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促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对哥斯达黎加的访问

人人有权享有能达到的最高标准身心健康特别报告员特拉伦·莫福肯的报告*

概要

人人有权享有能达到的最高标准身心健康特别报告员于 2023 年 7 月 18 日至 31 日对哥斯达黎加进行了访问。

特别报告员感到鼓舞的是，该国通过哥斯达黎加社会保险基金提供了几乎完全的全民覆盖。她指出了一些良好做法，包括为此通过了专门的法律、政策和协议。她仍然感到关切的是，2019 冠状病毒病(COVID-19)疫情加剧了与精神健康有关的挑战，特别是对青年人造成了影响，以及边缘化群体，包括残疾人、男女同性恋、双性恋、跨性别者、间性者、性别奇异者、无性恋和其他性向或性别多元者、移民、寻求庇护者、难民、土著人民、非洲人后裔、被剥夺自由者和吸毒者受到特定类型的歧视影响。她建议哥斯达黎加从交叉视角出发收集分类数据，为政策和资源分配提供信息。

特别报告员注意到在性健康和生殖健康权利方面的努力，并建议哥斯达黎加暂停适用有关堕胎的刑法。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文和西班牙文分发。

附件

人人有权享有能达到的最高标准身心健康特别报告员特拉伦·莫福肯访问哥斯达黎加的报告

I. Introduction

1. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, visited Costa Rica from 18 to 31 July 2023, at the invitation of the Government.

2. During the 10-day visit, the Special Rapporteur met with representatives of: the Ministry of Foreign Affairs and Worship; Ministry of Health; the Costa Rican Social Security Fund; interdisciplinary mental health teams; the Mental Health and Psychosocial Support Technical Operating Committee; the National Institute of Women; the National Commission for Indigenous Affairs; the National Council for Persons with Disabilities; the National Children's Institute; the Mixed Institute of Social Assistance; the Presidential Commissioner for Social Inclusion; the Ministry of Labour and Social Security; the Ministry of the Interior, Police and Public Security; the Ministry of Justice and Peace; the Ministry of Agriculture and Livestock; the Ministry of Public Education; the Ministry of Science, Innovation, Technology and Telecommunications; the National Learning Institute; the National Insurance Institute; the Ministry of Foreign Trade; General Directorate of Migration and Aliens; the National Coalition against the Smuggling of Migrants and Trafficking in Persons; and the judicial branch. Moreover, she met with the deputy mayors of Coto Brus and Limón, as well as with Bribri Indigenous communities in the Limón Province.

3. She also met with representatives of the national human rights institution, international organizations, a wide range of civil society actors, in San José and surrounding areas (La Carpio) and Limón, and members of Bribri Indigenous communities.

4. She visited a hospital specialized in mental health in San José, a secondary health-care centre in Limón and a detention centre for women in San José.

5. The Special Rapporteur extends her gratitude to the Government of Costa Rica for inviting her to assess, in a spirit of cooperation, the realization of the right to health in the country, including challenges and good practices. She extends her appreciation to the United Nations country team and the Office of the Resident Coordinator for the support provided during her visit. She also expresses her gratefulness to all the different stakeholders and persons who took the time to meet with her, including those who shared their deeply personal stories, which helped her to learn more about the challenges and good practices in Costa Rica related to the availability, accessibility, acceptability and quality of health-care services, and those related to the underlying determinants of health.

6. She stresses that, as a Special Rapporteur, she can only fulfil her mandate effectively when individuals and groups engaging with her can do so without fear of intimidation or reprisal.

7. During her analysis, the Special Rapporteur considered the principles of human rights, namely, non-discrimination, equality, meaningful participation, empowerment, transparency and accountability. The challenges the mandate holder assessed and those brought to her attention during the country visit touched on all those principles. The obstacles are interrelated and operate at different levels: health systems and in the underlying determinants of health.

II. Legal and institutional framework

8. The right to health is an inclusive right, extending to timely and appropriate health care, as well as to the underlying determinants of health. Another important aspect is the

participation of the population in all decision-making related to health at the community, national and international levels.

9. Costa Rica ratified the International Covenant on Economic, Social and Cultural Rights on 29 November 1968 and the Optional Protocol thereto on 23 September 2014. It also ratified the American Convention on Human Rights on 2 March 1970 and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights on 29 September 1999.

10. The right to health is not enshrined per se in the Constitution – article 46 thereof states that "consumers and users have the right to the protection of their health" – however, the Constitutional Chamber of the Supreme Court confirmed that the right to health was guaranteed and constitutionally protected through the protection of human life (article 21 of the Constitution). Furthermore, article 50 of the Constitution guarantees the right to a healthy environment; article 73, the right to social security to protect the workers in situations of illness, disability and maternity, among others; and article 177, the universalization of social insurance.

11. In accordance with article 7 of the Constitution, international instruments approved by the Legislative Assembly take precedence over domestic legislation. Moreover, the Constitutional Chamber established that, when international instruments were of greater benefit to persons or granted greater protection of their human rights, they took precedence over the Constitution.[1] According to article 14 of the Constitutional Jurisdiction Act, the Constitutional Chamber can apply international instruments to which Costa Rica is a party, in addition to domestic legislation.

12. Article 1 of the General Health Act of 1973 establishes that the health of the population is a public interest good protected by the State. The Ministry of Health oversees the national health system and is tasked with monitoring the execution of essential health-care functions and ensuring sectoral governance. Article 9 of the General Health Act establishes the right of everyone to the promotion of physical and mental health, prevention, recuperation, rehabilitation and access to health-care services at different levels and the availability of treatments and medicines of proven quality; and that medical attention will be mainly provided at the community level, taking special account of minors, persons with disabilities, older persons and persons suffering from depression, suicidal tendencies, schizophrenia and drug and alcohol addiction, and school and workplace bullying, and of the necessary support for the family unit, adding that institutionalization will only be used in cases of absolute necessity. Article 10 states that everyone has the right to receive information on practices leading to the promotion and conservation of physical and mental health, including measures to preserve mental health, sexuality education, communicable diseases and family planning. Organic Law No. 5412 of the Ministry of Health complements regulations related to the right to health (art. 1).

13. The Office of the Ombudsperson is the national institution in charge of protecting human rights within the national territory. It is attached to the legislative branch with full independence in relation to its functions, administration and decision-making; it monitors the legality, morality and justice of the actions of the administrative activities of the public sector. It can act ex officio or upon request.

14. The Costa Rican Social Security Fund, created in 1941 through Act No. 17, provides a social security insurance system for those in paid employment in the formal sector.[2]

15. At the time of the visit, the Ministry of Health was implementing, developing, piloting and reviewing various plans, policies and strategies. The Special Rapporteur stresses the importance of considering the empowerment of marginalized populations in the development of legislation and public policies that include them as real beneficiaries.

[1] Decisions Nos. 3435-92, 5759-93 and 2323-95 of the Constitutional Chamber.

[2] See also article 73 of the Constitution.

III. Availability, accessibility, acceptability and quality of the health-care system

A. Understanding the right to health

16. The life-cycle approach to the right to health is a method of identifying the critical elements in the reduction of preventable deaths and the improvement of health indicators, well-being and quality of life. States must embed within their monitoring tools disaggregated data that are of quality and can be used analytically to inform policy and the allocation of resources.

17. The right to health in all its forms and at all levels contains interrelated and essential elements, namely availability, accessibility, acceptability and quality of health care; the precise application of which depends on conditions prevailing in Costa Rica and the political will to move as expeditiously and effectively as possible towards the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Entitlements include the right to a system of health protection that provides equality of opportunity for persons to enjoy the highest attainable level of health.

B. Health system: universal health coverage

18. In 2023, Costa Rica spent $1,658 per capita on health, equal to 7.2 per cent of gross domestic product; life expectancy was 80.8 years.[3] The country's public health-care system, in particular its innovative primary health-care model, was launched in 1994 to improve access, quality and equity to health care through a community-based organizational model. It is made up of basic comprehensive health-care teams and multidisciplinary teams. The country offers almost complete, universal coverage through the Social Security Fund and has coverage options through the private sector and through the National Insurance Institute.

1. Social Security Fund

19. Enrolment in the Social Security Fund provides access to various medical services, including preventive care, emergency services, specialized care and hospitalization. Affiliation is mandatory for Costa Rican and permanent residents and can be done through employment, as an independent worker or as a volunteer. The social assistance programmes require contributions through the payroll, which is a facility offered by the formal economy.

20. The Special Rapporteur notes that that practice leaves behind many persons living in poverty, those migrants without notarized documents and those who work in the informal economy, who are unable to contribute and therefore unable to gain access to universal health coverage. She notes that the costly contributions make it unattainable for many, even for some in formal employment due to situations of precarity.

21. In accordance with domestic and regional legislation, the Social Security Fund also ensures treatment for minors, pregnant persons and those requiring urgent lifesaving medical care. The Special Rapporteur was pleased to learn about the efforts the Government had made since 2016 to move towards universal health-care coverage and the inclusion of an important number of persons belonging to marginalized groups in the health-care coverage provided by the Social Security Fund, including domestic workers whose employers were willing to contribute, coffee bean collectors and members of their families (during the coffee collection season) – who are mostly temporary migrant Indigenous Peoples – and a specific number of refugees and asylum-seekers.

22. The country has strong, almost universal, social security coverage. In 2023, 91 per cent of the population was covered for a core set of services.[4]

[3] See www.oecd.org/costarica/health-at-a-glance-Costa-Rica-EN.pdf.
[4] Ibid.

23. The Special Rapporteur learned about the agreements that had been made, since 2019, between the Social Security Fund and the Office of the United Nations High Commissioner for Refugees for temporary voluntary insurance for refugees and asylum-seekers. In 2023, the agreement covered 6,000 persons, who had been identified by the Office of the United Nations High Commissioner for Refugees, for a total of $1.9 million. Furthermore, through the Protocol of Comprehensive Care for Victims of Trafficking in Persons in the Health Services of the Social Security Fund, the Fund ensures provision of health care to victims of trafficking and migrant victims of smuggling.

24. While commending those developments, the Special Rapporteur heard that, at the level of facilities, even when protocols, agreements and memorandums of understanding existed to facilitate access for specific groups, facility administrators and clinicians did not always implement them and therefore access was not guaranteed; sometimes services were denied for marginalized groups.

25. The rapid demographic evolution, concerns over the resources available to the Social Security Fund, the lack of adaptation over the years of the case system and the reported lack of participation of rights holders in decision-making processes have led to a generalized sense of anxiety regarding the sustainability and quality of care.

2. Primary, secondary and tertiary levels of health care

26. The Social Security Fund consists of a group of health facilities focusing on preventative health and the provision of health-care services to the population, organized at three levels, with different degrees of complexity and interrelation. The Government indicated that, at the time of the visit, the Social Security Fund oversaw the coordination of the provision of health care, through 527 basic comprehensive health-care teams, 105 health-care areas and 29 hospitals (including national, regional, peripheral and specialized hospitals). In 2023, there were 1.2 hospital beds for every 1,000 persons.[5]

27. The basic comprehensive health-care teams constitute the primary level of health care, in which multidisciplinary teams (comprising a medical professional, a nursing assistant and a technical assistant in primary care, among others) are assigned to a specific population at the regional and national levels. The medical staff of the basic comprehensive health-care teams, through the health posts providing periodic check-ups, carry out consultations in inaccessible locations. The Government indicated that, as of July 2023, there were 636 such health posts, located in areas with difficult geographical or functional access.

28. The Special Rapporteur noted that there was a lack of primary and secondary care facilities close to where people resided, an inadequate number of specialist doctors and allied health workers and a lack of medical equipment for laboratory and imaging investigations, as well as some limits on options for pharmaceuticals for mental health.

29. The Special Rapporteur commends the leadership of many public officials. She witnessed initiatives on refurbishment and remodelling projects for facilities and measures to improve quality care. At the time of the visit, some programmes were in the pilot phase.

30. The use of predominantly electronic appointment systems is a hindrance for many without connectivity and hardware and those who do not have the know-how to navigate the Internet. It was also brought to the attention of the Special Rapporteur that, even when persons in desperate need of care present themselves to the basic comprehensive health-care teams without an appointment, some having to wake up at dawn for a two or three-hour journey to their nearest clinic, they are not guaranteed to receive care, with many being turned away despite the physical strain of getting to the facility. Furthermore, multiple stakeholders indicated serious concerns about the long waiting times for consultations, assessments and accessing care, affecting every aspect and level of the system and indicating a system under strain.

[5] Ibid.

31. The lack of specialists and the growing waiting lists for a diagnosis, surgery or specialized attention, after the onset of the coronavirus disease (COVID-19) pandemic, are affecting the quality and timeliness of the health care provided to patients.

C. Mental health

32. The General Health Act contains specific articles related to mental health issues, including measures to preserve mental health (art. 10); children's right to mental health (art. 13); and persons suffering from severe emotional crises and persons with addictions receiving specialized outpatient or inpatient treatment, either on a voluntary basis or through a judicial order, and persons with psychological disabilities (arts. 29–33).

33. In 2012, Costa Rica adopted the National Policy on Mental Health 2012–2021.[6] At the time of the visit, a new national policy on mental health was under development and a draft mental health act (No. 22.430) was under discussion. As regards the latter, the mandate holder was concerned to learn that the voice of right holders, including persons with disabilities, was reportedly not being considered in the development of the draft act. In particular, the text circulated at the time of the visit would allow mental health professionals to treat inpatients with psychosocial disabilities without their informed consent.

34. In 1990, Costa Rica signed the Declaration of Caracas on psychiatric care and, after 1991, started changing the model centred on the provision of institutionalized treatment – for patients, who in some cases, spent an important part of their lifetime in institutions – to the provision of health-care services in the facility for 30 days, a community model. In that regard, the National Plan for the Restructuring of Psychiatry and Mental Health was adopted and Executive Decree No. 20665-S[7] was published to promote its implementation. At the time of the visit, there were two major hospitals providing mental health-care services, the Manuel Antonio Chapuí Torres National Hospital of Mental Health and the Roberto Chacón Paut Psychiatric Hospital.

35. The interdisciplinary mental health teams focus on general medicine, mental health nursing, social work and psychological support provided to persons with drug use disorders. The Operational Technical Committee on Mental Health and Psychosocial Support aims at providing the relevant bodies with technical recommendations to help with the provision of immediate relief from emotional distress and reduce the risks of a major crisis. Both are part of the Social Security Fund and place strong emphasis on mental health. Furthermore, the Institute on Alcoholism and Drug Addiction is responsible for the study, prevention and treatment of alcoholism and drug use disorders and the rehabilitation of those suffering from such disorders.

36. During interviews, discussions and presentations, including a visit to a mental health facility, the Special Rapporteur observed that there was an overall agreement that mental health was under strain, both regarding the experiences of the population and the response of the health system. COVID-19 exacerbated the existing mental health crisis. In 2019, one in eight persons was experiencing a mental disorder, mainly anxiety and depression, which increased between 26 and 28 per cent during the pandemic in 2020.[8]

37. The Special Rapporteur is concerned by the testimonies that she heard in which individuals shared details about an increasing mental health crisis, young persons suffering from acute conditions and the severe constraints in accessing community-based mental health services. Moreover, the waiting times for a specialist assessment and therefore access to multidisciplinary mental health practitioners, therapy and follow-up care were too long.

[6] See www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/planes-y-politicas-institucionales/planes-institucionales/704-politica-nacional-de-salud-mental/file (in Spanish).

[7] Ibid., p. 98.

[8] See www.paho.org/es/noticias/7-10-2022-autoridades-salud-costa-rica-hacen-llamado-reducir-estigma-discriminacion-hacia#:~:text=%E2%80%9CDe%20acuerdo%20con%20datos%20de,la%20pandemia%20de%20COVID%2D19 (in Spanish).

38. Reports of mistreatment of some patients while in institutions were brought to the attention of the Special Rapporteur, showing the medical staff's lack of knowledge of human rights approaches. Despite the existence of complaint mechanisms, they are very limited, since a person who wishes to file a complaint has five days to do so, which is also applicable in relation to psychiatric hospitals, leaving patients dealing with trauma with very limited time to act.

39. The Special Rapporteur was informed that, during the pandemic, many persons experiencing mental health crises did not have access to face-to-face consultations. The helplines that were used to provide support assisted many; the Special Rapporteur heard that several stakeholders thought that that service should be reinstated.

40. During her visit to the specialized mental health hospital, the Special Rapporteur was informed that it operated with 450 beds, including 134 beds for the institutionalization of persons by the judiciary and 14 beds for young persons with addictions. However, limitations in the network of the provision of health care at the institutional and inter-institutional levels, and loss of medical staff working in psychiatric units, as they opted to work in the private system, placed an additional burden on the system.

D. Sexual and reproductive health rights

41. The freedoms under the right to health include the right to control one's health and body, including sexual and reproductive freedom.

42. The Special Rapporteur welcomes the National Policy on Sexuality 2010–2021,[9] issued by the Ministry of Health, which includes references to sexual pleasure, sexual and reproductive health, contraception, sexual orientation and HIV/AIDS, among others. She is concerned about the use of conscientious objection among medical practitioners, a practice not in line with international standards, to refuse to provide sexual and reproductive health services and the lack of accountability for the shortage of service provision.

43. The Special Rapporteur recalls that sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. She stresses that services, facilities and goods for sexual and reproductive health must be comprehensive.

44. She was informed about the long waiting list for mammograms, exacerbated by the COVID-19 pandemic, which could reach up to 13–16 months to obtain a result, prolonging the waiting period for treating a cancer. In 2023, only 36 per cent of women from the 50–69 age group were screened for breast cancer.[10]

45. The General Act of 2019 on HIV and AIDS establishes, in its article 1, that comprehensive health care in relation to HIV is of public interest and that the State should ensure that all the persons can exercise their rights and duties in relation to HIV.

46. According to the Joint United Nations Programme on HIV/AIDS, at the end of 2021, there were an estimated 17,000 adults and less than 200 children living with HIV in the country. HIV prevalence was 0.1 per cent for women in the 15–49 age group and 0.8 per cent for men in the same age group. It was estimated that, in 2017, 1.4 per cent of the affected populations were female sex workers, 15.4 per cent were gay men and other men who have sex with men and 24.6 per cent were transgender women. The Special Rapporteur regrets that there is no prevalence data for persons who inject drugs.

47. The Special Rapporteur stresses the importance of recognizing vulnerabilities in acquiring the virus and in its subsequent treatment faced by marginalized groups of the

[9] See www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/planes-y-politicas-institucionales/planes-institucionales/707-politica-nacional-de-sexualidad-2010-2021-parte-i/file (in Spanish) and www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/planes-y-politicas-institucionales/planes-institucionales/708-politica-nacional-de-sexualidad-2010-2021-parte-ii/file (in Spanish).

[10] See www.oecd.org/costarica/health-at-a-glance-Costa-Rica-EN.pdf.

population, which intersect with other categories of risk, including migration status, sexual orientation and gender identity, and stigmatization that those populations might face. She regrets the lack of data on stigmatization and discrimination experienced by people living with HIV and key populations.

48. The Special Rapporteur welcomes the National Strategic Plan on HIV and AIDS 2021–2026 and the consultations carried out during its development, which included civil society representatives and HIV positive persons.[11] However, she considers that additional efforts are required, in particular related to prevention. According to the Joint United Nations Programme on HIV/AIDS, in 2021, the annual number of new infections was 32 per cent higher than in 2010.

49. In 2021, AIDS-related deaths had fallen by 10 per cent in Costa Rica compared with 52 per cent at the global level for the same period.

50. While the country does not criminalize sex work, same-sex sexual activity or possession of drugs for personal use, it was reported to the mandate holder that, between 2021 and 2023, persons had been arrested for drug use.

51. In terms of specific groups of the population, the Special Rapporteur is concerned about reports regarding persons living on the street, who are reportedly denied access to antiretroviral drugs, indicating that they should have a fixed domicile, contrary to article 1 of the General Act on HIV and AIDS. It was brought to her attention that migrants in transit, who are not covered by the Social Security Fund, are not covered by Directive 37-s4 on comprehensive care for sexuality transmitted diseases, including HIV/AIDS, which applies to migrants intending to stay in the country and who have taken the steps to do so, who can access condoms and lubricants, as well as antiretroviral drugs and testing.

1. Abortion

52. Abortion is criminalized under article 21 (right to human life) of the Constitution and is regulated by the Criminal Code. It is criminalized and punished, except in cases in which the life or health of the mother is in danger if the abortion cannot be avoided using other means (Criminal Code, art. 121). The Ministry of Health is the entity in charge of regulating issues related to abortion, including for therapeutic abortion carried out by health-care providers, within the legal framework in place in the country.

53. The Special Rapporteur is concerned that abortion continues to be criminalized, in particular in cases of rape, incest or severe fetal impairment. She is further concerned about the reported inaccessibility of quality post-abortion health care and therefore of disaggregated data. Under the legislation in place, doctors who suspect that a person has undergone an abortion have an obligation to report it to the Judicial Investigation Organization, which could have a chilling effect on those who experience a miscarriage or are in need of post-abortion health care, potentially implicating health-care workers in a way that makes them less trusted by patients.

54. Although Executive Decree No. 42113-S concerning medical procedures for therapeutic abortion was adopted in 2019, it recognizes that there is no standardization in the public and private health services to deal with cases related to therapeutic abortion, which leaves these medical situations in an uncertain state for both the health professionals involved and the patient.[12] In addition, the lack of knowledge of the regulations results, on some occasions, in the denial of medical assistance to avoid a danger to the life or health of the woman.

55. While recognizing the adoption of Executive Decree No. 42113-S and, in 2020, the adoption by the Ministry of Health of the clinical care protocol concerning medical procedures related to therapeutic abortion, the Special Rapporteur is concerned about the existing barriers to access abortion and the lack of clarity of such regulations, for example,

[11] See www.conasida.go.cr/documentacion/conasida/resoluciones-politicas-y-planes/198-pen-vih-2021-2026/file (in Spanish).

[12] See www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=90270&nValor3=0&strTipM=TC (in Spanish).

in relation to the interpretation of pathology that can endanger a mother's life or health; as stated, the concept could be interpreted in a restrictive manner. In addition, three doctors have to be consulted to decide whether the abortion should be carried out, adding an additional barrier in terms of timing, as well as the ability of mothers to make their own decisions about their bodies. The Special Rapporteur regrets that situation, as it can lead to preventable unsafe abortions.

56. The Special Rapporteur heard about the cases before the Inter-American Commission on Human Rights related to the reported denial of a therapeutic abortion to two women whose lives were in danger because of an alleged restrictive interpretation of the regulations related to therapeutic abortion, reportedly having a negative impact on their health, including their mental health.

57. The Special Rapporteur recalls that criminal and legal restrictions on abortion are discriminatory in nature, increasing stigmatization of persons undertaking an abortion, restricting autonomy, interfering with the patient-doctor relationship and affecting access to health services. She stresses that public morality and religious belief cannot serve as a justification for enactment or enforcement of laws that result in human rights violations.

2. Contraception

58. Although emergency contraception is allowed in Costa Rica, through Executive Decree No. 41722 (2019),[13] there is disinformation in relation to its use in the public and private health sectors. Although emergency contraception is considered by the World Health Organization as an essential medicine, it has not been included in the list of essential medicines of the Costa Rican health system. The Special Rapporteur was informed that the free and timely access of adolescents to emergency contraception had not been fully implemented, due to the lack of adoption of measures to ensure timely, reliable, impartial information for adolescents to make informed decisions. She also learned that women and adolescents were even more affected in rural and remote areas.

59. She was further informed by the Government about the requirements in relation to a counselling process for persons who wished to undergo sterilization by health services to also ensure that their informed consent was respected.

3. Assisted fertility: in vitro fertilization

60. In 2015, Decree No. 39210-MP-S was issued, authorizing the performance of the assisted reproduction technique of in vitro fertilization (IVF) and embryo transfer, after the Inter-American Court of Human Rights, through a judgment in the case of *Artavia Murillo v. Costa Rica*, requested the Government to authorize IVF and subsidize it through the Social Security Fund. Law No. 39616-S (2016) regulates IVF. The Special Rapporteur regrets the lack of implementation of the law, making access to information on IVF and therefore IVF limited, despite the decision of the Inter-American Court of Human Rights. She regrets that IVF is not available to same-sex couples, creating an additional discrimination.

E. Maternal health

61. In 2018, Executive Decree No. 41120-S on the national system of evaluation and analysis of maternal, perinatal and infant mortality was adopted.[14]

62. The Special Rapporteur was informed about the high rates of adolescent pregnancy and is concerned about the lack of disaggregated data on this issue, which can affect adolescents from marginalized groups to a greater extent.

[13] See www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/legislacion-sanitaria/leyes-decretos-y-directrices/informes-leyes-decretos/5964-decreto-ejecutivo-41722-s-dispensacion-de-los-anticonceptivos-orales-de-emergencia/file (in Spanish).

[14] See www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86697&nValor3=112625&strTipM=TC#ddown (in Spanish).

63. The Special Rapporteur was also informed about reports of obstetric violence against women in connection with childbirth services, in particular affecting Indigenous women who were obliged to follow protocols that were incompatible with their cultural backgrounds. There were reports of cases of verbal and physical abuse. The Special Rapporteur welcomes the adoption, in October 2021, of a law on qualified, dignified and respectful care during pregnancy and childbirth, and postpartum and newborn care, but learned that it lacks proper implementation by hospital staff.

64. During her visit to the Dr. Tony Facio Castro Hospital in Limón, the Special Rapporteur was informed about the situation of overcrowding and lack of staff taking care of newborns, as well as a lack of incubators and medicines.

65. The Special Rapporteur welcomes the establishment of a neonatal room at the Mexico Hospital, although she considers that more needs to be done in the short term to comply with the needs of the population in this regard.

F. Harm reduction and decriminalization

66. The Costa Rican Drug Institute, created in 2001, is the governing body for implementing actions aimed at preventing the cultivation, production, possession, trafficking and consumption of drugs in the country. In 2020, it adopted the National Plan on Drugs, Money Laundering and Financing of Terrorism 2020–2024.[15] The Special Rapporteur was pleased to learn about the integration of a human rights-based perspective in relation to drug users.[16]

67. The Special Rapporteur was informed about the prevalence of stigmatization and criminalization of drug users, as well as reports of violent police searches and profiling. She was also informed about reports of denial of medical, social and psychological care and about the lack of comprehensive access to care provided by the public health institutions.

IV. Underlying determinants of health

68. The Special Rapporteur reiterates that the right to health encompasses the underlying determinants of health, which are also interconnected with other rights, including the right to work, education, housing, information, freedom, security of person, a healthy environment, equality and non-discrimination and bodily autonomy, among others.

69. The Special Rapporteur emphasizes that the strengthening of primary care for health promotion and early surveillance and a strong out-of-hospital and home or community-based network of primary care workers require sufficient attention to be paid to the underlying determinants of health and how they intersect in sustainable and thriving communities.

70. The goal of realizing the highest attainable standard of physical and mental health is becoming even harder to reach. That is true for those in vulnerable situations, including: Indigenous Peoples, migrants, asylum-seekers and refugees, internally displaced persons and those at the intersection of the factors at play, such as poverty, disability, racism, xenophobia, health status, such as those requiring an abortion or those facing discrimination based on age, sexual orientation, gender identity and expression, as well as being located in rural or peri-urban and urban communities.

71. Structural discrimination leads to a differential access to services, goods and facilities, the lack of disaggregated data impedes the ability to fully analyse the situation of specific groups and therefore adopt targeted policies from a perspective of equity.

[15] See www.icd.go.cr/portalicd/images/docs/icd/marco_estrategico/Informes_Cumplimiento/ENDDA-PNSD/PNsD_2020-2024_arte.pdf (in Spanish).

[16] Ibid., pp. 38 and 43.

A. Racism, xenophobia and other forms of discrimination

72. The Special Rapporteur recalls the International Convention on the Elimination of All Forms of Racial Discrimination and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, ratified by Costa Rica on 16 January 1967 and 12 December 2016, respectively, which prohibit racism, racial discrimination and xenophobia, among others.

73. Racial or other types of discrimination in employment are prohibited and there is a mandate to maintain and cultivate Indigenous languages (Constitution, arts. 68 and 76).

74. The National Policy for a Society Free of Racism, Racial Discrimination and Xenophobia 2014–2025,[17] for which the Ministry of Foreign Affairs and Worship is responsible for implementation, considers priority target groups in situations of risk and vulnerability, including people of African descent, Indigenous or native Peoples, as well as migrants and refugees. The national policy was developed through the consultation of Indigenous Peoples, people of African descent, migrants and refugees. Indigenous Peoples expressed the fact that they did not have easy access to health-care services, which were geographically distant from population centres and that health services did not adequately take into account the realities, cosmovision and customs of Indigenous Peoples.[18] According to people of African descent, there were no indicators in the field of health to allow the study of diseases or illnesses that were most prevalent among them.[19] Migrants and refugees perceived that there was xenophobia in Costa Rica and felt that they were discriminated against; that was said to be particularly true in the case of Nicaraguans and refugees.[20]

75. The National Health Plan for People of African Descent 2018–2021, which was adopted in 2018 by the Ministry of Health, recognizes the prevalence of particular diseases among the above-mentioned groups of the population, including sickle cell anaemia.[21]

76. Despite those advancements, the Special Rapporteur received deeply personal accounts of racism and xenophobia, as well as of the lack of empathy within the system, from Indigenous Peoples, people of African descent and those perceived as migrants, refugees and persons seeking international protection based on how they are racialized and classed. Racialized discrimination not only limits the realization of the right to health, but it affects social cohesion and enables systemic violence originating within and outside the State.

B. Gender-based violence

77. Costa Rica ratified the Convention on the Elimination of All Forms of Discrimination against Women on 4 April 1986, the Optional Protocol thereto on 20 September 2001 and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women on 5 July 1995. The protection measures for victims of domestic violence are regulated through Act No. 7586 of 1996 on Domestic Violence (which defines the crime of abuse). Act No. 8589 of 2007 on Criminalization of Violence against Women has as its objective to protect the rights of women victims of violence and to punish the physical, psychological, sexual and patrimonial violence perpetrated against them.

78. The National System for the Care and Prevention of Violence against Women was established in 2008, through Act No. 8688, as an instance for deliberation, consultation, coordination and evaluation among the National Institute of Women, ministries, the decentralized institutions of the State and organizations seeking to promote public policies that guarantee comprehensive care for women affected by violence.

[17] See https://accionsocial.ucr.ac.cr/sites/default/files/documentos/politica_nacional_para_una_sociedad_libre_de_racismo.pdf (in Spanish).

[18] Ibid., pp. 45 and 46.

[19] Ibid., p. 47.

[20] Ibid.

[21] See www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/planes-y-politicas-institucionales/planes-institucionales/5076-plan-nacional-de-salud-para-personas-afrodecendientes/file (in Spanish).

79. The National Policy to Prevent and Address Violence against Women of All Ages 2017–2032,[22] which is coordinated by the National Institute of Women, intends to provide care to women of all ages, with special emphasis on girls, adolescents and young women, while considering boys and adolescents as a strategic population for change and their active involvement in the prevention of violence against women.

80. It was brought to the attention of the Special Rapporteur that, in Talamanca, women and girls were experiencing different types of violence, including femicide and sexual violence. To address that situation of violence, Indigenous women and women of African descent from Talamanca presented, in April 2023, a common agenda of women from Talamanca,[23] focused on preventing and addressing sexual violence from a comprehensive perspective, in which more than 40 women leaders of 18 organizations from Talamanca participated, with the support of the United Nations Population Fund and the United Nations Development Programme, among others.

81. The Special Rapporteur stresses that sexual and gender-based violence against women can vastly affect woman's health, leading to injuries, unintended pregnancies, induced abortion, gynaecological problems, obstetric complications, sexually transmitted infections, mood disorders, increased substance misuse and suicide, among other challenges. She underscores that, in the prevailing context of sexual and gender-based violence, the right to health will not be realized.

82. Act No. 10235 of 2022 on Prevention, Care, Punishment and Elimination of Violence against Women in Politics is an important step to address violence directed at women in politics. However, despite article 6 of the Act, which encourages the development of policies and protocols aimed at promoting effective equal participation of women and men, the Special Rapporteur notes that, at the time of her visit, in the majority of the country, she witnessed that the majority of mayors were men, while the majority of deputy mayors were women, a missed opportunity to truly trust women's power to lead.

C. Environmental health and the climate crisis

83. Climate change leads to loss of land and housing, diminished food production, both in terms of quantity and quality, food insecurity and malnutrition, and forced displacement.

84. Climate-related changes, such as heat, drought, floods and hurricanes, are associated with increased rates of cardiovascular, respiratory, gastrointestinal and renal disorders. Environmental determinants of health, such as pollen, smoke, dust and stagnant water, can lead to chronic ailments.

85. The Special Rapporteur notes the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) in a positive light.[24]

86. While acknowledging Executive Decree No. 38371-S-MTSS on provisions for persons occupationally exposed to pesticides, which aims to issue provisions for the prevention and protection of persons who use and handle pesticides, the Special Rapporteur was informed about the negative impact of pesticide use in agriculture on the right to health. The average use of pesticide in agriculture between 2012 and 2020 was 34.45 kilograms a hectare, which is the highest rate of pesticide use in the world.[25] She takes note of the development of legislation, with the support of the United Nations system, at the time of her visit.

87. She was told that in coastal regions, such as in Limón, the impact of the climate crisis – evidenced by destructive events, such as hurricanes – affects the ability to provide care

[22] See www.mcj.go.cr/sites/default/files/2021-06/PLANOVI%202017-2032.pdf (in Spanish).
[23] See https://pnud-conocimiento.cr/wp-content/uploads/2023/04/Agenda-comun-de-mujeres-Talamanquenas-final.pdf (in Spanish).
[24] See https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.
[25] See www.undp.org/es/costa-rica/comunicados-de-prensa/estudios-del-pnud-evidencian-costo-del-alto-consumo-de-plaguicidas-en-costa-rica (in Spanish).

safely as some health facilities are damaged, electricity supplies are affected and communities cannot travel from remote areas to reach the facilities due to the terrain being even harder to navigate.

V. Specific population groups

88. Articles 2 (2) and 3 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 14 (2000) adopted by the Committee on Economic, Social and Cultural Rights proscribe any discrimination in access to health care and the underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, health status, sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health.[26] On 24 April 2019, Costa Rica signed the Inter-American Convention against All Forms of Discrimination and Intolerance. The Special Rapporteur notes that, at the time of the visit, its ratification was still pending.

89. Article 33 of the Constitution states that every person is equal before the law, stipulating that discrimination is "contrary to human dignity". Furthermore, article 9 of the General Health Act provides that all persons have the right to the promotion of physical and mental health.

90. The Special Rapporteur welcomes the amendment made to article 112 (11) of the Criminal Code in 2022, which increased the punishment for hate-related murders to between 20 and 35 years of imprisonment. Such crimes are defined as the killing of a person for reasons of hatred due to their membership of an age, racial, ethnic or religious group or their nationality, political opinion, immigration status, sexual orientation, gender identity or expression, disability or genetic characteristics.

91. The Special Rapporteur welcomes the appointment of the Presidential Commissioner for Social Inclusion for issues related to disability and the rights of people of African descent, Indigenous Peoples and lesbian, gay, bisexual, transgender, intersex, queer, asexual and other sexually or gender-diverse (LGBTIQA+) persons in June 2022.

A. Persons with disabilities

92. Costa Rica ratified the Convention on the Rights of Persons with Disabilities on 1 October 2008 and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities on 8 December 1999. Act No. 7600 of 1996 on Equal Opportunities for Persons with Disabilities states that the comprehensive development of persons with disabilities, under conditions equal to those of the rest of the population, is of public interest (art. 1); and the State is obliged to include plans, policies, programmes and services in its institutions (art. 4).

93. Act No. 7600 can be seen as a laudable measure to include persons with physical disabilities, including by making public and private facilities more accessible to them. The Special Rapporteur observed that the hospitals in San José and Limón, as well as the national human rights institution, have accessible buildings. The obligation to ensure physical accessibility must become a reality in all public and private spaces, including the provision of assistive aids.

94. The National Disability Policy 2011–2021 includes four areas of focus – namely, human rights, inclusive community-based development, gender equity and social management by results – and responds to the need to achieve an inclusive society that respects the rights of the entire population.

95. The National Council for Persons with Disabilities, established in 2015, is the entity responsible for monitoring compliance with legislation in relation to the rights of persons

[26] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 18.

with disabilities, managing the national policy on disability and promoting inclusive policies, in coordination with different sectors. The Special Rapporteur was pleased to learn about a good practice at the Roberto Chacón Paut Psychiatric Hospital whereby persons with disabilities had workshops to express themselves through art.

96. The Special Rapporteur was informed that draft law No. 21282 on persons with disabilities was before the Legislative Assembly. According to the information received, the project lacks a human rights perspective and the voice of rights holders was not taken into account in the development of the draft.

97. Furthermore, it was brought to the attention of the Special Rapporteur that the current medical teams and medical materials were not adequate for the needs of the diversity of disabilities.

98. According to rights holders, another challenge remains in the fact that disability is still perceived by some authorities as a disease and not a condition. Deaf persons faced an additional barrier, as interpretation is not covered by the Social Security Fund and is only done by voluntary interpreters. The Special Rapporteur is concerned that, in several health facilities, the Social Security Fund does not employ translators or interpreters (for a different language or Costa Rican Sign Language interpretation). She notes that, for example, pregnant persons, who have multiple antenatal, labour and post-natal care needs, are most affected. For deaf or blind patients, that service exclusion is a limitation of their rights to information and ultimately affects the care that they receive.

B. Lesbian, gay, bisexual, transgender, intersex, queer, asexual and other sexually or gender-diverse persons

99. The Special Rapporteur regrets that, at the time of the visit, there was no national law that explicitly prohibited discrimination based on sexual orientation, gender identity or expression, or sex characteristics, among others. She welcomes the fact that the Constitutional Chamber of the Supreme Court of Justice established that discrimination based on sexual orientation was contrary to the concept of dignity enshrined in article 33 of the Constitution.[27]

100. The Special Rapporteur was informed that a draft law for the recognition of transgender, non-binary, gender diverse and intersex identities was presented to the Legislative Assembly, establishing that all persons have the right to the enjoyment of the highest attainable standard of comprehensive health, without discrimination on the grounds of gender identity or gender expression (art. 25).

101. The Special Rapporteur commends Costa Rica for becoming the first Central American country to legalize same-sex marriage in 2020, based on the opinion of the Inter-American Court of Human Rights requested by the State, in 2016, to interpret the scope of the right to privacy, the right to a name and the right to equal protection under the American Convention on Human Rights, in which the Court decided, in 2017, that all the rights applicable to the family relationships of heterosexual couples should also be extended to same-sex couples.[28] She also welcomes the presidential decree adopted, in 2018, on the basis of the Court's decision, allowing transgender persons to change their names on identification documents according to their gender identity. Nevertheless, she heard that the law does not take into account the fact that non-binary persons who want to be able to change their names on identification documents need to identify as transgender, denying their right to gender identity.

102. The Policy of the Executive Branch to Eradicate Discrimination against the LGBTI Population from its Institutions (2015)[29] establishes the responsibility of each body of the Executive Branch to create an Institutional Commission for Equality and Non-Discrimination

[27] Resolution No. 18.660-2007 (2007) (in Spanish).

[28] See www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf (in Spanish).

[29] See www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=79466 (in Spanish).

against the LGBTI Population. In 2022, the National Learning Institute adopted the Action Plan for the Prevention, Care, Punishment and Eradication of Discrimination based on Sexual Orientation, Identity and Gender Expression in the National Learning Institute 2022–2025 developed by the National Learning Institute and the Institutional Commission,[30] which contains three strategic lines: the deconstructions of stereotypes; the incorporation of a human rights-based approach in the policies, plans, procedures and other institutional regulations; and the existence, efficiency and effectiveness of mechanisms for reporting situations of discrimination and violence.

103. The Special Rapporteur was also informed that transgender minors can only access transgender health services through private health care and need to go to a court to be able to change their gender identity in official documents, which has a negative impact on their right to health and on the different steps that transgender persons have to follow before seeing an endocrinologist, leading sometimes to delays of two years.

104. The Special Rapporteur was also concerned to learn about the lack of data and protocols or guidelines for clinical care and the lack of comprehensive sexuality education addressing the specific needs of LGBTIQA+ persons. Rights holders felt that there was still a false perception that LGBTIQA+ persons had a pathology.

105. The Special Rapporteur notes that, because of the widespread violence, discrimination and rejection that they face, LGBTIQA+ persons experience higher levels of mental health disorders. Those disparities in health outcomes are tied to prejudice, abuse and violence, owing to exclusion from health systems, social systems, education systems and formal economies under which most persons enjoy professional and personal protection.

106. The Special Rapporteur was also concerned to learn that conversion therapy was not illegal and that unnecessary surgery on intersex persons was reportedly still taking place, exposing intersex persons to institutionalized violence that went unpunished. She underscores that that is a matter of urgency that must be addressed.

107. Furthermore, the Special Rapporteur heard from several stakeholders about concerns regarding retrogressive reforms being carried out by the Government in place at the time of the visit. She is also concerned about reports of hate speech from the executive and recalls that hate speech is forbidden under international human rights law.

C. Children and adolescents

108. Costa Rica ratified the Convention on the Rights of the Child on 21 August 1990. Article 41 of the Childhood and Adolescence Code provides for access to free health care and article 50 thereof states that pregnant girls or adolescents should be provided with medical check-ups during pregnancy, among others. It also stresses their right to be treated with respect and dignity in health services. The National Children's Institute is in charge of safeguarding the rights of children and adolescents, investigating child abuse and removing child victims of abuse from their families, as well as the administration of shelters for children. The Ministry of Health adopted the National Strategic Plan for Adolescent Health 2021–2030,[31] which includes a specific section on sexual and reproductive health and on mental health, among others.

109. The Special Rapporteur was concerned about reports of an increase in HIV prevalence among the youth population. The statistics on pregnancies among children as young as 10, as well as teenagers, reflect a serious matter that requires a thorough analysis of sexual abuse and rape of children.

110. The Houses of Joy (Casas de la Alegría) project was created in 2020 with the aim of improving the living conditions of migrant families, through cooperatives, in which children

[30] See www.ina.ac.cr/APIEG/LGBTIQ/Documentos/Plan_Accion_LGBTI-2022-2025.pdf (in Spanish).

[31] See www.ministeriodesalud.go.cr/index.php/biblioteca-de-archivos-left/documentos-ministerio-de-salud/ministerio-de-salud/planes-y-politicas-institucionales/planes-estrategicos-institucionales/5386-plan-estrategico-nacional-de-salud-de-las-personas-adolecentes-2021-2030/file (in Spanish).

up to 12 years old can stay for up to three months, while their parents are working during the coffee bean collection season. At the time of the visit, there were 683 Houses of Joy.

111. An upward trend in non-communicable diseases among children was reported to the Special Rapporteur. She stresses the importance of having a clear front-labelling system to allow children and their caregivers to be better informed when buying foodstuffs. She also heard reports of underweight children, mostly from Indigenous populations, and encourages implementation of school nutrition programmes, as in some cases, they provide the only meal of the day to students.

D. Migrants, asylum-seekers and refugees

112. Costa Rica has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to the Office of the United Nations High Commissioner for Refugees, at the time of the visit, there were approximately 250,000 asylum-seekers in Costa Rica, mostly from Nicaragua, which also includes Indigenous Peoples from the Miskito community.

113. The long delays in the recognition of refugee status and the issuing of identification documents, coupled with the administrative barriers, have resulted in the exclusion of and disproportionate impact on, for example, LGBTIQA+ and Indigenous migrant populations, as their obtention is key to accessing health care.

114. The Special Rapporteur was concerned to learn that, because of the lack of knowledge of some medical professionals in relation to the rights of refugees, including pregnant persons, some of whom are turned away, together with highly vulnerable migrants entering the country through Panama who require food and shelter. She is concerned about the lack of interpretation for persons who do not speak Spanish, which is an additional barrier to access health care. In one of her interactions with migrants, she was told that: “As migrants, we do not have the right to be sick.”

115. The Special Rapporteur stresses that some individuals seeking international protection have experienced torture, ill-treatment or conflict-related sexual violence in third countries and may be at risk of trafficking in persons in their country of origin or in transit. According to the Special Rapporteur, there must be international solidarity and continued cooperation through the deployment of specialized expertise.

116. The Special Rapporteur commends the work carried out by civil society in providing health-care services to some groups of the population, including asylum-seekers and refugees from Nicaragua.

E. Indigenous Peoples

117. Costa Rica ratified the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), on 2 April 1993. The Special Rapporteur was informed that mobile teams from the basic comprehensive health-care teams carry out between one and four visits a month to the 24 Indigenous territories within the country. She also heard accounts of structural violence against Indigenous Peoples. Basic comprehensive health-care teams are located far from their communities, limiting their right to a comprehensive health-care system – some individuals indicated that they must leave their house at 4 a.m. to access a basic comprehensive health-care team, sometimes without the guarantee of being received the same day, due to the lack of capacity.

118. The Special Rapporteur was informed about structural violence affecting the Indigenous communities. They indicated that Western medicine was expensive for them and that hospitals lacked a specific area where traditional healers could interact with sick persons from their communities.

119. The Special Rapporteur is concerned about the dispossession of Indigenous Peoples’ land and their invisibility vis-à-vis the authorities, as well as the increase, since 2018, in depression and anxiety among Indigenous youth who are studying outside their communities,

as well as the increase in attempted suicide and death by suicide in Talamanca, which were brought to her attention.

120. While meeting with members of the Bribri community, the Special Rapporteur was informed about the lack of employment perspectives, resulting in most of them working in the informal sector, which prevents them from enrolling in the Social Security Fund, and in ongoing related administrative obstacles.

121. The Special Rapporteur is concerned about the alleged lack of empathy of some members of the authorities and those working in public services, where they experienced ill-treatment, including, on some occasions, no respect for their ethnic identity and cultural needs.

122. Access and affordability of transportation are barriers to access basic comprehensive health-care teams. The Special Rapporteur also heard about the waiting times for consultations and the lack of specialists, including doctors working in paediatric and geriatric care.

123. It was brought to the attention of the Special Rapporteur that Indigenous Peoples from the Miskito Indigenous community from Nicaragua suffer the trauma of being in exile, in addition to the lack of access to ancestral flora used for traditional medicine. She was informed of the differential access to underlying determinants of health, including the lack of housing and water.

124. During her visit to Talamanca, the Special Rapporteur witnessed a positive meeting and an agreement between the Social Security Fund and members of the Bribri community, in which they committed to give a clear role to Indigenous leaders to document barriers to access health care, including problems of infrastructure and medical errors, and to administratively sanction those responsible. The mandate holder was also pleased to learn that there was an agreement to construct a new basic comprehensive health-care team with complementary services in Talamanca, which would also include specialized care.

F. Persons deprived of liberty

125. Issues related to the economic barriers to women's access to justice and the lack of human resources and health personnel in prisons were brought to the attention of the Special Rapporteur. She was concerned to learn about stereotypes affecting women and the limited knowledge of women's rights among enforcement officers, including the police.

126. The Special Rapporteur is concerned about the barriers encountered by Indigenous Peoples, persons of African descent, refugees, asylum-seekers and persons with disabilities in accessing justice. Those groups intersect with other categories of the population, including women and LGBTIQA+ persons. She regrets the absence of information on the remedies available to them to complain about intersecting forms of discrimination.

127. The Special Rapporteur welcomes Executive Decree No. 38139-JP of 2013 on the National Care Programme for Women Subject to Criminal Sanctions,[32] which provides for the protection of women in the prison system. She was informed that the National Institute of Women coordinated the health care of women deprived of their liberty, with other entities, including the National Children's Institute, the Ministry of Justice and Peace, the Chamber of Commerce and the judiciary.

128. The large number of complaints made by persons deprived of their liberty in relation to health care was brough to the attention of the Special Rapporteur. Although persons deprived of liberty are treated within health services located outside detention centres, she was concerned to learn about the lack of protocols that could contribute to a non-guarantee of due process to redress.

[32] See www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=76464&nValor3=95471&strTipM=TC (in Spanish).

129. The Special Rapporteur was informed that a significant number of women deprived of their liberty had experienced violence throughout their lives and had needs related to mental health care, which were exacerbated by the COVID-19 pandemic.

130. The Special Rapporteur was informed that the women's prison she visited had very basic provision of health care. Women in prison have access to preventive medical check-ups, such as pap smears, nevertheless there were reports of delays in the provision of comprehensive care and medicines, including the timely provision of contraceptives.

G. Persons who use drugs

131. The Special Rapporteur was concerned to learn about cases of violence against persons who use drugs in the health system and the denial of health care to persons who are homeless. She was concerned to learn about the lack of specialized health care for older persons using drugs.

132. Furthermore, she was concerned to learn that persons who inject drugs are reportedly not included in the HIV prevention plan. She also heard reports that allegedly the National Institute of Women does not provide services to women drug users.

133. She was concerned to learn that, among drug users, several transgender women who use drugs are reportedly obliged to use the names assigned to them under their assumed gender and not their chosen names.

VI. International cooperation

134. Costa Rica provides technical cooperation through bilateral and regional initiatives that place an emphasis on triangular and South-South cooperation.[33] In 2021, the country became the thirty-eighth member of the Organisation for Economic Co-operation and Development. It adopted the Mid-Term International Cooperation Policy 2020–2022,[34] which places special emphasis on South-South, triangular and cross-border cooperation. The country published, in 2022, its National Plan for Development and Public Investment 2023–2026.[35] The plan focuses on poverty, inequality and the environment and contains a strategic area that focuses on health at the national level.

135. The Special Rapporteur was informed about the existence of 16 commercial agreements with more than 50 countries and that one of the most important relates to medical devices.

VII. Good practices

136. The country's efficient response to the COVID-19 pandemic was made possible by historical investment and political support for the health system. The Ministry of Health made early decisions based on scientific evidence and the advice of experts. The country developed an operational and technical structure in relation to the response to the COVID-19 pandemic, the agility of which was illustrated in various ways.

137. The monitoring of inventories of pharmacological supplies, electronic epidemiological forms used to expedite isolation and the tracking of cases, monitoring of bed occupation and allocation, the facilitation and transfer of patients between public and private facilities, as well as coherent public messaging on COVID-19 health information, education and communication, were other good practices. The success of the COVID-19 vaccination

[33] See www.oecd-ilibrary.org/sites/3f89619f-en/index.html?itemId=/content/component/5e331623-en&_csp_=b14d4f60505d057b456dd1730d8fcea3&itemIGO=oecd&itemContentType=chapter&_ga=2.83562453.292713557.1623658115-495008994.1601629812.

[34] See https://documentos.mideplan.go.cr/share/s/eAVw_dAZR32hT9pEmxtkfA (in Spanish).

[35] See https://drive.google.com/file/d/1otcCNQGgjEKDl5hMEA8lG--RTmgzY6yK/view (in Spanish).

programme is also testament to public trust. There was an increased use of cultural advisers, which had a positive impact on community education.

138. Costa Rica supported international initiatives, including the COVID-19 Vaccine Global Access (COVAX) Facility, and provided technical cooperation through the exchange of experiences, supplies and national procedures to Argentina, the Dominican Republic, Ecuador and El Salvador.[36] Costa Rica benefited from the financial support of the Central American Bank for Economic Integration during the COVID-19 pandemic through donations, including emergency aid and donations of medical equipment, and access to the Emergency Support and Preparedness Programme for COVID-19, through which the country obtained a loan to cover the acquisition and application of vaccines against COVID-19.[37]

139. The National Strategy for Healthy Ageing based on the Life Course 2022–2026 was revised in May 2023. The Special Rapporteur was informed about a hospital specialized in geriatrics and gerontology. The Special Rapporteur encourages Costa Rica to scale up plans for healthy ageing at the community level.

VIII. Recommendations

140. **The Special Rapporteur recommends that the Government and other relevant stakeholders:**

(a) **Respect, protect, and fulfil the right to health, which requires States to abstain from enforcing discriminatory practices as a State policy and imposing discriminatory practices related to women's health status and needs;**

(b) **Give sufficient recognition to the right to health in the national political and legal systems, with a detailed plan;**

(c) **Guarantee non-discrimination and equal treatment, and move as expeditiously and effectively as possible towards the full realization of the right to health. Primary care needs should be strengthened as the crucial cornerstone of public health. Digital tools should not lead to a divestment in facilities nor must they limit access to care;**

(d) **Urgently adopt a paradigm shift and a comprehensive mental health care approach, considering the different realities of the population, from a people-centred and human rights perspective. Responses must lead with empathy and include such initiatives as art and artistic expression – for example, poetry and painting as part of therapy. For persons with disabilities and those with mental health conditions, including adolescents, deinstitutionalization is important and requires investments in the underlying determinants of health;**

(e) **Adopt harm reduction approaches and decriminalization of drug use, coupled with appropriate policy and evidence-based protocols in the provision of accessible, acceptable, affordable and quality health;**

(f) **Collect disaggregated data from an intersectional perspective, taking into account marginalized groups of the population, which can serve in the adoption of targeted policies to not leave anyone behind;**

(g) **Close the gap created by the lack of medical professionals by allowing those from other countries, such as Nicaragua, to practise through recognition of their studies and the provision of a licence;**

(h) **Train medical personnel on the existing medical guidelines and protocols, while remaining ready to adopt, at the national level, sound evidence-based policies and protocols to inform budgeting and scaling up;**

[36] See www.oecd-ilibrary.org/sites/3f89619f-en/index.html?itemId=/content/component/5e331623-en&_csp_=b14d4f60505d057b456dd1730d8fcea3&itemIGO=oecd&itemContentType=chapter&_ga=2.83562453.292713557.1623658115-495008994.1601629812.

[37] See www.bcie.org/fileadmin/user_upload/Articulo_BCIE_en_Costa_Rica_ENG.pdf.

(i) **Impose a moratorium on the application of criminal laws concerning abortion, including legal duties on medical professionals to report pregnant persons who seek abortions to law enforcement authorities. Safe abortion, according to the current domestic legislation, should be delivered to persons who request it without waiting periods being imposed, in accordance with international standards;**

(j) **Ensure the availability, accessibility, acceptability and quality of assisted reproduction, increase screening for reproductive cancers and reach marginalized groups of the population;**

(k) **Eliminate harmful and unnecessary medical interventions on intersex children and adults, ensure legislative protection against such practices and make conversion therapy illegal;**

(l) **Implore all leaders at all levels of society to end the widespread violence, discrimination and rejection faced by persons, such as those with HIV/AIDS, sex workers, persons deprived of their liberty, migrants, asylum-seekers and internally displaced persons. That includes a comprehensive response to conflict-related sexual violence;**

(m) **Place at the forefront the needs of those in vulnerable situations as climate finance, adaptation, prevention and resilience measures are decided, and minimize the disproportionate impact on them in relation to clinical care, health systems and the underlying determinants of health;**

(n) **Ensure accountability, including its constituent components of monitoring, review and redress. Accountability reveals where progress has been made and where it has not been made, allows duty bearers to explain what they have done and make adjustments, and provides an opportunity for rights holders to engage with duty bearers in the promotion and protection of their rights and to seek redress in situations in which violations have occurred;**

(o) **Consult with all relevant stakeholders, including the national human rights institution and civil society, in the adoption of laws, national plans and policies targeting specific groups of the population;**

(p) **Urgently continue strengthening capacity through the support of the United Nations Population Fund and the United Nations Development Programme. Independent monitoring mechanisms must be embedded in all frameworks, together with information about effective legal remedies and procedures enabling rights holders to claim their rights;**

(q) **Ensure trustful partnerships between Government and civil society. There is no place for disciplining or punishing civil society organizations or individuals who advocate for human rights with the withdrawal of resources, cooperation or funding;**

(r) **Support the safety and physical and mental health of health-care workers and, more broadly, public officials and send a clear and strong message that abuse will not be tolerated by the State;**

(s) **Support adolescents through comprehensive sexuality education and dignified care to successfully transition towards healthy emotional, psychosocial, physical and sexual development, which requires recognition of their rights to information, freedom of expression and association, protection from all forms of violence, safety, bodily integrity and diverse family lives, and respect for their dignity and autonomy;**

(t) **Invest in infrastructure and resources in the Social Security Fund to expand the scope of health services to remote areas and the facilities to meet the needs of all women, ensure the presence of specialists who are trained and respectful from a culturally relevant perspective and ensure translation and interpretation, including sign language;**

(u) **Enable the Social Security Fund to hire cultural advisers across the health system and ensure their integration therein. The cosmovision, physical and mental health, spirituality and autonomy of Indigenous Peoples and people of African descent and their inseparable connection to their territories and lands are a matter of human rights and should be approached as such.**