

# Press Release

Inter-American Court of Human Rights

I/A Court H.R.\_PR-72/2022 English

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## I/A Court H.R. Protecting Rights

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### **INTER-AMERICAN COURT ISSUE'S ADVISORY OPINION ON DIFFERENTIATED APPROACHES WITH RESPECT TO CERTAIN GROUPS OF PERSONS IN DETENTION**

*San José, Costa Rica, October 10, 2022.* The Inter-American Court of Human Rights has today notified Advisory Opinion OC-29/22 of May 30, 2022, on differentiated approaches with respect to certain groups of persons in detention, in response to the consultation carried out by the Inter-American Commission on Human Rights.

Consult the official summary of the Advisory Opinion [here](#) and the complete text of the Advisory Opinion [here](#).

The Court reiterated that respect for human dignity constitutes the general principle of the fair treatment of detainees and determined that it would reinforce said principle in conjunction with the principle of equality and non-discrimination through this Advisory Opinion. The Court determined that the States must apply a differentiated approach in attending to the special needs of the various population groups in detention to ensure that the judgment is carried out in a manner that respects their human dignity.

The Court considered that the application of a differentiated approach in prison policy makes it possible to identify how the characteristics of the population group and the prison environment affect the guarantee of the rights of certain minority and marginalized groups of detainees in the prison environment. It would also identify how these affect the specific risk of rights violations, according to their particular characteristics and needs, in order to define and implement a set of concrete measures aimed at overcoming the discrimination (structural and intersectional) that affects them. Failure to do so would put the States in violation of the provisions of Article 5(2) of the American Convention on Human Rights and other specific treaties, possibly resulting in treatment contrary to the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.

In the Advisory Opinion, the Court identified the specific obligations regarding the dignified treatment required for the groups of detainees outlined in the consultation, namely: (A) pregnant women, women in labor, postpartum and breastfeeding women, and primary caregivers; (B) boys and girls who live in detention centers with their mothers or primary caregivers; (C) LGBTI people; (D) indigenous peoples, and (E) older people.

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The composition of the Court for the issuance of this Advisory Opinion was as follows: Judge Elizabeth Odio Benito, President (Costa Rica), Judge Patricio Pazmiño Freire, Vice President (Ecuador), Judge Humberto Antonio Sierra Porto (Colombia), Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico), Judge Eugenio Raúl Zaffaroni (Argentina), and Judge Ricardo C. Pérez Manrique (Uruguay).

Judges Elizabeth Odio Benito, Humberto Antonio Sierra Porto, and Eduardo Ferrer Mac-Gregor Poisot, notified their individual opinions.

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Avenida 10, Calles 45 y 47 Los Yoses, San Pedro, San José, Costa Rica.



[www.corteidh.or.cr](http://www.corteidh.or.cr)  
[corteidh@corteidh.or.cr](mailto:corteidh@corteidh.or.cr)



(506) 2527-1600



10th Av, between street 45  
and street 47, Los Yoses, San  
Pedro, San Jose, Costa Rica.

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