



# Assemblée générale

Distr. générale  
18 mai 2023  
Français  
Original : anglais

## Conseil des droits de l'homme

### Cinquante-troisième session

19 juin-14 juillet 2023

Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement**

## Visite au Costa Rica

### Rapport de l'Expert indépendant sur les droits de l'homme et la solidarité internationale, Obiora Chinedu Okafor\*, \*\*

#### Résumé

L'Expert indépendant sur les droits de l'homme et la solidarité internationale, Obiora Chinedu Okafor, s'est rendu au Costa Rica du 21 février au 2 mars 2022, conformément au mandat qui lui a été confié dans la résolution 44/11 du Conseil des droits de l'homme. Le principal objectif de cette visite était d'apprendre et de comprendre comment le Costa Rica intégrait les droits de l'homme dans sa stratégie et ses mesures de solidarité internationale, de recueillir de bonnes pratiques en la matière et de repérer les éventuels aspects à améliorer. L'Expert indépendant a aussi cherché à comprendre comment la solidarité s'appliquait dans le pays, en particulier dans le contexte de la pandémie de maladie à coronavirus (COVID-19) et de la récession économique qui s'en est suivie, ainsi qu'à l'égard des migrations et des réfugiés.

Dans son rapport de visite, l'Expert se concentre sur : a) le cadre constitutionnel et le cadre des droits de l'homme applicables ; b) la présence de l'Organisation des Nations Unies et d'organisations régionales au Costa Rica ; c) la coopération internationale et l'aide au développement en tant que bonnes pratiques de solidarité internationale ; d) les problèmes et les sujets de préoccupation mis en évidence au cours de la visite. Il formule des conclusions et fait des recommandations destinées au Gouvernement, aux organisations internationales présentes dans le pays et aux organisations de la société civile.

\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit, joint en annexe, est distribué dans la langue originale et en espagnol seulement.

\*\* Il a été convenu que le présent rapport serait publié après la date normale de publication en raison de circonstances indépendantes de la volonté du soumetteur.



## Annexe

### **Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor, on his visit to Costa Rica**

#### **I. Introduction**

1. The Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor, visited Costa Rica from 21 February to 2 March 2022, at the invitation of the Government.
2. During his visit, the Independent Expert travelled to the capital, San José, and to Guatuso canton in Alajuela province.
3. In San José, the Independent Expert met with the Acting Minister of Foreign Affairs, the Minister for Planning and Economic Policy and the Deputy Ministers of the Office of the President, Human Development and Social Inclusion, the Interior, Migration and Finance. He also held meetings with high-level officials from various ministries, government agencies and commissions. He had the honour of meeting the Chair of the Human Rights Committee of Congress, the President and judges of the Supreme Court and the President of the Ombudsperson's Office.
4. In addition, he also held meetings with academics at the United Nations-mandated University for Peace, the Inter-American Institute of Human Rights and the Latin American Institute for the Prevention of Crime and the Treatment of Offenders. Furthermore, the Independent Expert met with members of the United Nations country team in Costa Rica, representatives of embassies and donors present in the country, as well as representatives of various civil society organizations. In addition to those official meetings, he also carried out visits to Shelter City San José, the neighbourhood of La Carpio, where he visited the SIFAIS foundation, the Parque La Libertad and Guatuso canton in Alajuela province, where he visited several environmental projects involving women and Indigenous communities, which are supported by government agencies, the National Forestry Financing Fund (Fondo Nacional de Financiamiento Forestal de Costa Rica) and the Fundación Banco Ambiental.
5. The main purpose of the Independent Expert's visit to Costa Rica was to learn more about, and to gain a first-hand understanding of, issues relating to the experience and practice of international solidarity in Costa Rica, including positive efforts that have been made in that direction and the remaining challenges. He was particularly interested in learning more about how Costa Rica incorporates human rights in its international solidarity strategy and action, how it deploys international solidarity in its human rights action, and how its programmes and initiatives contribute to the promotion of an international human rights solidarity-based approach to addressing many of the global challenges that the world is currently facing. They include (but are not limited to): development cooperation; climate change and protection of the environment; coronavirus disease (COVID-19) and issues arising from the pandemic; cross-border migration; refugee issues; and social inclusion within Costa Rican society.
6. With a view to the possible global dissemination of any good practices noted during the visit, the Independent Expert was also particularly interested to learn about how the principle of solidarity is applied at the national level with regard to redistribution of wealth through taxation and social and economic welfare programmes, how Costa Rica addresses the challenges of environmental issues, cross-border migration and international cooperation in that regard, as well as with regard to women and minorities such as Indigenous Peoples and Afrodescendants.
7. In addition, the Independent Expert was keen to learn about the interrelation between non-State entities, including civil society organizations and private businesses, and their role in promoting international solidarity.

## II. Applicable constitutional and human rights framework

8. Costa Rica is a sovereign State in Central America, bordered by Nicaragua to the north, the Caribbean Sea to the north-east, Panama to the south-east and the Pacific Ocean to the south-west. It has a population of around 5 million in a land area of 51,100 km<sup>2</sup>. An estimated 333,980 people live in the capital and largest city, San José, with around 2 million people in the surrounding metropolitan area. Costa Rica is a unitary presidential constitutional republic. It is known for its long-standing, stable democracy and for its highly educated workforce. In 2016, the country spent roughly 6.9 per cent of its budget on education, compared to a global average of 4.4 per cent. Its economy, once heavily dependent on agriculture, has diversified to include sectors such as finance, corporate services for foreign companies, pharmaceuticals and ecotourism.

9. Costa Rica was sparsely inhabited by Indigenous Peoples before coming under Spanish rule in the sixteenth century. It remained a peripheral colony of the empire until independence as part of the First Mexican Empire in 1812, followed by membership in the United Provinces of Central America, from which it formally declared independence in 1847. Since then, Costa Rica has remained among the most stable, prosperous and progressive nations in Latin America. Following the brief Costa Rican civil war, it permanently abolished its army in 1949, becoming one of the few sovereign nations without a standing army.

10. The country has been ranked consistently highly in the Human Development Index, among the highest of any Latin American nation. It has also been cited by the United Nations Development Programme (UNDP) as having attained much higher human development than other countries at the same income levels, with a better record on human development and inequality than the median of the region.

11. Politically, Costa Rica is a republic and has a presidential system, with a legislative multiparty system. Executive power is exercised by the President and the cabinet, and the President of Costa Rica is both the Head of State and Head of Government. Legislative power is vested in the Legislative Assembly. The President and the 57 deputies of the Legislative Assembly are elected for four-year terms. The judiciary operates independently of the executive and the legislature.

12. Executive responsibilities are vested in a president, who is elected directly by voters, not by the National Assembly, as would be the case in a parliamentary system. There are also two Vice-Presidents and the President's cabinet, composed of the ministers. A constitutional amendment approved in 1969 limits presidents and deputies to one term, although a deputy may run again for an Assembly seat after sitting out a term. Legislative powers are held by the Legislative Assembly. Legislators, called deputies, are elected to non-consecutive four-year terms by popular, direct vote, using proportional representation in each of the country's seven provinces. The most recent elections were held on 6 February 2022.

13. The main arm of the judiciary is the Supreme Court of Justice. Twenty-two magistrates are selected for the Supreme Court for eight-year terms by the Legislative Assembly and lower courts. Chamber IV of the Supreme Court, also known as the Constitutional Chamber, reviews legislation, executive actions and certain writs for constitutionality. Courts below Chamber IV deal with issues involving legal and criminal disputes. In addition, the Supreme Electoral Court, an independent branch of the Supreme Court of Justice, is responsible for democratic elections. While the judiciary is independent of the politically elected executive and legislative branches, it is often responsible for resolving political and legal conflicts.

14. Pursuant to article 168 of the Constitution of Costa Rica of 1949, the territorial division of Costa Rica is organized by law into three types of subnational entities. The national territory is divided into provinces, the provinces into cantons and the cantons into districts. Costa Rica is divided into 7 provinces, 82 cantons and 478 districts, as well as municipalities.

15. Costa Rica is party to the following international humanitarian law and human rights instruments: the Geneva Conventions of 12 August 1949, the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of

International Armed Conflicts (Protocol I), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.

16. Costa Rica is also a party to the following conventions of the International Labour Organization: the Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182).

17. At the regional level, Costa Rica is a member State of the Organization of American States, which adopted the American Declaration of the Rights and Duties of Man in 1948. Costa Rica has ratified the American Convention on Human Rights (Pact of San José), the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), the Charter of the Organization of American States, the Protocol of Amendment to the Charter of the Organization of American States (Protocol of Buenos Aires), the Protocol of Cartagena de Indias, the Protocol to the American Convention on Human Rights to Abolish the Death Penalty and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

18. Costa Rica has also ratified several international environmental agreements, including the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Stockholm Convention on Persistent Organic Pollutants and the Convention on Biological Diversity.

19. Pursuant to article 7 of the Constitution of Costa Rica, international treaties duly approved by the Legislative Assembly take precedence over domestic legislation. The Constitutional Chamber of the Supreme Court has held that international human rights treaties in force in Costa Rica not only have similar status to the Constitution but also, insofar as they grant greater rights or guarantees to persons, take precedence over the Constitution.

20. Under the Constitutional Jurisdiction Act establishing the Constitutional Chamber, that Chamber can apply not only the rights enshrined in the Constitution, but also those recognized under international law in force in Costa Rica.

21. While the Constitution does not explicitly incorporate the rights to health, adequate food, safe drinking water or adequate housing, those rights have been indirectly protected through an expansive interpretation of other provisions.

22. In Costa Rica, the national human rights institution is the Ombudsperson's Office, the body in charge of protecting the rights and interests of all inhabitants in Costa Rica, both nationals and non-nationals. It is up to the Ombudsperson to ensure that the functioning of the public sector is in accordance with morals, justice, the Constitution, laws, conventions, treaties, agreements signed by the Government and the general principles of law. In addition, the Ombudsperson's Office must promote and disseminate the rights of inhabitants. The Office is attached to the legislature and carries out its activities with operational, administrative and decision-making independence. The Legislative Assembly evaluates the operations of the Office on an annual basis by means of a report that is discussed by the

deputies. The position of Ombudsperson is held for a term of four years. The Ombudsperson is appointed by an absolute majority of the deputies present and may be re-elected only for one additional term. To date, none of the Ombudspersons who have finished their terms have been re-elected. A new appointment must be made within the month prior to the expiration of the term or within a month of the position being vacated.

### **III. Presence of the United Nations and regional organizations in Costa Rica**

23. The United Nations has a large presence in Costa Rica in the form of the United Nations country team, made up of the Resident Coordinator Office and United Nations agencies present in Costa Rica. The country team accompanies the Government, at the national and local levels, the private sector, trade union organizations, civil society organizations and academia in the implementation of the 2030 Agenda for Sustainable Development.

24. Through the United Nations Development Assistance Framework, the country team supports Costa Rica, a country internationally recognized for its vocation for peace, human rights, democracy and sustainable development, to identify and address the challenges and gaps it faces in achieving sustainable development. The country team's work is focused on supporting dialogue and national agreements to meet the Sustainable Development Goals, institutional efficiency and compliance with rights for all individuals and groups in society. Throughout the different United Nations agencies present in Costa Rica, the country team focuses on several key issues, as detailed below.

25. In order to facilitate the positioning and implementation of the 2030 Agenda, following up on the support received for being the first country in the world to sign an intersectoral national pact in 2016, different government and non-government entities have assisted in the development of governance, monitoring and implementation of action focused on the 2030 Agenda. In 2020, Costa Rica implemented its Sustainable Development Goals Fund on social protection with a focus on eradicating poverty and on women and their families.

26. With regard to environmental development and a decarbonized economy, the country team has supported the vision of Costa Rica in terms of the environment, energy and adaptation to climate change. That has been achieved through actions relating to environmental conservation practices such as reforestation, the defence of protected areas such as national parks and biological reserves, water and sanitation, electric mobility and the change to a decarbonized economy.

27. The country team has supported action to raise awareness among the population about the adoption of equal marriage rights. It has also contributed to the national strategies for the integration of persons with disabilities and the elimination of child labour, dialogue processes, such as the development and implementation of the first dialogue mechanism with Indigenous Peoples, and processes for the construction of public policies on historically excluded populations.

28. The joint action of the Government, civil society, the private sector and other groups with the United Nations helped to reduce the number of femicides by almost 50 per cent in 2021. The United Nations also supported Costa Rica in its achievement of its most significant reduction in the percentage of pregnancies in girls and adolescents, from 19.4 per cent in 2012 to 14.7 per cent in 2017.

29. The country team has helped support migrants and provide a coordinated and strategic national humanitarian response for refugees and asylum-seekers in the light of the increase in applicants for refugee status from Nicaragua, since 2018. The country team allocated more than 23 billion colones to supporting compliance with the Sustainable Development Goals, improving the efficiency of Costa Rican institutions and strengthening the human rights of all people with particular emphasis on excluded groups.

30. Furthermore, the country team has supported the strengthening and improvement of public infrastructure in Costa Rica. Through 11 national priority engineering works such as

bridges, overpasses and highways, many of which have been pending for decades, the Organization has supported the State in the modernization of key infrastructure to strengthen public mobility, competitiveness, productivity and road safety in the country, aiming for sustainable development. To that end, the United Nations is supporting the investment of more than 114 billion colones.

31. The Independent Expert had the privilege of meeting several representatives of the United Nations country team, including the Resident Coordinator and staff from her office, and staff from the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the United Nations Children's Fund, the International Labour Organization, the World Health Organization and the Pan American Health Organization, as well as UNDP, all of whom provided advice and support for the visit, both substantive and logistical. He is grateful to all his interlocutors for their assistance.

32. Costa Rica is the host country of the University for Peace, an academic institution of higher learning of the United Nations system created by the General Assembly, pursuant to its resolution 35/55. It is located in the suburbs of San José, where the Independent Expert had the honour of visiting and interacting with professors and students. The University for Peace has innovative programmes for education, training and research for peace focused on key issues including conflict prevention, human security, human rights, environmental security and post-conflict rehabilitation. The University has been training leaders for peace for the past four decades. It is a unique global academic institution with over 2,000 alumni hailing from more than 120 nations. Through its master's and doctoral degree programmes, the University trains future leaders to explore and formulate strategies and practices in various contexts to address the causes of multiple problems affecting human and global well-being, and thus contribute to the processes of peacekeeping and peacebuilding.

33. Costa Rica is also the host of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, a research institution that is part of the United Nations system. The Independent Expert had the pleasure of meeting several members of the Institute and discussing issues of common interest with them.

34. At the regional level, the Inter-American system is also present in Costa Rica, with the headquarters of the Inter-American Court of Human Rights and of the Inter-American Institute of Human Rights, both of which are located in San José. The Independent Expert was grateful for the opportunity to discuss good practices and challenges with the secretariat of the Inter-American Institute of Human Rights.

## **IV. International cooperation and development assistance as forms of good practice in international solidarity**

### **A. International cooperation**

35. The Independent Expert was informed that Costa Rica has a long-standing tradition of international human rights solidarity at the international, regional and national levels. He was impressed by the strong and long-standing emphasis on multilateralism in the country's foreign policy, which has allowed Costa Rica to stand out as a safe and peaceful beacon in a region with a troubled history.

36. In fact, international cooperation is a fundamental part of the country's foreign policy; it is regarded as a core of foreign policy and therefore forms part of all international action. International cooperation translates into the numerous efforts to advance international human rights solidarity locally and around the world, enables the strengthening of international, regional and local relationships, and promotes integration and solidarity between all levels of government. From a development perspective, international cooperation is a tool that leverages and complements national investment in substantive areas. Article 74 of the Constitution outlines the country's comprehensive commitment to human rights.

37. Indeed, Costa Rica has been at the forefront of engagement with other countries, regional bodies and international organizations in exchanging good practices and challenges,

including through South-South and triangular cooperation initiatives that promote the full development of countries through mechanisms such as trade, sharing of successful experiences and inclusion. South-South and triangular cooperation, and consequently the projects implemented in that area in Latin America and the Caribbean, are characterized by their basic principles of solidarity, complementarity, equality, non-conditionality and respect for sovereignty.

38. The Independent Expert was informed about the efforts that have been made at all levels of government to mainstream the 2030 Agenda for Sustainable Development in all policy areas and from a human rights perspective. He encourages the authorities to continue their efforts to monitor and evaluate the implementation of the 2030 Agenda in all Costa Rican laws, policies, regulations, plans of action and programmes.

39. The Independent Expert was pleased to see that Costa Rica, like many other States, has joined different mechanisms and agreements that facilitated access to vaccines and medical equipment to deal with COVID-19. The first mechanism it joined was the multilateral COVID-19 Vaccine Global Access (COVAX) Facility, which aims to accelerate the development and manufacture of vaccines against COVID-19 and to guarantee fair and equitable access for every country in the world through global collaboration. The COVAX Facility has coordinated international resources and given low- and middle-income countries equitable access to COVID-19 tests, therapies and vaccines. It is jointly led by the Gavi Alliance, the Coalition for Epidemic Preparedness Innovations and the World Health Organization, alongside key delivery partners, the United Nations Children's Fund and the Pan American Health Organization. Through that mechanism, the country has obtained more than one million vaccines.

40. Furthermore, Costa Rica is leading the COVID-19 Technology Access Pool, a solidarity project based on a technology platform that aims to remove barriers to accessing effective vaccines, medicines and other COVID-19 health products. The Pool provides a platform for sharing data, knowledge and intellectual property on existing and new COVID-19 health products to deliver global public goods for all people in all countries. Through the open sharing of science and data, numerous companies are able to access the information they need to produce technologies, thereby scaling up availability worldwide, lowering costs and increasing access.

## **B. Respect for human rights and the rule of law**

41. The Independent Expert was pleased to learn that Costa Rica has for a very long time been a welcoming society for persons fleeing persecution and an outspoken defender of the principles of human rights and democracy on the international scene. Those elements remain at the heart of its foreign policy. The country has played a leading role among nations in the promotion and protection of human rights, including by advancing gender equality, combating discrimination and xenophobia and promoting the rights of women, Indigenous Peoples, Afrodescendants, lesbian, gay, bisexual, transgender and intersex persons and other minority groups.

42. Costa Rica has a long, globally recognized tradition of peace and respect for human rights and attachment to the values of democracy and freedom. In that context, the State's commitment has always been high, which is why issues such as the promotion of peace and disarmament and the protection of civilians and cultural property in armed conflicts take on special relevance, mainly in the areas of prevention and the dissemination of international humanitarian law. On 16 February 2012, Costa Rica became the first State in the continent to become a party to all the international treaties relevant to international humanitarian law, when it deposited the instrument of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

43. In 1949, Costa Rica embarked on the codification of international humanitarian law in the form of a series of international conventions, protocols and covenants. The concept of peace as a fundamental value cannot be fulfilled with the limited notion that peace is the absence of conflict; rather, it is the possibility of dealing peacefully with threats to peace.

That was translated into the permanent abolition of the army, which took place that same year, making Costa Rica one of the few nations without a standing army, even today.

44. The Independent Expert was impressed by the efforts that the Government, several civil society organizations and private businesses have made to develop human rights principles and social protection in their work. In particular, they have striven to promote greater integration in the labour market of women, Indigenous Peoples, Afrodescendants, migrants and refugees.

45. Costa Rica has continued to receive a large number of migrants and refugees, compared to its small population, not only from neighbouring countries, but also from other Latin American States and from other regions of the world. It has created a number of regularization categories to strengthen its ability to provide support to migrants and asylum-seekers.

46. The judicial system is also to be commended for its commitment, and the many systematic efforts made, to support the development of laws, policies, programmes and activities that promote greater enjoyment of human rights and social protection in the country, especially by persons belonging to historically marginalized communities and groups, including through international cooperation. The Independent Expert saw first-hand the numerous programmes and activities dedicated to achieving that objective and encourages the Government to extend and intensify those efforts in order to close the remaining gaps.

### **C. Environmental initiatives**

47. During his visit, the Independent Expert also witnessed first-hand the numerous efforts made and initiatives undertaken by all stakeholders to protect the environment and mitigate the impact of climate change. He learned about several projects that are addressing the rights and needs of Indigenous communities, inhabitants of rural areas and women, aiming at reforesting the country and protecting biodiversity. Costa Rica has been an innovator when it comes to living in a more sustainable and environmentally friendly way. During his visit, the Independent Expert was pleased to hear about the many innovative policies that are being implemented and measures taken to ensure a more sustainable society at home and abroad. They are an important contribution to international human rights solidarity in the field of climate change and protection of the environment that could be replicated in other countries around the world that have similar geographical features.

48. As a stable and prosperous nation, Costa Rica is often praised and ranked among world leaders when it comes to tackling environmental issues. It is considered to be one of the most progressive nations on Earth with regard to action relating to climate change. On 24 February 2019, the Government announced its National Decarbonization Plan, which aims to create a completely green economy in terms of transportation, energy, construction, agriculture and land usage by 2050. The country's previously conservative environmental policy has also evolved to become one that is dedicated to sustainable development throughout the nation.

49. The Independent Expert was informed that the Government offers rural farmers incentives to reforest pastures in an effort to increase land usage for non-destructive ecological purposes. The Ministry of the Environment also encourages Costa Ricans to protect their native land by providing grants or cash payments to farmers committed to the sustainable management of their agricultural lands. Costa Rica is therefore considered to be a global leader owing to the success of its fight against deforestation.

50. Costa Rica also marked a major clean technology milestone in 2015 when it was powered for the first 75 days of that year by renewable energy sources alone. According to the State-owned Costa Rican Electricity Institute, the Central American nation used a combination of hydropower and geothermal energy to meet its electricity needs for the first two and a half months of that year. Officials reported that heavy rains had allowed them to generate a large amount of hydropower. Since then, Costa Rica has surpassed 300 consecutive days of 100 per cent reliance on renewable energy sources throughout the entire country.



51. While hydropower and geothermal energy are the main pillars supporting its renewable energy efforts, Costa Rica has also been stepping up its installation of solar and wind power technology. With assistance from UNDP, Costa Rica has been able to bring power to remote villages using solar panels. By 2018, 73.8 per cent of the country's electricity was generated by hydroelectric plants, while the remaining energy was generated by wind, geothermal sources, biomass and solar power. In addition to the installation and use of renewable power technology, Costa Rica also has numerous programmes under which specialists are sent abroad to study renewable energy. In 2021, the country reached 99 per cent of renewable electricity generation, surpassing for the seventh consecutive year the target of generating 98 per cent of the country's power using clean resources such as water, wind, geothermal energy, biomass and the sun.

52. In 2018, Costa Rica hosted a meeting of the Economic Commission for Latin America and the Caribbean, at which participants adopted the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, better known as the Escazú Agreement. It is the first international treaty in Latin America and the Caribbean concerning the environment, and the first in the world to include provisions on the rights of environmental defenders. The Agreement strengthens the links between human rights and environmental protection by imposing requirements upon member States concerning the rights of environmental defenders. The Agreement has been signed by 25 Latin American and Caribbean States, including Costa Rica.

53. The Independent Expert was made aware that Costa Rica also signed various commitments at the twenty-sixth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, which was held in 2021. They include commitments on curbing deforestation and promoting sustainable agriculture, and seeking to put a stop to the use of fossil fuels by ending the granting of new licences for the exploration and exploitation of oil and gas in the territories under its jurisdiction.

54. At the regional level, Colombia, Costa Rica, Ecuador and Panama agreed on the Eastern Tropical Pacific Marine Corridor initiative to create an ecological fishing-free corridor, joining their marine reserves in the Pacific Ocean. The Corridor is considered the largest transboundary marine biosphere reserve.

55. Furthermore, the High Ambition Coalition for Nature and People, led by Costa Rica, France and the United Kingdom of Great Britain and Northern Ireland, brought together 78 countries committed to protecting at least 30 per cent of the planet by 2030. In addition, Costa Rica and Denmark jointly led the launch of the Beyond Oil and Gas Alliance, which seeks to engage different national and sub-national stakeholders to facilitate the managed phase-out of oil and natural gas exploration and production.

56. The Independent Expert welcomes those good practices, the adoption of a constitutional right to a healthy and ecologically balanced environment and the active implementation of that right through legislative and judicial enforcement.

## **D. Access to social services**

57. The Independent Expert was impressed by the strong emphasis placed on social and protection programmes, particularly in education, health and housing. He commends Costa Rica for that and encourages it to continue in the same vein.

58. Costa Rica has been at the forefront in addressing the COVID-19 pandemic and its effects on its population, in part through the deployment of its robust health system and allowing free and, eventually, universal access to COVID-19 vaccines, including to documented and undocumented migrants, refugees and asylum-seekers.

59. The welfare state model in Costa Rica is designed to provide basic social security and social protection, including through the pursuit of universal access to education, health care, vaccines and housing, to its citizens and residents. The model for the allocation of resources has, over the decades, allowed Costa Rica to grow into one of the most stable and developed countries in the whole Central American region and to become an upper middle-income

country. Its socioeconomic and political achievements were recognized in 2021 through its accession to the Organisation for Economic Co-operation and Development (OECD).

60. The Costa Rican health-care system provides nearly universal coverage. The Costa Rican Social Insurance Fund has been the institution responsible for providing public health-care services since the 1970s. At that time, it took over from the Ministry of Health, which is tasked with monitoring the execution of essential health-care functions and ensuring sectoral governance. Despite the reputation enjoyed by the Costa Rican public health system, throughout the COVID-19 pandemic, hospitals have been on the verge of collapse several times, owing to the increase in the number of patients in intensive care, which made it difficult to meet the demand of COVID-19 patients and those with other illnesses. However, Costa Rica has demonstrated resilience and success in dealing with the pandemic.

61. The country has about 30 hospitals and clinics at the regional level and more than a thousand basic comprehensive care teams at the community level. After the beginning of the state of emergency in March 2020, hospitals almost ran out of capacity. From that moment on, the Costa Rican Social Insurance Fund was able to make use of the intensive care beds available in the private sector in order to expand the inpatient capacity for COVID-19 patients.

62. Costa Rica also has developed projects, such as one for the delivery of food in the wake of the refusal of school kitchen staff to serve students in March 2020. The Ministry of Public Education agreed to deliver food packages to the students' parents. Moreover, in order to provide financial relief to workers whose income was affected by the pandemic, the Government launched various public aid programmes, such as the protection grant (Bono Proteger), which provides such workers with financial assistance. At the time of the Independent Expert's visit, people who had been laid off or whose working day had been reduced to 50 per cent or more were receiving 125,000 colones (US\$ 215) per month and those whose working day had been reduced by 50 per cent or less were receiving 62,500 colones (US\$ 108) per month. The first such payments were made in April 2020 to a total of 33,000 beneficiaries.

63. The strong social services system that prevails in Costa Rica is funded by an efficient fiscal and taxation system that is based on the principle of progressivity and solidarity between the contributors, individuals and businesses, as well as in terms of geography.

64. The international community has for a long time played an important role in addressing the needs of Costa Rica in key human rights areas, including migration and asylum-seekers, access to health care (including challenges posed by the COVID-19 pandemic), climate change and the protection of the environment, and the empowerment of communities and groups whose rights have historically been violated. That has been achieved through support for the crafting and implementation of the country's national policies, plans and programmes, and cooperation with civil society organizations.

65. The Independent Expert strongly believes that the role of civil society organizations and their cooperation with the authorities, international organizations, donors and other stakeholders is fundamental to the advancement of international human rights solidarity in those and many other thematic areas.

## **V. Challenges and areas of concern revealed during the visit**

66. The Independent Expert was impressed by the frankness of the discussions with his many interlocutors from the Government, civil society and international organizations. His dialogues with them about the challenges currently being faced by the country in the areas of focus of the visit were open and always constructive.

### **A. Accession to the Organisation for Economic Co-operation and Development and decrease of international cooperation**

67. The Independent Expert was informed that one of the challenges that was often identified by his interlocutors from the Government, United Nations agencies and civil

society was the fact that Costa Rica is now an upper-middle level income country and a member of OECD. While that is commendable in terms of acknowledging the country's success in development and economic growth, the situation has led to a decrease in access to international development assistance and other forms of international cooperation received from donors at a time when the country's need for support has actually increased. That increase is in part a result of the economic impact of the COVID-19 pandemic and is also owing to increased pressure on the country from both transit and destination migration and refugee flows from neighbouring and other Latin American countries.

68. The Government, international agencies present in Costa Rica and civil society organizations have all expressed concern about the decrease of international cooperation that came about with the country's accession to OECD. Projects that had been in force for many years at bilateral levels have not been renewed or have been diluted in regional cooperation projects in which other Central American countries that have a lower level of development receive the bulk of the assistance.

69. The Independent Expert is of the opinion that those challenges faced by Costa Rica need to be addressed in greater measure by the international community as an expression of its international solidarity with the country. That is particularly appropriate given that Costa Rica itself has long displayed its commitment to international solidarity with other countries and peoples. In the spirit of international cooperation, more funding and assistance should be directed to assisting Costa Rica in its provision of support to migrants, refugees and asylum-seekers, as well as to enabling more of them to access basic social services such as health care, education and a basic income.

70. The international community also has a significant role to play in the Government's efforts to ensure more employment for those groups of people. Such international assistance is also needed to reduce the long delays sometimes experienced by members of those groups in accessing social programmes owing to the inadequacy of resources within some State agencies and programmes.

## **B. Effect of the coronavirus disease and lockdown**

71. The Independent Expert was informed that the COVID-19 pandemic that hit Costa Rica in early 2020 led the Government to declare a state of emergency and dedicate all of its resources to fighting the disease. A strict lockdown was put in place and everyone was encouraged to stay at home except for those working in essential businesses and those dealing with emergencies. Schools and other educational institutions were closed and replaced by online teaching, and telecommuting was put in place in businesses that could function that way.

72. The pandemic and lockdown led to a significant closure of the country's borders, with access reduced to only Costa Ricans and permanent residents, who had to comply with strict quarantine requirements when entering the country.

73. Similarly, as in many other countries, the lockdown exacerbated existing inequalities in Costa Rican society, especially in terms of access to health services, income and digital education. Despite the country's strong health system and timely crisis response, the pandemic took a heavy toll on the economy. Gross domestic product contracted 4.1 per cent in 2020, the largest drop in four decades. One out of five workers were unemployed by the end of 2020. The incomes of the lowest paid 40 per cent of workers dropped by 15 per cent in 2020 and an estimated 124,000 people fell into poverty, increasing the poverty rate to 13 per cent in 2020 and to 23 per cent at the time of the Independent Expert's visit. At that time, recovery was expected in 2022 and growth was expected to reach its pre-pandemic levels of around 3 per cent.

## **C. Situation of migrants and asylum-seekers**

74. The closure of the borders during the lockdown imposed to tackle the COVID-19 pandemic meant that many migrants and refugees were unable to cross into the country and

that those already present were forced into even more difficult socioeconomic situations. The Independent Expert is concerned that that situation had a particularly negative impact on the country's capacity to support the increasingly high number of arrivals of migrants, refugees and asylum-seekers it needs to process. For example, a planned migration centre in the north of the country has not been opened because of a resource gap. Civil society groups have reported some significant gaps on the ground in the social protection of migrants and refugees, which need to be addressed.

75. Owing to the insufficient number of migration officers, migrants and refugees also experience long delays before their applications to regularize their status are processed and their status is determined. Despite a recent Presidential Decree reducing the fees the Government charges migrants and refugees to regularize their status, the fees remain prohibitive for countless migrants and asylum-seekers, many of whom remain unemployed despite having access to work permits. The Independent Expert heard that migrants' and refugees' access to social services, such as public health care and education, has too often been impeded as a result of a lack of knowledge on the part of the relevant civil servants and the private sector, including potential employers.

76. At the time of the Independent Expert's visit, the land borders had not been reopened for migrants in transit and asylum-seekers. That was not the case for tourists and other visitors arriving by air.

77. The Independent Expert has been informed about an increase in hate speech, particularly online, directed against migrants and refugees present in Costa Rica. That has been exacerbated during the electoral campaigns conducted in 2022. The first round of the legislative elections was held on 6 February 2022, to elect the President, the two vice-Presidents and all 57 deputies of the Legislative Assembly. The second round of the Presidential elections was held on 3 April 2022, to vote for the top two candidates.

78. The Independent Expert was also informed about the contribution of migrants and refugees to Costa Rican society, which should be acknowledged and recognized in greater measure. Those groups of people have played a positive role in the country's socioeconomic development for many decades, contributing up to 20 per cent of its gross domestic product, despite constituting only 9 per cent of the population.

79. After his visit, the Independent Expert was made aware that the Government that had come to power following the second round of the Presidential elections had announced a change in its migratory policy. While asylum-seekers and refugees who had fled persecution would still be allowed to benefit from the traditionally welcoming policies of Costa Rica, that would no longer be the case for those persons it considered to be economic migrants, who had allegedly abused the country's generous social system.<sup>1</sup> The new President indicated that Costa Rica would also change the rules on requesting political asylum owing to the lack of international assistance in that regard and the alleged abuse of political asylum by persons that it does not consider to be refugees, but rather economic migrants.<sup>2</sup>

80. The Independent Expert was also informed that the United Nations country team had reacted to those developments by recognizing the efforts the Government had made by taking in asylum-seekers in very complex international contexts, amidst great difficulty. The country team also stressed that the Government should revert to implementing its migration laws and policies in a way that was in line with a humanitarian and human rights-based approach.<sup>3</sup>

<sup>1</sup> See <https://elmundo.cr/costa-rica/chaves-asegura-que-con-cambios-en-politica-migratoria-se-evitara-que-abusen-de-la-figura-del-refugio/>.

<sup>2</sup> See <https://delfino.cr/2022/11/rodrigo-chaves-costa-rica-cambiara-reglas-para-pedir-asilo-politico-por-falta-de-ayuda-internacional>.

<sup>3</sup> See <https://ondalocalni.com/noticias/1902-onu-responde-rodrigo-chaves-politica-migratoria-costa-rica/>.

## **D. Situation of women, Indigenous Peoples, Afrodescendants and lesbian, gay, bisexual, transgender and intersex persons**

81. The Independent Expert was made aware that women, Indigenous Peoples, Afrodescendants and lesbian, gay, bisexual, transgender and intersex persons continue to face discrimination and violence in many areas.

82. The Independent Expert was informed that women face multiple forms of discrimination, although the State, the international community and civil society have implemented a number of programmes and initiatives to empower women and reduce the inequalities they face. That is especially the case in rural areas and within Indigenous, migrant and refugee communities.

83. The Independent Expert was also made aware that gender-based violence is still problematic, particularly in remote rural areas and among migrant and refugee communities. Trafficking in persons, especially women and children, remains an issue, given the level of cross-border migration and the fact that Costa Rica is a country of transit. Another indicator of the discrimination faced by women in Costa Rica is the fact that they represent only 15 per cent of landowners, although they constitute more than half the population of the country.

84. The situation of women in prison was identified as a subject of concern, owing to the level of overcrowding and the fact that many women are incarcerated for drug-trafficking related offences. Populists call for such offences to be punished more strictly and for the use of preventive detention to be extended in that regard.

85. The Independent Expert was made aware that Costa Rica is not complying with its Indigenous Law, which establishes the State's obligation to return Indigenous lands belonging to the eight Indigenous populations in the country, despite the fact that the law was adopted some 40 years ago. He was also informed about attacks on human rights defenders and Indigenous leaders, who suffer intimidation and death threats in the context of defending their lands, territories and natural resources, despite precautionary measures granted by the Inter-American Commission on Human Rights.<sup>4</sup>

86. The Independent Expert received information about structural racism and racial discrimination against Indigenous Peoples, which hinders their enjoyment of collective and individual rights, and about obstacles faced by Indigenous Peoples regarding access to justice and reparation mechanisms. That is particularly the case for Indigenous women, who play a crucial role in defending Indigenous lands, territories and resources and in passing on their language, culture and scientific knowledge to future generations.

87. The Independent Expert was informed that most Indigenous lands are occupied by non-Indigenous settlers, and about the resulting conflicts. In that regard, an important case came before the Supreme Court concerning the return of land to Indigenous communities.<sup>5</sup>

88. The information received during the Independent Expert's visit was in line with the comments made by the Special Rapporteur on the rights of Indigenous Peoples, who had concluded a visit to Costa Rica in December 2021 and submitted a report on his visit to the Human Rights Council at its fifty-first session in September 2022.<sup>6</sup>

89. The Independent Expert was informed of the precarious economic situation of Afrodescendants, most of whom live in the Caribbean region. Their situation is particularly precarious in Limón province, where high levels of violence, drug trafficking and unemployment prevail. The unemployment rate among Afrodescendants is 11 per cent, but among young Afrodescendants, it is 33 per cent and it is even higher than that in coastal areas. That is also in part the result of racial discrimination and the absence of affirmative action policies and practices. While Costa Rica is a multi-ethnic country, the Independent Expert was informed that Afrodescendants are not always sufficiently taken into account.

<sup>4</sup> Resolution No. 16/15, Precautionary Measure No. 321/12, Teribe and Bribri of Salitre Indigenous People, Costa Rica, 30 April 2015.

<sup>5</sup> See <https://www.culturalsurvival.org/news/costa-rican-supreme-court-upholds-indigenous-rights-land>.

<sup>6</sup> A/HRC/51/28/Add.1.

That is particularly the case with regard to their representation in elected bodies. There are some 500,000 Afrodescendants in Costa Rica. In 2018, the murder of a youth of African descent, allegedly by police officers, triggered social unrest in Limón province. To date, no police officer has been tried for that killing.

90. The Independent Expert was informed about the challenges faced by the lesbian, gay, bisexual, transgender and intersex community. Hate speech and threats remain commonplace, especially on social media platforms. Similarly, the Independent Expert's interlocutors expressed concern about efforts to lobby for a return to conservative norms and regression with regard to the rights that lesbian, gay, bisexual, transgender and intersex persons have acquired and enjoyed in recent decades, including same-sex marriage.

91. The Independent Expert was made aware of the situation of persons with disabilities. Although Costa Rica is a party to all the international norms concerning the rights of persons with disabilities and has strong laws and mechanisms to uphold them, the implementation of those rights remains a challenge, particularly in rural areas.

## **E. Poverty and land tenure**

92. The Independent Expert heard about the issue of access to land for historically disadvantaged groups, such as Afrodescendants, Indigenous Peoples and women. He was informed that many Afrodescendants and Indigenous Peoples have faced the threat or reality of losing their lands. The same uncertainty of land tenure affects migrants and refugees who have built homes in very difficult circumstances and managed to successfully integrate into Costa Rican society. That was particularly evident in the visit to La Carpio, where inhabitants are facing difficulties in formally registering their homes and businesses and remain disconnected from the electricity, water supply and garbage collection networks.

93. The Independent Expert was also informed about the issue of poverty, which remains a serious issue in the country, with 23 per cent of the population living under the poverty line, a situation that was exacerbated by the COVID-19 pandemic. While Costa Rica has significantly improved its economy over recent decades, income distribution inequality in the country has worsened appreciably.

94. Although Costa Rica remains one of the highest per capita income countries in Latin America and the Caribbean, its economic growth has not been proportionately reflected in the reduction of poverty since 2010. National poverty rates point to an increase in poverty between 2017 and 2018, both in urban and rural areas. Annualized income growth among the poorest 40 per cent of the population was 2 per cent (relative to 1.7 per cent for the overall population) from 2017 to 2021. Such low-income growth is among the lowest in Latin America and the Caribbean. Income inequality has been on the rise since the 1990s and in 2000, Costa Rica lost its ranking as one of the most egalitarian countries in Latin America.

95. The Independent Expert was informed that the rise in inequality, in comparison with other countries in the region, is in part because many of the social assistance programmes have low coverage and are insufficiently targeted. The labour market was also weakening, even before the pandemic and the economic downturn that followed. The arrival of hundreds of thousands of migrants and asylum-seekers from neighbouring countries added an additional strain to the limited job market, and the economy was not able to generate enough new jobs to absorb the new demand.

## **VI. Conclusions and recommendations**

96. **The Independent Expert commends the Government, the international agencies present in the country and civil society for having endorsed and demonstrated commitment over the years to the concept and practice of human rights-based international solidarity, in line with their long tradition of upholding human rights and the rule of law.**

97. **Furthermore, the Independent Expert congratulates the Government and all stakeholders for embracing the Paris Agreement for climate change and the 2030**

Agenda for Sustainable Development to ensure a sustainable approach to their environmental actions, inside and outside the country. He welcomes the environmental and sustainable approach developed by the Government in its policies and strategies in all relevant activity sectors, and the mainstreaming of the Sustainable Development Goals into all programmes and policies at all levels.

98. The policy of Costa Rica of welcoming large numbers of refugees and migrants has been in place for a long time and is noteworthy and appreciated. Coordination with its regional partners and efforts made to work with countries of departure and transit are also to be commended. However, in the context of the rise in xenophobic populist discourse and online hate speech against migrants and refugees during the most recent political campaign, the Independent Expert emphasizes that such discourse, especially as it is directed towards refugees and migrants, tends to jeopardize – and considerably threaten – all the efforts that have been made over previous decades to advance human rights-based international solidarity.

99. The Independent Expert was impressed by the ability and will of the Government, the international organizations present in Costa Rica and all the individuals that he met from civil society, business and social partners and Costa Ricans to make the effort to rethink how to address the many global challenges currently facing the world, especially social cohesion, minority and Indigenous rights, climate change, migrant and refugee policies, the fight against COVID-19 and vaccine access, to name but a few. The broad consensus within society and across the political spectrum on the imperative of practising human rights-based international solidarity, witnessed by the Independent Expert during his visit, is admirable.

100. Nevertheless, the Independent Expert would like to stress that those efforts to express human rights-based solidarity should also extend to all the parts of the country, especially rural regions, and to the various groups that constitute the rich multi-ethnicity of Costa Rican society, including Indigenous Peoples, Afrodescendants, women, lesbian, gay, bisexual, transgender and intersex persons, migrants and refugees.

101. The Independent Expert, in a constructive and open spirit, would like to make the following recommendations to the Government, the international organizations present in Costa Rica and civil society, businesses and other entities with a view to further improving and reinforcing their efforts to enhance human rights-based international solidarity:

(a) The authorities should continue to strengthen their efforts to monitor and evaluate the implementation of the 2030 Agenda and the achievement of the Sustainable Development Goals by enforcing all relevant laws, policies, regulations, plans of action, programmes and partnership agreements. Similarly, regional and South-South cooperation initiatives should continue to be strengthened;

(b) The Government should sign and ratify the international human rights instruments to which it is not yet party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Government should also ratify as soon as possible the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, better known as the Escazú Agreement, which it has signed and for which it hosted the event leading to the Agreement;

(c) International agencies present in Costa Rica, external donors and international civil society organizations should increase their cooperation programmes in Costa Rica, in order to continue enhancing human rights-based international solidarity and to reinforce bilateral and multilateral partnerships with all relevant actors. The Independent Expert notes that Costa Rica is almost a victim of its own success in achieving the status of an upper-middle income country and its accession to OECD;

(d) The enhancing of human rights-based international solidarity is even more urgent as the COVID-19 pandemic, the economic downturn that followed and the

increase in migration and refugee flows from neighbouring countries have increased pressure on the limited material and human resources that the Government possesses. This is all the more pressing as unemployment has increased and as 23 per cent of the population now live under the poverty line;

(e) The Government should continue its good practices in the protection of the environment and climate change, while taking into account the need for more mitigation measures. These practices can serve as models to other countries facing similar climate-change issues;

(f) The Government should continue its efforts to implement policies and programmes that seek to strengthen groups that face discrimination, especially Indigenous Peoples and Afrodescendants, that are left behind in the socioeconomic progress enjoyed to date by Costa Rica and that tend to live in remote areas, far away from the capital city. The unemployment rate, discrimination and poverty these groups face represent an enormous challenge and require more resources, especially more State presence in those areas, more cooperation and resources from international organizations and donor countries in order to effectively address the issues they are facing;

(g) Costa Rica has some of the most progressive laws with regard to women's rights and the rights of lesbian, gay, bisexual, transgender and intersex persons. Yet the application of those laws remains difficult, especially in rural areas and among the migrant and refugee community. The Government should increase its presence in remote areas and ensure that adequate social services, including from the police and the judiciary, are available to persons who are victims of gender-based or homophobic violence;

(h) Migrants, asylum-seekers and refugees should be able to continue to fully benefit from the Costa Rican welcoming tradition of hospitality as a safe and stable country in a region that is home to a number of unstable and often violent States, and in a context in which recent instability in neighbouring countries has led to an increase in arrivals. In this regard, and to ensure compliance with human rights-based international solidarity regarding migration and refugee issues, increased efforts should be made to ease the process of application for asylum and refugee status in Costa Rica and to reduce the duration of the determination process. Furthermore, more resources should be available to the Migration Department. International agencies present in the country also have a role to play in assisting Costa Rica to meet the challenge of processing new arrivals, particularly in the context of the instability present in the region;

(i) The role of migrants in the economic advancement of Costa Rica should be recognized and promoted. Costa Rica would probably not have achieved the status of upper-middle income country and thus be a member of OECD without their contribution to Costa Rican society. Therefore, the Government should play an even more active role in integrating migrants into Costa Rican society and should be even firmer in condemning xenophobic and anti-migrant discourse;

(j) In this regard, access to land tenure and security is a fundamental right and should be fully applied for all those who have legally acquired a home or a business, including migrants, women, Indigenous Peoples and Afrodescendants. Not only can land tenure guarantees contribute to stability and integration in Costa Rica, but they are also a precondition for accessing many social services, such as water supply, electricity and garbage collection. Land tenure guarantees can also help avoid the different tensions that can arise when property titles are unclear or not registered;

(k) Lastly, in the light of the rise in xenophobic populist discourse against migrants and refugees, especially on social media platforms, the Independent Expert urges the Government to enhance its capacity to combat such discourse, which tends to jeopardize and considerably threaten efforts to advance human rights-based international solidarity for many marginalized groups.