Editor's note:

This newsletter is the fifth issue after the relaunch of the HRIG’s newsletter. This format aims to be a tool for its readers to keep up to date on some of the developments in human rights standards in the various international human rights organs. In addition, it invites you to deepen in the topics and news that may interest you the most, by providing the direct source.

This issue covers a sample of the decisions and activities of human rights organs between April and June 2022, which may be of particular interest to you because of their novelty or current relevance. For example, the newsletter includes an interesting judgment of the European Court of Human Rights that concludes State responsibility for not attaching legal consequences to homophobic motivation in a homicide. Also, concerning the criminal proceeding against former Brazilian president, Lula da Silva, the newsletter addresses a decision of the Human Rights Committee which concluded that this proceeding violated Lula da Silva’s due process guarantees and that the ban imposed on him from running again for president was therefore arbitrary. In addition, the newsletter includes a decision of the Committee on the Elimination of Racial Discrimination that considers that the failure to recognize a marriage officiated by indigenous authorities constitutes an act of discrimination.

Other decisions and pronouncements included relate to forced disappearances in Mexico, eviction of ethnic communities in Africa, the exercise of freedom of religion in prison, assisted suicide, and the new Themis Digest of the Inter-American Court of Human Rights to facilitate access to its jurisprudence.

This issue contains a new section on positions in the human rights field, particularly in the United Nations, including high-level, mid-level, and entry-level positions, paid and unpaid.

If you would like to include any news, events, or announcements in the next newsletter, you are invited to send them to mherandez@alvarezmartinezlaw.com.

Best regards,

Mariana Hernández
Newsletter Editor

* The news contained in this publication refers to the period April-June 2022.
I. UNIVERSAL HUMAN RIGHTS SYSTEM

1. Human Rights Committee (HRC)

News from the HRC:

• On May 23, 2022, the HRC declared Nepal’s international responsibility for the torture, rape, and murder of a 16-year-old girl by army officers during the Nepalese civil war. R.R., the victim, a high school student, lived with her family in Pokhari Chauri village in the Kavre district, a locality where many Maoists gathered. On the night of February 13, 2004, approximately 20 Royal Nepalese Army soldiers broke into the family’s house, accusing R.R. of being a Maoist. She denied the accusation but was taken out of the house, interrogated, beaten, raped, and taken to a corn field, where she was killed. The victim’s body was found the next morning by the victim’s parents.

The HRC found Nepal responsible for the arbitrary deprivation of R.R.’s right to life and for subjecting her to physical and mental torture, including rape. The HRC also found that the rights to freedom of gender discrimination and to be protected as a child were violated. According to the HRC, “Nepal has failed to demonstrate how an unarmed 16-year-old girl posed a threat to a full-armed platoon of twenty soldiers, much less justify how her rape and summary execution could serve any legitimate security aim”. The press release can be found here and the HRC’s findings here.

• On April 28, 2022, the HRC found that due process guarantees were violated in the criminal proceedings against former Brazilian President Luiz Inácio Lula da Silva. Former President Lula da Silva was investigated in 2016 for his alleged involvement in two cases of “Operation Car Wash” (Operação Lava Jato), a wide-ranging criminal investigation in Brazil that uncovered corruption between the state-owned oil company Petrobras, several construction companies, and several Brazilian politicians. The investigation was conducted under the direction of former Federal Criminal Court judge Sergio Moro.

During the investigation, the former judge approved a request by the prosecutor to tap Lula da Silva’s phones, as well as those of his family and lawyer, and released the contents of the taps to the media before formally filing the charges. He also issued an arrest warrant to interrogate Lula da Silva. The warrant was leaked to the media and, as a result, the media presented pictures of Lula da Silva as if he was under arrest, although he was not under arrest at the time. Lula da Silva was sentenced to 12 years in prison and in 2018 he began serving his sentence while his appeals were pending. The Superior Electoral Court rejected Lula da Silva’s candidacy for the presidential elections, arguing that the country’s legislation prevents anyone convicted of certain crimes and under certain conditions from running for public office, even if appeals are pending. However, the conviction was overturned in 2021 by the Supreme Federal Court, as it was found that former judge Moro was not competent to investigate and judge the cases, nor was he impartial.

The HRC determined that the arrest warrant, issued contrary to domestic law, violated Lula da Silva’s right to personal liberty and that the wiretapping and disclosure of his conversations to the public violated his right to privacy. In addition, it found that the conduct and other public acts of former judge Moro violated Lula da Silva’s right to be tried by an impartial tribunal; and that the actions and public statements of the former judge and prosecutors violated his right to the presumption of innocence. It also considered that these procedural violations rendered the ban imposed on Lula da Silva from running for president arbitrary and therefore violated his political rights. Accordingly, it urged Brazil to ensure that any further criminal proceedings against Lula da Silva comply with due process guarantees and to prevent similar violations in the future. The press release can be found here and the HRC’s conclusions here.

2. Committee on the Elimination of Racial Discrimination (CERD)

News from the CERD:

• On May 17, 2022, the CERD found that Ecuador discriminated against the indigenous activist
and former presidential candidate Yaku Pérez Guartambel by refusing to recognize his marriage officiated by traditional indigenous authorities. Yaku Pérez was a member of the Kichwa Kañari indigenous community and in 2013 he married Manuela Lavinia Picq, a Brazilian-French journalist and teacher. The marriage was officiated by the traditional authorities of the indigenous people. However, in 2015 the couple was arrested during a march to defend the rights of indigenous peoples and, thereafter, Ecuadorian authorities revoked Picq’s visa and forced her to leave the country. Pérez, therefore, tried to register their marriage with the Directorate General of the Civil Registry to apply for a family reunification visa so that his wife could return to Ecuador. His application was denied because according to the authorities his marriage was not legally valid because the indigenous authorities were not competent to officiate and register marriages. Thus, he was asked to perform another wedding before the civil registry officials. Pérez’s appeals against the authorities’ decision were rejected.

The CERD considered that the failure to recognize the marriage constituted an act of discrimination in violation of the International Convention on the Elimination of All Forms of Racial Discrimination. The CERD called on Ecuador to register Pérez’s marriage in the civil system, pay compensation, and apologize because of the violation of human rights. It also recalled that Ecuador’s Constitution defines it as a plurinational State, which implies that indigenous peoples are holders of collective rights to freely maintain and strengthen their identity, ancestral traditions, and social organization. The press release can be found here and the decision (in Spanish) here.

**II. AFRICAN HUMAN RIGHTS SYSTEM**

1. African Commission on Human and Peoples’ Rights (ACHPR)

News from the ACHPR:

- On June 13, 2022, the ACHPR issued an urgent appeal to stop the eviction of the Maasai community in the Ngorongoro district of the United Republic of Tanzania. The ACHPR received reports that, since June 8, 2022, the police have been using force to evict Maasai from their ancestral lands in the Loliondo division of the Ngorongoro district. The use of force resulted in injuries to at least 31 people. The ACHPR expressed that the forced eviction of the affected communities poses a serious danger to various rights of community members, including their rights to life, personal integrity, freedom of association, property, culture, family, existence, and natural resources. Conse-
African Human Rights System —continued from page 3

quently, the ACHPR requested the Government to stop the forced eviction, to urgently open independent investigations on the violence caused, and to restore and provide the necessary support for the rehabilitation of the evicted communities, among others. The press release can be found here.

• On May 13, 2022, the ACHPR issued Resolution No. 519 on the need to conduct a study on extrajudicial killings in Africa. In the Resolution, the ACHPR expressed its concern about the extrajudicial killings that are increasingly taking place with impunity on the continent, especially in the context of counter-terrorism actions and a state of emergency. Thus, the ACHPR instructed the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa, as well as the Institute of Human Rights and Peace of the University of Dakar to conduct a study on extrajudicial executions in Africa. It also called on interested parties to support the study. Resolution No. 519 can be found here.

2. African Court on Human and Peoples Rights (ACtHPR)

News from the ACtHPR:

• On June 23, 2022, the ACtHPR rendered judgment in five cases. The sentenced cases were: i) “ACHPR v. Kenya” (reparations); ii) “Ghaby Kodeih ET Nabiâ Kodeih v. Benin” (jurisdiction and admissibility); iii) “Tiekoro Sangare and 15 others v. Mali” (merits and reparations); iv) “Harold Mbalanda Munthali v. Malawi” (merits and reparations); and v) “Mgosi Mwita Makungu v. The United Republic of Tanzania” (reparations). Among the judgments, the “ACHPR v. Kenya” case concerns the eviction of the Ogiek community, an indigenous ethnic minority group in Kenya comprising around 20,000 members of the Mau Forest, a land mass covering around 400,000 hectares and extending over some seven administrative districts of the State’s territory. In October 2009, through the Kenya Forest Service, the State issued a 30-day eviction notice to the Ogiek people, demanding that they should leave the forest. The ACHPR lodged an application before the ACtHPR and claimed that the importance of the Mau Forest to the survival of the Ogiek people was not taken into account and that the Ogiek people were not involved in the decision-making process for the eviction. It was also argued that the Ogiek population was subjected to several eviction measures since colonial times, which continued after the State’s independence.

On May 26, 2017, the ACtHPR found violations of various human rights, such as Article 8 (right to freedom of conscience) of the African Charter on Human and Peoples’ Rights, since the evictions made it impossible for the community to continue with their religious practices, given the existing link between the indigenous populations and their lands in terms of the practice of their religions. The ACtHPR also found a violation of Article 2 of the Charter (non-discrimination), among others.

On June 23, 2022, the ACtHPR delivered its judgment on reparations. Among its reparations, the ACtHPR ordered Kenya to undertake an exercise of delimitation, demarcation, and titling in order to protect the Ogiek’s right to property. The press release of the judgments can be found here, the “ACHPR v. Kenya” judgment on merits here, and the judgment on reparations here.

• On April 4 and 5, 2022, the ACtHPR began an outreach mission to the Union of the Comoros, a country in Southeast Africa. According to Judge Imani, the mission aimed to raise awareness of the Pan-African judicial body and encourage Comoros to deposit the Special Declaration so that individuals can have direct access to the ACtHPR. Comoros acceded to the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights on December 23, 2013, but has not yet made the special declaration provided for in Article 34.6.

The States that have deposited this special declaration so far are 8 out of the 33 States Parties to the Protocol and out of the 55 Member States of the African Union. The eight countries are Burkina Faso, Gambia, Ghana, Guinea Bissau, Malawi, Mali, Niger, and Tunisia. The press release can be found here.
III. EUROPEAN HUMAN RIGHTS SYSTEM

1. European Court of Human Rights (ECtHR)

News from the ECtHR:

- On June 14, 2022, the ECtHR found Bulgaria responsible for not attaching legal consequences to the homophobic motivation in a homicide against a young man. The case “Stoyanova v. Bulgaria” concerns the homophobic murder of the petitioner’s son, a 26-year-old man. His assailants, high school students, had targeted him because they thought he was homosexual. The assailants were convicted of aggravated homicide but were given sentences below the legal minimum after the courts took into account mitigating factors such as their low age and lack of criminal record. The ECtHR found in particular that, although the Bulgarian courts had clearly established that the motive for the attack had been the perpetrators’ hatred towards homosexual persons, there had been no tangible additional legal consequences. This was due to the fact that the Bulgarian Penal Code does not provide homophobia as a specific aggravating factor for the crime of murder. Therefore, the ECtHR found a violation of Article 14 (prohibition of discrimination) and Article 2 (right to life) of the ECHR. The judgment of the case can be found here.

- On June 14, 2022, the ECtHR found Turkey responsible for the violation of the right to freedom of religion by prohibiting the holding of collective religious meetings in a high-security prison. In the case “Abdullah Yalçın v. Turkey (No. 2)”, the applicant was a Turkish citizen who served a sentence in a high-security prison for belonging to the illegal organization Hezbullah. In March 2010, the applicant requested permission to celebrate Friday prayer (Jumu’ah) and participate in it, as required by Islam. The prison authorities rejected his request on the grounds of the security risk posed by collective gatherings, and because there was no suitable room on the prison premises that could be used. In May 2010 all of the applicant’s appeals to the local courts were ultimately dismissed by the Diyarbakır Criminal Court. The ECtHR found that the authorities failed to strike a fair balance between the competing interests at stake, namely security and order in prison and the right to collectively exercise freedom of worship. In particular, the ECtHR found that the authorities failed to provide relevant and sufficient reasons so as to comply with their duty under Article 9 of the ECHR to ensure the applicant’s freedom to express and exercise his religion with others in prison. Accordingly, the ECtHR found that such circumstances violated Article 9 (freedom of religion) of the ECHR. The judgment of the case can be found here.

- In April 2022, the ECtHR updated its fact sheet on the end of life and the European Convention on Human Rights. The ECtHR has ruled on issues such as the end of life, euthanasia, and assisted suicide. Among the rulings set out in the factsheet, is the case of “Pretty v. the United Kingdom”, in which the plaintiff was dying of a degenerative motor neuron disease that has no cure. Due to her illness, the plaintiff was unable to end her life on her own and wanted her husband to assist her. However, in English law assisting a suicide is a crime and the authorities refused her request for assisted suicide. In response, the ECtHR held that there had been no violation of Article 2 (right to life) of the ECHR, finding that the right to life could not be interpreted, without distorting the language, as a diametrically opposite right, namely a right to die. The fact sheet can be found here.

IV. INTER-AMERICAN HUMAN RIGHTS SYSTEM

1. Inter-American Commission on Human Rights (IACHR)

News from the IACHR:

- On May 9, 2022, the IACHR submitted a case against Venezuela before the IACtHR for the arbitrary detention and torture of a retired Army major. The alleged victim, Milton Gerardo Revilla, a retired Army major, was detained in 2010 by the General Directorate of Military Counterintelligence (DGCIM) at its headquarters in Caracas.
and sentenced to prison and political disqualification for crimes against the security of the National Armed Forces. According to the allegations, Revilla discovered and denounced links between the Colombian guerrilla FARC and the Venezuelan State. As a result of his actions, he was retaliated against by authorities, which is why he retired from the Army. However, the victim was considered a political opponent based on Article 550 of the Organic Code of Military Justice, which punishes those who “reveal orders, slogans, documents or private or secret news of the Armed Forces”.

The IACHR alleged before the IACtHR that the proceedings in the military criminal jurisdiction were not initiated by competent authorities, violating Mr. Revilla’s judicial guarantees. It was also alleged that Revilla was the victim of acts of torture such as beatings, electric shocks, and isolation in cruel, inhuman, and degrading conditions during his deprivation of liberty. Other human rights of the alleged victim were also violated, according to the IACHR’s complaint, such as political rights, and the right to health, among others. The press release can be found here.

• On May 3, 2022, the IACHR and its Special Rapporteurship for Freedom of Expression (RELE) presented the creation of the Core Group of Friends of Freedom of Expression and Journalism of the OAS. The objective of the Core Group is to ensure the fundamental right of freedom of expression within the framework of the OAS by promoting political dialogue, cooperation, and the exchange of best practices among Member States. Its main role will be to support regional and OAS efforts to ensure the essential role that journalism, freedom of expression, and the right to information play in fostering democracy, and to enable people to engage in debate on matters of public interest and access a wide range of opinions, thereby strengthening deliberation, respect for all human rights and sustainable development. The press release (in Spanish) can be found here.

• On April 18, 2022, the IACHR reaffirmed its commitment to the people of Nicaragua, four years after the beginning of the human rights crisis. Since 2018, the IACHR has documented the development of the political, social, and human rights crisis in Nicaragua, the serious human rights violations that have occurred, and the progressive breakdown of the rule of law. Human rights violations in the country continue to deepen due to the lack of independence of powers through the concentration of power in the Executive, a de facto state of emergency, and the persistence of impunity. From the report “Concentration of Power and Weakening of the Rule of Law” it was highlighted the will of the current Government to perpetuate itself indefinitely in power and to maintain its privileges and immunities, in the context of corruption, electoral fraud, and structural impunity. In this regard, since 2018, human rights violations perpetrated in the context of state repression, which resulted in 355 people dead, and more than 2000 injured, among others, remain in complete impunity.

The IACHR once again endorsed its accompaniment to Nicaraguans to achieve effective access to justice, reparation, reconstruction of democracy, and the right to memory and truth. The press release can be found here.

2. Inter-American Court of Human Rights (IACtHR)

News from the IACtHR:

• On June 9, 2022, the IACtHR invited all organs of justice in the Americas to participate in the 2022 Sentences Award: “Access to justice of migrants, refugees and other persons in need of international protection”. The objective of the 2022 Sentences Award is to highlight those judgments that have been issued under the highest norms and standards in human rights, as well as good practices that have served to ensure access to justice and the effective enjoyment of the human rights of migrants or persons subject to international protection in the Americas. The judgments will be evaluated by a jury approved by the convening bodies and four judgments will be awarded, as defined by the jury. The period for receipt of judgments began on May 4, 2022, and...
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ends on July 31, 2022. The winners will be notified in September and the awards will be presented in October. The call for entries (in Spanish) can be found here and the press release here.

• On May 18, 2022, the IACtHR presented the new Themis Digest. The Digest is a compilation of judicial pronouncements to interpret various articles of the Inter-American Convention on Human Rights. The tool, which is public and freely accessible, facilitates access to the jurisprudence of the IACtHR. The Digest includes case law related to the right of access to justice, economic, social, cultural, and environmental rights, children’s rights, equality, and rules of interpretation. The Digest also facilitates the application of conventionality control at the national level by all judicial operators. The Themis Digest (currently only available in Spanish) can be found here and the press release here.

INFORMATION ON SOME OPEN HUMAN RIGHTS POSITIONS AT THE UNITED NATIONS

This new section of the newsletter presents a list of some open human rights positions at the United Nations that may be of interest to you. For practical purposes, we divide the open positions into three categories: 1) high-level positions requiring nomination by a State; 2) high-level positions of self-nomination; 3) mid-level and entry-level positions. It should be noted that neither the HRIG nor ASIL are part of the election process for these positions, and therefore their listing is for informational purposes only.

1. High-level positions requiring nomination by a State

This category lists the upcoming elections for members of treaty bodies within the United Nations System. These are honorary and part-time positions. When the term of office of one or more of the members of these bodies is about to expire, the Secretary General sends a note verbale to the States Parties to the respective treaty, inviting them to submit their nominations by note verbale by a specified deadline. Thus, to apply for one of these positions, it is necessary to be nominated by a State party to the respective treaty. After States submit their nominations, their representatives meet in a scheduled session to vote and elect the new members.

<table>
<thead>
<tr>
<th>Position available</th>
<th>Positions available</th>
<th>Election</th>
<th>Nomination</th>
<th>Website with more information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member of the Subcommittee on the Prevention of Torture</td>
<td>13</td>
<td>It will be held on October 20, 2022, at 10 AM, in the Conference Room III of the Palace of Nations (Geneva).</td>
<td>States Parties to the Additional Protocol to the Convention against Torture may nominate until August 18, 2022, by means of a note verbale from their Permanent Representative to the UN addressed to the Secretary-General with a copy to the Office of the United Nations High Commissioner for Human Rights.</td>
<td><a href="https://www.ohchr.org/en/events/events/2022/9th-meeting-states-parties-2022-elections">https://www.ohchr.org/en/events/events/2022/9th-meeting-states-parties-2022-elections</a></td>
</tr>
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2. High-level positions of self-nomination

This category lists positions available as independent experts in the special procedures of the UN Human Rights Council. These are honorary and part-time positions. The application for these positions is conducted freely and online. A consultative group considers the applications received and shortlists candidates for interviews. After that, the election is made by the president of the Human Rights Council on the basis of the recommendations of the consultative group, and is approved by the Human Rights Council. It should be noted that in order to achieve equitable geographic representation, some positions are only open to people from certain regions.

<table>
<thead>
<tr>
<th>Position available</th>
<th>Nationality</th>
<th>Date of election</th>
<th>Application deadline</th>
<th>Website with more information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member of the Expert Mechanism on the Right to Development</td>
<td>Positions are available for individuals from Africa, Asia, the Pacific and Europe.</td>
<td>February-March 2023</td>
<td>Not yet defined.</td>
<td>When available it will be published here: <a href="https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations">https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations</a></td>
</tr>
<tr>
<td>Member of the Expert Mechanism on the Rights of Indigenous Peoples</td>
<td>Positions are available for persons from Asia and the Arctic.</td>
<td>February-March 2023</td>
<td>Not yet defined.</td>
<td>When available it will be published here: <a href="https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations">https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations</a></td>
</tr>
<tr>
<td>Special Rapporteur on the Right to Development</td>
<td>N/A</td>
<td>February-March 2023</td>
<td>Not yet defined.</td>
<td>When available it will be published here: <a href="https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations">https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations</a></td>
</tr>
<tr>
<td>Member of the Working Group on Enforced or Involuntary Disappearances</td>
<td>There is one position available for a person from Latin America and the Caribbean.</td>
<td>February-March 2023</td>
<td>Not yet defined.</td>
<td>When available it will be published here: <a href="https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations">https://www.ohchr.org/en/hr-bodies/hrc/sp/nominations</a></td>
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### 3. Mid-level and entry-level positions

This category presents a list of some full-time paid employment positions related to human rights available at the United Nations. The application for these positions is conducted freely and online.

<table>
<thead>
<tr>
<th>Position Available</th>
<th>Department</th>
<th>Functions</th>
<th>Application Deadline</th>
<th>Website with more information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection and Neutrality Officer</td>
<td>United Nations Relief and Works Agency (UNRWA)</td>
<td>Support monitoring of key protection threats, providing technical support to the team to ensure documentation is consistent with international standards and supports programmatic and advocacy responses in line with UNRWA policies and procedures, among others.</td>
<td>25/07/2022</td>
<td><a href="https://careers.un.org/lbw/jobdetail.aspx?id=184623&amp;Lang=en-US">https://careers.un.org/lbw/jobdetail.aspx?id=184623&amp;Lang=en-US</a></td>
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## Information on Some Open Human Rights Positions at the United Nations —continued from page 9

<table>
<thead>
<tr>
<th>Position available</th>
<th>Department</th>
<th>Functions</th>
<th>Application deadline</th>
<th>Website with more information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme Specialist</td>
<td>United Nations Entity for Gender Equality and the Empowerment of Women</td>
<td>Manage the implementation of the project “Strengthening the capacities of civil society and multi-stakeholder partnerships to promote women’s rights and gender equality in Türkiye”, among others.</td>
<td>17/07/2022</td>
<td><a href="https://jobs.undp.org/cj_view_job.cfm?cur_job_id=107416">https://jobs.undp.org/cj_view_job.cfm?cur_job_id=107416</a></td>
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<table>
<thead>
<tr>
<th>Position available</th>
<th>Department</th>
<th>Functions</th>
<th>Application deadline</th>
<th>Website with more information</th>
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We invite all HRIG members to connect through our social media accounts.

- [facebook.com/ASILHRIG](https://facebook.com/ASILHRIG)
- [linkedin.com/groups/12258636/](https://linkedin.com/groups/12258636/)
- [twitter.com/ASILorg_HRIG](https://twitter.com/ASILorg_HRIG)