

CHAPTER IV

HUMAN RIGHTS DEVELOPMENTS IN THE REGION

Introduction

1. The Inter-American Commission on Human Rights (IACHR or Commission) continues its practice of including a Chapter in its Annual Report to the General Assembly of the Organization of American States (OAS) on the situation of human rights in the Member States of the Organization, based on its competence as set forth in the OAS Charter, the American Convention on Human Rights, the Statute and the Commission's Rules.

2. Preparing reports on the situation of human rights in the countries of the region has been one of the main tools of the Commission since its first Annual Report to the OAS General Assembly in 1969. Beginning in 1977, the Commission started to publish this information systematically, using different titles, chapters or sections, in what essentially has become Chapter IV.

3. In 1996, the Commission established four specific criteria to identify those OAS member States whose human rights practices merited special attention by the IACHR and consequently a special analysis to be included in the annual report. In the 1997 Annual Report, the Commission added a fifth criterion to be considered when deciding which countries to include in this Chapter. The IACHR has applied these criteria on the basis of the mandate and faculties assigned to it by the regional instruments, and accordingly analyzes the situations under consideration in light of the actions of States, pursuant to inter-American human rights standards.

4. Following a process of reflection on the strengthening of the inter-American human rights system, the IACHR issued Resolution 1/2013, "Reform of the Rules of Procedure, Policies and Practices," which included changes with respect to the content of Chapter IV of its Annual Report. Along these lines, Chapter IV was divided into two sections:

- i. Section A) will include an annual overview of the human rights situation in the hemisphere, derived from its monitoring work, which shall identify the main tendencies, problems, challenges, progress and best practices of civil and political rights, and social, economic and cultural rights; and
- ii. Section B) will include the special reports that the Commission considers necessary regarding the situation of human rights in Member States, pursuant to the criteria, methodology and procedure provided below.

5. As part of the process of reflection, the Commission reviewed and modified the criteria to be applied for including a State in Chapter IV. B. The current criteria are:

Criteria

- a. A serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:
 - i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;

- ii. there has been an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order; or
 - iii. the democratically constituted government has been overthrown by force or the existing government has otherwise come to power through means other than free and fair election, based on universal and secret ballot, pursuant to internationally accepted norms and principles reflected in the Inter-American Democratic Charter.
- b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as a declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.
 - c. The State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.
 - d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:
 - i. serious institutional crises that infringe the enjoyment of human rights;
 - ii. systematic noncompliance of the State with its obligation to combat impunity, attributable to a manifest lack of will;
 - iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court; and
 - iv. systematic violations of human rights attributable to the State in the framework of an internal armed conflict.

6. The Commission assesses the situation of human rights in the OAS Member States throughout the year in the exercise of its mandate to promote and protect human rights in the region. It gathers information from multiple sources and, in particular, utilizes reliable information obtained from the following sources in making its evaluations:

- a. official acts of all levels and branches of government, including constitutional amendments, legislation, decrees, judicial decisions, policy statements, official communications to the Commission and to other human rights organs, as well as any other statement or action attributable to the Government;
- b. information available in cases, petitions and precautionary and provisional measures in the inter-American system, as well as information on compliance by the State with recommendations of the Commission and judgments of the Inter-American Court;
- c. information gathered in the course of on-site visits by the Commission, its Rapporteurs and members of its staff;
- d. information obtained during hearings held by the Commission as part of its sessions;
- e. conclusions of other international human rights bodies, including UN treaty bodies, UN Rapporteurs and working groups, the Human Rights Council, and other UN specialized agencies;
- f. human rights reports issued by governments and regional organs;

- g. reports by civil society organizations, as well as information presented by such organizations and private persons; and
- h. public information that is widely disseminated in the media.

7. The Commission deliberates in plenary during its third ordinary session each year, applying the methodology and criteria indicated to make reasoned decisions on Chapter IV and on other matters included in the Annual Report. During its 163rd period of sessions, the Commission analyzed briefings on the human rights situation in some countries previously requested by the Commissioners and voted on whether or not to include those countries. As a result of that review, in some cases it was preliminary decided to include some States in Chapter IV. B.

8. By an absolute majority and based on the aforementioned criteria, it was decided to include two member states in this Chapter IV.B of the 2017 Annual Report, Cuba and Venezuela. Furthermore, pursuant to its Rules of Procedure, the Commission transmitted a draft of the respective sections of Chapter IV.B to the States concerned with a request that they submit any observations on them by a given deadline. Cuba did not submit its observations within the time allowed.

9. In addition, it is worth noting that for Colombia, in 2017 the IACHR decided to continue monitoring the recommendations made in its country report *Truth, Justice and Reparation: Fourth Report on the human rights situation in Colombia* approved by the Inter-American Commission on Human Rights on December 31, 2013, through Chapter V of its Annual Report. With respect to Mexico it decided to continue following up on the recommendations made in the report *Situation of Human Rights in Mexico* published in December 2015, and with respect to the Dominican Republic it decided to monitor, for the first time, the recommendations made in the report *Situation of Human Rights in the Dominican Republic*, published in December 2015.

A. Overview of the Human Rights Situation in the Hemisphere Resulting from the Monitoring Work

10. In Chapter IV, part A, the Commission presents an overview of the human rights situation in the region in the course of the year and priority matters. Currently, a predominance of freely elected governments has laid the foundation for effective exercise of human rights, inasmuch as respect for these rights is a vital part of democracy. Notwithstanding, the region is still facing steep challenges. Impunity, due process violations, restrictions on judicial independence, police abuse, discrimination, poverty and social exclusion are only a few of the problems undermining respect for human rights and weakening the rule of law. In taking stock of the human rights situation in the region over 2017, the Commission underscores both in Chapter I and in the instant section of its Annual Report some of the positive steps and encouraging political commitments, which stand as a testament to the political will to ensure full respect for fundamental liberties in the hemisphere. At the same time, in this section the IACHR reports on the challenges facing the region as a result of either some recent changes or a failure to solve longstanding problems, which have placed many gains achieved in the area of human rights at a serious risk of being reversed. Generally speaking, the IACHR noted that in 2017 the region continued to be seriously affected by the political, economic and social crisis in several countries and that this has had dire consequences on the ability to ensure full enjoyment of the rights of the inhabitants of the hemisphere.

11. The issues identified in this section spotlight the institutional fragility of the rule of law and the need to strengthen democracy in the hemisphere. Deterioration of economic and social conditions in several countries of the region, coupled with legal and constitutional reforms, which chip away at hard-won rights or represent a regression in combating impunity, have triggered massive demonstrations of the population, which are in many instances put down through the use of excessive force by police and/or military forces and, in more than a few instances, deepen political instability.

12. In 2017, the Commission was alarmed at the scourge of corruption – as an aggravated phenomenon in the region – which affects the ability to build democratic and transparent societies and the

effective enjoyment of human rights, in particular, economic, social, cultural and environmental rights, the effectiveness of which is contingent upon public policies and budget. In this context, it is of particular concern to observe that most States have not seriously addressed the causes of social exclusion and discrimination based on factors such as ethnicity, class, race and gender, or their impact on the inhabitants of the hemisphere.

13. In addition to the foregoing, in 2017 the IACHR expressed its deep concern over increased threats, criminalization, retaliation and violence against members of several historically discriminated against groups, and especially, human rights defenders, journalists and the media in investigating and denouncing corruption, which has escalated into a serious problem in the Americas.

14. Furthermore, fragility of the judiciary in most countries of the region and, in some countries, attacks on the independence and impartiality of justice operators poses one of the most severe roadblocks to ensuring effective access to justice and due process protections. Moreover, the imbalance between the branches of government, the lack of judicial independence, the absence of transparency, obstacles to access to justice, the packing of courts with judges favorable to the executive branch, politicization of the justice system and high rates of impunity, describe some of the difficulties that some States of the region are facing. Accordingly, the IACHR emphasizes that an independent and impartial justice system is indispensable to effectively combatting impunity.

15. The IACHR also noted with extreme concern in some States of the region official positions attacking human rights and the basic principles of tolerance underpinning democracy. In this context, discourse of intolerance was heard from senior government officials, which could be construed as inciting racial hatred, as well as calls to build physical barriers along borders and stigmatization of migrants. In fact, in some countries there was a ban on the circulation of people between States based on their religion and increased race-based attacks and incidence of hate crimes. The IACHR expresses its concern over these attacks, including verbal stigmatization by high-level authorities aimed at journalists and the media, regardless of whether such comments are made in the form of defamatory remarks or simply involve calling them fake, dishonest and “enemies of the people.”

16. In 2017, citizen insecurity continued to be a focus of concern because of increased crime, as well as the inadequate institutional response, which is incompatible with the principles of a democratic society and respect for human rights and fundamental liberties. “Get tough” policies are often put into practice without properly dealing with the causes of the problem or considering implementation of prevention and reintegration policies.

17. Moreover, torture and excessive use of force by the law enforcement agencies has been decried. The IACHR is also concerned about the abuse of pretrial detention as a mechanism of control over excluded segments of the population; violent crackdowns on indigenous peoples who resist expulsion from their lands; ethnicity-based and race-based discriminatory actions taken by police and prosecutors.

18. Likewise, in 2017, the Commission viewed with concern some challenges and regressive steps in the areas of memory, truth, justice and reparation in the countries of the region, undermining efforts to combat impunity, the institutional framework created for this purpose, and recognition and access to the right to justice and truth of the victims of gross human rights violations. The Commission has voiced deep concern over recent decisions made by some States of the region opposing the decisions of Inter-American human rights system. These decisions breach the international obligations of the States and their consequences are particularly serious for the victims of such human rights violations and their family members.

19. In short, corruption together with impunity, organized crime, intolerance, as well as social exclusion of different population segments, created a complex scenario for the protection and defense of human rights in the region and posed a serious danger of reversing effective respect for the rule of law which, ultimately, limits the full enjoyment of the human rights recognized by the American Convention and the American Declaration for every individual.

20. The IACHR issues an appeal to the States to reverse actions that jeopardize full respect for human rights and urges them to undertake practices and public policies to promote human rights and democracy; as well as to refrain from stoking racial and ethnic tensions and questioning the media's ability to freely do its job, among other regressive actions described in the instant section.

21. Based on the foregoing, during 2017, the Commission decided to focus this section on the persons, groups, communities, and matters that are the subject of particular attention of the IACHR in the context of its thematic rapporteurships. Accordingly, the IACHR seeks to offer an analysis of the main trends, problems, gains, and good practices in relation to the human rights of the indigenous peoples, women, migrants, children, persons deprived of liberty, Afro-descendants, human rights defenders, and LGBTI persons in the Americas in 2017. In addition, it presents specific information on persons with disabilities and older persons. The IACHR also includes information about progress and regression in the area of memory, truth, justice and reparation. And lastly, hereunder we set out an analysis of the trends and priority matters relevant to the rights related to the freedom of expression and economic, social, and cultural rights.

22. The methodology used for producing this chapter is analyzing the events that occurred in the region from late 2016 to December 2017, and information received in the general monitoring work of each thematic rapporteurship and unit. Information was obtained in the context of public hearings that the Commission held this year, as well as through the requests for information in keeping with the powers conferred on the Commission by Article 41 of the American Convention on Human Rights (hereinafter the American Convention or the ACHR) and Article 18 of its Statute. Information has also been gathered from different United Nations mechanisms whose mandate is related to the matters addressed in this study, from reports by civil society organizations both international and local, the content of new reports, and information that is a matter of public knowledge.

23. This section presents an analysis of the general human rights situation from the perspective of the cross-cutting themes and priority issues established in the [Strategic Plan 2017-2021](#), which go to the task of monitoring done by the IACHR in the course of 2017.

1. Cross-cutting Themes

a. Democratic Institutional Framework

24. The Commission has monitored the situation of democratic institutions in the region in 2017. Analyzing this theme is aimed at verifying the means of social participation for observing the connection between democratic institutions and the citizens with the objective of understanding, from a human rights perspective, the necessary relationship between the population and the formal spaces from which to call on the State to effectively safeguard their rights; to take stock of and analyze state strategies for encouraging social participation in the design, implementation, and monitoring of public policy; whether social participation is considered a management method; and establishing permanent mechanisms of dialogue with civil society, respecting its autonomy, freedom of action, and independence, among other aspects. Its importance has been emphasized by the member states of the OAS on affirming that in a democracy every person is able to effectively exercise his or her fundamental freedoms and human rights.

25. This section also includes an analysis of aspects related to the principles of separation of powers, legality, and guarantees of fundamental rights; the exercise of political rights without discrimination, the freedoms of assembly and association, and the freedoms of thought and expression; as well as the impairment of rights brought about by organized crime, corruption, and the lack of transparency in financing political parties, the process of appointing and selecting authorities, and of the budget allocated. Legislative reforms that have a negative impact on the democratic institutional order are also considered.

26. In the course of 2017, the IACHR identified some progress in relation to representative democracy and the effective exercise of the rights to vote and to participate in government, set forth in the American Declaration of the Rights and Duties of Man, such as holding genuine elections within the

parameters established in the Inter-American Democratic Charter, in several countries of the region. They had an independent national electoral body, and free and unrestricted participation of the population, with impartial international observation, and culminated in peaceful transfers of power, such as the examples of the elections and transitions in power in Argentina, Chile, Peru, and the United States. Nonetheless, the IACHR also observed a series of obstacles to democracy in elections held without the necessary guarantees and transparency, in contexts of violence, with allegations of irregularities and fraud, and which on occasion did not have proper international observation, such as, for example, in the election in Haiti¹ that culminated in the transfer of power in 2017, and in the elections held this year in Honduras², Nicaragua³, and Venezuela.⁴

27. Through its different mechanisms the Commission also observed with concern various impairments of the essential elements of representative democracy and its institutions in several countries. As for the principle of the separation of powers, which presupposes that the different functions of the state correspond to separate branches of government that are independent of one another, with checks and balances among them, the IACHR continued receiving information that shows the failure of checks and balances to operate effectively in some countries of the hemisphere, which has resulted in the preeminence of one branch over the others, and has compromised the democratic institutions and the workings of democracy. This issue will be addressed in greater detail in the section on the cross-cutting theme of judicial independence and access to justice.

28. This year the Commission has continued monitoring the situation in Cuba and Venezuela, which are addressed in detail in section B of this chapter. Regarding Venezuela, the IACHR issued statements on the alteration of the constitutional and democratic order.⁵ In addition, the IACHR continued monitoring the impairment of democracy caused by political and institutional instability. Thus, for example, in Brazil it observed that this instability is framed in a context of large-scale corruption with impacts on the exercise of human rights.⁶ In Brazil the investigations into corruption initiated in 2015 implicating important authorities set off a period of political instability that worsened in 2017.⁷

29. The Commission also was concerned about the political context in Peru around the investigations into corruption, which led the Congress of the Republic of that country to institute a proceeding to remove the President of the Republic, Pedro Pablo Kuczynski, from office and, in so doing, possibly violated protections of the right to due process and a proper defense.⁸ In connection with said proceeding, the IACHR also voiced its concern over how the political crisis triggered by the motion for impeachment brought in the Congress may have affected human rights, in particular, the decision of the President of the Republic to grant a humanitarian pardon to former President Alberto Fujimori, who was serving a sentence for crimes against humanity.⁹

30. As regards the rights to assembly and association and to freedom of thought and expression and political rights set forth in the American Convention on Human Rights, the Commission addressed

¹ Daily Briefing, LatinNews Daily, Moïse takes office in Haiti, February 8, 2017. See also Daily Briefing, LatinNews Daily, Court agrees to partial audit of Haiti electoral result, December 21, 2016

² IACHR, [IACHR and OHCHR Express Concern over Post-Election Violence in Honduras](#), December 3, 2017.

³ CEJIL, Pronunciamento sobre los hechos de violencia postelectoral en Nicaragua, November 14, 2017.

⁴ IACHR, [IACHR Condemns the Deaths and Acts of Violence on Election Day in Venezuela](#), August 1, 2017.

⁵ IACHR, [IACHR Condemns Supreme Court Rulings and the Alteration of the Constitutional and Democratic Order in Venezuela](#), March 31, 2017.

⁶ Infobae, [El ranking de los países más y menos corruptos del mundo](#), September 19, 2017.

⁷ See for example Operation Lava Jato and Operation Greenfield. G1, [PF realiza 2ª fase da operação Greenfield, que investiga fraudes em fundos de pensão](#), March 8, 2017; UOL, [Senado tem Recorde de Investigados](#), April 29, 2017.

⁸ Gestión, [Congreso admitió el proceso de vacancia contra el presidente Kuczynski](#), [Congress grants motion to impeach President Kuczynski], December 15, 2017.

⁹ IACHR, IACHR expresses deep concern and questions the presidential pardon granted to Alberto Fujimori, December 28, 2017.

unlawful restrictions on the exercise of these rights in several states this year.¹⁰ Accordingly, for example, the Office of the Special Rapporteur for Freedom of Expression of the IACHR stated its serious concern over the adoption, in Venezuela, of the “Law Against Hatred, for Peaceful Coexistence and Tolerance,” through an expeditious procedure in the National Constituent Assembly, whose provisions, in the name of “peace, public tranquility, and the nation,” establish exorbitant criminal sanctions and powers to censor the traditional media and Internet at odds with international standards on the freedom of expression.¹¹ It also identified stigmatizing speech against the communications media, journalists and defenders issued by high-level authorities in Venezuela as well as in the United States. In the United States assertions were made that “the press distorts democracy,”¹² that it is “dishonest,”¹³ that the “level of dishonesty [of the press] is out of control”¹⁴ and that it publishes fake news.¹⁵ The veracity of the journalistic sources used by these media outlets was also called into question on the grounds that they were anonymous.¹⁶ Similarly, in Venezuela this type of discourse persists against opposition politicians, human rights defenders¹⁷, and media accused of being “coup-mongers,” “conspirators,” “fascists,” “spies,” “squalid,” and they are accused of “attacking peace and democratic stability” in Venezuela, “defaming and distorting the truth,” “manipulating information,” or putting out “war propaganda.”¹⁸

31. In addition, direct and indirect censorship of persons as they attempt to seek and receive information was identified; as well as the increased criminalization and repression of public protest, often with the excessive use of force, as in Brazil, Colombia, and Paraguay¹⁹; and the persecution of human rights defenders²⁰, political and social leaders²¹, and journalists and other media workers.²² Also, repression of the

¹⁰ Some examples: IACHR, [The Special Rapporteur for Freedom of Expression Expresses Serious Concern over the Enactment of the "Anti-Hate Law" In Venezuela and Its Effects on Freedom of Expression and Freedom of The Press](#), November 10, 2017; [IACHR Deeply Concerned about Further Weakening of Separation and Independence of Powers and Undermining of Democratic Institutions in Venezuela](#), August 31, 2017; [Office of the Special Rapporteur Condemns the Closure of more than 50 Media Outlets in Venezuela without Legal Guarantees and for Reasons Related to their Editorial Line](#), September 6, 2017.

¹¹ IACHR, [The Special Rapporteur for Freedom of Expression Expresses Serious Concern over the Enactment of the "Anti-Hate Law" In Venezuela and Its Effects on Freedom of Expression and Freedom of The Press](#), November 10, 2017.

¹² The Denver Post, [Trump says media “distorting democracy” in morning Twitter post](#); The Daily Beast. 16 de julio de 2017. [Trump: ‘Fake’ Media Is ‘Distorting Democracy’](#), 16 de julio de 2017.

¹³ Time, [President Trump Ranted For 77 Minutes in Phoenix. Here’s What He Said](#); ABC News. 23 de agosto de 2017. [Trump blames media for condemnation of comments on Virginia](#), 22 de agosto de 2017.

¹⁴ Time, [All the times Donald Trump called the media ‘fake news’ on Twitter](#), 27 de junio de 2017.

¹⁵ CNN, [Trump to CNN’s Jim Acosta: You’re fake news \(VIDEO\)](#); Politico. [Asked about lack of press conferenes, Trump calls CNN ‘fake news’ \(VIDEO\)](#), 14 de agosto de 2017.

¹⁶ Entertainment Weekly, [All the times Donald Trump has called the media ‘fake news’ on Twitter](#); The Hill. 12 de julio de 2017, [Trump slams media: ‘Often times those sources are made up and do not exist’](#), 24 de julio de 2017.

¹⁷ IACHR, Press Release No. 048/17, [IACHR Urges Venezuela to Guarantee the Right to Protest and to Demilitarize Streets](#), April 19, 2017.

¹⁸ EFE, [Maduro ordena demandar a periódico por difundir información falsa de PDVSA](#), October 8, 2016; Análítica, [Maduro ordenó demandar medios de comunicación que difundían información falsa de PDVSA](#), October 9, 2016; NTN24, [Maduro ordena demandar a diario venezolano El Nuevo País, por redifundir trabajo sobre crítica situación de Pdvsa](#), October 9, 2016; Siente América; Bloomberg: [Venezuela pretende empeñar a la icónica marca americana Citgo para sobrevivir](#), October 9, 2016; YouTube video, [Con el Mazo Dando, Wednesday, March 16, 2016](#), Noticias 24, March 16, 2016; Notitotal, [Las amenazas de Cabello a la oposición venezolana de cara al 1-S \(Video\)](#), August 30, 2016; Noticias Al Día y Ahora, [La advertencia de Diosdado Cabello a los medios de comunicación](#), August 30, 2016; and La Voz, [Diosdado Cabello: “Atrévase a entrar en Caracas”](#), August 31, 2016.

¹⁹ For example, IACHR, [UN Human Rights and IACHR Condemn Excessive Use of Force during Social Protests and during Security Operations in Brazil](#), May 26, 2017; [IACHR Expresses Concern over the Use of Force in Protests in Colombia](#), June 13, 2017; [IACHR Deplores Repressive Measures Taken by Venezuela against Protests and Condemns Resulting Deaths and Injuries](#), May 9, 2017; Joint Press Release, [Venezuela/Protests: UN and IACHR Rapporteurs Condemn Censorship, Arrests and Attacks on Journalists](#), April 26, 2017; [IACHR Deeply Concerned over Acts of Violence and Repression in Context of Protests in Paraguay](#), April 3, 2017.

²⁰ For example, IACHR, [IACHR Condemns Attack on Human Rights Defenders Berta Zúñiga Cáceres, Sotero Chavarría, and Asunción Martínez in Honduras](#), July 25, 2017.

²¹ IACHR, [Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation](#), July 12, 2017.

right to protest, with the excessive use of force, was observed in Argentina²³, Guatemala²⁴, and Honduras.²⁵ In particular, the Commission expressed its concern over implementation of Decree 084/2017 in Honduras, which suspended constitutionally protected fundamental rights for a 10-day period, in light of impediments to the exercise of the right to peaceful assembly in a context of illegal and excessive use of force to break up protests in the post-election period.²⁶

32. The Commission also observed the imposition of administrative grounds for political disqualification²⁷; subjecting political leaders to judicial proceedings without judicial guarantees²⁸; and the implementation of mechanisms for renewing the registration of political parties makes it difficult for some political parties to participate, as in Venezuela. In this respect, the Commission underscores the importance of the electoral organs for the exercise of political rights and recalls that to guarantee them, these institutions must perform their functions with impartiality and independence.²⁹ These issues identified during the year had a negative impact on the essential elements of representative³⁰ and plural democracies in the region, in addition to discouraging citizen participation in public affairs, negatively impacting the full enjoyment of human rights.

33. The IACHR has also identified legislative reforms that have a detrimental impact on democratic institutional arrangements, such as the creation of new criminal statutes, for example on terrorism; and restrictions on the freedom to protest, by toughening penalties, in violation of the relevant international standards, in Honduras. The IACHR also continued to monitor the negative effects that implementation of the Law for the Classification of Public Documents Related to Security and National Defense has had on transparency and access to public information in Honduras.³¹ In addition, the

²² For example, IACHR, [Mexico Must Redouble Efforts to Protect Journalists, Human Rights Experts Urge](#), December 4, 2017; [Office of the Special Rapporteur Expresses Concern over Stigmatization and Violence against Journalists in Colombia](#), July 26, 2017; [UN and Inter-American Experts Condemn Reporter's Killing in Mexico and Call for Immediate Action to End Cycle of Killings of Journalists](#); May 18, 2017; [Office of the Special Rapporteur Condemns Killing of Journalists While They Were on the Air in the Dominican Republic and Urges the State to Promptly and Opportunely Investigate and Punish Those Responsible](#), February 17, 2017; [Organismos internacionales expresan su firme condena por el asesinato de la periodista Miroslava Breach en Chihuahua, Chihuahua](#), March 23, 2017.

²³ Página 12, [Una escalada de represión a la protesta](#), December 18, 2017; La Nación, [Los incidentes en la Plaza de los Dos Congresos dejaron un saldo de varios heridos, destrozos y 26 detenidos](#), December 15, 2017.

²⁴ For example, Resumen Latino Americano, [Guatemala: Un campesino asesinado por policías y paramilitares en una manifestación contra Hidroeléctrica](#), no date; Consejo de Pueblos Wuxhtaj, [Asesinan a Sebastien Alonso, líder opositor al proyecto hidroeléctrico Pojom 1](#), January 18, 2017; Prensa Comunitaria, [Disparos Contra Manifestantes En Yichkisis En San Mateo Ixtatán](#), January 17, 2017; European Parliament, [Derechos humanos: El PE lamenta situación de activistas en Nicaragua y Guatemala](#), February 16, 2017; International Federation for Human Rights (FIDH), [Guatemala: Asesinato de Sebastián Alonzo Juan y actos de intimidación y amenazas de muerte contra una caravana que buscaba verificar los hechos](#), February 7, 2017; IACHR, [Press Release No. 011/17. IACHR Condemns Murders of Human Rights Defenders in the Region](#), February 7, 2017; IACHR, [Press Release No. 072/17. IACHR issues call for OAS States to Protect Defenders of the Land and Environment](#), June 5, 2017.

²⁵ Human Rights Council. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, on his mission to Honduras. A/HRC/35/23/Add.1, April 11, 2017, para. 16.

²⁶ IACHR, [IACHR urges the State of Honduras to ensure and respect human rights in the post-electoral context](#), December 22, 2017.

²⁷ IACHR, [Resolution 15-17](#) MC No. 248-17 Henrique Capriles Radonski with respect to Venezuela, June 2, 2017.

²⁸ IACHR, [IACHR Expresses Concern over Suspension of Parliamentary Immunity for Vice President of Venezuela's National Assembly](#), November 17, 2017.

²⁹ IACHR, [Report No. 14/93](#), Case 10,956, Luis Felipe Bravo Mena, Mexico; and [Report No. 8/91](#), Case 10,180, Eduardo Arias Aparicio et al., Mexico.

³⁰ [Inter-American Democratic Charter](#) (2001), Article 3: Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

³¹ Ver OEA, MACCIH, [Derecho de acceso a la información e intereses legítimos de defensa y seguridad en Honduras: la búsqueda del balance en un estado democráticos y constitucional de derecho](#), Reporte MACCIH # 5 División de Prevención y Combate a la Corrupción, julio de 2017.

Commission expressed its concern about the bill on internal security in Mexico;³² the law that expands the jurisdiction of military courts in Brazil;³³ as well as the “civic-military” plan called “Zamora”³⁴ in Venezuela, and the constant extensions that keep Venezuela in a permanent state of exception.³⁵

34. One of the trends identified this year is the increase in judicial investigations and prosecutions of crimes related to acts of corruption in several countries of the region that involve high-level authorities and that affect especially Brazil, Colombia, the Dominican Republic, Panama, and Peru, among other states. In addition, the Commission received repeated information about the persistence of structures of parallel power that obstruct the fight against impunity and corruption and efforts to strengthen the rule of law in Guatemala.³⁶ These situations, among other factors that will be addressed in the following paragraphs, constitute the main challenges facing the democracies of the Americas.

35. In this regard, the IACHR reiterates that the states must respect the principles of separation of powers, the competences that the constitution confers on each organ and popular representation as essential guarantees of democratic government and the rule of law in the region. The states should carry out their international obligations in the area of human rights, respecting and ensuring the rights noted above, which are part and parcel of democracy in the countries of the hemisphere.

b. Security and Violence

36. In carrying out its function of ensuring the observance of human rights in the hemisphere the Inter-American Commission, through its different mechanisms, has extensively addressed the issue of citizen security and human rights. Efforts to address this theme seek to verify prevention of and protection from violence, as well as the overall aspects relating to citizen security in keeping with the states’ obligations pursuant to their duty to guarantee human rights.

37. In the year under review, the Commission notes with concern the alarming levels of violence and crime that continue in sustained fashion in the hemisphere. Several of the most violent countries in the world are in the Americas, which has the highest homicide rate of any region in the world.³⁷ According to information made available to the IACHR, El Salvador, Honduras, Jamaica, and Venezuela have seen homicide rates greater than 50 violent deaths per 100,000 population. Though some of these countries have reported modest reductions in the number of victims of violent homicides, the figures continue to be alarming.

38. In effect, in 2017 El Salvador continued to record high figures for intentional homicides: January, 258; February, 240; March, 323; April, 289; May, 298; June, 368; July, 319; and August, 339, for a total of 2,434 victims.³⁸ In Honduras, as of October 2017, the System of Police Statistics (SEPOL: Sistema de

³² IACHR, [IACHR Expresses Concern regarding Draft Law on Internal Security in Mexico](#), December 4, 2017.

³³ IACHR, [UN Human Rights and IACHR Categorically Reject Bill Expanding Jurisdiction of Military Courts in Brazil](#), October 13, 2017.

³⁴ See [Cuerpos militares y organizaciones sociales participan desde este viernes el Ejercicio de Acción Integral Antiimperialista Zamora 200](#), January 13, 2017; and Globovisión, [¿En qué consiste el Plan Zamora que activó el Gobierno?](#), April 19, 2017.

³⁵ Provea, [Acceso a la Justicia - Gobierno prorroga estado de excepción por undécima vez sin notificar a la ONU](#), December 7, 2017.

³⁶ IACHR, [IACHR Wraps Up On-Site Visit to Guatemala](#), August 4, 2017.

³⁷ WHO, [World Health Statistics 2017. Monitoring Health for the SDGs](#), 2017; WHO, [Global Status Report on Violence Prevention 2014](#), 2014; UNODC, [Global Study on Homicide. Trends, contexts, data](#), 2013.

³⁸ Judicial Organ of the Republic of El Salvador-Supreme Court of Justice, Transparency Portal, Recognitions done by forensic physicians from the Institute of Forensic Medicine (IML: Instituto de Medicina Legal) of homicides, available at: <http://www.transparencia.oj.gob.sv>. The Institute of Forensic Medicine documented 6,656 homicides in 2015 (103 per 100,000 population; 18.2 homicides a day), and 5,280 in 2016 (81.2 per 100,000 population; 14.4 homicides a day), for a reduction of 20.67%. According to the latest figures from the United Nations Office on Drugs and Crime (UNODC), in 2015, in all 6,656 intentional homicides were documented, for a rate of 108.64 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-Central America-El Salvador, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

Estadística Policial) reported 3,198 violent homicides, 1,158 fewer than the previous year.³⁹ In the case of Jamaica, there are 781 homicides on record as of July 15, 2017; this is 121 deaths more than 2016 for the same period, when 660 cases of such crimes were documented.⁴⁰ Finally, with respect to Venezuela, in the context of the 165th period of sessions, the State reported a decline in the rate of violent homicides, though it recognized that the high homicide rate was continuing to pose a challenge to the national government. In this connection, it indicated that there was a decline from 55 homicides per 100,000 reported in 2012, to 51 per 100,000 in 2016, and 39 per 100,000 so far in 2017.⁴¹

39. Other countries of the region, such as Brazil⁴², Colombia⁴³, and Mexico⁴⁴, have homicide rates greater than 20 violent homicides per 100,000 population. For 2016 alone, these countries accounted

³⁹ The clarification published at that statistical center indicates that: the data on rats presented in this report as of April 5, 2016, show a sudden increase, since the new population data produced by the INE 2013 census was applied, which shows a lower population than had been used with the 2001 census; it should also be noted that said increase is NOT due to an increase in the incidence of homicides (Secretariat for Security National Police, available at: <https://www.sepol.hn/index.php>). The Secretariat for Security National Police (SEPOL) recorded 5,148 intentional homicides for 2015 (60.02 per 100,000 population); and 5,150 for 2016 (59.05 per 100,000 population) (Secretariat for Security National Police, available at: <https://www.sepol.hn/index.php>). The latest figures reported by UNODC date from 2015, when 5,148 intentional homicides were reported, for a rate of 63.75 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-Central America-Honduras, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴⁰ Jamaica Constabulary Force, *Periodic Crime Statistics Review: January 01 to July 15, 2017*, July 16, 2017. According to information published in media, the number of homicides came to 893 as of the first days of August; the authorities projected it would reach 1,526 homicides by the end of this year (Jamaica Observer, *Police project murders could total 1,526 this year*, August 9, 2017. See also: InSight Crime, *Why Jamaica's Homicide Rate Is Up 20%*, June 20, 2017). For 2016, the number of homicides came to 1,350 (50 per 100,000 population) (Nationwideradiojm, *Police conducting comprehensive review of crime 2016 stats*, January 3, 2017; InSight Crime, *InSight Crime's 2016 Homicide Round-up*, January 16, 2017). The 2015 annual report of the Jamaica Constabulary Force documented 1,207 homicides, equivalent to rate of 43 homicides per 100,000 population (Amnesty International, *Waiting in Vain. Jamaica: Unlawful police killings and relatives' long struggle for justice*, 2016). In 2015 the UNODC documented 1,207 intentional homicides in Jamaica, for a rate of 43.21 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-Caribbean-Jamaica, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴¹ IACHR, Hearing on *Violence, citizen security, and freedom of expression in Venezuela*, 165th period of sessions, October 24, 2017. In addition, the Commission learned what was said by the Minister of Internal Relations, Justice, and Peace, Néstor Reverol, on reporting a reduction of 18.7% of criminal acts in the country in relation to 2016; he also indicated that Miranda, Aragua, Carabobo, and the Capital District are the states with the highest crime rates in the country (Ministry of People's Power for Internal Relations, Justice and Peace, *Suzany González: Seguimos trabajando para disminuir los índices delictivos en el país*, November 2, 2017; Office of the Vice President of the Republic, *Ministro Reverol entregó propuestas de seguridad ciudadana a la ANC*, October 3, 2017; El Universal, *Reverol entregó a la ANC 82 propuestas de seguridad nacional*, October 3, 2017).

In contrast with the foregoing, the Office of the Attorney General reported 21,752 intentional homicides in 2016 (70.11 per 100,000 population) and 17,788 such crimes in 2015 (58.1 per 100,000 population) (Office of the Attorney General, *Informe Anual de Gestión 2015*, 2016; El Universal, *Ministerio Público: En 2016 hubo 21 mil 752 homicidios*, March 31, 2017; El Nacional, *Ortega Díaz reveló que aumentó cifra de homicidios con respecto a 2015*, March 31, 2017. According to the figures reported by UNODC for 2015, in Venezuela 17,778 intentional homicides were documented, for a rate of 57.15 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-South America-Venezuela, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴² The Commission does not have official data on the number of homicides in Brazil this year. Accordingly, on August 16, 2017, the IACHR asked the Brazilian State, in keeping with the powers conferred on it pursuant to Article 41 of the ACHR, for relevant information, in a letter entitled *Informação sobre a taxa de homicídios e mortes ocorridas em intervenções das forças de segurança*, CIDH/SE/Art.41/08-2017/28, August 16, 2017. As of the writing of this section of chapter IV.A, no response had been received.

The Fórum Brasileiro de Segurança Pública recorded 58,459 and 61,158 intentional violent deaths for 2015 and 2016, respectively (rate for 2015 – 28.6 per 100,000; rate for 2016 – 29.7 per 100,000) (Fórum Brasileiro de Segurança Pública, *Anuário Brasileiro de Segurança Pública*, 11^o Anuário Brasileiro de Segurança Pública, 2017, available at: <http://www.forumseguranca.org.br/atividades/anuario/>). According to figures from 2015, UNODC reported 55,574 intentional homicides for a rate of 26.74 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-South America-Brazil, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴³ From January to August 2017, the Institute of Forensic Medicine and Forensic Sciences has documented 6,889 homicides in Colombia, accounting for 46.35% of the causes of violent deaths (Instituto de Medicina Legal y Ciencias Forenses, *Boletín estadístico mensual, Centro de Referencia Nacional sobre Violencia (CRNV)*, August 2017).

The IACHR was informed that 2016 had the lowest homicide rate in 42 years, at 25.3 per 100,000 population. The Institute of Forensic Medicine and Forensic Sciences documented, for 2016, 11,532 homicides (23.66 per 100,000 population), it being the leading cause of death in the country. Nonetheless, the same Institute reported a reduction in homicides of 0.4% (53 fewer) with respect to the previous year, when 11,585 homicides were recorded (24.03 per 100,000 population) (Instituto de Medicina Legal y Ciencias Forenses,

for more than 100,000 homicide victims; there was no significant change in 2017. Responsibility for the violence and crime experienced in the region is attributed mainly to the *maras* or gangs, drug-trafficking cartels, and organized crime, together with the impunity that results from the inefficient administration of justice.

40. The information made available to the Commission reveals an alarming trend whereby the states prioritize repressive and militarized measures, which historically have proven inappropriate and ineffective, and which to the contrary exacerbate and perpetuate cycles of violence and crime. In the context of massive security operations ever more complaints have been reported and abundant documentation has been collected that shows the increase in the number of serious human rights violations, such as torture, forced disappearances, and extrajudicial executions, in addition to the disproportionate use of force by the police and Armed Forces in acts that generally remain in absolute impunity.⁴⁵

41. Such would appear to be the situation in Brazil, where the Inter-American Commission noted with concern the response by the President of the Republic of Brazil to the situation of violence experienced particularly in the state of Rio de Janeiro, where the use of the Armed Forces was authorized for guaranteeing enforcing law and order⁴⁶ (through what are known as the “GLO missions”) in Rio de Janeiro until December 31.⁴⁷ The GLO missions were sent to Rio as part of the National Plan for Public Security⁴⁸, launched in January, with the objectives of reducing homicides, femicides, and violence against women; streamlining and modernizing the prison system; and fighting transnational organized crime.⁴⁹ The Plan, which was to begin in three capital cities (Natal, Porto Alegre, and Aracaju)⁵⁰, was expanded to Rio de Janeiro in July⁵¹ and has been criticized by civil society organizations for the absence of structural and preventive actions⁵², for the lack of transparency regarding its execution and monitoring, and for strengthening the

2016 Forensis: Datos para la vida, June 10, 2017). In 2015, the UNODC documented 12,782 intentional homicides in Colombia, equivalent to 26.50 per 100,000 population (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-South America-Colombia, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴⁴ The Commission recorded information that indicates the occurrence of 18,637 intentional homicides from January to August 2017, which represents a 22% increase over the same period the previous year, when that figure stood at 14,570 intentional homicides. The Executive Secretariat of the National System of Public Security (SESNSP: Sistema Nacional de Seguridad Pública) reported 21,200 victims of intentional homicide from January to September 2017 (SESNSP, [Informe de víctimas de homicidio, secuestro y extorsión 2017](#), October 20, 2017).

In 2015 and 2016, the National Institute of Statistics and Geography (INEGI: Instituto Nacional de Estadística y Geografía) reported 20,762 and 23,953 deaths due to homicides, respectively (INEGI, Cifras disponibles Banco de Datos, Población, Mortalidad, [Defunciones por homicidio \(defunciones\), 2016](#)). The UNODC has figures for 2015, when 20,762 intentional homicides were documented in Mexico, equivalent to 16.35 per 100,000 persons (UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-Central America-Mexico, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>).

⁴⁵ IACHR, [Indigenous Women and Their Human Rights in the Americas](#), OEA/Ser.L/V/II. Doc. 44/17, April 17, 2017; Hearings: Situation of pretrial detention in Mexico, 165th period of session, October 24, 2017; Reports of extrajudicial executions and the excessive use of pretrial detention against Afrodescendants in Jamaica, 165th period of sessions, October 23, 2017; Citizen security and human rights situation in the favelas of Rio de Janeiro, Brazil, 165th period of sessions, October 23, 2017; Reports of extrajudicial executions in El Salvador, 164th period of sessions, September 5, 2017; Justice and Impunity in Mexico, 163rd period of sessions, July 6, 2017; Human rights and extractive industries in Peru, 162nd period of sessions, May 25, 2017; Requests for information put to the states: Information on the rate of homicides and deaths in interventions of the security forces, CIDH/SE/Art.41/08-2017/28, August 16, 2017; Judgments of the Supreme Court and acts of violence and repression at protests, Venezuela, CIDH/SE/Art. 41/04-2017/12, April 19, 2017; Acts of violence and repression in protests, Paraguay, CIDH/SE/Art. 41/04-2017/10, April 13, 2017; Acts of violence in prisons in Brazil, CIDH/SE/Art. 41/03-2017/06, March 7, 2017; Law on Interior Security in Mexico, CIDH/SE/Art. 41/02-2017/05, February 21, 2017.

⁴⁶ The GLO missions imply constitutional authorization to grant the Armed Forces police powers in the face of the lack of traditional public security forces in serious disturbances (Ministry of Defense, [Guarantee of Law and Order](#), July 31, 2017).

⁴⁷ Diário Oficial, [Decree of July 28, 2017](#), July 28, 2017.

⁴⁸ Office of the Presidency, [Presidente autoriza uso das Forças Armadas no combate à violência no RJ](#), July 28, 2017.

⁴⁹ Ministry of Justice and Public Security, [Veja proposta do Plano Nacional de Segurança Pública](#), January 26, 2017.

⁵⁰ UOL, [Plano Nacional de Segurança começará em fevereiro em três capitais, diz ministro](#), January 6, 2017.

⁵¹ Office of the Presidency, [Governo apresenta conjunto de ações de segurança para o Rio de Janeiro](#), June 5, 2017.

⁵² UOL, [78% do plano de segurança de Temer requeira ideias de PT e PSDB, diz estudo](#), January 14, 2017.

repressive apparatus of the State without prioritizing the rights of persons deprived of liberty, among other criticisms.⁵³ In this respect, the Commission notes that the commander of the Army and Minister of Defense have spoken out publicly criticizing the routine use of the Armed Forces in public security actions⁵⁴, and that the decision to focus on Rio de Janeiro, and not on other more violent states has been controversial.⁵⁵

42. In September, the Ministry of Defense gave the army authorization to enter the favela of Rocinha, in the southern part of the city of Rio de Janeiro.⁵⁶ According to information from that ministry, nearly 700 members of the army participated in cordoning off Rocinha, along with forces of the Rio de Janeiro police.⁵⁷ The operation was in response to the widespread violence in that favela due to the struggle for power among drug traffickers.⁵⁸

43. The number of deaths in police operations is also high in the state of São Paulo, where there were 313 deaths on record as of June of this year.⁵⁹ It should also be noted that in 2016, 440 persons were killed by the police in the city of São Paulo.⁶⁰ It was also reported that the first half of 2017 saw the largest number of persons killed by the police in the last 14 years, compared with the first six months of the previous years.⁶¹ One of the emblematic cases was that of Ricardo Oliveira Santos, a homeless person, who was killed in July by the police who, after shooting him, apparently placed him in the trunk of a car, altered the crime scene, and removed the cell phones of the persons who filmed what happened.⁶² The Secretariat for Public Security of São Paulo suspended the police officers involved in the incident while the investigations continue.⁶³

44. Cases of police violence were also recorded in the area known as “Cracolândia.” From May 21 to 24, the São Paulo city government carried out an operation aimed at driving drug users and drug dealers from that area. The eviction affected the inhabitants of the area, among other factors due to the demolition of a building that was not yet empty.⁶⁴ Since then, drug users have regrouped in different places in the city⁶⁵, and complaints continue regarding the disproportionate use of force by the police⁶⁶, who continue using tear gas and rubber bullets against these persons, one of whom lost an eye after being injured by a rubber bullet in June.⁶⁷ In addition, the Metropolitan Civil Guard has been accused of taking the personal property of these persons⁶⁸ and of homeless persons, including blankets and mattresses during the winter.⁶⁹

⁵³ Various authors, [Nota Sobre o Plano Nacional de Segurança Pública](#), February 20, 2017.

⁵⁴ G1, [Temer assina decreto que autoriza uso das Forças Armadas na segurança pública do RJ](#), July 28, 2017.

⁵⁵ Daily Briefing. LatinNews Daily, July 31, 2017.

⁵⁶ UOL, [Polícia Sabia que Rocinha Seria Invadida](#), September 18, 2017.

⁵⁷ UOL, [Tiroteio na Rocinha](#), September 22, 2017.

⁵⁸ UOL, [Polícia Sabia que Rocinha Seria Invadida](#), September 18, 2017.

⁵⁹ UOL, [Polícia Civil de SP tem em 2017 maior no de mortes em confronto desde ataques do PCC](#), September 25, 2017.

⁶⁰ Instituto Sou da Paz, [Vitimização e Letalidade Policial na Cidade de São Paulo](#), no date.

⁶¹ G1, [Número de pessoas mortas pela polícia de SP no semestre é o maior em 14 anos: mortes em folga são recorde](#), July 27, 2017.

⁶² Estadão, [Morre morador de rua baleado por PM em Pinheiros](#), July 13, 2017.

⁶³ Terra, [Secretaria afasta policiais envolvidos na morte de morador de rua em Pinheiros](#), July 13, 2017.

⁶⁴ El País, [Gestão Doria inicia demolição de prédio na cracolândia com moradores dentro](#), May 24, 2017.

⁶⁵ G1, [Cracolândia tem novo tumulto envolvendo guardas e dependentes químicos](#), July 3, 2017; G1, [Dois meses após primeira ação na Cracolândia, 264 kg de drogas foram apreendidos, diz governo](#), July 21, 2017.

⁶⁶ G1, [Conselho vai pedir investigação sobre ação da PM e da Guarda na Cracolândia](#), June 15, 2017.

⁶⁷ Folha de São Paulo, [Usuário de droga perdeu olho em ação da Polícia Militar na cracolândia de SP](#), July 5, 2017.

⁶⁸ R7, [Investigada por suspeita de abusos em abordagens, GCM teria violado legislação em ações na Cracolândia](#), July 7, 2017.

⁶⁹ G1, [Prefeitura de SP retira colchões de tenda na Cracolândia](#), July 4, 2017; Carta Capital, [Doria enfrenta protesto de moradores de rua durante ação da prefeitura](#), July 20, 2017.

It should be noted that the São Paulo city government made available an emergency shelter to take in homeless persons until the end of August.⁷⁰

45. With respect to Honduras, the IACHR observes that the state response to the levels of violence has been weak and fragmented. On the one hand, the State continues strengthening the role of the military forces in tasks that should be implemented by civilian authorities, while on the other hand the strengthening of the civilian police and its vetting process is slow. In 2014, the Inter-Institutional Security Force (FUSINA: Fuerza de Seguridad Interinstitucional) was established with the “aim of reducing the indices of violence” by carrying out police and military-type security operations.⁷¹ The FUSINA is made up of the National Police, the Armed Forces of Honduras, the Attorney General’s Office, the Supreme Court of Justice, and the National Bureau of Investigation and Intelligence (DNII: Dirección Nacional de Investigación e Inteligencia).⁷²

46. The Commission, since its 2015 country report, voiced the concern that it reiterated in its report following up on the recommendations, issued in 2016, with respect to the increased participation of the military forces in multiple spheres and functions, as well as a greater presence in the most conflictive areas. For example, the Army participates in citizen security functions through specialized bodies such as the “military police.” The IACHR noted that the Armed Forces also become involved in civic and educational programs for children “at social risk” through the “Guardians of the Homeland” program. The Commission expressed its concern about the risks involved in the fact that children and youths ages 5 to 23 are trained in military facilities, and use militarized plazas, parks, and soccer fields. It also indicated that the Army performs functions in the prison system, and is sent to perform security functions where there are agrarian and land conflicts, such as the Bajo Aguán region.⁷³ Militarization in Honduras has also been called into question by different international human rights organs.⁷⁴

47. The State has justified the intervention of the Armed Forces of Honduras in public security functions as the result of the process of restructuring and vetting judicial officers and members of the National Police, thus the measure is exceptional and temporary, and allowed for by the Constitution.⁷⁵ The IACHR is concerned about the temporary nature of the measure, as the Army continues to be involved in such tasks, and has gradually increased its budget. In effect, the country data sheet in the 2016 edition of the Comparative Atlas of Defence in Latin America and the Caribbean shows that the Honduran Army was made up of 15,216 members with a budget of US\$ 332,560,070. In the 2015-2016 period military spending increased 23.8% (compared to a 9% increase in education and 11% in health)⁷⁶. According to information in the public record, the Military Police was expanded, adding two new battalions with 500 members each; as a result, it now has 10 battalions, with more than 5,000 members of the Army.⁷⁷

⁷⁰ Estadão, [Prefeitura de SP inaugura abrigo emergencial de inverno para 460 moradores de rua](#), July 19, 2017.

⁷¹ Government of Honduras, Information submitted by the State of Honduras to the IACHR after the onsite visit December 1 to 5, 2014, Official note SSDHJ-090-2015 of March 20, 2015; Government of Honduras, Information submitted by the State of Honduras to the IACHR after the onsite visit December 1 to 5, 2014, Official note SSDHJ-093-2015 of March 24, 2015.

⁷² Government of Honduras, Information submitted by the State of Honduras to the IACHR after the onsite visit December 1 to 5, 2014, Official note SSDHJ-090-2015 of March 20, 2015; Government of Honduras, Information submitted by the State of Honduras to the IACHR after the onsite visit December 1 to 5, 2014, Official note SSDHJ-093-2015 of March 24, 2015.

⁷³ IACHR, Situation of Human Rights in Honduras. OEA/Ser.L/V/II, Doc. 42, December 31, 2015.

⁷⁴ United Nations, Human Rights Committee. Concluding observations on the second periodic report of Honduras, August 22, 2017; Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras, A/HRC/35/23/Add.1, April 11, 2017; OHCHR; Report of the United Nations High Commissioner for Human Rights on the activities of his office in Honduras, A/HRC//34/3/Add.2; IACHR. [Situation of Human Rights in Honduras](#), OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015.

⁷⁵ Government of the Republic of Honduras, Informe sobre el Estado de cumplimiento de las recomendaciones contenidas en el Informe Situación de Derechos Humanos en Honduras CIDH, August 17, 2016.

⁷⁶ Criterio, [La militarización de Honduras se lleva el presupuesto de los derechos humanos](#), March 21, 2017; Radio Progreso y ERIC, [Militarización, costos y mentiras](#), July 4, 2017.

⁷⁷ La Tribuna, [Policía Militar de Honduras tendrá dos nuevos batallones para combatir crimen](#), July 1, 2017; El Heraldo, [Policía Militar cuenta con dos nuevos batallones](#), July 4, 2017.

48. The Commission observes that different media outlets denounce the excessive use of violence by the Honduran Military Police, as well as pointing to members' involvement in assassinations, executions, kidnappings, and arbitrary detentions.⁷⁸ According to press information, in 2017 at least nine members of the Military Police were tried for the crimes of kidnapping and homicide, including the murder of a minor.⁷⁹

49. With respect to the United States, the Commission considers that the decision by the President to overturn, by Executive Order, a prior measure that prohibited the sale of surplus military equipment to local police departments, is negative and poses a risk to human rights.⁸⁰ The Commission observes that militarizing the police not only undermines citizens' trust, but can also result in breaches of the principles of necessity and proportionality in the use of force under international law.⁸¹ The use of militarized police tactics in the context of peaceful protests may undermine the rights to freedom of expression, association, and assembly, and the right to participate in matters of public interest.

50. The Commission advises the states not to deploy the armed forces or joint operations involving the armed forces and the internal security forces for public security tasks, given the attendant risk of human rights violations⁸²; it is the police agencies, professionalized and adequately trained as per the highest standards in human rights, that are called upon to ensure the workings of democratic government and the security of the population.

51. In recent years the Commission has closely following the problem of violence with firearms, in particular the mass shootings in the United States. On October 1, the deadliest modern mass shooting in the United States occurred at a country music concert in Las Vegas, Nevada, leaving at least 59 persons killed and more than 500 wounded.⁸³ The June 2016 mass shooting at the Pulse nightclub in Orlando, Florida, which left 49 dead, was previously the deadliest shooting.⁸⁴ The United States is the developed country with the highest rate of killings by firearms; many scientific studies have shown that this fact is closely related to the rate of possession of firearms. At 88.8 firearms per 100 persons, it's the highest in the world.⁸⁵ According to Gun Violence Archive, a total of 521 mass shootings occurred in the United States in the 477 days from the shooting in Orlando to the shooting in Las Vegas, where mass shooting is defined as four or more persons being shot or killed at the same time and in the same general location.⁸⁶ There have been more than 1,500 mass shootings, resulting in at least 1,715 persons killed and 6,089 wounded, since the mass shooting at

⁷⁸ Tiempo Digital, [Casa Alianza sobre asesinato de menor en Olancho: el gobierno es el responsable](#), January 4, 2017; La Tribuna, [Asesinato de un joven desencadenó quema de patrulla de la Policía Militar](#), January 3, 2017; Confidencial Honduras, [Confirmado: fuerzas de seguridad de Honduras cometen ejecuciones extrajudiciales](#), February 28, 2017.

⁷⁹ La Prensa, [Prisión preventiva contra agente de la Policía Militar](#), January 6, 2017; La Tribuna, [Cuatro policías militares en juicio por doble asesinato](#), February 8, 2017; Tiempo Digital, [Culpables declaran a cuatro ex policías militares por delito de secuestro](#), August 18, 2017.

⁸⁰ The White House, Office of the Press Secretary, [Presidential Executive Order on Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources](#), August 28, 2017; The New York Times, [Trump Reverses Restrictions on Military Hardware for Police](#), August 28, 2017.

⁸¹ See also IACHR, [Annual Report 2015, Chapter IV: The Use of Force](#), March 17, 2016, para. 40.

⁸² IACHR: Annual Report 2015, Chapter IV.A: [The Use of Force](#), OEA/Ser.L/V/II. Doc. 48/15, December 31, 2015, paras. 36-50; [Report on Citizen Security and Human Rights](#), OEA/Ser.L/V/II.Doc. 57, December 31, 2009, paras. 100-101.

⁸³ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; Washington Post, [At least 59 killed in Las Vegas shooting rampage, more than 500 others injured](#), October 2, 2017.

⁸⁴ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; IACHR, Press Release No. 76/16, [IACHR Condemns Mass Shooting at a Gay Bar in the United States](#), June 14, 2016.

⁸⁵ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017.

IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; New York Times, [477 Days. 521 Mass Shootings. Zero Action From Congress](#), October 2, 2017.

Sandy Hook Elementary School in Connecticut in 2012.⁸⁷ Many of the most emblematic recent mass shootings have involved the use of semiautomatic assault rifles such as the AR-15.⁸⁸ In the Las Vegas shooting at least 23 rifles, including AR-15-type assault rifles, were found in the gunman's hotel room, along with hundreds of rounds of ammunition. Nineteen additional pistols were found at his home. Reports indicate that at least three of these were legally purchased in the last year.⁸⁹

52. Given the lethal nature of such weapons, the Commission reiterates the importance of imposing legislative restrictions on the possession of such assault weapons so that their possession is limited to the forces of the state.⁹⁰ In addition, the IACHR appeals to the federal and state authorities to address the underlying causes of mass shootings, including by adopting urgent legislative measures to reduce violence related to firearms and prevent future tragedies. The Commission reiterates that the State also has an obligation to investigate and prosecute effectively acts of gun violence. The Commission has observed previously that many academic studies of data over decades and in different countries have shown that the factors that lead to violent environments include easy access to firearms and the large number of firearms in the hands of private persons, findings that are consistent with the earlier recommendations of the Commission and the last cycle of the United Nations Universal Periodic Review for the United States.⁹¹ The IACHR reiterates the importance of performing background checks and effective psychological tests, as well as other effective measures spelling out requirements for possession, licensing, and registration.⁹²

53. Similarly, the IACHR has received abundant information about the impact on the exercise of human rights of the spiral of crime and violence experienced in the region in recent years, and that continues taking a toll on the daily life of the population, in particular persons, groups, and communities who are especially vulnerable, such as children and adolescents; Afrodescendants; indigenous peoples; LGBTI persons; women; journalists and other media workers; persons deprived of liberty; human rights defenders; migrants; and all those who live in impoverished and marginalized areas.⁹³ To that end, the Commission appeals to the states of the Americas to adopt the measures necessary for addressing the phenomenon of

IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; see also Vox, [Gun violence in America, explained in 17 maps and charts](#), October 2, 2017.

⁸⁸ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; IACHR, Press Release No. 76/16, [IACHR Condemns Mass Shooting at a Gay Bar in the United States](#), June 14, 2016.

⁸⁹ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017.

⁹⁰ IACHR; Press Release No. 76/16, [IACHR Condemns Mass Shooting at a Gay Bar in the United States](#), June 14, 2016.

⁹¹ IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; IACHR, Press Release No. 76/16, [IACHR Condemns Mass Shooting at a Gay Bar in the United States](#), June 14, 2016.

⁹² IACHR, Press Release No. 154/17, [IACHR Condemns Mass Shooting in the United States](#), October 6, 2017; IACHR, Press Release No. 76/16, [IACHR Condemns Mass Shooting at a Gay Bar in the United States](#), June 14, 2016.

⁹³ IACHR: Thematic reports: [Indigenous Women and Their Human Rights in the Americas](#), OEA/Ser.L/V/II. Doc. 44/17, April 17, 2017; Hearings: Violence, citizen security and freedom of expression in Venezuela (at the initiative of the Commission), 165th period of session, October 24, 2017; Criminalization of defenders of the environment in Latin America – Regional, 165th period of session, October 24, 2017; Reports of assassinations, disappearances, and torture in Coahuila de Zaragoza, Mexico, 165th period of session, October 24, 2017; Situation of human rights of indigenous peoples in Brazil, 165th period of sessions, October 23, 2017; Reports of attacks on human rights defenders by extractive industries in Guatemala, 164th period of sessions, September 7, 2017; Reports of violence and insecurity of migrants, refugees, and asylum-seekers returned to countries of the Northern Triangle, 164th period of sessions, September 6, 2017; Situation of women human rights defenders in Nicaragua, 164th period of session, September 6, 2017; Situation of the rights of children in the context of violence in Honduras, 164th period of sessions, September 6, 2017; Situation of children in Haiti, 164th period of session, September 5, 2017; Reports of assassination of women for reasons of gender in Argentina, 163rd period of sessions, July 7, 2017; extractive industries and right to cultural identity of indigenous peoples in Ecuador, 163rd period of sessions, July 7, 2017; Reports of violence and harassment of human rights defenders in Ecuador, 163rd period of sessions, July 7, 2017; Situation of human rights of LGBTI persons in Mexico, 163rd period of sessions, July 6, 2017; Reports of human rights violations in Venezuela, 163rd period of sessions, July 6, 2017; Impact of the political and economic crisis on children in Venezuela, 163rd period of sessions, July 5, 2017; Protests and human rights in Paraguay, 162nd period of session, May 26, 2017; Reports of violence against LGBTI Afrodescendant persons in Brazil, 161st period of sessions, March 22, 2017; Situation of human rights of Afrodescendants in Cuba, 161st period of sessions, March 21, 2017; Situation of persons who work in extra-urban transport in Guatemala, 161st period of sessions, March 20, 2017; Requests for information from states: Violence and its impact on children and adolescents, in El Salvador, CIDH/SE/Art. 41/04-2017/09, April 11, 2017; Situation of persons held in the Tipitapa Prison Establishment, Nicaragua, CIDH/SE/Art. 41/04-2017/08, April 7, 2017.

violence and citizen insecurity in an integral manner, beginning with a complete assessment of the factors that cause it; collecting, regularly and consistently, disaggregated data that make it possible to generate official and public statistics on such events, which also include those in which the authorities in charge of maintaining order have used force, as well as detailed information on the victims; and the allocation of sufficient resources to ensure the adequate implementation of plans and public policies on citizen security, observing human rights. The IACHR makes itself available to the states to provide the technical support needed within its mandate in this area.

54. In effect, as will be addressed below in this section, in 2017 the IACHR received information on the excessive use of force by the authorities and the police against Afrodescendent persons in several countries of the region, and the impunity with which such acts are met, particularly in Brazil, the United States, and Jamaica.⁹⁴ During the period analyzed, the IACHR has also observed with concern how violence, taken into the prisons, has resulted in many victims killed or injured in confrontations among members of criminal gangs, riots, attacks with firearms, and other disorders, which have occurred in countries such as Brazil⁹⁵, Mexico⁹⁶, and Venezuela.⁹⁷ Accordingly, the Commission urged the states to clarify the circumstances in which such incidents have occurred, and where possible identify and punish the persons responsible.

c. Judicial and Prosecutorial Independence, and Access to Justice

55. One of the principles that characterizes a state under the rule of law and a democratic society is the independence of its branches of government.⁹⁸ In 2017, the IACHR received information on threats to judicial independence in several countries of the region. These come up through the processes for selecting judicial officers; the persistence of judicial models that are subordinate in nature; and the constant reprisals and harassment against judicial officers because of their work.

56. According to the information available to the Commission, one of the most common ways in which judicial independence is put at risk is closely related to the mechanisms for selecting judicial officers. In this respect, the processes for selecting judges, prosecutors, and all other high-level judicial authorities in several countries are influenced by interests of political bodies and/or parties. In this scenario, the information received points to these processes lacking objective criteria for designation, mechanisms for transparency, and processes for citizen participation. Moreover, those selection processes lack publicity, tools for identifying merit, and mechanisms of accountability. Civil society organizations have emphasized to the Commission that there cannot be autonomy if the selection processes do not have guarantees of transparency, citizen participation, and publicity, and when they are not geared to or lack tools for identifying merit. The Commission received information in this regard with respect to El Salvador, Honduras, Guatemala, Mexico, Nicaragua, and Venezuela.⁹⁹ In particular, with respect to El Salvador, civil society organizations informed the Commission of important challenges to judicial independence, as the current regulation of the mechanism for choosing members of the Supreme Court does not favor merit as a selection criterion, and continues to be plagued by serious shortcomings in terms of publicity, transparency, and citizen

⁹⁴ IACHR: Press Release No. 168/17, [IACHR Wraps Up 165th Regular Session in Uruguay](#), October 27, 2017; [Thematic Hearing, Reports of impunity for extrajudicial executions in the United States](#), December 7, 2017.

⁹⁵ IACHR, Press Release, [2/17 - IACHR Condemns the Deaths of Nearly One Hundred People in Prisons in Brazil](#), January 12, 2017.

⁹⁶ IACHR, Press Release No. [97/17 - IACHR Condemns Death of 28 Prison Inmates in Acapulco, Mexico](#), July 13, 2017, and Press Release [163/17 - IACHR Condemns Death of at least 17 Prison Inmates in Cadereyta, Mexico](#), October 18, 2017.

⁹⁷ IACHR, Press Release No. [126/17 - IACHR Condemns the 37 Violent Deaths in a Venezuelan Detention Facility](#), August 25, 2017.

⁹⁸ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 180.

⁹⁹ IACHR, [Transparency in the mechanisms for designating high-level authorities in the justice system in Central America. Reports of threats to judicial independence in Guatemala](#), 164th period of sessions, Mexico City, September 2017; IACHR, [Situation of independence and autonomy of the justice system in Mexico](#), March 2017. IACHR, [Democratic institutional framework in Venezuela](#), October 2017; [Access to justice in Venezuela](#), March 2017.

participation.¹⁰⁰ In Guatemala, during the onsite visit carried out this year, the IACHR was informed that the selection process for judicial officers was abused and vitiated in practice, mainly through political influence-peddling in the makeup of the Nominations Committees, as well as insufficient scrutiny of qualifications.¹⁰¹ For example, the Commission received information that indicates that in the selection process possible candidates would often have to enjoy the tacit approval of certain high-ranking public officials, as well as other actors with *de facto* power in the country. In what may well be one of the most dramatic examples of the vices of the current system, the IACHR learned of the creation of law schools without students for the sole purpose of putting one more dean on the Nominations Committee.¹⁰² According to the World Economic Forum's Global Competitiveness Report 2016-2017, Nicaragua is ranked 136 in judicial independence of 138 countries studied.¹⁰³ In the past the IACHR has received information that indicates that despite having a legal framework that regulates the judicial career service in Nicaragua, it is not applied across the board, especially with respect to issues related to the hiring and promotion of judicial officers.

57. In a public hearing on "Situation of independence and autonomy of the justice system in Mexico," held in March 2017, the requesting organizations referred to the historical opportunity to reform the model of justice in the face of the high level of impunity prevailing in the country, and in this context the importance of guaranteeing the autonomy of the Office of the Attorney General. They emphasized that there cannot be autonomy if the selection process does not have guarantees of transparency, citizen participation, and publicity, and if it is not geared to or does not have tools for identifying merit.¹⁰⁴ In the case of Venezuela, in the hearing on Access to Justice in Venezuela the organizations referred to the lack of judicial independence and the link between politics and the justice system. They reported on the lack of public competitive hiring processes in the judicial branch, the high level of judicial officers whose positions are provisional, and the lack of transparency in the selection of the members of the Supreme Court of Justice (TSJ: Tribunal Supremo de Justicia).¹⁰⁵

58. According to what has been established by the Inter-American Court of Human Rights, even when the states may create various procedures for designating judges, not any designation procedure satisfies the conditions required by the American Convention for implementing a truly independent regime.¹⁰⁶ In effect, only a designation process that is transparent, based on objective criteria, and that ensures the equality of candidates, is a fundamental guarantee for judicial independence. The Commission has noted: "To strengthen the independence of those who will serve at the highest levels of the judiciary, Public Prosecutor's Office, or Public Defender's Office, the Commission considers it appropriate to hold hearings or public meetings in which citizens, civil society organizations, and others who are interested can become informed about the selection criteria, challenge candidates, and express their concerns or their support."¹⁰⁷

59. As regards the persistence of judicial models that are subordinate, according to the information received by the IACHR, when absolute powers are granted to the highest-level courts, the removal of judges and/or the application of discretionary disciplinary measures are allowed without sufficient judicial and due process guarantees. This situation was reported to the IACHR with respect to Chile.¹⁰⁸ In the case of Honduras, the Commission observes that the disciplinary process established in the Law on the

¹⁰⁰ IACHR, Hearing on [Situation of judicial officers in El Salvador](#), 159th period of sessions, December 5, 2016.

¹⁰¹ IACHR, Onsite Visit to Guatemala, July 31 to August 4, 2017, meetings with civil society organizations and others.

¹⁰² IACHR, Onsite Visit to Guatemala, July 31 to August 4, 2017, meetings with civil society organizations and others.

¹⁰³ World Economic Forum: [Nicaragua](#)

¹⁰⁴ IACHR, [Situation of independence and autonomy in the justice system in Mexico](#), March 2017.

¹⁰⁵ IACHR, [Access to justice in Venezuela](#), March 2017.

¹⁰⁶ I/A Court HR, Case of Reverón Trujillo v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74.

¹⁰⁷ IACHR, [Preliminary Observations to the IACHR's On-Site Visit to Guatemala](#), August 4, 2017.

¹⁰⁸ IACHR, [Independence of judicial officers in Chile](#), 161st period of sessions, March 2017.

Judicial Career Service of 1980 continues to be applied on a temporary basis and does not respect judicial guarantees, as indicated by the Inter-American Court in its judgment in the case of *López Lone et al. v. Honduras*.¹⁰⁹

60. As regards the procedures for removing judicial officers, in the case of Bolivia the IACHR received information on the alleged massive dismissal of 88 judges without any explanation and allegedly without respecting due process or access to justice.¹¹⁰ With respect to Peru, the IACHR received information that indicates that the Congress of the Republic authorized the admission of an accusation against four judges of the Constitutional Court, and an investigation of the Attorney General, which could end in their removal.¹¹¹

61. With respect to the constant threats and harassment directed against judicial officers, the IACHR received information on situations in Brazil, Guatemala, Honduras, and Uruguay involving judicial officers who are said to have received threats, and in some cases who are said to have been subjected to disciplinary measures, procedures of investigation, warnings, and public accusations for their decisions. In 2017, the IACHR received information on the particular situation of those judicial officers involved in corruption cases and cases on crimes from the past, who face these forms of violence to a greater extent.

62. For example, in the case of Brazil, in a public hearing held in May, civil society reported on administrative proceedings against judges carried out in previous years, and on proceedings before magistrates of the courts that are not archived despite being inadmissible as they are based on decisions or pronouncements other than judicial decisions.¹¹² The organizations indicated that in some cases there are decisions which, despite finding the judges not liable, still contain repressive moves against the judges, imposing a sanction of warning with a chilling effect on the members of the bench.¹¹³

63. During that hearing the organizations indicated that the prosecution of judges does not happen only through administrative findings of liability. They indicated that the mere duty to respond to disciplinary proceedings imposes restrictions on the action of judges accused and intimidation on other judges for fear that they could be accused. They indicated that this creates, informally, a line of decision-making conduct to be adopted by the judges who do not wish to face administrative proceedings, which ultimately would tend to erode the right to an autonomous and independent judicial branch.¹¹⁴

64. In Guatemala, during the onsite visit made this year, the IACHR observed that the efforts to make progress in the struggle against impunity and corruption by judicial officers have been accompanied by attacks and threats against them, and even against high-level officials, such as CIGIC Commissioner Iván Velásquez, Attorney General Thelma Aldana, Judge Gloria Patricia Porras, and Judge Miguel Ángel Gálvez, among others. In some of these cases the Commission has requested that the State of Guatemala adopt

¹⁰⁹ I/A Court HR. [Case of López Lone et al. v. Honduras. Preliminary Objection, Merits, Reparations and Costs](#). Judgment of October 5, 2015.

¹¹⁰ IACHR, [Judicial Independence in Bolivia](#), 165th period of sessions, October 2017.

¹¹¹ IACHR, [Independence of the Constitutional Court of Peru](#), 165th period of sessions, October 2017; [La República. Fuerza Popular aprueba denuncia contra fiscal de la Nación](#), November 16, 2017; [El Comercio, Pablo Sánchez: se requiere 69 votos para acusación constitucional](#), November 22, 2017.

¹¹² IACHR, [Hearing on judicial independence in Brazil](#), May 24, 2017.

¹¹³ *Associação Juízes para a Democracia –(AJD) Due Process of Law Foundation, Articulação Justiça e Direitos Humanos (JusDh) Artigo 19, Conectas Direitos Humanos, Instituto Brasileiro de Ciências Criminais (IBCCrim)*, Request for hearing on judicial independence and freedom of expression of judges in Brazil, February 24, 2017. In 2017 and administrative proceeding was identified against a judge, initiated for an alleged offense against the President of the Superior Labor Tribunal and of the Superior Council of Labor Justice (violation of duties of etiquette, among others), which according to civil society organizations and judges' organizations is an attack on his freedom of thought and expression. Associação Nacional dos Magistrados da Justiça do Trabalho (ANAMATRA), [Anamatra e Amatra 6 \(PE\) divulgam nota em defesa a liberdade de expressão de magistrados](#), July 3, 2017; *Articulação Justiça e Direitos Humanos (JusDh), JusDh repudia violação à liberdades de expressão de magistrado pernambuco*, July 24, 2017.

¹¹⁴ AJD, Due Process of Law Foundation, JusDh, Artigo 19, Conectas Direitos Humanos, IBCCrim, Request for hearing on judicial independence and freedom of expression of judges in Brazil, February 24, 2017.

precautionary measures.¹¹⁵ In meetings with judges, prosecutors, and public defenders the Commission received information on harassment, assaults, and threats as instruments of control and intimidation in relation to their work, especially of those involved in high-impact cases of corruption, grave human rights violations, and cases in which major economic interests are at stake.

65. In particular, the IACHR was dismayed over the declaration as *persona non grata* of the head of the International Commission against Impunity in Guatemala (CICIG), Iván Velásquez.¹¹⁶ In this regard, the Inter-American Commission underscored the fundamental role of the CICIG and the importance of its investigations in exposing the involvement of high-level State officials and several national actors in illegal acts of corruption. The IACHR emphasized that in order to ensure effective enjoyment of human rights and independent and impartial justice, it is absolutely essential to combat corruption.

66. In the case of Honduras, in its observations on Honduras in 2017, the UN Human Rights Committee expressed concern over the lack of effective protection to guarantee the independence and impartiality of the judicial branch, including, among others, the lack of effective mechanisms for the protection and security of the members of the judiciary from the threats and harassment they face as they perform their functions; and insufficient judicial and due process guarantees in the disciplinary proceedings against judges.¹¹⁷ That Committee reiterated that Honduras should take immediate measures to protect the full autonomy, independence, impartiality, and security of the judges; guarantee that their action is free from all types of pressures and interference; and ensure that the disciplinary proceedings effectively apply all judicial and due process guarantees.¹¹⁸

67. As for Peru, at a public hearing held in October during the 165th Session of Montevideo, the Commission received information regarding a threat to the independence of the Constitutional Court and the deterioration of the separation of powers in the country. The report cited proceedings to remove justices of the Constitutional Court after this body issued a ruling compelling compliance by the Peruvian State with the judgment of the Inter-American Court of Human Rights in the case of Durand and Ugarte v. Peru. The Commission also viewed with concern the proceeding to remove Attorney General of the Nation Pablo Sánchez, which was allegedly instituted after the Office of the Public Prosecutor decided to reopen the investigation into asset laundering against local politicians under the organized crime law. The Commission expressed its concern about the impact that politically motivated trial proceedings against justice operators, institutions of the judiciary, and other key actors have on the normal functioning of democratic rule of law.

68. In Uruguay, the Commission received information on death threats against judicial officers, among other actors, who played a role in judicial cases on serious human rights violations that occurred during the Uruguayan military dictatorship (1973-1984). By press release, the IACHR urged the Uruguayan State to adopt urgent measures to ensure the security of judicial officers.¹¹⁹

69. In Venezuela, this year the Commission has continued speaking out, on many occasions, on the lack of judicial independence and the obstacles in the way of access to justice¹²⁰, which is discussed in greater detail in section B of this chapter.

¹¹⁵ IACHR, MC 497/16, [Thelma Esperanza Aldana Hernández and family, with respect to Guatemala](#), July 22, 2016; IACHR, MC 351/16 and 366/16, [Miguel Ángel Gálvez and family, with respect to Guatemala](#), August 21, 2016; IACHR, Resolution 34/17, Precautionary Measure No. 431-17, [Gloria Patricia Porras Escobar and family with respect to Guatemala](#), August 29, 2017.

¹¹⁶ IACHR, IACHR Expresses its Alarm at the Declaration of Persona Non Grata of Iván Velásquez, the Head of the International Commission against Impunity in Guatemala (CICIG), August 27, 2017.

¹¹⁷ UN Human Rights Committee. [Concluding observations on the second periodic report on Honduras](#). CCPR/C/HND/CO/2, August 22, 2017, para. 34.

¹¹⁸ UN Human Rights Committee. [Concluding observations on the second periodic report on Honduras](#). CCPR/C/HND/CO/2, August 22, 2017, para. 35.

¹¹⁹ IACHR, [IACHR Condemns Death Threats in Uruguay](#), March 1, 2017.

¹²⁰ See, for example, [IACHR Deeply Concerned about Further Weakening of Separation and Independence of Powers and Undermining of Democratic Institutions in Venezuela](#), August 31, 2017.

70. In light of the guarantee of independence, the IACHR reiterates to the states that those persons who serve as judicial officers should perform their functions without being subject to improper interference by the executive and legislative branches, the parties to the proceeding, the social actors, or other organs linked to the administration of justice.¹²¹ The Commission has considered that the guarantee of independence is indispensable for the judicial branch to play its role of reviewing the constitutionality of the acts of the other branches of government, and as the organ entrusted with administering justice.¹²² Finally, the IACHR emphasizes that having independent and impartial justice is essential for fighting impunity. The IACHR also underscored that judicial independence and a clear separation between the judiciary and the other branches of government must be respected and ensured by both the executive and the legislative branches. This emanates from the recognition under the law of the independence of the judiciary and non-interference by the other branches in the performance of its duties, which is a fundamental ingredient of the rule of law. Lastly, the IACHR stresses that having an independent and impartial justice system is indispensable for successfully doing away with impunity.

71. In view of the foregoing, the Commission highlights once again the importance of judicial independence, prosecutorial independence, and access to justice that is timely, transparent, effective, impartial, and not selective, which continues to be a challenge for the states of the region.

72. Following is the analysis of the main gains and challenges concerning the priority issues established in the IACHR Strategic Plan 2017-2021, in relation to the human rights of indigenous peoples, women, migrants, children, human rights defenders, persons deprived of liberty, Afrodescendants, LGBTI persons, persons with disabilities, and older persons, as well as memory, truth and justice; freedom of expression; and economic, social, cultural and environmental rights in the Americas in 2017. The IACHR reiterates its commitment to continue working with the states to address these human rights matters and priorities.

2. Priority Issues

a. Indigenous Peoples

73. Throughout 2017 and through its various mechanisms, the Rapporteurship on the Rights of Indigenous Peoples of the IACHR, which is led by Commissioner Francisco Jose Eguiguren Praeli, has monitored the human rights situation of indigenous peoples in the countries of the region. The IACHR recognizes the efforts undertaken by the states to carry out their human rights obligations, and notes, in particular, important judicial decisions of high-level courts in several states of the region. These include, for example, the decision of the Constitutional Court of Colombia by which it ordered the National Land Agency (ANT; Agencia Nacional de Tierras) to prioritize, so as to complete it within one year, the process of delimiting and titling lands of indigenous communities in the Cañamomo and Lomapieta reserve (*resguardo*) who have settled by the municipalities of Río Sucio and Supía, in the department of Caldas.¹²³ In addition, the Federal Supreme Court of Brazil issued a judgment on August 16, 2017, affirming that the indigenous lands inside the Xingu National Park, and the Nambikwára and Parecí reserves, in the state of Mato Grosso do Sul, had been correctly demarcated in light of the historic occupation of those ancestral lands by the indigenous communities.¹²⁴ In addition, the Commission highlights the good faith participation of several states of the

¹²¹ IACHR, Application before the Inter-American Court of Human Rights in the Case of Ana María Ruggeri Cova, Perkins Rocha Contreras, and Juan Carlos Apitz (First Administrative Court) v. Venezuela, Case 12,489, November 29, 2006, para. 83.

¹²² IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 183.

¹²³ Constitutional Court of Colombia, *Judgment T-530/16*, January 2017.

¹²⁴ *El País*, *STF nega ao Mato Grosso pedido de indenização por demarcações indígenas*, August 16, 2017; *Política*, *STF nega a MT pedidos de indenização por desapropriação de terras indígenas*, August 16, 2017; Intercontinental outcry, *Indigenous peoples win key land rights victory in Brazil's Supreme Court*, August 18, 2017.

region in a working meeting on the human rights of the peoples in voluntary isolation and initial contact in the Amazon region and in the Gran Chaco region.¹²⁵

74. At the same time, the Rapporteurship has received very worrisome information on the continued presence of obstacles that continue to have a negative impact on the rights of indigenous peoples, especially the persistence of high levels of violence against them and those who defend their rights; as well as major setbacks in the legal frameworks of several countries in relation to the rights of indigenous peoples.¹²⁶

75. The Rapporteurship on the Rights of Indigenous Peoples is concerned about the continued exacerbation of violence that indigenous communities in the region face. For example, the Commission has received information on an attack using machetes that occurred in *Povoado de Bahias*, municipality of Viana, *Maranhão*, in Brazil against members of the Gamela indigenous people who were occupying a territory that they claim as their ancestral territory.¹²⁷ The Commission has also received information on the violence that affects the Emberá, Wounaan, Katío, Chami, and Tule indigenous peoples in the context of implementing the Peace Accords in Colombia and the demobilization of the FARC-EP.¹²⁸ Despite the signing of the Peace Accords, those indigenous peoples, whose reservations (*resguardos*) are located in territories whose control continues to be disputed by armed groups, illegal mining, illicit crops, and multinational corporate interests, continue suffering from confrontations among these armed groups, violence, threats, forced displacement, recruitment of youths, confinement, and the presence of antipersonnel mines in their territories.¹²⁹ The Commission has also monitored the situation of several communities that are part of the Mapuche people in Argentina after several forced and violent evictions.¹³⁰ In addition, the Commission is concerned about the level of violence against defenders of the environment, the land, and the rights of indigenous peoples. The Commission has received information on the increase in the attacks, threats, and discrimination against defenders of the land, territory, and environment¹³¹, and is also concerned about the alarming increase in the criminalization of indigenous peoples who suffer directly the negative impacts of hydroelectric projects in Guatemala.¹³²

¹²⁵ United Nations Special Rapporteur on the rights of indigenous peoples, *En Perú, expertos internacionales realizaron reunión sobre pueblos indígenas en aislamiento*, June 15, 2017.

¹²⁶ Through mechanisms such as press releases, precautionary measures, letters requesting information pursuant to Article 41, and thematic hearings.

¹²⁷ *El País*, *Conflicto por terras no Maranhão termina com denúncia sobre mãos decepadas*, May 2, 2017; The Guardian, *Brazilian farmers attack indigenous tribe with machetes in brutal land dispute*, May 1, 2017; Pastoral Land Commission, *NOTA CPT MARANHÃO: Povo Gamela sofre ataque premeditado de fazendeiros contra suas vidas e lutas*, May 1, 2017; CIMI, *Indígenas Gamela tiveram membros do corpo decepados durante ataque no MA*, May 1, 2017.

¹²⁸ Organización Nacional de los Pueblos indígenas de la Amazonía Colombiana (ONIC), *Los derechos humanos prioridad de los pueblos indígenas*, 2017; See also: IACHR, Hearing, *Colombia: Attacks on Human Rights Defenders*, 161st period of sessions, March 21, 2017.

¹²⁹ ONIC, *Denuncia Pública: grave situación humanitaria en el Chocó asesinan mujer indígena en combates entre ELN y AGC en resguardo Quiparadó, Ríosucio*, August 29, 2017; ONU Multimedia, *Voces Unidas, 193. Aumenta violencia contra comunidades indígenas en Colombia*, June 7, 2017; El Universo, *Indígenas de Colombia denuncian violaciones de derechos pese a paz con las FARC*, August 9, 2017; InterReligious Task Force on Central America, *Call to urgent action for indigenous communities in Chocó*, August 21, 2017.

¹³⁰ *El Clarín*, *Tensión por el desalojo de activistas mapuches en campos de Benetton*, January 10, 2017; La Nación, *Tensión en Chubut por un desalojo de mapuches que reclamaban tierras en poder de la familia Benetton*, January 10, 2017; Actualidad RT, *La histórica pugna entre Benetton y los mapuches se agrava con varios heridos en Argentina*, January 13, 2017; *El Clarín*, *Un mapuche murió baleado tras un enfrentamiento con la Prefectura en Villa Mascardi*, November 25, 2017; La Nación, *Un mapuche murió de un tiro en Villa Mascardi durante un enfrentamiento con Prefectura*, November 26, 2017; La Nación, *El juez no halló evidencias de un tiroteo en el predio que ocupan los mapuches*, December 9, 2017.

¹³¹ IACHR, Press Release No. 011/2017, *IACHR Condemns Murders of Human Rights Defenders in the Region*, February 7, 2017, Press Release No. 72/2017, *IACHR issues call for OAS States to Protect Defenders of the Land and Environment*, June 5, 2017, Press Release No. 104/2017, *IACHR Condemns Attack on Human Rights Defenders Berta Zúñiga Cáceres, Sotero Chavarría, and Asunción Martínez in Honduras*, July 25, 2017; United Nations, *Derechos de los pueblos indígenas y del ambiente bajo ataque en Brasil, advierten expertos de la ONU y la CIDH*, June 8, 2017; BBC Mundo, *Matan a tiros en Brasil a Waldomiro Costa Pereira, un prominente activista ambiental, mientras se recuperaba en el hospital de otro intento de asesinato*, March 22, 2017; Global Witness, *2015 sees unprecedented killings of environmental activists*, June 20, 2016.

¹³² IACHR, Hearing *Reports of criminalization of human rights defenders who oppose hydroelectric projects in Guatemala*, 161st period of sessions, March 20, 2017.

76. The Rapporteurship also reiterates its alarm in the face of the situation of violence against communities in voluntary isolation and initial contact in the Amazon region. The IACHR expressed its concern in September 2017 on information received around a possible massacre of indigenous persons in voluntary isolation known as “*flecheiros*,” near the upper course of the Jandiatuba river, in the Vale do Javari indigenous territory, situated in the far western part of the state of Amazonas.¹³³ According to information received by both the IACHR and the Regional Office for South America of the United Nations High Commissioner for Human Rights (OHCHR), the alleged massacre is the topic of one of several reports by indigenous communities of incursions and against indigenous peoples in voluntary isolation and initial contact in the zone, perpetrated by persons engaged in illegal mining, planting, and logging. In addition, both institutions have received information on the possible massacre of members of the Warikama Djapar indigenous community in initial contact.¹³⁴ The IACHR also received information in the context of a public hearing on other violations suffered by the peoples in voluntary isolation and initial contact in the region, including attacks; dispossession of lands; concessions given over parts of their territories with no consultation; and contamination as a result of mining or development activities.¹³⁵

77. Also of special concern to the IACHR are the legal setbacks taking place in the region in relation to the protection of the rights of indigenous peoples. The information that the Commission has received indicates that Brazil has seen continuous efforts to weaken the constitutional and statutory framework for the protection of indigenous peoples’ rights through measures such as proposed constitutional amendment number 215/2000¹³⁶; the reduction in the budget and staff of the FUNAI¹³⁷; the standstill of all procedures for demarcating indigenous lands in the country¹³⁸; and, among others, the revocation of the demarcation of indigenous lands already recognized.¹³⁹ The Commission has also received information about the use by the State of Chile of the Anti-Terrorist Law in the context of criminal prosecutions of persons accused of belonging to the Mapuche people.¹⁴⁰ In addition, the Commission notes with concern the executive orders approved by the United States that have ordered the acceleration of the process for approving the Dakota Access Pipeline (DAPL) without having a new environmental impact study; the reactivation of the Keystone XL Pipeline project despite it being rejected by indigenous communities in the country; and the acceleration of all environmental assessments and approvals associated with high-priority energy and infrastructure projects.

¹³³ IACHR, Press Release No. 144/17, *CIDH y ACNUDH expresan preocupación sobre denuncias de masacre en contra de indígenas en aislamiento voluntario y contacto inicial en la Amazonía brasileña*, September 21, 2017.

¹³⁴ IACHR, Press Release No. 144/17, *CIDH y ACNUDH expresan preocupación sobre denuncias de masacre en contra de indígenas en aislamiento voluntario y contacto inicial en la Amazonía brasileña*, September 21, 2017.

¹³⁵ IACHR, Hearing on *Right to territory of the Amazonian indigenous peoples and communities*, 161st period of sessions, March 17, 2017.

¹³⁶ United Nations, Office of the United Nations High Commissioner for Human Rights, *Compilation on Brazil for the UPR*, A/HRC/WG.6/27/BRA/2, February 24, 2017.

¹³⁷ IACHR, Hearing on *Changes in public policies and laws on indigenous and Quilombola peoples in Brazil*, 162nd period of sessions, May 24, 2017; OHCHR, *Derechos de los pueblos indígenas y del ambiente bajo ataque en Brasil, advierten expertos de la ONU y de la CIDH*, June 8, 2017.

¹³⁸ *Folha de Sao Paulo*, *Temer asina parecer que pode parar demarcação de terras indígenas*, July 19, 2017; APÍB, *Michel Temer violenta os direitos dos povos indígenas para tentar impedir seu próprio julgamento*, July 20, 2017; Revista IHU, *Temer asina parecer que pode afetar 28 procesos de demarcação por terras indígenas no RS*, July 21, 2017.

¹³⁹ *Centro de Trabalho Indigenista*, *Organizações da sociedade civil manifestam repúdio a anulação da portaria declaratória da terra indígena Jaraguá e exigem revogação das medidas anti-indígenas do governo Temer*, August 24, 2017; EBC, *Ministério da Justiça Revoga Criação de Área Indígena no Pico do Jaraguá*, August 21, 2017.

¹⁴⁰ La Tercera, *Quema de 29 camiones en Los Rios enfrenta a la fiscalía con empresarios*, August 28, 2017; Diario UChile, *Quema de camiones en Los Ríos: Abogados cuestionan aplicación de Ley Antiterrorista*, August 28, 2017; The Clinic Online, *Gobierno y Fiscalía recurrirán a Ley Antiterrorista para investigar quema de 29 camiones*, August 28, 2017; OMCT, FIDH, and Observatorio Ciudadano, *Chile: Comunicado conjunto: Estado chileno debe abstenerse de utilizar la Ley Antiterrorista en juicio de Machi Linconao y Mapuches*, August 22, 2017.

78. The Commission continues to be concerned about the scope of the challenges that the indigenous peoples in the hemisphere continue to face with respect to their rights to life, physical integrity, and defense of human rights, among others. In this respect, the Commission urges the states to redouble their efforts and to adopt the measures necessary for respecting and ensuring the right of the indigenous peoples to a life free from violence. In particular, the Commission urges the states to implement the measures necessary for protecting and respecting the rights of the communities in voluntary isolation and initial contact, given their particular situation of vulnerability; to guarantee that no setbacks be allowed in terms of the protection of the rights of indigenous peoples over their territories; and to adopt all preventive and protective measures necessary for protecting the leaders, activists, and their defenders from all forms of violence, repression, and criminalization.

b. Women

79. In the course of this year the Rapporteurship on the Rights of Women, which is led by Commissioner Margarette May Macaulay, has monitored through the different mechanisms of the IACHR, the situation of the human rights of women in the countries of the region. The IACHR recognizes major efforts for advancing respect and guarantees for the rights of women made in 2017. Nonetheless, the Commission continued receiving worrisome information on the overall set of barriers and obstacles that women still face when it comes to ensuring their rights to non-discrimination and to live a life free from violence.

80. As regards gender violence against women, the IACHR salutes the efforts undertaken by several states of the region to fulfill their obligation to fight violence against women, such as the adoption of the bill defining the crime of femicide in Uruguay¹⁴¹, which is an example of the drafting of specialized laws aimed at offering victims protection from imminent acts against victims of family violence. Similarly, the Commission has learned of the legislative gains in Argentina, where the revision of the bill to amend the Law on Integral Protection for the Prevention, Punishment, and Eradication of Violence against Women¹⁴² includes a prohibition on “harassment in public places” (“*acoso callejero*”) in Argentina’s system of protection for women.¹⁴³

81. The Commission also underscores the gains in terms of political participation and equal representation of women in decision-making forums. The region has seen a positive increase in women’s political participation.¹⁴⁴ Whereas internationally the rate of women’s representation has stagnated, countries of the region such as Bolivia¹⁴⁵, Canada, and Nicaragua have actually surpassed gender parity.¹⁴⁶ The Commission also recognizes Colombia’s effort to promote the participation of women in filling the positions for judges in the Chambers of Justice for Peace and the Tribunal for Peace, which are part of the Special Jurisdiction for Peace (JEP: Jurisdicción Especial para la Paz) and the Integral System of Truth, Justice, Reparation and Non-Repetition.¹⁴⁷

¹⁴¹ IACHR, Press Release No. 153/17, IACHR Welcomes Passage of Legislation Codifying the Crime of Femicide in Uruguay, October 6, 2017.

¹⁴² *La Nación*, [Diputados aprobó el proyecto que tipifica el acoso callejero como delito de violencia de género](#), September 14, 2017.

¹⁴³ *La Nación*, [Diputados aprobó el proyecto que tipifica el acoso callejero como delito de violencia de género](#), September 14, 2017.

¹⁴⁴ UN Women, [La representación de las mujeres en la vida política se ha estancado, señalan ONU Mujeres y UIP](#), March 15, 2017.

¹⁴⁵ UN Women, [Facts and figures: Leadership and political participation](#), July 2017.

¹⁴⁶ UN Women, [La representación de las mujeres en la vida política se ha estancado, señalan ONU Mujeres y UIP](#), March 15, 2017.

¹⁴⁷ *Semana*, [JEP: ¿La hora de las mujeres?](#), September 14, 2017.

82. As regards the sexual and reproductive rights of women in the region, the IACHR has saluted the adoption of the law decriminalizing the voluntary interruption of pregnancy in Chile.¹⁴⁸ With this decision, women will be able to gain access to legal and safe abortion in three circumstances: when the pregnancy is the result of rape, when the woman's life is in danger, and when the fetus has malformations incompatible with life outside the womb.¹⁴⁹ Similarly, the IACHR looks favorably upon the introduction of a new bill for decriminalizing abortion in El Salvador in two circumstances (in cases of rape of minors and when the woman's life is in danger).¹⁵⁰ The Commission has also learned of legislative initiatives to expand the conditions for decriminalizing abortion in Bolivia, allowing one to be exempt from any penalty for abortion in certain circumstances.¹⁵¹

83. Nonetheless, despite the gains observed this year on some issues, the IACHR continues to be concerned about the grave situation of violence against women, adolescent females, and girls in the countries of the region. Noting tragic examples of the pattern of violence against women, the Commission expressed its profound concern over the information that it receives continuously on assassinations and acts of physical, psychological, and sexual violence against women and girls. The IACHR has reiterated that these assassinations are symptomatic of machismo, patriarchy, and sexist stereotypes that persist in the Americas¹⁵², and has also expressed its concern about the intersectional nature of the risk experienced by women¹⁵³ because of their ethnicity, race, age, sexual orientation or gender identity, and situations of disability or socioeconomic vulnerabilities, among others.¹⁵⁴

84. During 2017 the Commission has continued receiving worrisome information regarding acts of violence committed against women human rights defenders. Women human rights defenders face an accentuated situation of risk due to their sex and the historical stereotypes associated with it, and the human rights causes they seek to advance.¹⁵⁵ As regards Cuba, the Commission has received consistent information about the constant harassment of the Damas de Blanco (Ladies in White), such as the case of the harassment, threats, and other forms of violence to which Ms. Ramos de Herrería is said to be subjected.¹⁵⁶ Civil society organizations reported to the Commission on the risks faced by women human rights defenders in Nicaragua¹⁵⁷, denouncing smear campaigns, harassment, attacks, and threats. The Commission condemned the assassination of human rights defender Miriam Elizabeth Rodríguez Martínez in Mexico, who had become an emblem of the calls for justice and to lift up the struggle of mothers and family members of the disappeared in Mexico.¹⁵⁸

¹⁴⁸ IACHR, Press Release No. 133/17, [IACHR Welcomes Approval of Chilean Law Decriminalizing Abortion on Three Grounds](#), September 5, 2017.

¹⁴⁹ Library of the National Congress of Chile, [Law No. 21,030 – Regulates the Decriminalization of the Voluntary Interruption of Pregnancy on Three Grounds](#), September 23, 2017.

¹⁵⁰ *La Prensa Gráfica*, [Johnny Wright presenta iniciativa para despenalizar el aborto](#), August 18, 2017.

¹⁵¹ *El País*, [Bolivia amplía los casos de aborto legal](#), September 30, 2017.

¹⁵² IACHR, Press Release No. 062/17, [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#), May 16, 2017.

¹⁵³ IACHR, Press Release No. 062/17, [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#), May 16, 2017.

¹⁵⁴ IACHR, Press Release No. 062/17, [IACHR Condemns Killings of Women and Urges States to Intensify Prevention Efforts](#), May 16, 2017.

¹⁵⁵ IACHR, Press Release No. 011/17, [IACHR Condemns Murders of Human Rights Defenders in the Region](#), February 7, 2017.

¹⁵⁶ Information communicated to the IACHR, International Institute on Race, Equality and Human Rights, Correspondence, April 28, 2017.

¹⁵⁷ IACHR, [Situation of women human rights defenders in Nicaragua](#), Thematic hearing 164th period of sessions, September 6, 2017.

¹⁵⁸ IACHR, Press Release No. 067/17, [IACHR Repudiates Killing of Human Rights Defender in Tamaulipas, Mexico](#), May 24, 2016.

85. The IACHR continued receiving worrisome information on the various obstacles women face when it comes to respect and guarantees and full implementation of their sexual and reproductive rights.¹⁵⁹ In Venezuela¹⁶⁰, the acute shortage of contraceptives and condoms could be resulting in an increase in undesired pregnancies and unsafe abortions.¹⁶¹ In the United States the Commission has closely followed the administrative decision on the so-called “global gag rule,”¹⁶² which blocks federal funding for organizations that provide advisory services related to abortion, putting at risk access to health services for women throughout the country, especially women in situations of vulnerability.¹⁶³ In Peru, the Commission has received information on the obstacles to emergency oral contraception publicly and at no cost, while it continues to be sold and distributed in the private health circuit legally.¹⁶⁴ In Honduras the National Congress approved keeping abortion criminalized in all circumstances, including when the pregnancy places the woman’s life at risk.¹⁶⁵ Similarly, the Senate of the Dominican Republic voted in favor of maintaining total criminalization of abortion after rejecting the recommendations of the Executive to decriminalize it in three circumstances.¹⁶⁶

86. In addition, the IACHR continued receiving worrisome information on the propagation of the Zika virus and its disproportionate impact on the lives of women¹⁶⁷, particularly poor women, those who live in remote and rural zones, and Afro-descendent women.¹⁶⁸ The states’ response varies depending on the impact of the virus on their populations. Nonetheless, in general the measures for addressing the virus have been discriminatory, perpetuating gender stereotypes and violating the human rights of women and persons with disabilities.¹⁶⁹

87. As regards the situation of indigenous women, by resolution 3/17 of January 26, 2017, the IACHR decided to expand the precautionary measures in support of pregnant and nursing women from the Wayúu indigenous community in the municipalities of Manaure, Riohacha, and Uribia in Colombia.¹⁷⁰ The IACHR argued that the nursing and pregnant women in this community are at risk due to the lack of access to medical care, as well as the high levels of malnutrition in a context in which there are scarcities of food and water in the region. On that occasion the IACHR asked Colombia to adopt the measures necessary for ensuring the life and integrity of the women beneficiaries, in particular guaranteeing the availability,

¹⁵⁹ IACHR, Press Release No. 165/17, IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women’s Sexual and Reproductive Rights, October 23, 2017.

¹⁶⁰ AVESA, Asociación Civil Mujeres en Línea, CEPAZ, Centro Hispanoamericano para la mujer FREYA, Informe sobre situación de los Derechos de las Mujeres en Venezuela, Correspondence to the IACHR, September 6, 2017.

¹⁶¹ CEPAZ, Asociación Civil Mujeres en Línea, AVESA, Centro Hispanoamericano para la mujer FREYA, Informe sobre situación de los Derechos de las Mujeres en Venezuela Presentado a la Comisión Interamericana de Derechos Humanos (CIDH), Correspondence, September 6, 2017.

¹⁶² Amnesty International, Trump’s Global Gag a Devastating Blow for Women’s Rights, January 25, 2017.

¹⁶³ The Washington Post, Planned Parenthood defunded for one year under GOP health bill, May 4, 2017.

¹⁶⁴ PROMSEX, Demus, Paz y Esperanza, Center for Reproductive Rights, Request for Article 41(d) letter on situation of access to oral emergency contraception (levonorgestrel) for girls and adolescents victims of rape to the Peruvian State, Correspondence, August 2, 2017.

¹⁶⁵ *El Heraldo*, Honduras: Congreso Nacional aprobó seguir con la penalización del aborto, May 4, 2017.

¹⁶⁶ Amnesty International, Dominican Republic: Vote against decriminalization of abortion, a betrayal to women, June 1, 2017.

¹⁶⁷ Human Rights Watch, Neglected and Unprotected: The Impact of the Zika Outbreak on Women and Girls in Northeastern Brazil, July 12, 2017. Medscape, Los médicos afirman que Venezuela tiene ya más de 500.000 casos de Zika, May 16, 2017.

¹⁶⁸ IACHR, The impact of the Zika virus on the reproductive rights of women in Latin America, Thematic hearing, 165th period of sessions, October 24, 2017.

¹⁶⁹ IACHR, The impact of the Zika virus on the reproductive rights of women in Latin America, Thematic hearing, 165th period of sessions, October 24, 2017.

¹⁷⁰ Resolution 3/17, Precautionary Measure No. 51-15, Pregnant and nursing mothers of the Wayúu indigenous community, Colombia (Extension), January 26, 2017.

accessibility, and quality of health services, with an integral and culturally appropriate approach, access to safe drinking water, and food in sufficient quality and quantity to meet their nutritional needs.¹⁷¹

88. As regards fighting discrimination and in the context of the International Decade for People of African Descent and the commemoration of the International Day for Women of African Descent, the Commission reiterated that discrimination constitutes a form of violence against women and a manifestation of stereotyped patterns that reinforce the historically unequal power relations between women and men. Moreover, the Commission has recognized the close relationship among racial discrimination, poverty, and human rights in the lives of Afro-descendent women.¹⁷²

89. As regards gender violence against women, the Commission has urged the states to implement the measures necessary to fight it, in all its forms, and to advance in the struggle against impunity. In addition, the Commission considers it fundamental to consider, in implementing plans for protecting and promoting the rights of women, their intersectionality and indivisibility, taking into consideration the differentiated impact that various socioeconomic contexts, situations of humanitarian crisis, contexts of citizen or post-conflict violence, as well as stereotyped patterns associated with machismo and racism.

90. The states of the region have the obligation to undertake a detailed review of all the statutes, regulations, practices, and public policies whose wording or practical implementation may have discriminatory repercussions for women's access to all reproductive health services. They also have the duty to eliminate all obstacles, *de jure* and *de facto*, that impede women's access to the maternal health services they need. These measures should take into account the situation of special risk, lack of protection, and vulnerability of girls and adolescent females as well as of those women in a particular situation of exclusion. Similarly, the IACHR urges the states of the region that do not yet have an adequate legal framework to adopt legislation aimed at guaranteeing women the effective exercise of their sexual and reproductive rights. Legislative measures should consider that denial of the voluntary interruption of pregnancy when a therapeutic abortion is necessary, in cases in which the pregnancy is the result of rape or incest, or when the life of the woman is at risk, is a violation of the fundamental rights of women, girls, and adolescent females.¹⁷³

c. Migrants, Asylum-Seekers, Refugees, Stateless Persons, and Internally Displaced Persons

91. In the course of 2017, the Inter-American Commission on Human Rights has monitored, using its various mechanisms, the situation of migrants, asylum-seekers, refugees, stateless persons, and internally displaced persons in the member states of the OAS. During this year, and in recent years, the Inter-American Commission and its Rapporteurship on the Rights of Migrants, which is led by Commissioner Luis Ernesto Vargas Silva, has observed the crisis of persons who have been forced to migrate in response to a complex combination of circumstances, seeking protection in various places, on occasion crossing international borders and at times moving without leaving the country. These persons are generally in especially vulnerable circumstances, generally related to the causes that forced them to leave their homes.¹⁷⁴

92. The Commission notes that in 2017 major legislative strides were made in relation to migration, with the drawing up of legal frameworks in several countries of the region such as Brazil¹⁷⁵,

¹⁷¹ Resolution 3/17, Precautionary Measure No. 51-15, Pregnant and nursing mothers of the Wayúu indigenous community, Colombia (Extension), January 26, 2017.

¹⁷² IACHR, Press Release No. 117/17, [IACHR Urges the States to Reaffirm Commitment to Gender Equality and Non-discrimination and to Guarantee the Rights of Afro-descendant Women](#), August 8, 2017.

¹⁷³ IACHR, Press Release No. 165/17, [IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights](#), October 23, 2017; IACHR, Press Release No. 133/17, [IACHR Welcomes Approval of Chilean Law Decriminalizing Abortion on Three Grounds](#), September 5, 2017.

¹⁷⁴ IACHR, [Human rights of migrants, refugees, stateless persons, victims of human trafficking and internally displaced persons: Norms and standards of the Inter-American Human Rights System](#), OEA/Ser.L/V/II., Doc. 46/15, December 31, 2015, para. 44.

¹⁷⁵ IACHR, Press Release No. 78/17, [IACHR Welcomes Approval of New Migration Law in Brazil](#), June 16, 2017.

Guatemala¹⁷⁶, and Ecuador.¹⁷⁷ These new laws stand out for incorporating international human rights standards, such as non-discrimination and non-refoulement, to domestic laws on migration. The Commission also notes the expansion of access to alternatives to immigration detention¹⁷⁸ and initiatives for promoting access to nationality to eradicate statelessness¹⁷⁹ as good practices in the region.

93. In addition, this year three initiatives were carried out at the regional and international levels of great importance for the issues of human mobility: (i) the first triennial progress report on the Declaration and Action Plan of Brazil was submitted¹⁸⁰; (ii) monitoring began of the 2016 San José Declaration of Action¹⁸¹; and (iii) the preparations have been carried out for the approval in 2018 of a Global Compact on Refugees and a Global Compact for Safe, Regular, and Orderly Migration. In relation to these processes, the IACHR considers it fundamental to recognize the main challenges the region is facing, especially with respect to those persons in need of protection and who for any number of reasons are not receiving it.

94. In the first place, it should be noted that there have been worrisome setbacks in the region in relation to protecting the human rights of migrants, asylum-seekers, and refugees in 2017. For the Inter-American Commission, the serious setbacks on immigration and asylum in the United States have been a matter of special concern. This is of special significance given its position as the leading receiving country of migrants in the world, and in view of the chain effects that these setbacks have on the other countries of the region and of the world. In the course of this year various policies have been adopted in the United States aimed at increasing the detention and deportation of migrants, as well as the closing of legal means of entering the country, many of them following the guidelines established in Executive Order No. 13767 (“Border Security and Immigration Enforcement Improvements”) and No. 13768 (“Enhancing Public Safety in the Interior of the United States”) of January 2017.¹⁸² Among them, note should be made of the termination of various immigration programs¹⁸³; the increase in the number of detentions¹⁸⁴ and the number of immigration proceedings under way, which this year came to more than 600,000 cases pending in the immigration courts of the United States¹⁸⁵; allegations of incidents of persons being rejected at the border at ports of entry along

¹⁷⁶ IACHR, Press Release No. 79/17, [IACHR Hails Entry into Force of Migration Code in Guatemala](#), June 19, 2017.

¹⁷⁷ IACHR, Press Release No. 22/17, [IACHR Hails Human Mobility Law in Ecuador](#), March 1, 2017

¹⁷⁸ IACHR, Press Release No. 75/17, [IACHR Welcomes Progress on the Protection of Asylum Seekers and Refugees in Mexico](#), June 13, 2017.

¹⁷⁹ IACHR, Press Release No. 82/17, [IACHR Welcomes Progress in the Protection of Human Rights of Migrant Children and in Efforts to End Statelessness in Chile](#), June 22, 2017.

¹⁸⁰ Declaration of Brazil, “A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean.”

¹⁸¹ San José Declaration of Action, High-level Roundtable “Call to Action: Protection Needs in the Northern Triangle of Central America,” 2016, p. 1.

¹⁸² The White House, Office of the Press Secretary, [Executive Order: Border Security and Immigration Enforcement Improvements](#), January 25, 2017; The White House, Office of the Press Secretary, [Executive Order: Enhancing Public Safety in the Interior of the United States](#), January 25, 2017.

¹⁸³ These include the Deferred Action for Childhood Arrivals program (DACA), the Central American Minors programs (CAM), and Temporary Protected Status (TPS) for nationals from Haiti, among others. IACHR, Press Release No. 155/17, [IACHR Expresses Deep Concern for the Decision to End the Deferred Action for Childhood Arrivals \(DACA\) and Other Legal Avenues for Migrants and Refugees in the United States](#), October 11, 2017; US Citizenship and Immigration Services, [Central American Minors \(CAM\): Information for Parole Applicants](#), latest update August 16, 2017; ProPublica, [The Trump Administration Plans to End a Refugee Program for Children](#), September 14, 2017; US Citizenship and Immigration Services, [Temporary Protected Status Designated Country: Haiti](#), latest update November 20, 2017.

¹⁸⁴ In line with the policy of increasing the application of immigration laws through new priorities in terms of categories of migrants, ICE reports that it has carried out 43 percent more immigration detentions in 2017 than in 2016, and that the greatest increase in immigration detentions has been of migrants without criminal charges. ICE reports that it detained more than 28,000 “non-criminal immigration violators” from January 22 to September 2, almost three times as many as during the same period in 2016. Washington Post, [Deportations slow under Trump despite increase in arrests by ICE](#), September 28, 2017.

¹⁸⁵ The IACHR notes that this procedural backlog in the immigration courts also raises a due process concern in the context of these proceedings. See TRAC, [Immigration Court Backlog Tool](#), last visited October 23, 2017; U.S. News & World Report, [Immigration](#)

the southern border¹⁸⁶ and of family separation at the border¹⁸⁷; as well as measures aimed at stigmatizing and criminalizing migrants.¹⁸⁸ In addition, the IACHR notes its ongoing concern over the conditions at migrant detention centers¹⁸⁹, the continued existence of family detention centers¹⁹⁰, and the conditions at the southern border of the United States.¹⁹¹ Additionally, it is of concern the steps taken by the current government to continue the construction of an adjacent physical wall along the border between the United States and Mexico that could negatively affect the rights of migrants given that they would be forced to seek more dangerous routes to enter the United States. The absence of legal channels to migrate will also push people to resort to migrants traffickers, putting their lives and personal integrity in great danger.

95. Across the full continuum of migration, persons are subjected to numerous violations of their human rights by authorities and by private persons, to which is added the fear of turning to the authorities due to the consequences this could have, mainly being detained and subsequently deported. In this regard, access to justice is very limited and most of the cases remain in impunity.¹⁹² In this respect, the Commission observes that persons in poverty are generally more vulnerable to migration, whether internal or international. In many cases migration represents a survival option for these persons. This does not necessarily mean dignified living conditions. Throughout their migration processes migrants in transit living in poverty are extremely vulnerable to various violations of their human rights, such as extortion, kidnapping, physical, psychological, and sexual violence, human trafficking, and disappearances, among others. While the conditions in the receiving countries are generally better, migrants in poverty are general compelled to do those jobs that have been called “dirty, dangerous, and demeaning,” known in English-speaking countries as “3D jobs,” for “dirty, dangerous and demeaning.”

96. The Commission was monitoring the effects of the adoption and publication of the Decree of Necessity and Urgency 70/2017 in Argentina, which, in brief, expands numerous powers of the National Bureau on Migration (an organ of the Federal executive branch), at the same time as it limits judicial review of its administrative acts, especially in cases of expulsion, retention, access to a public defender, and the right to family unit.

97. The Commission has observed that in response to this increase in the number of migrants in the region, there has been an almost across-the-board turnabout towards more restrictive policies, statutes, and practices, in many cases not only focused on controlling migratory movements, but at preventing them by

Court Backlog Hangs Over Trump's Reform Push, August 22, 2017; Buzzfeed News, The Backlog Of Cases In Immigration Courts Has Hit A Record High This Summer, August 22, 2017.

¹⁸⁶ IACHR, Thematic hearing on “Policies that impede access to asylum in the United States,” 161st period of sessions, March 21, 2017, video available at: <https://www.youtube.com/watch?v=h2WzxKDctHM>; Amnesty International, Facing Walls: USA and Mexico's Violations of the Rights of Asylum-Seekers, 2017.

¹⁸⁷ IACHR, Thematic Hearing on “Policies that impede access to asylum in the United States,” 161st period of sessions, March 21, 2017, video available at: <https://www.youtube.com/watch?v=h2WzxKDctHM>; see also IACHR, Refugees and Migrants in the United States: Families and Unaccompanied Children, OAS /Ser.L/V/II.155, Doc. 16, July 24, 2015, paras. 73-76.

¹⁸⁸ Among them are the requirements for making regular reports on crimes committed by migrants and the number of criminal immigration proceedings and underlying crimes, the creation of the “Victims of Immigration Crime Engagement” (VOICE) Office, and the reclassification of immigration priorities so as to make the majority of unauthorized migrants into possible priorities for deportation. See The White House, Office of the Press Secretary, Executive Order: Enhancing Public Safety in the Interior of the United States, January 25, 2017, § 14; The White House, Office of the Press Secretary, Executive Order: Enhancing Public Safety in the Interior of the United States, January 25, 2017, §§ 5-6, 13, 16.

¹⁸⁹ IACHR, Press Release No. 119/17, IACHR Expresses Deep Concern for Deaths and Detention Conditions at Migrant Detention Centers in the United States, August 11, 2017. See also The New Yorker, A Medical Emergency, and the Growing Crisis at Immigration Detention Centers, September 13, 2017.

¹⁹⁰ IACHR, Refugees and Migrants in the United States: Families and Unaccompanied Children, OAS /Ser.L/V/II.155, Doc. 16, July 24, 2015, paras. 73-76, 135.

¹⁹¹ In this regard, the Commission continues to be seriously concerned by the large number of deaths of migrants along the U.S.-Mexico border. See International Organization for Migration, Missing Migrants Project, last visited September 14, 2017.

¹⁹² IACHR, Human rights of migrants, refugees, stateless persons, victims of human trafficking and internally displaced persons: Norms and standards of the Inter-American Human Rights System, OEA/Ser.L/V/II., Doc. 46/15, December 31, 2015, para. 9

externalizing the borders, tightening up security at the borders, and criminalizing migration, in particular of migrants in irregular circumstances, through the generalized implementation of policies focused on immigration detention and deportation.¹⁹³ At the same time, the Commission has observed with great concern the boom in hate speech, violence, and discrimination against migrants and stateless persons in several countries of the region and of the world, which is accompanied by an increase in the figures on hate crimes and various forms of harassment of these persons.

98. The IACHR emphasized throughout 2017 that among the main challenges the region faces are the forced migration of persons from the Northern Triangle of Central America and Mexico due mainly to the violence of organized crime and drug trafficking and, to a lesser extent, persecution by state actors or actors with ties to the state. According to research by David Cantor, among the zones with the greatest propensity to be impacted by the forced displacement caused by organized crime groups in the Northern Triangle and Mexico are the poorest urban areas; as well as rural areas where these organizations operate, where a significant part of the population, generally speaking, lives in poverty.¹⁹⁴

99. Despite this situation, the authorities of the governments have been reluctant to officially recognize the phenomenon of displacement within their borders; the result is a lack of figures and of actions aimed at addressing this situation. To date, only Honduras has officially recognized that it has a situation of internal displacement.¹⁹⁵ Internal displacement is often a step prior to the forced migration of persons seeking protection in other countries, which has resulted in an increase in applications for asylum from the Northern Triangle of Central America on a scale not seen since the 1980s.¹⁹⁶ Despite this increase, many of these persons have been categorized as “economic migrants” without in-depth studies on their actual needs for protection.¹⁹⁷

100. In addition, in 2017 the IACHR observed internal displacement due to the expansion of megaprojects and large-scale business activities, as well as factors related to climate change and natural disasters, such as the internal and international migrations that have been observed as a result of hurricanes Irma and Maria in September 2017.

101. Another situation of serious concern during 2017 has been the increase in the number of persons of Venezuelan origin who have left their country as a survival strategy due to the humanitarian situation, in particular the effects of the scarcity of food, medicine, and medical treatments. In the course of 2017 the IACHR observed a migratory dynamic that is daily in which Venezuelans cross the border to get food. At the same time, many Venezuelans have decided to seek protection in other countries. Given the lack of legal, regular, and safe channels for migrating, many persons have had no option other than recourse to clandestine channels to provide irregular migration, through risky overland and maritime routes. The Commission observes that at this time there are gaps in protection in various countries of the region; nonetheless, the Commission recognizes that some countries of the region have reacted to provide protection to Venezuelan migrants, such as Peru¹⁹⁸, Mexico¹⁹⁹, Argentina²⁰⁰, Uruguay²⁰¹, Colombia²⁰², and Brazil.²⁰³

¹⁹³ IACHR, *Derechos Human rights of migrants, refugees, stateless persons, victims of human trafficking and internally displaced persons: Norms and standards of the Inter-American Human Rights System*, OEA/Ser.L/V/II., Doc. 46/15, December 31, 2015, para. 39.

¹⁹⁴ CANTOR, David James, *The New Wave: Forced displacement caused by organized crime in Central America and Mexico*. Refugee Survey Quarterly, Oxford: Oxford University Press, 2014, pp. 53-59.

¹⁹⁵ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2017*, p. 44.

¹⁹⁶ United Nations High Commissioner for Refugees (UNCHR), *Global Trends 2016*, p. 67.

¹⁹⁷ Office of the United Nations High Commissioner for Human Rights, Declaration of the United Nations Special Rapporteur on the human rights of the internally displaced on concluding his official visit to the Republic of Honduras, November 23 to 27, 2015.

¹⁹⁸ IACHR, Press Release 43/17, *IACHR Welcomes Measures to Provide Protection to Venezuelan Migrants in Peru and Calls on States in the Region to Implement Measures for their Protection*, April 4, 2017.

¹⁹⁹ See: Ríos, Jorge, *La COMAR reconoce violaciones a derechos humanos en Venezuela*, September 1, 2016, Sin Embargo.

²⁰⁰ IACHR, *Public hearing: Human rights situation of Venezuelan migrants, asylum seekers, and refugees in countries of the Americas*, 163rd period of sessions, July 7, 2017.

102. Another fundamental challenge facing the region is that many of the persons in need of protection are not receiving it because their situation doesn't fit in the classic definition of refugee. In response to this situation, the Inter-American Commission calls on the states of the region to fully guarantee the human rights of migrants, to ensure the right to seek and receive asylum established in Article 22(7) of the American Convention, and to ensure *non-refoulement* in the terms established in Article 22(8) of the American Convention: "In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions."

103. In this context, the Inter-American Commission, like other organs for the protection of human rights, has expanded the threshold of the principle and right of *non-refoulement*, so as to apply it not only to asylum-seekers and refugees, but to any foreigner who is at risk of suffering harm in case of being deported or extradited. This is what is generally known as "complementary protection" or "subsidiary protection."²⁰⁴ In doing so, the Commission has considered that the deportation of a foreigner could constitute a violation of other rights of that person, such as the prohibition on being subjected to cruel, inhuman, or degrading treatment or the protection of family life, among others.²⁰⁵ In addition, the Commission considers it important to reiterate what the Inter-American Court has said regarding the right to life: "In essence, the fundamental right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence."²⁰⁶

104. As regards developing standards, the organs of the inter-American system have been developing, progressively, concepts such as the right to a dignified life, as well as identifying various forms of cruel, inhuman, and degrading treatment. Such gains in the case-law should be taken into account when determining whether the migration of persons has occurred as the result of violations of these concepts. The Commission also considers that the use of concepts such as the right to a dignified life and the prohibition on cruel, inhuman, and degrading treatment may be the basis for preventing the return or deportation of migrants whose rights to life and integrity are at risk of being violated.

d. Children and Adolescents

105. This year the Rapporteurship on the Rights of Children, which is led by Commissioner Esmeralda Arosemena de Troitiño, has monitored observance of and respect for the rights of children and adolescents, and, in particular, has continued monitoring the workings of the national systems for protection of the rights of children and adolescents. In that regard, the Rapporteurship has concluded the production of the regional report on the rights of children and adolescents adopted by the IACHR in November 2017. The report seeks to deepen the analysis of the current capacities of the national systems for protection of the

²⁰¹ IACHR, Public hearing: Human rights situation of Venezuelan migrants, asylum seekers, and refugees in countries of the Americas, 163rd period of sessions, July 7, 2017.

²⁰² Ministry of Foreign Affairs, Press Release No. 14, Migración Colombia lanza pre-registro en línea de Tarjeta de Movilidad Fronteriza (TMF) para ciudadanos venezolanos en zona de frontera, February 16, 2017.

²⁰³ Official Gazette, Normative Resolution No. 216, March 2, 2017, Brazil.

²⁰⁴ In this regard, see McADAM, Jane, "Human rights and forced migration," in FIDDIAN-QASMIYEH, Elena; LOESCHER, Gil; LONG, Katy; and SIGONA, Nando (eds.), *The Oxford handbook of refugees and forced migration studies*. Oxford: Oxford University Press, 2014, p. 204; CANTOR, David J., and BARICHELLO, Stefania, "Protection of asylum seekers under the Inter-American Human Rights System," in ABASS, Ademola and IPPOLITO, Francesca (eds.), *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*. Ashgate: Surrey, p. 282; HATHAWAY, James C., "Leveraging Asylum," in: *Texas International Law Journal* Vol. 45, 2010, p. 503.

²⁰⁵ See IACHR, Report on Admissibility and Merits No. 63/08, Case 12,534, Andrea Mortlock (United States), July 25, 2008, para. 74.

²⁰⁶ I/A Court HR, The "Streetchildren" Case (Villagrán Morales et al.) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, para. 144.

rights of children and adolescents to carry out the legal mandate to guarantee the rights of children and to respond adequately to violations, identifying the main gains observed as well as the most common challenges they face, establishing the principles and standards by which they should be guided, and making recommendations to the states.

106. In general, it is necessary to overcome the logic of intervention focused mainly on responding to violations of rights once they have occurred, and it is especially important to further efforts to create the conditions of the effective enjoyment and exercise of all rights for all children, with an integral and holistic vision, in addition to giving greater attention to policies and programs aimed at primary prevention, and addressing the structural causes at the origin of situations of violations of human rights and violence against children. In describing the main issues that affect the national systems for protecting the rights of children and adolescents, one finds insufficient institutional coordination with mandates and responsibilities that are weak and/or confusing, the lack of a systemic conception, limited human and financial resources that do not allow for effective coordination, scant political commitment, limited effectiveness, and lack of accountability when it comes to attaining the goals of the national policy for children.

107. Some of the aspects with respect to which the IACHR also recommends greater attention are: (i) strengthening the national policy for children, especially as regards defining the objectives, outcomes, goals, and indicators that make possible monitoring and accountability; (ii) decentralization and the need to strengthen services and programs at the local level; (iii) the level of financing, budget design and management, and better accountability for investment in children; (iv) strengthening the principles of good governance in administering policies for children (transparency, citizen participation, quality of planning, indicators of performance and results of the public administration, professionalization and creation of protocols for action and quality standards, accountability, independent oversight, and fighting corruption, among others); and (v) increasing the meaningful and proactive participation of children and adolescents in the design, monitoring, implementation, and evaluation of public policies on children.

108. The Rapporteurship highlights and salutes the interest shown by the states of the region in strengthening and improving their national systems for the protection of children and adolescents, which was set forth in the participation and discussions among the high-level authorities on children from 16 countries of the region who participated in the First Inter-American Forum of National Systems for Comprehensive Protection of Children and Adolescents, held in Mexico City from April 24 to 26, 2017. The event was co-convened by the Mexican State through the National System for the Integral Protection of Children and Adolescents (SIPINNA), the National Children's Institute (PANI: Patronato Nacional de la Infancia) of Costa Rica, the IACHR, UNICEF, the Inter-American Children's Institute-OAS, and the Red Latinoamericana y caribeña por la defensa de los derechos de los niños, niñas y adolescentes (REDLAMYC).

109. In addition, according to information that the IACHR has received, in the course of 2017 Guatemala has made progress designing bill 5285 to establish a National System for the Protection of Children and Adolescents²⁰⁷, considering that Guatemala did not have a law establishing the institutional and operational structure for protecting the rights that children and adolescents are recognized to have in Guatemalan legislation. The need for a law with these characteristics was made clear in the wake of the blaze at the Virgen de la Asunción Residential Institution in March 2017. Special mention should also be made of the efforts by Honduras to establish a national system to guarantee the rights of children and adolescents.²⁰⁸ Neither Chile or Panama has adopted legislation in this area, though legislative proceedings have been initiated in both countries.

110. In the period covered by this report the Rapporteurship has been focused on analyzing the level of investment in children in the countries of the region, on finding that one of the main barriers to the

²⁰⁷ Prensa Libre, [Organizaciones respaldan iniciativa de Ley del sistema de protección de niñez](#), May 16, 2017. See, [Proposed Law 5285, Guatemala](#).

²⁰⁸ [DINAF aborda la creación del Sistema Nacional de Protección de los derechos de la niñez y la adolescencia](#), April 24, 2017; [Conformarían el Sistema de Promoción y Protección de la Niñez](#), March 15, 2017.

effective observance of the rights of children and adolescents is the lack of sufficient economic investment to allow for their full attainment. The Rapporteurship has warned that it is common for the economic information on investment made by a state in children to be unavailable; yet information is needed to be able to evaluate whether the state is actually according priority to ensuring the rights of children and adolescents in their budgets, and how this volume of investment compares with the amounts allocated to other sectors, and to the total budget of the state, as well as the specific results obtained with this investment. It has urged the states to include the principles of transparency, effectiveness, efficiency, equity, sustainability, accountability, and participation, in addition to articulating measures against corruption, throughout the budget cycle. The Rapporteurship notes that the states, on adopting austerity policies and budget cuts, should assess those options that cause less deterioration to the level of enjoyment of the rights of the child, as they are one of the groups most sensitive to the negative impacts of restrictive measures. Several countries of the region are making cutbacks in social policies and introducing austerity policies that do not consider the impacts on the rights of children. The Rapporteurship has also warned that insufficient investment, especially in the most vulnerable groups of children, may perpetuate the intergenerational transmission of poverty and inequality in addition to having irreversible negative effects on the development of children and adolescents.²⁰⁹

111. The Rapporteurship has observed that the adoption of the Sustainable Development Goals (SDGs) with concrete targets has provided an opportunity to review and give impetus to efforts to support the rights of children in the region. During the process of designing and negotiating the SDGs, defenders of children's rights from all spheres focused on the fundamental importance of giving greater attention to children to achieve inclusive, equitable, and sustainable development. The Rapporteurship has been invited to various forums in the region to analyze this connection and concludes that ensuring the rights of children and adolescents is not just an ethical and legal mandate, but is also essential for expanding the possibilities of sustainable development, and of societies that are more democratic, more inclusive, and safer for all.

112. The Rapporteurship on the Rights of Children and the Rapporteurship on the Rights of Women are carrying out a project financed by Canadian cooperation on the rights of women, girls, and adolescent females in the face of violence and discrimination, in the context of which important information has been collected that helps cast light on specific issues that affect these groups.

113. In this connection, the IACHR continued receiving very worrisome information on the alarming levels of violence of which girls and adolescent females are victims, especially sexual violence directed against them.²¹⁰ Some of the countries of the region have among the highest rates of sexual violence in the world. In the case of Bolivia, for example, one in three girls suffers some form of sexual violence before reaching 18 years of age.²¹¹ In the case of Bolivia it is necessary to amend the Criminal Code to make the central element in the crime of rape be the lack of consent, and to eliminate the requirement that one must show intimidation or physical or psychological violence; and the laws on statutory rape (*estupro*) need to be brought into line with the relevant international standards. These are legislative changes that the State said are already under way. In Argentina, in the first eight months of 2017, on average there were four reports daily of sexual violence nationwide, and according to the latest report by the Program for the Victims of Violence (PVCV: Programa para las Víctimas contra la Violencia), in the period from November 2016 and July 2017 there were at least 1,024 victims of child sexual abuse in the country. In the first six months of 2017 there was a 40% increase in the number of reports of abuse and sexual violence against children and adolescents in the city of Buenos Aires, in relation to the first six months of 2016; in 70% of the cases the person responsible was a close family member of the victim, according to the Bureau for Guidance,

²⁰⁹ IACHR, Press Release, On Universal Children's Day, the IACHR Urges States to Improve Investment in Childhood, November 20, 2017.

²¹⁰ IACHR, 161st period of sessions, thematic hearing, Allegations of sexual violence against adolescent females in Bolivia, March 18, 2017; IACHR, 165th regular period of sessions, thematic hearing, Sexual violence against girls in Latin America, October 24, 2017.

²¹¹ IACHR, 161st period of sessions, thematic hearing, Allegations of sexual violence against adolescent females in Bolivia, March 18, 2017. IACHR, Press Release, Report on the 161st Session of the IACHR, March 22, 2017.

Accompaniment, and Protection of Victims (DOVIC: Dirección de Orientación, Acompañamiento y Protección a Víctimas).²¹² In addition, in Peru, 2 of every 5 victims of sexual violence are girls under 14 years of age.²¹³ Family members and others who are in the circle or persons close to girls and adolescent females, who should be protective, are also risk factors. In Paraguay, for example, according to the data from the Statistics Department of the Command on Family Violence, and specifically the data on sexual violence, children are the ones who most suffer this type of violence in the family, as 89.8% of the victims are children and adolescents; of these 69.5% are 13 years old or younger.²¹⁴ The IACHR finds that this trend is reproduced in every country of the region, and notes that the statistics on the prevalence of this phenomenon may be much higher due to the major under-registration reflected in the statistics on reports of such incidents.

114. Child and adolescent pregnancy is a serious problem, as this is the only region in the world showing an increase in girls under 15 years giving birth, with nearly 10 million pregnancies a year, and the second-leading region in terms of the number of pregnancies in adolescent females ages 15 to 19 years²¹⁵; a considerable share of these pregnancies result from rape. In Peru, for example, every day four girls under the age of 15 years become mothers, most of them rape victims.²¹⁶ The figures on pregnancy in adolescent females is 13.6% in Peru, according to the Population and Family Health Survey (Encuesta Demográfica y de Salud Familiar), reaching rates of 16.4% in regions such as Piura.²¹⁷ In Paraguay every day two babies are born to girls ages 10 to 14.²¹⁸ In Guatemala, according to the United Nations Population Fund (UNFPA), 26% of attended births are to girls and adolescent females ages 10 to 19.²¹⁹ The IACHR has been informed of major barriers to access to a legal and safe abortion in those cases in which the pregnancies have resulted from rape or endanger the health and integrity of girls and adolescent females, which is particularly worrisome considering that pregnancies in girls and adolescent females pose a greater risk to their health and their lives. In addition, pregnant girls and adolescent females are still discriminated against in schools and are not allowed to attend classes during their pregnancy, or are not afforded the opportunity to do so, depriving them of their right to education. Adolescent pregnancy is a problem that has a serious negative impact on the personal, social, and economic development not only of the girls and their families, but of the countries as a whole, for it has negative impacts on the development and future of these adolescent females, reproducing cycles of exclusion and poverty.

115. Child marriage, and *de facto* unions, is another factor associated with child pregnancy and other violations of their rights. In the region, a large number of girls and adolescent females under the age of 18 are married or living in a *de facto* union, many of them with older men. In El Salvador, studies found that one of the most important characteristics is that many of the unions are not between peers (no more than three years age difference in the couple); in 65% of cases the age difference is at least four years, and in 18% the man is more than 10 years older, the age difference being more marked the younger the girls are. In the case of pregnancies, often family and social pressures push adolescents to early marriages or unions with impacts on their opportunities for personal, educational, and professional development, and capacity for making decisions with major implications for their lives, which makes them more vulnerable. There is plenty of evidence and abundant statistics on the negative impacts on children and adolescents of marriage before

²¹² *La Nación*, Aumentaron 40% las denuncias de abusos sexuales contra menores, September 23, 2017.

²¹³ PROMSEX, Niñas no Madres, 2017.

²¹⁴ *Última Hora*, Siete cada diez víctimas abuso sexual en las casas son niños y niñas, September 13, 2017.

²¹⁵ IACHR, 165th regular period of sessions, thematic hearing Sexual violence against girls in Latin America and the Caribbean, October 24, 2017; IACHR, 149th regular period of sessions, thematic hearing, Human rights of girls in Latin America and the Caribbean, October 28, 2013; and United Nations Population Fund (UNFPA), Motherhood in Childhood: Facing the challenge of adolescent pregnancy, pp. 5, 6, 10, 11, and 12.

²¹⁶ PROMSEX, Niñas no Madres.

²¹⁷ *Diario Correo*, Crecen cifras de embarazos en menores de 15 años, September 19, 2017.

²¹⁸ CDIA, Posicionamiento público sobre la necesidad de contar con una educación integral de la sexualidad en el sistema educativo nacional de Paraguay, September 2017. *Última Hora*, Oenegés piden “romper el oscurantismo” en la educación, September 21, 2017.

²¹⁹ *República*, Una de cada cinco niñas en el país está embarazada, September 26, 2017.

the age of 18, such as: abandoning one's studies; high-risk early pregnancy; reduced socioeconomic and job opportunities; scant opportunities for leisure, recreation, sports, and participation in cultural life; and greater possibilities of suffering violence. The IACHR welcomes the legislative reforms introduced in 2017 in El Salvador, Guatemala, Honduras, and Trinidad and Tobago to prohibit child marriage, setting the minimum age for contracting marriage at 18 years.

116. Worrying trends have been identified in the region with respect to the denial of sexual and reproductive rights to girls and adolescent females due to prejudices and stereotypes regarding their sexuality and the age of initiation of sexual activity. One of the circumstances that contributes to the vulnerability of girls and adolescent females is precisely the lack of access to information and to quality sex education adapted to their age, and the lack of sexual and reproductive health services accessible to adolescent females that are timely, appropriate, accessible, and sustainable. Early initiation of sexual activity by adolescent females without adequate information on their sexual and reproductive health results in many cases of sexually-transmitted diseases and undesired pregnancies, with risks to health, and illegal and unsafe abortions. The lack of education on sexual and reproductive health, from early ages and adapted to the various phases of development of children and adolescents, exposes them to becoming victims of sexual violence and undesired pregnancies. Considering the alarming levels of sexual violence and child pregnancy in the region, it is imperative, for the protection of children and adolescents, to ensure access to quality education on sexual and reproductive health in the curricula of the schools. Nonetheless, the trend observed is in the other direction, with threats of setbacks such as eliminating sex education from the curricula, refusing to introduce it where it is not yet a subject taught, or providing information that is insufficient or biased by the use of stereotypes.²²⁰ The IACHR has underlined that, in accordance with international human rights law, one of the purposes of education is the empowerment of children in exercising their human rights, and it includes the right to sexual and reproductive education.

117. The Rapporteurship has also received information on the challenges adolescents face accessing sexual and reproductive health goods and services adapted to them, free of charge, and that respect their right to health, their progressive autonomy when it comes to exercising their rights, and their privacy. Many of these services continue demanding the parents' presence or authorization in order to provide this type of information, goods, and services, depending on the age of the person. In addition, the IACHR has been informed that even when girls and adolescent females are legally able to make the decision to interrupt a pregnancy with a view to safeguarding their health, physical integrity, and even their life, the absence of clear and adequate medical protocols obstructs access to the necessary services.

118. Trafficking in children and adolescents for purposes of sexual exploitation was also one of the main issues monitored by the Rapporteurship in 2017, both regionally²²¹ and specifically with respect to Peru²²² and Guatemala.²²³ In this regard, the IACHR was informed of aspects related to: structural causes, such as poverty and social exclusion; victims' difficulties accessing justice; the lack of quality and free legal representation; re-victimization in the context of judicial proceedings; the lack of capacity of the authorities; budget cuts; high level of impunity and, associated with it, factors of corruption and challenges in the interpretation of the relevant criminal statutes on the part of the courts that is said to impede prosecution of the perpetrators; institutionalization of the victims; the weakness of the protection system at the local level; and the greater number of girls and adolescent women among the victims. The IACHR values and finds it useful to have specialized units of the police and prosecutorial authorities for prosecuting this crime, implementing National Plans against Trafficking of Persons, campaigns to raise awareness among the public and specifically children and adolescents, and free phone lines for lodging complaints.

²²⁰ IACHR, Press Release, IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women's Sexual and Reproductive Rights, October 23, 2017.

²²¹ IACHR, 165th period of sessions, thematic hearing, Human rights situation of victims of human trafficking and smuggling of persons from Latin America and the Caribbean, October 24, 2017.

²²² IACHR, 161st period of sessions, thematic hearing, Reports of trafficking in children and adolescents in Peru, March 20, 2017.

²²³ IACHR, Press Release, IACHR Wraps Up On-Site Visit to Guatemala, Washington, D.C., August 4, 2017; IACHR, Press Release, Preliminary Observations to the IACHR's On-Site Visit to Guatemala, August 4, 2017.

119. The Rapporteurship has also looked at the situation of children and adolescents who are institutionalized, as part of its monitoring of the recommendations set forth in the Commission's report on *The Right of Boys and Girls to a Family. Alternative Care. Ending Institutionalization in the Americas*. While the IACHR has identified gains in this area, observing greater awareness on the part of the authorities of the importance of social policies to support families, at the same time it continues to be concerned that some states of the region are prioritizing institutionalization of children and adolescents as a measure of protection. The tragedy of the blaze at the Virgen de la Asunción Residential Institution in Guatemala, on March 8, 2017, in which 41 girls and adolescent females died who were locked in a classroom, has cast light on the serious crisis Guatemala is experiencing in dealing with this issue, the situation of abandonment of the children and adolescents who live under the custody of the State, and the lack of policies and services for primary prevention, support for families, and early detection.²²⁴ The IACHR adopted a precautionary measure to protect the children and adolescents at the Virgen de la Asunción Residential Institution orphanage and made a working visit to follow up on compliance with it²²⁵, and during its onsite visit to Guatemala in July 2017 it continued receiving information on the matter.²²⁶ The information collected during the visit indicates that the State does not yet have an integral response to prevent the recurrence of similar incidents and to adequately guarantee the rights of children in the custody of the State, and made a series of recommendations to the State. At the time of the events Guatemala did not have a legislative framework to create a national system for the protection of the rights of children and adolescents to help implement the rights recognized in the Law on the Integral Protection of Children and Adolescents (PINA Law: Ley de Protección Integral de la Niñez y Adolescencia), which in the view of the IACHR contributes to the alarming state of affairs in Guatemala as regards protection for the rights of children.

120. The outlook is similar in Chile in relation to the centers under the National Service for Minors (SENAME: Servicio Nacional de Menores). In this respect the IACHR has received worrisome information on the conditions experienced by children and adolescents at these centers and accusations of alleged situations of negligence and mistreatment, violence, sexual abuse and exploitation, unnecessary medication, and even deaths, at several centers in recent years.²²⁷ According to the data provided to the IACHR, more than 1,000 children and adolescents have died in institutions of the SENAME in the last 10 years, without effective investigations being carried out in all cases to determine the cause of death and to sort out responsibilities. Chile does not have a law that provides for integral guarantees of the rights of children and adolescents that recognized a set of rights, nor a national system for the protection of the rights of children and adolescents so as to create the operational model for ensuring the effective observance of those rights, though the State has shown its commitment to advance in this legislative agenda, and has recognized the profound challenges the SENAME faces and the need to address them urgently. Chile is one of the few countries of Latin America that does not have such a legislative framework.

121. Aware of the persistence of the challenges identified by the IACHR in the report *The Right of Boys and Girls to a Family. Alternative Care. Ending Institutionalization in the Americas*, in 2017 the IACHR's Rapporteurship on the Rights of Children and the Inter-American Children's Institute reached an agreement to expand the dissemination of that report and promote compliance with its recommendations.

122. Finally, the Rapporteurship continues to detect alarming challenges in the area of juvenile justice. In 2017 the Rapporteurship has closely followed the initiatives in Honduras²²⁸ and Brazil²²⁹ to reduce

²²⁴ IACHR, Press Release, IACHR Issues Precautionary Measures to Guatemala and Laments Deaths in Fire at Children's Residential Institution. Washington, D.C., March 13, 2017.

²²⁵ IACHR, Press Release, Rapporteur on the Rights of the Child Conducts Visit to Guatemala. Washington, D.C., April 13, 2017.

²²⁶ IACHR, Press Release, IACHR Wraps Up On-Site Visit to Guatemala. Washington, D.C., August 4, 2017; IACHR, Press Release, Preliminary Observations to the IACHR's On-Site Visit to Guatemala, August 4, 2017.

²²⁷ IACHR, 162nd period of sessions, thematic hearing, National children protection system in Chile, May 24, 2017.

²²⁸ IACHR, 164th period of sessions, thematic hearing, Situation of children's rights in contexts of violence in Honduras, September 6, 2017. El Heraldo, Honduras: Edad punible será sometida a amplio diálogo, May 9, 2017; La Prensa, De 8 a 15 años recomiendan endurecer penas a menores, June 21, 2017.

the age at which adolescents can be charged with a crime from 18 to 16 years, which would mean treating adolescents as adults in the criminal justice system from the age of 16, as well as initiatives to toughen the penalties. These initiatives do not take into consideration the best interest of the child or their status as persons who are developing, in violation of international human rights instruments. In addition, the Rapporteurship emphasizes the urgency with which the conditions of confinement should be addressed; accordingly, grave acts of violence have continued to be reported at centers for holding adolescents, including allegations of abuse and mistreatment committed by other inmates and by the personnel at these centers or with their knowledge, homicides, acts of torture, riots, escapes, overcrowding, insalubrious conditions, and lack of programs that effectively serve the socio-educational and social insertion purpose for adolescents in contact with the criminal justice system, among other situations that violate human rights and that have repeatedly been brought to the attention of the IACHR with respect to several countries of the region, among them Brazil, Guatemala, and Paraguay. In the case of Brazil, the IACHR received information in the context of a thematic hearing, and had the opportunity to verify the situation firsthand during a visit to Brazil in November 2017. With respect to Guatemala, the IACHR granted precautionary measures with respect to four centers for the deprivation of liberty and visited the facilities of some of these centers during the onsite visit from July 30 to August 4, 2017.²³⁰ In the case of Paraguay, the IACHR issued a press release lamenting the deaths and injuries resulting from a fire at a center for the deprivation of liberty of adolescents. The Rapporteurship also warned of the excessive use of pretrial detention for adolescents (accounting for up to 90% of the adolescents deprived of liberty in some centers in Paraguay)²³¹ and the imposition of penalties entailing deprivation of liberty for committing non-violent drug-related offenses (27% of the adolescents deprived of liberty in Brazil and approximately 20% at some of the centers in Paraguay)²³², both in violation of the relevant international standards. The IACHR has repeatedly called for the implementation in the region, urgently, effectively, and on a priority basis, of a model of restorative justice based on socio-educational measures whose objective is the rehabilitation and social reinsertion of the adolescents who come into contact with the criminal law, which represents, in practice, respect for the principle of exceptionality of measures entailing deprivation of liberty.

e. Human Rights Defenders

123. In 2017, the Rapporteurship on Human Rights Defenders which is led by Commissioner José de Jesús Orozco Henríquez has monitored the situation of human rights defenders in the member states of the OAS, drawing on the different mechanisms of the IACHR. The Commission salutes the steps taken in some countries of the hemisphere to provide protection or better protection to human rights defenders. After its onsite visit to Guatemala, for example, the Commission recognized the efforts of the State to implement, in early 2018, the “Public Policy for the Protection of Human Rights Defenders,” which has enjoyed the backing of several state institutions and civil society organizations.²³³ In Colombia, the Unified Command Post (PMU: Puesto de Mando Unificado) was created to monitor and analyze attacks on human rights defenders and social leaders, and the National Police has implemented a new Elite Corps with a multidimensional approach as an immediate response by the State to dismantle the criminal organizations responsible for the homicides

²²⁹ IACHR, Press Release, Report on the 161st Session of the IACHR, March 22, 2017. IACHR, 161st period of session, thematic hearing, Human rights situation of adolescents in conflict with the law in Brazil, March 22, 2017.

²³⁰ IACHR, Precautionary Measure, Juvenile centers for deprivation of liberty with respect to Guatemala, MC 161-17, June 12, 2017. IACHR, Press Release, IACHR Wraps Up On-Site Visit to Guatemala. Washington, D.C., August 4, 2017; IACHR, Press Release, Preliminary Observations to the IACHR’s On-Site Visit to Guatemala, August 4, 2017.

²³¹ IACHR, Press Release, IACHR Regrets Deaths in Fire at Juvenile Detention Facility in Paraguay, September 29, 2017.

²³² IACHR, 161st period of sessions, thematic hearing, Human rights situation of adolescents in conflict with the law in Brazil, March 22, 2017.

²³³ IACHR, Preliminary Observations to the IACHR’s On-Site Visit to Guatemala, August 4, 2017.

of human rights defenders.²³⁴ In Mexico, it was agreed to establish Special Protection Units for Human Rights Defenders and Journalists.²³⁵

124. Nonetheless, the IACHR observes with concern that the situation of human rights defenders in the region has worsened in recent years, a trend that has continued in 2017. The information received suggests that human rights defenders face a series of obstacles to the exercise of activities for the promotion and defense of human rights. Assassinations, attacks, and threats persist, and likewise the stigmatization and criminalization of their work, along with a worsening of the use of smear campaigns against human rights defenders.

125. In just the first month of the year, the IACHR was informed of 14 homicides of human rights defenders in the region: seven in Colombia, two in Guatemala, two in Mexico, and three in Nicaragua.²³⁶ In Guatemala, according to the information received, there were seven assassinations of human rights defenders.²³⁷ In Colombia the assassination of human rights defenders continue despite the recent signing of a historical peace agreement.²³⁸ According to the information received, from January to October 2017 there were 126 such homicides, compared to 116 in 2016.²³⁹

126. The Commission has continued receiving alarming information about criminal proceedings being initiated without any foundation against human rights defenders with the aim of obstructing their work and discrediting their causes.²⁴⁰ This trend was identified by the IACHR in its report *Criminalization of the Work of Human Rights Defenders*. The Commission has monitored, among others, judicial proceedings against human rights defenders in Ecuador, Guatemala, Honduras, and Peru.²⁴¹

127. The IACHR also observes with concern the stepped-up smear campaigns against human rights defenders using social networks and other means of information to disseminate stigmatizing and delegitimizing messages. These smear campaigns have a differential impact on women human rights defenders, insofar as a large number of these incidents harm and violate their rights as women.

128. As regards the groups hardest hit by the violence, the IACHR observes the growing number of socio-environmental conflicts and the failure to adopt and implement effective measures of recognition

²³⁴ National Government of Colombia, Cuarto informe de seguimiento a recomendaciones del IV Informe País “Verdad, justicia y reparación: cuarto informe sobre la situación de derechos humanos en Colombia” periodo de 1 de enero a 31 de julio de 2017, August 29, 2017, p. 65.

²³⁵ Government of Mexico, Tercer informe del Estado mexicano sobre el cumplimiento y seguimiento de las recomendaciones contenidas en el informe de la Comisión Interamericana de Derechos Humanos “Situación de los Derechos Humanos en México,” which was published as a result of the onsite visit by the Commission to Mexico from September 28 to October 2, 2015.

²³⁶ IACHR, Press Release No. 011/17, [IACHR Condemns Murders of Human Rights Defenders in the Region](#), February 7, 2017.

²³⁷ UDEFEGUA, [Informe sobre situación de Defensoras y Defensores de Derechos Humanos](#), January 2017, p. 6; On June 30, 2017 experts from the IACHR and the OHCHR condemned the attacks on and assassinations of defenders of the environment in Guatemala, indicating that they face among the greatest dangers in the world. See IACHR, Press Release No. 088/17, [Experts Condemn the Attacks and Killings of Environment Defenders in Guatemala](#), June 30, 2017.

²³⁸ IACHR, Press Release No. 011/17, [IACHR Condemns Murders of Human Rights Defenders in the Region](#), February 7, 2017. According to the information received, in the first half of 2017 the figures on homicides increased 31% with respect to the first half of the previous year. Somos Defensores, [Agúzate, Informe de enero – junio de 2017](#), p. 61.

²³⁹ IACHR, Situation of human rights defenders and social leaders in Colombia, 165th regular period of sessions, October 23, 2017.

²⁴⁰ IACHR, [Criminalization of Human Rights Defenders](#), OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015.

²⁴¹ IACHR, Press Release No. 072/17, [IACHR issues call for OAS States to Protect Defenders of the Land and Environment](#), June 5, 2017; Meeting with criminalized defenders from the municipality of San Pablo, San Marcos, in the context of the onsite visit, in Guatemala City, August 1, 2017. In Honduras, on March 20, 2017, the Civil Court of Letters of the department of Francisco Morazán declared the nullity of the civil action filed by the company *Desarrollo Energético S.A.* (DESA) against Suyapa Martínez as representative of the *Centro de Estudios de la Mujer - Honduras* (CEM-H) after declaring that the content of the action, based on statements made by her on DESA’s involvement with the assassination of Berta Cáceres, was full of inadmissible errors and claims. See Front Line Defenders, Urgent Appeal, [Honduras: Complaint against Centro de Estudios de la Mujer-Honduras](#), March 22, 2017.

and protection for those who defend the rights to the territory, the environment, and access to the land.²⁴² The Commission observes with concern that it is common for private companies to participate in the violence against and criminalization of these human rights defenders.

129. The Commission also observes that the defenders of the rights of LGBTI persons face a greater vulnerability to acts of violence, due to a combination of factors related to the perception of their sexual orientation and gender identity, their role as defenders, and the causes they defend and on which they work, since they challenge traditional social structures related to sexuality. The IACHR has received many complaints of the violations suffered by those who defend the rights of LGBTI persons, who are constantly subject to attacks and harassment.²⁴³

130. As regards judicial officers, the IACHR received information during 2017 with respect to the constant threats and harassment directed against them as a means of controlling and intimidating them in the performance of their functions, especially those who are involved in high-impact cases of corruption, serious human rights violations, or those in which major economic interests are at stake. For example, the IACHR received information on situations in Brazil, Guatemala, Honduras, Uruguay, and Venezuela involving judicial officers targeted by threats, and in some cases subject to disciplinary measures, investigations, warnings, and public criticisms for their decisions (see section on judicial independence *supra*). In some cases, the IACHR asked the state concerned to adopt precautionary measures.²⁴⁴

131. The IACHR urges the states of the region to adopt and effectively implement programs and/or mechanisms of protection that are holistic and comprehensive. These programs and/or mechanisms of protection should include specialized protocols with a gender perspective for the protection of groups in situations of special vulnerability, including, among others, defenders of the environment, defenders of the rights of LGBTI persons, and defenders of women's rights. In addition, the states should establish specific protocols for investigations to ensure that the various authorities act in a coordinated manner and respond with due diligence to the investigation of attacks on human rights defenders. Finally, the states of the OAS should ensure that neither the authorities nor third persons manipulate the punitive power of the state and its judicial organs with the aim of harassing human rights defenders, and should refrain from making statements that stigmatize or discredit them.

f. Persons Deprived of Liberty

132. In the course of this year the Rapporteurship on the Rights of Persons Deprived of Liberty, which is led by Commissioner James L. Cavallaro, has monitored, by means of the different mechanisms of the IACHR, the situation of persons subject to any form of deprivation of liberty in the member states of the OAS. In particular, the Commission paid especially close attention to one of the main issues with respect to the population in question, i.e. the general and excessive use of pretrial detention. It did so by preparing the report *Measures Aimed at Reducing the Use of Pretrial Detention in the Americas*²⁴⁵ and the *Practical Guide to Reduce Pretrial Detention*, under the direction of the Rapporteur on the Rights of Persons Deprived of Liberty, Commissioner James Cavallaro, and were approved by the Commission on July 3, 2017. That report provides detailed standards with respect to adopting specific measures that seek to reduce the use of pretrial detention in keeping with relevant international standards, and follows up on the 2013 report on pretrial detention, by analyzing the main gains and challenges in the use of this measure by the states. The

²⁴² IACHR, Press Release No. 072/17, [IACHR issues call for OAS States to Protect Defenders of the Land and Environment](#), June 5, 2017; Front Line Defenders, [Annual Report 2016](#), p. 7.

²⁴³ See for example IACHR, Press Release No. 118/17, [IACHR Condemns Attack on LGBTI Rights Defender David Valle, in Honduras](#), August 9, 2017.

²⁴⁴ IACHR, Resolution 34/17, Precautionary Measure No. 431-17, [Gloria Patricia Porras Escobar and family with respect to Guatemala](#), August 29, 2017; IACHR, Resolution 27/17, Precautionary Measure No. 449/17, [Luisa Ortega Díaz and family, Venezuela](#), August 31, 2017.

²⁴⁵ IACHR, [Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017.

report highlights, in particular, the need to incorporate a gender perspective in the application of alternative measures, and seeks to make progress in applying a differentiated approach so as to address persons who belong to groups at risk. This second report on pretrial detention is accompanied by a *Practical Guide to Reduce Pretrial Detention*²⁴⁶, which is the first initiative by the Commission to put forward the recommendations contained in thematic reports didactically and specifically geared to the authorities responsible for making efforts focused on a particular thematic area.

133. The Commission also recognizes that the member states have made major efforts in recent years to use pretrial detention in keeping with the relevant international standards. In particular, during the current year the IACHR does not observe specific progress in this regard. The IACHR notes that during 2017 measures have been adopted that are contrary to those actions that seek to rationalize the use of pretrial detention as exceptional, which it should be given its nature. First, the IACHR states its concern over the increase in total possible length of pretrial detention in Peru. Legislative Decree No. 1307 of 2017, which amends the Code of Criminal Procedure, extends pretrial detention to 36 months, which can be extended for up to 12 months, in “proceedings on organized crime.”²⁴⁷ In addition, the IACHR notes that with the adoption of Law No. 1786 in the State of Colombia, the application of the provision calling for the end of the use of pretrial detention based on the expiration of procedural deadlines with respect to proceedings related to specialized justice; cases that involve three or more defendants; and crimes of corruption or crimes against the liberty, integrity, and “sexual formation of the child.” In those situations, the term for the duration of pretrial detention came into force as of July 1, 2017.²⁴⁸ In this regard, the IACHR has indicated that this new provision represents a setback compared to Law No. 1760 of 2015, which provided that the cessation of pretrial detention would go into force in July 2016 for all cases.²⁴⁹

134. As regards the application of alternative measures, the IACHR observes that in 2017 major efforts have been made to use electronic monitoring devices in criminal matters. The State of Brazil, for example, published guidelines on the use of such devices in 2017.²⁵⁰ The IACHR is mainly concerned that the use of electronic monitoring devices may pose serious challenges for those persons who do not have the economic resources needed to finance their use, considering that the beneficiaries themselves are fully responsible for paying the costs.²⁵¹ The IACHR observes that in the Peruvian State, by Decree No. 1322 of 2017, it was determined that the very beneficiary of personal electronic surveillance is “fully” responsible for covering the cost entailed in the use of such devices²⁵², except when he or she is unable to pay and, based on socioeconomic reports made to the National Penitentiary Institute, the judge gives the person a full or partial exemption of the requirement to pay.²⁵³

²⁴⁶ IACHR, Practical guide to reduce pretrial detention, OEA/Ser.L/V/II.163 Doc. 107, July 2017.

²⁴⁷ This modification is distinguished from what was previously stipulated in the Code of Criminal Procedure, which only established a maximum term of 18 months in cases of “complex prosecutions,” which could be extended for an additional 18 months. Legislative Decree No. 1307, which modifies the Code of Criminal Procedure so as to provide effective measures for the prosecution and punishment of crimes of corruption of officials and of organized crime, Peru, published December 30, 2016 and in force beginning 90 days after its publication, Articles 272(3) and 274(2). See, IACHR, Measures Aimed at Reducing the Use of Pretrial Detention, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 51.

²⁴⁸ Law No. 1786 “amending some provisions of Law 1760 of 2015,” Colombia, in force as of July 1, 2016, Article 2.

²⁴⁹ IACHR, Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 51.

²⁵⁰ Ministry of Justice, National Prison Department, Brazil, “Planos Educacionais para Monitoração Eletrônica de Pessoas” [Educational plans for the electronic monitoring of persons, available only in Portuguese], 2017.

²⁵¹ IACHR, Measures Aimed at Reducing the Use of Pretrial Detention, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 131.

²⁵² Legislative Decree No. 1322, which regulates personal electronic surveillance, Peru, adopted January 6, 2017, Article 14(2). It was also regulated by Supreme Decree No 002-2015-JUS, which modifies and incorporates articles to the Regulation for the implementation of Personal Electronic Surveillance, published May 13, 2015, Article 3.

²⁵³ Legislative Decree No. 1322, which regulates personal electronic surveillance, Peru, adopted January 6, 2017, Article 14(3). It was also regulated by Supreme Decree No 002-2015-JUS, which modifies and incorporates articles to the Regulation for the implementation of Personal Electronic Surveillance, published May 13, 2015, Article 4.

135. Considering various calls by United Nations bodies and serious concerns related to drugs, the Commission this year made a historic pronouncement on drugs, and urged the states to study less restrictive approaches by decriminalizing consumption and possession of drugs for personal use.²⁵⁴

136. Mindful of the foregoing considerations, and taking account of the challenges the states face to use pretrial detention in keeping with the relevant international standards, the IACHR recommends that the states adopt the judicial, legislative, administrative, and other measures needed to correct the excessive use of pretrial detention, guaranteeing that this measure is exceptional and limited by the principles of legality, presumption of innocence, necessity, and proportionality. In particular, the State should promote, regulate, and apply alternatives to pretrial detention; and also include, in the implementation of any initiative, a gender perspective and differentiated approach with respect to persons who belong to groups at special risk.

137. During the period analyzed the IACHR has also received, through its various mechanisms, a steady flow of information on the overcrowding that prevails in prisons in the region. Among the consequences of overcrowding the Commission notes the increase in levels of violence, and expresses its concern over the confrontations among members of criminal gangs, riots, attacks with firearms, and other disorders that have resulted in dozens of persons losing their lives, and in many others being wounded. In this regard, the IACHR made several appeals through its press releases in which, in addition to condemning the violent deaths that occurred in Brazil²⁵⁵, Mexico²⁵⁶, and Venezuela²⁵⁷, it urged those states to clarify the circumstances in which these facts occurred, and, where possible, to identify and punish the persons responsible. Of special concern for the IACHR were the deaths of almost 100 persons in January 2017 in four prisons in the states of Amazonas and Roraima, in Brazil.²⁵⁸

g. Afrodescendants and against Racial Discrimination

138. In 2017 the Rapporteurship on the Rights of Persons of African Descent and against Racial Discrimination, which is led by Commissioner Margarette May Macaulay, drawing on the different mechanisms of the IACHR, has monitored the situation of racial discrimination and in particular the human rights situation of Afrodescendent persons in the region, and is currently drawing up a report on the problem of police violence in the United States and its human rights implications. In 2017 the Inter-American Commission continued receiving worrisome information on the persistence of forms of structural discrimination and violence that have a particular impact on Afrodescendent persons in the hemisphere. The IACHR calls on the states of the region to step up the efforts required to fight the persistence of racial discrimination and marginalization of the Afrodescendent population in the context of the International Decade for People of African Descent proclaimed by the United Nations General Assembly.

139. The Commission expresses concern about the situation of the LGBTI Afrodescendent population, which has suffered twofold discrimination in the hemisphere, based on sexual orientation and ethnic-racial origin. During the 161st regular period of sessions, the IACHR received information about violence against LGBTI Afrodescendent persons in Brazil.²⁵⁹ On this occasion, the civil society organizations indicated that black and mulatto persons account for 54% of the population in Brazil, and that they are in a

²⁵⁴ IACHR, *Measures Aimed at Reducing the Use of Pretrial Detention in the Americas*, OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 151.

²⁵⁵ IACHR, Press Release, *2/17 - IACHR Condemns the Deaths of Nearly One Hundred People in Prisons in Brazil*, January 12, 2017.

²⁵⁶ IACHR, Press Release No. *97/17 - IACHR Condemns Death of 28 Prison Inmates in Acapulco, Mexico*, July 13, 2017, and Press Release *163/17 - IACHR Condemns Death of at least 17 Prison Inmates in Cadereyta, Mexico*, October 18, 2017.

²⁵⁷ IACHR, Press Release No. *126/17 - IACHR Condemns the 37 Violent Deaths in a Venezuelan Detention Facility*, August 25, 2017.

²⁵⁸ IACHR, Press Release, No. *2/17 - IACHR Condemns the Deaths of Nearly One Hundred People in Prisons in Brazil*, January 12, 2017.

²⁵⁹ IACHR, Press Release No. 035/17, *Report on the 161st Session of the IACHR*, March 22, 2017.

vulnerable situation with respect to the rest of the population. They indicated that said vulnerability is accentuated in the case of the LGBT Afrodescendent population due to the lack of affirmative actions to benefit them, resulting in the structural and systematic violation of their human rights in all aspects of social life. The Commission has received complaints from different countries of the hemisphere on the extreme violence and murders motivated by homophobia against Afrodescendants. Therefore, the Commission underscores the importance of analyzing the intersection of the LGBT Afrodescendent population both in the policies for responding to such attacks and in the design of affirmative action laws and policies.

140. The IACHR also expresses its concern over the situation of Afrodescendent human rights defenders in Colombia. On June 16, 2017, by means of a press release, the Commission condemned the assassination of human rights defender and Afrodescendent leader Bernardo Cuero, in Colombia.²⁶⁰ The IACHR reiterates that the states have the obligation to prevent any attack on the life and physical integrity of human rights defenders, bearing in mind the specific risk factors to which Afro-Colombian leaders are exposed, so as to guarantee that at all times they are able to carry out their legitimate activities of defending human rights without fear of reprisals or restrictions.

141. The situation of Afrodescendants was addressed by civil society organizations during 163rd special period of sessions.²⁶¹ At this hearing, the requesting organizations denounced the profound effects of the armed conflict on the Afrodescendent populations in Colombia, in particular women and displaced persons. They noted the invisibility of these groups and, above all, the shortcomings in the implementation of the “Ethnic Chapter” of the Final Agreement for Termination of the Conflict and the Construction of a Stable and Lasting Peace in Colombia. The organizations noted that the lack of public policies with an ethnic and gender focus has aggravated the situation of these populations in the Pacific region. Therefore, the IACHR urges the State to adopt urgent measures geared to overcoming the situation of structural discrimination that affects the Afrodescendent population, as well as positive measures to eliminate racial discrimination and ensure that Afrodescendent persons can exercise their rights on an equal footing with the rest of the population. This involves taking measures to ensure guarantees for economic, social, and cultural rights in conditions of equality and non-discrimination, and to ensure that these not entail any detriment to other fundamental rights of the population.

142. At the same time, the Commission views with concern expressions of racial hatred, xenophobia, and violence that took place in the United States in the course of 2017. For example, the IACHR forcefully condemned alarming acts of racism and violence during a white nationalist rally in Charlottesville, Virginia, on August 12.²⁶² According to the information available, white nationalist groups, neo-Nazis, members of the Ku Klux Klan and others propagated white supremacy, intolerance, and hatred towards different persons who belong to minorities. The IACHR reiterates the need for the State to continue exhaustively investigating these serious acts and urges the public officials of the United States to unequivocally condemn intolerance and racial hatred, and to recognize the role that discrimination plays in perpetrating violence against African-Americans, immigrants, indigenous persons, and minority communities throughout the country. The IACHR also notes that the states are obligated to organize the entire government apparatus – both federal and state – to take on incidents of hate directed against African-Americans and other minority groups. The State has the duty to implement well-articulated legislative, policy, and institutional measures to protect and guarantee the rights to non-discrimination and equality.

143. The IACHR also continues to be concerned about the structural barriers still faced by Afrodescendants in the Americas to access decent and quality employment, dignified housing, drinking water, education, and health services, among other economic, social and cultural as well as civil and political rights.²⁶³ In the case of Cuba in particular, the IACHR has received information that describes the existence

²⁶⁰ IACHR, Press Release No. 77/17, [IACHR Condemns the Killing of Bernardo Cuero in Colombia](#), June 16, 2017.

²⁶¹ IACHR, Press Release No. 122/17, [Report on Public Hearings Held during the 163rd Session](#), August 16, 2017.

²⁶² IACHR, Press Release No. 124/17, [IACHR Repudiates Hate Speech and Violence in Charlottesville, Virginia, United States](#), August 18, 2017.

²⁶³ IACHR, Press Release No. 035/17, [Report on the 161st Session of the IACHR](#), March 22, 2017.

of stereotypes and racial profiling in employment and in the tourism industry, and the over-representation of Afro-Cubans in marginal jobs in this sector.²⁶⁴

144. The IACHR has continued receiving information in the course of 2017 on the excessive use of force by the authorities and the police against Afrodescendants in various countries of the region. Accordingly, the IACHR received information during the 165th period of sessions in Montevideo about extrajudicial executions and the excessive use of force by the police in Jamaica and on citizen security and the human rights situation in the favelas of Rio de Janeiro, a problem that affects persons of African descent disproportionately.²⁶⁵ Along the same lines, the IACHR received information during the 166th special period of sessions on the situation of impunity in cases of extrajudicial executions in the United States, in which most of the victims are also Afrodescendants.²⁶⁶

145. At the 161st special period of sessions the IACHR received information on major obstacles to securing access to justice and to the full exercise of the rights to protest, freedom of movement and freedom of expression suffered by Afro-Cuban human rights defenders.²⁶⁷ The petitioner organizations also told of the particular risk of suffering acts of violence, including physical, psychological, and sexual violence, to which Afro-Cuban women are subjected. In this regard, the Commission reiterates that the work of human rights defenders is essential for building and strengthening a solid and lasting democratic society. Accordingly, the State should move forward in adopting legislative and public policy measures to provide effective protection for human rights defenders, with a differential approach taking account of gender and race.

146. The IACHR also expresses concern over the ongoing discrimination against persons of Haitian descent, or perceived as such, in the Dominican Republic, which has an impact on their rights to nationality and the exercise of all their civil, political, economic, social, and cultural rights.²⁶⁸ The IACHR values the efforts of the Dominican State to construct a policy of dialogue and to follow up on its recommendations, which is reflected in the openness to review the visit of the Commission to the country in 2017. The IACHR is appreciative of the will of the State of the Dominican Republic to move forward in a work plan for carrying out the Commission's recommendations, in particular adopting specific measures for the effective implementation of standards of equality and non-discrimination.²⁶⁹

147. Based on the foregoing considerations, the Commission highlights the multidimensional nature of the effort that the states should adopt to advance the rights of Afrodescendants. First, the states should adopt legislation and policies that consider the particular needs for respecting and guaranteeing rights of Afrodescendent persons, with their participation. The states, in turn, should adopt measures to address the practices and social stereotypes that sustain structural discrimination against persons of African descent. The states also have the obligation to compile official statistics on the situation of Afrodescendent persons. It is also important that the states consider Afrodescendent persons in their measures to address special risk of violations of their human rights based on variables such as their sex and gender, as well as Afrodescendent women. The statistics compiled should be reflected in the design of all public policies relevant to the civil, political, economic, social, cultural, and environmental rights of Afrodescendent persons.

²⁶⁴ *Comité Ciudadanos por la Integración Racial (CIR)*, Negación, exclusión y represión: Informe sobre la situación de derechos humanos de la población afrocubana, July 2017.

²⁶⁵ IACHR, Press Release No. 168/17, [IACHR Wraps up 165th Regular Session in Uruguay](#), October 27, 2017.

²⁶⁶ IACHR, [Thematic Hearing, Reports of impunity for extrajudicial executions in the United States](#), December 7, 2017.

²⁶⁷ Observatorio Cubano de Derechos Humanos, [559 detenciones arbitrarias en julio, 3.118 en el primer semestre de 2017 y la 'Ley Cangrejo'](#), July 2017.

²⁶⁸ IACHR, Press Release No. 087/17, [IACHR Welcomes Willingness of Dominican Republic to Comply with Recommendations](#), July 29, 2017.

²⁶⁹ IACHR, Press Release No. 194/17, [IACHR carries out Working Visit to the Dominican Republic](#), November 30, 2017.

h. Lesbian, Gay, Bisexual, Trans and Intersex Persons

148. In the course of 2017 the Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) Persons, which is led by Commissioner Francisco Jose Eguiguren Praeli, has monitored, using the various mechanisms of the Inter-American Commission on Human Rights, the human rights situation of persons who suffer violence, discrimination, and exclusion for reasons related to their sexual orientation, gender identity, gender expression (real or perceived), and/or corporal diversity in the member states of the OAS. In this regard, the Rapporteurship continued receiving information on the main gains and challenges relating to the human rights situation of LGBTI persons in the region.

149. As regards the gains, the Commission salutes Canada's initiative on allowing persons who have electronic travel authorizations to enter the country to mark "other" for gender, as well as the possibility of official documents having the option of gender "x". The IACHR also salutes the decision of the Canadian State to recognize as refugees and guarantee the protection of 31 homosexuals, lesbians, and bisexual persons from Chechnya, Russia, this year.²⁷⁰ In the United States the IACHR recognizes the cities of Miami and Seattle for their decisions to prohibit "conversion therapies."²⁷¹ The Commission also recognizes progress in the initiative of the Ministry of Public Health and Social Welfare of Paraguay to adopt the use of the name by which trans persons identify themselves in their medical records.²⁷² Another positive initiative has been adopted by the Office of the Public Ombudsmen for Audiovisual Communication Services of the Ministry of Justice and Human Rights of Argentina, which sets aside no less than 2% of all staff positions for trans, transvestite, and intersex persons.²⁷³ Along these same lines, the Commission highlights Chile's important initiative to introduce the law for marriage equality in the Congress and it hopes this initiative will have swift results that are positive for LGBTI persons.²⁷⁴

150. Despite the advances noted, an overview of the situation of rights of LGBTI persons in the region is very uneven, thus the Inter-American Commission expresses its concern over the threats of backward movement as regards the recognition of the rights of LGBTI persons, promoted by fundamental movements, and against rights. In this regard, the IACHR has highlighted its concern over the large numbers of killings of LGBT persons in the region and the alarming levels of cruelty illustrated by them, especially in Argentina, Brazil, Colombia, El Salvador, the United States, and Venezuela.²⁷⁵ The Commission found that violence against trans women continues at alarming levels²⁷⁶ and their social exclusion reflects the low life expectancy of these persons in the hemisphere.²⁷⁷ In addition, the IACHR has learned of the medical violence that continues to be used in the region against intersex persons, who are subjected to unnecessary surgeries to "adapt" their bodies to the binary standard for sexes.²⁷⁸ The Commission has also received information, on repeated occasions, of acts of violence against those who defend the rights of LGBTI persons, a group exposed to violence due to the intersectionality of their sexual orientation and/or gender identity and their role in the defense of human rights.²⁷⁹ The IACHR also learned with concern that there continue to be states

²⁷⁰ IACHR, [IACHR Welcomes Decision to Grant Asylum to LGBTI Russian Chechens in Canada](#), October 13, 2017.

²⁷¹ IACHR, [IACHR Hails Regional Progress on Human Rights of LGBTI People in the Americas](#), March 10, 2017.

²⁷² IACHR, [IACHR Hails Regional Progress on Human Rights of LGBTI People in the Americas](#), March 10, 2017.

²⁷³ IACHR, [IACHR Hails Regional Progress on Human Rights of LGBTI People in the Americas](#), March 10, 2017.

²⁷⁴ IACHR, [IACHR Welcomes Progress toward Marriage Equality in Chile](#), October 3, 2017.

²⁷⁵ IACHR, [IACHR Condemns Alarming Numbers of LGBT Killings in the Region So Far this Year](#), March 23, 2017.

²⁷⁶ IACHR, [On Trans Day of Visibility, IACHR Urges States to Ensure Full Inclusion of Trans People and Combat the Factors that Exacerbate Discrimination and Exclusion](#), March 31, 2017.

²⁷⁷ IACHR, [On International Transgender Day of Remembrance, the IACHR Urges States to Protect Trans Persons' Full Access to their Economic, Social, and Cultural Rights](#), November 20, 2017.

²⁷⁸ Hearing "Human rights situation of intersex persons in the Americas," 161st period of sessions, March 20, 2017.

²⁷⁹ IACHR, [IACHR Condemns Attack on LGBTI Rights Defender David Valle, in Honduras](#), August 9, 2017.

in the hemisphere that accept the existence of “clinics” and “therapies” with the aim of “modifying” sexual orientation or gender identity.²⁸⁰

151. The IACHR also learned with concern that there continue to be states in the hemisphere that accept the existence of “clinics” and “therapies” with the aim of “modifying” the sexual orientation or gender identity in the hemisphere.²⁸¹ Accordingly, the IACHR notes with concern the adoption of policies that imply setbacks in the protection of the rights of trans persons and their effective participation in the various spheres of society. These measures include the decision of the United States to rescind federal guidelines and protections that guaranteed non-discrimination of trans persons in schools²⁸², and the prohibition on trans persons serving in the military.²⁸³ The IACHR reiterates that these measures reinforce the cycle of violence, discrimination, and criminalization against LGBTI persons. On this last prohibition, it is worth noticing that a Federal judge in Washington denied the measure advanced by Trump’s Administration to prohibit transgender persons to join the army. With this decision, beginning January 1st 2018, transgender soldiers could join the USA army²⁸⁴. The IACHR reiterates that these measures reinforce the cycle of violence, discrimination and criminalization against LGBTI persons. The IACHR also found a worsening of social expressions of intolerance against the freedom of expression of LGBTI persons, as well as the spread of hate speech against the LGBTI community.²⁸⁵ Also worrisome to the Commission are the bills that change educational guidelines with the aim of prohibiting teachers from teaching with a gender perspective in the schools.²⁸⁶

152. In December 2017, the IACHR also expressed its concern over the decision of the Ministry of Education and Science of Paraguay to prohibit the dissemination and use of materials referring to “gender theory and/or gender ideology.” The IACHR underscored that the measure, adopted by Resolution No. 29,664, presupposes a setback for the rights of persons with diverse sexual orientations and gender identities, women’s rights, and the right of children to receive an education free from stereotypes based on ideas of inferiority and subordination.²⁸⁷

153. The IACHR emphasizes that discrimination on grounds of sexual orientation, gender identity (real or perceived), and corporal diversity is prohibited by the American Convention and that the states should adopt the measures necessary for ensuring real and effective equality for LGBTI persons. The Commission, accordingly, underscores the need for the states to guarantee recognition and integral protection for the rights of LGBTI persons, including the rights to access dignified and decent employment; protection for the family; and proper access to health care, education, and housing. In addition, the states should implement policies and educational programs designed to modify social and cultural standards and practices that perpetuate discrimination against LGBTI persons.²⁸⁸ The IACHR emphasizes the need to pool efforts to make progress in protecting the rights of LGBTI persons in the hemisphere. To that end, laws, regulations, and public policies are needed to recognize, guarantee the rights of, and further the social inclusion of LGBTI persons.

²⁸⁰ Information received from civil society in meeting with the IACHR, November 16, 2017.

²⁸¹ Information received from civil society in meeting with the IACHR, November 16, 2017.

²⁸² IACHR, [IACHR Expresses Concern over Setbacks in Federal Protections for Trans and Gender-Nonconforming Students in the United States](#), March 15, 2017.

²⁸³ The White House, [Presidential Memorandum for the Secretary of Defense and the Secretary of Homeland Security](#), August 25, 2017.

²⁸⁴ *El Mundo*, [EEUU tendrá que aceptar a los transgénero en sus fuerzas armadas](#), December 11, 2017.

²⁸⁵ IACHR, [Violence against LGBTI persons](#), OAS/Ser.L/V/II.rev.1 Doc. 36, November 12, 2015, para. 213.

²⁸⁶ IACHR, [Human rights and free, plural, and uncensored education in Brazil: the proposal to exclude a perspective on gender identity and sexual orientation in the National Basic Curriculum and the “Schools without Political Party Project” \(at the initiative of the Commission\)](#), June 27, 2017.

²⁸⁷ IACHR, [IACHR Regrets Ban on Gender Education in Paraguay](#), December 2017.

²⁸⁸ IACHR, [Violence against LGBTI Persons](#), OAS/Ser.L/V/II.rev.1 Doc. 36, November 12, 2015, p. 301.

i. Persons with Disabilities

154. In recent years the Inter-American Commission has been monitoring the situation of persons with disabilities in the region. It is worth noticing that in the framework of the 162nd Period of Sessions the IACHR appointed Commissioner Luis Ernesto Vargas Silva as the First Commissioner responsible for the Unit for the Rights of Persons with Disabilities. The Commission has highlighted the situation of special vulnerability affecting persons with disabilities in the Americas and, through its different mechanisms, has reiterated to the states their special duty of protection vis-à-vis this group.

155. According to figures from the World Health Organization and the World Bank, at present more than one billion persons are living with some disability in the world, accounting for approximately 15% of the world population. In particular, according to the Economic Commission for Latin America and the Caribbean, (ECLAC), in Latin America and the Caribbean approximately 12% of the population has a disability, i.e. approximately 66 million persons. Even though these figures represent a large number of persons with disabilities, it is estimated that this figure is even greater considering the difficulty obtaining this information, due to mainly to the differences in the various methods used in censuses and in compiling statistics.

156. Historically persons with disabilities have faced serious physical and social obstacles to being able to fully exercise their rights. The Commission has noted that persons with disabilities face many challenges in the effective enjoyment of their human rights such as the failure to recognize their legal capacity; lack of community services to guarantee their life in the community; lack of adequate health, habilitation, and rehabilitation services; lack of reasonable adaptations; difficulty and discrimination in access to education and employment; limitation in their involvement in public matters; and obstacles in access to justice, among others. These violations of their human rights are aggravated due to the intersectional discrimination against persons with disabilities, which occurs as a result of their disability but also because of their gender, sexual orientation, gender identity, ethnic-racial origin, age, situation of poverty, extreme poverty, or social marginalization, nationality, religion, being deprived of liberty, immigration status, or statelessness.

157. Despite the situation described in the previous paragraph, the IACHR observes that recent years have seen major gains in the human rights of persons with disabilities, mainly with the adoption of the United Nations Convention on the Rights of Persons with Disabilities in 2006, which establishes a change in paradigm in relation to the treatment accorded persons with disabilities, where they are no longer seen as “mere objects of protection” so as to be treated as “subjects with rights and obligations.” This notwithstanding, the IACHR considers that despite the gains this Convention represents internationally, a major gap persists in the effective observance of such rights domestically, and persons with disabilities continue facing serious obstacles to the effective enjoyment of their human rights.

158. Bearing in mind the situation of special vulnerability that generally affects persons with disabilities, as well as the need to implement measures to promote and protect their human rights, in the context of the 162nd period of sessions of the IACHR, held in Argentina May 21 to 26, 2017, and in keeping with its Strategic Plan 2017-2021, the Inter-American Commission decided to create the Unit on the Rights of Persons with Disabilities. At that same period of sessions, the IACHR designated Commissioner Luis Ernesto Vargas Silva as the first commissioner responsible for that unit.

159. In this context, the Commission calls on the member states of the OAS to pool efforts to attain societies free from discrimination based on disability and to adopt the measures needed to ensure the effective protection of their human rights and their full inclusion and integration in their societies.

j. Older Persons

160. In 2017 the Inter-American Commission, drawing on its various mechanisms, monitored the situation of older persons in the region. It is to be highlighted that in the framework of the 162nd Period of

Sessions the IACHR appointed Commissioner Paulo Vannuchi as the first Commissioner responsible of the Unit for the Rights of Elderly People. The Commission has observed with concern how older persons face, daily, various forms of discrimination that have a serious negative impact on the effective enjoyment of their human rights.

161. According to figures from the World Health Organization (WHO), it is estimated that by 2050 there will be more than 2 billion persons age 60 and over, i.e. more than 20% of the world population.²⁸⁹ At present, in Latin America and the Caribbean, the population age 60 and over is made up of some 76 million persons; it is estimated it will grow to 147 million by 2037 and 264 million in 2075.²⁹⁰ As regards the United States and Canada, it is estimated that there will be some 115 older persons by 2060.²⁹¹ Despite this situation, older persons struggle against discriminatory stereotypes and conduct towards persons because of their age, known as age discrimination.

162. The IACHR is extremely concerned that older persons face several forms of discrimination. Older persons are generally excluded from the labor market, face multiple obstacles to access to public and private services, are depicted in the media using stereotypes, and are victims of several specific forms of violence, which contributes to their situation of vulnerability, exclusion, and being rendered invisible in society.

163. In this regard, among the main challenges faced by older persons in the region are the need to continue improving the laws as well as the implementation of mechanisms of protection and programs for the effective enjoyment of their human rights, such as regulating and administering social services, health services, and long-term care and palliative care; and intersectional discrimination against older persons due to their age but also due to their gender, sexual orientation, gender identity, ethnic-racial identity, disability, poverty, extreme poverty, or social marginalization, nationality, religion, deprivation of liberty, immigration status, or statelessness.

164. In the context of the 162nd period of sessions, held in Argentina from May 21 to 26, 2017, in keeping with what is established in the IACHR's Strategic Plan 2017-2021, and in light of the coming into force of the Inter-American Convention on Protecting the Human Rights of Older Persons in December 2016, the Inter-American Commission decided to create the Unit on the Rights of Older Persons.²⁹²

165. After the establishment of the Unit, the Inter-American Commission convened a regional public consultation with representatives of several state agencies and non-governmental organizations to receive input and suggestions on the priority areas of action with a view to drawing up the work plan of the Thematic Unit for the 2018-2019 period. The consultation took place in the context of the 165th period of sessions, held in Montevideo, Uruguay, on October 24, 2017. In this consultation the situation of the rights of older persons in the region was addressed in the following terms: (a) discrimination on grounds of age and intersectional discrimination; (b) older persons as a vulnerable group (with discussion of poverty, social exclusion, and the like); (c) rights of older persons (with an emphasis on the rights to health, employment, and pensions); (d) laws, programs, and mechanisms for protecting the rights of older persons; and (e) the role of business and the private sector in guaranteeing the human rights of older persons.²⁹³

166. As regards the role of the inter-American system in this context, the Commission emphasizes the importance of the states of the region ratifying the Inter-American Convention on Protecting the Rights of Older Persons – the first, and to date, the only international treaty on the subject. This takes on special

²⁸⁹ World Health Organization, [Aging and life cycle. Interesting data on aging.](#)

²⁹⁰ ECLAC, [Challenges to the autonomy and interdependent rights of older persons](#), (LC/CRE.4/3/Rev.1), Santiago, 2017, p.11.

²⁹¹ IACHR, Press Release 152/17, [IACHR Calls on States to Combat Discrimination against Older Persons](#), October 4, 2017.

²⁹² IACHR, Press Release, 66/17, [IACHR Creates New Thematic Units and Announces New Distribution of Rapporteurships](#), May 24, 2017.

²⁹³ IACHR, [Unit on the Rights of Older Persons – IACHR, Public Consultation](#), October 24, 2017.

importance since the ratification of the Convention by 10 states will bring into force the Follow-Up Mechanism provided for in the Convention²⁹⁴, made up of a Conference of States Party and a Committee of Experts; it will facilitate monitoring and efforts shaped increasingly by the issues and challenges in this area, at the national level. In addition, the Commission calls on the states to take specific and timely measures to reform their public policies and domestic laws so as to protect and promote the rights of older persons, to create the necessary institutional arrangements, and to train public servants about the rights of older persons.

k. Memory, Truth and Justice

167. Since it was established, the Inter-American Commission has monitored and developed standards on justice, reparation, memory and truth with respect to serious human rights violations. It is to be highlighted that in the framework of the 162nd Period of Sessions the IACHR appointed Commissioner Paulo Vannuchi as the first Commissioner responsible of the Unit for Memory, Truth and Justice. In the region major gains have been made in justice with respect to crimes against humanity, promoting the right to memory and to the truth and reparation for victims. The inter-American human rights system, through its two organs, has contributed to these gains and has intervened on behalf of victims and their next-of-kin, establishing standards and ensuring compliance with the states' obligations pursuant to the principles of transitional justice.

168. Nonetheless, many challenges remain. It is still necessary to strengthen and move forward with the investigation, prosecution, and punishment of the direct perpetrators and masterminds of human rights violations perpetrated in the past, establish guidelines for the handling of historical archives, and preserve places of memory and conscience so as to prevent and eliminate the patterns of structural impunity found in most countries of the region. In addition, the gains in the region have been uneven: while some countries have complied with a considerable part of their international obligations in this area, in others the situation of impunity remains. Also worrisome are recent setbacks that threaten the historical gains that the region has seen in this area.

169. The Unit for Memory, Truth and Justice was created in March 2017, in the context of the Strategic Plan 2017-2021, based on an assessment that highlighted that the issue continues to be a priority challenge in the region that demands close follow-up by the Commission. The IACHR monitored the issue through eight thematic hearings and the publication of seven press releases.

170. In the area of justice, with respect to serious human rights violations, the IACHR saluted major progress, such as the decision of the Supreme Court of Chile by which it convicted 33 former state agents for their responsibility for the aggravated kidnappings of five persons in 1987²⁹⁵, as well as the conviction by the Federal Court of Mendoza, Argentina, of four former judicial officers, sentenced to life imprisonment and absolute disqualification for their collaboration in crimes against humanity carried out by the civic-military dictatorship.²⁹⁶ The progress made in Guatemala in the investigation and detention of 18 members of the military forces charged with participating in forced disappearances and crimes against humanity during the armed conflict, in the context of the case known as "Plan Sánchez," must be noted as well.

171. Notwithstanding, inadequate progress or regressions in this area, which have been identified over the course of the year, are worrisome. We must first point to Peru's decision to grant a humanitarian pardon to former Peruvian President Alberto Fujimori, who was convicted and sentenced to 25 years in jail for gross human rights violations and acts of corruption. In this regard, the Commission emphasizes that international human rights law prohibits the use of amnesties, pardons and other forms of exoneration of

²⁹⁴ [Inter-American Convention on Protecting the Human Rights of Older Persons](#), Art. 33.

²⁹⁵ IACHR, Press Release No. 045/17, [IACHR hails decision of Chilean Supreme Court](#), April 12, 2017.

²⁹⁶ IACHR, Press Release No. 128/17, [IACHR Welcomes Historic Decision of the Federal Oral Court of Mendoza, Argentina](#), August 29, 2017.

responsibility for individuals, who have been found guilty of crimes against humanity. The Commission also finds that the decision did not respect due process protections or the right to justice for the victims of the crimes against humanity. In addition, the Commission noted the fact that the dispensation from serving sentence afforded to Alberto Fujimori, along with presidential clemency shielding him from any criminal proceeding that may be brought against him, constitutes a breach of the international obligation of the Peruvian State, as upheld in the judgment of the Inter-American Court, regarding the duty to investigate human rights violations, to punish those responsible and to provide reparation to the victims. This situation was cause for great concern of the IACHR and of the human rights organizations of Peru, inasmuch as it seriously affected proceedings to combat impunity in this country. It must also be noted that the IACHR rejected the pardon of Alberto Fujimori, on the grounds that it was a decision running afoul of the international obligations of the State of Peru.²⁹⁷ In turn, the IACHR noted that that grave situation is further compounded by the slow pace of the judicial proceedings for gross human rights violations,²⁹⁸ an issue that has been raised before the Commission in the context of a thematic hearing.

172. The Commission also notes with concern the slow pace of proceedings in Argentina.²⁹⁹ In this regard, the IACHR expressed its dismay over changes in legal precedents, which are inconsistent with Inter-American standards regarding applicable punishments for crimes against humanity. The IACHR voiced its concern over the interpretation issued by the Supreme Court of Justice, which did not take into account differential characteristics and particular circumstances of the crimes against humanity, thus giving rise to a giant step backwards in the area of combatting impunity and securing justice for the victims.³⁰⁰ In Brazil, the crimes of the civilian-military dictatorship continue in impunity due to the 2010 judgment of the Federal Supreme Court (ADPF 153), which declared the constitutionality of the 1979 Amnesty Law. Despite the long case-law of the inter-American human rights system on this question³⁰¹, including the case of *Gomes Lund v. Brazil*, none of the 26 actions proposed by the federal Attorney General's Office³⁰² to prosecute state agents in Brazilian courts has prospered. In Uruguay, while Law 15,848 has not been in force, due to the judgment of the Inter-American Court in the *Gelman* case, many obstacles persist in the struggle against impunity, expressed in the scant progress in trials for serious human rights violations during the civic-military dictatorship.³⁰³ The Commission condemned the death threats made against authorities, judicial officers, and human rights defenders who played a role in the prosecution of those judicial cases³⁰⁴, and granted precautionary measures on behalf of one person who had received threats.³⁰⁵ The Commission also highlighted the obligation of the State of Colombia to carry out serious, impartial, and effective investigations in the cases that involve alleged human rights violations in the context of the Special Jurisdiction for Peace, in response to the concerns of civil society organizations about the observance of international human rights

²⁹⁷ IACHR, Press Release. Press Release 218/17. IACHR Expresses Deep Concern and Questions the Presidential Pardon Granted to Alberto Fujimori.

²⁹⁸ IACHR, [Derecho a la verdad, justicia y reparación en Perú](#). ['Right to the truth, justice and reparation in Peru']. Thematic Hearing, 162nd Session, May 25, 2017.

²⁹⁹ IACHR, [Derecho a la memoria, Verdad y Justicia por crímenes de lesa humanidad en Argentina](#). ['Right to memory, truth and justice for crimes against humanity in Argentina']. Thematic hearing. 165th Session, October 24, 2017.

³⁰⁰ IACHR, Press Release No. 060/17, [IACHR Expresses Concern over Argentine Supreme Court Decision](#), May 15, 2017.

³⁰¹ I/A Court HR. [Case of Barrios Altos v. Peru](#). Merits. Judgment of March 14, 2001; I/A Court HR. [Case of Almonacid Arellano et al. v. Chile](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of September 26, 2006; I/A Court HR. [Gomes Lund et al. \("Guerrilla of Araguaia"\) v. Brazil](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010; I/A Court HR. [Case of Gelman v. Uruguay](#). Merits and Reparations. Judgment of February 24, 2011; IACHR, [Report No. 71/15](#), Case 12,879, Merits, Vladimir Herzog et al., Brazil, October 28, 2015.

³⁰² Brazil, Federal Public Ministry (MPF), Chamber of Coordination and Review, Criminal. ["Crimes da Ditadura Militar"](#). 2017.

³⁰³ IACHR, [Judicial officers and human rights defenders in the context of transitional justice in Uruguay](#). Thematic hearing, 162nd period of sessions, May 25, 2017.

³⁰⁴ IACHR, Press Release No. 021/17, [IACHR Condemns Death Threats in Uruguay](#), March 1, 2017.

³⁰⁵ IACHR, Precautionary Measure No. 402-17, [Resolution 20/17](#), June 21, 2017.

standards.³⁰⁶ The Commission also highlighted the importance of fighting impunity as an important measure to ensure non-repetition, in the context of implementing the Peace Accord.³⁰⁷ Finally, the Commission has highlighted the need for crimes against humanity and serious human rights violations perpetrated during the internal armed conflict in El Salvador not to continue in impunity, after the 2016 judgment of the Constitutional Chamber of the Supreme Court of Justice that determined the unconstitutionality of the Amnesty Law.³⁰⁸

173. In the area of memory and truth, the Commission highlights some important gains made in the region, such as the installation of the Truth Commission in Bolivia³⁰⁹ and the creation of the National Commission to Search for Persons Missing in the Context of the Armed Conflict in El Salvador, which expands the work initiated in 2010 in the search for missing children. With respect to Brazil, the IACHR values the continuation of the work to identify the disappeared done by the Working Group from Peru³¹⁰ and the Special Commission on Political Deaths and Disappearances³¹¹, based on the results of the National Truth Commission. The Commission highlights the need for gains in the process of declassifying and promoting access to archives on serious human rights violations, as has begun in the case of Bolivia, and urges the states of the region to promote legislative and institutional changes to that end. The Commission was concerned to receive information on the restrictions in place in Mexico³¹² and Peru³¹³ when it comes to accessing documents and information in the hands of public agencies concerning serious violations. The Commission has also expressed concern for the expressions of high officials of the Argentine State who have put in doubt or diminished the importance in relation to the amount of victims of serious violations of human rights in that country.

174. As regards reparation for victims, the IACHR expresses its concern with respect to Brazil in response to the reduction in the number of sessions of the Amnesty Commission, which impacts the number of requests for political amnesty decided in the year³¹⁴, as well as the alleged loss of autonomy with respect to its deliberations on reparations.³¹⁵ The Commission also received information with respect to setbacks in policies on reparation for victims in Argentina, and urged the State to make integral reparation to persons affected by serious human rights violations.³¹⁶

³⁰⁶ IACHR, [State obligations against impunity and Special Jurisdiction for Peace in Colombia](#). Thematic hearing, 161st period of session, March 21, 2017.

³⁰⁷ IACHR, [Guarantees of non-repetition in the Peace Accord in Colombia](#). Thematic hearing, 161st period of sessions, March 21, 2017.

³⁰⁸ IACHR, Press Release No. 012/17, [IACHR Urges El Salvador to Continue Fighting Impunity for Serious Crimes of the Past](#), February 9, 2017.

³⁰⁹ IACHR, Press Release No. 142/17, [IACHR Welcomes the Establishment of the Truth Commission in Bolivia](#), September 14, 2017.

³¹⁰ Globo, "[Quase 30 anos depois de a vala de Perus ser aberta, laboratório da Bósnia analisará DNA de ossadas](#)", September 5, 2017; Flávia Piovesan and Eugênia Augusta Gonzaga, "[Pelo direito à verdade e ao luto](#)," September 14, 2017.

³¹¹ Globo, "[Corpo que pode ser de guerrilheiro morto durante a ditadura militar é exumado na Bahia](#)," September 1, 2017; Diário de Goiás, "[Governo exuma ossada que pode ser de guerrilheiro baiano morto na ditadura](#)," August 31, 2017.

³¹² IACHR, [The right to the truth in cases of serious human rights violations in Mexico](#). Thematic hearing, 161st period of sessions, March 17, 2017.

³¹³ IACHR, [The right to the truth, justice, and reparation in Peru](#). Thematic hearing, 162nd period of sessions, May 25, 2017.

³¹⁴ Brazil, Ministry of Justice and Public Security (MJSP), Amnesty Commission, [Calendar of Sessions for 2017](#).

³¹⁵ The former president of the Amnesty Commission, Arlindo Fernandes de Oliveira, is said to have left the position due to the decision of the Ministry of Justice to submit the decisions of the organ to the review of the office of legal counsel of the organ, which is not provided for in the law that created it, Law 10,559/2002. Gazeta do Povo, "[Presidente da Comissão de Anistia deixa governo e critica ministro da Justiça](#)," September 16, 2017.

³¹⁶ IACHR, [Right to memory, truth and justice for crimes against humanity in Argentina](#), Thematic hearing, 165th period of sessions, October 24, 2017.

175. Considering the challenges posed in terms of memory, truth, and justice, the IACHR urges the states of the region to carry out their international obligations in this area, promoting justice for serious human rights violations; reparation for victims; memory and the truth about what happened; and institutional and legislative reforms to promote non-repetition.

176. Finally, it must be noted in that in the process of establishing the Thematic Unit on Memory, Truth and Justice, the IACHR held a public consultation³¹⁷ with users of the system on October 21, in Montevideo, Uruguay. With more than 120 participants from 17 countries of the region, the consultation culminated in specific proposals distributed across seven main themes: justice and fighting impunity; policies on memory; institutional reforms; integral reparation and psychological reparation; the right to the truth; access to information; and serious violations of human rights and forced disappearances. Based on the results of the consultation, the IACHR will draw up its work plan for the 2018-2019 period in the context of the objectives and priorities spelled out in the Strategic Plan 2017-2021.

I. Freedom of Expression

177. The Office of the Special Rapporteur for Freedom of Expression of the IACHR, which is led by Special Rapporteur Edison Lanza, observed gains and setbacks in the hemisphere in a dynamic that does not allow for a clear summary in terms of general trends. It was a period marked by continued violence against journalists and repression and criminalization of social protest in the hemisphere. Assassinations and disappearances persist of journalists who clearly play an important role for their respective regions in different countries of the hemisphere, highlighting the great challenge still pending to eradicate the most brutal form of censorship. Impunity for these crimes, with some exceptions, continues to be the rule, which only encourages repetition of the violence. In effect, in 2017 many journalists have been assassinated in Mexico and Honduras, at the same time as dozens of protesters have lost their lives for protesting in Venezuela. The Office of the Special Rapporteur has also observed cases of the disproportionate use of violence by the security forces in protests in Paraguay, Brazil, Honduras, and Bolivia.

178. A worrisome trend was noted towards legal reforms aimed at adopting new criminal statutes and increasing the penalties imposed on demonstrators and at limiting the use of social protest in the United States, and a trend towards greater harassment and stigmatization of the press by the high-level authorities, which has the effect of discrediting an institution that plays a central role in democracy, and increasing the vulnerability of journalists and media outlets.

179. Notwithstanding these challenges, the Office of the Special Rapporteur was pleased to observe the gains made by the states in freedom of expression, access to public information, and the progress in Colombia and Paraguay regarding impunity in crimes related to the exercise of journalism. This Office has learned of the release of journalists and whistleblowers who were incarcerated, the strengthening of national mechanisms for protecting journalists, and judicial pronouncements and legal reforms incorporating the standards of the inter-American system in cases related to the freedom of expression. In addition, sanctions against the direct perpetrators of assassinations and assailants of journalists and media workers, albeit on a relatively small scale, were also noted with great interest.

180. Regarding the gains mentioned, the Office of the Special Rapporteur salutes in particular the adoption of Bill S-231, the Journalistic Sources Protection Act, in Canada³¹⁸, which establishes more protections for journalists and informants; and the promulgation on March 31 of the Freedom of

³¹⁷ IACHR, Press release No. 146/17, [CIDH convoca para participar en consulta pública sobre la Unidad Temática Memoria, Verdad y Justicia](#), September 27, 2017.

³¹⁸ Openparliament.ca. June 20, 2017. *Bill S-231*; The Globe and Mail. November 22, 2017. *Senator tables bill to protect confidentiality of journalists' sources*; Canada Land. April 21, 2017. *Senate Unanimously Adopts Canada's First Press-Shield Bill*; The Globe and Mail. October 4, 2017. [Ottawa passes legislation to protect journalists' anonymous sources from police](#); Canadian Journalists for Free Expression. October 4, 2017. [Historic day for press freedom in Canada: parliament to pass press shield bill](#).

Information Act en Bahamas³¹⁹, which reinforces fundamental principles of accountability, institutional transparency, and access to information.

181. In terms of case-law, judgments that adopted inter-American standards related to the freedom of expression were observed in the cases of *Turner v. Driver*³²⁰ and *United States v. Robert John Hulscher*³²¹ in the United States; in the acquittal of journalists Tatiana Merlino, Débora Prado, and Pedro Pomar in the criminal action pursued for the crime of defamation in May 2013 in Brazil³²²; in the judgment of the Second Chamber of the Supreme Court of Justice of the Nation, on April 19 in the context of the case Amparo Judgment on Review 1/2017 about the website *mymusic.com*, determining that the total blocking of a webpage constitutes a violation of freedom of expression in Mexico³²³; in the opinion of the Unit for Access to Public Information of Uruguay, which reaffirmed the prohibition on generic classification of information; and in the judgment released by the Judicial branch reaffirming the right to freedom of expression and the scope of the duty of confidentiality, also in Uruguay.³²⁴

182. As regards institutional progress, special mention should be made of the activities organized and implemented by the Protection Mechanism of the Government of Honduras to strengthen it, implementing measures of protection and the early warning system, risk analysis, and dissemination and awareness-raising activities³²⁵; the improvements noted by the rapporteurships for freedom of expression of the IACHR and the United Nations regarding the protection mechanism for human rights defenders and journalists in Mexico; and the installation in February of the Inter-Institutional Roundtable for the Security of Journalists and to Fight Impunity, established in November 2016 and designed to as a mechanism for articulation of the public sector and civil society, in Paraguay.³²⁶

183. As regards fighting impunity, this Office notes the deportation on January 30 of Fabio López Escobar, who was a fugitive of justice after being convicted in 2015 as co-perpetrator of the homicide of journalist Orlando Sierra, which occurred in 2002, from the United States to Colombia³²⁷; the finding of liability against the Ministry of Interior by the Court of Civil Appeals (1st shift) for moral harm to journalist Alejandro Moreira in Uruguay³²⁸; the forwarding on March 1 to oral and public trial by the criminal judge of guarantees of the city of Curuguaty (Paraguay), Carlos Martínez, in the alleged homicides of the journalist

³¹⁹ *Parlamentario*. April 11, 2017. [Diputados de Cambiemos advierten sobre "violación a la libertad de expresión" en Formosa](#); Clarín. April 11, 2017. [Diputados de Cambiemos buscan revertir la condena a un periodista en Formosa](#); IACHR. Annual Report 2016, para. 23.

³²⁰ United States Court of Appeals for the Fifth Circuit. *Turner v. Driver*. Judgment of February 16, 2017. Available at: <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2017/02/Turner-v-Driver.pdf>

³²¹ United States District Court for South Dakota – Southern Division. *United States v. Robert John Hulscher*. Decision of February 17, 2017. Available at: https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2017/02/US-v-Hulscher_Order-adopting-report.pdf.

³²² *Artigo 19*. February 3, 2017. [Justiça absolve jornalistas em ação movida por ex-secretário de Saúde de São Paulo](#); Associação Nacional de Jornais (ANJ). February 13, 2017. [Justiça absolve jornalistas acusados de difamação por ex-secretário da Saúde de SP](#).

³²³ *La Jornada*. April 20, 2017. [Revés de la SCJN a decisión del IMPI para bloquear un sitio web](#).

³²⁴ UAIP. [Opinion 01/2017 of January 27, 2017](#).

³²⁵ United States Embassy in Honduras. January 27, 2017. [Gobierno de los Estados Unidos y Freedom House firman convenio de apoyo al Mecanismo de Protección en Honduras](#); Criterio. January 27, 2017. [Freedom House y EE.UU apoyarán mecanismo de protección a periodistas y defensores de derechos humanos](#).

³²⁶ IACHR. [Annual Report 2016. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Assessment of the status of the Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 22/17. March 15, 2017, para. 949.

³²⁷ *El Espectador*. January 30, 2017. [Deportado a Colombia Fabio López Escobar, condenado por el crimen del periodista Orlando Sierra](#); *El Herald*. January 31, 2017. [Asesino de Orlando Sierra llegó a Colombia deportado de EEUU](#); Knight Center for Journalism in the Americas. January 30, 2017. [EE.UU. deporta a hombre condenado por el asesinato del periodista colombiano Orlando Sierra](#).

³²⁸ Judicial Branch of Uruguay. Court of Civil Appeals (1st shift). [Judgment No. DFA 3-833/2016 SEF 3-172/2016 of December 14, 2016](#); *El Observador* / Referir. [Fotógrafo oficial de Nacional fue agredido por policías](#). March 27, 2014.

Pablo Medina³²⁹; and the overturning on July 18 of the judgment requiring the civil society organization TEDIC to eliminate contents from its website by the Court of Appeals for Children and Adolescent Matters of the Capital, also in Paraguay.³³⁰

184. The Rapporteurship also recorded an increase in the number of acts aimed at stigmatizing journalists and media outlets in several countries. At the same time as incidents of this sort continued occurring in countries traditionally affected by this issue, such as Bolivia and Venezuela, the Office of the Special Rapporteur has recorded new trends in countries in which this practice appears to be growing habitual, as in the United States during the current administration and, to a lesser extent, in Brazil. Political polarization of the media has proceeded apace in the region during the year, and could be related to some of the hundreds of cases of assaults on journalists and other media workers recorded by this Office during this period.

185. In addition, the Office of the Special Rapporteur has recorded the gradual increase in cybernetic attacks against computers and media outlets, whether by the different ways of blocking access to web portals or by espionage practices that are individually directed at their targets. Gradually the online scenario is becoming a matter of principal concern in the area of freedom of expression in the hemisphere. In this context, the Rapporteurship calls attention to the challenge the states face of respecting the characteristics particular to the Internet when it comes to implementing regulatory initiatives, keeping it as a free space favorable to access to information. In 2017 information has come to light about illegal espionage of journalists and other social actors in Mexico, and a growing number of attacks and episodes of harassment in the context of the Internet, directed against journalists and media outlets in Ecuador, Mexico, and Venezuela.

186. As regards indirect restrictions on the freedom of expression, the mechanisms to which one turns most in this connection have to do with the discretionary granting of licenses and government advertising, the arbitrary distribution of supplies of newsprint, and the selective requirement of credentials and invitations to attend official and/or public ceremonies in several countries. Incidents of direct censorship have been observed in the shutdown, blockage, and interruption of the signal of television channels, and legal judgments ordering that content be taken down. While in countries such as Nicaragua problems persist with access of the press to public events and places, and the obstruction of the work of media professionals, Venezuela has seen an increase in the selective practice of assigning permits for radio and television stations, and for the distribution of paper to the print media, and unjustified suspensions of radio stations. In addition, this Office has recorded a dangerous precedent related to the removal of content in response to judicial orders in Paraguay and the purportedly discriminatory use of government advertising in Bolivia and Mexico.

187. The criminal convictions of journalists to punish speech that is of public interest continues to occur in some states as a response to conflict between the freedom of expression and the right to honor and reputation, as well as the use of civil lawsuits to attempt to punish the work of journalists. In other cases, civil society has reported political pressure stemming from the publication of critical information to force the dismissal of professionals from media outlets. The Office of the Special Rapporteur notes that such incidents could eventually foster self-censorship. The systematic dynamic of reprisals against and detentions of journalists for doing their work of providing information continues in Cuba, and journalists have been put on trial by military courts in Venezuela. In 2017 this Office has also recorded a growing trend towards the prosecution of and filing of legal actions against journalists and media outlets in Uruguay.

³²⁹ ABC Color. March 2, 2017. [Vilmar afrontará juicio oral por asesinato de periodista](#); La Nación. March 2, 2017. ["Neneco" Acosta va a juicio oral por el crimen de Pablo](#); IACHR. [Annual Report 2016. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV (Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression). OEA/Ser.L/V/II CIDH/RELE/INF.16/17. March 15, 2017, paras. 119-120.

³³⁰ Judicial Branch of Paraguay. Court of Appeals for Children and Adolescents of the Capital. Decision and Judgment 57 of July 18, 2017. Available in the files of the Office of the Special Rapporteur; TEDIC. [Buena noticia: Tribunal revoca sentencia que censuraba a TEDIC por denunciar violencia de género](#). July 28, 2017.

188. In addition, the Office of the Special Rapporteur has noted changes in the legal framework in some countries that could have a negative impact on the right to freedom of expression. In 2017, those legal changes were geared to adopting criminal statutes on promoting terrorism, regulating acts of hate on social networks without taking into account the standards of the inter-American system, the lack of legal protection for online privacy, and regulation of the state of exception and economic emergency. In Honduras a criminal legal reform was adopted defining the crime of advocating and inciting acts of terrorism; in Venezuela a law was adopted related to criminalizing “hate crimes” (“*delitos de odio*”) whose ambiguity and vagueness could criminalize forms of expression on the Internet; in the United States the new administration changed the law, overturning privacy measures established by the previous administration; in Venezuela invoking states of exception has had a negative impact on the right of freedom of expression.

189. The concentration of media ownership and the lack of pluralism continue to constitute a critical problem in some countries. This situation, plus the lack of incentives for and recognition of the community sector, and in some cases even its criminalization, denote problems of pluralism for the media ecosystem, especially in Central America.

190. In the area of access to public information, this Office has recorded considerable progress in legislation and case-law, but also a tendency towards the excessive and disproportionate classification of information of clear public interest and the lack of a political will when it comes to implementing open institutional practices. The Office of the Special Rapporteur is especially pleased to learn of the efforts by the Chilean State aimed at observing the recommendations put to it on the right of access to public information in the Special Report on the Right to Freedom of Expression in Chile in 2016³³¹, specifically as related to opening up the archives, documents, testimony, and information provided by the victims to the Valech Commission I.

191. The information that is set forth in this section can be seen in greater detail in the 2017 Annual Report of the Office of the Special Rapporteur.

m. Economic, Social, Cultural and Environmental Rights

192. In the course of 2017, through the Unit on Economic, Social and Cultural Rights, and, subsequently, with the recently-established Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (ESCE Rights) which is led by Special Rapporteur Soledad García Muñoz special attention has continued to be given to respecting and ensuring economic, social, cultural and environmental rights in the region through the various mechanisms of the IACHR. In its first months this new Office of Special Rapporteur of the IACHR has carried out a vast agenda for the start-up of its activities, associated with the activities and commitments taken on by the IACHR, participating actively in three periods of sessions in Mexico City, Montevideo, and Washington D.C., and in the First Forum of the Inter-American Human Rights System, among other actions described in the attached report.

193. Since it was established the Office of the Special Rapporteur on ESCE Rights has continued and assumed leadership of implementation of a project financed mainly by Spanish cooperation on economic, social, cultural, and environmental rights, with an emphasis on the issue of human rights and business. In the context of that project, and among other activities, in 2017 the Office of the Special Rapporteur on ESCE Rights has begun the process of drawing up its first thematic report on human rights and business. In this respect, in the context of the First Forum of the Inter-American Human Rights System, held in Washington, DC, December 4 and 5, 2017, an event was organized to introduce the Office of the Special Rapporteur on ESCE Rights to the general public. It included an open consultation on the priority challenges facing the Rapporteurship in the region, and on the main thematic points to be addressed.

³³¹ Office of the Special Rapporteur for Freedom of Expression. [Special Report on Freedom of Expression in Chile 2016](#). OEA/Ser. L/V/II. CIDH/RELE/INF. 16/17. March 15, 2017, para. 203.

194. Also on December 5, 2017, in the context of the same Forum of the Inter-American Human Rights System, the thematic report on Poverty and Human Rights in the Americas was launched, the first on the topic in the history of the IACHR. In effect, one of the most worrisome general human rights situations corroborated by the IACHR in 2017 has to do with poverty and extreme poverty, which affect ever greater numbers of persons, groups, and communities in vulnerable situations. Accordingly, this report seeks to contribute to efforts to reduce and eradicate poverty in the Americas, with recommendations geared to improving and strengthening the legislation, policies, and actions of the states to ensure that the human rights of persons who live in poverty are duly respected and protected. The IACHR observes with concern that the persistent situation of poverty and extreme poverty in the member states of the OAS translates into serious obstacles to the effective enjoyment of human rights. The IACHR has found in its visits to countries that persons who live in poverty face geographic, economic, cultural, and social obstacles to exercising their rights. The extensive and complex nature of this human rights problem, as well as the need to seek solutions, has been recognized by several states and by civil society, and also by international institutions and organizations such as the United Nations, the World Bank, and the Inter-American Development Bank, among others.

195. In the context of the Third Regional Consultation for Latin America and the Caribbean for Implementation of the United Nations Guiding Principles on Business and Human Rights, in the framework of the Agenda 2030 for Sustainable Development, the Office of the Special Rapporteur on ESCE Rights participated and organized roundtable discussions with the representatives of the states that participated in that Consultation, and with representatives of national human rights institutions, civil society, social movements, trade union movements, and the business sector with respect to the preparation of that report on human rights and business.

196. As a good practice in the area of economic, social, cultural, and environmental rights, it should be noted that in 2017 the IACHR was pleased to see ratification by the states of Argentina, Bolivia, and Chile of the Inter-American Convention on Protecting the Human Rights of Older Persons. The IACHR has noted time and again the importance of universal ratification of the instruments of the inter-American system as a critical element of fully respecting and ensuring human rights in the Americas.

197. The IACHR is a member of the Working Group to Examine the Periodic Reports of the States Parties to the Additional Protocol to the American Convention in the area of Economic, Social and Cultural Rights, "Protocol of San Salvador." This instrument has been ratified thus far by Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname and Uruguay. The Protocol of San Salvador recognizes the right to work, to just, equitable and satisfactory conditions of work, to trade union rights, the right to social security, the right to health, the right to a healthy environment, the right to food, the right to education and the right to the benefits of culture, among other rights. This instrument was adopted in 1988, and the text is based on a draft written by the IACHR. Additionally, the Working Group's report review mechanism was based on the work of the IACHR.³³²

198. During the year, the ESCR Unit closely and consistently supported the efforts of the Working Group of the Protocol of San Salvador (WGPSS) throughout its 4th Session, which was held in Buenos Aires from May 18 to 20, 2017. At said Session of the WGPSS, officials from the three branches of the Argentine government participated in a one-day open meeting on Evaluation of Compliance with Rights in the Inter-American system, co-sponsored by the Office of Human Rights of the Ministry of Foreign Relations of Argentina in the Press Room of the Foreign Ministry. Another one-day open meeting was held with civil society organizations, academics and researchers on the topic of 'Economic, social and cultural rights in the Inter-American system: Prospects and challenges,' sponsored by the Science and Justice Program of the National Council of Scientific and Technological Research (CONICET).

³³² VID, CIDH, Lineamientos para la elaboración de indicadores sobre derechos económicos, sociales y culturales. ['Guidelines for the drafting of indicators on economic, social and cultural rights']. Document available at: <https://www.oas.org/es/cidh/docs/pdfs/Lineamientos.pdf>.

199. At its session in Mexico City, where the Special Rapporteur for ESCE Rights took part for the first time, the IACHR agreed to put in place a process for the Rapporteur to become its representative on said Working Group, in view of the specialized technical nature of the Group and of the Office of the Special Rapporteur on ESCE Rights, as the senior full-time expert on the IACHR in the subject matter. The Rapporteur wasted no time in placing herself at the disposal of the IACHR to help in said tasks in any way it deemed most useful, while emphasizing the importance of the work of said Group and of ensuring the best synergy possible with a view toward compliance with its mandate for the IACHR. Accordingly, in coordination with the Commission member assigned to the theme, the Rapporteur has been reaching out to the Working Group of Protocol of San Salvador to work in close collaboration since she began in her position.

200. Thus, as delegated by the IACHR, the Office of the Special Rapporteur on ESCE Rights actively engaged with every item of the agenda of activities at the session of said Group in Washington DC from November 13 to 16, 2017. Both the Working Group and the Rapporteur agreed on the need to work in a coordinated way to support effective respect for ESCE Rights, as well as ratification of the Protocol of San Salvador by all of the Member States. Joint actions undertaken by the Rapporteurship and the WG include the Rapporteur participating on November 15, as a panelist at the roundtable discussion “At the Forefront in Indicators: The OAS Experience in Human Rights Monitoring Mechanisms in the Americas.” Said roundtable discussion, aimed at Permanent Representatives of the States and Observers to the OAS and local civil society organizations, was heavily attended, providing the opportunity to introduce the new Rapporteur to such a prominent audience. The Office of the Special Rapporteur on ESCE Rights also promoted the involvement of the WGPSS, through its Technical Secretariat, at an Open Consultation organized by the Rapporteurship on December 5, the 1st Inter-American Forum on the Inter-American Human Rights System. It is a high priority for the Office of the Special Rapporteur on ESCE Rights to craft, in this way, a common agenda of cooperation and mutual empowerment with this body.

201. The Office of the Special Rapporteur on ESCE Rights salutes, as a major step forward in this area, the decision of the Inter-American Court of Human Rights in the case of *Lagos del Campo v. Peru*, on August 31, 2017, in which for the first time ever it found a violation of Article 26 of the American Convention on Human Rights. This decision represents a milestone in inter-American case-law and a step forward in the region in the interdependence and indivisibility of civil and political rights in relation to economic social, cultural, and environmental rights. The possibility of bringing a legal action and securing a binding decision to have economic, social, cultural and environmental rights respected and guaranteed through the organs of the inter-American system will make it possible to progressively develop and define the content of each of these rights and the states parties’ obligations in relation to them, facilitating the design of adequate public policies and establishing regional standards and guidelines for their effective enjoyment and attainment, especially with respect to the populations that are most vulnerable.

202. Even so, a series of challenges and serious human rights violations were identified in relation to economic, social, cultural and environmental rights, in particular, as indicated above, related to the failure to provide for and the violation of human rights of persons, groups, and communities living in poverty and extreme poverty; the evolving situation of lack of access to water in the hemisphere; the serious human rights issues related to lack of access to adequate nutrition, especially the serious cases of malnutrition in children and pregnant mothers; the negative impacts on human rights brought about by business activity; the lack of access to the rights to education, health, and employment in the region; as well as the issues described next. This situation affects especially those persons, groups, and communities that experience historical discrimination.

203. Next is a brief overview of the regional issues that have been brought to the attention of Office of the Special Rapporteur on ESCE Rights and before that the Unit on Economic, Social and Cultural Rights of the IACHR. It should be noted that the Unit and Rapporteurship have been receiving information on the situation of economic, social, cultural and environmental rights in the various countries of the region through the country and thematic hearings, as well as through the other mechanisms of the IACHR. The Office of the Special Rapporteur on ESCE Rights will continue to follow up on, monitor, and take action regarding these situations through the corresponding institutional channels.

204. In the course of 2017, information was received on the current situation of access to public information in relation to economic, social, cultural and environmental rights in a hearing on the issue. The civil society organizations emphasized the need to move forward and to develop standards to determine and consolidate the states' obligations on access to and production of information to achieve the implementation and enforceability of and access to economic, social, cultural and environmental rights. To that end they indicated the need to have a more robust discussion on the scope of these obligations and on the enforceability of the production of disaggregated information. Emphasis was also placed on the importance of access to disaggregated budget information, which, it was indicated, is key for monitoring and evaluating the measures adopted by the states to provide for economic, social, cultural and environmental rights to the greatest extent of their available resources. In the context of the hearing the IACHR pointed out its historical importance as the first hearing on to the right of access to information held by the Office of the Special Rapporteur for Economic, Social, Cultural and Environmental Rights, in conjunction with the Office of the Special Rapporteur for Freedom of Expression, and reference was made to the importance of developing public policies with a human rights perspective for access to and production of information in this area.

205. In 2017 the Commission continued receiving worrisome information with respect to human rights challenges associated with the business sector. At the hearing "Right to territory of Amazonian indigenous peoples and communities," sought by the PanAmazon Ecclesial Network (REPAM) and by regional institutions of the Catholic Church, in a joint effort to accompany Pan Amazonian communities in the integral defense of their territories and ways of life in the face of violations caused by extractive industries and the development of infrastructure megaprojects, the negative impacts on the indigenous communities and biodiversity resulting from the extractive economic model in the region were denounced as "putting money before human need, causing death and destruction."

206. At the hearing on the "Situation of defenders of the environment in the Americas" the requesting organizations spoke of the situation of violence those persons in the region face as a result of their work, and offered an overview of the particular situation of vulnerability using figures and mapping the violence. They presented testimonies from defender organizations who suffered the searches of their homes and workplaces, criminal prosecution, and attempts to dissolve their organizations because of their "intervention in public policies." The organizations also noted the increase in violence against women defenders of the environment and the differential nature of the attacks, based on gender violence, with the aim of forcing the migration of women from the rural areas to the city, to drive out the population and carry out extractive activities in the territories.

207. At the regional hearing on the right to housing, the IACHR learned of the challenges in access to housing and the situation of informal settlements in the countries of the hemisphere. According to the information presented, more than 104 million persons live in informal human settlements in Latin America, with limited access to basic services. Accordingly, the Inter-American Commission was asked to urge the member states of the OAS to comply with the international treaties they have signed, giving effect to rights already recognized and developing cross-cutting public policies on the right to housing and that the Commission recognize the informal settlements as zones where human rights are violated and that priority be assigned to this matter, and that the states be urged to include informal settlements in the national census counts, and to make this information public.

208. In the hearing "Human rights situation of sex workers in the Americas," the participants reported on the need to recognize sex work in the legal frameworks as a lawful job, which includes among other things recognizing the rights of sex workers, and guaranteeing them the labor and union benefits tied to any other work activity; adopting integral public policies aimed at guaranteeing better working conditions; and repealing ambiguous legal frameworks which in practice are used to criminalize women sex workers.

209. In addition, information was received in the context of a public hearing with respect to an emerging issue related to the effects of the Zika virus on the population's right to health. Information was

presented on diagnoses and a series of petitions were submitted to the IACHR to address this human rights issue.

210. At the hearing on the right to food in Central America the requesting organizations alleged human rights violations in relation to access to food, water, and a healthy environment by companies that have been engaged in monoculture. They alleged that the exploitation of certain natural resources such as sugar cane, palm oil, and banana has had various impacts on the populations near those crops. They also reported that the use of pesticides has contaminated their lands, causing health problems such as diarrhea, vomiting, and kidney diseases, and that the construction of dams for those plantations has diverted rivers, forcing the population in various towns to migrate. The civil society organizations also commented that monoculture as a form of development has not been legitimated by means of a democratic process, and they denounced that those who have tried to give visibility to this issue have been attacked, persecuted, and even assassinated. The civil society organizations asked the IACHR to request information from the governments on what public policies are being used for environmental management. They also asked the Office of the Special Rapporteur on ESCE Rights to visit the states to verify the situation, and to then issue a report on compliance with inter-American standards in relation to the rights to food, water, and a healthy environment. Finally, they asked that the IACHR call on the states to cease expanding single-crop agriculture and to investigate the reports of human rights violations presented by the communities' leaders.

211. During the hearing on labor rights in the automobile industry in the United States, four representatives of the requesting organizations described the anti-union climate the workers in Canton, Mississippi presently face; they describe it as a snapshot of the situation in the whole country. As of 2016, the plant in Canton had a labor force of 5,300 workers, approximately 80 percent of whom were African-American. According to the representatives, practically since the opening of the plant a systematic campaign has been undertaken by Nissan and government officials to deny the workers basic rights. Nissan continued carrying out that campaign despite multiple complaints to the National Labor Relations Board of the United States. According to those appearing, the anti-union conduct of Nissan Motor Company, including meetings with a captive audience or surveillance of individual workers, together with the support of the local government, has kept the workers from exercising their human rights, such as the right to a safe workplace and the right to fair elections. The representative of the United States responded that the workers' specific allegations could not be addressed, since they are the subject of an investigation under way by the competent authorities (including the National Labor Relations Board). He reiterated that the United States has a robust system for worker protection, as demonstrated by laws such as the National Labor Relations Act, and its long history of international interest and participation in labor rights.

212. In the hearing on economic, social, cultural, and environmental rights in Puerto Rico, civil society reported on the severe humanitarian crisis that has resulted from the impact of the hurricanes, forcefully denouncing the United States for its response, which they considered insufficient and discriminatory in relation to what was received by mainland territories of the country that were affected by natural disasters at around the same time. The experts argued that the austerity measures adopted by the United States Congress have been extremely harmful, that the federal government has been deficient in its response, and that the recent natural disasters have simply exacerbated the subordination, marginalization, and vulnerability of the population of Puerto Rico. They also described the exponential growth of contaminated environments (due to the previous contamination by United States entities), the extreme poverty, international displacement, food insecurity, inadequate medical care, shuttered schools, and insufficient communication channels. The representative of the United States answered that 2017 was a particularly difficult year for the country in terms of natural disasters and stated that despite such challenges, the State reacted successfully by significantly restoring electrical power, transport, water, banking, and cell phone service, and helping to reopen post offices, service stations, and supermarkets. He acknowledged the extreme situation, especially in light of Puerto Rico's paralyzing debt, yet he assured the Commission that the United States is committed to the island's total recovery.

213. In the context of the information and inputs compiled, the Office of the Special Rapporteur on ESCE Rights considers it important to conclude by adding that backsliding in legislation, fiscal policies, and social policies in recent years is having a serious negative impact on access to basic economic and social

rights, such as food, health, education, and labor and union rights, with a disproportionate impact on those sectors that were already in poverty, as well as children and adolescents, older persons, women, Afrodescendants, indigenous persons and communities, and LGBTI persons, among other historically excluded groups. It also draws attention to the consequences of natural disasters for the enjoyment of economic, social, cultural and environmental rights in those countries and territories impacted by them. Also of special concern is the impact of corruption on the enjoyment of economic, social, cultural and environmental rights, thus it is proposed to incorporate an anticorruption focus in its workplan, that engages in dialogue with other perspectives – such as indivisibility, gender and intersectionality, and business and human rights – that are fundamental for the exercise of its mandate.

214. The Rapporteurship also expresses its concern over the threats, criminalization, reprisals, and violence against human rights defenders, and detects an increase in the disproportionate use of force and police repression in the context of demonstrations, protests, and demands that are clearly related to economic, social, cultural and environmental rights, with a particular impact on more vulnerable populations such as persons living in poverty, indigenous peoples, Afrodescendent and peasant communities, trade unionists, defenders of the environment, women, children and adolescents, migrants, refugees, stateless persons, and lesbian, gay, bisexual, trans, and intersex persons, among other sectors.

215. In view of the foregoing considerations, the Commission observes a series of challenges that currently obstruct the full enjoyment of economic, social, cultural and environmental rights, especially for the persons, groups, and communities that historically have suffered discrimination. In this respect, the IACHR calls on the states of the region to adopt the measures necessary to ensure the enjoyment of these rights in their interdependence with all human rights.

216. In particular, the Office of the Special Rapporteur on ESCE Rights calls on the states to give effect to the normative framework of the system in this area in keeping with the standards developed by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, as well of the recommendations issued by the Working Group of the Protocol of San Salvador, and to continue adopting public policies to guarantee, progressively and mobilizing available resources, the full enjoyment and exercise of economic, social, cultural and environmental rights in the Americas.

217. Along with its appeal to the states to ratify all the human rights treaties in the system, especially the Protocol of San Salvador on Economic, Social and Cultural Rights, it emphasizes the obligation of all the member states to immediately take the actions needed to ensure the full satisfaction of the minimum content of all economic, social, cultural and environmental rights for all persons, without discrimination or regression, on the basis of recognizing human dignity.