While certain aspects of women’s rights had been addressed in earlier OAS instruments and more generally in the American Declaration on the Rights and Duties of Man and in the American Convention on Human Rights, many consider that the issue of women’s rights was first incorporated in the normative corpus of the Inter-American Human Rights System (IAHRS) with the 1994 adoption of the Belém do Pará Convention on the Prevention, Punishment, and Eradication of Violence Against Women. This treaty obliges states to prevent, punish, and eradicate violence against women, taking special account of vulnerabilities due to race, ethnic background, migrant status, age, pregnancy, socioeconomic situation, etc. It defines the concept of violence against women and forces states to ensure that women live free of violence in the public and private sphere. It also grants the Commission and the Court the ability to process individual complaints regarding alleged violations of the treaty. Since 1994, the Commission has also established a Rapporteurship on the rights of women, which assists the IACHR in its thematic or country reports and visits, as well as in the processing of women’s rights–related petitions. In recent years, the jurisprudence of the Commission and the Court has addressed several fundamental issues related to women’s rights, in particular regarding violence against women, women’s right to equality, and reproductive health.

The issue of violence against women is probably the sector where IAHRS has developed the most standards. One should indeed recall that the IACHR’s 1995 Raquel Martín de Mejía v. Peru case was the first international adjudicative decision to qualify rape as torture under international law. This approach was again adopted in the Ana, Beatriz et Celia Gonzalez Perez v. Mexico case.
where the IACHR, taking into consideration the Belém do Pará Convention, indicated that rapes committed by state agents as well as the authorities’ subsequent inaction to investigate, judge, and sanction these crimes triggered the state’s responsibility not only under the Convention, but also under the Inter-American Convention to Prevent and Punish Torture.\footnote{Dec. 9, 1985, O.A.S. Treaty Series No. 67.}

This qualification was later reiterated by the Court,\footnote{Miguel Castro-Castro Prison v. Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R., Judgment, Inter-Am. Ct. H.R. (ser. C) No. 160 (Nov. 25, 2006); González et al. (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 205 (Nov. 16, 2009); Fernández Ortega v. Mexico, Inter-Am Ct H.R. (ser. C) No. 215 (May 7, 2009).} which provided definitions of rape and sexual violence,\footnote{See, e.g., Castro-Castro, supra note 12, para. 306 and following.} considering it also a violation of the right to human treatment and to private life and dignity.\footnote{See, e.g., Rosendo Cantú et al. v. Mexico, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 216, para. 118 (Aug. 31, 2010); Fernández Ortega, supra note 12, para. 1229.} The IACtHR also detailed specific aspects of the state’s \textit{duty to investigate}, indicating that it had to act with due diligence to prevent violence and murder against women,\footnote{See, e.g., “Cotton Field,” supra note 12, para. 284.} taking into consideration the context of impunity prevailing,\footnote{Velasquez Pais v. Guatemala, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 307, para. 133 (Nov. 19, 2015).} and had a duty to collect information regarding the situation of women in conditions of vulnerability.\footnote{See, e.g., Fernández Ortega, supra note 12, paras. 194, 196.} In addition, it found that, during investigations, state authorities should adopt a gender perspective and ensure that victims can access justice fully, free from stereotypes.\footnote{See, e.g., Fernández Ortega, supra note 12, paras. 194, 196.} Investigators should follow very strict technical requirements and prevent the revictimization of victims.\footnote{See, e.g., Fernández Ortega, supra note 12, paras. 194, 196.} In addition, the Commission indicated that public authorities have the same due diligence duty to prevent, investigate, and sanction violence against women from private actors, including in contexts of domestic violence.\footnote{Jessica Lenahan (Gonzalez) et al. v. United States, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11 (2011), at paras. 120 and 133.}

Indeed, in accordance with the Bélem do Pará Convention, states must ensure the right of women to be free from violence,\footnote{See, e.g., Fernández Ortega, supra note 12, paras. 118, 130; see also Jessica Lenahan (Gonzalez), supra note 20, para. 110.} as gender-based violence is a form of \textit{discrimination}.\footnote{See, e.g., Castro-Castro, supra note 12, para 303.} In addition, with regard to \textit{women’s right to equality}, the IACHR reiterated that gender is a prohibited motive of discrimination, preventing states from adopting legislation that directly or indirectly discriminates against women.\footnote{María Eugenia Morales de Sierra v. Guatemala, Case 11.625, Inter-Am. Comm’n H.R., Report No. 4/01, (2011), at paras. 44, 55.} Moreover, both the Commission and Court have highlighted the additional vulnerability faced by women who experience double or intersectional discrimination, based on age, race, ethnic origin, status as a human rights defender, etc.\footnote{Yarce v. Colombia, Inter-Am. Ct. H.R. (ser. C) No. 325, para. 193 (Nov. 22, 2016); see also Jessica Lenahan (Gonzalez), supra note 20, para. 113; IACHR, Missing and Murdered Indigenous Women in British Columbia, Canada, OEA/Ser.L./V/II doc.30/14 (Dec. 21, 2014).} The IACHR has also reaffirmed the
obligation of states to adopt, in certain circumstances, measures of affirmative action in favor of women, when required to achieve substantive equality of opportunity.25

Finally, both the Commission and the Court have adopted significant standards with respect to women’s reproductive and maternal health. For instance, the IACHR issued a series of detailed recommendations in its thematic reports on Access to Information on Reproductive Health and on Access to Maternal Health Services.26 The IACtHR also reiterated the states’ obligation to adopt special measures of protection regarding pregnant women.27 In a recent decision on forced sterilization, the Court also highlighted the relationship between maternal health and the rights to privacy and to personal integrity, for which the respect of the previous, free, and informed consent of women to medical interventions is fundamental.28 Similar principles were recalled in the Court’s famous Decision on in vitro fertilization, where it indicated that motherhood is an essential part of women’s development and that the rights to privacy and personal integrity include the right to reproductive autonomy, to access to reproductive health services, and to relevant information in this regard, in accordance with women’s right to enjoy the benefits of scientific progress.29

As to the delicate issue of interruption of pregnancies, the Commission ruled, in its Baby Boy decision.30 that Article 4 of the Convention does not per se prohibit states from allowing abortion. It analyzed the drafting history of Article I of the Declaration and Article 4 of the Convention and concluded that the drafters had removed language previously proposed and replaced it with its final wording, avoiding requiring several states to derogate from laws that allowed abortions in certain circumstances. The Court seems to have confirmed this interpretation in 2012, indicating that it can be “concluded from the words ‘in general’ that the protection of the right to life under this provision is not absolute, but rather gradual and incremental according to its development, since it is not an absolute and unconditional obligation, but entails understanding that exceptions to the general rule are admissible.”31 In addition, some friendly settlements, as well as some provisional measures and precautionary measures decisions, indicate that an abortion should be allowed in certain circumstances, including in cases of pregnant children, in cases of victims of rape, when the health of the mother is in danger, and when the fetus is not viable.32 This early trend seems to be in line with similar developments at the universal level.33

31 See Artavia Murillo (In vitro fertilization), supra note 29, para. 264.