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**Current challenges to the protection of human life and the natural family at the Organization of American States (O.A.S.)**

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**A. Inter-American Court of Human Rights**

**a. Inconsistent interpretation of the right to life from conception**

Before 2012, the Court had referred to unborn children as “children,” “minors,” and “babies” in

at least 3 cases: *Gómez-Paquiyaury Brothers v. Peru*,<sup>1</sup> a case in which it also granted reparations for the death of an unborn child, *Miguel Castro-Castro Prison v. Peru*,<sup>2</sup> and *Goiburú et al. v. Paraguay*.<sup>3</sup> Furthermore, the court called induced abortion a “barbaric act” in the case of *Las Dos Erres v. Guatemala*.<sup>4</sup> In addition, in *Sawhoyamaxa Indigenous Community v. Paraguay*,<sup>5</sup> the Court found state duties to secure the right to pre-natal health of mothers and unborn children, especially those belonging to vulnerable communities. These instances reflect the Court’s acknowledgement of the unborn child as a subject of human rights entitled to the right to life and the right to pre-natal health and development. However, the 2012 court deviated from these precedents in the case of *Artavia v. Costa Rica*.

[\*Artavia Murillo v. Costa Rica\*](#) (click on link for judgment)

In November 2012, the Inter-American Court on Human Rights held that “personal decisions” to produce biological children by in vitro fertilization (IVF) were protected under the American Convention on Human Rights, and ordered Costa Rica to authorize IVF and subsidize IVF services through its Social Security system.

In addition, it gave the most restrictive interpretation possible to Article 4(1) of the American Convention on Human Rights, which protects prenatal life from conception. It held that, before implantation, the human embryo is not a person entitled to human rights protection, while redefining the term “conception” as “implantation”, not fertilization. The court also redefined Article 4(1)’s terms “in general, from the moment of conception” to mean “gradual” or “incremental” protection should be given to prenatal life, depending on the unborn child’s physical stage of development.

[\*Precautionary measures in favor of B./ El Salvador\*](#) (click on link for resolution)

In the same year, a request for provisional measures was submitted before the Inter-American Court of Human Rights by an abortion rights organization against El Salvador, asking that a pregnant woman suffering from lupus be allowed to abort her child.

The court’s provisional measures ordered that she be given “any medical treatment” necessary to preserve her health, but [did not specifically order she be given an abortion \(click on link for commentary\)](#).

## **b. Introduction of sexual orientation as a protected category**

[\*Atala v. Chile\*](#) (click on link for judgment in Spanish)

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<sup>1</sup> *Gómez-Paquiyaury Brothers v. Peru*, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 110, ¶ 71 (July 8, 2004).

<sup>2</sup> *Castro Prison v. Peru* Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 160, ¶ 61 (Nov. 25, 2006).

<sup>3</sup> *Goiburú et al. v. Paraguay*, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 153 (Sept. 22, 2006).

<sup>4</sup> *Las Dos Erres Massacre v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶139 (Nov. 24, 2009) (where the Court stated that “pregnant women were subject to induced abortions and other barbaric acts.”).

<sup>5</sup> *Sawhoyamaxa Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 146, ¶ 177 (March 29, 2006).

In February of 2012, the Inter-American Court of Human Rights heard a case involving a custody dispute between a father and a lesbian mother, Karen Atala, where Chilean courts had denied her primary custody of her three daughters in light of her cohabitation with a lesbian partner and her homosexual lifestyle, which courts deemed detrimental to the best interests of the children involved.

Although the Inter-American Court did not rule on the custody of the three girls itself, an issue for the national courts to decide, it held that Chilean courts could not take a parent's homosexuality or homosexual cohabitation into account when deciding on the "best interests of the child" in custody disputes.

The Court ordered Chile to pay around \$70,000 in compensation to Karen Atala and her daughters as reparation for moral damages, to provide them with free medical and psychological care for up to 4 years, to publicly acknowledge its international responsibility and to issue a public apology to the alleged victims.

Furthermore, the Court ordered Chile to pass discrimination legislation protecting LGBTI groups. It ordered Chile to conduct sensitivity trainings and educational programs for government officials that would focus on sexual orientation, gender identity and LGBTI rights, using the contents of the *Atala* decision as teaching material (see para. 282-284).

### **c. Threats to religious freedom**

[Advisory opinion request by the government of Panama](#) (2014): the request, on the general status of institutions, organizations and corporations in the Inter-American system, may have implications for institutional conscientious objection, given that one of the questions submitted is whether institutions are entitled to the right to freedom of expression. The Inter-American court has received [written communications](#) from international organizations, O.A.S. member states and non-governmental organizations on the issue. Advisor Opinions by the court are not binding on member states, but some states give them highly persuasive authority.

## **B. Inter-American Commission on Human Rights**

### **a. Inconsistent protection of the right to life from conception**

The Commission has sometimes promoted the unborn child's right to life by condemning at least some forms of abortion, including elective abortion, by referring to forced abortions as human rights violations and condemning attacks against pregnant women and their unborn children. For instance, the Commission's 1971 Annual Report stated that elective abortion motivated by poverty constitutes a "patent and grave violation of human rights".<sup>6</sup> Later, the IACHR referred

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<sup>6</sup> *Informe Anual*, OAS/Ser.L/V/II/27, Doc. 11 rev., 6 Marzo 1972, Parte II, para. 1 (in Spanish only), *available at*

to abortion as a form of torture in its 1995 Report on Human Rights Situation in Haiti, where it referred to blows to the breasts and stomach inflicted on pregnant women with the intention of causing them to abort as a form of sexual torture.<sup>7</sup>

In addition, the Commission has reported on complaints received against Latin American states from forced abortion victims during its *in loco* visits and thematic hearings. For instance, in 2001, the Commission reported and condemned the Operativo Ñemopoti in Paraguay, involving mass arbitrary detentions of farmers, where one woman suffered a forced abortion.<sup>8</sup> In 2001, the Commission also reported on human rights violations in Cuba, including an attempted forced abortion on Yesenia Rodríguez Aguilar, a pregnant inmate in a local prison.<sup>9</sup> Earlier, in 1998, during its *in loco* visit to Mexico, the Commission reported receiving information on Luz Elena Corona's case, who suffered a miscarriage due to a company's non-compliance with health and safety standards established to protect pregnant women at work.<sup>10</sup> In 1980, it reported on human rights violations against Argentinean female inmates and their unborn children, including abortions.<sup>11</sup> However, in the past few decades, the IACHR has inconsistently promoted the protection of the unborn child's right to life, as described below.

[\*\*Baby Boy v. United States \(1981\)\*\*](#) (click on link for report in English)

In *Baby Boy v. United States*,<sup>12</sup> the Commission concluded that the abortion of Baby Boy, a viable male fetus, was permissible under the American Declaration of the Rights and Duties of Man and, incidentally, the American Convention on Human Rights. In addition, the Commission held that the United States' creation of a fundamental right to abortion through *Roe v. Wade*<sup>13</sup> was not incompatible with the Declaration or the Convention and that neither regional instrument required member states to ban abortion, supposedly according to the original intent behind them.<sup>14</sup>

In any event, the Commission in *Baby Boy* implicitly accepted *ratione personae* jurisdiction over the alleged victim, Baby Boy, by admitting the petition, therefore considering it a person with protectable rights in the Inter-American system.<sup>15</sup> Dinah Shelton, a former IACHR Commissioner, in her commentary of *Baby Boy*, indicated that this assumption that a "person" had been subject to an alleged violation left open the possibility that other cases of fetal injury or death may be brought based on this resolution.<sup>16</sup>

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<http://www.cidh.org/annualrep/71sp/parte2.htm>.

<sup>7</sup> Report on Human Rights Situation in Haiti ¶ 123, available at <http://www.cidh.org/women/haiti95mujer.htm>

<sup>8</sup> *Administración de Justicia y Derechos Humanos*, Inter-Am Comm'n H.R. ¶ 27,

<http://www.cidh.org/countryrep/paraguay01sp/cap.4.htm>.

<sup>9</sup> *Id.* ¶ 81 (f).

<sup>10</sup> Report on the situation of human rights in Mexico, Chapter IX, Human Rights Of Women, Inter-Am. Comm'n H.R. ¶ 636 available at <http://www.cidh.oas.org/women/chapter-9.htm>.

<sup>11</sup> *Derecho a La Seguridad e Integridad Personal* ¶ 2(a) available at <http://www.cidh.org/countryrep/argentina80sp/cap.5.htm>.

<sup>12</sup> See *Baby Boy v. United States*, Case 2141, Inter-Am. Comm'n H.R., Report No. 23/81, OEA/Ser.L./V/II.54, doc. 9 rev. (1980-81), available at <http://www.cidh.org/annualrep/80.81eng/USA2141b.htm> (hereinafter *Baby Boy*)

<sup>13</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>14</sup> See *Baby Boy*, ¶ 15.

<sup>15</sup> See *Baby Boy*.

<sup>16</sup> See Dinah Shelton, *Abortion and Right to Life in the Inter-American System: The Case of Baby Boy*, 2 HUM. RTS. L. J. 309, 312

In addition, even while the IACHR in *Baby Boy* opined that abortion would be a lawful exception to the right to life as stipulated in the Declaration, it failed to recognize an alleged human right to abortion in either instrument.<sup>17</sup> The resolution held that legalization of abortion was not prohibited by the Declaration or the Convention but did not declare that abortion was a human right protected by the Convention, nor that states-parties had a positive obligation to authorize, sponsor and provide it.<sup>18</sup> It is noteworthy that despite its distorted interpretation of the Convention, the Commission in *Baby Boy* did indicate that an abortion without “substantial cause” would be arbitrary.<sup>19</sup>

[\*Paulina Ramírez v. Mexico \(2007\)\*](#) (click on link for report in English)

The first claim alleging the existence of a right to abortion came to the Commission in March of 2002.<sup>20</sup> The individual petition was brought before the IACHR by several abortion lobbies: the U.S.-based Center for Reproductive Rights (CRR) and some of its local affiliates, Alaide Foppa A.C., and the Grupo de Información en Reproducción Elegida (Reproductive Choice Information Group, GIRE), on behalf of Paulina del Carmen Ramírez Jacinto, a fourteen year-old pregnant child.<sup>21</sup>

Paulina was sexually assaulted by an adult man, who was later convicted to sixteen years imprisonment; the rape resulted in pregnancy.<sup>22</sup> The child and her mother reported the assault and obtained legal authorization for the abortion at the Public Prosecution Service,<sup>23</sup> since the Baja California Criminal Code allowed for a rape exception to criminal abortion.<sup>24</sup>

During their stay at the public hospital where the abortion was to be performed, Paulina and her mother were counseled by medical staff, pro-life individuals, and a Roman Catholic priest.<sup>25</sup> They were exposed to pro-life materials and were told of the abortion’s health risks by the hospital director.<sup>26</sup> Subsequently, Paulina’s mother changed her mind about the abortion and asked hospital staff to refrain from performing the surgery.<sup>27</sup> In April 2000, Paulina gave birth to a boy, whom she decided to keep and named Isaac de Jesús Ramírez Jacinto, effectively raising him until present time.<sup>28</sup>

The petition alleged human rights violations against fourteen-year old Paulina and her mother,

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(1981).

<sup>17</sup> See *Baby Boy*.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* ¶ 14(c).

<sup>20</sup> See *Paulina del Carmen Ramirez Jacinto v. Mexico*, Petition 161-02, Inter-Am. Ct. H.R., No. 21/07, ¶ 9 and annex (2007) [hereinafter *Paulina*].

<sup>21</sup> See generally, THE CENTER FOR REPRODUCTIVE RIGHTS, THE CENTER’S CASES, <http://reproductiverights.org/en/archive/cases?issue=All&region=49>

<sup>22</sup> See *Paulina*, ¶ 9.

<sup>23</sup> *Id.* ¶ 11.

<sup>24</sup> *Id.* ¶ 10.

<sup>25</sup> *Id.* ¶¶ 11-12.

<sup>26</sup> *Id.* ¶ 13.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at annex.

arguing that the abortion had been intentionally delayed and that the counseling they had received constituted an “undue interference” with the pregnant child’s purported right to an abortion.<sup>29</sup> They also claimed that the Prosecution’s failure to inform Paulina on the availability of abortifacients constituted a violation of her rights.<sup>30</sup> Even though Paulina and her mother voluntarily declined the abortion, the petitioners alleged that her case was “indicative of those of a countless number of girls and women forced into motherhood after being raped.”<sup>31</sup> They demanded that the state adopt regulations forcing physicians to perform abortions and restricting rape victims’ access to pro-life materials or health-related information on abortion risks that may lead them to change their minds on their decision to abort.<sup>32</sup>

Even though the Commission never actually examined the petition’s admissibility or merits, it fully endorsed all of the abortion lobbies’ demands and cooperated in their practical enforcement.<sup>33</sup> From 2002 to 2007, the IACHR facilitated at least four meetings between government representatives of the Mexican state of Baja California and the abortion lobbies that filed the petition.<sup>34</sup> In them, it cooperated with the petitioners in getting the government to admit to the alleged violations and reaching a friendly settlement, the written agreement to which was signed on March 8, 2006.<sup>35</sup> The Commission then held a follow-up meeting in October of the same year to verify state compliance with the commitments assumed vis a vis the petitioning abortion lobbies.<sup>36</sup>

The friendly settlement agreement strikingly resembled a tort agreement in an American “wrongful life” action (except for the fact that this case involved an entirely healthy child). In it, the state agreed to give generous reparations in cash, around 700,000 pesos – the equivalent of approximately \$66,000 in March 2006<sup>37</sup> – and kind to Paulina and her child, Isaac de Jesus, whose unwanted birth allegedly resulted in “consequential damages” and “moral damages” to her.<sup>38</sup> The amount included, aside from said damages, assistance for housing and maintenance expenses, school enrollment fees, school supplies, and transportation.<sup>39</sup> The state thus assumed full financial “liability” for all expenses relating to Isaac’s childrearing and education.<sup>40</sup> In addition, it committed itself to granting Paulina and Isaac generous social assistance (the kind that perhaps should be made available to all low-income single mothers) such as school

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<sup>29</sup> *Id.* ¶¶ 1, 10-12.

<sup>30</sup> *Id.* ¶ 9.

<sup>31</sup> *Id.* ¶ 14.

<sup>32</sup> See Paulina, *supra* note 54, at annex; see also CENTER FOR REPRODUCTIVE RIGHTS, PAULINA: FIVE YEARS LATER 72-73 (2005) [hereinafter PAULINA: FIVE YEARS LATER], available at [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo\\_paulina5years.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_paulina5years.pdf); see also *Mandatory Delays and Biased Counseling for Women Seeking Abortions*, CENTER FOR REPRODUCTIVE RIGHTS (Sept. 30, 2010) (CRR claimed that U.S. abortion counseling laws are “unnecessary” and that the materials provided to women pursuant thereto (regarding fetal pain, decision-making or informed consent, for instance) are “biased” and “inappropriate” because they may lead a woman to choose to carry her pregnancy to term or to keep her child), <http://reproductiverights.org/en/project/mandatory-delays-and-biased-counseling-for-women-seeking-abortions>.

<sup>33</sup> See Paulina, ¶ 24.

<sup>34</sup> *Id.* ¶¶ 5-8.

<sup>35</sup> *Id.* ¶ 16.

<sup>36</sup> *Id.* ¶ 8.

<sup>37</sup> *The Economist Currency Converter*, THE ECONOMIST, <http://www.economist.com/markets/currency/fullconverter.cfm> (last visited June 21, 2011).

<sup>38</sup> Paulina, ¶ 16, items 1, 9.

<sup>39</sup> *Id.* ¶ 16, items 2, 3, 6.

<sup>40</sup> *Id.*

vouchers, free health care until Isaac's age of majority, free counseling, financial and technical assistance in setting up a grocery store, and permanent education assistance for Isaac.<sup>41</sup> Surprisingly, the state also granted the abortion lobbies' reparations in kind, such as a computer and a printer that were handed out to them "as a one-off presentation."<sup>42</sup>

Remarkably, at the time of the IACHR's report, March of 2007, the State had actually complied with all but the last item above:<sup>43</sup> Baja California Sur eventually reformed its Criminal Code to create an additional "health" exception to the criminalization of abortion and to establish lower penalties for illegal abortion.<sup>44</sup> The State also reformed its Criminal Procedure Code to facilitate access to abortion of children conceived by rape.<sup>45</sup> These reforms became effective in September of 2005.<sup>46</sup>

Like any friendly settlement reports under Article 49 of the Convention, *Paulina* is a non-authoritative application of the American Convention and lacks binding value. The friendly settlement process at the IACHR did, however, exert significant political pressure in the Mexican State of Baja California, which went to great lengths to comply with the petitioners' requests, supported by the Commission.

However, the Commission's pressure to create abortion rights only produced temporary effects in Baja California. After *Paulina*, in October 2008, the state legislature approved a constitutional amendment protecting the right to life from conception, stating: "[F]rom the moment in which an individual is conceived, he enters under the protection of the law, and is treated as a born person for all corresponding legal effects, until his natural or non-induced death."<sup>47</sup> The Constitution prevails over secondary laws in Mexico, so the amendment would annul incompatible provisions in Criminal Codes and similar laws adopted as a result of *Paulina*.

[PM 43-10 "Amelia", Nicaragua and PM 178/15 –Mainumby, Paraguay](#) (click on links for IACHR summaries and resolutions)

The Commission has been asked by several abortion rights groups to create an alleged right to "therapeutic" abortion through precautionary measures but it has failed to do so. The IACHR is authorized to issue precautionary measures "in serious and urgent situations", "to prevent irreparable harm to persons", according to its Rules of Procedure.<sup>48</sup>

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<sup>41</sup> *Id.* ¶ 16, items 2, 3, 4, 6, 8.

<sup>42</sup> *Id.* ¶ 16, item 7.

<sup>43</sup> *Id.* ¶ 22.

<sup>44</sup> Código Penal Para El Estado de Baja California Sur, *as amended*, art. 252, Boletín Oficial del Gobierno del Estado de Baja California Sur, 20 de Marzo de 2005 (Mex.); see also HUMAN RIGHTS WATCH, THE SECOND ASSAULT: OBSTRUCTING ACCESS TO LEGAL ABORTION AFTER RAPE IN MEXICO (2006), available at <http://www.hrw.org/reports/2006/mexico0306/4.htm>.

<sup>45</sup> *Id.*, HUMAN RIGHTS WATCH.

<sup>46</sup> *Id.*

<sup>47</sup> Constitución Política del Estado Libre y Soberano de Baja California [Const.], Periódico Oficial, art. 7, 16 de Agosto de 1953 (Mex.). Original text in Spanish reads: "[D]e igual manera esta norma fundamental tutela el derecho a la vida, al sustentar que desde el momento en que un individuo es concebido, entra bajo la protección de la ley y se le reputa como nacido para todos los efectos legales correspondientes, hasta su muerte natural o no inducida." *Id.*

<sup>48</sup> Rules of Procedure of the Inter-American Commission on Human Rights, *supra* note 23, at art. 25(1).

In *PM 43-10 “Amelia”, Nicaragua*, issued on February 26, 2010,<sup>49</sup> the IACHR carefully tailored precautionary measures recommending measures to preserve a cancer patient’s right to medical treatment while disregarding the petitioners’ request to order a “therapeutic abortion”. The request, filed by several abortion lobbies including Catholics for Choice, involved Amelia (pseudonym), a pregnant twenty-seven year old woman suffering from an unspecified form of metastatic cancer, whose doctors allegedly refused to treat with chemotherapy unless she aborted her unborn child. The IACHR, in an unusual showing of objectivity in this subject, asked the state of Nicaragua “to adopt the measures necessary to ensure that the beneficiary had access to the medical treatment she needed to treat her metastatic cancer” and refused to order the so-called “therapeutic abortion”.<sup>50</sup> The Commission thus closed the back door, at least momentarily, on a reinterpretation of the right to health that would include abortion as therapeutic, healing or medical treatment while appropriately clarifying that the pregnant cancer patient in question needed chemotherapy, not abortion.

The state of Nicaragua complied with the precautionary measures and “Amelia” received chemotherapy, which eventually resulted in a stillbirth.<sup>51</sup> Unhappy with the Commission’s lack of support for abortion in this case, the lobbies involved in the petition—the Strategic Group for the Decriminalization of Therapeutic Abortion, Catholics for Choice, Feminists of León, Nicaraguan Center for Human Rights and the Latin American and Caribbean Women’s Health Network—later condemned the fact that Amelia had carried the pregnancy to term and qualified it as “inhuman”, given that the unviable child took away her energy to fight the illness. They insisted that she should have been given an abortion instead.<sup>52</sup>

In 2015, two abortion rights organizations, CLADEM and Equality Now, requested that the state of Paraguay provide an abortion for a 10 year-old child, who was pregnant as a result of sexual abuse by her mother’s husband. They also requested that the child be given information on the health risks involved in carrying the pregnancy to term.

The Commission fell short of recommending an abortion and asked the government of Paraguay “to protect the life and personal integrity of the child, to ensure that she has access to adequate medical treatment for her situation and the treatment recommended by the specialists, in light of the technical guidelines of the World Health Organization and other similar sources applicable to the sexual and reproductive health of girls and adolescents, in which all the options available are assured; to ensure that the rights of the child are duly represented and guaranteed in all health decisions affecting the child, including the right of the child to be informed and participate in decisions affecting her health in accordance with her age and maturity; and take all necessary measures so that the girl has all of the technical and family support necessary to comprehensively protect her rights”.<sup>53</sup>

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<sup>49</sup> See pm 43/10, *Amelia, Nicaragua, Precautionary Measures*, IACHR (2010), available at <http://www.cidh.org/medidas/2010.eng.htm>

<sup>50</sup> *Id.*

<sup>51</sup> *Aborto en Centroamérica: Una region donde se acumula la injusticia*, FEMINISTAS EN RESISTENCIA HONDURAS (Sept. 29, 2010), <http://feministascontraelgolpehn.blogspot.com/2010/09/aborto-en-centroamerica-una-region.html>.

<sup>52</sup> *Id.*

<sup>53</sup> See PM 178/15 – Mainumby, Paraguay, *Precautionary Measures*, INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (2015), available at <http://www.oas.org/en/iachr/decisions/precautionary.asp>

## b. LGBTI advocacy

The IACHR has approved various reports advocating LGBTI issues:

[Ángel Alberto Duque v. Colombia \(2014\)](#) (currently pending before the Inter-American Court on Human Rights as of January 2016): merits report seeking to create a state obligation to grant marriage-like benefits for same-sex partners and to declare Colombia's traditional statutory definitions of family to be discriminatory, in violation of the American Convention (click on link for merits report).

Interestingly enough, in 2001, the Commission declared a similar case ([Petition 19-99, José Alberto Pérez Meza](#)), involving a same-sex partner seeking survivorship rights, inadmissible on the grounds that “the allegations regarding the proceedings to secure recognition for the de facto partnership between the petitioner and the deceased are manifestly groundless in accordance with Article 47(c) of the American Convention, since the Commission is not authorized to rule on a fourth-instance basis”.<sup>54</sup>

[Homero Flor Freire v. Ecuador \(2014\)](#) (currently pending before the Inter-American Court on Human Rights as of January 2016): finding that criminal penalties for homosexual acts (namely sodomy) in the Ecuadorian military violate the American Convention (click on link for merits report).

[Marta Lucia Álvarez Giraldo v. Colombia \(1999\)](#): admissibility report seeking the creation of a right of homosexual inmates to “conjugal visits” (click on link for admissibility report).

[Luis Alberto Rojas v. Peru \(2014\)](#): admissibility report characterizing sexual violence against gay detainee as a form of torture and discrimination (click on link for admissibility report).

[X v. Chile \(2009\)](#): friendly settlement ordering Chile to pay reparations for investigating lesbian relationship between female police officers (click on link for friendly settlement report).

Two petitions have been declared inadmissible for procedural reasons, particularly, non-exhaustion of domestic remedies.<sup>55</sup>

The Commission has also issued several [precautionary measures](#) in favor of LGBTI activist in several Latin American countries (click on link for summaries and resolutions).

It has also held several [public hearings](#) where it has received information on alleged human rights violations against lesbians, gays, and trans persons, bisexual and intersex persons (click on link for list of hearings).

In 2011, the IACHR created a Unit, which it later turned into a [Rapporteurship on for the Rights of Lesbian, Gay, Trans, Bisexual and Intersex Persons](#) (click on link for website), that

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<sup>54</sup> See Report No. 96/01, Petition 19-99, José Alberto Pérez Meza (2001), IACHR, <http://cidh.org/annualrep/2001eng/ParaguayP19.99.htm>

<sup>55</sup> See Report No. 11/13, Petition 157-06, Juan Fernando Vera Mejías, March 20, 2013 and Report No. 96/01, Petition 19-99, José Alberto Pérez Meza, IACHR, available at <http://www.oas.org/en/iachr/lgtbi/decisions/iachr.asp>

assists the Commission with reports on LGBTI issues and bringing related cases before the inter-American Court on Human Rights.

The Rapporteurship also engages in a variety of LGBTI advocacy activities, such as issuing thematic reports on hate speech and on LGBTI activists as human rights defenders, as well as organizing expert meetings on LGBTI issues.

### **c. Threats to religious freedom**

[Sandra Pavez v. Chile](#): in 2015, the IACHR admitted a complaint [seeking to limit the Catholic Church's ability](#) to determine who may or may not teach Catholic doctrine in Chilean public schools. The complaint involves a lesbian schoolteacher whose authorization to teach a course on religion was revoked by her Diocese due to her living in a homosexual union, which contradicted the teachings of the Church. A merits report is expected if Chile does not reach a friendly settlement with the petitioner.

### **C. [The Inter-American Convention on Discrimination and all forms of Intolerance](#) (click on link for official text in English)**

The Inter-American Convention on Discrimination and all forms of Intolerance was originally a part of the Convention against Racism but it later became its own treaty. Among others, the Convention creates special protections on the basis of “sexual orientation”, “gender identity and expression” (undefined) and grants the Inter-American Court on Human Rights jurisdiction to hear individual complaints on the treaty.

It was opened for signature at the O.A.S. General Assembly in Guatemala in 2013. Its status as of January 2016 is inactive, i.e. it has not entered into force given that only 9 countries have signed it (Argentina, Brasil, Colombia, Ecuador, Haití, Panamá, Uruguay) and none have ratified it.