocol of San Salvador).[[731]](#footnote-731)
6. In relation to **access to justice and judicial independence**, although the Costa Rican State highlighted the functions and the work being done by the Commission for Access to Justice, as the institutional governing body for access to justice for vulnerable populations, as well as the existence of various Subcommissions, the IACHR did not receive updated information on this matter.[[732]](#footnote-732)
7. At the same time, the IACHR highlights the concerns expressed by the United Nations Special Rapporteur on the independence of judges and lawyers, Diego García Sayán, regarding legal amendments, bills, and acts by the State that could affect judicial independence in Costa Rica, due to interference from other branches of government. In particular, the IACHR took cognizance of a number of communications addressed to the State, in which the United Nations Rapporteur highlighted information on the reduction of salaries and regression in the employment status of Judicial Branch officials; the modification of their retirement regime; as well as the weakening of guarantees against external pressures and of those safeguarding the selection and appointment of senior judicial magistrates, which may not conform to current international standards on judicial independence.[[733]](#footnote-733) In this context, on May 24, 2021, Costa Rican civil society organizations expressed their rejection of the decision of the Plenary of the Supreme Court of Justice to hold a virtual meeting scheduled with the United Nations Special Rapporteur, among other reasons, because the judges of the Court considered it was not a priority and, in addition, the Rapporteur had allegedly expressed his views on issues that were being considered by the Constitutional Chamber.[[734]](#footnote-734)
8. Regarding **persons in human mobility**, the Commission appreciates the announcement made by the Ministry of Foreign Affairs and the Ministry of Health, on July 27, 2021, on implementation of a mechanism to ensure the availability of vaccines against COVID-19 for all persons in a human mobility context; in particular, those without regular documented migratory status in the country.[[735]](#footnote-735) In this context, the IACHR notes that the Government reportedly announced that the Costa Rican Social Security Fund (CCSS), in conjunction with the Ministry of Health and the United Nations system, have begun implementing the immunization strategy for all migrants - regardless of their migratory status in the country - asylum seekers, and refugees. According to official information, people lacking regular documentary status in the country must prove to the health authorities that they reside in the country and indicate their place of residence.[[736]](#footnote-736)
9. With regard to **statelessness**, the IACHR notes that the Inter-Agency Liaison Commission on **Statelessness** began operating on August 18, 2021. According to official information, the Commission aims to coordinate actions among its member institutions to i) detect and resolve existing situations of statelessness; ii) prevent the emergence of new cases; and iii) protect stateless persons or those at risk of statelessness by seeking and adopting durable solutions.[[737]](#footnote-737)
10. In relation to **human trafficking**, the Commission notes that the National Coalition against the Smuggling of Migrants and Trafficking in Persons (CONATT) presented the National Policy against Trafficking in Persons 2020-2030. This policy would constitute a roadmap of objectives and actions to prevent and combat the crimes of trafficking in persons, smuggling of migrants and other related activities. In addition, it would strengthen and optimize strategies for the prosecution and punishment of offenders, for prevention, and for the care and protection of victims of human trafficking.[[738]](#footnote-738) On the other hand, the IACHR notes with concern the statements made by the Deputy Prosecutor's Office against Trafficking in Persons regarding the increased vulnerability to human trafficking in the country, as a result of the containment measures adopted in response to the COVID-19 pandemic.[[739]](#footnote-739)
11. Regarding the rights of **LGBTI persons**, the State reported that it has striven to guarantee this population’s access to social care programs during the pandemic. In addition, it indicated that it has reinforced food assistance for transvestites and transgender people in the context of the pandemic, in coordination with civil society.[[740]](#footnote-740)
12. In 2021, the Commission also [welcomed](https://twitter.com/CIDH/status/1420741426913202176?s=20;) resolution 749-21 of the Third Chamber of the Supreme Court of Justice which, in an analysis of the provisions related to sentencing, recognized that the term ''woman'' in the Penal Code must include trans women.[[741]](#footnote-741) Likewise, the Commission highlights the ruling of the Constitutional Chamber that ordered the General Directorate of Migration and Aliens to issue a passport that adequately reflects the gender identity of a trans woman, based on Inter-American standards.[[742]](#footnote-742) The Commission also followed up on the legislative process of the draft Public Employment Framework Law (Bill No. 21.336), which includes a clause that would allow public sector workers to be exempted from training programs based on religious, ethical, and moral grounds.[[743]](#footnote-743) The IACHR took note that the former Presidential Commissioner for LGBTIQ Affairs and civil society organizations rejected the inclusion of such a clause because of its impact on the human rights situation of persons in situations of vulnerability and exclusion, including LGBTI persons.[[744]](#footnote-744) In this regard, the Commission recalls that it has recommended that States prohibit the illegitimate use of conscientious objections by public officials, particularly when it may have discriminatory effects on the provision of public services.[[745]](#footnote-745)
13. Regarding the **rights of indigenous peoples**, in 2021, the IACHR continued to follow up on Precautionary Measure 321-12 and the actions taken by the Costa Rican State to guarantee the life and personal integrity of the members of the Teribe and Bribri indigenous peoples in the province of Punta Arenas. In this regard, the IACHR is concerned about the ongoing violence against members of those communities. According to the information received by the Commission, the 24 indigenous territories in Costa Rica are inhabited by eight different peoples; however, their rights to territory and self-determination remain unrecognized, despite the fact that the State has adopted the United Nations Declaration on the Rights of Indigenous Peoples and ratified Convention 169 of the International Labor Organization (ILO).[[746]](#footnote-746)
14. In relation to the **rights of children and adolescents**, the Commission welcomes the passing of Law No. 9.941, which reactivates and strengthens the National Child Care and Development Network. In this regard, the IACHR notes that the purpose of the Network is reportedly to establish a system of childcare and development with public, universal access and solidarity-based financing, based on various kinds of public and private funding aimed at strengthening and expanding comprehensive childcare options. In addition, it would extend its services to cover children and adolescents with disabilities.[[747]](#footnote-747) In addition, the IACHR notes that according to the most recent figures of the National Children's Trust (PANI), as of June 2021, this Network had reportedly provided comprehensive care to 57,543 children between the ages of 0 and 12.[[748]](#footnote-748)
15. In addition, the IACHR also notes that PANI, the General Directorate of Migration and Alien Affairs (DGME) and the United Nations Children's Fund (UNICEF) have installed 14 safe spaces for the protection of approximately 16,408 children and adolescents in situations of violence and discrimination, and for enhancing their educational opportunities.[[749]](#footnote-749)
16. At the same time, the IACHR welcomes the passing of Law No. 10.020, which creates the Inter-Agency Commission for the Protection of Children and Adolescents against Sexual Crimes Committed by Electronic or Virtual Means. The Commission also notes that the law also amends the Penal Code with respect to increasing the penalties for the commission of the aforementioned crimes.[[750]](#footnote-750)
17. Regarding the rights of **people of African descent and against racial discrimination**, the Commission welcomes significant progress in this area. In particular, according to information provided by the State, the Subcommission on Access to Justice for the Afro-descendant Population has been strengthened through the provision of translators in cases in which there is a need for mother tongues other than Spanish. This Subcommission also promotes studies on access to justice for people of African descent, their particular needs, as well as the causes and manifestations of racial discrimination and intolerance. This Subcommission also makes efforts to include the Afro-descendant variable in all judicial data collection systems or registries; and conducts training for judicial personnel on these issues.[[751]](#footnote-751)
18. At the same time, the State reported on the cross-cutting approaches to gender, diversity and interculturality, and their impact on the Afro-descendant population. As an example, it cites the participation of Afro-descendant women in the consultations aimed at establishing the axes of the National Policy for Effective Equality (PIEG) 2018-2030 and the National Plan for the Care and Prevention of Domestic Violence(PLANOVI) 2017-2032; as well as the consideration of socio-cultural aspects of the Afro-descendant community in the local Emergency Committees to prevent the spread of the COVID-19 virus.[[752]](#footnote-752)
19. On the other hand, in its monitoring work, the IACHR identified other advances such as the passing of Law No. 10001 "Affirmative Actions in favor of Afro-descendants", signed by President Carlos Alvarado, which establishes that all public institutions may allocate at least 7% of vacant jobs per year to be filled by people of African descent, and that the National Learning Institute (INA), which provides technical education, will reserve 7% of its vacancies, in each of its courses, for this population.[[753]](#footnote-753) The IACHR also welcomed the presentation by the United Nations of the "Costa Rica Plan" against hate speech and discrimination. This is a joint effort by the United Nations System in Costa Rica, various state entities, academia, and civil society. Its objectives include the creation, under an agreement with the University of Costa Rica, of an Observatory against hate speech and discrimination; the dissemination of a study; and the launching of awareness and educational campaigns.[[754]](#footnote-754) The IACHR encourages the State of Costa Rica to continue moving forward with the adoption of special measures to guarantee the rights of Afro-descendants and eradicate racial discrimination.
20. With respect to **women**'s human rights, the IACHR observes the measures adopted to enhance care, prevention, and protection against gender-based violence. In particular, it welcomes the publication in May 2021 of Law No. 9975 amending the Law on the Penalization of Violence against Women, which broadens the scope of punishment for femicide and violence in the context of intimate partner relationships or ties to also include those between fiancés, cohabitation, non-cohabitation, casual or other similar relationships, even when there is a divorce, separation, or breakup.[[755]](#footnote-755) It also takes note of the launch in May 2021 by the National Women's Institute (INAMU) of a toll-free telephone line to provide information and guidance to women in situations of violence.[[756]](#footnote-756) It also welcomes the adoption in April 2021 of a standardized joint protocol for the investigation of missing and unaccounted-for women of legal age, which defines the basic actions to be taken to search for and locate them, and establishes the importance of incorporating a gender perspective in investigations.[[757]](#footnote-757)
21. Regarding women's right to equality and non-discrimination, the IACHR appreciates the issuance in May 2021 of the Guide for the implementation of non-sexist inclusive language targeting police and administrative civil servants of the Ministry of Public Security, to provide guidance on the proper use of inclusive language and advance towards effective equality between men and women.[[758]](#footnote-758) It also welcomes the Costa Rican Social Security Fund's expansion of emergency contraception to all women of childbearing age who need it.[[759]](#footnote-759) It also takes note of the presentation of Bill 22.490, which seeks to amend Law No. 8901 by incorporating the principle of gender parity and promoting equal participation in politics in the cooperative sector.[[760]](#footnote-760)
22. As regards challenges, the IACHR notes the prevalence of various forms of violence against women. According to official data, as of October 15, 2021, 50 violent deaths of women had been recorded, 10 of which were classified as femicides and 33 remained to be classified[[761]](#footnote-761); likewise, according to information in the public domain, rapes [increased by 11%](https://infosegura.org/wp-content/uploads/2021/10/ppt_costa-rica_dataccion_7cot21.pdf)  in the first six months of 2021 compared to the same period of the previous year.[[762]](#footnote-762)
23. With respect to the **rights of persons with disabilities**, the IACHR welcomes the training provided to the police on the rights of persons with disabilities, and the distribution and approval of the documents "The Concept of Disability from a Social Perspective"[[763]](#footnote-763) and the "Protocol to guarantee accessibility to files for blind persons in the Ombudsperson's Office."[[764]](#footnote-764) Also noteworthy are the "Promotion of Inclusive Education for the visually impaired in the NLI/INA" project of the National Learning Institute, which promotes training and exchanges of educational experiences,[[765]](#footnote-765) and the efforts to vaccinate people with disabilities against Covid-19.[[766]](#footnote-766)
24. In addition, the Commission took note of the report "Sexual and Reproductive Health and Gender-based Violence against Women with Disabilities", which describes cases of sexual and economic violence, humiliation, and disqualifications of women with disabilities,[[767]](#footnote-767) and of the investigation by the Ombudsperson's Office on the existence of rules restricting the access of students with disabilities to the General (regular) Education System, and other challenges in this area.[[768]](#footnote-768) Likewise, the IACHR has registered complaints of non-compliance with Law No. 7600, due to the lack of ramps on buses and the establishment of elevator-type seats, which force persons with disabilities to transfer out of their wheelchairs.[[769]](#footnote-769)
25. Regarding the **rights of older adults**, the Commission highlights the information provided by the State in relation to the norms, provisions, and institutional policy of the Judiciary to contribute to access to justice for the elderly, which includes, inter alia, preferential attention, respect for the decisions made by older adults, adequate physical space to ensure access for the elderly, and the preparation and dissemination of information on policies to prevent violence.[[770]](#footnote-770)
26. Regarding **persons deprived of liberty**, the Commission welcomes the adoption of the "Social and Labor Insertion Model for the Prison Population", which seeks to promote the social reintegration of persons deprived of liberty. In particular, this strategy contemplates: i) providing formal education and skills development; ii) consolidating job offers; and iii) implementing modernization processes by including technology in training and education.[[771]](#footnote-771)

**DOMINICA**

* **Overview**
1. With regard to **progress**, the IACHR highlights the steps taken to promote transparency in the approval of the national budget, as well as efforts to further the electoral reform process. The Commission also notes the decline in the country’s incarceration rate. In addition, it underscores the efforts made to analyze national policies and systems for addressing human displacements caused by climatic and environmental factors. The Commission also takes note of the plans for the incorporation of women into the police force.
2. Among the **challenges detected**, the Commission notes the failure to establish a national human rights institution. The IACHR is also concerned about the lack of progress with repealing laws that permit corporal punishment of children and adolescents. It further notes the State’s delay in authorizing the resumption of prison visits, which were suspended at the onset of the pandemic. Additionally, it notes that no progress has been made toward eliminating the death penalty from the country’s laws. Finally, the Commission regrets the continued criminalization of consensual same-sex sexual relations.
3. The State did not respond to the request for information for the preparation of this chapter.
* **Specific issues**
1. In relation to the **institutional framework for human rights**, the Commission regrets the failure to establish a national human rights institution in line with the Paris Principles. In this regard, the IACHR has underscored the importance of having an independent body for the promotion and protection of human rights at the national level, and it offers its technical cooperation mechanism for institutional strengthening in this area.
2. Similarly, the IACHR has pointed out that one complementary aspect of the institutional framework for human rights is the analysis of fiscal policies and the State’s budget for funding human rights. In this regard, the Committee takes note of the measures taken and the information published by the Ministry of Finance and Investment to promote transparency in budget forecasting.[[772]](#footnote-772) In connection with this, the IACHR recalls the importance that the approach of human rights principles, which apply to the entire public policy formulation cycle, should also be applied to budgetary matters.[[773]](#footnote-773)
3. With regard to targeted programs for vulnerable groups, the IACHR takes note of the efforts made by the Dominican parliament to promote the protection of the rights of children and adolescents. Those efforts took shape, in particular, through the discussion of a series of proposed legislative instruments, including the Justice Bill, the Adoption and Child Care Bill, the Domestic Violence Bill, the Status of Children Bill and testing procedures and regulations.[[774]](#footnote-774) The IACHR reiterates the importance of incorporating a human rights approach into these initiatives; in addition, they must promote compliance with the obligations of the State in accordance with international standards.[[775]](#footnote-775) It likewise recalls the need for an adequate budget to guarantee their operation.
4. In the area of **democratic institutionality**, the IACHR continued to monitor the electoral reform process in Dominica.[[776]](#footnote-776) In this regard, the IACHR notes that the Electoral Reform Commissioner was appointed by the State to conduct a review of the relevant legislation, systems, and processes, and to make recommendations based on consultations with all stakeholders.[[777]](#footnote-777) The Commission also notes that the Electoral Commission of Dominica urged the public to participate widely through written submissions, surveys, and oral consultations.[[778]](#footnote-778) It also called on the government to implement the recommendations in time for the next general election.[[779]](#footnote-779) In addition, during the course of his consultations with the electorate, the Electoral Reform Commissioner emphasized the need to modernize the regulatory framework for general elections, in order to ensure equal voting rights. He further stated that political parties and candidates should have equal opportunities.[[780]](#footnote-780)
5. The Commission further notes that several OAS Electoral Observation Missions have recommended that the State establish a voter identification system; however, this has still not been implemented.[[781]](#footnote-781) In this regard, the IACHR emphasizes that representative democracy is a principle affirmed by the American States in the OAS Charter, which is a basic instrument within the inter-American system of which the Convention is a part.[[782]](#footnote-782)
6. In relation to the **rights of children and adolescents**, the Commission takes note of the State’s efforts to respond to sexual abuse complaints, and it expresses its concern that corporal punishment continues to be practiced. Regarding the sexual abuse allegations, in a December 2020 interview, the Child Abuse Prevention Unit reported that the number of cases of sexual abuse against children and adolescents was estimated at between 100 and 160 per year.[[783]](#footnote-783) In response, the State has adopted measures to address the challenges detected, including: (i) the restructuring of the Welfare Division, (ii) increasing the number of child protection officers, and (iii) recruiting a clinical psychologist and a counselor by the Child Abuse Prevention Unit. This is intended to help curb reported cases of abuse.[[784]](#footnote-784) The Commission welcomes the measures adopted, and it reminds the State of the binding obligation to adopt specific and special measures for children and adolescents, as well as to incorporate a holistic, multisectoral, and comprehensive approach that addresses the structural and endemic causes of violence, particularly violence of a sexual nature.[[785]](#footnote-785)
7. The IACHR reiterates its concern over the lack of progress made by the State on the issue of corporal punishment. According to civil society organizations, Dominica has no clear commitment to removing corporal punishment from its statute books: punishments of this kind are still legally permissible in juvenile detention facilities, in the home, at school, and in all institutions responsible for providing children with alternative care, with the exception of facilities for early childhood education.[[786]](#footnote-786) In addition, the IACHR notes that it is not possible to determine progress with the implementation of the good practice of the Child Friendly Schools Initiative during 2021, since classes have mainly been delivered online since the onset of the COVID-19 pandemic in March 2020.[[787]](#footnote-787)
8. Regarding **persons deprived of liberty**, the Commission notes a drop in the country’s incarceration rate. According to public information, Stockfarm Prison—the country’s only such facility—had a total of 189 inmates at the end of 2021, compared to 222 at the close of 2020.[[788]](#footnote-788) These figures indicate a 15% reduction in the total prison population during 2021.[[789]](#footnote-789) At the same time, the IACHR notes that prison visits have been suspended indefinitely since March 2020 to prevent the spread of the COVID-19 virus.[[790]](#footnote-790) Moreover, the Commission notes that at the time of this report’s drafting, there had been no update regarding the resumption of prison visits. The IACHR stresses that restricting visits can have serious consequences for the mental health of persons deprived of liberty, and it urges the State to ensure that all measures to limit contacts, communications, or visits are taken with great care after a strict review of their proportionality. In addition, in view of the restrictions on face-to-face visits, it calls on the State to adopt other measures, such as videoconferencing, increased telephone usage, and electronic communications.[[791]](#footnote-791)
9. The Commission is concerned that the death penalty remains on the statute books, even though no prisoners are currently on death row and no executions have been carried out since 1986. The IACHR repeats its call for the State to take steps to abolish capital punishment.[[792]](#footnote-792)
10. As regards the rights of **LGBTI persons**, the Commission notes with concern that Dominica is among the countries of the region that continue to criminalize sexual relations between adults of the same sex, which is punishable by prison sentences of up to ten years and possible internment in psychiatric institutions for persons sentenced to treatment.[[793]](#footnote-793) This contravenes the State’s international obligations regarding the right to equality and nondiscrimination.[[794]](#footnote-794) The IACHR again highlights that maintaining these laws generates a culture of violence, hostility, discrimination, and serious violations against LGBTI persons.[[795]](#footnote-795) The Commission reiterates that provisions that penalize a particular group of persons for engaging in a consensual sexual act or practice with other persons of the same gender are impermissible, as they are in direct opposition to the prohibition of discrimination on the basis of sexual orientation.[[796]](#footnote-796) Furthermore, the IACHR reiterates that such laws reinforce preexisting social prejudices and significantly heighten the negative effects that those prejudices have on the lives of LGBTI persons.[[797]](#footnote-797)
11. With respect to **persons in situations of human mobility**, the Commission notes that Dominica, together with the other members of the Organization of Eastern Caribbean States (OECS), is working with the International Organization for Migration (IOM) to analyze national policies and systems for the management and presentation of information relating to the forced displacement of persons by climatic and environmental factors.[[798]](#footnote-798)
12. Regarding **the human rights of women**, the IACHR takes note of the actions of the Commonwealth of Dominica Police Force to promote and incorporate women into the police force.[[799]](#footnote-799) In this regard, the IACHR again stresses the importance of training police forces at all levels in gender awareness and human rights.

**DOMINICAN REPUBLIC**

* **General considerations**
1. In terms of **progress**, the Commission welcomes the initiative to strengthen and transform the National Police. Likewise, it welcomes the elimination of child marriage, as well as the articulation of a state policy to combat violence against women, adolescents and girls. In addition, the IACHR highlights the State's openness for it to conduct a virtual visit to promote the eradication of violence against girls and women, as well as the information provided by top government officials. Finally, the Commission welcomes the initiative of the Dominican State with respect to measures aimed at regularizing the migratory situation of Venezuelan nationals.
2. Among the **challenges**, the IACHR expresses its concern at the increase in homicides and femicides in the country. It also takes note of the legislative process involving the draft Criminal Code. In particular, the IACHR notes the failure to incorporate the State's international obligations in the areas of sexual and reproductive health, gender-based violence, sexual orientation and gender identity, and protection of children and adolescents against physical violence. It also notes the situation of violence and discrimination against people of Haitian descent, especially the deportation of pregnant Haitian women. In addition, it notes with concern the difficulties faced by persons with irregular migratory status in obtaining access to vaccines against COVID-19 under the National Vaccination Plan, as well as the overcrowding in prisons.
3. On November 23, 2021, the State submitted a response to the request for information sent for the preparation of this chapter
* **Specific Topics**
1. With respect to **human rights institutions**, the IACHR notes that the State has had an Ombudsperson's Office since 2003, and that it is a member of the Ibero-American Federation of Ombudspersons.[[800]](#footnote-800) In this regard, the Commission takes note of the appointment of the new Ombudsperson in November 2021.[[801]](#footnote-801) It also noted the launch of the Ombudsperson's Office management model, said to be based on the principles of transparency, accessibility, independence and efficiency. In addition, it notes the initiative to launch the Cátedra de Derechos Ciudadanos, or citizen rights lecture series.[[802]](#footnote-802)
2. The State reported that it continues to provide training courses to state officials on issues related to domestic and gender-based violence, rights of persons with disabilities, electoral matters, and discrimination[[803]](#footnote-803).
3. With regard to **democratic institutions**, the Commission welcomes the initiative of the Ministries of Public Administration (MAP) and Economy, Planning and Development (MEPYD), the Office of the Comptroller General of the Republic (CGR), the General Directorate of Budget (DIGEPRES) and the Legal Consultancy of the Executive Branch (CJPE) to establish a technical roundtable to work on the design of a new civil service performance evaluation system.[[804]](#footnote-804) The IACHR also takes note of the implementation of the Common Assessment Framework (CAF) model of excellence in management in the public sector, which has led to progress in the modernization and innovation of the civil service.[[805]](#footnote-805)
4. Regarding **citizen security**, the State reported on the implementation of measures to transform the National Police. In particular, it highlighted (i) the creation of a specialized commission to formulate recommendations related to the financial and administrative restructuring of its budget; (ii) the enactment of the implementing regulations for the Organic Law of the Police; and (iii) the restructuring of the Instituto Policial de Educación (Police Training Institute).[[806]](#footnote-806) In addition, the IACHR takes note of the agreement signed by the Government and private universities to offer higher education to police and military personnel.[[807]](#footnote-807) In line with the above, the Human Rights Observatory for Vulnerable Groups announced that it would provide human rights education to National Police personnel.[[808]](#footnote-808) For its part, the National Human Rights Commission (CNDH) reported that bad practices persisted within the institution despite the aforementioned reforms. It added that between December 2020 and December 2021, a total of 70 people were reportedly executed by members of the National Police. The CNDH also said that it receives daily complaints alleging mistreatment, torture, illegal raids, and arrests for the purpose of extortion by the police.[[809]](#footnote-809)
5. As part of a comprehensive citizen security strategy, the President of the Republic launched the pilot project Mi País Seguro (My Safe Country) and its extension on June 4. According to official information, the plan centers on measures to prevent, punish and eradicate crime in the country. Its objectives include, among others, (i) recovering public spaces; (ii) registering motorcycles without license plates or documentation; and (iii) collecting and destroying illegal weapons.[[810]](#footnote-810)
6. The Commission notes an increase in the country's homicide rate. According to the latest figures from the Citizen Security Observatory of the Dominican Republic (OSCRD), the rate in first quarter of 2021 was 10.9 homicides per 100,000 inhabitants, compared to 9.2 in 2020. The OSCRD also noted a 30% increase in homicides during that period. It added that the provinces with the highest incidence of homicides were Santo Domingo, Santiago, the National District, San Cristóbal and Duarte Province.[[811]](#footnote-811)
7. As regards **access to justice**, the State informed the IACHR that the judicial branch was working on the development of (i) an equality and nondiscrimination policy; (ii) a proposed law on rules governing consensus in criminal proceedings involving domestic and gender-based violence; (iii) a draft protocol on prevention and handling of sexual and workplace harassment for the Dominican judiciary; (iv) a guide on decent treatment in access to justice, which is in the final stages of its development with a view to its adoption and implementation in the judicial branch; and (v) the project on physical access to the judiciary and preparation of a good practice guide for reducing barriers to access to physical environments for persons with disabilities.[[812]](#footnote-812)
8. The State expressed the Dominican courts' Virtual Judicial Service operated without interruption in 2021.[[813]](#footnote-813) It added that thanks to the implementation of the Supreme Court's judicial backlog eradication plan, by October 2021, there was a total of 4,223 cases awaiting decision; that figure reportedly represents a 44% decline from the number of pending cases at the time of the Plan's adoption.[[814]](#footnote-814)
9. Regarding **human rights of women**, the IACHR welcomes the enactment of Decree 1-21, creating the Cabinet for Women, Adolescents and Girls, within the sphere of the Ministry for Women. According to official information, its purpose is to ensure the effective application and design of comprehensive policies to prevent, address, prosecute, punish, redress and eradicate violence against women, pre-teen and teenage girls in all its different forms and spheres.[[815]](#footnote-815) The IACHR also welcomes the efforts to improve and increase services at the shelters run by the *Casas de Acogida y Refugio*, which operate as spaces providing temporary accommodation and comprehensive care for women and children under 14 years of age who are victims of gender-based violence[[816]](#footnote-816).
10. In addition, the IACHR has monitored the parliamentary progress of the proposed new Criminal Code of the Dominican Republic. In this regard, the Commission notes that it reflects both advances and challenges as regards prevention and protection for women, pre-teen and teenage girls against gender-based violence. Specifically, it welcomes the inclusion of the crime of femicide, which punishes anyone who causes the death of a woman by reason of her gender, regardless of age, relationship or place where it occurs.[[817]](#footnote-817) However, it notes with extreme concern that the bill in question proposes to eliminate the categories of sexual orientation and gender as grounds in the crime of discrimination, and decriminalizes refusal to provide services on the basis on conscientious, religious, or moral objection or of institutional requirements.[[818]](#footnote-818) It also regrets that the bill maintains the provision that the only exemption from liability in cases of termination of pregnancy is if is practiced to save the life of the pregnant person and the fetus in danger, provided that all available scientific and technical means have been exhausted. It also regrets the criminalization of health professionals and midwives who assist in the terminations of pregnancy.[[819]](#footnote-819) In that regard, the IACHR would remind the State that criminalizing the termination of pregnancy in cases of rape or incest imposes a disproportionate burden on the exercise of women's human rights.
11. In addition, in the framework of its virtual promotional working visit to the Dominican Republic in July 2021, the IACHR received information indicating that 7 out of 10 adolescents did not receive information on comprehensive sexual education. It was also informed that pilot programs to include comprehensive sex education in educational curricula had been blocked by anti-rights movements and by the National Education Council.[[820]](#footnote-820)
12. With respect to the **rights of children and adolescents**, the Commission welcomes the enactment of Law No. 1-21, which expressly prohibits child marriage.[[821]](#footnote-821) The IACHR recalls that States in the Hemisphere have an obligation to prevent and eradicate child marriage or de facto unions as practices in which girls and teenagers are subject to multiple different forms of violence and discrimination based on their age and gender.[[822]](#footnote-822) It also highlights the steps taken by the Cabinet for Children and Adolescents to prioritize the coordination of institutional efforts to reduce teenage pregnancy and underage unions.[[823]](#footnote-823)
13. With regard to **persons in human mobility situations**, the Commission welcomes the promulgation of Decree 297-21, which grants Dominican nationality, through regular naturalization, to the 50 individuals identified in the decree in question[[824]](#footnote-824). Additionally, the IACHR takes note of the publication of Resolution 119-2021 of January 19, 2021, which creates a non-resident migrant category for Venezuelan nationals who entered the country regularly between January 2014 and March 2020, as well as their minor children, whether or not born in the Dominican Republic, who are not constitutionally entitled to Dominican nationality.[[825]](#footnote-825) According to the United Nations, the plan in question has progressed in three stages: application for extension of stay, visa, and residence. The UN added that in the first stage of the plan, a total of 42,952 people sought an extension of stay.[[826]](#footnote-826) In this regard, the IACHR recalls that, in the area of nationality, States must adopt administrative, legislative, and judicial measures to eradicate statelessness, including measures of prevention, identification, protection, and reduction.[[827]](#footnote-827)
14. Likewise, in a press release of December 1, 2021,[[828]](#footnote-828) the Commission expressed concern about the expulsion of pregnant women from the Dominican Republic. In that context, the IACHR said that it was extremely concerned by reports from civil society organizations claiming that migration authorities were carrying out migration control operations at hospitals that reported large influxes of pregnant migrant women, mainly of Haitian origin or descent. The aim of those operations was to expel the women in question from the Dominican Republic, without taking into account their need for humanitarian protection, bearing in mind the institutional crisis, structural violence, and human rights violations in Haiti. The Commission added that those actions were part of a broader institutional context: specifically, (i) the adoption of an interpretation of the Dominican Republic's immigration regulations that prevents the entry of any foreign person that entails an unreasonable burden on public finances, including women found to be in a state of proven pregnancy of six months or more by the National Immigration Council;[[829]](#footnote-829) and (ii) the performance of a new audit of a total of 220,000 people regularized under the National Regularization Plan.[[830]](#footnote-830)
15. For its part, the State reported that between January and September 2021, the country's public hospitals registered a total of 24,376 births to Haitian mothers. It added that this figure accounted for 30% of the total number of deliveries attended at public facilities. It also said that the General Directorate of Migration (DGM) had a protocol for the care of vulnerable migrants, such as pregnant women, which guaranteed the safety, well-being, and health of those persons. It also stated that there was a 24-hour ambulance service for the transfer of pregnant women to a hospital if a special budget was needed to pay for the required emergency expenses. It said that deportation was only carried out when it was safe for both the mother and her child.[[831]](#footnote-831)
16. In line with the above, the CNDH noted that in 2021 more than 31,000 people were reportedly deported from the Dominican Republic to Haiti; of those, more than 12,000 had been deported in the previous three months. The Commission also notes with concern that, according to the CNDH, the State engages in racial profiling when it comes to deportation. In addition, State authorities were reportedly detaining (i) Haitian nationals who had entered the Dominican Republic irregularly; (ii) Haitian nationals whose Dominican work permits had expired; and (iii) those born in the Dominican Republic to Haitian parents who had been denied citizenship. It also reported that black Dominicans —of Dominican descent— were being persecuted and mistaken for Haitians by the authorities.[[832]](#footnote-832)
17. Additionally, according to information from the State, the Governments of the Dominican Republic and Haiti had reportedly adopted a joint declaration in which they agreed, *inter alia*, (i) to work on the process of identification and civil registration of all Haitians in Dominican territory; (ii) to deploy state-of-the-art technologies that facilitate the elimination of irregular migration flows, human smuggling and trafficking, the flow of arms, drug trafficking and cattle theft, among others; and (iii) to work together to strengthen border security and surveillance in the event of the construction of physical or technological controls along the entire land border.[[833]](#footnote-833)
18. The Commission notes that under the COVID-19 vaccination plan, the Ministry of Public Health said that they hoped for solidarity and support from other countries for the vaccination of persons with irregular migratory status, since the Dominican Republic was unable to shoulder the entire burden in that regard.[[834]](#footnote-834) The Commission recalls that according to its Resolution 1/21, States must ensure the distribution of vaccines and their equitable and universal access, and refrain from discriminatory treatment that could lead to this practice, as well as create conditions of real equality for groups whose rights have been historically violated, or who are at greater risk of suffering discrimination.[[835]](#footnote-835)
19. Regarding **persons deprived of liberty**, the CNDH reported that the Dominican Republic's penitentiary system was on the verge of collapse due to a failure to carry out prison reforms. It added that during 2021 there was no improvement in conditions of detention and that overcrowding, at a level of 48%, persisted. Likewise, the CNDH reported that, according to the Supreme Court of Justice, there are around 2,000 people who could be free because they have served their sentences or reached different agreements; however, their cases are paralyzed due to the backlog in the courts.[[836]](#footnote-836)
20. Regarding the rights of **LGBTI persons**, the State indicated that the Human Rights Department of the Public Prosecution Service was working on the development of a guideline for prosecutors that incorporates policies governing proceedings in cases involving LGBTI persons, whether as defendants or as victims. This, in order to avoid violations of their human rights, marginalization, stigmatization or prejudice based on their sexual orientation and gender identity —whether real or perceived— or their sexual characteristics during their dealings with the justice system.[[837]](#footnote-837)
21. For its part, the CNDH pointed out that the LGBTI community suffers from a high rate of discrimination and rejection in the Dominican Republic and that they find it difficult to access work because of their sexual preference. It also noted that low-income transgender women continue to suffer discrimination in access formal employment and that, generally speaking, sex work is their main source of income.[[838]](#footnote-838)
22. The Commission also takes note of the processing of the draft Criminal Code, which would recognize the crime of discrimination for the first time. In particular, the Commission welcomes the expressed inclusion of sexual orientation as a category protected against discrimination in the version approved by the Senate and forwarded to the Chamber of Deputies on November 24, 2021.[[839]](#footnote-839) However, it notes that the favorable report of the bicameral committee was rejected by the Chamber of Deputies on December 16, 2021, although the bill was subsequently reintroduced on the agenda of the Chamber of Deputies to be heard in the first weeks of 2022.[[840]](#footnote-840) In addition, the IACHR also notes that the bill does not include gender identity or gender expression as prohibited grounds for discrimination, while establishing that the provisions of the article on discrimination apply “without detriment to freedom of conscience and worship and respect for moral conventions in all areas.”
23. In this regard, the IACHR recalls that it has recommended that States adopt laws or modify existing ones with a view to prohibiting all forms of discrimination based on sexual orientation, gender identity or expression —real or perceived— and body diversity.[[841]](#footnote-841) The Commission also recalls its recommendation to States to prohibit the illegitimate use of conscientious objection to discriminate against LGBTI persons.[[842]](#footnote-842)
24. In the area of **trafficking in persons**, the IACHR takes note of the coordination between United Nations agencies and the Office of the Attorney General to strengthen national strategies for the prevention and prosecution of crimes of human trafficking, child sexual exploitation, and migrant smuggling.[[843]](#footnote-843)
25. With respect to the rights of **persons with disabilities**, the Commission highlights the agreement between the Central Electoral Board (JCE), the National District Council (ADN) and the National Council on Disability (Conadis) to implement measures for guaranteeing the full and effective participation of persons with disabilities under conditions of equality.[[844]](#footnote-844) Likewise, the IACHR takes note of the initiatives designed to improve access to the education system for persons with disabilities, particularly those aimed at strengthening institutional capacities to respond to the needs of this population,[[845]](#footnote-845) as well as the program *Es mi Derecho, Inclúyeme* (It's my Right, Include me), which promotes the participation of children and adolescents with cerebral palsy in the education system and the creation of optimal spaces for care that adopt a holistic and equal-inclusion approach.[[846]](#footnote-846)

**ECUADOR**

* **General considerations**
1. Regarding the **progress** observed in 2021, the Commission notes the ratification of the Inter-American Convention against All Forms of Discrimination and Intolerance, the creation of the Under Secretariat for Diversity of the Human Rights Secretariat, and the formation of the Specialized National System for the Comprehensive Protection of the Rights of Older Persons. The IACHR also notes that general elections were held peacefully, and that guarantees were provided to allow handicapped people to exercise their right to vote. The Commission welcomes the decisions of the Constitutional Court, including the ruling that recognized the right to migratory regularization and family reunification of children and adolescents in human mobility; the judgment that ordered a bill to be drafted to regulate the voluntary interruption of pregnancy in cases of rape, and various decisions guaranteeing the rights of persons deprived of liberty in the context of the prison crisis.
2. In terms of **challenges,** the IACHR notes with particular concern the serious acts of violence reported in 2021 inside a number of penitentiary facilities [*Centros de Privación de la Libertad*], which resulted in the violent death of 316 persons in the context of the institutional weakness of the penitentiary and social rehabilitation system. The Commission also wishes to note the vulnerability of Indigenous and Afro-descendant peoples in particular during the COVID-19 pandemic, and the advance of projects that could threaten their cultural identity and survival. The IACHR also notes the increase in the forced displacement of Ecuadorians, with a total of 62,000 people displaced in the first half of 2021, including 8,700 children and adolescents, according to official information.
3. The State sent a reply to the IACHR’s request for information with which to draft this chapter.[[847]](#footnote-847)
* **Specific topics**
1. Regarding the **institutionalization of human rights,** the State reported on efforts to guarantee the rights of persons living in vulnerability, which included the formation of the Specialized National System for the Comprehensive Protection of the Rights of Older Persons (SINEPIDPAM)[[848]](#footnote-848); the creation of the Under Secretariat for Diversity of the Human Rights Secretariat, to help develop comprehensive policies favorable to LGBTI persons,[[849]](#footnote-849) and the approval of the Intersectoral Strategic Plan to Prevent and Reduce Chronic Child Malnutrition.[[850]](#footnote-850)
2. In the context of the prison crisis, the IACHR wishes to highlight the role of the Constitutional Court (hereinafter, the “CC” or “the Court”) in improving the conditions of detention, and the interagency coordination among the State agencies responsible for operating the penitentiary system, and for guaranteeing the rights of persons deprived of liberty. The Court reiterated that the violent events reported in the penitentiary system occurred because of structural failures, and that they require a comprehensive response by the State.[[851]](#footnote-851) The CC thus found that the State’s response must include strengthening interagency coordination and cooperation, including among the different branches of government; a reduction in prison overcrowding; capacity-building for staff of the National Social Rehabilitation System (SNRS); improving the infrastructure and access to basic services; respect for basic guarantees inside the prisons, and an assured budget and resources.[[852]](#footnote-852)
3. The Commission also took note of the approval of the Plan “Creating Opportunities 2021-2025”[[853]](#footnote-853) which sets out guidelines for the design and application of public policies. According to information publicly available, the Plan reflects the commitments arising from Agenda 2030 and the Sustainable Development Goals, with contributions from the general public.[[854]](#footnote-854)
4. As to the operations of the Ombudsperson, the IACHR noted the appointment of an acting Ombudsperson following the National Assembly’s censure and dismissal of the previous Ombudsperson.[[855]](#footnote-855)
5. Regarding **democratic institutions**, the IACHR noted that general elections had been held[[856]](#footnote-856) without any reports of incidents that might have impeded peaceful voting. According to reports from the electoral observation missions, the elections process was a success.[[857]](#footnote-857)
6. During the electoral process, the State informed the IACHR that all of the ballots had been printed and distributed on time, despite initial reports of delays in the printing of ballot papers for the election of representatives to the Andean Parliament;[[858]](#footnote-858) as reported by the State, these delays originated in the filing of several electoral complaints.[[859]](#footnote-859) The State also provided information on actions taken to guarantee the right to vote of people living in rural areas and of persons with disabilities, including voting at home, and voting using ballots in Braille.[[860]](#footnote-860) The IACHR applauds these efforts.
7. The Commission welcomed the State’s call for dialogue with the various sectors involved in the protests that took place in different parts of Ecuador starting on October 26. The protests were prompted by many socioeconomic issues. Some acts of violence were reported.[[861]](#footnote-861) At that time, the Commission urged the State to ensure that this dialogue effort was effective and inclusive, and that it pay particular attention to representatives of groups in vulnerable situations.[[862]](#footnote-862)
8. As to the question of **citizen security,** the IACHR hasreceived information indicating that the Executive Branch has declared states of emergency in order to respond to the challenges posed by the violence and prison crisis, and has deployed military contingents along the perimeters of prison facilities.
9. The IACHR notes that the Constitutional Court has issued rulings on the various decrees declaring a state of emergency, which restrict the Armed Forces’ participation in citizen security affairs. These rulings were guided by the inter-American standards on the matter, underscoring the obligation to respect the principles of exceptional threat, strict necessity, proportionality and humane treatment; observance of the principle of legality; planning of the use of force; training for members of the armed forces and state security agencies, and proper control and verification of the legitimacy of the use of force.[[863]](#footnote-863)
10. The Commission also noted the announcement of a bill entitled “Defense of the Duty of Law Enforcement,” the main goal of which was to provide legal assistance to law enforcement agents accused of crimes, by creating the Law Enforcement Legal Defense Unit.[[864]](#footnote-864) The State reported that the bill is still being drafted.[[865]](#footnote-865)
11. Regarding **access to justice and judicial independence,** the State provided information on training courses on gender-based violence,[[866]](#footnote-866) and on efforts to modernize the justice system. It noted that the Council of the Judiciary had issued regulations on the use of electronic signatures by those performing judicial functions in the area of violence against women, children and adolescents; family law, and adolescent criminal offenders.[[867]](#footnote-867)
12. The State also provided information on the number of persons living in a vulnerable situation who have been afforded legal assistance by the State, including the Human Rights Secretariat, the Ombudsperson, and the National Service for Comprehensive Care for Adults Deprived of Liberty and Adolescent Offenders.[[868]](#footnote-868)
13. As to the issue of **persons in human mobility**, the IACHR welcomes the Government’s decision to implement a new process of regularization of Venezuelan people living in the country,[[869]](#footnote-869) which will be complemented by economic integration strategies to ensure that they have access to the job market.[[870]](#footnote-870)
14. The IACHR also welcomed the ruling by the Constitutional Court of Ecuador which recognized the right to regularization of migratory status and family reunification of children and adolescents in human mobility. The Commission particularly noted that the ruling sets parameters for the State’s obligation to protect migrant children and adolescents, bearing their best interests in mind.
15. The Commission noted with concern the rise in the forced displacement of Ecuadorians. According to official information, a total of 62,000 Ecuadorians left the country during the first half of 2021, 8,700 of whom were said to be children and adolescents. This would be an increase of 98 percent over the first six months of 2019.[[871]](#footnote-871) According to the National Bureau on Human Mobility, the structural causes that force people to leave their homes include the country’s socio-economic situation, which has been aggravated by the COVID-19 pandemic.[[872]](#footnote-872)
16. As to **trafficking in persons**, the Commission took note of the presentation by the Ministry of the Interior and the United Nations Office on Drugs and Crime of the Report on Trafficking in Persons in the context of migration flows.[[873]](#footnote-873) According to the report, seven out of ten victims were women and girls; the traffickers’ main goal sexual exploitation. The report states that in cities in the mountains of Ecuador, the victims of people smuggling for work purposes are chiefly men and boys.[[874]](#footnote-874)
17. As to the rights of **LGBTI** **persons**, the State highlighted the creation of the aforementioned Under Secretariat for Diversity, the goal of which is to eradicate all forms of violence and discrimination, and help develop comprehensive policies on behalf of LGBTI persons,[[875]](#footnote-875) which is something that the Commission applauds. Along the same lines, the Commission took note that the First National Diversity Meeting had been held, organized by the Human Rights Secretariat, with the goal of developing a Plan of Action on Diversity del Ecuador 2021-2025[[876]](#footnote-876). The Commission also noted the reports of at least eight murders of LGBTI persons.[[877]](#footnote-877)
18. As to the **rights of older persons**, the Commission welcomes the constitution of the aforementioned SINEPIDPAM pursuant to the Law on Older Persons, whose purpose is to coordinate the agencies, public and private services, rules, policies, plans, programs, mechanisms and activities designed to ensure the comprehensive, specialized protection of older persons on a priority basis.
19. The State also informed the Commission of the implementation of programs to prevent violence against older persons, and measures to ensure social inclusion, and ESCR, underscoring pensions as a means of helping improve the economic security of older persons living in poverty and extreme poverty.[[878]](#footnote-878)
20. Regarding the rights of **Afro-descendent persons and measures to counter racial discrimination**, the Commission applauded the ratification by the State of Ecuador of the Inter-American Convention against All Forms of Discrimination and Intolerance.[[879]](#footnote-879)
21. The State reported that the Human Rights Secretariat and the Bureau of Afro-descendent People of the Andean Community of Nations (CAN) had taken a number of steps to organize the Second International Afro-Andean Forum.[[880]](#footnote-880) It also said that more than 400 Ecuadorians had participated in modules of the program called “School for Families” of the Ministry of Economic and Social Inclusion, which seeks to provide ongoing training and education to build family capacities for care and protection.[[881]](#footnote-881)
22. The IACHR took note of the ruling issued by a constitutional court which found massive violation of human rights and proven subhuman working conditions and abuse of workers in a foreign company, most of whom were Afro-descendent campesinos.[[882]](#footnote-882) According to publicly available information, this is the first time that a private company had been censured for slave labor in the country.[[883]](#footnote-883)
23. The Ombudsperson stated that there could be institutional obstacles to enforcement of the judgment and that there remain challenges concerning the company’s operations, since the data about the true number of workers and their health were imprecise.[[884]](#footnote-884)
24. The Inter-American Commission also took note of complaints about projects that threaten the cultural identity and survival of Indigenous and Afro-descendent peoples, due to the risk of losing their territories and impact on climate change.[[885]](#footnote-885) The Commission urges the State of Ecuador to conduct environmental impact studies to assess the potential harm or damage that the investment projects in tourism, mining, development, urbanization and other enterprises might cause in collective Afro-descendant territories.
25. As to the rights of **persons with disabilities**, the IACHR notes the publication of the “Guide on sexual, reproductive and violence-free rights for people with disabilities” and the “Biosecurity Protocol for the delivery of social and economic inclusion services.” It also noted the efforts made to ensure that persons with disabilities have access to justice, by means of the legal support referred to in the section on access to justice and judicial independence in this Chapter.
26. The Commission learned of the approval of a technical rule of the Ecuadorian Standardization Service, which sets parameters for the media to show sign language on the screen[[886]](#footnote-886) The Commission recognized the efforts by the National Council for Disability Equality to ensure that persons with disabilities are included in both the public and private sectors[[887]](#footnote-887), as well as the efforts of the “I vote at home” program discussed above.[[888]](#footnote-888)
27. The IACHR also notes that this group was given priority in phase 1 of the Covid-19 vaccination campaign,[[889]](#footnote-889) and is aware of the work that the National Council for Disability Equality has done to provide technical advice and cross-checking of databases with other agencies to update the information on people with disabilities.[[890]](#footnote-890)
28. The IACHR voices its particular concern over the hunger strike begun by persons with disabilities to protest the challenges they faced in gaining access to education[[891]](#footnote-891). It observes that as of July 2021, only 62,298 persons with disabilities had secure jobs[[892]](#footnote-892).
29. On the subject of the **rights of children and adolescents**, the Commission welcomes the State’s initiative to set August 14 as the national day against sexual violence in the schools.[[893]](#footnote-893) This is being done pursuant to the reparation measures ordered by the Inter-American Court of Human Rights in the case of Guzmán Albarracín et al.[[894]](#footnote-894) According to available information, this initiative seeks to recognize and promote awareness of the gravity of sexual violence against children and adolescents; publicize and promote the right of children and adolescents to a life free from sexual violence, and take specific action to prevent, detect and punish acts of sexual violence against children and adolescents in the schools.[[895]](#footnote-895)
30. The IACHR applauds the adoption by the National Court of Justice of Decision 08/21, which provides for summary (shorter) proceedings for handling court cases regarding the removal and illicit detention of children and adolescents.[[896]](#footnote-896) In addition, the State reported that a proposed protocol was being drafted to ensure the safety and security of children and adolescents in shelters, along with a preliminary version of a National Plan for the Comprehensive Protection of Children and Adolescents 2030, which is currently in consultation.[[897]](#footnote-897)
31. The Commission noted with concern that, according to UNICEF, the income of eight out of ten households in the country with children and adolescents fell as the result of the COVID-19 pandemic, and they are said to be experiencing great difficulty in obtaining nutritious food. The UNICEF information stated that nine out of ten households with children and adolescents at the lowest socio-economic level are able to access classes only via cell phone.[[898]](#footnote-898)
32. With regard to **persons deprived of liberty**, the IACHR notes with concern the prison crisis in the country, which has caused at least 316 deaths due to acts of violence.
33. In this context, the IACHR paid a working visit to Ecuador on December 1-3 to examine the status of prisoners. The Commission noted that the situation of persons deprived of liberty is best described as one of overpopulation, with high rates of preventive detention; high levels of violence within the prisons, and deplorable conditions of imprisonment.
34. In particular, the Commission notes that preventive detention is one of the causes of prison overcrowding. According to official data, as of October 29, 2021, more than 39 percent of the total prison population is in preventive detention.[[899]](#footnote-899) This figure shows that preventive detention is being used in a way that is contrary to its nature as an exceptional measure. The IACHR thus urges the State to take the measures necessary to reduce the use of preventive detention, and ensure that it is used as an exception and is constrained by the principles of presumption of innocence, legality, exceptional in nature, proportionality, reasonableness, and necessity.
35. The IACHR stated its concern and dismay over the repeated acts of violence that took place in a number of detention centers, with at least 316 prisoners left dead in 2021.[[900]](#footnote-900)
36. The Commission underscores the actions the State has taken to address this issue, such as issuing declarations of a state of exception in order to “protect the rights of persons deprived of liberty”; the formation of a specialized team of prosecutors to handle the investigations; investigations were begun and measures taken to provide psychological and outpatient care, as well as information to the families of persons in detention.[[901]](#footnote-901) The Commission also notes the creation of the “Commission on Early State Intervention in Facilities for Deprivation of Liberty” which is to work on security and social areas.[[902]](#footnote-902)
37. The IACHR welcomes the Executive Decrees that pardoned persons deprived of liberty for violations of Articles 383 or 386 of the Comprehensive Criminal Code, as well as people with terminal or devastating illnesses as one of the measures for reducing overcrowding.[[903]](#footnote-903) According to available information, during the first 22 days after Executive Decree 265 had gone into effect, the Ecuadorian Ombudsperson negotiated 21 pardons for persons deprived of liberty who were suffering from severe illnesses, 12 persons were pardoned.[[904]](#footnote-904)
38. **As to the human rights of women**, the IACHR applauds the adoption of measures to address, prevent and protect against gender violence. It welcomes the presentation in March 2021 of the pilot of the virtual module on protective measures, the purpose of which is to preserve the lives and safety of victims of violence and enables them to handle the ratification, modifications or revocation of protection measures on line.[[905]](#footnote-905)
39. It also reiterates that it welcomes the declaration of August 14 as the official day against sexual violence in the classroom.[[906]](#footnote-906) The IACHR also takes note of the efforts to provide training and education on violence against women for the general public and civil servants during the course of 2021.[[907]](#footnote-907) However, the Commission notes with concern that cases of femicide are continuing, particularly in the context of the COVID-19 pandemic; according to official records, between January and September 2021, 49 femicides were recorded; in 34 percent of these cases, the person responsible for the crime responsible for the crime was the victim’s partner.[[908]](#footnote-908)
40. As to sexual and reproductive rights, the IACHR welcomes the ruling of April 28, 2021 of the Constitutional Court of Ecuador instructing the Ombudsperson to prepare a bill, with the participation of civil society, to decriminalize the practice of voluntary interruption of pregnancy in cases of rape, which had been reserved only for women with disabilities who had been victims of rape.[[909]](#footnote-909)
41. However, the IACHR also notes the official information that shows that as of October 2021 119 cases of maternal death had been reported.[[910]](#footnote-910) The State informed the Commission that the Management of the Institute to Reduce Maternal and Neonatal Mortality has developed strategies to help reduce maternal and neonatal mortality throughout the country.[[911]](#footnote-911)
42. As to the **rights of Indigenous peoples**, the IACHR received information on the human rights situation of Indigenous peoples along the borders of Ecuador, Colombia and Peru in the context of the COVID-19 pandemic; civil society had protested that the measures to prevent COVID-19 transmission did not take an intercultural approach, adding to existing problems such as violence against Indigenous leaders, oil spills, deforestation, and the progress of extractive projects that had not been consulted.[[912]](#footnote-912)
43. The Commission was also informed of the issuance on July 7, 2021 of Executive Decree 95, which set out a policy on hydrocarbons that seeks to increase the country’s petroleum production.[[913]](#footnote-913) It also learned of the issuance on August 5, 2021 of Executive Decree 151,[[914]](#footnote-914) on a plan of action on mining. The Commission noted that court actions have been filed against those Decrees.[[915]](#footnote-915)
44. The Commission reiterates that the State of Ecuador is obliged to consult the Indigenous peoples on administrative or legal actions that may affect them. The consultations must be done in advance, freely and in an informed way in an effort to obtain their consent. It also has the duty to protect their lands, territories and natural resources, including special protections for Indigenous peoples in isolation.

**EL SALVADOR**

* **General considerations**
1. The IACHR welcomes some **advances** in human rights matters recorded in the country during 2021, two standouts being the decline in the number of homicides in El Salvador and the passing of the Special Law on Protection of Human Rights of Older Adult Persons. The IACHR also values the specialized training in human rights of women, which was designed for public servants and the general public.
2. Regarding **challenges**, the IACHR received news of concerning facts that undermine the principle of separation and independence of State powers and of the democratic rule of law. In particular, the IACHR condemned the removal of all sitting and alternate judges of the Supreme Court of Justice’s Constitutional Court, as well as the reforms to the Law on Judicial Careers and the Organic Law on the Attorney General of the Republic. Additionally, the Commission stresses its concern regarding the draft bill for the Law on Foreign Agents.
3. The State responded to a request for information that was sent for preparation of this chapter[[916]](#footnote-916).
* **Specific issues**
1. In 2021, the IACHR received worrying information of facts that undermine **democratic institutions** and **judicial independence** in El Salvador. On May 1, 2021, during the first ordinary plenary session of the country’s recently seated Legislative Assembly, the Legislative Branch passed a decree removing all sitting and alternate judges of the Supreme Court of Justice’s Constitutional Court. That decision was adopted, dispensing with procedure, by the votes of 64 of the 84 members of parliament. The Legislative Assembly argued that the judges had allegedly ruled decrees by the Executive branch during the pandemic to be unconstitutional, thereby hindering the work of the Executive Branch[[917]](#footnote-917). In subsequent voting, the Assembly approved the election of four individuals as new judges, and a new president of the Constitutional Court. Likewise, in that same plenary session, the Legislative Body passed a decree to remove the Attorney General of the Republic and to elect a new person for that position, questioning his independence and impartiality[[918]](#footnote-918). For its part, the Constitutional Court, in its original composition, issued a Court Ruling of Unconstitutionality No. 1-2021, declaring the ruling to remove the judges unconstitutional[[919]](#footnote-919).
2. he IACHR [condemned](https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/110.asp) the removals by expedited decrees of the Legislative Assembly, considering there to have been an absence of due process guarantees and no specific grounds, as provided by the Constitution. It considered that the lack of these elements constitutes a serious attack against the principle of separation and independence of powers and against the democratic rule of law, in contravention of Inter-American standards for removing **operators of justice**. Further, it [decided](https://twitter.com/CIDH/status/1388888676323708935?s=20) to install the Office for Coordination and Timely and Complete Response (SACROI El Salvador) to monitor and address the situation. For its part, in an *oficio* hearing on the “Overall situation of human rights in El Salvador”, participating organizations underscored that the removals of judges from the Constitutional Court and removal of the Attorney General of the Republic, in addition to breaking up the constitutional system of checks and balances, affected the rights to judicial protection and judicial guarantees of the individuals. They requested that the IACHR conduct a working visit by the Rapporteur for Human Rights Defenders and Justice Operators and the Special Rapporteur for Freedom of Expression[[920]](#footnote-920).
3. The IACHR also took note of the report published on May 2, 2021, by the Special Mission of the General Secretariat of the OAS to El Salvador, which recognized with concern “actions that could threaten the rule of law and Salvadoran democracy”. Those actions include the following: a lack of independence of the powers of the State, attacks on freedom of expression and the press, unjustified restrictions of access to information, the possible increase in militarization of the country, noncompliance with obligations stemming from the Peace Accords, explicit contempt for court rulings, the issuance of unconstitutional decrees to contain the pandemic that threatened the constitutional rights of individuals who had been unjustifiably deprived of liberty, and expressions that foster violence against high authorities of the State’s democratic institutions[[921]](#footnote-921).
4. Additionally, the Commission became aware that on August 31, 2021, the Legislative Assembly of El Salvador expeditiously passed Decree No. 144, which establishes reforms to the Law on Judicial Careers, and Decree No. 145, which modifies the Organic Law on the Attorney General of the Republic. Both decrees, which enter into force eight days after publication, modified aspects related to removing operators of justice and terminating their careers. According to publicly available information, these reforms would imply the termination of at least 100 of the country’s judges and could affect an additional 150 judges[[922]](#footnote-922). The IACHR and the United Nations Special Rapporteur on the Independence of Judges and Attorneys [rejected](https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/234.asp) those legislative reforms and called on El Salvador to respect the guarantees of independence of the judiciary and of the Office of the Attorney General, pointing to Inter-American and international standards regarding the irremovability of operators of justice and their proper appointment.
5. Furthermore, as an advance in the matter of the **institutionality for human rights**, the IACHR welcomes the appointment of the Advocate for the Defense of Human Rights and head of the National Institution for Human Rights (INDH) of El Salvador as Secretary General of the Network of National Institutions for the Promotion and Protection of Human Rights on the American Continent[[923]](#footnote-923). The Commission also highlights his participation in the IV Meeting of INDHs of the northern region of Central America, which took place on May 26, 2021, with participation of IACHR directors, and calls for continued work in technical cooperation for the promotion and protection of human rights in the country. On the other hand, the IACHR became aware of statements by authorities calling on high officials to remove the Advocate in the context of the institutional crisis[[924]](#footnote-924). To this, the Commission reiterates the importance of guaranteeing the independent activity of the INDHs, such that they might fulfill their function without being the objects of acts against them or retaliation. The IACHR also takes note of the 2022 budget preparation process that is considering deeper budget cuts for human rights institutions, including the INDH itself[[925]](#footnote-925).
6. Regarding **citizen safety**, the Executive Branch communicated a decline in the number of homicides in El Salvador, with 936 homicides[[926]](#footnote-926) recorded through November 2, 2021, and a daily average of 3.1 murders[[927]](#footnote-927), the lowest numbers on record over the past 25 years[[928]](#footnote-928). On the other hand, in a hearing before the IACHR, the State indicated that between January 1 and October 13, 2021, the Office of the Attorney General of the Republic received 1,116 complaints of the disappearances of 1,192 individuals, complaints that are classified as “disappearance of persons” or “deprived of liberty”, of which 51.6% were located. It also pointed to measures adopted to coordinate investigation and search actions[[929]](#footnote-929). For their part, civil society organizations reported that the increase in disappearances is linked to crime and the policy of militarized security; they also underscored the lack of communication with family members about these cases, as well as the lack of a gender focus in State prevention and response actions[[930]](#footnote-930). The IACHR also received information about criticism of the handling of criminal records and of the transparency of the Territorial Control Plan[[931]](#footnote-931). Additionally, the IACHR learned that the Office of the Attorney General of the Republic’s Special Anti-Mafia Group, which oversaw the criminal investigation of alleged illegal negotiations between public authorities and officials and the gangs, Mara Salvatrucha-13 and Barrio 18, has been decommissioned[[932]](#footnote-932).
7. In matters of **remembrance, truth, and justice**, the IACHR takes note that the Legislative Assembly’s Commission on Justice and Human Rights announced continuation of efforts to draft a bill for the Law on Restorative and Transitional Justice[[933]](#footnote-933), and the IACHR also observes that victims and human rights organizations submitted their own proposals for legislation on this matter[[934]](#footnote-934). Regarding legal cases of serious human rights violations committed during the internal armed conflict, the Commission became aware that in June the Constitutional Court of the Supreme Court of Justice ordered the Office of the Attorney General of the Republic to investigate the 1982 forced disappearances of Salvadorans at the hands of members of the National Police and Armed Forces[[935]](#footnote-935). Additionally, in November, the Constitutional Court admitted a lawsuit filed by the Office of the Attorney General against the Criminal Court’s 2020 ruling that ordered closure of the criminal case of the massacre of six Jesuit priests and two women[[936]](#footnote-936). This ruling by the court was rejected by the victims, the Company of Jesus, and the Universidad Centroamericana, who at the time submitted their appeals for removal of the Criminal Court judges[[937]](#footnote-937). The IACHR has also acknowledged the resignation of the judge in the court of San Francisco Gotera, who oversaw the case of the Massacre of Mozote and nearby locations, in the context of the meddling with Judicial Careers and based on the passing of Legislative Decree No. 144 of 2021[[938]](#footnote-938).
8. Regarding the situation of **human rights defenders**, the Commission observes that to date no law has been passed for protection of human rights defenders, which civil society organizations have been proposing since 2018[[939]](#footnote-939). Likewise, it observes that during 2021 the highest authorities of the State continued with stigmatizing discourse, seeking to discredit complaints by female human rights defenders[[940]](#footnote-940). In this regard, the IACHR [granted cautionary measures](https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/248.asp) on behalf of the defender, Berta María Deleón Gutiérrez, a victim of stalking by third parties in automobiles and motorcycles bearing no license plates, and of drone surveillance and harassment, especially “attacks” in social media.
9. Likewise, the IACHR [expressed its concern](https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/308.asp) about the draft bill for the Law on Foreign Agents, the implementation of which could seriously affect the work of individuals, civil society organizations, and communications media that contribute to the defense of human rights and freedom of the press. The IACHR recalls that human rights defenders, journalists, and communications media play a central role in democratic societies and in the process of strengthening the rule of law. The IACHR further reiterates that, as part of freedom of association, States must promote and facilitate access by human rights organizations to financial cooperation funds, both national and international, and not restrict their means of funding[[941]](#footnote-941).
10. Regarding **persons deprived of liberty**, the Commission reiterates its concern about the high levels of overcrowding presumably because of the improper use of preventive imprisonment, the stiffening of security policies, and the lack of alternative measures for depriving liberty[[942]](#footnote-942). According to official data, the prison population was 37,866 individuals (2,678 women and 35,188 men)[[943]](#footnote-943). This figure represents an overcrowding rate of 34.9%, given the official declared capacity for the prison system is 28,054 persons[[944]](#footnote-944). Regarding preventive incarceration, the Commission noted that 25.52% of the individuals deprived of liberty are in preventive incarceration[[945]](#footnote-945).
11. The Commission also received information indicating a lack of official data about the impact of the pandemic on this population[[946]](#footnote-946). Additionally, the contingency measures adopted in the context of the pandemic implied total isolation of detained persons in at least seven correctional facilities[[947]](#footnote-947). In this regard, the IACHR reiterates the obligation the States in the region have, to adopt immediate and urgent measures to protect the lives, health, and personal integrity of individuals under its custody during the COVID-19 pandemic, and to publicize those measures[[948]](#footnote-948).
12. Regarding mechanisms to address, protect, and prevent violence against **women**, the IACHR welcomes the initiative, “126 Te Orienta”, which was launched in March 2021 by the Salvadoran Institute for Development of Women (ISDEMU). This is a multidisciplinary virtual service platform that aims to support women who face violence, be it physical, economic, sexual, psychological or of any other type[[949]](#footnote-949). The IACHR also takes note of the validation process for the 2021-2026 Action Plan of the National Policy of Action for Life Free of Violence, held in January 2021. This is a political instrument designed to facilitate reaching strategic objectives proposed for prevention, detection, care, and punishment of violence against women[[950]](#footnote-950). Along these same lines, the Commission welcomes efforts toward specialized training in women’s rights aimed at public sector employees and the general population, for the purpose of strengthening the response capacity of State institutions, contributing to the reduction of gender inequality and discrimination, and strengthening the capacities of women[[951]](#footnote-951). The Commission also takes note of the continuation of the *Programa Ciudad Mujer*[[952]](#footnote-952), an intiative previously recognized as one of the best practices in the region for advancing and promoting the rights of women and girls, especially those in vulnerable situations or who have suffered serious rights violations[[953]](#footnote-953); however, the IACHR observes that, according to publicly available information, this program has suffered operationally due to reductions in materials and budget cuts[[954]](#footnote-954).
13. Regarding the situation of gender-based violence against women, the IACHR observes with concern the increase in feminicides in 2021, compared with the prior year. According to official figures, 47 feminicides were recorded during the first quarter of 2021[[955]](#footnote-955), whereas the figure for the same period of 2020 was 28 feminicides[[956]](#footnote-956). Further, the Commission observes that there continue to be an alarming number of cases of intra-family violence and sexual violence, particularly against girls and adolescents. According to public information, 671 cases of intra-familiar violence against woment were recorded through August 10, 2021[[957]](#footnote-957), and 5,359 cases of sexual violence were recorded through November 9, 2021, 8.25% of which were assault of minors, 10.95% were sexual violence against minors, and 12.8% were statutory rape[[958]](#footnote-958). In this regard, the IACHR takes note of official data which indicates that, for the period of January-September 2021, there were 9,889 records of pregnant teenagers and girls under the age of 17 who were served by the health ministry’s network of establishments[[959]](#footnote-959). Lastly, the Commission takes note of official data which indicates that, through June 2021, there were 217 reports of work-related violence against women, most of which were cases of workplace harassment[[960]](#footnote-960).
14. Regarding access to justice, the IACHR was informed that when cases of disappearances of women perpetrated by individuals are investigated, it is generally the case that no consideration is given to the probable responsibility of the victims’ current or former partners[[961]](#footnote-961). Further, the Commission became aware that human bones were discovered at the home of a former police officer in Chalchuapa, in May 2021, most of which were the bones of women[[962]](#footnote-962). In this case, the Commission highlights the advances in identifying the victims and the formal return of the remains of 12 individuals to their families[[963]](#footnote-963). The IACHR observes that investigations of this case are in the discovery phase, and it welcomes the creation of a working group coordinated by the Specialized Anti-Gang and Homicide Unit, which is supported by the National Directorate for Women, Children, Adolescents, LGBTI Population, and other Vulnerable Groups, as an advisory group for applying an across-the-board gender-based approach to criminal investigations of these acts[[964]](#footnote-964). However, the Commission takes note of civil society’s complaint that the main suspect in this case was given a benefit for effective collaboration, thereby reflecting the lack of technical investigative capacity of the prosecutor’s office[[965]](#footnote-965). Regarding this, the Commission reminds the State of its obligation to guarantee strict due diligence in cases of violence against women, and urges it to guarantee timely, complete, and impartial investigation, as well as appropriate sanctions against all responsible individuals and full reparations to the victims in this case.
15. Lastly, regarding sexual and reproductive rights, the IACHR [welcomed](https://twitter.com/CIDH/status/1476327168238047232) the release of three women who had been deprived of liberty after suffering obstetric emergencies or complications.[[966]](#footnote-966) The IACHR also reiterates its recommendation to the State that it review the cases of women who are serving severe prison sentences for aggravated homicide for facts related to obstetric emergencies or complications; and that it give priority treatment to petitions for commutation of sentences being served[[967]](#footnote-967). The IACHR observes that there is still absolute criminalization of voluntary interruption of pregnancy in the country, and it laments the recent dismissal of reform initiatives that seek to decriminalize it[[968]](#footnote-968). The IACHR further takes note of the August 2021 passing of the *Nacer con Cariño Law* [Birth with Affection], which establishes the right to life from the moment of conception and excludes as a right of pregnant women the possibility of interrupting the pregnancy[[969]](#footnote-969). Regarding this, the Commission reiterates its call upon the State to adopt legislation that guarantees for women the effective exercise of their sexual and reproductive rights, in the understanding that denial of voluntary interruption of a pregnancy in certain circumstances, including cases where life and health are at risk, and when the pregnancy is the result of rape or incest, could constitute a violation of the fundamental rights of women, girls, and adolescents[[970]](#footnote-970).
16. The State also reported on training initiatives in the subject of the **rights of LGBTI persons**, headed by the ISDEMU, and the inclusion of LBTI women in commercial entrepreneurial projects[[971]](#footnote-971). Regarding violence against LGBTI persons, the IACHR [condemned](https://twitter.com/CIDH/status/1387413493280919553) the murder of Zashy Zuley del Cid, a 27-year-old trans woman and human rights defender, who had previously received death threats[[972]](#footnote-972). The IACHR also learned that the legislative bill on gender identity, which was in Legislative Assembly’s Committee on Women and Gender Equality, had been shelved[[973]](#footnote-973), a fact lamented by organizations of trans, nonbinary, and gender-diverse persons. Nevertheless, according to publicly available information, the organizations that make up the Board for a Gender Identity Law have submitted a new legislative bill[[974]](#footnote-974).
17. Regarding the protection of the rights of **persons in human mobility**, the Commission received information from the State about the implementation of Phase II of the Territorial Control Plan. Thus, actions executed in this phase would point to prevention of violence and insecurity as causes that oblige individuals to relocate themselves[[975]](#footnote-975). According to official information, the implementation of policies such as the Territorial Control Plan are contributing to the reduction of the number of Salvadoran migrant persons at the southern border of the United[[976]](#footnote-976). Likewise, regarding refugees, the State reported on the development of a bill to reform the Law on Determining the Status of Refugee. This reform would seek to develop better practices that enable more accurate engagement of State institutions involved in this procedure[[977]](#footnote-977). Regarding **internal displacement**, the most up-to-date figures from the Center for Monitoring Internal Displacements, published in May 2021, indicate that in 2020 there were about 17,000 internal displacements due to natural disasters, an almost 700% increase compared with 2019. Likewise, 114,000 internal displacements were reported as being caused by conflict and violence. This figure reflects a 75% decrease compared with 2019[[978]](#footnote-978).
18. Regarding **human trafficking**, the Commission notes that the State reported that forced internal displacement and modern forms of slavery are closely tied to vulnerability factors of victims of the crime of human trafficking[[979]](#footnote-979). It also indicated that some internally displaced persons have been subjected to contemporary forms of slavery[[980]](#footnote-980), adding that displaced persons have a higher degree of vulnerability because they have limited opportunities due to various circumstances, such as language or geographic location[[981]](#footnote-981).
19. Regarding the **rights of girls, boys, and adolescents**, the IACHR observes with concern that there continues to be a high number of pregnancies among girls and adolescents[[982]](#footnote-982). According to the most up-to-date figures of the Observatory for Sexual and Reproductive Rights, during the first quarter of 2021 there were 6,938 recorded pregnancies of girls and adolescents. Of those, 281 were girls between 10 and 14 years old[[983]](#footnote-983). Further concerning to the Commission is the information received about violence against girls in the country. According to the most recent data from the Observatory for Citizen Safety of Women, 73% of cases of sexual violence received by the Office of the Attorney General of the Republic, through May 2021, were for cases of rape, statutory rape, and sexual assault against girls and adolescents under 17 years of age[[984]](#footnote-984). Additionally, the Observatory reported the disappearance of at least 211 girls during the first half of 2021[[985]](#footnote-985).
20. Regarding the rights of **Afro-descendent persons** and **freedom from racial discrimination**, the Commission observes from information provided by the State that between January and July 2021, the Ministry of Culture delivered food packages, hygiene kits, and personal protection equipment to Afro-descendant persons in vulnerable situations, in the context of the COVID-19 pandemic[[986]](#footnote-986).
21. To date, the IACHR has received information about various demands by Afro-descendant Salvadoran civil society to be recognized and included in public policy[[987]](#footnote-987). The Commission also took note of the call by various organizations for follow-through and passage of the Special Law against Discrimination, which is a comprehensive law that seeks to create conditions of equality such that public policies would include different population groups that are exposed to vulnerable conditions, such as women, girls, boys, adolescents, youth, persons with disabilities, Afro-descendant persons, indigenous communities, and others[[988]](#footnote-988).
22. Regarding the **rights of older persons**, the Commission welcomes the passing of the Special Law for Protection of the Rights of Older Adult Persons[[989]](#footnote-989), which replaces the Law for Comprehensive Care for Older Adult Persons, in which the State is a party. Likewise, the commission takes note of what the State reported[[990]](#footnote-990) regarding the implementation of comprehensive health campaigns for older adults from indigenous communities of both the western and eastern regions of the country. The IACHR was also informed, by civil society organizations, about a study of the realities of what life is like for the elderly and older adult LGBT populations in El Salvador[[991]](#footnote-991). On this subject, the IACHR observes the study’s conclusions with concern, as they indicate various situations where there is a lack of protection for the human rights of older LGBT persons, which include a lack of legislation for specific protections for older LGBT persons, discrimination in acess to public health services, discrimination in the educational sector, and others.
23. Regarding the rights of **persons with disabilities**, the State informed the Commission about efforts to promote participation of persons with disabilities in spaces the Ministry of Labor has created for pursuing protection of labor rights and for coordination actions with local actors such as municipal governments and social organizations[[992]](#footnote-992). Furthermore, the IACHR has taken note of the social protests that call attentiont to the difficulties persons with disabilities have with financial subsistance, the effective implementation in practice of the Special Law on Inclusion of persons with disabilities, and the absence of institutions focused specifically on defending the rights of those belonging to this group[[993]](#footnote-993). The IACHR also notes with concern the status of implementation of the National Policy for Inclusion of Persons with Disabilities, given the limitations that go with not having an adequate budget to fulfill the objectives the law establishes[[994]](#footnote-994).

**GRENADA**

* **General considerations**
1. With regard to **progress**, the IACHR highlights the decrease in the country’s homicide rate. It also underscores the efforts to improve policies and programs on juvenile delinquency and violence, and to improve access to justice. In addition, the Commission takes note of the efforts to analyze national policies and systems in relation to people displaced by climate and environmental factors. It further notes the steps taken to design a policy to provide comprehensive assistance to women survivors of violence.
2. As far as **challenges**, the Commission notes the failure to establish a national human rights institution. It likewise expresses deep concern over the increase in the number of cases of sexual abuse of children and adolescents. It takes note of the high rates of incarceration and prison overcrowding and regrets the lack of progress in abolishing the death penalty. In addition, the IACHR is concerned about the decision to amend the Immigration Act to increase fines for violating its provisions. Finally, it views with concern the continued criminalization of consensual sexual relations between persons of the same sex.
3. The State did not reply to the request for information for the preparation of this chapter.
* **Specific issues**
1. On the cross-cutting issue of **human rights institutions**, the Commission notes that Grenada has an Office of the Ombudsman, which is part of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutions. It is also a member of the Commonwealth Caribbean Association of Integrity Commission and Anti-corruption Bodies. However, the IACHR notes that its powers are limited because it only addresses injustices committed by authorities as a result of maladministration, and not human rights violations.[[995]](#footnote-995) The Commission is concerned that, to date, Grenada has not complied with the recommendation to establish a national human rights institution in line with the Paris Principles. This is despite it having supported the recommendations in this regard, and that the Attorney General’s Office and the Ministry of Foreign Affairs had reportedly been working with the Commonwealth Secretariat and the Office of the United Nations High Commissioner for Human Rights to this end.[[996]](#footnote-996)
2. Regarding **democratic institutions**, the Commission notes that the Rule of Law Index presented by the World Justice Project shows that the State’s overall score increased by 1% in the global ranking; this is based on its adherence to the universal principles of accountability, fair laws, open government, and accessible and impartial dispute resolution.[[997]](#footnote-997) This report also indicates that Grenada ranked 10th out of 32 countries in its overall performance in the Latin America and Caribbean region.[[998]](#footnote-998) The IACHR further notes that Grenada’s governance ranking on Transparency International’s corruption index remained at 52 in 2020. This index measures the perception of corruption in a country’s public sector; it also considers data on bribery, the diversion of public funds, and the capacity of governments to contain corruption, among other factors.[[999]](#footnote-999) The Commission takes this opportunity to recall that in keeping with its international obligations under the Inter-American Convention against Corruption, the State must take measures to prevent, detect, punish, and eradicate corruption in the performance of all public functions.[[1000]](#footnote-1000)
3. In the area of **citizen security**, the IACHR notes that on June 7, 2021, the Royal Grenada Police Force (RGPF) reported the first homicide of 2021.[[1001]](#footnote-1001) Publicly available information shows that two additional homicides were reported in July 2021.[[1002]](#footnote-1002) This information suggests a decrease in the homicide rate during the first seven months of the year. This compares to a reported 33% increase at the end of 2020. The Commission further notes that Grenada continues to improve policies and programs on youth crime and violence.[[1003]](#footnote-1003) In this context, Grenada participated in the regional CariSECURE project, which is designed to help public institutions make evidence-based decisions on citizen security.[[1004]](#footnote-1004)
4. Regarding **access to justice**, the Commission notes that the Eastern Caribbean Supreme Court implemented the Electronic Litigation Portal on June 22, 2021. The portal is an integrated e-filing and case management web-based application. According to official information, this tool is expected to transform the delivery of judicial services and facilitate a more timely and efficient administration of justice for all stakeholders.[[1005]](#footnote-1005)
5. In connection with the **rights of children and adolescents**, the Commission notes that the State has publicly expressed its commitment to addressing the growing number of cases of child sexual abuse. In addition, the number of school counselors was increased to provide psychological support to students.[[1006]](#footnote-1006) This initiative was taken in response to 51 cases of child abuse reported during the first quarter of 2021. This represents an increase of 64.7%, compared to 33 cases reported during the same period in 2020.[[1007]](#footnote-1007) The Commission urges the State to take all measures to guarantee the physical integrity of children and adolescents and to provide them with medical and psychological care. It further recalls that the State has an enhanced obligation to take specific and special measures, as well as to incorporate a holistic, multisectoral, and comprehensive approach that addresses the structural and endemic causes of violence, in particular sexual violence.[[1008]](#footnote-1008)
6. With respect to **persons deprived of liberty**, the Commission notes that the incarceration rate in 2021 was 429 per 100,000 inhabitants—the second highest rate among CARICOM countries.[[1009]](#footnote-1009) In addition, the Commission expresses its concern about the current level of overcrowding, given that the only prison in Grenada, which was built to hold 198 people,[[1010]](#footnote-1010) reportedly has at least 484 inmates at the time of this report.[[1011]](#footnote-1011) The Commission recalls that, under international human rights law, prison overcrowding can constitute a form of cruel, inhuman, or degrading treatment, and that such a practice can be considered a violation of the right to humane treatment and other internationally recognized human rights.[[1012]](#footnote-1012)
7. Regarding the **death penalty**, the IACHR notes that Grenada continues to function as a de facto abolitionist State with a de facto moratorium in place, as the highest appellate court ruled in 2007 that the mandatory death penalty was unconstitutional.[[1013]](#footnote-1013) The Commission also notes with concern that there is still one person on death row, although no executions have been carried out since 1978.[[1014]](#footnote-1014) The Commission reiterates its call to the State to abolish the death penalty. It further recalls that persons deprived of their liberty must be treated humanely, and that their dignity, as well as their life, and their physical, mental, and moral integrity must be respected and ensured.[[1015]](#footnote-1015)
8. Regarding **persons in human mobility**, the Commission notes with concern the draft amendment of the Immigration Act that would increase fines for violations of its provisions, including those related to entry outside regular channels. This is reportedly related to an increase in the influx of irregular migrants during the first quarter of 2021.[[1016]](#footnote-1016) The Commission recalls that the irregular status of a migrant person in a State does not infringe on any fundamental legal right that must be protected by the punitive power of the State. Therefore, the punishment of irregular entry, presence, or stay is disproportionate under criminal law.[[1017]](#footnote-1017)
9. The IACHR notes that Grenada, alongside the other member states of the Organization of Eastern Caribbean States (OECS), is working with the International Organization for Migration (IOM) to analyze policies and national systems for managing and reporting information on the forced displacement of persons due to climate and environmental factors.[[1018]](#footnote-1018)
10. Concerning the rights of **LGBTI persons**, the Commission regrets that the Criminal Code still provides for a 10-year prison sentence for consensual sex between persons of the same sex, notwithstanding the recommendations to amend the law. The Commission has stated that laws criminalizing a particular group of people for engaging in a consensual sexual act or practice with another person of the same gender are impermissible because they directly conflict with the prohibition against discrimination on the basis of sexual orientation.[[1019]](#footnote-1019) The Commission reiterates that these laws reinforce existing societal prejudices and magnify the negative effects these prejudices have on the lives of LGBTI persons.[[1020]](#footnote-1020)
11. As for **women’s rights**, the IACHR recognizes the progress made in designing a policy on the rights of victims of gender-based violence, which seeks to ensure that women survivors of violence receive comprehensive assistance with a human rights approach.[[1021]](#footnote-1021)

**GUYANA**

* **General considerations**
1. As regards **progress**, the Commission takes note of the State’s commitment to undertake electoral reforms, strengthen democracy, and reduce crime. In addition, it welcomes the measures adopted to establish child care centers to respond to cases of violence and to standardize the regulations that govern institutions providing alternative care to children. The Commission also observes capacity-building for law enforcement personnel on gender violence, and the implementation of various measures to reduce overcrowding in the prisons and to prioritize providing COVID-19 vaccines to persons deprived of liberty. Finally, the IACHR takes note of the efforts to regularize the situation of Venezuela migrants and highlights the repeal of legislation that criminalized cross-dressing.
2. As for **challenges**, the IACHR expresses concern over the increased violence directed at children and adolescents and the high incidence of gender violence. In addition, the Commission expresses its concern over the failure to adopt measures to abolish the death penalty. It also notes with concern that migrants apparently do not have the legal right to work in the country, and that the State continues criminalizing consensual sexual relations between persons of the same sex. In addition, the Commission is concerned about the environmental and health challenges faced by indigenous peoples in areas with extractive industry operations.
3. The State did not respond to the request for information for the preparation of this chapter.
* **Specific considerations**
1. As regards the **human rights institutional framework,** the IACHR notes that the Office of the Ombudsman of Guyana is part of the Commonwealth Forum of National Human Rights Institutions[[1022]](#footnote-1022) and of the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies. In this respect, the IACHR has highlighted the importance of having an independent agency for the promotion and protection of human rights at the national level and makes available its technical cooperation mechanism for institutional strengthening in this area[[1023]](#footnote-1023).
2. In addition, the IACHR has noted that a complementary aspect related to the human rights institutional framework is the analysis of fiscal policy and the state budget for financing human rights. Along these lines, the Commission takes note of the information published by the Ministry of Finance to promote inclusive governance, transparency, and accountability.[[1024]](#footnote-1024) The above-mentioned, presupposes that the State has data and information that is timely, complete, sufficient, and reliable for making decisions aimed at giving effect to human rights.
3. Moreover, through its various mechanisms the IACHR has reiterated the obligation of the states to provide special and priority protection to those groups, which due to various circumstances, have suffered historic discrimination.[[1025]](#footnote-1025) In this regard, it takes note of the measures planned by the State aimed particularly at older persons as well as children and adolescents.[[1026]](#footnote-1026) Nonetheless, the IACHR emphasizes that no public policy can be designed, implemented, or evaluated without the allocation of budgetary resources.[[1027]](#footnote-1027)
4. As regards the **democratic institutional framework**, the Commission observes the commitment of the State to undertake electoral reform, as well as calls from civil society to guarantee access to information and greater transparency in contracts between the State and companies in the oil and gas sector. With regard to election reform, the IACHR notes the efforts of the Government to strengthen democracy via the participation of all actors in a consultative and inclusive process of electoral and constitutional reform[[1028]](#footnote-1028); the same point was also highlighted in a bilateral meeting with the OAS in September.[[1029]](#footnote-1029) In addition, the Commission notes that the advisory mechanism for the process of election reform has been incorporated in Article 13 of the Constitution, which guarantees citizens’ participation in the decision-making procedures of the State.[[1030]](#footnote-1030)
5. With respect to ensuring access to information, at a public hearing held during the 181st period of sessions of the IACHR, civil society organizations emphasized the need for greater transparency on the part of extractive enterprises through consultation and access to information. They added that conflicts arose with community lands due to mining concessions being granted by the State without undertaking prior consultation with the communities.[[1031]](#footnote-1031) Accordingly, the Commission takes note of the appeal by civil society to guarantee greater transparency in the issuance of licenses to extractive companies and the levels of extraction contained in the mining contracts.[[1032]](#footnote-1032) The IACHR recalls that the right of access to public information and the principle of transparency in the conduct of public affairs are protected by the inter-American human rights system, and have been recognized as leading tools for fighting corruption.[[1033]](#footnote-1033)
6. In the area of **citizen security** the Commission observes the efforts to introduce new measures to fight crime, as well as the drop in crime. With respect to the initiatives to fight crime, the Commission notes that the President of the Republic announced an amnesty aimed at getting persons who possess illegal firearms to surrender them to the competent authorities. He added that upon turning over the weapons these persons would have the opportunity to discuss alternatives for earn an income and securing for themselves a dignified life.[[1034]](#footnote-1034) In addition, due to the success of the “Safe City Programme,” the Government decided to extend this program nationwide. According to the President, the new “Safe Country Programme” incorporates a multidimensional approach to fighting crime. In addition, it would be monitored through the connection of closed-circuit television cameras by the appropriate authorities, who are expected to participate in compiling intelligence information and adopt a more proactive approach to fighting crime.[[1035]](#footnote-1035)
7. In relation to the reduction in crime, the IACHR observes that from January 1 to November 8, 2021, the Guyana Police Force reported a 19.4% reduction in serious crimes nationwide compared to the same period in 2020. These include: (i) a 10.5% decrease in murder; (ii) a 29.8% decrease in armed robbery; and (iii) a 44.7% decrease in aggravated robbery.[[1036]](#footnote-1036)
8. As regards **access to justice**, the IACHR notes the use of technology and the establishment of new courts to ensure access to justice. The Commission observes that the judicial branch increased the use of technology through actions such as the migration of judicial files to a virtual platform, to reduce the backlog of cases.[[1037]](#footnote-1037) In addition, the IACHR welcomes the State’s efforts to ensure access to justice for persons living in rural areas by establishing a resident magistrate’s court outside the capital city.[[1038]](#footnote-1038) According to official information, the new courts will be part of a larger project geared to achieving a justice system that is more accessible to and inclusive of all persons.[[1039]](#footnote-1039)
9. With respect to the **rights of children and adolescents**, the IACHR observes the partnership between the Government and the United Nations to respond to cases of child abuse by establishing the Children’s Advocacy Centers (CACs) for reporting, investigating, and managing cases, as well as training for police agents to work with victims of child abuse.[[1040]](#footnote-1040) In this context, the Ministry of Human Services and Social Security indicated that from January to June 2021, 1,918 reports were received of child abuse that include physical abuse, sexual abuse, verbal abuse, neglect, and abandonment.[[1041]](#footnote-1041) In addition, the IACHR notes the efforts to unify the Minimum Operational Standards at alternative care institutions. According to available public information, in June 2021 a Visiting Committee was established with the mandate to examine and inspect these institutions to guarantee that children are treated in accordance with obligations derived from the Convention on the Rights of the Child.[[1042]](#footnote-1042)
10. The Commission also takes note of the State’s 2021-2025 Education Strategy Plan (ESP); the partnership with the United Nations to address child abuse; and the efforts to regulate the operation of alternative care institutions. Regarding the ESP, the IACHR notes that it is aimed at providing opportunities for an equitable and quality education, as well as ongoing learning. In addition, it observes that it was adopted based on an inclusive and participatory approach through consultations with youths, children who are deprived of liberty, children without any schooling, and children with disabilities. According to the Ministry of Education, the plan is aligned with the country’s commitments to the United Nations Agenda 2030, as well as with CARICOM’s Human Resource Development Strategy.[[1043]](#footnote-1043)
11. As for the **human rights of women**, the IACHR values the efforts undertaken by the State to train agents of the Guyana Police Force on how to handle gender violence, with a particular focus on domestic violence.[[1044]](#footnote-1044) Nonetheless, public information indicates that on average only 20% of cases of domestic violence result in any punishment.[[1045]](#footnote-1045) In addition, it notes with concern the reports of sexual harassment among public service personnel , as well as the call from civil society to adopt effective measures in this regard, particularly in the area of protection and access to justice.[[1046]](#footnote-1046) The Commission is also concerned about official figures that show an increase in the crime of rape during the first quarter of 2021compared to the same period in 2020[[1047]](#footnote-1047), with a total of 208 cases as of September 6, 2021.[[1048]](#footnote-1048) Finally, it notes that civil society organizations provided advisory services in four of the ten administrative regions from January to September 2021; they did so by conducting 70 interviews on cases of domestic violence and 12 on cases of sexual violence.[[1049]](#footnote-1049)
12. With respect to the **rights of Afrodescendent persons and efforts to fight racial discrimination**, the IACHR observes that the president reported that he would continue supporting the efforts of the Caribbean Community to promote an international summit that would seek to demand reparative justice for the victims of the trans-Atlantic slave trade. In this context, he noted that reparative justice should include a total and unconditional apology from the persons responsible and from those who profited from the trans-Atlantic trade of captive African persons and their consequent enslavement.[[1050]](#footnote-1050) The IACHR welcomes the commitment adopted and encourages the State to continue giving impetus to processes with a view to securing full reparation for Afrodescendent persons.
13. On **persons deprived of liberty**, the Commission takes note of the measures adopted by the State to reduce overcrowding and prioritize COVID-19 vaccinations for this population. The IACHR observes that while the Government is undergoing a process of rebuilding the Lusignan Prison, which was destroyed by fire[[1051]](#footnote-1051), efforts are being made to reduce prison overcrowding. The initiative is being pursued through actions to amend and/or repeal sections of the Plea Bargaining Act, the Parole Act, and the Narcotics Drugs and Psychoactive Substances Control Act, and the introduction of non-custodial measures, especially for persons with disabilities and persons with drug addiction.[[1052]](#footnote-1052) In this context the Government announced its commitment to provide the infrastructure and human resources necessary to support the legislative amendments.[[1053]](#footnote-1053)
14. As regards prioritizing access to COVID-19 vaccines, public information notes that there is a collaboration between the Guyana Prison Service (GPS) and the Ministry of Health to vaccinate persons deprived of liberty against COVID-19 throughout the country. As of early September 2021 more, than 50% of persons deprived of liberty had received the first dose, while 45% had received two doses of the vaccine. In addition, almost 60% of the officers and staff members had also received both doses.[[1054]](#footnote-1054)
15. In relation to the **death penalty**, the IACHR expresses concern over the 14 persons who are still on death row.[[1055]](#footnote-1055) In addition, the Commission observes that Guyana is the only South American country that has yet to abolish the death penalty and which continues imposing it even though it has not carried out executions since 1997.[[1056]](#footnote-1056) The Commission recalls that the death penalty is a violation of the right to life and that states should adopt measures to abolish it.
16. On the rights of **persons in human mobility**, the Commission takes note of the reinstallation of the multi-agency coordinating committee to address the arrival of Venezuelans in Guyana.[[1057]](#footnote-1057) In this context, the Foreign Secretary noted that the country is observing an increase in the number of persons seeking refugee status, mainly from Venezuela. He added that this would require increased efforts to guarantee justice and equity in responding to the situation of this population.[[1058]](#footnote-1058)
17. The Inter-agency Coordination Platform for Refugees and Migrants from Venezuela (R4V) indicated that Guyana’s open-door policy has a positive impact on the integration of Venezuelans, as they have access to medical care and education. Moreover, the Platform noted that the State has issued permits for temporary stays of three months to regularize the stay of Venezuelans. Nonetheless, it also noted that these permits do not grant the right to work legally in Guyana; it added that the lack of work permits for the Venezuelan population is one of the main problems standing in the way of their integration, and puts them in a situation of risk of suffering some type of exploitation, in addition to keeping them in precarious socioeconomic circumstances. Finally, it emphasized that the failure to recognize degrees and certificates from Venezuela limits access to formal-sector jobs on par with persons’ skills.[[1059]](#footnote-1059)
18. The Commission observes that the Attorney-General and Minister of Legal Affairs indicated that the Government is implementing visa requirements for nationals of Haiti and Cuba. The measure is aimed at keeping the country from being used as a channel for human trafficking and contraband.[[1060]](#footnote-1060) In addition, the IACHR notes with concern information according to which migrants from the Warao indigenous community of Venezuela are being recruited to work in slave-like conditions in illegal mining in Guyana.”[[1061]](#footnote-1061)
19. As regards the **rights of LGBTI persons,** the Commission welcomed the repeal of Section 153(1)(XLVII) of the Summary Jurisdiction (Offences) Act, Chapter 8:02, of Guyana, which criminalized cross-dressing..[[1062]](#footnote-1062) The IACHR notes that the repeal was approved in line with the decision of the Caribbean Court of Justice (CCJ), which in 2018 had found the criminal statute unconstitutional.[[1063]](#footnote-1063) The Commission also welcomed the commitment of the State to eradicate discrimination against persons living with HIV, to continue the Pre-Exposure Prophylaxis program, and to address the needs of LGBTI persons.[[1064]](#footnote-1064)
20. Nonetheless, it observes with concern that Guyana continues to criminalize consensual relations between two adults of the same sex, via a “buggery” or “sodomy” statute, which is punished by life in prison.[[1065]](#footnote-1065) In this respect, the Commission reiterates that provisions that punish a given group of persons for participating in a consensual sexual act or practice with another person of the same sex are not admissible, for they are directly at odds with the prohibition on discrimination based on sexual orientation.[[1066]](#footnote-1066) In addition, it recalls that such laws reinforce existing social prejudices and considerably compound the negative effects these prejudices have on the lives of LGBTI persons.[[1067]](#footnote-1067)
21. In the area of **the rights of indigenous peoples**, in the context of a public hearing during the 181st period of sessions, civil society organizations denounced to the Commission the continuation of deforestation and mercury contamination in the Guyana Amazon, in the territory of the Wapishana and Macushi indigenous peoples, derived from goldmining activities.[[1068]](#footnote-1068)
22. As for **human trafficking**, the Commission takes note of the presentation of a legislative amendment to the Combatting of Trafficking in Persons Act of 2005, which would introduce much harsher penalties; define compensatory measures for the victims; and assign specific roles to state agencies.[[1069]](#footnote-1069) In addition, the Commission observes that the State is working to implement the 2021-2023 Action Plan to Eliminate Trafficking in Persons, on considering that more routes would have been created that may lead to exploitation as a consequence of the increase in the movement of Venezuelans to Guyana.[[1070]](#footnote-1070)
23. As regards the **rights of persons with disabilities**, the Commission takes note of the State’s efforts to strengthen public policies[[1071]](#footnote-1071), especially the initiatives associated with access to training [[1072]](#footnote-1072) and employment programs[[1073]](#footnote-1073), and the production of disaggregated statistics that make it possible to reflect the situation of this sector of the population.[[1074]](#footnote-1074)

**HAITI**

## General considerations

1. In terms of **progress**, the IACHR highlights the actions of the Citizen Protection Office (OPC) in its work to protect and promote human rights.
2. As regards **challenges**, the situation of widespread public insecurity and forced internal displacement as a result of violence continues to be of great concern. The IACHR is also concerned about the profound challenges to the stability of the country's democratic and representative institutions, as well as the strengthening of its institutions of justice and promotion of human rights. In addition, the Commission expresses concern about the levels of forced internal displacement and the increasing number of Haitian nationals in situations of mobility. It also notes the vulnerability of women, girls, boys and adolescents in the context of the crisis currently gripping the country and the actions of armed groups. Finally, it is concerned about the reports it has received about deplorable conditions of detention of persons deprived of their liberty.
3. The State did not respond to the request for information sent for the preparation of this chapter.

## Specific Topics

1. Regarding **human rights institutions**, Haiti has a Citizen Protection Office (OPC), a national, independent, and autonomous institution responsible for the protection of human rights. The Commission stresses that the advocacy and reporting work of that office continues to be crucial in the current political and social climate in Haiti, which has grown worse since the assassination of President Jovenel Moïse.[[1075]](#footnote-1075) This entity has publicly stated that the assassination of President Jovenel Moïse must not go unpunished and called on the Port-au-Prince Prosecutor's Office, in particular the Government Commissioner, not to be intimidated or give in to external pressures, considering that the Haitian justice system must fulfill its role by carrying out a proper investigation to prevent impunity.[[1076]](#footnote-1076)
2. With regard to **democratic institutions**, the IACHR expressed deep regret and extreme concern about the assassination of President Jovenel Moïse in July 2021 during an attack on his private residence, which came about as a result of the worsening of a long-running political and institutional crisis.[[1077]](#footnote-1077) In addition, the IACHR takes note of the leadership vacuum on the Supreme Court and the lack of a quorum enabling the Legislative Branch in Haiti to function, all within the context of the broader democratic crisis. The assassination of President Moïse and the ensuing vacuum have further aggravated the already hostile political climate in the country. In this context, it notes the efforts to keep the State functioning through political agreements such as the one signed by the government and political forces. It also stresses the importance of establishing broad-based social participation processes and of the involvement of civil society, especially human rights organizations, and advocates.
3. In this context, the IACHR urged the State to take immediate steps to diligently investigate the assassination of President Moïse and to identify and punish those responsible. The Commission also urged the Haitian State to use democratic channels, strategies, and spaces to settle conflicts and disputes, with full respect for the democratic and constitutional framework. It also called on the State to create effective mechanisms for social participation and dialogue to preserve democratic institutions.[[1078]](#footnote-1078) The IACHR also highlights the progress made in the investigation of the assassination through the appointment of an investigating judge; however, it notes with concern the challenges for the safety of the investigators, judges, and judicial officials in charge of the investigation.[[1079]](#footnote-1079)
4. With respect to **citizen security**, the Commission notes the levels of systemic insecurity, features of which include territorial disputes between armed groups in the capital, Port-au-Prince; retaliatory attacks against police officers; and the use of force by the Haitian National Police. Regarding the high levels of insecurity, the Commission notes that, according to widely available information, violent clashes between armed groups have resulted in numerous deaths, injuries, and the forced displacement of thousands of people.[[1080]](#footnote-1080) In addition, the IACHR notes that several abductions for ransom have been reported, including the kidnapping of 71 women and 30 children in the first eight months of 2021, as well as members of the clergy and foreign nationals.[[1081]](#footnote-1081)
5. As regards retaliatory attacks against the police, the United Nations Integrated Office in Haiti (BINUH) observed that during the first four months of 2021, 18 policemen were reportedly killed, and 35 injured.[[1082]](#footnote-1082) Also, during a failed raid in March 2021 in *Village de Dieu*, a community controlled by armed groups, four police officers were killed, and eight more wounded.[[1083]](#footnote-1083) According to widely available information, Fantom 509, a criminal group made up of former policemen in response to retaliatory murders and whose members may include active police personnel, were reportedly involved in violent incidents in different parts of Port-au-Prince and demanded the release of jailed police agents .[[1084]](#footnote-1084)
6. In relation to the use of force by the police, there is widely available information pointing to incidents of disproportionate use of force by the Haitian National Police during protests, including teargassing of civilians and journalists, in order to disperse public demonstrations[[1085]](#footnote-1085). In this context, in a press release dated February 23, 2021, the Inter-American Commission and the office of its Rapporteur for Freedom of Expression emphasized that the Haitian State has the duty to ensure the right to protest, which is a way of exercising freedom of assembly and freedom of expression. They also stressed that the State has a duty to guarantee the exercise of the right to protest, which includes the rights to peaceful, unarmed assembly and to freedom of association and expression.[[1086]](#footnote-1086)
7. With regard to **access to justice,** the Commission highlights the creation of the Office of Mediation and Legal Education by the OPC. According to widely available information, the purpose of that office is to facilitate conflict resolution through mediation, and to receive and follow up on complaints of human rights violations and abuses in the public administration. The office also provides support and legal advice on gender-based violence. In addition, it seeks to promote effective access to justice and guarantees protection for victims of sexual violence when reporting such violence.[[1087]](#footnote-1087) Furthermore, the Commission notes with deep concern reports of obstacles to investigations and protection for women and girls in cases of sexual assault and other forms of gender-based violence. According to research conducted by BINUH for the 2021 Report to the UN Secretary-General, only 46 of the 126 complaints (36%) filed by victims of sexual and gender-based violence in 2020 led to judicial inquiries and none was subsequently sent to trial.[[1088]](#footnote-1088)
8. In relation to **internal displacement**, the Commission takes note of the effect of violence by armed groups on local communities and the impact of the devastating earthquake of August 2021. According to information from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), in March 2021, approximately 3,000 people fled Tabarre Issa following repeated acts of violence by armed groups.[[1089]](#footnote-1089) Disputes between groups prompted waves of violence that particularly affected the metropolitan areas of Martissant, Bas-Delmas, Cité Soleil and Croix-des-Bouquets, resulting in the deaths of several civilians and the displacement of thousands more.[[1090]](#footnote-1090) For its part, UNICEF reported that, in a period of just two weeks between May and June, approximately 8,500 women and children were forced to flee their homes.[[1091]](#footnote-1091)
9. The Commission also noted that internal displacement was exacerbated by the devastating earthquake that struck southern Haiti on August 14, 2021. According to information from UN agencies and Haiti's Civil Protection Directorate,[[1092]](#footnote-1092) the earthquake, which mainly affected the departments of Grand'Anse, Nippes, and Sud, left a toll of 2,248 deaths, 12,763 people injured, a total of 83,770 houses with light to severe damage, while some 53,815 houses were completely destroyed.[[1093]](#footnote-1093) The Commission notes that according to Haiti’s Civil Protection Directorate and the IOM, at least 26,245 people were forcibly displaced in the three worst affected departments; they reportedly settled in some 65 displacement sites.[[1094]](#footnote-1094) In addition, the Commission received information about deplorable conditions in the displacement sites, including lack of access to safe drinking water, sanitation and hygiene, all of which are critical in the context of the COVID-19 pandemic.[[1095]](#footnote-1095) Against that backdrop, the IACHR expressed its solidarity with the Haitian people and called on the Haitian State and the international community to prioritize medical care, access to clean water, sanitation, food, and housing for the most vulnerable in the wake of the earthquake.[[1096]](#footnote-1096)
10. Regarding **migrants and persons in situations of human mobility**, in 2021, the IACHR observed an increase in mobility by Haitian nationals, including successive movements from third countries, expulsions (in some cases without consideration given to possible protection needs), deepening challenges for protecting people on the move, and the poor treatment of Haitian migrants in transit and destination countries. The Commission notes that the latest figures from the UNHCR indicate that there are 25,659 refugees of Haitian origin outside Haiti, and a total of 80,225 Haitian asylum claims pending.[[1097]](#footnote-1097) The IACHR also notes with concern that, according to information in the public domain as of the end of July, 4,189 Haitian migrants had been repatriated from 11 countries. The IACHR underscores the absence of information on measures adopted to protect the rights of repatriated persons amid the pandemic. Of the above, only 296 people were[[1098]](#footnote-1098) voluntarily repatriated.[[1099]](#footnote-1099)
11. In September 2021, thousands of Haitians attempting to make their way into the United States by crossing the United States–Mexican border were intercepted by mounted U.S. immigration officers who used excessive force, eventually resulting in the forcible deportation of thousands of people to Haiti. According to information provided by Civil society, the exact numbers are not known. For its part, UNICEF estimated that at least two thirds of those deported were women and children.[[1100]](#footnote-1100) In this context, the Commission and the United Nations Special Rapporteur on the human rights of migrants condemned the mass expulsions and the use of force against Haitian migrants in Del Rio. The Commission emphasized that, in accordance with the Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking,[[1101]](#footnote-1101) security at migration checkpoints should always focus on protecting migrants and their rights, and that border security operations should not be an obstacle to access to procedures that allow for an individual assessment of protection needs. In addition, the Commission stressed the duty of the United States to investigate the recent events and to punish anyone responsible for violence and excessive use of force against people in situations of mobility.[[1102]](#footnote-1102)
12. With regard to **trafficking in persons,** the Commission expresses its concern about reports of trafficking of children from Haiti to the Dominican Republic. According to information available to the IACHR, girls are said to be exploited in the sex industry —for the most part— and boys in forced labor.[[1103]](#footnote-1103)
13. Regarding **children's rights**, the Commission is deeply concerned about the increase in the actions of organized criminal groups against children and adolescents, cases of acute child malnutrition, and obstacles to access to education in areas affected by the earthquake. In relation to the activities of organized criminal groups, UNICEF noted that between September 2020 and February 2021, the number of children and women who were victims of armed attacks attributed to criminal gangs rose significantly in Haiti. It also highlighted that a total of 73 incidents were reported, including murders, injuries, rapes, and abductions. That figure marks a 62% increase compared to the September 2020 report, which documented 45 such incidents. It added that civil society organizations reported persistent kidnappings and attacks, including an attack on an orphanage in Port-au-Prince suburb in which two girls were allegedly sexually assaulted.[[1104]](#footnote-1104)
14. According to information from UNICEF, cases of acute malnutrition in children under five years old increased by 61% in 2021; an estimated 217,000 Haitian children suffer from acute malnutrition, compared to 134,000 cases of malnutrition reported in 2020.[[1105]](#footnote-1105) With respect to access to education following the devastating earthquake in August, OCHA reported that the earthquake had damaged or destroyed more than 900 schools in three southern departments of Grand'Anse, Nippes, and Sud, affecting more than 400,000 children.[[1106]](#footnote-1106) In this context, on October 4, 2021 the Ministry of National Education and Vocational Training announced the start of the new school year in the departments affected by the earthquake and stated that the objective would be to advance the gradual return to classes of around 300,000 students.[[1107]](#footnote-1107)
15. With regard to **persons deprived of their liberty**, the Commission notes with concern the high rate of prolonged pretrial detention, the inhumane conditions in the country's prisons, and a breakout from Croix-des-Bouquets prison in which several inmates were killed. According to information from civil society, as of September 29, 2021, the prison population numbered some 11,250 people, of whom a total of 9,236 (82%) were awaiting trial.[[1108]](#footnote-1108) In a statement, the president of the United Nations Security Council called on Haiti to do away with the practice of prolonged pretrial detention.[[1109]](#footnote-1109)
16. Likewise, the Commission continues to observe with deep concern the deplorable conditions of detention of persons deprived of their liberty. In particular, the IACHR is concerned about reports of overcrowded, poorly lit cells, lack of adequate ventilation, limitations on access to clean water or sanitation facilities, the provision of only one meal a day, and limited or no access to medical care for this population.[[1110]](#footnote-1110) Furthermore, the Commission notes that there have been allegations of torture leveled against prison officials, including of Colombian citizens held in detention while the assassination of the President of the Republic is investigated.[[1111]](#footnote-1111)
17. The Commission also takes note of the escape from Croix-des-Bouquets prison, which resulted in the deaths of the prison warden and at least 29 inmates. More than 400 detainees reportedly escaped, of whom only 68 have since been caught.[[1112]](#footnote-1112) Following these incidents, the IACHR condemned the attack and stressed the inescapable legal duty of States to adopt concrete actions to guarantee the rights to life, personal integrity and security of people deprived of their liberty. It also urged the Haitian State to diligently investigate the prison break and take the necessary measures to avoid the repetition of these events, such as increasing security and surveillance in detention centers.[[1113]](#footnote-1113)
18. Regarding **women's rights**, the Commission is extremely concerned about the particular vulnerability in which women find themselves in the current crisis in the country. According to information from specialized international organizations, during the first five months of the year, assistance was provided to 1,347 survivors of sexual violence and 6,356 cases of physical violence.[[1114]](#footnote-1114) In addition, as of October 2021, the increase in gang violence had caused the displacement of more than 15,000 women and children.[[1115]](#footnote-1115) In addition, the Commission notes a rise in kidnappings compared to the previous year: during the first 8 months of 2021, there were 71 kidnappings of women and 30 kidnappings of children, compared to 59 and 37 such cases, respectively, reported for the same period in 2020.[[1116]](#footnote-1116)

**HONDURAS**

* **General Considerations**
1. With respect to **progress** observed in 2021, the Commission was pleased that the November 28 election day transpired without any major violent incidents. It further notes that the homicide rate in Honduras continues to trend downward. The Commission observed forward steps in the judicial proceedings for the murder of Lenca indigenous defender Berta Cáceres. Likewise, it welcomes the creation of the Local Torture Prevention Boards to protect women and LGBT persons deprived of liberty, both of which are coordinated by the National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment (MNP-CONAPREV).
2. As for **challenges**, in 2021 the Commission was concerned over the political violence that arose in the context of the elections. It also observed continuing acts of violence and criminalization against human rights defenders, particularly indigenous persons and defenders of land, territory and the environment. It further noted backward steps in the legislative arena, such as the amendment to Article 67 of the Constitution, banning and making illegal any form of termination of pregnancy, as well as marriage equality, and the amendments to the Criminal Code that could impinge upon the right to assemble and associate.
3. On November 2, 2021, the State responded to the request for information sent to it for the drafting of this chapter.
* **Specific topics**
1. On the subject of **human rights institutions,** Honduras has a Secretariat of Human Rights (SEDH). In this regard, the State noted that, in 2021, a new strategic planning process was launched to create the 2020-2026 Institutional Strategic Plan, in order to ensure it functions effectively nationwide[[1117]](#footnote-1117). The State said that this plan is in the approval stage and seeks to increase respect for human rights in public institutions at the central and local government levels and boost the protection of the rights of vulnerable persons and populations. It also aims to reduce human rights violations and social conflict by guaranteeing compliance with the State’s obligations[[1118]](#footnote-1118).
2. Honduras also has the National Human Rights Commission (CONADEH), an autonomous institution whose mandate is to ensure full enjoyment of the rights and freedoms guaranteed in the Constitution and compliance with the State’s international human rights obligations.
3. Additionally, the State reported receiving the recommendations issued by the 85 States that took part in the examination of the human rights situation in this country at the 36th Meeting of the Working Group on the Universal Periodic Review of the United Nations Human Rights Council.[[1119]](#footnote-1119) Also, in compliance with its international obligations in 2021, the State noted that it submitted periodic reports to the Committee on Enforced Disappearances and to the Committee on Economic, Social and Cultural Rights, and that it is in the process of drafting reports for the Human Rights Committee and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.[[1120]](#footnote-1120)
4. With respect to the **democratic institutional framework,** 2021 was an election year when the country chose the members of the legislative and executive branches of government and the representatives of municipal governments. On this score, the State reported several different steps it took to guarantee that the elections unfolded freely and transparently. These steps included approving on May 25, 2021, the new Electoral Law of Honduras, which establishes how electoral bodies are organized and function.[[1121]](#footnote-1121)
5. The State underscored that in order to make sure the primary election process unfolded in a climate of freedom, democracy, peace and transparency, an Electoral Observation agreement was entered into for international observers and overseers from civil society organizations specialized in democracy and participation to be present, and the Regulation on Observation and Accompaniment for the 2021 Primary Election Process was approved in January 2021 and implemented. Additionally, the Regulation for the Functioning and Management of the Custody of Electoral Materials for the 2021 Primary Elections was approved.[[1122]](#footnote-1122) In this same vein, it noted that it had overseen the political campaigns of the election process.[[1123]](#footnote-1123)
6. Over this election year, the Commission observed acts of political violence. In this regard, according to the National Observatory on Violence of the National Autonomous University of Honduras (UNAH), beginning on December 23, 2020, the date of the official opening of the electoral process, up to October 25, 2021, at least 27 political actors were murdered.[[1124]](#footnote-1124) On this score, the OHCHR voiced its concern over the acts of political violence occurring since the opening of the electoral process, particularly, the murder of at least two candidates of the Partido Libre, one person of the Partido Liberal and one candidate of the Partido Nacional.[[1125]](#footnote-1125)
7. In that context, the Commission is pleased that election day on November 28 transpired without any major violent situations arising.
8. As for other means of democratic participation, from January to September 2021, the Honduran State reported 458 social protests nationwide.[[1126]](#footnote-1126) According to data from the Observatory on Protests of the Committee for Free Speech (C-Libre Honduras), the main reasons for the protests are linked to the demand for the Minister of Health to resign, because she allegedly failed to establish mechanisms to contain the COVID-19 pandemic, as well as the demands of different trade associations for back pay, salary adjustments and rebooting the economy, lower fuel prices and highway repairs.[[1127]](#footnote-1127) In this context, it was reported that on February 8 and 9, 2021, several protests were held over the failure to investigate the death of student Keyla Martinez, which took place in February when she was in the custody of the National Police in La Esperanza, after being arrested for breaking the curfew imposed in response to the pandemic.[[1128]](#footnote-1128) The Office of the United Nations High Commissioner for Human Rights in Honduras (OACNUDH Honduras) condemned the excessive use of force by law enforcement against people demonstrating for these reasons.[[1129]](#footnote-1129)
9. Additionally, the Commission observes that corruption is one of the three main problems identified by the citizens of Honduras.[[1130]](#footnote-1130) The Commission was informed about the approval of several amendments to laws, including the Special Law against Asset Laundering, which could hamper the fight against corruption. Civil society organizations claim that these amendments will strip the Office of the Public Prosecutor of its power to investigate financial crimes, by imposing bank secrecy, which would keep investigations linked to crimes such as money laundering from getting to the bottom of the facts.[[1131]](#footnote-1131)
10. As for **citizen security,** the Commission observes the homicide rate in Honduras continues to trend downward, in view of the fact that in 2011 the homicide rate hit 85.6 homicides per 100 thousand inhabitants. According to information from the State, as of June 2021, 23.17 homicides per 100 thousand inhabitants were reported and it noted that, as of July 2021, according to the Secretariat of Security (SEDS) 68 municipalities report no criminal incidents.[[1132]](#footnote-1132) Moreover, figures from the United Nations Development Program (UNDP) show that a rate of 39.0 is projected for 2021, which would be slightly higher than 2020, but lower than the previous years. According to UNDP, in 2021, Honduras recorded 1,909 homicides from January to June, an increase of 17% (278 victims) higher than in the same period of 2020.[[1133]](#footnote-1133)
11. The State reported to the Commission that in the context of the Violence Prevention Policy in Honduras and the 2011-2022 Comprehensive Policy of Coexistence and Citizen Security, it has taken measures to combat and prevent violence and conflict. It noted that in 2021, the National Congress approved a 36.25% increase over the allocation in 2017 in the budget for the Cabinet of Prevention, Security and Defense, made up of 18 public institutions.[[1134]](#footnote-1134)
12. On the subject of **access to justice,** the State reported that the budget approved for the judiciary in 2021 is L 2,724,882,804.0039 lempiras (approximately USD$112,277,433.50). The State noted that the main steps taken to strengthen the judiciary and guarantee access to justice in 2021 included opening seven new judicial facilities nationwide, and five more facilities are scheduled to be completed by the end of the year. It noted that in keeping with the 100 Brasilia Rules, the Commission on Access to Justice adopted the indicators on persons living in vulnerable conditions in order to gauge level of care for these groups. The State also reported on several training courses for officers of the judiciary on a variety of topics.[[1135]](#footnote-1135)
13. Additionally, the State reported that the budget of the Office of the Public Prosecutor for 2021 increased by 20.62% over the 20217 budget. It noted that the Office of the Public Prosecutor has 47 prosecutor’s offices nationwide and that in March 2021, a new Institutional Strategic Plan (PEI) was approved for the period of 2021-2025.[[1136]](#footnote-1136) The State highlighted the budget of the Office of the Special Prosecutor for Human Rights (FEDH), and that it would be staffed with 14 prosecuting attorneys and 3 assistant prosecutors.[[1137]](#footnote-1137)
14. Despite these budget increases, the Commission observed that no substantive progress was made over 2021 in the investigations to identify and punish those responsible for acts of violence, murders, and mistreatment in the context of the protests that ensued after the 2017 elections. On the contrary, the Commission was informed during the pandemic about the hearings scheduled for the crimes committed in 2009 and in 2017 which, in the context of political crises, some were rescheduled for 2022 and others for late 2021.[[1138]](#footnote-1138)
15. The Commission also received troubling information about the high rate of impunity for crimes of murder of women which, according to the CONADEH, stands at 90%.[[1139]](#footnote-1139) Furthermore, the IACHR received information about the lack of trust in investigative authorities and persistent impunity for attacks against human rights defenders.[[1140]](#footnote-1140)
16. In relation to the situation of **persons deprived of liberty,** the State reported that it is continuing to implement the “Plan for Relieving Prison Facilities of Overcrowding,” under which a total of 2,403 prison benefits had been granted as of September 2021, including conditional release, commutation of sentence, revision of measure, and release for terminal illness.[[1141]](#footnote-1141) It further noted that, in May, the Regulation for the Organization and Governance of the National Penitentiary Academy was approved, establishing the basic provisions to regulate the Academy in accordance with the instruction and training needs of penitentiary staff.[[1142]](#footnote-1142) It also asserted that documents were drawn up to enhance the treatment of persons in detention with infectious diseases.[[1143]](#footnote-1143) With respect to COVID-19 vaccinations, the State reported that, as of September 17, approximately 81% of the prison population had received the first dose, and 69% had completed the full course of vaccination.[[1144]](#footnote-1144)
17. Furthermore, the Commission is concerned that pre-trial detention continues to be used too often. According to official information, as of May 2021, there were 11,589 persons documented as deprived of liberty and awaiting trial.[[1145]](#footnote-1145) In view of the fact that the total prison population, as of September 2020, was 21,675 people,[[1146]](#footnote-1146) this figure translates into a pre-trial detention rate of 53.47%. Additionally, the IACHR reiterates its concern over the conservatorship of the national prison system by the Intervention Commission of the Institutional Security Force (FUSINA) being extended until December 31, 2021, when decree PCM-068-2019 originally established the intervention period to be for six months and it had already been extended in 2020.[[1147]](#footnote-1147)
18. With regard to measures for the eradication of **torture,** the Commission welcomes the creation of the Local Torture Prevention Boards for the protection of women and LGBTI persons deprived of liberty, which are both coordinated by the National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment (MNP-CONAPREV).[[1148]](#footnote-1148)
19. As for **human rights defenders**, the State reported that as of July 31, 2021, the General Directorate of the Protection System (DGSP) had granted 421 requests for protection measures, 151 cases of which are still active. Out of these active cases, 116 protection measures are for defenders, 25 cases for journalists and social communicators and 10 cases, for justice operators.[[1149]](#footnote-1149)
20. Notwithstanding, the Commission notes that violence against human rights defenders has continued. On this score, the Commission learned of the murder of at least four defenders of the environment and territory.[[1150]](#footnote-1150)
21. The Commission also notes with concern that in 2021 the whereabouts of **Afro Honduran leaders** Alberth Sneider Centeno, Milton Joel Martínez Álvarez, Suami Aparicio Mejía and Gerardo Mizael Rochez, members of the Honduran Black Fraternal Organization (OFRANEH) are still unknown.[[1151]](#footnote-1151)
22. Moreover, the criminalization of human rights defenders, especially, of those who defend the environment and their territories, continues to be an issue of concern to the IACHR. The Commission was apprised of the detention of several Garifuna women defenders in 2021, who were subjected to criminal proceedings, which reportedly arose from a civil dispute with third parties, over the failure to delimit ancestral lands of the Garifuna communities of Cristales and Río Negro.[[1152]](#footnote-1152)
23. The Commission also received information about criminal proceedings brought against eight environmental defenders of the Guapinol community.[[1153]](#footnote-1153) On this score, the Commission was informed that the Sentencing Court of Trujillo ordered the eight Guapinol defenders to remain in pretrial detention on October 28.[[1154]](#footnote-1154) The IACHR learned that, after more than three years in pre-trial detention, the trial against the eight defenders began on December 1, 2021.[[1155]](#footnote-1155)
24. Criminalizing defenders encourages collective stigmatization and sends an intimidating message. Furthermore, opening criminal investigations or private lawsuits against defenders with no basis has a chilling effect on their work, and can also bring human rights defense to a halt.[[1156]](#footnote-1156).
25. As for the investigation into the murder of human rights defender Berta Cáceres, on July 5, the Commission learned of the first conviction against one of the masterminds of the murder.[[1157]](#footnote-1157) The IACHR encourages the State to move forward in fighting impunity for crimes against defenders, and to continue to diligently investigate the murder of defender Berta Cáceres in order to punish both the actual perpetrators and the masterminds.
26. The Commission was also informed of legislative reforms that could pose an obstacle to the defense of human rights in Honduras. In this regard, on November 1, the National Congress of Honduras published in the Official Gazette several amendments to the Criminal Code, including the addition of the offense of “unlawfully holding public space” as a variant of the criminal offense of usurpation. The IACHR believes that these amendments could lead to illegitimate restrictions on freedom of expression and peaceful assembly by limiting the exercise of protesting in public spaces, as well as by fostering the criminalization of defenders. Additionally, the Law on Money Laundering was amended to include the term “Politically Exposed Persons” (PEP from its Spanish acronym), which would include civil society organizations that manage foreign aid funds, implement different types of projects and programs and oversee, investigate, evaluate or analyze public management. The Commission is concerned that this addition to the law may lead to excessive restriction on access to international financial aid, because it means these activities might qualify under the law as “non risk management."[[1158]](#footnote-1158)
27. In relation to the rights of **indigenous, tribal and Afro Hondurans,** the Commission observed implementation of Employment and Economic Development Zones (SEDE), which were created in 2013 under an organic law,[[1159]](#footnote-1159) for the purpose of promoting investment and employment over large geographic areas with high or low density population. The ZEDEs are supposed to enjoy functional and administrative autonomy, have the authority to establish their own policies and laws and regulations in the areas of justice, public services, municipal governance, criminal justice and prison system, and can create their own means of public dissemination. Additionally, real property within their geographic scope is subject to the rules of incorporation in the ZEDE. According to public information, the first ZEDE (Próspera) was established on Roatán Island, allegedly without consulting the Creole and Garifuna communities of that area.[[1160]](#footnote-1160) Subsequently, such zones were implemented in Morazán (City of Morazán) and San Marcos de Colón (Orquídea). The UN expressed concern over the process of installation of the ZEDEs, noting that their “implementation could pose serious risks to compliance with the general obligation of the Honduran State to respect and guarantee the free and full exercise of the rights of all inhabitants, without discrimination,” because of “the autonomy that these entities would have with respect to the administration of public services, the justice system and prison system.”[[1161]](#footnote-1161)
28. The IACHR notes that most of the territorial concessions for the Employment and Economic Development Zones (ZEDEs) will be made in the regions of the country with the highest presence of indigenous, Garifuna and *campesina* communities, where territorial disputes have arisen.[[1162]](#footnote-1162) In this regard, according to the UN, the entire northern Caribbean coast has been ceded to the ZEDEs, which has seriously impacted the indigenous, Garifuna and Creole peoples. Approximately 35% of Honduran territory is being made available to the special ZEDE regime, which are “zones that are characterized by high density indigenous and Afro-descendant population with precedents of territorial conflict.”[[1163]](#footnote-1163).
29. This is in line with information received at the 179th session. On this score, civil society organizations reported on implementation of an economic policy that gives favorable treatment to extractive industries and encroaches on the territorial rights of indigenous peoples, Afro-descendant and rural communities. Additionally, the State reported on preventive and reparative actions such as the creation of the mining dispute task force to carve out spaces of dialogue with the communities.[[1164]](#footnote-1164)
30. The IACHR was also informed of a number of activities carried out in the Rio Platano Biosphere Reserve, a tract of land declared Heritage for Humanity, inhabited by several original indigenous peoples.[[1165]](#footnote-1165) The Commission is aware that deforestation is on the rise in the area, because of illegal ranching and logging, and of the presence of drug trafficking in the area. Additionally, ancestral peoples are reportedly being illegally dispossessed of their territories through irregular land purchases[[1166]](#footnote-1166) and a non-authorized highway is being built through the Rio Platano Biosphere Reserve.
31. Regarding the rights of **Afro-descendants and against racial discrimination,** the State reported 8 cases in which the DGSP is actively taking protection measures for Afro Honduran peoples.[[1167]](#footnote-1167)
32. Additionally, the State announced that the Office of the Public Prosecutor, through the “Project to strengthen access to justice for indigenous and Afro-descendant communities (PIAH),” opened new offices of the Special Prosecutor for the Protection of Ethnic Groups and Cultural Heritage (FEP-ETNIAS/PC) and launched an outreach campaign to raise awareness among indigenous peoples and Afro Hondurans about their rights. The State also reported that in the framework of actions to help indigenous peoples and Afro Hondurans, a Bilingual Intercultural Education Model (EIB) is being implemented in 15 departments of the country. In 2021, 57 additional education facilities adopted the EIB model, bringing the total to 1,175 EIB schools.[[1168]](#footnote-1168)
33. With respect to **migrants,** the Commission learned of the increased number of Haitians and their families in transit through Honduras.[[1169]](#footnote-1169) According to official figures of the National Migration Institute (INM), as of August 3, 2021, a total of 3,930 Haitian migrants and their families had entered the territory of the State of Honduras in route to other destinations.[[1170]](#footnote-1170) In that context, the State reported on implementation of measures aimed at: i) conducting vulnerability assessment interviews to identify potential needs for protection; ii) providing health care services free-of-charge; iii) distributing personal hygiene and bio-safety kits against COVID-19, and iv) giving Polymerase Chain Reaction (PCR) tests to rule out potential sources of COVID-19 infection.[[1171]](#footnote-1171)
34. In relation to returning migrants and deportees, the most recent figures of the Comprehensive System of Assistance to Returning Migrants (SIAMIR) show that, as of November 2, 2021, a total of 46,915 people had returned to Honduras. 9,586 of these returning migrants were unaccompanied or separated children and adolescents. These figures represent a 42% rise as compared to the same period in 2020.[[1172]](#footnote-1172)
35. As for **internal displacement** in Honduras, the IACHR notes that, according to the most up-to-date figures of the Internal Displacement Monitoring Centre (IDMC), in 2020, there was a total of 937,000 new natural disaster-related displacements.[[1173]](#footnote-1173) This figure represents an increase of 240% over 2019.[[1174]](#footnote-1174) Specifically, the IDMC stressed that the floods caused by hurricanes Eta and Iota caused around 175,000 displacements, which surpasses the figure for the previous 12 years combined.[[1175]](#footnote-1175) It also noted that it has no information about further displacement events due to conflict and violence occurring in 2020.[[1176]](#footnote-1176) It added that, even though a decrease in the homicide rate was reported in 2020, its impact on displacement could not be ascertained.[[1177]](#footnote-1177)
36. In relation to **trafficking in persons,** the Commission notes that the Secretary of State for Human Rights (SEDH) requested that human rights and justice for victims of human trafficking be placed at the center of efforts to prevent and provide support and assistance to survivors.[[1178]](#footnote-1178) Additionally, the Commission notes that the countries of northern Central American and Mexico signed a joint declaration reiterating the need to establish partnerships for exchange of information relating to migration and trends; as well as to reinforce the transnational response to both trafficking and smuggling of migrants.[[1179]](#footnote-1179)
37. Regarding the **rights of LGBTI persons,** the Commission learned about the constitutional reform approved by the National Assembly on January 21, 2021, which locked in the ban on marriage equality in the face of possible future reforms.[[1180]](#footnote-1180) In this regard, according to available information, the amendments to Article 112 of the Constitution were approved, expressly establishing the ban on marriage and common law unions “between persons of the same sex.”[[1181]](#footnote-1181)
38. Furthermore, according to reports from civil society organizations, as of September 2021, at least 17 murders of LGBTI persons had been reported in the country.[[1182]](#footnote-1182) There also continues to be an impunity rate of 90% in cases of lethal violence against LGBTI persons.[[1183]](#footnote-1183) Additionally, according to the Red Lésbica Cattrachas, violence against LGBTI persons and the situation of impunity have forced the survivors to migrate and request international protection in other States.[[1184]](#footnote-1184)
39. As for the **rights of children and adolescents**, the State reiterated that the National Children’s Policy was built with the participation of specialized civil society engaged in children’s issues and with the institutions that make up the Comprehensive System Guaranteeing the Rights of Children and Adolescents in Honduras (SIGADENAH), in order to make sure that it meets the protection needs of this population.[[1185]](#footnote-1185)
40. It further reported on the drafting of the 2021-2026 National Plan of Response to Violence against Children and Adolescents, which reinforces prevention actions carried out by different agencies at the national, municipal and local levels. Additionally, it noted that implementation of this plan would be strengthened by the Comprehensive System Guaranteeing the Rights of Children and Adolescents.[[1186]](#footnote-1186) Notwithstanding, the IACHR is concerned about persistent practices it has observed of forced recruitment by *maras* and gangs;[[1187]](#footnote-1187) reports of violence and homicides of children and adolescents;[[1188]](#footnote-1188) child pregnancy, mostly, from rape;[[1189]](#footnote-1189) and child labor.[[1190]](#footnote-1190)
41. With regard to the human rights of **women,** the IACHR welcomes the opening of the sixth Ciudad Mujer facility in the city of Choluteca, the purpose of which is to provide care and protection services to women victims of violence, sexual and reproductive health care services, economic autonomy assistance, among other things;[[1191]](#footnote-1191) as well as the launching of a new digital on-line training tool on these topics.[[1192]](#footnote-1192) It also takes note of the launching in November 2021 of the National Observatory on Gender, in order to produce disaggregated statistics to shed light on gender gaps and enhance services and programs that address violence.[[1193]](#footnote-1193) Additionally, it takes note of the efforts to train public employees on gender-based violence, the rights of women and sexual and reproductive rights, highlighting the opening of the Virtual Gender School of the National Women’s Institute ([apertura](https://presidencia.gob.hn/index.php/gob/el-presidente/primera-dama/9377-gobierno-realiza-lanzamiento-de-plataforma-virtual-para-adolescentes)).[[1194]](#footnote-1194)
42. Nonetheless, the IACHR observed a prevalence of femicide, sexual and domestic violence against women. According to official figures, from January 1 to June 30, 2021, 139 violent deaths of women and femicides were reported.[[1195]](#footnote-1195) The IACHR takes note of organized civil society reports of 150 cases of violent deaths and femicides over the same period; as of November 15, 2021, the figure rose to 301 cases, with 116 cases of rape or statutory rape also being reported over the same time period. Additionally, according to statistics of the National Emergency System (911 telephone number), as of October 31, 2021, 51,052 reports of intrafamily violence had been made.[[1196]](#footnote-1196)
43. As for sexual and reproductive rights, the IACHR is concerned[[1197]](#footnote-1197) about the amendment to Article 67 of the Constitution of the Republic of Honduras, which makes any form of termination of pregnancy prohibited and illegal, either for the pregnant person or for a third party, and establishes the constitutional protection of life from the moment of conception, specifying that only through a qualified majority of three quarters of all the members of the Plenary National Congress may this prohibition be changed, even though Article 373 of the Constitution sets forth that the Constitution may be amended by a majority of two thirds.[[1198]](#footnote-1198) The Commission also received information about an appeal for relief against unconstitutional acts filed with the Supreme Court of Justice seeking to have the constitutional provision overturned, which is currently pending a ruling, as well as seeking to overturn the continuing prohibition on the use, sale, distribution and purchase of emergency contraceptive methods.[[1199]](#footnote-1199)
44. With respect to the rights of **persons with disability,** the IACHR received information from the State about actions taken by the Office of the Public Prosecutor to ensure judicial independence and access to justice, underscoring the work of the Office of the Special Prosecutor for Human Rights to increase knowledge about how to investigate cases of violations of the rights of persons with disability.[[1200]](#footnote-1200) Additionally, the Commission acknowledges immunization efforts of the population with disabilities against Covid-19, which according to the Secretariat of Health of Honduras, on July 26, 2021, more than 1.4 million persons with disability throughout the country were made eligible for the second dose.[[1201]](#footnote-1201)
45. Furthermore, the Commission notes reports of budget cuts made by the State to civil society organizations, who provide support to persons with disability, which has led to the closure of at least 80 of these organizations.[[1202]](#footnote-1202)

**JAMAICA**

* **General considerations**
1. As regards **progress**, the Commission takes note of the call made by the Political Ombudsman to evaluate the general election campaign with the aim of exchanging observations, lessons learned, and recommendations among different social actors. In addition, it takes note of the implementation of a plan to fight crime and monitor police violence in Jamaica by the Independent Commission of Investigations (INDECOM). The Commission also observes the State’s efforts to implement restorative justice programs and highlights the adoption of legislation against sexual harassment in the workplace. It also notes the measures implemented to reduce the prison population and to prioritize COVID-19 vaccinations in that population.
2. As for **challenges**, the Commission notes that the State has yet to establish a national human rights institution. Moreover, it observes that low electoral participation was reported in the general elections. The Commission is also concerned about the high homicide rate and the reports of homicides committed by the Police. It also observes with great concern the continuation of sexual violence against children and the lack of access to online education for those who live in remote areas. Finally, the Commission regrets that the State has not yet implemented measures to repeal the legislation that criminalizes abortion and consensual sexual relations between persons of the same sex; and that it has yet to abolish the death penalty.
3. The State did not respond to the request for information for the preparation of this chapter.
* **Specific considerations**
1. As regards the crosscutting issue of **human rights institutions**, the Commission observes that Jamaica has the Office of the Public Defender of Jamaica, which is a member of the Caribbean Ombudsman Association (CAROA), the Commonwealth Forum of National Human Rights Institutions, and the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies. It also has an Inter-ministerial Committee on Human Rights. Nonetheless, the IACHR is concerned that despite the recommendation to expedite the establishment of a national human rights institution, in keeping with the Paris Principles, to date such a mechanism has not been established.[[1203]](#footnote-1203) In this regard, the Commission has emphasized the importance of having an independent body for the promotion and protection of human rights at the national level.
2. With respect to the **democratic institutional framework**, the Commission observes that in keeping with the mandate to investigate any action taken by the political party, its members, or its sympathizers when an action may constitute a violation of the Code of Conduct agreed upon by the political parties[[1204]](#footnote-1204), the Political Ombudsman brought together various social actors to undertake the first evaluation of the campaign leading up to the general elections of September 3, 2020, with the aim of exchanging observations, lessons learned, and recommendations. According to the report of the Office of the Political Ombudsman, the participants noted that the candidates and their supporters violated the COVID-19 protocols during the election campaign due to the lack of alternative strategies for striking a balance between the health concerns associated with the virus and the democratic exercise of voting.[[1205]](#footnote-1205) In addition, the stakeholders concluded that campaign funds were improperly used to influence the elections[[1206]](#footnote-1206) and that the pandemic had a negative impact on overall voter turnout, which resulted in only 21% of the electorate electing the new administration. They also emphasized that greater citizen participation in future general elections would require changes in public accountability and good governance, as well as initiatives aimed at rebuilding trust in the political system and society.[[1207]](#footnote-1207)
3. In the area of **citizen security**, the Commission takes note of the State’s Citizen Security Plan to reduce crime, the country’s high homicide rate, and the reports of homicides committed by the police. According to official information the Citizen Security Plan seeks to pursue a long-term transformation and development of vulnerable community spaces based on a multisectoral approach. In addition, it would have, as priority areas of outcomes: (i) reducing crime and violence; (ii) having safer spaces; and (iii) guaranteeing human and community development.[[1208]](#footnote-1208) It is also anticipated that at least 100 communities will benefit from the community transformation initiatives implemented under the Plan.[[1209]](#footnote-1209) In this respect, the Commission recalls that states should design and implement comprehensive public policies that simultaneously develop specific actions and strategic plans that are operational, regulatory, and preventive, in compliance with their international obligations to protect and guarantee citizen security.[[1210]](#footnote-1210)
4. With respect to the homicide rate, the IACHR observes that Jamaica has the highest homicide rate in Latin America and the Caribbean, with 46.5 per 100,000 population. According to the Jamaica Constabulary Force (JCF), a total of 1,130 homicides were reported from January 1 to October 16, 2021, compared to 1,035 homicides during the same period in 2020. This figure represents a 9.2% increase in the number of reported homicides.[[1211]](#footnote-1211) In addition, the JCF reported a 23% increase in the seizure of illegal firearms during the same period.[[1212]](#footnote-1212)
5. On the other hand, the IACHR expresses its deep concern over the continuing homicides committed by the police. According to the most recent data from the Independent Commission of Investigations (INDECOM), from January 1 to October 30, 2021, a total of 109 fatal shootings by members of security forces were reported.[[1213]](#footnote-1213) In addition, the Commission notes with concern the 122 cases of assault, 71 cases of shootings by firearms, and 33 fatal shootings reported for the second quarter of the year, also committed by the police.[[1214]](#footnote-1214) In this regard, the Commission welcomes the monitoring done by the INDECOM[[1215]](#footnote-1215), which is in line with the recommendation to exercise due diligence in the independent and impartial investigation and prosecution of police abuses, ensuring accountability and punishment of the persons responsible for violations, and reparation for the victims.[[1216]](#footnote-1216)
6. As for **access to justice**, the Ministry of Justice announced the establishment of more parish justice centers to carry out restorative justice programs, dispute resolution, and other initiatives related to access to justice. According to information available to the IACHR, these centers also serve as a point of contact for the justices of the peace to increase access to justice services.[[1217]](#footnote-1217) Moreover, the Commission notes that the restorative justice program has been recognized as useful for minimizing reprisals after a crime has been committed and for repairing deteriorated relationships by bringing together the offenders, victims, and the community.[[1218]](#footnote-1218)
7. As regards **children and adolescents**, the Commission is concerned about the high incidence of cases of sexual violence and the delay on the part of the State in providing access to education for children who live in low-income rural and urban communities. According to official information, from January to June 2021, a total of 1,203 reports of sexual abuse of children and adolescents were registered.[[1219]](#footnote-1219) In this context, UNICEF appealed to justice and law enforcement systems to punish persons guilty of long-term physical and psychological impact on children by the commission of these crimes. It also called on all sectors to address sexual abuse at all levels.[[1220]](#footnote-1220) In this regard, the Commission urges the State to take all measures necessary to ensure the physical integrity of these children and to give them medical and psychological care. It also recalls that the State has a binding obligation to adopt specific and special measures, and to incorporate a holistic, multisectoral, and comprehensive approach that responds to the structural and endemic causes of violence, especially sexual violence.[[1221]](#footnote-1221)
8. As regards access to education, the IACHR emphasizes UNICEF’s concern over the lack of access to education for at least 120,000 children who live in low-income rural and urban communities. According to information available to the Commission, these children have not had continued or reliable access to the Internet or electronic devices since the beginning of the pandemic, which makes it impossible for them to further their academic and vocational studies.[[1222]](#footnote-1222) The State emphasized its commitment to provide electronic devices and to develop a national framework for accessing the Internet and broadband, which would benefit all students in the country independent of their socioeconomic status or geographic location.[[1223]](#footnote-1223) The Commission recalls in this regard that closing schools during the pandemic should not further aggravate educational inequalities based on gender, poverty, disability, ethnic origin, religion, or geographic location, among other factors.[[1224]](#footnote-1224)
9. As regards **the human rights of women**, the IACHR values the measures adopted in 2021 in conjunction with the Spotlight Initiative and civil society organizations to improve attention for victims of gender violence. In particular, it notes: (i) the opening of new domestic violence intervention centers (DVICs)[[1225]](#footnote-1225); (ii) trainings for front-line personnel[[1226]](#footnote-1226); and (iii) strengthening complaint lines and centers providing care for women, girls, and adolescent females who are survivors of gender violence.[[1227]](#footnote-1227) The IACHR also welcomes the approval, in October 2021, of the law that expressly prohibits sexual harassment in the workplace and also creates a specialized court for hearing such complaints.[[1228]](#footnote-1228)
10. It also welcomes the Cabinet’s approval for the Domestic Violence Act to be amended with the aim of strengthening and expanding its definition to include other forms of violence, such as psychological, emotional, and sexual violence.[[1229]](#footnote-1229) Finally, the IACHR laments the persistence of the total criminalization, with life imprisonment, for the voluntary interruption of pregnancy[[1230]](#footnote-1230); nonetheless, it notes that according to available public information the Parliament is discussing the possibility of amending the legislation so as to decriminalize such conduct.[[1231]](#footnote-1231)
11. As regards the rights of **LGBTI persons**, the IACHR notes the persistence of laws that criminalize consensual sexual activity between persons of the same sex. In this respect, the Inter-American Commission published merits reports in which it called on the State to repeal the articles of the Crimes Against the Person Act that criminalize consensual activity, in private, between adults and sexual conduct between men who have sex with other men or with gay men.[[1232]](#footnote-1232)
12. Accordingly, the IACHR reiterates that provisions that punish a certain group of persons for participating in a consensual sexual act or practice with another person of the same sex are not admissible, for they are directly at odds with the prohibition of discrimination on grounds of sexual orientation.[[1233]](#footnote-1233) In addition, the IACHR recalls that these laws reinforce already-existing social prejudices and considerably increase the negative effects these prejudices have on the lives of LGBTI persons.[[1234]](#footnote-1234)
13. As regards **persons deprived of liberty**, the Commission takes note of the State’s efforts to reduce the number of persons deprived of liberty and to ensure this population access to the COVID-19 vaccine. In this respect, the most up-to-date figures of the *World Prison Brief* indicate that as of August 31, 2021, a total of 3,179 persons were deprived of liberty; this figure reflects a 39% decline in this population from 2009 to 2021.[[1235]](#footnote-1235) The Commission also takes note of the Government’s efforts to implement a less punitive policy and more oriented to successful outcomes for this population. In this context, the Ministry of National Security noted that the Prison Act would be revised in keeping with the Offender Management Policy (OMP) to improve public safety by rehabilitating persons deprived of liberty. It added that the new OMP would provide support to persons from the moment they enter prison until their full reintegration in their communities by: (i) implementing needs assessment programs; (ii) providing interventions when necessary, and (iii) expanding partnerships with various sectors of the country.[[1236]](#footnote-1236)
14. As regards ensuring access to the COVID-19 vaccine for persons deprived of liberty, the IACHR notes that on April 30, 2021, a collaboration was initiated among the Department of Correctional Services, the Department of Health, and the Jamaica Defence Force to facilitate vaccination in the Tower Street Adult Correctional Centre*.*[[1237]](#footnote-1237) Nonetheless, the Ministry of National Security expressed its concern since at least 90% of the prison population was hesitant to receive the COVID-19 vaccine.[[1238]](#footnote-1238) Similarly, civil society observed this situation and urged persons deprived of liberty to get vaccinated.[[1239]](#footnote-1239) In this respect, the Commission recalls that pursuant to its Resolution No. 01/2021 states should prioritize vaccinating persons at greatest risk in light of their special situation of vulnerability.[[1240]](#footnote-1240)
15. With respect to the **death penalty**, the IACHR is deeply concerned by the recent call by the prime minister to impose the death penalty for illegal possession of firearms.[[1241]](#footnote-1241) The Commission is particularly concerned considering that no one has been sentenced to death since the last execution in 1988, and that at this time no one has been sentenced to death. The IACHR recalls that the death penalty is a violation of the right to life and reiterates its appeal to the State to adopt measures to abolish capital punishment.
16. As regards **human trafficking**, the Commission takes note of actions undertaken by the State to: (i) update the Trafficking in Persons Act with the aim of effectively combatting this crime and ensuring that the legislation is in line with the current reality; (ii) establish a police force specialized in trafficking in persons; and (iii) introduce a curriculum in the secondary schools to promote greater awareness of this phenomenon among students and teachers.[[1242]](#footnote-1242)

**MEXICO**

* **General Considerations**
1. As regards **progress**, the Commission observes the adoption of state measures to implement the National Registry of the Crime of Torture (RENADET: Registro Nacional del Delito de Tortura), as well as to continue implementing the National Search System, specifically the adoption of the Additional Protocol for Searching for Children and Adolescents (PABNNA: Protocolo Adicional para la Búsqueda de Niñas, Niños y Adolescentes), the start-up of the Extraordinary Mechanism for Forensic Identification (MEIF: Mecanismo Extraordinario de Identificación Forense), and the creation of the Roundtable to Search for Disappeared Migrants. In addition, the IACHR welcomes Mexico’s invitation to the United Nations Committee on Enforced Disappearance (CED) and the ruling by the Supreme Court of Mexico on the obligatory nature of the urgent actions issued by the CED. The Commission also takes positive note of the legislative progress recognizing the right to marriage equality, the right to gender identity, as well as the prohibition on efforts to correct sexual orientation and gender identity and the adoption of such statutes in more states of Mexico; and on progress in the case-law of the Supreme Court on the decriminalization of abortion and the regulation of conscientious objection to abortion. The IACHR welcomes the designation of the director of the Executive Committee for Attention to Victims (CEAV: Comisión Ejecutiva de Atención a Víctimas).
2. With respect to **challenges**, the IACHR received reports of arrests, forced returns, and excessive use of force against the population in contexts of human mobility, and took stock of the situation of violence and risk faced by children and adolescents as they are victims of trafficking, disappearance, and forced recruitment in Mexico. The Commission also observes an adverse context for the defense of human rights characterized by an increase in the killings of human rights defenders, as well as by the continuity of official statements stigmatizing and criminalizing such efforts. The IACHR also received reports on the situation of violence and armed attacks that some Indigenous communities and peoples face in various regions of the country, and the persistence of alarming figures of femicides and disappearances. Moreover, one observes a context in which civilian activities are being concentrated in the armed forces, as and laws and regulations have been adopted that obstruct the inspection of and access to information on large-scale infrastructure projects that have been called into question in the courts.
3. The State presented a response to the request for information sent for the preparation of this chapter on September 18, 2021.[[1243]](#footnote-1243)
* **Specific issues**
1. As regards the **human rights institutional framework,** the State forwarded information on multiple trainings given to judicial branch personnel on international human rights standards.[[1244]](#footnote-1244) In addition, the IACHR learned that on December 9, 2021, the Senate confirmed the new director of the CEAV after a year in which no one held the position.[[1245]](#footnote-1245) The Commission welcomes the training and the designation of the director of the CEAV in December 2021; the failure to fill the position was a constant grievance of victims’ groups and civil society organizations. The IACHR observes that the National System for Attention to Victims has not met since May 2015[[1246]](#footnote-1246), thus it expects that the designation of the director of the CEAV will make it possible to reactivate this forum.
2. Regarding the **democratic institutional framework,** the IACHR observes that in June 2021 Mexico held multiple elections simultaneously, electing the largest number of authorities in its history. In this regard, the State reported on the agreement of the INE to guarantee gender parity in seven of the 15 governors’ contests that took place in the electoral period, as well as the modification of the criteria for registering federal legislators to ensure the proportional representation of Indigenous and Afro-Mexican persons, persons with disabilities, and LGBTI periods.[[1247]](#footnote-1247) The State also reported on the response to complaints and reports of political violence for reasons of gender, as well as with respect to the National Registry of Persons Sanctioned for Gender-based Political Violence.[[1248]](#footnote-1248) The IACHR also learned of complaints over the purported usurpation of candidacies reserved for Indigenous and Afro-Mexican persons as well as reports of gender-based political violence. With respect to the acts of violence against political actors in the context of the elections, the Commission called on the State to continue adopting measures to prevent risks and to ensure the security and protection of candidates, and to diligently investigate the acts of violence.[[1249]](#footnote-1249)
3. With respect to **access to justice and judicial independence**, the IACHR learned of the concerns of civil society organizations in relation to the reform of the Organic Law of the Office of the Attorney General of the Republic (Fiscalía General de la República: FGR) regarding the possible elimination of judicial guarantees for victims recognized by law, purported negative impacts on the professionalization of prosecutors, and efforts to eliminate the compulsory participation of the FGR in forums for inter-institutional coordination on human rights.[[1250]](#footnote-1250) While the new legislation maintains the participation of the FGR in bodies for inter-institutional coordination and recognizes victims’ rights, organizations point to the persistence of impairments on the independence of the prosecutorial organs and on models for investigating macro-criminality, and they note that it does away with the obligation to consider the opinion of the Citizen Council in the Strategic Plan for Pursuing Justice.[[1251]](#footnote-1251) The IACHR also expressed its concern over the legislative reform of the Organic Law on the Judicial Branch of the Federation, which resulted in the adoption of a transitory article that would expand the term of the chief judge of the Supreme Court, and of several positions on the Federal Judicial Council, beyond the constitutional term.[[1252]](#footnote-1252) In this respect, the IACHR observes that the plenary of the Supreme Court found the transitory article in question to be unconstitutional.[[1253]](#footnote-1253)
4. As for **citizen security,** the Commission observes that in October 2021 the Supreme Court ruled on constitutional motion 64/2019 brought by the National Commission on Human Rights, challenging the validity of several provisions of the National Use of Force Act (LNUF: Ley Nacional sobre el Uso de la Fuerza). According to public information, the Supreme Court found that the federal Congress engaged in legislative omissions for failing to provide that the use of force be subject to the principle of reasonableness and opportunity.[[1254]](#footnote-1254) Information from civil society groups indicates that a finding that Articles 27 and 28 of the LNUF are constitutional would authorize the security forces to intervene in demonstrations or public assemblies that may become violent; in addition, ambiguities would persist with respect to the classification of arms and the drawing up of reports by agents who use firearms, among other concerns.[[1255]](#footnote-1255) The IACHR further observes that after the adoption of the Organic Law on the Armed Forces, the armed forces have powers in respect of public security tasks in migration, port control, and the construction of state projects, such as the Tren Maya (Mayan Train).[[1256]](#footnote-1256)
5. In the area of **forced disappearance and persons missing** the IACHR notes with concern that as of December 2021, 95,000 persons have been reported disappeared or missing.[[1257]](#footnote-1257) Without prejudice to the foregoing, the Commission values the adoption of the Additional Protocol for Searching for Children and Adolescents (PABNNA)[[1258]](#footnote-1258), the strengthening of the forensic capacities of federal agencies by promoting the construction of centers for human identification and centers for forensic safekeeping with federal subsidies[[1259]](#footnote-1259), the start-up of the Coordinating Group of the Extraordinary Mechanism for Forensic Identification (MEIF)[[1260]](#footnote-1260), as well as the adoption of the agreement to create the Roundtable to Search for Disappeared Migrants by the National Search System.[[1261]](#footnote-1261) The IACHR also welcomes the invitation to the CED to visit Mexico in November 2021, the Supreme Court decision recognizing the obligatory nature of the urgent actions issued by the CED[[1262]](#footnote-1262), as well as the creation of the Truth Commission to clarify gross human rights violations committed from 1965 to 1990.[[1263]](#footnote-1263) The IACHR now observes that according to information from civil society, the forensic emergency comes to more than 52,000 bodies, corpses, or bony remains of deceased persons who have not been identified, in the custody of the state authorities.[[1264]](#footnote-1264) In addition, the Commission observes obstacles at the federal and state levels to guaranteeing the participation of family members of persons disappeared and civil society organizations in the adoption of laws[[1265]](#footnote-1265), legislative reforms[[1266]](#footnote-1266), and judicial procedures regarding the unconstitutionality of legal provisions[[1267]](#footnote-1267) that could impact the search for disappeared persons and the investigation into crimes associated with disappearance.
6. On the eradication of **torture**, the Commission observes that the first chamber of the Supreme Court ruled that the inoperative status of the National Registry of the Crime of Torture (RENADET) constitutes an omission of the prosecutorial authorities when it comes to diligently investigating the crime of torture.[[1268]](#footnote-1268) On this point, the State pointed to the adoption of state measures for implementing the RENADET in three stages: (i) technological operation of the platform and safety certificate; (ii) agreements with state institutions and data capture; and (iii) producing statistical reports, validating information, and administering information. Mexico reported the termination of the first phase and noted efforts are under way with the state’s prosecutorial authorities, the CEAV, and the CNDH to make known the guidelines for operations and methods of capture, in addition to which statistical reports are being produced with the available information.[[1269]](#footnote-1269) The State also indicated that the Office of the Special Prosecutor for Investigating the Crime of Torture of the FGR is engaged in 3,604 preliminary inquiries and 585 investigations for the crime of torture.[[1270]](#footnote-1270) The IACHR did not receive information on preliminary inquiries or investigations, or prosecutions under way in the domestic courts.
7. As regards the protection of **human rights defenders**, the IACHR takes note that the Mechanism for the Protection of Journalists and Human Rights Defenders has incorporated 1,506 persons, 1,011 of whom are human rights defenders and 495 journalists.[[1271]](#footnote-1271) Without prejudice to the foregoing, as of early November 2021 the Commission documented the assassination of at least 10 human rights defenders.[[1272]](#footnote-1272) In this respect, the IACHR observed that this violence affected in particular Indigenous rights defenders and defenders of the environment.[[1273]](#footnote-1273) Moreover, family members and organizations of family members of disappeared persons faced more risks of suffering threats and reprisals[[1274]](#footnote-1274), impairments of their integrity and personal liberty[[1275]](#footnote-1275), and even having their lives taken[[1276]](#footnote-1276) because of their work. The Commission highlights that these situations are aggravated when forensic prospections or search actions are performed in the field.[[1277]](#footnote-1277) The IACHR takes note of the information from the State indicating the adoption of measures of protection and investigation into the assassination of a member of the Colectivo Madres Buscadoras (Collective of Mothers Searching) of Sonora.[[1278]](#footnote-1278) In addition, during 2021 stigmatizing statements continued to be made by the state authorities against civil society organizations, which were reported to the IACHR and its Office of the Special Rapporteur for Freedom of Expression in the context of a public hearing held during the 180th period of sessions.[[1279]](#footnote-1279)
8. As regards the rights of **Indigenous peoples**, the State reiterated that it is promoting an initiative to amend the Constitution on the rights of Indigenous and Afro-Mexican peoples, whose text was submitted to a process of free, prior, and informed consultation.[[1280]](#footnote-1280) The IACHR takes note that 61 assemblies were held as part of the process of consultation with the Indigenous communities and peoples.[[1281]](#footnote-1281) In addition, the State reported on 15 regional assessments for designing productive products related to the Tren Maya that would benefit Indigenous communities and peoples.[[1282]](#footnote-1282) Nonetheless, the Commission continues receiving reports of extorsion, threats, and intimidation directed against persons from Indigenous communities and peoples to get their consent for building the Tren Maya.[[1283]](#footnote-1283) On another matter, the IACHR observes with concern the intensification of armed attacks and the situation of violence that various Indigenous peoples and communities face in different localities of the states of Chiapas[[1284]](#footnote-1284), Guerrero[[1285]](#footnote-1285), and Oaxaca[[1286]](#footnote-1286), and which are said to have resulted in the destruction and burning of their dwellings, assassinations, disappearances, and displacement of members of those communities, situations that have been the subject of precautionary measures issued by the Commission.[[1287]](#footnote-1287)
9. As regards **women’s rights,** the IACHR welcomes the decision of the Supreme Court to declare unconstitutional the absolute criminalization of voluntary interruption of pregnancy in the state of Coahuila[[1288]](#footnote-1288), as well as respect for conscientious objection regulated in the General Law on Health by virtue of the lack of guidelines and limits necessary for exercising it[[1289]](#footnote-1289), and welcomes the judgments of the Supreme Court on unconsented female sterilization[[1290]](#footnote-1290) and surrogacy.[[1291]](#footnote-1291) In addition, the Commission positively values the decriminalization of abortion in the states of Veracruz[[1292]](#footnote-1292), Hidalgo[[1293]](#footnote-1293), Baja California[[1294]](#footnote-1294), and Colima.[[1295]](#footnote-1295) The State reported the creation of six Centers of Justice for Women and the strengthening of five more centers in the states for providing comprehensive care to women victims of gender violence. In addition, it submitted information indicating the declaration of five new Alerts of Gender Violence against Women (AVGMs: Alertas de Violencia de Género contra Mujeres) for femicidal violence, for a total of 25 AVGMs in 22 states.[[1296]](#footnote-1296) This initiative notwithstanding, the IACHR continues observing with concern the high number of complaints of sexual violence and femicidal violence in Mexico. According to official information, as of the end October 2021, at least 809 investigations had been opened for the crime of femicide, 2,326 for intentional homicide of women, 17,784 for rape[[1297]](#footnote-1297), plus as of early December 2021 more than 25,500 women and girls are disappeared in Mexico.[[1298]](#footnote-1298) In addition, the Commission received information on a continuing context of stigmatization of social protest by feminist groups and against gender violence, as well as threats, digital harassment, improper use of the criminal code, disproportionate use of force, physical violence, and sexual violence brought to bear against women and girls participating in demonstrations.[[1299]](#footnote-1299) The IACHR welcomes the intersectional efforts on the part of the State to pay attention to the situation of Afro-Mexican women through community projects such as “Rights of Afro-Mexican women, prevention, attention, and eradication of gender violence” in Guerrero and “Rights of Afro-Mexican Women,” of the Tribu Negro Mascogos, in Coahuila, and “AFROCARACOLAS: Saberes Itinerantes” in Oaxaca and Guerrero.
10. As regards the protection of **lesbian, gay, bisexual, trans, and gender diverse and intersex (LGBTI) persons**, the IACHR looks favorably on the adoption of legislation to recognize the right to same-sex marriage in Baja California, Guanajuato, Querétaro, Sinaloa, Sonora, Yucatán, and Zacatecas.[[1300]](#footnote-1300) In addition, the Commission welcomes advances in recognizing the right to gender identity in Baja California Sur, Puebla, the state of México, and Morelos[[1301]](#footnote-1301), including recognition of the gender identity of trans children in Oaxaca.[[1302]](#footnote-1302) It also highlights legislative gains in the prohibition of procedures that attempt to modify, divert, or suppress the gender identity/expression and sexual orientation of persons (also known as “conversion therapies”) and their criminalization in Baja California Sur, Colima, Tlaxcala, Yucatán, and Zacatecas.[[1303]](#footnote-1303) Nonetheless, the IACHR takes note with grave concern of the information on attacks on integrity[[1304]](#footnote-1304), deaths in violent circumstances[[1305]](#footnote-1305), and assassinations[[1306]](#footnote-1306) all targeting LGBTI persons. It also observes reports of at least 68 hate crimes committed in Mexico in the first 10 months of 2021.[[1307]](#footnote-1307)
11. As regards the **rights of children and adolescents**, the Commission received information on a reform initiative in which the National System for the Integral Development of the Family would assume the functions of providing comprehensive protection for children and adolescents, replacing the Executive Secretariat of the National System for the Comprehensive Protection of Children and Adolescents of the Ministry of Interior.[[1308]](#footnote-1308) In this respect, in its preliminary observations on its virtual working visit to Mexico, the Commission expressed concern about the possible weakening or shutting down of institutions or systems for articulating public policies without any indication of mechanisms to take their place, such as the National System for the Protection of Children and Adolescents (SIPINNA). In addition, the IACHR received complaints of the conditions in which children and adolescents are found in social assistance centers in Mexico that reported on the deficient regulation and lack of oversight, as well as the absence of a national registry of public and private centers.[[1309]](#footnote-1309)
12. The IACHR also observes with concern reports of human trafficking and child marriage, and forced recruitment and the disappearance of children and adolescents in Mexico. On this point, the IACHR expressed its rejection of the enlisting of approximately 30 Indigenous children in a self-defense group (*grupo de autodefensa*) in Guerrero.[[1310]](#footnote-1310) In addition, the Commission expresses its rejection of public statements by state authorities that would appear to downplay the importance of child marriage and the trafficking of children[[1311]](#footnote-1311), and observes with concern the reports of cases of forced marriages in Guerrero.[[1312]](#footnote-1312) In addition, despite the lack of any official figures, civil society organizations estimate that at least 30,000 children and adolescents are involved in criminal activities in Mexico, plus they warn of the possible situation of risk facing 145,000 to 250,000 children and adolescents of becoming victims of recruitment or use by criminal groups in Mexico.[[1313]](#footnote-1313) In addition, the IACHR observes that as of early November 2021 more than 15,000 children and adolescents continue disappeared in Mexico.[[1314]](#footnote-1314)
13. With respect to the rights of **persons in human mobility**, the Commission observes that according to official data from the Mexican Commission for Refugee Assistance (COMAR: Comisión Mexicana de Ayuda a Refugiados), the number of asylum applications received increased more than 5,400% from 2013 to 2019.[[1315]](#footnote-1315) In addition, the IACHR notes that during 2021 the upward trend continued, with a total of 77,559 new asylum applications as of late August. That figure represents an increase of more than 200% with respect to the same period in 2020.[[1316]](#footnote-1316) Of the total indicated, the IACHR observes that 17,172 persons were recognized as refugees in 2021 and during its official visit to Mexico the IACHR took note of the limitations in the operational capacity of the COMAR to respond to the increase in the number of asylum applications in recent years.[[1317]](#footnote-1317) Additionally, the most recent figures of the Migration Policy Unit (UPMRIP) of the Ministry of Interior Mexico indicate that as of August 2021 a total of 26,266 visitor cards were issued on humanitarian grounds.[[1318]](#footnote-1318) According to information provided by the State to the IACHR, these documents are provided to foreigners who have obtained the status of stay (*estancia*) on humanitarian grounds, as well as to children and adolescents in the context of mobility and those accompanying them, while the procedure for restitution of rights is completed.[[1319]](#footnote-1319)
14. The Commission also observes with concern the excessive use of force against persons in human mobility. In this respect, civil society organizations informed the IACHR that with the participation of the National Guard in immigration control tasks there has been an increase in detentions of persons in human mobility and in reports of human rights violations.[[1320]](#footnote-1320) In this regard, on September 27, 2021 the IACHR condemned the confrontations that culminated in attacks and beatings, by state security agents, directed against the caravans of migrants that were formed in Chiapas, Mexico. The Commission also condemned the excessive use of force in the immigration control operations against the population in human mobility on October 23 and 24 in Chiapas. According to public information, a child was wounded by agents of the National Guard.[[1321]](#footnote-1321) In addition, the IACHR condemned the deaths of two migrants in the wake of shots being fired by National Guard agents on October 31 in Pijijiapan, Chiapas.[[1322]](#footnote-1322)
15. In September 2021 the IACHR expressed its concern over the expulsion of persons with irregular immigration status, including those who were expelled from the United States to different points on the border with Guatemala. The Commission has noted that when persons are expelled or returned to their countries of origin or of habitual residence, without an adequate determination of possible needs for international protection, they would once again confront situations similar to those that forced them to leave.[[1323]](#footnote-1323) Similarly, civil society organizations reported to the IACHR that they have documented cases of expulsions from Mexico of persons with asylum procedures under way or who already had some type of protection in Mexico.[[1324]](#footnote-1324) The IACHR draws the State’s attention to the disproportionate impact that could result from situations of indirect discrimination against Black Haitian persons collectively expelled without the corresponding evaluation of their situation of international protection.[[1325]](#footnote-1325)
16. As regards the rights of **persons deprived of liberty**, the IACHR values the publication of the agreement to facilitate the processing of applications for pre-release of persons sentenced who meet the legal requirements, as well as to identify cases of persons in prolonged pretrial detention and torture victims.[[1326]](#footnote-1326) The Commission observes the release of 681 persons in September of this year.[[1327]](#footnote-1327) As regards the Amnesty Law, Mexico reported on efforts of the Federal Institute of Public Defense to continue translating that legislation to more Indigenous languages to facilitate the application of benefits to persons from Indigenous peoples and communities; it has done so for a total of 22 linguistic variants as of 2021.[[1328]](#footnote-1328) For its part, the IACHR learned that the Amnesty Commission has received 1,738 applications as of September 2021, 521 of which were considered out-of-order, 47 were granted, and the rest are awaiting resolution.[[1329]](#footnote-1329) Nonetheless, according to information from civil society, the processing of applications filed with the Amnesty Commission faces obstacles such as the lack of mechanisms for transparency and access to information, the lack of publicity of sessions of the Amnesty Commission, requests to satisfy requirements not provided for by law, and the lack of clarity on the procedures and means of bringing challenges before the judicial branch. In particular, the IACHR received information on differentiated impacts with respect to Indigenous persons deprived of liberty, who have to show that they belong to an Indigenous people in order to receive the benefits of the law.[[1330]](#footnote-1330)
17. In addition, the Commission notes that by decree of February 19, 2021, the reforms to the Federal Criminal Code, the National Code of Criminal Procedure, and special laws[[1331]](#footnote-1331) came into force, pursuant to the mandate to reform Article 19 of the Constitution[[1332]](#footnote-1332) so as to expand the list of crimes that merit automatic pretrial prison.[[1333]](#footnote-1333) Accordingly, in harmony with said Article 19, these reforms expand automatic pretrial detention in the corresponding legislation, thus allowing their full application and avoiding contrary interpretations by judicial officers.[[1334]](#footnote-1334) Without prejudice to the legislation maintaining the regulation of crimes in respect of which defendants may not be released for various criminal statutes, the Commission welcomes the judgment of the Supreme Court of October 25, which strikes down the use of automatic pretrial detention for the crimes of contraband, tax fraud, and use of false invoices.[[1335]](#footnote-1335) Mindful of this, the Commission calls on the State to adopt the measures necessary for pretrial detention to be used on an exceptional basis and in keeping with international standards and, accordingly, to eliminate the provisions that establish obligatory pretrial detention by type of crime.

**PANAMA**

* **General considerations**
1. During 2021, the IACHR took note of progress made by Panama on a number of fronts, such as public policies aimed at incorporating persons with disabilities in the workforce; the State's efforts in conjunction with civil society to provide educational and social counselling to women deprived of liberty; the initial approval by the National Assembly of Bills No. 567 and 569 on protection of children and adolescents; and the launching of the “Punto de Apoyo” Pilot Plan, to provide assistance to women and older persons who are victims of violence.
2. With regard to **challenges**, the IACHR notes with concern the persistence of violence against women; the Supreme Court's ruling regarding the regulatory framework for the sterilization of women based on stereotypical notions of women's reproductive role; the precarious living conditions and limited health care in Women's Rehabilitation Centers; the impact of the increase in the number of migrants in the Darien jungle - particularly children and adolescents - on the State's capacity to provide health care and housing; the passing of the General Adoption Law by Panama's National Assembly, which restricts joint adoptions to spouses or common-law marriages formed by ''persons of different sexes''; and an increase in complaints about possible violations of the rights of the elderly.
3. The State did not reply to the request for information sent for the preparation of this chapter.
* **Specific issues**
1. With regard to **democratic institutions**, the Commission took cognizance of the approval of Bill 544, amending the Electoral Code of the Republic of Panama.[[1336]](#footnote-1336) The Commission notes that some observations made by the Electoral Tribunal[[1337]](#footnote-1337) were not considered in the final version, having been eliminated or modified with respect to the original draft, which was agreed upon by the National Commission on Electoral Reforms (CNRE), made up of representatives of the political parties and civil society.
2. Regarding **human rights institutions**, the IACHR welcomes the appointment of the new Ombudsman for the 2021-2026 term.[[1338]](#footnote-1338) However, it notes with concern the cut in the Ombudsman's Office budget for 2022.[[1339]](#footnote-1339) Concerning budgets, the IACHR’s position is that implementing human rights means that the State is obliged to program, allocate, and spend public resources in a manner that meets its obligations to implement international human rights treaties at all levels and in all sections of the executive, legislative, and judicial branches. In particular, the Ombudsman's Office requires budgetary allocations to guarantee the performance and sustainability of its functions.[[1340]](#footnote-1340)
3. The IACHR takes note of the presentation of the 2020 management report of the Ombudsman's Office[[1341]](#footnote-1341),the report to the Committee on Enforced Disappearances[[1342]](#footnote-1342), the publication of recommendations to the government on the human rights situation of migrants in the context of COVID-19[[1343]](#footnote-1343), and the publication of the report and recommendations arising from the visit to care centers for the elderly.[[1344]](#footnote-1344)
4. In addition, the Commission takes note of various human rights training courses conducted for justices of the peace[[1345]](#footnote-1345), as well as training for government officials, security agencies[[1346]](#footnote-1346), communities and children for public servants.[[1347]](#footnote-1347) In this regard, the IACHR is convinced that by strengthening state institutions it is possible to advance a prevention and social transformation agenda.[[1348]](#footnote-1348)
5. Finally, in the area of cooperation, the IACHR takes note of the signing of an agreement between the Ombudsman's Office and UNHCR in favor of the migrant and refugee population[[1349]](#footnote-1349).
6. With regard to **persons in human mobility**, the Commission observed the situation of migrants seeking to enter Panama from the border with Colombia. According to National Migration Service (SNM) figures, as of September 30, 2021, a total of 91,305 people are thought to have entered Panamanian territory using irregular channels of entry. Of these, 56,676 are reportedly Haitians and their families.[[1350]](#footnote-1350) In this regard, the IACHR notes that the above figures represent an increase of more than 1,000% compared to 2020; and, in particular, an 800% increase in the entry of Haitian nationals and their families.[[1351]](#footnote-1351) Likewise, the latest data from the SNM indicate that up by September 2021, a total of 18,935 children and adolescents entered the country irregularly; that represents an increase of more than 1,500% over the same period in 2020.[[1352]](#footnote-1352) On that, UNICEF pointed out that the numbers recorded during 2021 represent a historical maximum that would surpass the total number of migrant children and adolescents of the past five previous years combined. It added that at least half of that population group would be under five years old[[1353]](#footnote-1353).
7. In this context, the IACHR learned of the agreement signed on August 9, 2021 between the governments of Panama and Colombia to control the number of people moving across their common border. In that regard, the Commission notes that, among the points of agreement reached, a quota was established to allow the daily admission of 650 persons during the month of August, and 500 persons as of September.[[1354]](#footnote-1354) In that connection, the President of Panama called for the adoption of joint strategies, based on the principle of shared responsibility, to address the current regional humanitarian crisis.[[1355]](#footnote-1355) Similarly, the International Organization for Migration (IOM) called for improved coordination between governments and international cooperation to respond to the humanitarian needs of the population in transit.[[1356]](#footnote-1356)
8. The International Committee of the Red Cross (ICRC) reported that the increase in the number of migrants in the Darien jungle and the situation generated by the COVID-19 pandemic have impaired the state's response capacity to provide health care and lodging to the population in human mobility. It added that children and adolescents were reportedly in a situation of greater vulnerability due to the risk of statelessness and an increase in cases of sexual violence against adolescent girls.[[1357]](#footnote-1357)
9. In the area of **human trafficking,** the Commission notes that - in the framework of the regular session of the National Commission for the Prevention of Sexual Exploitation Crimes (CONAPREDES) - the project to install Gesell cameras in the provinces of Colón, Darién, and Coclé was approved in order to strengthen investigations related to sexual crimes, avoid re-victimization, and respect the human rights of the victims.[[1358]](#footnote-1358) The Commission also takes note of the initiative of the Ministry of the Interior and the University of Panama to strengthen the Observatory on Sexual Exploitation of Children and Adolescents.[[1359]](#footnote-1359) In addition, the Commission notes that Panama and Colombia have reportedly agreed on a series of measures against human trafficking and organized crime against migrants crossing the Darien jungle.[[1360]](#footnote-1360)
10. Regarding the **rights of LGBTI persons**, the Commission followed up on the effects of the partial gender-based mobility restriction measures that were in effect during the COVID-19 pandemic. In this regard, the IACHR published a specific press release in which it recalled that such measures are, by their very nature, discriminatory and called on the State to guarantee the human rights of trans and gender-diverse persons.[[1361]](#footnote-1361) Those measures expired in February 2021.
11. In the same vein, the Commission stresses that the impacts of the measures revealed the need to guarantee simple and expeditious legal mechanisms for the exercise of the right to gender identity/expression in a prioritized and straightforward manner, as demanded by civil society organizations during 2021.[[1362]](#footnote-1362)
12. In addition, the IACHR expressed its [concern](https://twitter.com/CIDH/status/1369671276990717952?s=20) at the approval by the National Assembly of Panama of the General Adoption Law, which reportedly reiterates the restriction of joint adoptions to spouses or common-law marriages formed by ''persons of different sexes.''[[1363]](#footnote-1363) According to information in the public domain, the Executive returned the law , with objections, for re-consideration by the Assembly.[[1364]](#footnote-1364) Finally, the Commission learned of the decision of the Supreme Court of Justice that did not admit an amparo request for recognition of a marriage entered into abroad between two men.[[1365]](#footnote-1365)
13. Regarding the **rights of older persons**, the Commission learned of Bill No. 585 submitted to the General Assembly on March 17, 2021, approving the Inter-American Convention on the Protection of the Human Rights of Older Persons, adopted by the General Assembly of the Organization of American States on June 15, 2015. Recalling that the State of Panama was one of the main promoters and an active participant in the drawing up of the Convention, the Commission encourages the State to continue its efforts to ensure approval of Bill No.585 in the General Assembly.[[1366]](#footnote-1366)
14. The Commission takes note of the report by the Ombudsman's Office regarding visits to care centers, day care centers, homes and/or shelters for the elderly nationwide[[1367]](#footnote-1367), which mentions, among its conclusions and recommendations, the need to implement public policies and social and medical programs to support older persons residing in homes or care centers. Likewise, the Ombudsman's Office reported an increase in complaints of possible violation of the rights of older persons thus far in 2021: 27 complaints in all, a figure that exceeds the combined total for the years 2019 and 2020 (24 complaints).[[1368]](#footnote-1368)
15. With regard to the **rights of Afro-descendants and against racial discrimination**, the IACHR welcomes the installation by the Ministry of Education of the National Educational Commission for the Decade for People of African descent, which aims to recognize the contributions of this ethnic group and preserve their cultural heritage[[1369]](#footnote-1369), thereby contributing to the development and orientation of educational public policies to promote the human rights and social demands of the Afro-descendant community in Panama.
16. With regard to the **rights of persons with disabilities**, the IACHR highlights the public policies aimed at the inclusion of this population in the workforce, especially the training provided by the National Secretariat for Disability[[1370]](#footnote-1370) and the financing programs for productive projects.[[1371]](#footnote-1371) The Commission also takes note of the training on the rights of persons with disabilities provided by the Ombudsman's Office[[1372]](#footnote-1372), as well as the housing plan for this group[[1373]](#footnote-1373) and the efforts to vaccinate this population against COVID-19[[1374]](#footnote-1374).
17. On the other hand, the Commission learned of complaints from civil society regarding electoral reforms that were approved without the participation of persons with disabilities.[[1375]](#footnote-1375) Information was also received regarding failure to comply with the regulation that establishes that at least 2% of company personnel must be persons with disabilities.[[1376]](#footnote-1376) In addition, based on information in the public domain, the IACHR became aware of cases regarding the absence of national statistics needed to expose and respond to the situation of persons with disabilities. [[1377]](#footnote-1377)
18. Regarding the **rights of children and adolescents**, the State informed the IACHR of reports of abuse and mistreatment in shelters supervised by the State. In this regard, it indicated that since 2017, 32 criminal proceedings had been initiated for possible crimes committed against children and adolescents in a number of shelters.[[1378]](#footnote-1378) It added that, as of March 1, 2021, the Public Prosecutors' Office had stepped up its efforts to clarify these facts.[[1379]](#footnote-1379) In this context, the Commission notes that through a communiqué dated February 16, 2021, the Board of Directors of the National Secretariat for Children, Adolescents and the Family requested the closure of the shelters in which very serious offenses were committed, as well as the transfer of children and adolescents lodged in those facilities.[[1380]](#footnote-1380)
19. In addition, the IACHR takes note of the approval by the National Assembly -in the first round of debate- of two bills related to the protection of children and adolescents: (i) Law No. 567, which reportedly seeks to establish a comprehensive protection regime for children and adolescents; and (ii) Law No. 569, to regulate a public policy for the recognition and protection of the human rights of this group.[[1381]](#footnote-1381)
20. With respect to the **rights of persons deprived of liberty**, the IACHR takes note of the State's efforts to prevent and control the spread of COVID-19 in prisons through the joint work of the Ministry of Health (MinSA) and the General Directorate of the Penitentiary System. The State reports that 11,559 persons deprived of liberty have been (voluntarily) vaccinated with at least one dose, which represents 61% of the prison population.[[1382]](#footnote-1382).
21. The IACHR also takes note of the State's efforts, in conjunction with civil society organizations, to provide educational and social guidance to women deprived of their liberty with a view to supporting their social reintegration.[[1383]](#footnote-1383) In addition, it takes note of the findings of inspections carried out by the Ombudsman's Office at four Women's Rehabilitation Centers regarding prison conditions for women over 60 years of age, which reported precarious living conditions, limited health care, complaints about the quality of drinking water, non-existent psychiatric and psychological care, as well as limited access to external specialists for women with psychosocial disabilities.[[1384]](#footnote-1384)
22. Regarding **women's** **rights**, the IACHR takes note of the launching of the “Support Point” Pilot Plan, which provides free emergency buttons to assist women victims of violence and older adults.[[1385]](#footnote-1385)  However, it notes with concern the persistence of violence against women; according to official figures, from January 1 to October 31, 2021 there were 17 cases of femicide, 12 attempted femicides, and 16 violent deaths of women that were not considered femicide at the discretion of the prosecutor in the case[[1386]](#footnote-1386); in the same period, 14,319 reports of domestic violence were registered, 14% more than in the previous year[[1387]](#footnote-1387), along with 5,503 reports of rape and other sexual crimes, 31% more than in the previous year.[[1388]](#footnote-1388)
23. On the other hand, the IACHR welcomes the approval of Bill 223 of 2020 in February 2021, which amends Law 82 of 2013 and Law 7 of 2018 to include provisions that describe behavior constituting political violence against women and the rights that assist victims of violence in the workplace.[[1389]](#footnote-1389)
24. Finally, the IACHR notes with deep concern the ruling of the Supreme Court of Justice published on March 12, 2021, regarding the regulatory framework for the sterilization of women, which declared that the provisions that allow access to sterilization in the public health sector only to women over 23 years of age, who have two or more children and have a medical recommendation, are not discriminatory. It should be noted that the regulations allow access to sterilization to men over 18 years of age, without any additional requirement.[[1390]](#footnote-1390) The IACHR notes that the considerations in the ruling are based on stereotypical notions about the reproductive role of women and ignore the disproportionate impact on women living in poverty. The IACHR has recommended that States conduct a strict scrutiny of all laws, regulations, practices, and public policies providing for differences in treatment based on sex or gender and that may have a direct or indirect discriminatory impact on women.[[1391]](#footnote-1391)

**PARAGUAY**

* General considerations
1. In 2021, the Commission took note of the progress made in Paraguay on guaranteeing political rights and access to justice for persons with disabilities, and recognized the government’s actions to prevent, punish, and eradicate gender-based political violence against women. It also highlighted the measures designed to reinforce the exceptional nature of pretrial detention, and the inclusion of Afro-descendent communities in the framework for the next national census.
2. The Commission observed that the country faces challenges in preventing violent acts in electoral contexts and during demonstrations, as well as in the human rights situations of indigenous peoples and campesino communities, especially with regard to evictions against territorial claims. The IACHR also emphasized the challenges for the rights of women, LGBTI persons, and persons deprived of liberty.
3. On December 3, 2021, the State submitted its response to the request for information sent by the Commission in order to prepare this chapter.[[1392]](#footnote-1392)
* Specific topics
1. With regard to human rights institutions, the State reported on the strengthening of the executive branch’s Human Rights Network[[1393]](#footnote-1393) through training sessions for civil servants and the development of an action plan for the Network’s work in the 2021-2023 period.[[1394]](#footnote-1394)
2. Along these lines, the State reported on its commitment to further implementing the National Human Rights Plan, in view of recommendations made during the United Nations Universal Periodic Review,[[1395]](#footnote-1395) and highlighted Paraguay’s “results-based planning system” for monitoring and following up on the National Plan. The State also reported on the ongoing operation of the SIMORE Plus system for implementing recommendations from international agencies.[[1396]](#footnote-1396)
3. With regard to the operation of the Office of the Ombudsperson, Paraguay’s national human rights institution,[[1397]](#footnote-1397) the IACHR monitored the process for the election of the head and deputy positions, and in so doing, took note of the continuing criticism of the lack of transparency in the selection and appointment process.[[1398]](#footnote-1398)
4. With respect to democratic institutions, the IACHR recognized the partial amendment of the law that governs electoral justice.[[1399]](#footnote-1399) Moreover, in the context of the October 2021 municipal elections,[[1400]](#footnote-1400) the IACHR celebrates the parity of the councilperson candidate lists in at least 133 of the 261 electoral districts.[[1401]](#footnote-1401) It also welcomes the actions taken by the government to guarantee the vote and participation of persons with disabilities, which include measures that allow them to vote from home.[[1402]](#footnote-1402) That said, the Commission also logged disconcerting reports of the killing of four candidates for councilperson, as well as threats made against candidates and their families.[[1403]](#footnote-1403)
5. The IACHR observed demonstrations held on March 5, 2021, in response to the government’s handling of the pandemic,[[1404]](#footnote-1404) learned of cases of potential abuse by law enforcement personnel,[[1405]](#footnote-1405) and found out about other reports of violent acts[[1406]](#footnote-1406) and demonstrator arrests.[[1407]](#footnote-1407) The National Mechanism for the Prevention of Torture[[1408]](#footnote-1408) and civil society organizations expressed their concern over the circumstances of these arrests.[[1409]](#footnote-1409)
6. The State informed the IACHR that 38 persons reported that they had been injured between March 5 and 7, 2021, and it provided information on the start of the investigations into government agents’ participation in these violent acts as well as details on the reported arrests. The State also reiterated its commitment to international standards on protests and human rights.[[1410]](#footnote-1410)
7. The Commission also continued to monitor the citizen security situation in northern Paraguay. The IACHR is aware that the Joint Task Force (FTC) was created in that area due to the presence of groups engaging in criminal acts, and that it continues to perform citizen security work there.[[1411]](#footnote-1411) On July 31, 2021, the Commission repudiated an explosives attack against an FTC military entourage that resulted in the death of three members.
8. The IACHR is aware that civil society organizations have expressed their concern over the lingering security challenges in the north of the country.[[1412]](#footnote-1412) In 2021, the IACHR learned of the demands made by various organizations and family members of individuals who had been kidnapped in that area, calling for State action for their release.[[1413]](#footnote-1413)
9. Regarding access to justice and judicial independence, the State reported on the ongoing implementation of the “National Houses of Justice Program,” the objective of which is to guarantee access to justice for vulnerable persons through mobile justice days, among other measures.[[1414]](#footnote-1414) Along these lines, the IACHR emphasizes the agreement made by the National Secretariat for the Human Rights of Persons with Disabilities (SENADIS) and the Office of the Ombudsperson to establish mechanisms that will enable persons with disabilities to access the justice system on equal footing.[[1415]](#footnote-1415)
10. With regard to the rights of indigenous peoples, the Commission took note of the reform of the Criminal Code that increased sentences for the crime of “invasion of another’s property,”[[1416]](#footnote-1416) which, according to civil society organizations, would have differentiated negative impacts on indigenous and campesino communities,[[1417]](#footnote-1417) in a context of challenges for indigenous communities’ claims to their traditional territories.[[1418]](#footnote-1418)
11. The IACHR continued to receive information on the challenges faced by indigenous peoples as a result of agroindustry and third-party activities leading to evictions, threats, and pollution of their lands. The IACHR is especially concerned that, according to public information, between May and July 2021 the following indigenous communities were evicted from their ancestral lands: Cerrito, of the Avá Guaraní people, Minga Porã, Alto Paraná; Yvy Porã, from Santa Rosa del Aguaray, department of San Pedro; Acaraymi, of the Avá Guaraní people, district of Hernandarias, Alto Paraná; Ka’a Poty 1, of the Avá Guaraní people, Itakyry zone, Alto Paraná; Cristo Rey, of the Avá Guaraní people, from Ybyrarobana, in Canindeyú; Ka’avusu, of the Avá Guaraní people, district of Itakyry, Alto Paraná; Yvypyte, of the Pa’i Tavyterã people, Amambay.[[1419]](#footnote-1419)
12. The Commission also observed that on October 12, 2021, marches were held in Asunción and in some departments; these marches were convened by the Articulación Nacional Indígena por una Vida Digna [National Indigenous Cooperative Association for a Decent Life] (ANIVID) to call for the restitution, regularization, and legal securing of their lands; an increase of funds in the 2022 National Budget; implementation of the National Plan for Indigenous Peoples 2020-2030; and the construction of housing.[[1420]](#footnote-1420)
13. The Commission also takes note of the views issued by the United Nations Human Rights Committee, which conclude that Paraguay violated the rights of the Campo Agua’ẽ indigenous community of the Avá Guaraní people, located in the district of Curuguaty, department of Canindeyú, to their traditional lands due to the failure to prevent and control the toxic pollution of their lands caused by the intensive use of pesticides by nearby agricultural companies.[[1421]](#footnote-1421)
14. With regard to the situation of persons deprived of liberty, the Commission salutes the decision made by the Supreme Court of Justice on March 26, 2021, calling for the exceptional use of pretrial detention, presenting a guide for the use thereof, and promoting the sua sponte review of this preventive custody measure.[[1422]](#footnote-1422)
15. The foregoing is of particular relevance as, according to data from the National Mechanism for the Prevention of Torture, 70.71% of the persons deprived of liberty in Paraguay are subject to pretrial detention.[[1423]](#footnote-1423) The Commission notes with concern that Paraguay is the country in the region with the second highest usage of pretrial detention,[[1424]](#footnote-1424) and that this is one of the main causes behind the overcrowding of detention centers.
16. Along these lines, the IACHR is also concerned about the level of overcrowding in the Paraguayan prison system. Specifically, on October 29, the prison population was 15,049 persons,[[1425]](#footnote-1425) which amounts to overcrowding of 58.23%, given that the official stated capacity of the prison system on that date was 9,511 persons.[[1426]](#footnote-1426)
17. The IACHR also followed, with concern, the acts of violence that took place on February 16 in the Tacumbú National Prison. According to the information available, during a riot that lasted almost 24 hours, at least 7 prisoners lost their lives, and 19 prison guards were taken hostage.[[1427]](#footnote-1427)
18. With regard to women's human rights, the IACHR took note of the presentation of the bill to prevent, punish, and eradicate gender-based political violence against women, the aim of which is to ensure the protection of women activists, candidates, elected candidates, public servants, against diverse manifestations of gender violence, and to establish mechanisms for punishment in electoral and administrative matters.[[1428]](#footnote-1428)
19. The IACHR also noted the launch of the National Survey on the Situation of Women in Paraguay. This survey is designed to provide information on the health, educational level, employment and family status of women over eighteen, etc.[[1429]](#footnote-1429)
20. With regard to sexual and reproductive rights, the Commission observed that training sessions were held for health sector personnel to improve their care response to gender-based violence.[[1430]](#footnote-1430)
21. However, the IACHR expressed its concern over the increase in maternal deaths during the COVID-19 pandemic, primarily in April and May 2021.[[1431]](#footnote-1431)
22. The IACHR is also concerned about Paraguay’s high child and adolescent pregnancy rates; according to available public information, from January to September 2021, 8,827 child and adolescent pregnancies were registered. Of those, 290 were in girls aged 10 to 14 and 8,357 in adolescents aged 15 to 19.[[1432]](#footnote-1432) Notably, the Ministry of Education’s prohibition on the dissemination and use of comprehensive sexual education and gender-perspective materials continues to be in force,[[1433]](#footnote-1433) as does the absolute criminalization of the voluntary termination of pregnancy except in cases in which the pregnant person’s life is in danger.[[1434]](#footnote-1434)
23. Lastly, the IACHR is troubled by the persistence of femicide and sexual and domestic violence. According to official data, in 2021, 35 acts of femicide were committed and 20 were attempted. In addition, 1,193 support services were provided to women victims of violence; of those, 133 were for sexual violence, 226 were for domestic violence, 354 for physical violence, and 639 for psychological violence.[[1435]](#footnote-1435)
24. On the situation of Afro-descendants and the fight against racial discrimination, the Commission welcomed the National Statistics Institute’s announcement that Afro-descendent communities will be included in the framework of the activities for preparing the next National Population and Housing Census 2022.[[1436]](#footnote-1436)
25. With regard to the rights of LGBTI persons, according to information gathered from civil society, at least 80 cases of violence against trans persons were reported in 2021, as were other acts of discrimination based on sexual orientation and gender identity and expression.[[1437]](#footnote-1437) The IACHR also noted that trans, nonbinary, and gender-diverse persons demonstrated against the judicial branch, demanding that their gender identities be reflected on their civil records.[[1438]](#footnote-1438)
26. Furthermore, the Commission recognizes the concerns expressed by civil society organizations on the dissemination of stigmatizing speech that could, in certain cases, foster or create an environment favorable to discrimination,[[1439]](#footnote-1439) given the aforementioned context of the prohibition against teaching with a gender perspective. Such a perspective is in fact necessary to ensure that education will be imparted without stereotypes based on ideas of inferiority or subordination.
27. With regard to the rights of persons with disabilities, the IACHR welcomes the agreement between the Ministry of Justice and SENADIS, designed to guarantee comprehensive care practices and policies for persons with disabilities who have been deprived of their liberty.[[1440]](#footnote-1440)
28. On the other hand, the IACHR expressed its concern over the reports of the failure to prioritize persons with disabilities in the National Vaccination Plan,[[1441]](#footnote-1441) as well as the challenges in access to the education system, particularly for students with visual impairments.[[1442]](#footnote-1442)
29. Regarding persons in a situation of human mobility, the Commission observes that Paraguay would have activated vaccination against COVID-19 only for migrants with documents that certify their stays in the country as legal.[[1443]](#footnote-1443) Individuals who entered Paraguayan territory outside the regular channels will need to justify their stays by passing through migration control.[[1444]](#footnote-1444)
30. With regard to human trafficking, the Commission emphasizes the positive nature of the actions carried out by the Ministry for Women’s Affairs and the Gender Department of the Ministry of Public Health and Social Welfare to strengthen the care protocol for women, children, and adolescents affected by trafficking, with the aim of holding outreach seminars to raise awareness with community agents and care professionals from the Family Health Department.[[1445]](#footnote-1445)
31. The IACHR also salutes the initiatives taken by the Ministry for Women’s Affairs to combat trafficking in persons, like “Ñande Ko’é”[[1446]](#footnote-1446) and “Atlas,” which aims to provide information on the comprehensive care and protection programs for victims, among other aspects.[[1447]](#footnote-1447)
32. With regard to the rights of children and adolescents, the State reported the development of an interagency protocol to protect children and adolescents participating in public demonstrations.[[1448]](#footnote-1448) However, the IACHR observed that according to the most recent National Statistics Institute statistics, over 36% of children and adolescents in Paraguay live in poverty or extreme poverty.[[1449]](#footnote-1449) The Commission also expressed its concern about the official data indicating that child labor had increased 30% during the COVID-19 pandemic.[[1450]](#footnote-1450)
33. The Commission also noted that between January 2020 and June 2021 the Ministry for Children and Adolescents provided protection for 1,904 indigenous children and adolescents, giving them food, comprehensive health care, psychological support, education, recreation, clothing, community reintegration, and hygiene services.[[1451]](#footnote-1451) However, the Commission noted that, according to public data, at least 500 indigenous children and adolescents were living on the streets.[[1452]](#footnote-1452)

**PERU**

* **General Considerations**
1. Regarding **progress**, the Commission took note of steps taken, especially the adoption of a policy on the rights of older persons, measures to facilitate labor market integration and the exercise of voting rights among persons with disabilities, and measures to address violence against women and sexual and reproductive rights.
2. In terms of **challenges**, the IACHR reiterated its concern about the difficulties facing democratic institutions, in particular the constitutional process of presidential impeachment and the processes for selecting justice operators. The Commission also observed challenges related to access to justice for victims of forced sterilizations and indigenous leaders who defend their territory and the environment and face acts of violence. The Commission also noted the increase in femicide, disappearances of women, girls, and female adolescents, and discrimination and violence against LGBTI persons.
3. The State did not respond to the request for information that was sent in preparation for this chapter.
* **Specific topics**
1. With regard to **human rights institutions**, the Commission acknowledges the work carried out by the Office of the Ombudsman throughout the 2021 presidential elections, during which it issued several press releases emphasizing its confidence in the country's electoral institutions, condemning harassment of election officials, and calling on citizens to exercise their right to vote.[[1453]](#footnote-1453) The Commission welcomes the progress made in the creation of the 2021-2025 National Action Plan on Businesses and Human Rights, the first of its kind in Peru and the third in Latin America and the Pacific Alliance.[[1454]](#footnote-1454)
 However, the IACHR shares the concerns of the United Nations High Commissioner for Human Rights regarding proposed budget cuts to human rights institutions in Peru.[[1455]](#footnote-1455)
2. With respect to **democratic institutions**, the IACHR has viewed with concern the tensions between the legislative and executive branches, including mutual accusations of corruption, which has created political instability and undermined governance. Further, the Commission has expressed concern over the lack of an objective definition of presidential impeachment for moral incapacity more than a year after the political crisis triggered by the presidential impeachment on November 9, 2020.[[1456]](#footnote-1456) It also notes the legislative reforms concerning the President of the Republic’s constitutional authority to dissolve Congress if it censures or expresses a lack of confidence in the Cabinet.[[1457]](#footnote-1457) The IACHR became aware that on October 19, 2021, Congress passed an ordinary law to limit the issue of confidence so that it may only be invoked for matters under presidential jurisdiction and not for the passage of laws or constitutional reforms.[[1458]](#footnote-1458) According to public information, this limitation may represent an imbalance of powers and should have been addressed through constitutional reform and not an ordinary law.[[1459]](#footnote-1459)
3. The IACHR reiterates the importance of the separation and limitation of powers in constitutional democracy and of access to and exercise of power under the Rule of Law to ensure that the removal of a democratically and constitutionally elected leader cannot be left to a discretionary political decision by other branches of government.[[1460]](#footnote-1460)
4. The Commission also notes with concern that the government has imposed certain limits on the freedom of press and information that limit the plurality of information and the full exercise of a free press.[[1461]](#footnote-1461)
5. In terms of **citizen security**, the IACHR learned that in April 2021, Congress passed a bill that recognizes Self-Defense and Rural Development Committees and incorporates them into the citizen security system. It classifies these committees as civilian democratic organizations in indigenous and rural communities and authorizes them to take actions to prevent crime and “the infiltration of narcoterrorism,” promote social and development projects, and undertake other activities in coordination with the National Police.[[1462]](#footnote-1462) This bill also authorizes the Committees to use firearms and munitions and to receive funding from local and regional governments, as well as the State.[[1463]](#footnote-1463)
6. The IACHR notes with concern that this could endanger autonomous processes and authorities of indigenous peoples and create internal conflict within communities.[[1464]](#footnote-1464) Therefore, the Commission believes it is important for the State to promote forums for intercultural dialogue and coordination on issues such as security, protection, and the administration of justice in indigenous lands and territories, while respecting the rights of indigenous peoples to consultations, consent, and self-determination.[[1465]](#footnote-1465)
7. As for **access to justice**, the IACHR welcomes the adoption by the Council for Justice System Reform of the proposed justice system reform policy that aims to deliver effective, rapid, and transparent justice for the people.[[1466]](#footnote-1466) It also notes that the Ministry of Justice and Human Rights has been implementing public policies to help civilian, police, and military victims of the violence that took place between 1980 and 2000 as part of its Comprehensive Reparations Plan. Of particular note are those policies concerning the search for missing persons and individual and collective reparations.[[1467]](#footnote-1467) The Commission also notes that the State passed the National Plan for the Search for Missing Persons through 2030, a tool that will bolster its work in this area under the leadership of the Ministry of Justice.[[1468]](#footnote-1468)
8. The IACHR also notes that victims of forced sterilizations in the 1990s have criticized the delay in determining whether former president Alberto Fujimori and his health ministers will be investigated for allegedly ordering those sterilizations.[[1469]](#footnote-1469)
9. Regarding **human rights defenders**, the Commission welcomes the creation of the inter‑sectoral mechanism for the protection of human rights defenders created on April 22, 2021, through Supreme Decree 004-2021, which incorporates inter-American standards for risk prevention and the protection of human rights defenders.[[1470]](#footnote-1470) The goal of this mechanism will be to ensure prevention as well as protection and access to justice for human rights defenders in the face of risks that arise as a result of their activities.
10. Despite this progress, the Commission was made aware of several murders of human rights defenders in Peru. The Commission learned of the murders of Yenes Ríos Bonsano and Herasmo García Grau, on February 14 and 26, respectively, in the Amazonian regions of Ucayali and Huánuco.[[1471]](#footnote-1471) The Asháninka indigenous leader Estela Casanto Mauricio from the Shankivironi native community was murdered on March 13, 2021. Ms. Cansanto Mauricio was an advocate her community's territorial integrity.[[1472]](#footnote-1472) Mario Marco Lopez Huanca, an Ashaninka environmental advocate from the Shirarine native community in the district of Puerto Bermudez was murdered on June 28.[[1473]](#footnote-1473)
11. Regarding **justice operators**, the Commission observed several challenges in 2021 that made it difficult for them to fulfill their duties independently. The Commission granted precautionary measures to prosecutor José Domingo Pérez Gómez and his immediate family, believing that they were in a serious and urgent situation, as they risked suffering irreparable harm to their rights in Peru.[[1474]](#footnote-1474)
12. Furthermore, the IACHR expressed its concern about the communique from the Congress of the Republic, in which it agreed to proceed with its session and vote to appoint justices to the Constitutional Court, despite the court ruling that ordered that the process be stayed. The Commission also emphasized that selecting and appointing justice operators through an inappropriate process would endanger their independence and urged the State to comply with the judicial rulings that were issued and ensure due process in the selection of Constitutional Court justices.[[1475]](#footnote-1475)
13. Regarding **memory, truth, and justice**, the IACHR acknowledges the efforts of the Executive Secretariat of the High-Level Multisector Commission of the Ministry of Justice and Human Rights and the Institute of Democracy and Human Rights of the Pontificia Universidad Católica del Peru to open the online platform “Memorias en Diálogo” [Memories in Dialogue] to the public. The platform will gather input from civil society organizations and the wider population for the development of the National Plan for Memory, Peace, and Reconciliation.[[1476]](#footnote-1476)
14. Regarding **the rights of older persons**, the Commission [welcomed](http://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/055.asp) Peru’s deposit of the instrument of accession of the Inter-American Convention on Protecting the Human Rights of Older Persons on March 1, 2021.[[1477]](#footnote-1477) The IACHR also highlights the promotion by the Executive Branch of the Multisector National Policy for Older Adults through 2030,[[1478]](#footnote-1478) which established five priority goals around the right to care and good treatment for a life without discrimination; healthy aging; contributory and non-contributory benefits; continuous access to a full high-quality education at all levels and across all modalities, and social, economic, and political engagement.
15. As to the rights of **persons with disabilities**, the Inter-American Commission welcomes the ruling of the Constitutional Court of Peru on July 1, 2021, that requires jurisdictional bodies to avoid the use of pejorative terms for persons with disabilities.[[1479]](#footnote-1479) It also highlights efforts to ensure that persons in this group can access public transportation free of charge.[[1480]](#footnote-1480) The Commission received information about the goal of increasing the number of persons with disabilities formally employed in Peru, which currently stands at 7,600,[[1481]](#footnote-1481) and the creation of the “Employment and Persons with Disabilities” platform to promote accessibility of information and labor market integration.[[1482]](#footnote-1482) The IACHR learned about the construction of 13,574 special tables for 356,007 citizens with disabilities, the use of 12,300 Braille screens throughout Peru, and the assistance provided to voters with disabilities on election days to ensure that COVID-19 safety and prevention protocols were followed.[[1483]](#footnote-1483)
16. The Commission views with special concern reports from civil society organizations that the the bill intended to replace the General Law on Persons with Disabilities would have an impact on existing rights were it to pass.[[1484]](#footnote-1484) They report that this bill was drafted without public consultation with organizations of persons with disabilities.[[1485]](#footnote-1485) Regarding immunization against COVID-19, the Commission learned of complaints about various obstacles that persons with disabilities have faced, especially those who require more intensive support.[[1486]](#footnote-1486)
17. Regarding the **human rights of women**, the IACHR values the State’s efforts toward preventing violence against women and assisting and protecting victims. It welcomes the approval in February 2021 of the Strategic Guidelines for the Prevention of Gender-based Violence Against Women. The objective of these guidelines is to steer the joint multisectoral, multilevel prevention initiative, with an emphasis on primary prevention, and contribute to the eradication of such violence.[[1487]](#footnote-1487) The Commission also notes the approval in March 2021 of the new care protocol for the Women's Emergency Center (CEM), which aims to optimize and improve services for cases of violence, with a focus on avoiding revictimization and the adopting prevention strategies based on the risk and urgency of each case.[[1488]](#footnote-1488) The Commission also welcomes the publication in April 2021 of Law 31156, which permanently enables the use of technology channels to report incidents of violence against women to the National Police, criminal or family prosecutors, and family judges.[[1489]](#footnote-1489)
18. Nonetheless, the Commission observes with extreme concern the increase in femicide and cases of missing women, girls, and female adolescents compared to the previous year. According to data from the Office of the Ombudsman, 132 femicides were recorded between January and November 2021, while 127 were recorded over that same period in 2020. Between January and October 2021, 4,904 alerts for missing women, girls, and female adolescents were recorded, 9% more than the previous year; 35% of those were for adult women and 65% for girls and female adolescents. The IACHR observes that in 15 of the femicide cases, the victims had previous been reported as missing, demonstrating the link between these two forms of violence.[[1490]](#footnote-1490) In that same vein, the Commission notes the records of support services for victims of violence provided by the Women's Emergency Center, which indicate an increase in psychological, physical, sexual, and economic violence: a total of 114,495 cases were recorded in 2020, while 136,782 cases were recorded between January and October of 2021. Of the victims, 85.8% were women.[[1491]](#footnote-1491)
19. In terms of **sexual and reproductive rights**, the Commission notes positively the introduction in March 2021 of Bill 7298, which aims to regulate access to elective abortion until the fourteenth week of pregnancy—longer if the pregnancy is the result of rape or if the life or health of the pregnant person is in danger—and ensure pre- and post-abortion care within the health system.[[1492]](#footnote-1492) However, it also notes the findings of a report from the Office of the Ombudsman stating that the majority of first- and second-level health facilities either are unfamiliar with or have not received quality training from the Ministry of Health regarding the [Technical Guide](https://www.gob.pe/institucion/minsa/informes-publicaciones/285890-guia-tecnica-nacional-para-la-estandarizacion-del-procedimiento-de-la-atencion-integral-de-la-gestante-de-acuerdo-al-articulo-119-del-codigo-penal)lines that regulates therapeutic abortion. This creates a barrier to abortion access for girls and adolescents who are survivors of sexual violence.[[1493]](#footnote-1493)
20. The IACHR takes note of Ministerial Decisions 450-2021 and 653-2021 from the Ministry of Health, published in March and May of 2021, respectively, whose purpose is to ensure access to sexual and reproductive health services in the context of the COVID-19 health emergency and to help reduce maternal morbidity and mortality;[[1494]](#footnote-1494) however, the IACHR observes that 165 maternal deaths were recorded between January and April of 2021, of which 38.6% had COVID-19 listed as an indirect cause of death.[[1495]](#footnote-1495)
21. Lastly, the IACHR notes the progress in implementing the National Care Work System through the publication in June 2021 of the Conceptual Framework, which aims to recognize and redistribute care work and eradicate gender inequalities.[[1496]](#footnote-1496) It also welcomes the publication in April 2021 of Act 31155, which prevents and punishes harassment of women in political life, with the goal of ensuring that they have full exercise of their political rights in equal conditions.[[1497]](#footnote-1497) However, the Commission recognizes the challenges that remain to reach substantial parity in political representation, as only 22% of those at the top of party lists in the most recent congressional elections were women.[[1498]](#footnote-1498)
22. Regarding the **rights of children and adolescents**, the Commission welcomes the passage of Vice-ministerial Decision 169-2021-MINEDU, which incorporates “Guidelines for Comprehensive Sex Education for Primary Education.” The IACHR notes that the purpose of this document is to establish guidelines for the relevant and timely implementation of comprehensive sex education in institutions and educational programs at the primary education level, in order to enable an experience of sexuality that is safe, responsible, and healthy, based on the developmental stage and maturity of the student.[[1499]](#footnote-1499) The Commission also learned that 15,802 children and adolescents had benefited from economic assistance for children orphaned by COVID-19 as of November 5, 2021, based on data from the Ministry for Women and Vulnerable Populations (MIMP).[[1500]](#footnote-1500)
23. The IACHR highlights its concern over data on the incidence of online sexual exploitation of children and adolescents and the increase in this kind of abuse in the context of the pandemic.[[1501]](#footnote-1501)
24. Regarding the rights of **LGBTI persons**, the Commission welcomes the adoption by the National Office of Electoral Processes of a protocol to ensure that transgender persons have the right to vote in elections.[[1502]](#footnote-1502) The IACHR also takes note of the favorable opinion of the gender identity bill issued by the Congressional Committee on Women and the Family.[[1503]](#footnote-1503) Finally, the Commission acknowledges reports of discrimination and violence against LGBTI persons, including the murder of transgender women.[[1504]](#footnote-1504)
25. With regard to the rights of **persons of African descent and against racial discrimination**, the Inter-American Commission positively observed the inclusion of six regions of the country in the creation of the National Policy of the Afro-Peruvian Community (PNPA). The Ministry of Culture has scheduled several workshops to collect input from regional and local authorities, civil servants, representatives of Afro-Peruvian organizations, and the wider public to improve the proposed public policy.[[1505]](#footnote-1505)
26. The IACHR welcomed the meeting between the Ministry for Women and Vulnerable Populations and the Afro-Peruvian Women Working Group to set a priority work agenda for gender equality with the objective of promoting the rights of Afro-Peruvian women. According to available sources, the meeting was an opportunity to receive requests and lists of priority needs from the leaders of the organizations who were part of the working group, who experience complex discrimination due to intersecting factors of ethno-racial origin and gender.[[1506]](#footnote-1506)
27. Regarding the **rights of indigenous peoples**, the IACHR continued to receive reports that people in leadership roles and indigenous leaders who defend human rights of their peoples and communities in Peru’s Amazon region are still subjected to threats, assaults, and murder. This is happening in a context of a rise in illitic economies and activities from the region’s extractive and agricultural industries, which affect indigenous peoples’ rights to their ancestral territories and self-determination.[[1507]](#footnote-1507)
28. In that vein, the Commission received information from the State about serious incidents related to the investigations into the deaths of Estela Casanto Mauricio, Yenes Ríos Bonsano, and Herasmo García Grau that particularly impacted the native Shankivironi, Puerto Nuevo y Sinchi Roca, and Santa Clara de Uchunya communities. The Commission also learned of the measures that have been taken to combat the structural causes of the risks faced by advocates and members of the native communities of the Peruvian Amazon and the attacks against them.
29. The Commission also noted that the legislative session in Congress included four bills concerning the rights of indigenous or native and Afro-Peruvian peoples, which sought to recognize legal personhood for indigenous or native and Afro-Peruvian peoples; grant amnesty to prosecuted authorities and members of indigenous peoples; bring about intercultural coordination between indigenous peoples’ judicial systems and State institutions, and promote the titling of territorial property of indigenous or native and Afro-Peruvian peoples.
30. Regarding **persons deprived of liberty**, according to the National Penitentiary Institute, the prison population was 87,332 as of August 2021.[[1508]](#footnote-1508) Considering that the official capacity of the penitentiary system in August 2021 was 41,123 people, the overpopulation level stood at 112%.[[1509]](#footnote-1509) The IACHR was informed of barriers to verifying detention conditions. For example, the IACHR received reports that the National Mechanism for the Prevention of Torture (MNPT) suspended its supervisory visits to all detention centers when mandatory social distancing measures took effect. According to those reports, the Mechanism only resumed in-person visits in other places of deprivation of liberty such as holding jails for requisitories , police stations, and residences for children and older adults.[[1510]](#footnote-1510)
31. Regarding the situation of **persons in human mobility**, the Commission notes the decision of the National Superintendency of Migration and the Ministry of Health to include all persons in a situation of mobility, regardless of their immigration status, in the National Registry for Universal Vaccination to obtain the COVID-19 vaccine.[[1511]](#footnote-1511)
32. Regarding **human trafficking**, the Commission notes the passage of the National Policy against Trafficking in Persons and its Forms of Exploitation through 2030, which proposes a multisector strategy to address and fight these crimes.[[1512]](#footnote-1512) The IACHR also acknowledges the bilateral agreement between Bolivia and Peru to reinforce efforts against human trafficking, migrant smuggling, and related crimes, which aims to build cooperation and coordination between the parties through the establishment of mechanisms for prevention, prosecution, assistance, and the reintegration of victims.[[1513]](#footnote-1513)

**SAINT VINCENT AND THE GRENADINES**

* **General considerations**
1. As for **progress,** the IACHR welcomes the efforts of the State to update the National Action Plan to combat human trafficking. Additionally, it notes the State’s efforts to provide gender-sensitive responses in contexts of natural disasters. It further takes note of the State’s efforts to examine national policies and systems relating to persons displaced by climatic and environmental factors.
2. With regard to **challenges,** the Commission notes the failure to establish a national human rights institution in accordance with the Paris Principles. The IACHR is also concerned about reports of excessive use of force by agents of the Royal Saint Vincent and the Grenadines Police Force. Additionally, it notices challenges faced by children with disabilities in accessing education. Lastly, it notes the State’s lack of progress in decriminalizing consensual sex acts between same sex partners, and with respect to the abolition of the death penalty.
3. The State did not respond to the request for information submitted to it for preparation of this chapter.
* **Specific issues**
1. In relation to the crosscutting pillar of **human rights institutions,** the IACHR is concerned about the failure to establish a national human rights institution in accordance with the Paris Principles.[[1514]](#footnote-1514) In this context, the Commission notes that, in the framework of the Universal Periodic Review (UPR), the State expressed its intention to conduct a study on the most feasible way to establish the NHRI, and the need to have a National Human Rights Action Plan in place in order to advance, promote and protect human rights.[[1515]](#footnote-1515) On this score, the Commission expresses its willingness to provide technical assistance, in order to move forward in the process of human rights institution building.
2. Additionally, the IACHR has said that the analysis of the State’s fiscal and budget policies to fund human rights institutions is supplementary to such a framework. Thus, the Commission takes note of the information published and the measures taken by the Ministry of Finance, Economic Planning, Sustainable Development and Information Technology to promote transparency in budget planning.[[1516]](#footnote-1516) The IACHR recalls that the same human rights approach taken in every public policy formulation cycle, should also be followed in the process of formulating the budget.[[1517]](#footnote-1517)
3. As for **democratic institutions,** the Commission observes that according to the Rule of Law Index, issued by the World Justice Project, the State placed fifth out of 32 countries of the region of Latin America and the Caribbean; and 38th out of 139 countries worldwide. This global ranking is based on the State’s adherence to the universal principles of accountability, absence of corruption, compliance with the law, open government and civil justice, among other factors.[[1518]](#footnote-1518)
4. In the area of **citizen security,** the Commission takes note of the violence that took place during demonstrations in Kingstown, and the reports of excessive use of force by the Royal Saint Vincent and the Grenadines Police Force (RSVGPF). The IACHR notes that demonstrations were held to protest the announcement of amendments to the Public Health Act, which proposed mandatory COVID-19 vaccination for certain categories of frontline workers serving the public.[[1519]](#footnote-1519) On August 5, these demonstrations turned violent and left the Prime Minister injured.[[1520]](#footnote-1520) In this context, the Commission and its Special Rapportuership for Freedom of Expression condemned the acts of violence and the assault on the Prime Minister. They also urged the state to investigate the events with due diligence and adopt the measures necessary to ensure that the right to protest is exercised in accordance with Inter-American human rights standards.[[1521]](#footnote-1521)
5. Additionally, in the framework of the third Universal Periodic Review, the State expressed its intention to enhance further the human rights component of the RSVGPF academy curriculum, and provide additional training to officers about how to defuse violent situations.[[1522]](#footnote-1522) Nonetheless, the IACHR received public information about incidents relating to the excessive use of force by the RSVGPF agents, which led to at least three individuals requiring medical care.[[1523]](#footnote-1523)
6. As for the **rights of children and adolescents,** the IACHR notes the measures to raise awareness about child abuse and the lack of inclusion of children with disabilities in the education system. As for child abuse awareness-raising measures, the Commission welcomes the launching of “Child Abuse Prevention Awareness Month” by the Childhood Development Division. Under the slogan “Watch! Suspect! Talk! Protect our children during Covid-19,” this campaign is aimed at bringing about great awareness among the population about child abuse and neglect during the COVID-19 pandemic and to encourage reporting such incidents.[[1524]](#footnote-1524)
7. The IACHR is also concerned that, according to a report of United Nations Educational Scientific and Cultural Organization (UNESCO), children with disabilities are not being included in regular classes and, consequently, they are being denied an equal right to education. Additionally, there are only three education facilities for children with disabilities on the island, and their locations are not conveniently located to where this population resides. Moreover, the aforementioned report notes that there is a shortage of teachers with the necessary skills to teach children with special educational needs.[[1525]](#footnote-1525)
8. With respect to **human mobility,** the Commission notes that, along with the other Members states of the Organization of Eastern Caribbean States (OECS), Saint Vincent and the Grenadines is working with the International Organization for Migration (IOM) to analyze policies and national systems for the management and submission of information relating to the movement of persons resulting from climatic and environmental factors.[[1526]](#footnote-1526)
9. In the area of **forced internal displacement,** the Commission notes that according to the most up-to-date United Nations data, the eruption of *La Soufrière* volcano, on April 9, 2021, led to the forced displacement of at least 20,000 persons. This figure represents 20% of the total population of the country.[[1527]](#footnote-1527) In this context, the IACHR is concerned that the government set up 85 emergency shelters to provide resources in the short term, even though some people were unable to return to their homes within such a time period.[[1528]](#footnote-1528)
10. As for **trafficking in persons,** the IACHR observes that the State is working on updating the 2021-2025 National Plan of Action to combat human trafficking.[[1529]](#footnote-1529) Additionally, it takes note of the efforts it made to build the capacity of the security forces to prevent human trafficking, as well as to educate officers and victims about available resources.[[1530]](#footnote-1530)
11. The Commission further notes that the Office of the United Nations High Commissioner for Human Rights recommended Saint Vincent and the Grenadines to implement human trafficking prevention in a more effective manner, its 2011 Law and national plan, since fewer victims have been identified, and a lower number of traffickers have been investigated, prosecuted and convicted.[[1531]](#footnote-1531) In addition, it urged the State to ensure that business enterprises and their subsidiaries operating or managed out of Saint Vincent and the Grenadines, particularly in child sex tourism and trade, are held criminally liable.[[1532]](#footnote-1532)
12. With respect to **the human rights of women,** the IACHR welcomes the State’s efforts, in conjunction with United Nations agencies in the framework of the EnGenDER Program, to provide gender sensitive responses in contexts of natural disasters, such as the eruption of *La Soufrière* volcano in April 2021. In particular, the Commission takes note of a report that explains the risk of gender-based violence at shelters, as well as the recommendations to mitigate such risks. It further takes note of the awareness-raising workshops on gender violence given at emergency shelters to disseminate information about how to obtain care and assistance services.[[1533]](#footnote-1533)
13. As for the rights of **LGBTI persons,** the Commission is concerned about the lack of progress in decriminalizing the offenses of “sodomy” and “lewd practices between persons of the same sex”, as established in the Criminal Code, which are punished with jail terms of up to ten years, even when they are carried out in the private sphere. In this regard, the IACHR reiterates that provisions of law punishing a particular group of persons of the same gender for participating in a consensual sex act or practice are not acceptable, inasmuch as they are at odds with the ban on sexual orientation-based discrimination.[[1534]](#footnote-1534) Additionally, the IACHR stresses that these laws reinforce existing social prejudices and considerably magnify the negative effects these prejudices have on the lives of LGBTI persons.[[1535]](#footnote-1535)
14. With respect to the rights of **persons deprived of liberty,** the Commission welcomes the measures taken by the State to improve the treatment of persons deprived of liberty in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). According to information provided by the State during its third Universal Periodic Review, the Government seeks: i) to introduce a Prisoner Classification System whereby offenders are classified based on factors such as offense and age; ii) to facilitate greater access to medical care for persons deprived of liberty; and iii) to implement programs aimed at rehabilitation. Additionally, it is building a new prison for women that is expected to provide a more appropriate setting for rehabilitation.[[1536]](#footnote-1536)
15. With regard to the **death penalty,** the Commission expresses its concern over the lack of progress in abolishing this punishment, even though no executions have been carried out since 1995.[[1537]](#footnote-1537) The IACHR also notes that the courts have not imposed any further death sentences, though it views with concern that at least one person remains on death row.[[1538]](#footnote-1538) The IACHR emphasizes that the death penalty is a violation of the right to life, and that the States must take measures to abolish it.

**SAINT LUCIA**

* **General considerations**
1. As regards **progress**, the IACHR takes note of the State’s commitment to fight corruption. The Commission also observes the actions implemented by the State to strengthen the capacity of the police to respond to the prevalence of the violence related to firearms. In addition, the IACHR welcomes the implementation of the project to provide specialized training to students with disabilities and their teachers. The Commission further takes note of the State’s efforts to improve comprehensive care for the survivors of gender-based violence. The IACHR also highlights the measures aimed at analyzing the national policies and systems in relation to persons displaced by climatic and environmental factors. Finally, the Commission notes the incorporation of the Inter-American SIMORE (System for Monitoring Recommendations) to the work of the National Coordinating Committee for Human Rights.
2. As for the **challenges**, the IACHR observes with concern the high unemployment rate among women, as well as their low representation in the House of Assembly. In addition, the Commission notes persistent criminalization of consensual sexual acts between persons of the same sex. In addition, it notes the lack of progress towards abolishing the death penalty.
3. The State did not respond to the request for information submitted for the drafting of this chapter.
* **Specific Issues**
1. As regards the **human rights institutional framework**, the Commission observes that Saint Lucia has an Office of the Ombudsman and that it is a member of the Caribbean Ombudsman Association. Nonetheless, it has not been recognized as a national human rights institution. The Commission also takes note of the creation of a mechanism for interinstitutional coordination to monitor and report on the human rights situation in the country, in keeping with its international obligations in respect of human rights. Thus, the Commission welcomes the work of the National Coordinating Committee for Human Rights[[1539]](#footnote-1539), which serves as a national mechanism for presenting reports and follow-up, with the mandate of surveilling and reporting on the national human rights situation.[[1540]](#footnote-1540) In addition, the Commission welcomes the incorporation of the Inter-American SIMORE as one of the tools for working and monitoring that has been adopted by the National Coordinating Committee for Human Rights.[[1541]](#footnote-1541)
2. As regards Saint Lucia’s initiative to request technical assistance to strengthen its officials’ capabilities in 2020, the IACHR notes that on May 28, 2021, the second training session was held on inter-American standards to fight racial discrimination and discrimination against women, led by Commissioner Margarette Macaulay. It included the participation of officials from the Ministry of External Affairs, other representatives of the State, and the resident representative of the OAS in the country. The IACHR reiterates its willingness to continue providing technical cooperation in this area and to work on a joint agenda with the State to ensure continued opportunities for capacity-building; and it urges the State to continue its efforts to establish a national human rights institution.
3. As regards the **democratic institutional framework**, the IACHR notes that general elections were held on July 26, 2021[[1542]](#footnote-1542), and that the State has continued efforts to fight corruption. As for the general elections, the opposition Labour Party of Saint Lucia won 13 of the 17 legislative districts in the country, with approximately 54% of the electorate participating in the elections.[[1543]](#footnote-1543) According to information provided to the OAS Observation Mission, in all 174,270 names were included in the voter rolls used in the 2021 general elections. This figure appears to be quite high in light of Saint Lucia’s estimated population (184,000). Moreover, the OAS mission observed that while the law ordered a periodic updating of the voter rolls, no effective procedure has been adopted to do so. Accordingly, the Mission recommended that the Elections Act be amended to provide for performing a complete house-by-house registration to replace the existing voter rolls, and subsequently allow for periodic verification of the rolls.[[1544]](#footnote-1544)
4. With respect to the State’s efforts to fight corruption, according to publicly-available information, the State is seeking to strengthen the Integrity Commission so that it can take more significant measures against civil servants and politicians involved in acts of corruption. In addition, it would propose the appointment of a special prosecutor to investigate the reports of corrupt acts committed in previous years.[[1545]](#footnote-1545) The IACHR also observes that according to the Rule of Law Index presented by the World Justice Project, the State ranked ninth out of 32 countries of the Latin American and Caribbean region for absence of corruption.[[1546]](#footnote-1546) This factor measures the prevalence of bribery and other incentives in the provision of public services; whether public procurement and public works contracts are awarded by an open and competitive bidding process; and whether government officials refrain from embezzling public funds.[[1547]](#footnote-1547)
5. In the area of **citizen security**, the IACHR observes the actions implemented by the State in response to the prevalence of violence related to firearms. According to publicly-available information, persons have been affected by several cases of homicides related to firearms.[[1548]](#footnote-1548) In response, the Royal Saint Lucia Police Force (RSLPF) undertook a number of exercises to fight crime, including increasing patrols and searches in specific places, which resulted in the seizure of illegal firearms.[[1549]](#footnote-1549) In addition, the IACHR notes that the State, in collaboration with the United Nations Office on Drugs and Crime (UNODC) and the Caribbean Community Implementation Agency for Crime and Security, has trained officers of the RSLPF to detect firearms trafficking.[[1550]](#footnote-1550) Finally, the Commission takes note of the State’s commitment to the 2020 Caribbean Firearms Roadmap, which promotes the adoption of sustainable solutions to control the unlawful possession and use of firearms and munitions.[[1551]](#footnote-1551)
6. Regarding the **rights of the child**, the Commission highlights the implementation of the specialized training project for students with disabilities and their teachers. The IACHR observes that the State, in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO), provided pilot training on the use of a specialized system of online reading for students and teachers from six national schools attended by children with disabilities. According to the official information, the objective of that project is to train teachers to support students with disabilities in their own learning styles. In addition, it will contribute to equitable access to education for the children of Saint Lucia.[[1552]](#footnote-1552)
7. As regards the **human rights of women**, the IACHR values the efforts of the State together with United Nations agencies to improve comprehensive care for the survivors of gender violence, including timely access to professional services and up-to-date information on where to routes of care services.[[1553]](#footnote-1553) In addition, it observes that unemployment among women as of the second quarter 2021 was 25.3%, whereas the unemployment rate for men was 20.9%.[[1554]](#footnote-1554) Finally, it takes note of the low level of representation of women in the House of Assembly, as they hold only 11.76% of the seats after the general elections held in July 2021.[[1555]](#footnote-1555)
8. With respect to **persons in human mobility**, the Commission observes that Saint Lucia, together with the other member states of the Organization of Eastern Caribbean States (OECS), is working with the International Organization for Migration (IOM) to analyze policies and national systems for the management and presentation of relevant information related to the forced displacement of persons due to climatic and environmental factors.[[1556]](#footnote-1556).
9. As regards **LGBTI persons**, the Commission observes with concern that the Criminal Code continues to include the crimes of “buggery” and “gross indecency,” which have a the effect of stigmatizing this population.[[1557]](#footnote-1557) The IACHR reiterates that provisions that punish a given group of persons for participating in a consensual sexual act or practice with another person of the same sex are not admissible, since they are directly at odds with the prohibition on discrimination on grounds of sexual orientation.[[1558]](#footnote-1558) In addition, the IACHR recalls that these laws reinforce already-existing social prejudices and considerably increase the negative effects that these prejudices have on the lives of LGBTI persons.[[1559]](#footnote-1559)
10. With respect to the **rights of persons deprived of liberty**, the IACHR observes that in response to outbreaks of COVID-19 within the prisons the authorities have applied the health protocols in place, provided medical care, and isolated the persons who test positive. In addition, they are working to contain internal transmission of the virus.[[1560]](#footnote-1560)
11. As regards the **death penalty**, the IACHR observes that no progress has been made towards abolishing this penalty, even though no executions have been carried out since 1995, and as of August 2021 no person had been sentenced to death. In addition, the Commission observes that no one is on death row.[[1561]](#footnote-1561) In this context, civil society organizations have appealed to the State to abolish the death penalty.[[1562]](#footnote-1562) The IACHR notes that this penalty is a violation of the right to life and the obligation of the states to adopt measures to abolish it.

**SAINT KITTS AND NEVIS**

* **General considerations**
1. In terms of **progress**, the Commission highlights the vaccination of approximately 50 percent of the persons deprived of their liberty at the country’s prison. The IACHR also takes note of the State’s efforts to analyze national policies and systems in relation to persons displaced by climate-related and environmental factors.
2. With respect to **challenges**, the IACHR notes with concern the failure to establish a national human rights institution in accordance with the Paris Principles. It is also troubled by excessive use of force by the Royal St. Christopher and Nevis Police Force. In addition, the Commission is concerned about the continued criminalization of consensual sexual acts between persons of the same sex. It also expresses its concern over reports of an increase in the number of women who are victims of domestic violence[[1563]](#footnote-1563) and regrets the lack of progress with the abolition of the death penalty.
3. The State did not respond to a request for information for the preparation of this chapter.
* **Specific issues**
1. With respect to the cross-cutting issue of **human rights institutions**, the Commission notes that St. Kitts and Nevis has an ombudsperson’s office. The office is a member of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutes. However, to date, the State has not complied with the recommendation to establish a national human rights institution in accordance with the Paris Principles.[[1564]](#footnote-1564)
2. In terms of **democratic institutions**, the IACHR notes that according to the Rule of Law Index prepared by World Justice Project, Saint Kitts and Nevis ranks seventh out of 32 countries in the Latin American and Caribbean region, and fortieth out of 139 worldwide. This global ranking is based on the State’s adherence to universal principles of accountability, fair laws, absence of corruption, regulatory enforcement, open government, civil justice, and conflict resolution, among other factors.[[1565]](#footnote-1565)
3. With regard to **citizen security**, the IACHR is concerned about the excessive use of force by the Royal St. Christopher and Nevis Police Force (RSKNPF). According to public information, during a demonstration against the COVID-19 vaccine in August, members of the police force used tear gas to disperse the crowd. This reportedly resulted in respiratory problems for several of the protesters, who needed medical attention.[[1566]](#footnote-1566)
4. As for **access to justice**, the Commission welcomes the opening of an annex to the Sir Lee L. Moore Judicial Complex. According to the State, the incorporation of the annex is expected to strengthen the services provided at the Judicial Complex. In addition, by housing a third magistrates’ court and a mediation center for criminal and family matters, the annex is intended to increase access to justice.[[1567]](#footnote-1567)
5. Regarding **children’s rights**, the IACHR takes note of the training provided to counselors on the treatment of juvenile substance abuse in March 2021. In this regard, the State’s National Council on Drug Abuse Prevention trained officials on methods of assisting and supporting youths struggling with substance abuse.[[1568]](#footnote-1568)
6. With regard to **persons in situations of human mobility**, the Commission notes that St. Kitts and Nevis, along with the other member states of the Organization of Eastern Caribbean States (OECS), is reportedly working with the International Organization for Migration (IOM) to analyze policies and national systems for the management and reporting of relevant information on the forced displacement of persons as a result of climatic and environmental factors.[[1569]](#footnote-1569)
7. In relation to the rights of **LGBTI persons**, the Commission expresses its concern about the lack of progress on the decriminalization of consensual sexual relations between persons of the same sex. The IACHR reiterates that provisions that punish a particular group of persons for engaging in a consensual sexual act or practice with another person of the same gender are unacceptable, as they are in direct conflict with the prohibition of discrimination on the basis of sexual orientation.[[1570]](#footnote-1570) Furthermore, it recalls that such laws reinforce existing social prejudice and significantly increase the adverse effects of such prejudice on the lives of LGBTI people.[[1571]](#footnote-1571)
8. Regarding **women’s human rights**, the IACHR is concerned about the increase in cases of domestic violence. According to information from the Ministry of Social Development and Gender Affairs, a total of 443 cases were registered by September 2021, compared with 357 cases reported in 2020 as a whole.[[1572]](#footnote-1572)
9. In relation to **persons deprived of their liberty**, the IACHR notes that as of July 2021, approximately 50 percent of the 179 persons detained at Her Majesty’s Prison had received at least one dose of the COVID-19 vaccine.[[1573]](#footnote-1573) The Commission recalls that, in accordance with its Resolution No. 01/2021, States should prioritize the vaccination of persons at greater risk of infection. In addition, they should consider the special situation of vulnerability faced by persons in contexts of deprivation of liberty, including persons detained in prisons or jails.[[1574]](#footnote-1574)
10. Regarding the **death penalty**, the IACHR is concerned about the lack of progress with its abolition, despite the fact that no executions have been carried out since 2008.[[1575]](#footnote-1575) It further notes that there is currently no one awaiting execution and no new death sentences have been imposed by the country’s courts.[[1576]](#footnote-1576) In this context, the Commission takes note of the commitment made by the State during its third Universal Periodic Review to give due consideration to the recommendations made on the abolition of the death penalty.[[1577]](#footnote-1577) In this regard, the IACHR recalls that the death penalty is a violation of the right to life, and that States should adopt measures to abolish it.

**SURINAME**

* **General considerations**
1. In terms of the State’s **progress**, the IACHR notes that post‑election discussion forums were held to assess the 2020 general elections. It also notes that the first national risk assessment on corruption in government agencies was carried out. The Commission welcomes the Constitutional Court’s decision that declared the unconstitutionality of the amendment to the 2012 Amnesty Law, as well as the Court’s commitment to the protection of fundamental human rights. Moreover, the IACHR notes the measures taken to train school personnel to identify child abuse, and the establishment of committees to prevent suicide among adolescents. Lastly, the IACHR welcomes the high proportion of women serving at the High Court of Justice.
2. As for **challenges**, the Commission notes with concern the lack of headway in launching the National Human Rights Institute and appointing an official to lead it. The IACHR also expresses concern over the reports of sexual violence against women. The Commission regrets that the voluntary interruption of pregnancy continues to be fully criminalized and expresses concern over reports of sex trafficking of indigenous girls. The IACHR notes that indigenous and tribal peoples in the country have not been legally recognized. Lastly, the Commission calls attention to the absence of social reintegration programs for persons deprived of liberty.
3. The State did not respond to a request for information to prepare this chapter.
* **Specific issues**
1. On the crosscutting issue of **human rights institutions**, the IACHR notes that, while the National Human Rights Institute was established in 2016 to promote and protect human rights in Suriname, to date, no official has been appointed to lead it, and the institution has not been made operational.[[1578]](#footnote-1578) The State reported to the Commission that it was considering the possibility of establishing an Office of the Ombudsman.[[1579]](#footnote-1579) In that regard, the IACHR has stressed the importance of having an independent body to promote and protect human rights at the national level and places its technical cooperation mechanism at the disposal of the State to help strengthen institutions in this area.
2. The Commission also notes that, as part of its Universal Periodic Review, the State reported that the Ministry of Home Affairs, in coordination with the UNDP, had offered training workshops to law enforcement officers on gender, women’s rights and violence against security agents. The State also reported that seminars on discrimination and violence against LGBTI persons had been held.[[1580]](#footnote-1580)
3. Regarding **democratic institutions**, the Commission notes that post‑election discussion forums were held, and the State’s first national risk assessment was conducted. The objective of the discussion forums was to assess the general elections held in May 2020. The forums brought together numerous political parties, representatives of the Independent Electoral Council and the Central Polling Station, and district commissioners, who contributed to the discussion on measures to improve the organization of elections. The IACHR notes that a list of recommendations compiled at these forums was reportedly examined more closely by the General Secretariat of Elections for its implementation. Based on information from official sources, these recommendations aim to improve the management of the electoral process and reduce the number of invalid ballots.[[1581]](#footnote-1581) On this matter, the Commission stresses that political rights are conducive to the strengthening of democracy and political pluralism, and emphasizes the direct relationship between the exercise of political rights and the concept of democracy as a way of organizing the state.[[1582]](#footnote-1582) The Commission also emphasizes that strengthening political rights is essential for democracy in accordance with Article XX of the American Declaration.[[1583]](#footnote-1583)
4. The Commission also notes that the State performed its first national risk assessment on corruption in government agencies, which was submitted in March 2021. This report includes detailed information on how drug trafficking, robbery, and fraud are the greatest threat to the State. The report also points out that bribery and corruption are deeply engrained in numerous government agencies, which allows criminals to evade detection and enforcement actions and avoid punishment.[[1584]](#footnote-1584) Given this, the IACHR welcomes the fact that the State has consulted all stakeholders on the implementation of the recommendations in this report, in order to fight corruption and increase transparency.[[1585]](#footnote-1585)
5. On **access to justice**, the IACHR takes note of the Constitutional Court’s ruling that the 2012 amendment to the Amnesty Law was unconstitutional, as well the Court’s commitment to the protection of fundamental human rights. Regarding the unconstitutionality of the 2012 amendment to the Amnesty Law, public information shows that seven members of the National Assembly filed a motion for review of the amendment,[[1586]](#footnote-1586) arguing that it violated Articles 8 (right to equality before the law), 10 (right to a fair trial), 14 (right to life), and 131 (prohibition on interference in investigations and trials) of the Constitution of Suriname.[[1587]](#footnote-1587) The petitioners also held that the amendment violated Articles 1 (obligation to respect rights), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights.[[1588]](#footnote-1588) Based on information available to the Commission, the 2012 amendment to the Amnesty Law granted immunity to former president Desiré Bouterse and 24 other individuals who were on trial for the alleged abduction and murder of 15 prominent political opponents in December 1982.[[1589]](#footnote-1589)
6. In its ruling issued on July 22, 2021, the Constitutional Court found that the Amnesty Law violated Articles 8 and 10 of Suriname’s constitution because it infringed upon the people’s right to equal protection before the law, since individuals suspected of committing other crimes did not have access to an equal provision or means of being granted amnesty.[[1590]](#footnote-1590) The Court also discussed decisions handed down by the Inter‑American Commission on Human Rights and the Inter‑American Court of Human Rights.[[1591]](#footnote-1591) In particular, the Court held that the law violated Articles 8 and 25 of the American Convention, as it sought to terminate any criminal proceedings or sentence related to the crimes committed, thereby violating the right of individuals to access to justice in the event of a violation of their rights. In this context, the Commission notes that in August 2021, the National Assembly voted to repeal the 2012 amendment to the Amnesty Law.[[1592]](#footnote-1592) The IACHR also emphasizes that, in cases of grave human rights violations, amnesty laws are expressly incompatible with the American Convention. The Inter‑American Court, for its part, has established that these laws constrain the investigation and punishment of those responsible for serious human rights violations and, consequently, impede the access of victims and their families to the truth of what happened, and to appropriate reparations, thereby hindering the full, timely, and effective rule of justice in the relevant cases, which favors impunity and arbitrariness.[[1593]](#footnote-1593)
7. Regarding the commitment to address demands related to the protection of fundamental human rights, the Commission notes that the Constitutional Court plans to launch an educational campaign to make the general public aware of its right to file motions with the Court. In particular, the IACHR notes that the Court would seek to form a national level network with various civil society organizations to strengthen the protection of human rights. The President of the Court has also stated that the power to review administrative decisions that violate fundamental rights would offer an additional layer of protection for the rights of the people.[[1594]](#footnote-1594)
8. In terms of **the rights of children and adolescents**, the IACHR notes that the National Action Plan for Children 2019‑2021 has been established, facilitators have been trained to identify child abuse, and a committee to prevent suicide among young people has been formed. Regarding the National Action Plan, the Ministry of Social Affairs and Housing stated that the plan aims to facilitate, coordinate, and integrate the implementation of laws, policies, and programs with the goal of creating optimal development opportunities for children.[[1595]](#footnote-1595)
9. The IACHR also notes that the State took the initiative to train childcare facilitators and coordinators to identify and put a stop to child abuse. This training included coordinators from various primary schools, school counselors, and special education teachers of children and adolescents.[[1596]](#footnote-1596)
10. The Commission takes note of the creation by the State of the Committee on Suicide Prevention and Psychosocial Counseling. This committee brings together representatives of several ministries and, among other things, seeks to develop an action plan to provide advisory support for the creation of a policy that effectively prevents suicides among young people.[[1597]](#footnote-1597)
11. In terms of **persons in situations of human mobility**, the IACHR notes that, based on the most up‑to‑date information from the Global Detention Project (GDP), Suriname faces a complex situation as a country of origin, transit, and destination of mixed migratory movements. The GDP has been unable to determine the following: (i) whether the State’s detention centers are also used to detain persons being penalized under the Immigration Act; and (ii) whether during the COVID‑19 pandemic, measures were taken to protect individuals in immigration custody or those that may require international protection.[[1598]](#footnote-1598)
12. As for **human trafficking**, the Commission notes with concern that, based on the Suriname Report of the Office of the United Nations High Commissioner for Human Rights, children in the country were subjected to sex trafficking, in particular, girls from Amerindian communities in regions where mining and forestry operations were taking place, who were reportedly coerced to engage in commercial sex, sex tourism, prostitution, and forced labor.[[1599]](#footnote-1599) The Commission also notes that the aforementioned report urges the State to: (i) investigate, prosecute, and adequately punish perpetrators; (ii) ensure that victims of trafficking and prostitution were exempted from criminal liability; and (iii) provide victims with adequate protection, remedies, and reparations, including temporary residence permits, medical care, psychosocial counseling, rehabilitation, and reintegration support and compensation.[[1600]](#footnote-1600)
13. In relation to the **human rights of women**, the IACHR welcomes the significant participation of women at the High Court of Justice, where they make up 55% of its members.[[1601]](#footnote-1601) The Commission also views positively the fact that the Bureau of Gender Affairs is joining the United Nations 16 Days of Activism against Gender‑based Violence campaign in order to call on ministries, government agencies, and other stakeholders to take measures to raise awareness of and reduce violence against women.[[1602]](#footnote-1602) The Commission also notes with concern that, based on public information, in 2021, incidents involving sexual violence against women and girls took place.[[1603]](#footnote-1603) Lastly, the IACHR laments that the voluntary interruption of pregnancy continues to be fully criminalized; nonetheless, it takes note of the statements made by the Minister of Health on the need to discuss the potential decriminalization of this procedure.[[1604]](#footnote-1604)
14. Regarding women deprived of liberty, the IACHR received official information about this population while preparing a report on the subject. In particular, the State reported that through February 2021, there were 15 women deprived of liberty in the country, which accounted for 5.6% of the total prison population. It added that women were held individually, which, according to the State, ensured their safety and privacy. The State also reported that it had provided access to a medical clinic within the women’s area. Despite this, the IACHR is concerned over the lack of social reintegration programs in the country’s men’s and women’s jails.[[1605]](#footnote-1605) The Commission stresses that these programs are essential to the rehabilitation of persons deprived of liberty and help to reduce recidivism.
15. As for the **rights of indigenous peoples**, the Commission notes that the draft Law on the Collective Rights of Indigenous and Tribal Peoples and the proposed constitutional amendment that would seek to recognize indigenous and tribal peoples—submitted to the Council of Ministers on October 1, 2019—have been under consideration by the Parliament since April 8, 2020.[[1606]](#footnote-1606) The Commission notes that these proposals are the result of a “formal, participatory albeit still government‑led process for developing legislation on the rights of Indigenous and Tribal Peoples … ”.[[1607]](#footnote-1607) The IACHR urges the State to recognize indigenous and tribal peoples and their rights in its Constitution, and to pass legislation to recognize and protect their lands and natural resources. By doing so, the State would address a long‑standing demand of these peoples, while complying with judgements handed down by the Inter‑American Court of Human Rights in the cases of the *Saramaka* peoples and *Kaliña* and *Lokono* peoples, both against Suriname.

**TRINIDAD AND TOBAGO**

* **General Considerations**
1. In terms of **progress,** the Commission welcomes the strengthening of justice institutions through the creation of the Princes Town Family Court, the decrease in cases of sexual violence against women, and the legislative reforms adopted by the State to protect victims of gender‑based violence. The IACHR also takes note of the measures adopted to protect Venezuelan migrants, and of laws passed to criminalize the recruitment of children and adolescents by illicit groups.
2. Regarding **challenges**, the IACHR notes with concern the reports of police abuse and the abuse of children in public institutions charged with their care. The Commission is also concerned about the detention and deportation of persons seeking asylum—including children—and the increase in domestic violence and acts of abuse against older persons. Lastly, the IACHR notes the persistent deplorable conditions faced by persons deprived of liberty and the lack of progress made in eliminating the death penalty from the State’s laws.
3. The State did not respond to the request made in relation to the preparation of this chapter.
* **Specific topics**
1. Regarding **human rights institutions**, Trinidad and Tobago has an Office of the Ombudsman, which is incorporated into its parliament. The ombudsman is appointed by the president after consultation with the prime minister and leader of the opposition.[[1608]](#footnote-1608) The Commission takes note of the appointment of the fifth ombudsman, Rajmanlal Joseph, who began serving his three‑year term in May of this year.[[1609]](#footnote-1609)
2. As for **democratic institutions**, the IACHR notes that the State held elections for the House of Assembly of Tobago on January 25 and December 6, 2021.[[1610]](#footnote-1610) For the January 2021 elections, the official results published by the Elections and Boundaries Commission show that the People’s National Movement and Progressive Democratic Patriots—the two main political parties—each won 6 of the 12 electoral districts, resulting in an unprecedented tie.[[1611]](#footnote-1611) This reportedly led to a situation where the twelve recently elected members of the House were unable to agree on the election of a presiding officer, thus, the House of Assembly could not be properly established.[[1612]](#footnote-1612) To resolve this situation, on March 2, 2021, the Parliament of Trinidad and Tobago passed an amendment to the Tobago House of Assembly Act that allowed the Elections and Boundaries Commission to review and redefine the electoral boundaries to create 15 electoral districts.[[1613]](#footnote-1613) Subsequently, on December 6, 2021, Tobago held new elections, which resulted in the Progressive Democratic Patriots winning 14 of the 15 electoral districts.[[1614]](#footnote-1614)
3. In terms of **citizen security**, according to public information, in the month of September, there were 27 homicides with the alleged involvement of the police.[[1615]](#footnote-1615) The Commission also takes note of the recent investigation conducted by the Police Complaints Authority that revealed that two individuals in custody charged with kidnapping allegedly lost their lives due to torture and acts of violence perpetrated by the police.[[1616]](#footnote-1616)
4. With respect to **access to justice**, the IACHR welcomes the fact that justice institutions have been strengthened through the creation of the Princes Town family court—the first court devoted to family cases in the southern region—, which seeks to assist families, children, and adolescents in the communities ofPrinces Town, Mayaro, Rio Claro, New Grant, and Tableland.[[1617]](#footnote-1617)
5. In relation tothe **human rights of women**, the IACHR takes note of the decrease in cases of sexual violence compared to the previous year. According to official information, from January to October 2021, there were 301 cases of rape, incest, and sexual assault, while over the same period in 2020, there were 372 cases.[[1618]](#footnote-1618) Nevertheless, the Commission notes with concern that domestic violence has increased; according to official information, from January to March 2021, there were 826 cases, while over the same period in 2020, there were 556 cases.[[1619]](#footnote-1619) Despite this, the IACHR welcomes the efforts made to provide training through the Spotlight Initiative, which seeks to equip frontline healthcare workers with skills to identify violence in a clinical context and offer support to survivors.[[1620]](#footnote-1620)
6. The IACHR notes that, in order to prevent sexual violence, the State established the National Sex Offender Register and the Public Sex Offender Website to compile information on individuals convicted of crimes including rape and sexual assault, as well as human trafficking.[[1621]](#footnote-1621)
7. In terms of the **rights of persons in the context of human mobility**, the Commission welcomes the Venezuelan migrant re‑registration exercise initiated by the State in March, which allows Venezuelans who registered in 2019 to extend their immigration status for six months. It also authorizes them to continue working formally and protects them from deportation.[[1622]](#footnote-1622) The IACHR takes note of the voluntary repatriation of least 700 Venezuelans that took place in April and June.[[1623]](#footnote-1623)
8. Nonetheless, the IACHR continues to note with concern that persons seeking asylum, including children and adolescents, have been summarily detained and deported.[[1624]](#footnote-1624) During the public hearing “Situation of the Human Rights of Migrant Persons and Individuals who are Deprived of Liberty in Trinidad and Tobago,” held at the 180th Period of Sessions, the petitioning organization reported to the Commission that any person who entered the country irregularly, including Venezuelans who were seeking asylum, was charged with illegal entry in accordance with the Immigration Act of 1976. These persons were detained and then placed on supervised release or deported to their country of origin. The organization also stated that conditions at the country’s jails and detention centers were deplorable, and that there was overcrowding and a lack of adequate sanitary installations to prevent the spread of COVID-19. It also noted that migrant children were often detained for prolonged periods and placed in cells with adults. Lastly the petitioning organization requested that the policy of detaining migrants be reformed in line with international human rights standards.[[1625]](#footnote-1625)
9. Regarding the **rights of children and adolescents**, the Commission notes the decrease in reports of sexual abuse, the ongoing persecution of this population by organized criminal groups, and the deaths of two adolescents under the care of the Children's Authority. According to public information, Child Protection Unit of the Police Service reported a decrease in child sexual abuse; from January to July 2021, there were 1,016 sex crimes, while over the same period in 2020 there were 1,210. The Child Protection Unit stated that such a drop could be attributed to COVID-19 containment measures, since acts of abuse were reported at educational centers.[[1626]](#footnote-1626)
10. The Commission also notes with concern the reports of criminal groups that seek to recruit children and adolescents. According to information provided by the police commissioner to a parliamentary committee, organized criminal groups were said to have actively recruited members as young as 14 and equipped them with firearms.[[1627]](#footnote-1627) In this context, the IACHR notes that the State enacted the Anti-Gang Act in 2021, which criminalizes the recruitment of this population by organized criminal groups.[[1628]](#footnote-1628)
11. The Commission also notes that, in response to the murders of two adolescents who absconded from a Child Support Center under the Children's Authority in March,[[1629]](#footnote-1629) as well as the reports of abuse taking place in this type of home, the Ministry of Gender and Child Affairs designated an independent team to investigate reports of abuse in, and abscondment from, children's institutions.[[1630]](#footnote-1630)
12. In terms of the rights of **persons deprived of liberty**, the Commission notes the efforts of modernization undertaken by the State to increase access of detainees to egal defense. For example, the Office of the Attorney General set up virtual prison visits for the Public Defenders’ Department to make it easier for inmates held at the Golden Grove Remand Prison who are receiving legal assistance to sign documents. According to public information, this initiative will speed up judicial processes, especially during the COVID-19 pandemic.[[1631]](#footnote-1631)
13. In relation to the **death penalty**, the IACHR notes that the State has failed to make progress in removing this sentence from the State’s laws. The courts continue to sentence individuals convicted of capital crimes to death. According to public information, a recent example of the use of the death penalty occurred on July 28, when a man convicted of murder was reportedly hanged.[[1632]](#footnote-1632) In June of this year, the IACHR referred two cases involving mandatory death sentences to the Inter‑American Court: *Reshi Bissoon and Foster Serrette*, and *Kevin Dial and Andrew Dottin*. The Commission reaffirmed that the mandatory imposition of the death penalty for all homicides violates the right to life (Article I), the right to a fair trial (Article XVIII), and the right to due process of law (Article XXVI) of the American Declaration on the Rights and Duties of Man. It also fails to individualize the sentence based on the nature of the offense, as well as the degree of involvement and culpability of the accused.[[1633]](#footnote-1633)
14. Regarding the **rights of older persons**, the Commission notes with concern that there has been a 13% increase in reports of abuse of older persons. According to information from the Ministry of Social Development and Family Services’ Division of Ageing, 174 cases of elderly abuse were reported in the first five months of 2021, compared to 153 cases reported over the same period in 2020.[[1634]](#footnote-1634) The IACHR also notes the webinar series on elderly abuse hosted by the Ministry of Social Development and Family Services in an effort to raise the population’s awareness on preventing abuse of older persons.[[1635]](#footnote-1635)

**UNITED STATES**

* **General considerations**
1. With respect to **progress**, the IACHR highlights the effective functioning of electoral and democratic institutions following the acts of violence against democratic institutions and procedures committed on January 6, 2021, in the Capitol of the United States of America. It also appreciates the efforts made during the year to rigorously investigate the facts and find the persons responsible. The IACHR welcomes the State's efforts to achieve a rapprochement with the international community on human rights and its return to the United Nations Human Rights Council.
2. In relation to **challenges**, situations that were previously observed such as racially biased police violence against people of African descent, the application of the death penalty, and mass shootings throughout the country, continue to be of particular concern. In addition, with respect to persons in a situation of human mobility, the IACHR expresses its concern about the difficulty the State is facing with amending restrictive migration policies and their impact on the guarantees of persons in a situation of human mobility. This is despite the diagnoses, public statements and executive orders issued by the State expressing concern and documenting a series of violations and risks generated by said policies.
3. The State did not reply to the request for information sent for the preparation of this chapter.
* **Specific issues**
1. With respect to the **COVID-19 pandemic**, in 2021, the Commission kept track of the measures adopted by the United States to combat the pandemic, its recovery efforts, and their impact on the comprehensive protection of the human rights of all persons under its jurisdiction. During the year, the Commission observed the challenges inherent in expanding vaccination rates and the persistence of high infection and death rates, especially in connection with the spread of new variants of the disease, such as the Delta and Omicron variants. Also of concern is the existence of anti-vaccine movements and groups, as well as the disproportionate effects faced by groups at special risk, such as indigenous people, people of African descent, older adults, migrants, and asylum seekers.
2. With regard to combating the pandemic, the IACHR followed up on the measures adopted and observed, at the end of 2021, an irregular pattern of recovery from the pandemic, with impacts on the economic and social rights of the population, and the resumption of local containment measures such as restrictions and the imposition of testing and vaccination certification as travel requirements in the context of the outbreak of the Omicron variant of COVID-19. More broadly, the IACHR notes widely varying infection and death rates in the territory during the period, and a concentration of cases in areas with lower vaccination indicators[[1636]](#footnote-1636). On infection and death rates, according to information from the Johns Hopkins University Coronavirus Resource Center, the United States continues to be the country in the world with the highest total number of infections and deaths from the COVID-19 virus. According to reported data, by the end of 2021 the country had recorded more than 50 million cases of contagion and almost 806,000 deaths[[1637]](#footnote-1637).
3. With respect to the cross-cutting issue of **human rights institutions**, the IACHR notes that the United States does not directly have a domestic institution at the federal level dedicated exclusively to the protection of human rights.[[1638]](#footnote-1638) At the same time, it welcomes the country's reintegration into the UN Human Rights Council elected in October 2021 for the three-year term beginning in 2022, [[1639]](#footnote-1639) after having left that Council in 2018[[1640]](#footnote-1640).
4. Regarding the robustness of **democratic institutions**, the Commission has been closely monitoring the acts of violence that occurred on January 6, 2021, the speeches and actions questioning the legitimacy of the electoral results for the federal government, as well as the investigation, punishment, and non-repetition measures adopted in response. It also notes with concern that, according to press reports, at least 33 bills in 19 states that could create legal or practical limitations on access to voting had been passed by October 2021.[[1641]](#footnote-1641) Likewise, the IACHR is concerned about gerrymandering: the redesign of electoral districts with discriminatory effects on specific social groups, and other practices that could affect the right of universal access to citizenship and competitive representative democracy, generating risks of electoral underrepresentation of social groups that have historically been victims of discrimination.
5. As regards **citizen security**, the Inter-American Commission appreciates the efforts of civil society and the organs of the justice system to try and punish those responsible for acts of racially biased police violence in the country, such as the trial of the security agents involved in the murder of George Floyd and Daunte Wright[[1642]](#footnote-1642); as well as steps taken to compensate the families of the victims of police violence and racism.[[1643]](#footnote-1643) However, the Commission observed with concern the continued acts of systemic police violence, especially against Afro-descendants, as well as the impunity surrounding such acts. In this regard, the IACHR highlights the need for comprehensive and structural changes in citizen security policies, programs, and actions, with a focus on prevention and non-repetition of those violations of rights.
6. The IACHR is also concerned about the persistence of the endemic phenomenon of armed violence, particularly in connection with hate crimes and shoot-outs[[1644]](#footnote-1644), as well as the absence of readily available, homogeneous, and disaggregated official information on subject. According to information from the press[[1645]](#footnote-1645) and civil society[[1646]](#footnote-1646), as of December 21, 2021, a total of 20,067 people were killed by firearms in the United States; in comparison with the 19,481 lethal gun victims in 2020, previously considered the deadliest year in history.
7. With respect to the **rights of Afro-descendants and against racial discrimination**, the IACHR highlights the approval of the "George Floyd Police Justice Act 2021" by the House of Representatives; currently being processed in the Senate. The objective of the law is to improve accountability in the police system and to try to combat racial bias in the actions of security and police officers.
8. The Commission also noted progress on reparations for the African American population. In this context, the IACHR highlights the passing by the U.S. Congress of the H.R. 40 bill on reparations for the transatlantic slave trade. The bill calls for the creation of a federal commission to study the legacy of slavery in the United States and develop proposals for reparation for African Americans. The Commission also took note of the enactment of the bill that declared June 19 as a federal holiday to commemorate the end of slavery of African Americans. This date would be known as "Juneteenth". The IACHR encourages the United States to continue advancing comprehensive reparation measures for Afro-descendants for serious human rights violations in connection with discrimination and related forms of intolerance based on ethnic-racial origin.
9. In addition, the Commission continued to monitor the George Floyd case and, in that context, noted the conviction of former police officer Derek Chauvin, who was charged with three counts in the death of George Floyd. On April 20, 2021, the jury sentenced Chauvin to up to 40 years in prison. Subsequently, the IACHR took note that, according to publicly available information, on June 25, 2021, Derek Chauvin was sentenced to 22 and a half years in prison for the unintentional homicide of George Floyd. Under Minnesota law, Chauvin must serve two-thirds of his prison sentence (15 years), and then would be eligible for supervised release for the remaining time.
10. Nevertheless, the IACHR continues to observe challenges related to the persistence of cases of police violence against Afro-descendants. In this regard, the Commission condemned the excessive use of force against African American women, girls and adolescents, particularly the events of January 29, 2021, where a 9-year-old girl was pepper-sprayed by police officers in New York; and January 26, 2021, where 16-year-old Taylor Bracey was brutally body-slammed by a school resource officer in Florida. The IACHR also condemned the death of Brittany Kittrell on January 19, 2021, in North Carolina, four days after she was arrested and booked into jail; and the death of Andre Hill, shot by a police officer on December 22, 2020, in Ohio.
11. The Commission also expressed concern about the deaths of African American individuals: (i) Daunte Wright, who was allegedly shot during a police operation in Minnesota on April 11, 2021; (ii) Ramona Cooper and David Green, on June 26, 2021, in Boston, when they were allegedly shot and killed by a man known for his white supremacist rhetoric; and, (iii) Clifford Owensby, a person disabled by paraplegia, who was allegedly violently removed from his vehicle by police officers on September 30, 2021, in Ohio.
12. Regarding the facts described above, the IACHR calls on the United States to continue the investigations in a diligent and exhaustive manner, to punish those responsible, and to make full reparations to the victims and their families.
13. In relation to the situation of the **rights of migrants, asylum seekers, and refugees**, the Commission closely monitored the policies, actions, and speeches of authorities and their impact on the rights of people in contexts of human mobility during 2021. In its monitoring, the IACHR noted with particular concern the obstacles to implementing changes to policies and restrictive measures during and prior to the response to the pandemic, despite speeches and federal executive orders that identify the failures, risks, and harm generated by such policies. In contrast, it values the State's efforts to mitigate the effects of the family separation policy implemented in the previous period and to seek family reunification, as well as strategies to compensate the families directly affected and to promote non-repetition. In this regard, it highlights the publication of the Presidential Executive Order of February 2, 2021, establishing the interagency task force to reunite children separated from their families at the U.S.-Mexico border.[[1647]](#footnote-1647)
14. According to official information, in February 2021, the federal administration issued an executive order for federal agencies to review actions that limit access to the legal immigration system[[1648]](#footnote-1648). In June 2021, the IACHR welcomed the release of a memorandum from the Department of Homeland Security[[1649]](#footnote-1649) announcing the termination of the Migration Protection Protocols (MPP) Program. In its press release of June 25, 2021, it reiterated its concern about the human rights effects of the implementation of migration policies that, in recent years, have reportedly sought to deter irregular movements to the United States, through the adoption of measures aimed at securitization and externalization of borders, the implementation of the zero tolerance policy, as well as the criminalization of those who move outside the regular entry points to the territory.[[1650]](#footnote-1650)
15. However, the IACHR expresses concern about the reinstatement of the MPPs on December 6, 2021. According to official information, the process of reinstatement of the program was the result of a determination of the Federal Court for the Northern District of Texas on August 13, 2021, because the termination of the program had allegedly not been issued in accordance with the procedures provided for in the country’s legislation.[[1651]](#footnote-1651) In addition, according to the Department of Homeland Security's memorandum "Guidance on Court Ordered Reimplementation of the Migrant Protection Protocols" issued on December 2, 2021,[[1652]](#footnote-1652) individuals from any country in the Western Hemisphere, with the exception of Mexico, could be processed under this program, which would represent an expansion of the program.
16. In addition, the Commission notes that on July 16, 2021, the U.S. District Court for the Southern District of Texas maintained that the DACA program was unlawful; however, such a decision would have suspended effects with respect to individuals who obtained access to the DACA program on or before July 16, 2021, including those individuals with renewal applications.[[1653]](#footnote-1653)
17. At the same time, in 2021, the IACHR observed the situation along the southern border of the country and made a statement on the growing indicators of arrival of migrant children and adolescents, frequently separated or unaccompanied, to the territory of the United States.[[1654]](#footnote-1654) Likewise, in its Press Release of September 17, 2021,[[1655]](#footnote-1655) the IACHR followed up on the intensification of mixed migratory movements, mainly with regard to the return of persons, and the changes in migration patterns in North and Central America. It also noted with concern the implementation of expedited expulsion procedures from the United States to Mexico's northern and southern borders.
18. Likewise, the IACHR warned, in the same Press Release of September 2021, that the implementation of accelerated expulsion procedures, specifically as a result of the application of the so-called “Title 42”, would be carried out in a manner that would hinder adequate evaluation of possible protection needs, without ensuring access to migration, asylum, or protection procedures in the territory of the States and without the application of corresponding sanitary protocols to prevent the spread of COVID-19. The IACHR took note of the joint communiqués of 11 August by the United Nations High Commissioner for Refugees (UNHCR) [[1656]](#footnote-1656) and other agencies such as UNICEF, UNHCHR, UN Women and IOM,[[1657]](#footnote-1657) in which they expressed their concern about the effects on persons in human mobility derived from the application of Title 42. The implementation of this U.S. administrative order, which, based on public health interest, prohibits the entry of certain individuals into the United States, would appear to increase the risk of chain refoulement of vulnerable individuals, in contravention of international law and the humanitarian principles of the 1951 Convention Relating to the Status of Refugees. In addition, the IACHR emphasizes, in line with the observations of United Nations agencies, that the protection of public health - in the context of the COVID-19 pandemic - and the guarantee of access to asylum must be fully compatible.
19. In addition to the above, the Inter-American Commission was also able to express, jointly[[1658]](#footnote-1658) with the United Nations Special Rapporteur on the Human Rights of Migrants, its condemnation of the excessive use of force against migrants from Haiti in Del Rio, Texas, as well as the removals and expulsions carried out from the southern border of the United States to Mexico and directly to Haiti. In this regard, the IACHR and the United Nations rapporteur urged the United States to investigate this situation with due diligence, punish all persons identified as responsible, and guarantee the non-repetition of this type of incident.
20. Structurally, the Commission is concerned that the State, despite presenting a detailed diagnosis of the harm and damage done by previously implemented public policies and administrative practices, has not managed to establish a change of direction with respect to the maintenance and strengthening of programs that allow for the regularization of migratory status, broader access to fundamental rights for the migrant population in its territory, as well as conditions for access and the mechanisms for evaluating protection needs in accordance with Inter-American standards and principles on the matter.
21. In relation to children and adolescents in the context of human mobility, the IACHR observes that, according to official information from the Department of Health and Human Services (HHS), their shelters received more than 122 thousand girls, boys, and adolescents, in fiscal year 2021 alone – this is, up to the month of October. According to public information, in response to the increase in the number of unaccompanied children, the State converted convention centers, military installations, labor camps and other facilities into "emergency admission sites" to quickly process and house this population, which was closely monitored by the IACHR.
22. In relation to **human trafficking**, the Commission notes the launch of the "disclaimer page on core competencies for human trafficking response in health care and behavioral health systems." According to official information, the measure would provide health professionals with the tools to identify, respond to, and care for people who are experiencing or are at risk of being victims of forced labor or commercial sexual exploitation. In addition, the Commission notes that the U.S. Attorney's Office has reportedly created a police task force focused on combating human trafficking.
23. With regard to **persons deprived of their liberty,** the IACHR welcomes the approval of the Humane Alternatives to the Long-Term Confinement Act (HALT, S. No. 2836) by the State of New York. According to official information, this law: (i) limits the use of segregated confinement to 15 days; (ii) implements alternative rehabilitation measures including the creation of Residential Rehabilitation Units (RRUs); (iii) expands the definition of segregated confinement to include any form of cell confinement where an individual is held for more than 17 hours a day; iv) requires additional out-of-cell time and establishes rehabilitation programs; and, v) prohibits the use of confinement for vulnerable populations, including persons 21 years of age or younger; 55 years of age or older, persons with disabilities, and persons who are pregnant up to eight weeks postpartum, or who care for children in a facility.
24. In addition, the Commission notes that several States are adopting measures to prioritize vaccination of this population. In this regard, the *COVID Prison Project* reported that: i) 34 states included persons deprived of liberty as the highest priority population for vaccine distribution; ii) four states accorded medium priority to immunization; iii) two classified this population as low priority; and iv) 13 states did not include these persons in the vaccination programs. In addition, the *COVID Prison Project* reported that as of December 20, 2021, a total of 1,301,486 persons deprived of liberty had received at least one dose of the COVID-19 vaccine.
25. With regard to application of the **death penalty**, the IACHR continues to monitor its application and, despite observing progress towards its abolition, reiterates that the United States is the only country in the Western Hemisphere that executes persons sentenced to death. In this context, in a press release dated March 24, 2021, the IACHR welcomed the passage of HB 2263, a bill that repealed the death penalty in the state of Virginia and noted that this measure made Virginia the first state in the Southern United States to abolish the death penalty. Currently, 23 states have reportedly abolished the death penalty. The Commission also welcomed the decision of the governor of Oklahoma to commute the death sentence of Julius Jones, a beneficiary of precautionary measures granted by the IACHR on November 17, 2021.
26. However, the Commission notes with deep concern that according to the *Death Penalty Information Center*, as of December 9, 2021, a total of 11 persons deprived of their liberty were executed in the United States.
27. On the **rights of lesbian, gay, bisexual, trans and gender diverse and intersex (LGBTI) people,** the Commission welcomed the enactment of an Executive Order on January 20, 2021, which directs government agencies to take action to prevent and combat discrimination based on gender identity or sexual orientation, including revising regulations and policies.[[1659]](#footnote-1659) This order, based on constitutional protections and the Civil Rights Act, Title VII. 2, recognizes multiple factors of discrimination against LGBT persons, including ethnic-racial origin and disability status. In addition, the IACHR welcomed the passage in the House of Representatives of the *Equality Act* which, if passed by the Senate, would prohibit discrimination on the basis of sex, including sexual characteristics, gender identity, and sexual orientation[[1660]](#footnote-1660).
28. Despite the progress made at the federal level, the Commission observed various initiatives and bills of a discriminatory nature processed in state congresses to the detriment of trans, non-binary, and gender-diverse people. These initiatives contain limitations on access to, or use of, public and private facilities based on gender identity, as well as impediments to the participation of children and adolescents in sports teams in accordance with their gender identity, including the obligation to prove the sex assigned at birth to allow participation in such teams. The IACHR also notes with concern that some of these bills reportedly seek to penalize families and medical personnel for providing puberty blockers and hormone therapy to trans, non-binary, and gender-diverse adolescents under the age of 21.
29. Finally, the IACHR expresses its concern over reports of increased violence against trans, non-binary, and gender-diverse persons. According to civil society organizations, during 2021, 49 violent deaths were identified, compared to 44 reported in 2020.
30. In relation to the rights of **persons with disabilities**, the IACHR takes note of the measures aimed at guaranteeing the social and economic rights of this population; in particular, the resources and regulations for health services, employment, housing and other programs aimed at mitigating the effects of the COVID-19 pandemic. The Commission has also registered complaints from students with disabilities about difficulties with accessing distance education courses.
31. The Commission was apprised of the report published by the Department of Justice in November 2021 entitled *Crime Against Persons with Disabilities, 2009-2019 - Statistical Tables*)."[[1661]](#footnote-1661) According to the report, which presents information on events that occurred between 2017 and 2019, persons with disabilities were victims of 26% of all non-fatal violent crimes, representing about 12% of the population; the rate of violent victimization against persons with disabilities (46.2 per 1,000 aged 12 and older) was nearly four times higher than the rate for persons without disabilities (12.3 per 1,000); one in three victims of robbery (33%) had at least one disability; among the disability types measured, persons with cognitive disabilities had the highest rate of violent victimization (83.3 per 1,000). The report also highlights that 19% of rapes or sexual assaults against people with disabilities were reported to the police, compared to 36% of those suffered by people without disabilities.
32. Regarding the situation of **women's** **human rights**, the IACHR welcomes the establishment of the Gender Policy Council and the adoption of the National Strategy on Gender Equity and Equality to incorporate a gender perspective and an intersectional approach in all the work of the Executive Branch. The IACHR also welcomes the repeal of federal policies that impeded access to sexual and reproductive health information and services, particularly the Global Gag Rule and the National Gag Rule, as well as the restoration of funding to the United Nations Population Fund, UNFPA.
33. However, the IACHR notes with extreme concern the adoption -in 2021- of more than one hundred laws restricting access to voluntary termination of pregnancy, such as SB8 in Texas, which prohibits the termination of pregnancy from the time a fetal heartbeat is detected. In this context, the IACHR takes note that two cases challenging the constitutionality of SB8, Whole Women's Health v. Jackson and the United States v. Texas, are pending before the U.S. Supreme Court.
34. From an intersectional perspective, the IACHR observes the specific risk of violence faced by some women in the country; in this regard, the IACHR strongly condemns the attacks that occurred in Atlanta in March 2021, where 6 women of Asian origin lost their lives, as well as the incidents of police brutality that occurred in January 2021 against African American women, girls, and adolescents.
35. Regarding the rights of **indigenous peoples,** the IACHR welcomes the specific measures announced by the State for the economic and social recovery of indigenous peoples in the context of the COVID-19 pandemic, as well as to move ahead with reducing inequalities and the factors that render them disproportionately vulnerable to human rights violations.[[1662]](#footnote-1662)
36. Through its various monitoring mechanisms, the Commission observed a number of incidents and the need to deepen policies for comprehensive protection of the rights of indigenous peoples, including their territories and the protection of their natural resources. In this regard, it was informed of caravans carried out in June by representatives of native peoples seeking to promote solutions to protect natural resources in their settlements. The Commission was also briefed on the protests held in October 2021 to demand that President Biden freeze fossil fuel extraction and declare a climate emergency and response to the fossil fuel industry and its impacts on lands and natural resources.[[1663]](#footnote-1663)
37. Regarding the **rights of the older adults**, the Commission notes with concern the persistent prevalence of COVID-19 infections and deaths in long-term care homes. According to data from the Centers for Medicare and Medicaid Services (CMS), as of December 16, there were 740,034 confirmed cases of COVID-19 among seniors living in those facilities and 141,084 deaths. In this regard, the IACHR notes that 87% of the residents have reportedly been vaccinated.[[1664]](#footnote-1664) Likewise, according to CDC data, as of December 16, the number of infections according to age range was 5.7% for people between 65 and 74 years old, 2.8% between 75 and 84 years old and 1.5% from the age of 85.[[1665]](#footnote-1665) Persons 65 years of age and older account for 74.2% of all COVID-19 deaths in the United States.[[1666]](#footnote-1666) In addition, the Commission notes that, as of December 20, 2021, approximately 47,929,690 people over the age of 65 were fully vaccinated.[[1667]](#footnote-1667) The IACHR emphasizes that, according to Resolution No. 01/2021, priority should be given to vaccinating those at the highest risk of infection. States have an obligation to consider the special situation of vulnerability faced by older persons, especially in the context of older persons confined to residences and shelters.[[1668]](#footnote-1668)] In this regard, the IACHR calls on the State to continue taking steps to prioritize the administration of vaccines and the application of tests to older adults who face an increased risk of acquiring COVID-19 due to pre-existing health conditions.
38. The Commission notes the allocation of $1.4 billion in funding under the American Rescue Plan Act of 2021 for welfare programs under the Older Americans Act. The IACHR welcomes the fact that the programs supported by these funds include programs to support immunization outreach and coordination, address social isolation, provide support to family caregivers, and offer nutritional support to the elderly.[[1669]](#footnote-1669) In addition, the IACHR notes the proclamation of May 2021 as Older Americans Month, a move intended to honor older adults for their continued contributions to the development of the country.[[1670]](#footnote-1670)

**URUGUAY**

* **General Considerations**
1. In 2021, the IACHR observed **progress** in human rights in Uruguay, specifically in the areas of citizen security, protection against gender-based violence, and women’s right to a life free from discrimination, as well as the recognition and protection of the rights of people of African descent, persons in situations of human mobility and the prevention of violence against older persons.
2. With regard to the **challenges identified**, the IACHR expressed concern about initiatives or bills seeking to change measures imposed on persons charged with or convicted for crimes deemed to be serious human rights violations or crimes against humanity. It also noted allegations of legal and *de facto* barriers to the exercise of sexual and reproductive rights, and reports of discrimination and lack of health care for persons with disabilities in certain facilities, including mental health institutions in which children are placed.
3. The Government answered the IACHR's information request for drafting this chapter.[[1671]](#footnote-1671)
* **Specific Issues**
1. In the area of **human rights institutions**, the IACHR took note of the presentation of a public policy titled “*Plan Nacional de Acción en Derechos Humanos*” (National Plan of Action on Human Rights),[[1672]](#footnote-1672) which seeks to build and strengthen policy planning with a human rights focus.[[1673]](#footnote-1673) According to official information, this plan addresses six central issues: non-violence and public security, inclusion, non-discrimination and equality, universal access to rights, commitment to human rights, memory, truth, justice and reparation policies, and democracy and human rights.[[1674]](#footnote-1674)
2. With regard to the National Institution for Human Rights and the Office of the Ombudsperson (INDDHH from the Spanish), the Commission noted that the budget for its 2020-2024 operations has been adopted[[1675]](#footnote-1675) and that its President has been appointed for a one-year term.[[1676]](#footnote-1676)
3. Regarding **democratic institutions**, the Commission took note of the call for a referendum against 135 articles of the “*Ley de Urgente Consideración*” (Bill for Urgent Consideration), to be held on March 27, 2022, pursuant to a decision by the Electoral Court.[[1677]](#footnote-1677) This law includes reforms in various areas, including public security, strategic intelligence, education, economics, labor rights, public enterprises, and the right to demonstration.8 The IACHR has taken note of the concerns of civil society organizations regarding the human-right impacts of these reforms, such as extending the maximum term, from 5 to 10 years, that adolescents in conflict with criminal justice can be deprived of liberty, potential restrictions on strikes, and others.[[1678]](#footnote-1678)
4. With regard to **citizen security**, the IACHR noted that the Ministry of the Interior published a reported reduced criminal activity at February 2021, including a 20.5% drop in homicides. According to official data, there were 400 murders from March 2019 to February 2020, and 328 over the same period from 2020 to 2021.[[1679]](#footnote-1679)
5. Furthermore, the Government informed the Commission of the measures taken to ensure **access to justice** within the context of the pandemic. These measures included supsending procedural deadlines in certain areas, strengthening remote means for judicial proceedings, and adopting a special work regime to ensure justice in emergency cases and for persons in situations of vulnerability.[[1680]](#footnote-1680) The Government also provided statistical information on persons who received legal assistance from the National Public Defense Office in 2021.[[1681]](#footnote-1681)
6. As for **memory, truth and justice**, the IACHR [highlighted](https://mobile.twitter.com/cidh/status/1402268061403648001?lang=sp) the ruling issued by the 27th Criminal Court of Montevideo that ordered the prosecution and imprisonment of seven military personnel for crimes against persons held at the Battalion No. 13 and 300 Carlos centers. The Commission found that this ruling referred to the jurisprudence of the Inter-American Court in the Gelman case regarding the State obligation to ensure that the Amnesty Law will never again obstruct the investigation of serious human rights violations.
7. However, the Inter-American Commission monitored, with concern, the legislative processing of an initiative that would reform the Code of Criminal Procedure to establish, *ex officio*, the house arrest of persons over age 65 charged with or convicted of crimes, including serious human rights violations or crimes against humanity.[[1682]](#footnote-1682)
8. The IACHR notes that civil society organizations, victims and international entities have expressed concerns for and rejection of the impacts that such a reform could have on the fight against impunity for crimes committed during the civil-military dictatorship.[[1683]](#footnote-1683) Accordingly, the Commission urges the Government to take into account that, according to inter-American standards, any measures that seek to obstruct the investigation and punishment of those responsible for such serious crimes are unacceptable.[[1684]](#footnote-1684)
9. In addition, civil society organizations reported on hurdles faced by survivors of sexual torture during the civil-military dictatorship seeking to access truth, justice and reparation. They complained of re-victimization on the part of the judiciary, as well as the lack of strategies and outcomes in the prosecution of criminal cases.[[1685]](#footnote-1685)
10. In this regard, the Government reported on programs for ongoing gender and human rights training for justice operators.[[1686]](#footnote-1686) It also highlighted the laws applicable to such processes and institutional responsibilities in the investigation and prosecution of cases relating to sexual violence in the context of the dictatorship. It further reported on measures taken by the judiciary vis-a-vis various complaints of unconstitutionality by accused and convicted persons, which are hindering the progress of cases, among other things.[[1687]](#footnote-1687)
11. The IACHR also notes that the INDDHH set up a website to publicize and provide historical documentation on serious human rights violations that occurred in the former Defense Information Service. This new virtual space seeks to preserve the memory of and pay tribute to the victims of the incidents that took place at Boulevard Artigas 1532, the current INDDHH headquarters. This new website develops a museum account of the Memory Site and offers documents, videos and photographs.[[1688]](#footnote-1688)
12. The Inter-American Commission welcomes Government initiatives to protect and guarantee **women's human rights**. Specifically, it highlights the availability of a 24-hour phone service for women subjected to violence.[[1689]](#footnote-1689) The Commission also welcomes the bills proposed in March 2021 to the House of Representatives and the Senate, which seek to promote gender parity in representative posts.[[1690]](#footnote-1690)
13. The IACHR further notes the September 2021 [launch](https://www.minterior.gub.uy/images/pdf/Guia_interna_Denuncias_VDG.pdf) of the Guide for Sectional Police Intervention in Cases of Intra-Family and Gender-Based Violence.[[1691]](#footnote-1691) While welcoming the adoption of such initiatives, the Commission observes that the guide does not include action guidelines to ensure comprehensive care for victims, such as medical and psychosocial care.
14. Furthermore, it notes official data from the Ministry of the Interior showing drops in intra-family violence reports of 18.82% in January and 17.99% in February 2021, compared to the same months of the previous year.[[1692]](#footnote-1692) According to public data, 12 femicides were reported during the first quarter of 2021.[[1693]](#footnote-1693)
15. As for sexual and reproductive rights, the IACHR welcomes the training processes for health workers, teachers and multidisciplinary units for a comprehensive approach to sexual and reproductive health among adolescents and youth.[[1694]](#footnote-1694) However, the IACHR has received information on legal and *de facto* barriers to voluntary termination of pregnancy, including conscientious objection in the civil service, as well as restrictions on migrant women due to their residential status in the country.[[1695]](#footnote-1695)
16. With regard to the rights of the **LGBTI population**,the Commission emphasizes the decision of the Ministry of Social Development to include self-identification forms for persons with non-binary and fluid gender identities in the 2023 census, in order to gather statistics for public policymaking.[[1696]](#footnote-1696) The IACHR welcomes this initiative in view of information received from non-binary Uruguayan persons regarding the challenges they have faced in exercising their rights.[[1697]](#footnote-1697)
17. As for the **rights of older persons**, the Commission welcomes the Government’s commitment to work towards eradicating abuse and mistreatment of older persons, recognizing that the pandemic further accentuates the potential for the elderly to suffer intra-family abuse or mistreatment due to isolation, which increases the invisibility of violence against the older persons.[[1698]](#footnote-1698) This relates to reports of growing cases of violence against older persons within the context of the pandemic, most against women.[[1699]](#footnote-1699)
18. With regard to **people of African descent and the situation of racial discrimination**, the Inter-American Commission [welcomed](https://twitter.com/CIDH/status/1461737596095184898) the Montevideo Agreement, announced at the Meeting of Latin American and Caribbean Parliamentarians of African Descent.[[1700]](#footnote-1700) The IACHR stresses that this agreement is a step towards recognizing and protecting the rights of people of African descent by reaffirming the commitment to driving legal frameworks and public policies to combat racial discrimination and enhance the quality of life and the inclusion of people of African descent, and to fostering programs and efforts to ensure recognition, justice and development as the focal point of the International Decade for People of African Descent.
19. With regard to the rights of **persons with disabilities**, the Commission welcomes initiatives such as Decree 9/021 on the Elimination of Administrative Barriers to the Processing of Passports[[1701]](#footnote-1701) and the Guidance Protocol for Cases of Disability-Based Discrimination and Rejection in Education.[[1702]](#footnote-1702)
20. The IACHR also notes that the National Vaccination Plan prioritizes persons with disabilities, especially those with Down syndrome,[[1703]](#footnote-1703) and the efforts of the Montevideo Town Hall to set up a service to enable the transfer of persons with disabilities to resorts, as well as other Government initiatives that include formalization of an agreement to create inclusive tourism circuits for persons with disabilities.[[1704]](#footnote-1704)
21. In addition, the IACHR took note of INDDHH observations concerning complaints of delays in vaccinating persons with disabilities at an in-patient care facility.[[1705]](#footnote-1705) The Commission also noted that the INDDHH received reports of barriers for children and youth with disabilities to integrate into the formal education system and society,[[1706]](#footnote-1706) and commented on the need to guarantee the rights of people with hearing and visual disabilities in the *Proyecto de Ley de Medios* (Media Bill).[[1707]](#footnote-1707)
22. Finally, the Commission notes that, according to the office of the Pan American Health Organization, there is a need to modify the caregiving structures and processes of service providers in the National Health System toward a decentralized, participatory community mental health model that is both comprehensive and preventive, with a human rights approach.[[1708]](#footnote-1708)
23. Cross-cutting with the status of **children’s rights**, the Commission noted that, according to a report by UNICEF and the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment, 21% of all children in mental health care facilities were said to have been detained for more than two years, which is above the legal limit. It further noted that 13% of all children under age 12 in such facilities have been there for three to nine years. The IACHR takes note of reports of emotional neglect, humiliating treatment, threats, and physical abuse of children in the protection system’s mental health clinics visited, as well as inappropriate use of containment measures.[[1709]](#footnote-1709)
24. With regard to **human mobility**, the Commission [welcomed](https://twitter.com/CIDH/status/1407824973784399875?s=20) the decision of the [Ministry of Public Health](https://twitter.com/MSPUruguay) to activate an online procedure for migrants and asylum seekers to receive [COVID-19](https://twitter.com/hashtag/COVID19?src=hashtag_click) vaccines. According to information available to the IACHR, migrants and refugees in Uruguay can register to receive the Coronavirus vaccine, including those lacking a Uruguayan identity card.[[1710]](#footnote-1710)
25. With regard to **human trafficking**, the Commission took note of efforts made by the National Council to Prevent and Combat Human Trafficking, including the development of the Inter-Agency Action Protocol to identify and assist in cases of human trafficking, and the Indicator Guidelines to contribute to prevention and care for potential victims. In addition, the IACHR took note of training on human trafficking for consular staff abroad and the presentation of a document on “Women in Situations of Sexual Trafficking: Recommendations and Guidance for Journalists and Communication Professionals,” fostering responsible communication to protect victims and prevent re-victimization.[[1711]](#footnote-1711)
26. With regard to the rights of **indigenous peoples**, the Commission noted that the National Human Rights Institution called upon Uruguay to take concrete measures against discrimination and historical violation of the collective rights of indigenous peoples, within the context of calls by civil society and international entities to recognize indigenous peoples and ratify ILO Convention No. 169.[[1712]](#footnote-1712)
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1401. According to the available information, in 133 of the country’s 261 districts, the lists consisted of at least 50% women. See: Marcella Zub and Line Bareiro, Center for Documentation and Studies, [*La paridad desde abajo* [Parity from below]](https://www.cde.org.py/wp-content/uploads/2021/10/La-paridad-desde-abajo.-Elecciones-2021.pdf), October 2021. However, the OAS Electoral Observation Mission continues to emphasize the challenges to the political participation of women: OAS, [*Informe preliminar de la Misión de Observación Electoral de la OEA en Paraguay* [Preliminary report of the OAS Electoral Observation Mission in Paraguay],](https://www.oas.org/fpdb/press/Informe-Preliminar-MOE-Paraguay-2021.pdf) October 11, 2021. [↑](#footnote-ref-1401)
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1404. The New York Times, [Rage spreads in Paraguay as virus surges, exposing corruption](https://www.nytimes.com/2021/03/11/world/americas/paraguay-covid-protests.html), March 11, 2021. [↑](#footnote-ref-1404)
1405. The National Mechanism for the Prevention of Torture registered situations involving excessive police force, mistreatment, abuse, verbal abuse, denigrating treatment, and discrimination, and reported them to the Office of the Prosecutor General for criminal investigation, and to the National Police Headquarters, to open administrative inquiries. See: Paraguay National Mechanism for the Prevention of Torture, [*Informe intervención en el contexto de las manifestaciones sucesivas en el país* [Report on intervention in the context of the continuing demonstrations in the country]](file:///C%3A//Users/Manuel/Downloads/IIN04.pdf), April 13, 2021. [↑](#footnote-ref-1405)
1406. In light of the reports of violence, including police violence, rubber bullet hits, and adverse impacts on journalists, the IACHR, exercising its powers under Article 41(d) of the American Convention on Human Rights, requested information from the State on what took place during the public demonstrations, including detailed information on how the authorities acted in response to the demonstrations, the action protocols for the protection of children and adolescents participating in or watching the protests, and the number of reports from people who were injured and arrested, including the reasons behind their arrests and their current detention status, as well as the investigations brought against security agents involved in violent acts. [↑](#footnote-ref-1406)
1407. Villalba, Sara Mabel: *Crisis Sanitaria, Movilización Social y Concentración de Poder* [The health crisis, social mobilization, and the concentration of power]. In: *Derechos Humanos en Paraguay 2021* [Human rights in Paraguay 2021]*,* edited by Codehupy, December 2021, p. 23. [↑](#footnote-ref-1407)
1408. The National Mechanism indicated that it held in-depth interviews with 47 of the individuals who had been imprisoned, in which 64% stated that they had been hit and/or suffered verbal abuse. Most asserted that they had suffered physical violence; had received blows when they were already handcuffed or immobilized; had been thrown to the floor, punched, bludgeoned, kicked, toed, and buttstroked; and booted in their heads, feet, and backs by the police officers. Psychological violence was also used against them: they were made to strip naked in front of everyone at the police station; it was put on record that they were drunk even though they were not; and they suffered verbal abuse. Cf. Paraguay National Mechanism for the Prevention of Torture, [*Informe intervención en el contexto de las manifestaciones sucesivas en el país* [Report on intervention in the context of the continuing demonstrations in the country]](file:///C%3A//Users/Manuel/Downloads/IIN04.pdf), April 13, 2021. [↑](#footnote-ref-1408)
1409. Villalba, Sara Mabel: *Crisis Sanitaria, Movilización Social y Concentración de Poder* [The health crisis, social mobilization, and the concentration of power]. In: *Derechos Humanos en Paraguay 2021* [Human rights in Paraguay 2021]*,* edited by Codehupy, December 2021, p. 23. [↑](#footnote-ref-1409)
1410. State of Paraguay, Verbal Note 385-21/MPP/OEA, *Respuesta del Estado a la solicitud de información de la CIDH realizada a la luz del artículo 41 de la CADH sobre la respuesta estatal a las protestas de marzo de 2021* [State response to the IACHR request for information on the government response to the March 2021 protests, made under Article 41 of the American Convention on Human Rights], April 14, 2021. In IACHR files. [↑](#footnote-ref-1410)
1411. The Commission took note of interventions by government security forces in the country’s north and observed that, as per Ministry of the Interior statements, the FTC will continue to act against the self-designated Paraguayan People’s Army (*Ejército del Pueblo Paraguayo,* EPP) and against organized crime in general. These statements are available at: ABC, [*Guizzio dice que son conscientes de que “llevará su tiempo” eliminar al EPP* [Guizzio says they know it will “take time” to eliminate the EPP]](https://www.abc.com.py/tv/a-la-gran-7-30/2021/12/16/giuzzio-dice-que-son-conscientes-de-que-llevara-su-tiempo-eliminar-al-epp/), December 16, 2021. In addition, according to official information, the FTC works with Armed Forces of Paraguay combat elements in internal defense operations, in the departments of Concepción, San Pedro, and Amambay, to ensure domestic security within the legal framework established in Law 5036/13, which amends Law 1337/00 on national defense and domestic security. See: Executive branch, Decree 103/13, August 24, 2013. See also: La Nación, [*El ACA prácticamente fue anulado para la FTC*, *según vocero* [According to spokesman, for the FTC the ACA has essentially been eliminated]](https://www.lanacion.com.py/politica/2021/11/21/el-aca-practicamente-fue-anulado-para-la-ftc-segun-vocero/), November 21, 2021; Yahoo Noticias, [*Paraguay detiene a un miembro de la "brigada indígena" de la guerrilla EPP* [Paraguay arrests a member of the “indigenous brigade” of the EPP guerrilla group]](https://es-us.noticias.yahoo.com/paraguay-detiene-miembro-brigada-ind%C3%ADgena-181909659.html?guccounter=1), July 26, 2021. [↑](#footnote-ref-1411)
1412. Acevedo, Vidal and Karina Cuevas. *Persiste la impunidad en zonas militarizadas* [Impunity persists in militarized zones]. In: *Derechos Humanos en Paraguay 2021* [Human rights in Paraguay 2021]*,* edited by Codehupy, December 2021, pp. 370-376. [↑](#footnote-ref-1412)
1413. The IACHR will continue to monitor information on the kidnappings of Félix Urbieta, Edelio Morínigo, and Oscar Denis. See: Última Hora, [*Familia de Óscar Denis vota y pide información de secuestrados* [Family of Óscar Denis votes and requests information on kidnappees]](https://www.ultimahora.com/familia-oscar-denis-vota-y-pide-informacion-secuestrados-n2965748.html), October 10, 2021; [*Hijas de Óscar Denis reclaman ayuda internacional y tomar en serio amenaza del EPP* [Óscar Denis’s daughters request international aid and that the EPP threat be taken seriously]](https://www.ultimahora.com/hijas-oscar-denis-reclaman-ayuda-internacional-y-tomar-serio-amenaza-del-epp-n2955167.html), August 9, 2021. La Nación[, *Familiares de Félix Urbieta reiteran a secuestradores abrir un canal de comunicación* [Relatives of Félix Urbieta repeat their request for the kidnappers to open communications]](https://www.lanacion.com.py/politica/2021/07/06/familiares-de-felix-urbieta-reiteran-a-secuestradores-abrir-un-canal-de-comunicacion/), July 6, 2021, and [*Madre de Edelio exige investigar mensaje sobre los restos de su hijo* [Edelio’s mother calls for message about her son’s remains to be investigated]](https://www.lanacion.com.py/politica/2021/10/22/madre-de-edelio-exige-investigar-mensaje-sobre-los-restos-de-su-hijo/), October 22, 2021. [↑](#footnote-ref-1413)
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