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# Inter-American Commission on Human Rights Response to COVID-19

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*Inter-American Commission on Human Rights Response to COVID-19*  
*Julio A. Sanchez*

The COVID-19 pandemic is a unique challenge for the Inter-American System. Like most regional human rights systems, the very nature of the virus has changed how the Inter-American Commission on Human Rights (IACHR or “the Commission”) and the Inter-American Court of Human Rights (IACtHR or “the Court”) operate. Both bodies have suspended their sessions as a response to the virus. The 176th session was postponed until July and took place online. The IACtHR also suspended its session from April to May and rescheduled its 135th session from June 1 to July 31.<sup>1</sup> This has delayed any COVID-19 related cases from being directly addressed by either body in its entirety.

However, this does not mean that the IACHR or IACtHR has been silent on the issue. The IACHR has created a new task force called the Rapid Integrated Response Coordination Unit, or SACROI, to deal with the COVID-19 public health emergency and ensure the protection of human rights.<sup>2</sup> Their primary responsibility is to coordinate a response to the pandemic, gather evidence on the Commissions impact in dealing with COVID, to observe the responses of States to the crisis, and to identify urgent cases that may warrant precautionary measures under Article 25 of the Inter-American Convention.<sup>3</sup> The most significant impact of SACROI thus far is the creation and adoption of Resolution 1/2020 “Pandemics and Human Rights in the Americas” (the Resolution), which SACROI wrote and the Commission subsequently adopted.<sup>4</sup>

The resolution clarified that the American Convention applies in cases of pandemics. In particular, it clarified how states of emergencies operate in cases of pandemics or public health emergencies.<sup>5</sup> The Resolution also presents guidelines for the permissible behavior of States during the pandemic.<sup>6</sup> The resolution seeks to balance the protection of individual and collective rights during a pandemic.<sup>7</sup> The guidelines in the resolution follow the language present in Article 27, “Suspension of Guarantees” in the American Convention on Human Rights, which governs states of emergencies.<sup>8</sup> Article 27 outlines the authority States have to suspend or modify rights during a state of emergency.<sup>9</sup> Following the language of Article 27, the Resolution stresses that any State measures in response to a state of emergency must be proportional, temporary, non-discriminatory, and within the confines of existing laws.<sup>10</sup>

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<sup>1</sup> *Press Release: IACHR Will Hold Its 135th Regular Session*, IACHR (May 25, 2020), [http://www.corteidh.or.cr/docs/comunicados/cp\\_39\\_2020\\_eng.pdf](http://www.corteidh.or.cr/docs/comunicados/cp_39_2020_eng.pdf).

<sup>2</sup> *SACROI COVID-19*, INTER-AMERICAN COUNSEL HUM. RTS. (2020), [http://www.oas.org/en/iachr/SACROI\\_COVID19/](http://www.oas.org/en/iachr/SACROI_COVID19/) [hereinafter *SACROI COVID-19*] (describing the creation of the Rapid and Integrated Response Coordination Unit, called SACROI due to its Spanish acronym).

<sup>3</sup> American Convention on Human Rights “Pact of San Jose, Costa Rica,” art. 25, November 22, 1969, 1144 U.N.T.S.123 [hereinafter American Convention].

<sup>4</sup> IACHR, *Pandemic and Human Rights in the Americas*, Res. No. 1/2020 (April 10, 2020) (“The measures adopted by the countries to deal with and contain the pandemic should center on full respect for human rights.”).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* (“[States should ensure] rights such as access to drinking water, nutritious food, access to means of cleaning, adequate housing, community cooperation, mental health support, and integration of public health services; as well as . . . ensuring effective social protection, . . . provision of subsidies, basic rental or other economic support measures”).

<sup>8</sup> American Convention, *supra* note 3, at art. 27.

<sup>9</sup> *Id.*

<sup>10</sup> IACHR, *Pandemic and Human Rights in the Americas*, Res. No. 1/2020, at 10-11 (April 10, 2020).

Political Participation was also addressed in the resolution including, the right to vote. Unlike Article 4 of the International Convention on Civil and Political Rights and Article 15 of the European Convention on Human Rights, Article 27 codifies the absolute right to participate in government.<sup>11</sup> This means that states cannot indefinitely suspend elections during the COVID-19 crisis. The IACHR has expressed concern regarding this issue, since the COVID-19 crisis may lead to the suppression of valid political participation or the restriction of voting rights in the name of public safety.<sup>12</sup> In a recent press release, the IACHR expressed concern that government authorities are taking the opportunity to challenge separation of powers, reducing political participation and interfering with judicial institutions.<sup>13</sup> While public safety is important, government authorities should not use the pandemic as a way to circumvent checks and balances. Furthermore, although some modifications are necessary to insure safe political participation, the pandemic does not give states license to completely restrict political participation.

The Resolution also provides for the rights of persons who are imprisoned and ensures that women and Indigenous communities are included in any State response to the pandemic.<sup>14</sup> The Commission was concerned with the possibility of an increase in cases of domestic violence because of the stay at home orders<sup>15</sup> It was also concerned that Indigenous populations would not have access to proper information about the pandemic and wanted to ensure that Indigenous communities have access to culturally appropriate health care during the crisis.<sup>16</sup> Depending on the actions of States during the pandemic any of these areas of interest could develop into possible cases or topics of hearings. .

Many Prisons in Latin America are overcrowded, presenting the perfect environment for large COVID-19 outbreaks and, if not handled properly, these conditions could result in human rights violations.<sup>17</sup> As a result of the outbreaks, many Latin American countries have had to lower the strain on the prison system by releasing some prisoners.<sup>18</sup> For example, Argentina, Honduras, and Mexico have all released about one percent of their inmate population to stop the spread of

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<sup>11</sup> See generally, International Covenant on Civil and Political Rights, art. 4, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20; 6 I.L.M. 368 (1967); Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950 (European Convention on Human Rights), art. 15. Both Conventions place the right to participate in government as a non-derogable right under a state of emergency.

<sup>12</sup> Press Release: OAS, *IACHR Calls for Guarantees for Democracy and the Rule of Law During the COVID-19 Pandemic*, OAS (June 10, 2020) [http://www.oas.org/en/iachr/media\\_center/PReleases/2020/130.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/130.asp) [hereinafter June 10 IACHR Press Release].

<sup>13</sup> *Id.*

<sup>14</sup> IACHR, *Pandemic and Human Rights in the Americas*, Res. No. 1/2020 (April 10, 2020).

<sup>15</sup> See June 10 IACHR Press Release, *supra* note 12.

<sup>16</sup> *Id.*

<sup>17</sup> José Miguel Vivanco & César Muñoz, *How to Prevent Covid-19 Outbreaks in Latin America's Prisons*, HUM. RTS. WATCH (May 21, 2020), <https://www.hrw.org/news/2020/05/21/how-prevent-covid-19-outbreaks-latin-americas-prisons>.

<sup>18</sup> See Ernesto Londoño et al., *As Coronavirus Strikes Prisons, Hundreds of Thousands Are Released*, N.Y. TIMES (Apr. 26, 2020), <https://www.nytimes.com/2020/04/26/world/americas/coronavirus-brazil-prisons.html> (describing the overcrowded prison situations in Brazil, Colombia, and Argentina during the pandemic).

COVID-19 in their prisons.<sup>19</sup> Additionally, conditions in prisons have caused prison riots, and the possibility of further human rights violations within the prisons still exists.<sup>20</sup>

Domestic violence has long been a pervasive issue in the Americas. The pandemic has only made the situation worse by giving many women an impossible choice of either staying in their homes or risking exposure to COVID-19. As a result there has been an increase in the amount of reported instances of domestic violence in many Latin American countries.<sup>21</sup> One example of this is Colombia, where calls to the domestic violence hotline have increased by a hundred and thirty percent after the stay-at-home order was instituted.<sup>22</sup> These situations could and should be addressed in the coming Commission sessions if States fail to meet their obligations.

COVID-19 has presented a unique challenge for all regional human rights bodies. The crisis has restricted the ability of the bodies to meet, and it has shifted existing priorities. Additionally, there are new and unique challenges for addressing pandemics within the existing Convention and ensuring public health while protecting individual rights. The IACHR is no exception, and, as the suspension of the upcoming hearings demonstrates, the current crisis has affected its operations. Nevertheless, the IACHR has taken steps towards the protection of human rights during the crisis. It has done this through Resolution 1/2020 "Pandemics and Human Rights in the Americas," which outlines state responsibilities during pandemics.<sup>23</sup> The IACHR has also ensured, through the creation of SACROI, that there is oversight of States during the pandemic, and it has continued to preserve the Commission's core functions, to prevent any serious violations.<sup>24</sup>

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<sup>19</sup> See Vivanco & Muñoz, *supra* note 17 ("Judges in Argentina and Honduras have released or granted house arrest to about 1 percent of the prison population. In Mexico, judges have released about 2,000 people — also about 1 percent of the prison population — at the request of state governments.")

<sup>20</sup> *Id.*

<sup>21</sup> Lucila Sigal et al., *Another Pandemic: In Latin America, Domestic Abuse Rises Amid Lockdown*, REUTERS (Apr. 27, 2020), <https://www.reuters.com/article/us-health-coronavirus-latam-domesticviol/another-pandemic-in-latin-america-domestic-abuse-rises-amid-lockdown-idUSKCN2291JS>.

<sup>22</sup> *Id.*

<sup>23</sup> IACHR, *Pandemic and Human Rights in the Americas*, Res. No. 1/2020 (April 10, 2020).

<sup>24</sup> See SACROI COVID-19, *supra* note 2.