



APRIL 2 TO 15
.....
**PUBLIC
HEARINGS**
4 | 5 | 7 | 8
APRIL 2016
.....
#CIDHAudiencias

IACHR Wraps Up its 157th Session

Washington, D.C.—The Inter-American Commission on Human Rights (IACHR) held its 157th regular session on April 2-15, 2016. During the session, the IACHR worked on the analysis of petitions, cases, and precautionary measures and held 49 public hearings, 34 working meetings, and meetings with States and civil society organizations from around the region. The IACHR also presented five thematic reports during this session: “Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities”; “Violence, Children and Organized Crime”; “Legal Standards: Gender Equality and Women’s Rights”; “Violence against Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI) Persons in the Americas”; and “Criminalization of Human Rights Defenders.” The IACHR also had a dialogue with the Member States on good practices related to the rights of LGBTI persons.

The IACHR welcomes the growing interest in the region with regard to the human rights situation and the mechanisms available through the inter-American human rights system, which was evident once again in the interest this session generated. More than 7 million people followed the hearings through live webcasts or on social media.

In its public hearings, the IACHR received information concerning different human rights issues in 19 countries and on a regional level. Seven of the hearings were to hear arguments from the parties concerning cases in the merits stage. The Commission held 49 hearings, five at the request of States—Brazil, Costa Rica, Mexico, Peru, and Venezuela; 40 at the request of civil society organizations; and four on the Inter-American Commission’s own initiative. The IACHR welcomes and values the active participation of the delegations of OAS Member States, as well as approximately 350 civil society organizations. On the other hand, the IACHR notes and regrets that the States of Cuba and Nicaragua did not participate in the hearings they were called on to attend, and that the State of Ecuador participated in one of the two hearings convened. In this regard, the Inter-American Commission underscores that it is important for States to participate in all hearings, in good faith and with sufficient substantive information, in order to advance constructively toward solutions to the human rights problems facing the region.

The Inter-American Commission particularly values the participation in its sessions of United Nations agencies and institutions. The IACHR underscores the importance of the joint efforts carried out by the regional and international human rights systems for the purpose of better protecting and promoting the exercise of human rights, and it is pleased that this cooperation is becoming increasingly closer and more concrete. During this session, the UN Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, participated in a hearing as an expert. In addition, Juan Méndez, Special Rapporteur on torture; Mónica Pinto, Special Rapporteur on the independence of judges and lawyers; Michel Forst, Special Rapporteur on the situation of human rights defenders; Ariel Dulitzky, a member of the Working Group on enforced or involuntary disappearances; and Dubravka Šimonović participated in a regional consultation with civil society, which was organized jointly by the UN Office of the High Commissioner for Human Rights, the Inter-American Court of Human Rights, and the IACHR. The session was opened by Ivan Šimonović, UN Assistant Secretary-General for Human Rights; the Vice President of the Inter-

American Court, Eduardo Ferrer Mac-Gregor; and the President of the IACHR, James Cavallaro, and included the participation of more than 80 organizations of human rights defenders. Finally, on April 11 the IACHR received a delegation from the Office of the High Commissioner for Human Rights, which was led by Ivan Šimonović and which included Amerigo Incalcaterra, Representative of the South America Regional Office, and Vladlen Stefanov, Chief of the National Institutions and Regional Mechanisms Section, as well as human rights officials Claudia Gerez and Liza Sekaggya. This meeting was a follow-up to the [joint declaration](#) on collaboration signed in 2014. In addition, a dialogue was held on Fiscal Policy and Human Rights in Times of Austerity; experts in attendance included Ricardo Martner, of the Economic Commission for Latin America and the Caribbean (ECLAC), and Rodrigo Uprimny, a member of the UN Committee on Economic, Social and Cultural Rights.

In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, sent a letter to the IACHR welcoming the fact that it was holding a hearing on the “Situation of the Right to Freedom of Association in the Americas.” In this context, he provided an *amicus* brief he had presented to Bolivia’s Constitutional Court in May 2015 in connection with requirements that country had established for how civil society organizations should be set up and operated, rules that in his opinion were incompatible with international human rights standards.

During this session, the IACHR held private, separate meetings with the Interdisciplinary Group of Independent Experts working in Mexico in connection with the investigations into the whereabouts of the 43 students who disappeared in Ayotzinapa; a high-level delegation of the Mexican State; and representatives of the students’ relatives. The purpose of these meetings was to follow through on the technical assistance agreement and to hear the parties’ positions on whether the Group of Experts should continue its work in Mexico. The students’ relatives asked the IACHR to renew the mandate of the Group of Experts until the truth about what happened has been determined, the whereabouts of the students have been clarified, and justice has been done. The father of one of the missing students spoke to the full Commission and said, “I ask from my heart that the Group of Experts continue with the case. The truth will be told by the kids when they appear.” For its part, the State delegation gave a positive appraisal of the contributions the Group of Experts has made to the investigation, indicated that the whereabouts of the students have not yet been determined, and expressed its wish for the technical assistance agreement to be brought to an end and for the Commission to continue following the matter within the framework of its jurisdiction. In that regard, the IACHR deeply regrets that the Mexican State has decided not to extend the mandate of the Group of Experts and to end the agreement, even though the objectives—primarily, locating the missing students—have not yet been met. Given the nature of the technical assistance agreement, in which the State’s consent is indispensable, the IACHR believes that the conditions are not in place to continue the mandate of the Group of Experts. Therefore, in view of the findings of the Group of Experts, taking into consideration the position of the family members of the missing students, bearing in mind the Commission’s monitoring authority and the precautionary measure in force, and given the pressing need to remain vigilant on this matter, the Inter-American Commission has made the decision to establish a special follow-up mechanism until the objectives and

recommendations established both in the precautionary measure and in the Group of Experts' reports have been met. After consulting with the parties, the IACHR will determine the specific terms as to how the special follow-up mechanism will operate.

During this session, the IACHR received a proposal from Berta Zúñiga Cáceres and other relatives and colleagues of the well-known human rights defender Berta Cáceres, an indigenous leader and general coordinator of the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), who was killed on March 3, 2016, while she was a beneficiary of IACHR precautionary measures. Berta Cáceres had on many occasions (more than 30 times) reported to the authorities and spoken out publicly about the situation of grave risk and ongoing threats she had faced. The family of Berta Cáceres asked the IACHR to appoint an interdisciplinary group of independent experts to assist in the investigation into her killing. OAS Secretary General Luis Almagro supported that request after meeting with the family and representatives of the human rights defender. The Inter-American Commission expressed to the State of Honduras that it was willing to appoint a group of this nature.

The murder of Berta Cáceres confirms the grave situation of risk experienced by human rights defenders in Honduras, which has been and continues to be cause for deep concern on the part of the IACHR. Moreover, this and other murders of beneficiaries of precautionary measures granted by the Commission call into question the State of Honduras's effectiveness in implementing such measures, protecting the beneficiaries, and fulfilling its international obligations. This situation should be studied jointly by the individuals protected by precautionary measures and their representatives, the State, and the IACHR, in order to find solutions to ensure the effectiveness of protection measures in the country.

In the hearings, the IACHR received information concerning the situation of insecurity and risk faced by human rights defenders in Colombia, Cuba, Honduras, Mexico, Nicaragua, Venezuela, and many other countries. Killings, attacks, threats, and acts of harassment continue to be carried out against human rights defenders for the purpose of silencing them and putting a stop to their important work. In addition, defenders are singled out publicly, subjected to smear campaigns and disparagement, and criminalized, an issue explored in depth in one of the thematic reports presented by the IACHR during this session. The vast majority of these acts of violence remain unpunished, which encourages repetition. The Inter-American Commission urges the States to guarantee the right to defend rights.

Human rights defenders and others who participated in hearings, working meetings, and other activities in the context of this session have been subject to reprisals and threats upon returning to their countries. This situation had already come up in the past in some countries, and the fact that it is happening again is disturbing. It is absolutely unacceptable for a State to take any type of action motivated by the participation or activities of individuals or organizations that engage the bodies of the inter-American human rights system, in the exercise of their rights under the Convention. As Article 63 of the Rules of Procedure of the IACHR establishes, States "shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide

information, testimony or evidence of any type to the Commission,” and they “may not prosecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission.”

In hearings and working meetings, the Commission received deeply troubling information regarding the serious obstacles many segments of the population in the Americas face in exercising their fundamental rights. One hearing raised the issue of the alarming levels of malnutrition suffered by children in Guatemala. Indigenous peoples in Ecuador, Panama, and Peru reported on the serious impact of some natural resource development projects on the exercise of their rights. A number of U.S. groups talked about problems related to access to drinking water and the lack of adequate sanitation, which disproportionately affect Afro-descendant and indigenous communities and people living in poverty. Another hearing analyzed Puerto Rico’s economic crisis and the differentiated impact it has on people living in poverty and extreme poverty, as well as other groups that are particularly vulnerable. The IACHR also received particularly alarming information concerning the violence and discrimination suffered by women of African descent in Brazil and by lesbian, gay, bisexual, and trans persons, or those perceived as such, in Bolivia and Honduras. The high levels of police violence suffered by trans women in some countries of the region are of special concern to the IACHR. With regard to the Dominican Republic, the IACHR was informed about the serious infringement of political rights of Dominicans of Haitian descent, which results from the arbitrary process of denationalizing these individuals, as well as from the structural racism and discrimination they face. In addition, the IACHR received information concerning violations of the human rights of children and adolescents in the context of human mobility, including their detention, especially when they are part of irregular migration flows or when they are fleeing violence in search of refuge in other countries, a situation that has reportedly been aggravated by security measures adopted by several States in the region. In many cases, the public policies that States have adopted in response to citizen insecurity, known as “hardline” or “iron fist” policies, have emphasized repressive aspects such as lowering the age of criminal responsibility, imposing longer sentences, or expanding the use of pretrial detention, which is conducive to intolerance, stigma, and social exclusion. This session included an important hearing on alternative measures designed to reduce the use of pretrial detention.

The IACHR values the progress made in the peace process in Colombia and will follow and analyze the resulting agreements, within the sphere of its authority. The consolidation of the peace process and the expectations for achieving a stable and lasting peace are cross-cutting factors in the country’s human rights situation. While the process of attaining peace poses a complex dynamic, the full observance of the State’s human rights obligations must be a central aspect. In addition, the IACHR is troubled by the information it received concerning an increase in killings and attacks against human rights defenders and the activity of illegal armed groups referred to in some sectors as “post-paramilitarism,” which the State has a duty to break up.

Gross human rights violations that take place during armed conflicts must not go unpunished. On this issue, a hearing was held during this session concerning the situation of ongoing impunity with regard to grave human rights violations perpetrated during the armed conflict in El Salvador.

During that hearing, the IACHR observed that the recovery of historical memory and justice for grave crimes of the past is essential to understand and solve the problem of violence today. The Commission appreciates the invitation extended by the Foreign Minister of El Salvador for the IACHR to visit the country.

With regard to the importance of combating impunity, the IACHR welcomes Canada's decision to establish a national investigation into the disappearances and murders of indigenous women and children in that country. This step would comply with one of the recommendations the Inter-American Commission made in its report "Missing and Murdered Indigenous Women in British Columbia, Canada."

The IACHR also received information concerning the right to freedom of expression in Argentina. The Commission holds in regard the high-level delegations that participated on behalf of the State and on behalf of the organizations that requested the hearing, and appreciates the information presented by both parties. Civil society organizations and university and community media outlets discussed a series of infringements of freedom of expression that reportedly occurred as a consequence of changes introduced to the Communication Services Law through three decrees issued by the executive branch on grounds of necessity and urgency. The State delegation justified the changes in the context of violations to freedom of expression seen in the previous administration, the speed of technological changes in information technologies, and the subsequent ratification of these regulations by the legislative branch. The IACHR welcomes the government's announcement that it will provide an opportunity for consultation and dialogue prior to the enactment of new legislation that is respectful of international standards. The IACHR also takes note of the transitory nature of the current situation and calls to mind the principle that there should be no regression on human rights, which is why it will continue to follow this process.

In another hearing on freedom of expression, Mexican journalist Carmen Aristegui and a number of organizations denounced a series of mechanisms Mexico has reportedly put in place involving indirect censorship and infringements of the right of access to information, which reduces debate on matters of public interest. The Mexican State, meanwhile, explained the regulatory and institutional advancements in place to ensure access to information and the allocation of official advertising based on objective criteria.

One of the most serious challenges the Inter-American Commission is currently facing is the lack of resources to fully meet its mandates to promote and defend human rights. The financial situation of the IACHR, which has been very serious for many years, has worsened this year. The IACHR receives only 6 percent of the general budget of the Organization of American States (OAS). Given the seriousness of the situation, the Inter-American Commission on Human Rights resolutely calls on the region's heads of state to assume their responsibility to the inter-American human rights system and to instruct the relevant bodies to allocate the financial resources needed so that the IACHR can fully meet its mandate.

Public Hearings Held during the Session

Below is a summary of each hearing that was held, in chronological order.

Right to Freedom of Association of Indigenous Peoples in Ecuador

The organizations that requested the hearing informed the IACHR about a series of constitutional changes in Ecuador carried out through executive decrees and institutional agreements, which they said have infringed on the constitutionally recognized right of the country's indigenous peoples to maintain, develop, and strengthen their forms of social organization. The organizations participating in the hearing indicated, for example, that in December 2013 the Fundación Pachamama was ordered to be shut down, based on Decree No. 16. They noted that the Organic Law on the National Equality Councils was approved in 2015; it withdrew the registration and legalization authority that was held by the Development Council of the Nationalities and Indigenous Peoples of Ecuador (CODENPE) and turned it over to the National Secretariat for Political Management. This change was not accompanied by any regulations or guidelines on how to carry out that responsibility, the organizations said. Moreover, indigenous organizations are registered and fall under the rules governing the Unified Information System for Social Organizations, which has been strongly criticized for giving the State wide discretion to shut down any social organization without justification. This constitutional change also fails to observe the right of the affected indigenous communities to pre-legislative consultation, and violates the constitutional provision establishing that organic laws should be those that regulate the exercise of constitutional rights and guarantees. The participating organizations argued that this law violates their constitutional right to establish organizations that look out for their interests, and that it harms their right to resistance and hampers their ability to act politically and socially, undermining their rights to free association and free determination. The State did not participate in this hearing and sent a communication to the IACHR justifying its failure to appear. The Commission expressed regret over the State of Ecuador's failure to appear and asked the participating organizations to share their experiences regarding incidents involving the prosecution of human rights defenders in these contexts.

Case 12.786 – Luis Eduardo Guachalá Chimbo and Zoila Chimbo Jarro, Ecuador

The IACHR held a hearing on the merits with the participation of the petitioners in the case, the Centro de Derechos Humanos de la Pontificia Universidad Católica del Ecuador and the Fundación Regional de Asesoría en Derechos Humanos. Representatives of the State of Ecuador also participated. The petitioners explained the facts related to the alleged disappearance of Luis Eduardo Guachalá Chimbo in early 2004, days after he had been admitted to a public psychiatric hospital in Quito, where he had been taken by his mother. The petitioners alleged that the hospital incurred in a series of irregularities that have yet to be cleared up and that have kept what happened to Luis Eduardo Guachalá Chimbo from being known, more than 12 years after the fact.

The petitioners also discussed the lack of effectiveness of the appeals filed in domestic courts and maintained that this is a case of forced disappearance, considering that Luis Eduardo Guachalá Chimbo was in the State's custody and that information about what had happened had been covered up during the first days of his disappearance. Zoila Chimbo, the mother of Luis Eduardo Guachalá, provided testimony about the facts of the case and the actions she has undertaken to determine her son's whereabouts. She also gave testimony about the suffering her family has endured as a result of not knowing what happened to her son. For its part, the State of Ecuador presented allegations regarding the care provided to Luis Eduardo Guachalá Chimbo during the times he had been admitted to the psychiatric hospital. It also presented information about the steps taken both by hospital personnel and by the national police to learn the whereabouts of the alleged victim. The State also presented general information on mental health care in Ecuador and the international accreditation it has received in this field. The State maintained that this is not a case of forced disappearance, as Luis Eduardo Guachalá Chimbo was not deprived of liberty but under psychiatric treatment, and that what happened was that he left the hospital once his health condition had improved. The State reported that steps are still being taken to determine the alleged victim's whereabouts, in response to a writ of *habeas corpus* issued by a domestic court.

General Situation of Human Rights in Venezuela

The State reported on progress in human rights in Venezuela. It noted that the country's first National Human Rights Plan had been adopted and that the preliminary version had been submitted to a process of consultation with different segments of society nationwide, including groups in vulnerable situations, human rights organizations, law enforcement, and the armed forces, among others. The State also indicated that progress has been made in the policy on comprehensive reparation for victims, with the approval of a law on reparation and rehabilitation of victims of human rights violations and the creation of the National Institute for Victims of Violence and of mechanisms to address victims' health and rehabilitation needs. The State also referred to the draft Amnesty and National Reconciliation Law, recently approved by the National Assembly, which it considered "a serious threat to human rights coming from a branch of government." It indicated that the draft law seeks to extend impunity to an indeterminate range of crimes, offenses, or infractions, including "acts as serious as the use of children and adolescents in the commission of crimes, drug trafficking, terrorism, and corruption." Civil society organizations, meanwhile, responded that the draft law does not include drug trafficking, homicides, or murders, but specifically political crimes. They indicated that there are 82 political prisoners and that 3,785 individuals have been detained for political reasons since 2014. They noted that the United Nations Working Group on Arbitrary Detention has decided on 327 of these cases since 2014. The organizations also spoke about the government's defiance and rejection of the decisions of the inter-American system and the troubling consequences for Venezuela of its denunciation of the American Convention on Human Rights, which the organizations believe has left the population unprotected. They reported that some authorities at the highest levels continue their campaigns to stigmatize and criminalize human rights defenders. The organizations also mentioned the severe crisis represented by the shortage of newsprint and the government monopoly that allocates

newsprint with little transparency, which affects the existence of some print media outlets. The organizations also referred to the serious food crisis, noting that since 2015 more than 1,200 protests have taken place over food and shortages. They noted that there has been a steady rise in looting and attempted looting across the country, and that the government has responded with repression. They also indicated that during the consultation process related to the aforementioned National Plan they had not been allowed to talk about the use of the justice system as a weapon of political persecution, and that only recommendations from pro-government organizations are heard. The IACHR Rapporteur for Venezuela indicated that he hoped that dialogue could take place at different levels and that he could be free to visit the country in the future.

Right to Health in Venezuela

The hearing participant indicated that legislation is still lacking that would regulate the national health system in accordance with the 1999 constitutional reform, which recognized the right to health as a social and fundamental right, a component of the right to life, and an obligation for the State to guarantee. The IACHR was also informed about other problems related to the right to health, including the lack of specialized medical personnel and the shortage of medicine, which has been portrayed as an alleged consequence of contraband and hoarding—particularly medications needed to treat HIV and cancer. The participant also indicated that national production of medicines has decreased and that there has been no proper supervision and oversight by the State. For its part, the State indicated that Venezuela has achieved significant progress on the health front since its recognition of the right to health as a fundamental right. For example, the State noted that the legislature had approved a law to promote and protect the right to equality of persons living with HIV, as well as laws providing universal health care, which have led to a significant increase in coverage, in medical personnel, and in infrastructure. The representatives of the State recognized that availability of medicines is a problem, but they indicated that this did not imply a humanitarian crisis. The Commission reiterated that the protection of the right to personal integrity depends to a large extent on States' fulfillment of their obligation to ensure that people enjoy the right to the highest attainable standard of physical and mental health without discrimination.

Case 12.805 – Jimmy Guerrero and Ramón Antonio Molina Pérez, Venezuela

A hearing on the merits was held in which the Commission heard testimony about the facts of the case from Jean Carlos Guerrero Meléndez. He said that his brother had been constantly persecuted and harassed by members of the police in the state of Falcón, who had ended up killing him and his uncle Ramón Antonio Molina Pérez. He indicated that these deaths are part of a context of extrajudicial executions by members of the police in Falcón, which took the lives of 260 individuals between 2000 and 2008. He noted that, 13 years after the deaths of his family members, it has not been possible to obtain justice, as the investigations continue in the preliminary stage. For their part, the petitioning organizations presented arguments on the merits of the case, stressing that the State had failed to fulfill its obligation to prevent the deaths of both individuals, as both Jimmy

Guerrero and the Office of the Ombudsman had, prior to the deaths, reported the harassment the alleged victims were suffering at the hands of members of the police in Falcón. They added that, in the context of the criminal investigation, the State failed to act with due diligence because it has failed to carry out basic investigative steps such as conducting a context analysis, identifying all witnesses who were present, incorporating records that would make it possible to determine which police officers were on duty when the events took place, as well as conducting a planimetric survey to determine essential aspects of the crime scene that could prove relevant to clearing up the crime. They also talked about the mistreatment they said family members of the alleged victims have suffered at the hands of the State for trying to obtain justice and engaging the inter-American human rights system. For its part, the State explained that it understands the petitioners' concerns; however, it stated that it would not present arguments as the representatives of the State and the Office of the Public Prosecutor in charge of the case had not been able to obtain a U.S. visa and therefore were not able to attend the hearing.

Human Rights and the “Operation to Liberate the People” in Venezuela

The participating organizations presented their report *Unchecked Power*, about the “Operation to Liberate and Protect the People” (*Operación de Liberación y Protección del Pueblo*), known as the OLP. They indicated that this operation to address the serious problems of public insecurity has been in effect since July 2015 and that it has involved massive and illegal surprise raids on homes in poor areas by police and military forces. This has led to serious violations of these communities' basic rights, and there has been no accountability for these actions, the organizations said. They indicated that 14,000 people had been detained in 24 massive, arbitrary roundups, and that only 100 of them had been charged with a crime. They also said that the Report of the Attorney General to the Congress of the Republic reported a total of 245 deaths, of which only three were of State security agents; for that reason, they believe these were not confrontations, as the State alleges, but extrajudicial executions. They said that these operations conclude with the demolition of people's homes and properties. The organizations said they have received direct testimony from victims indicating that at least 20 individuals had been executed after being neutralized. They also indicated that the raids are carried out during the night and that household goods are stolen, property destroyed, and homes burned, and that people are detained without being told why. The organizations complained that the Attorney General's Office and the Ombudsman's Office had failed to respond adequately. They indicated that the OLP is repeating the types of irregular conduct by law enforcement that had been identified since 2006 by the National Commission for Police Reform, and said that it violates the Constitution, which establishes that public safety institutions are civilian in nature. The State responded that it will examine the report closely. It said that Venezuela's housing policy has been emblematic and that this matter has to do with 1 percent of the houses provided through the “Great Venezuela Housing Mission,” in which there had been evictions. The State representative said that people had demanded that the State take action to return peace and security to these areas that had come to be under the control of criminals. The Commission indicated that the State's response to public insecurity must be carried out within a framework of democracy and respect for human rights. The IACHR also reiterated that matters that have to do

with citizen security are under the exclusive purview of civilian police forces that have been properly organized and trained, and that conflicts must be resolved from a clear standpoint of citizen security, in which differences arise between citizens who must be protected and not enemies who must be fought.

General Situation of Human Rights in Costa Rica

The State presented information regarding the efforts it has been making in the area of human rights, especially with regard to issues where the IACHR has taken a particular interest. The State referred to efforts to reestablish the Permanent Body for Consultation with Civil Society. It also mentioned measures related to combatting ethnic and racial discrimination. With regard to indigenous peoples, the State pointed to a number of measures such as the issuance of guidelines for the creation of a consultation mechanism. With regard to obstetric violence, it indicated that institutional measures have been taken to improve obstetric care. In addition, it said that a protocol would be put in place in April 2016 for the application of therapeutic abortion. The State also reported on progress in access to water and with respect to the prison system. In terms of the rights of LGBT persons, it referred to the adoption of the “Policy to Eradicate Discrimination toward the Sexually Diverse Population”; reforms to the Health Insurance Rules and Regulations to include insurance coverage and hospital visitation rights for same-sex couples; and the issuance of rules and judicial decisions that have developed parameters of respect for the rights of LGBT persons. The State also noted that the Inter-American Court upheld that a decree could regulate the practice of *in vitro* fertilization in the country. The participating organizations, for their part, presented information regarding the pressure brought to bear against judicial authorities who promote alternatives to pretrial detention, as well as the imposition of disciplinary sanctions that go against due process. They also expressed concern over some obstacles to access to health services, specifically long waiting periods to receive medical care from specialists, get medical exams, and receive urgent treatment. They also emphasized the urgency of having the protocol on therapeutic abortion in place, as well as a publicity campaign related to this right. On another matter, they reported that there is no worker-employer relationship in the case of migrant coffee pickers of indigenous origin. The IACHR drew attention to State initiatives to reduce the use of closed systems as a way to reduce the country’s prison population and requested information regarding persons deprived of liberty and on the existence of any draft legislation to change existing law on crimes for which offenders cannot be released. It also called on the State of Costa Rica to intensify its efforts to protect the rights of LGBT persons.

Human Rights and Citizen Security in El Salvador

The participating organizations emphasized the high levels of violence that affect this Central American country, which they said is one of the most violent countries in the world. To illustrate this, they reported that 2015 ended with approximately 6,656 homicides, equivalent to 102 deaths per 100,000 inhabitants. The spiral of violence is reportedly continuing to rise in 2016, with an

average of 22 deaths per day. With regard to the Plan for a Safe El Salvador, the organizations said that on the positive side, it offers a comprehensive assessment and approach to the problem; however, they emphasized that its implementation has placed priority on, for example, the adoption of repressive measures, the authorization of a significant military component in law enforcement efforts, criminal prosecutions without minimum fair trial guarantees, and the preferential use of pretrial detention, with numerous human rights violations cloaked in impunity. The State delegation, led by Foreign Minister Hugo Martínez Bonilla, blamed the high levels of violence on gangs, which he said are trying to destabilize government institutions, generate terror among the population, and control territory, causing the greatest impact on the most vulnerable sectors. The State has responded to that situation by establishing the Council for Citizen Security and Peaceful Coexistence, which developed the Plan for a Safe El Salvador, the implementation of which is having a positive impact in numerous towns in the country. Pointing to the significant progress made so far, the Foreign Minister publicly extended an invitation to the IACHR to verify on the ground the State's efforts to address the scourge of violence in the country. The Commission underscored the importance that El Salvador put forth its best efforts to address the problem of citizen insecurity and recognized the significant challenges it is facing. In this regard, it urged the State to take the necessary measures to prevent the Plan for a Safe El Salvador from being perverted. The Commission called to mind that in modern constitutional democracies, declarations of states of emergency must be a last resort.

Impunity for Grave Human Rights Violations during the Armed Conflict in El Salvador

The participants that requested the hearing, representing a broad group of civil society organizations, expressed concern over the fact that grave human rights violations that took place during the internal armed conflict in El Salvador remain unpunished, even though 24 years have gone by since the signing of the Chapultepec Peace Accords. The organizations said they considered the State's positive gestures and measures to be futile in view of the denial of justice and reparation for the victims and their family members, who they said end up being re-victimized by the inertia of the investigative agency and the general belief by justice system operators that these gross violations are eligible for amnesty or fall under statutes of limitations. The State, for its part, insisted that since 2009 it has shown a major commitment to human rights, with the adoption of decrees and measures, the creation of programs, and the establishment of discussion roundtables with different actors who aspire to collectively build the country, its historical memory, and reconciliation through the attainment of justice. Among other things, the State noted that a legislative commission is currently studying ratification of the Inter-American Convention on Forced Disappearance of Persons and the International Convention for the Protection of All Persons from Enforced Disappearance. The Commission welcomed the progress reported and recognized the need to continue working on what remains to be done. It called to mind that inter-American case law prohibits general amnesties, as these pose an insurmountable obstacle to obtaining justice in the event of grave human rights violations. The Commission welcomed and again expressed its appreciation for the invitation to visit the country, which Foreign Minister Hugo Martínez Bonilla had extended in the previous hearing. The IACHR reiterates that amnesty laws related to gross

human rights violations are incompatible with international human rights obligations, as they keep States from investigating and punishing those responsible.

Public Debt, Fiscal Policy, and Poverty in Puerto Rico, United States

The participating organizations presented information regarding the grave economic crisis Puerto Rico is going through as a result of public debt said to exceed \$70 billion. They also informed the IACHR that the debt payment had become a government priority and that the government had adopted austerity measures that affect the population's enjoyment of human rights. They referred to some of the measures adopted, including taxes, massive layoffs in the public sector, the closure of public schools and courts, and cuts to the budgets of nonprofit organizations. They also pointed to the negative effects such fiscal policies reportedly have on the right to decent work; the constitutional right to collective bargaining; the right to universal education, including for children with disabilities; the right to health; and the right to housing. The organizations explained to the IACHR that the crisis is causing massive emigration of the population to the U.S. mainland, which is causing unprecedented levels of poverty and exacerbating the situation by reducing Puerto Rico's tax base. In addition, the organizations at the hearing indicated that, despite this situation, the Puerto Rican people do not have access to complete and reliable fiscal data as to the causes of the debt and the government's operations, and that they have not been informed regarding the distribution of the funds. The participating organizations characterized the situation Puerto Rico is going through as a "humanitarian crisis" and asked that a moratorium on payment of the debt be decreed and that a participatory and democratic system to audit the debt be established, among other measures. The State recognized the fiscal and economic crisis, indicating that even though 36 percent of its budget is allocated to servicing the debt, Puerto Rico is on the verge of nonpayment. The State indicated that Puerto Rico's colonial status prevents it from renegotiating the debt payment, forcing it to depend on the U.S. Congress, which has yet to adopt measures to restructure the debt. The IACHR expressed concern regarding the information presented, particularly because of the potential effects of the crisis on people's human rights. The Commission welcomed the Puerto Rican authorities' openness to a working visit by the IACHR to the island.

Human Rights Situation of Migrant and Refugee Children and Families in the United States

The organizations that requested the hearing noted that despite some progress, there continue to be serious violations of the human rights of children and their families in the context of immigration detention in the United States. The organizations described the asylum procedures currently in effect and expressed some concerns regarding the situation of child and family detention, including the lack of proper medical care and the psychological and social impact of poor treatment in detention centers. The organizations stressed the importance that immigration detention policies stop sending the message that the families and children have done something wrong. They took the opportunity to urge the State to revoke the policy of automatically and summarily detaining migrants, and to improve the quality of the procedures to determine whether

someone has credible grounds for fear. The organizations also said there were cruel and unnecessary situations involving family separation, and expressed their concern about ankle monitors being placed on asylum seekers. They deplored the summary deportations of women and children who entered the United States, who they said had no access to due process and to defense counsel in the context of asylum procedures. The State recognized that the immigration phenomenon in the United States is a critically important situation with humanitarian implications, but said the State also has a sovereign right to control the admission of foreigners into its territory and to admit or expel them. The State stressed that it has addressed the situation fairly and humanely and has also complied with the recommendations proposed. It said that specific resources have been earmarked for the U.S. strategy of engagement in Central America, and announced joint initiatives with UNHCR in the region. A representative of the State said that U.S. borders are not open to illegal migration. The IACHR called attention to its concern over immigration detention of families in the United States and stressed that detention should be understood as a measure of last resort. In addition, the Commission requested information on the training of border officials, stressed the importance of considering the best interests of the child, and reiterated its commitment to follow through with recommendations made to the State.

Human Rights and Access to Water in the United States

The participating organizations presented information regarding the lack of access to drinking water and to healthy, accessible, and affordable sanitation services in the United States, without discrimination. They said this lack of access disproportionately affected low-income communities, particularly indigenous, Afro-descendant, and Latino communities and the immigrant population. The organizations presented testimony regarding the effects on health and physical integrity caused by water pollution due to toxic and nuclear waste. They also described the impact of the water contamination crisis in Flint, Michigan, on undocumented residents, and presented information regarding the high rates for water service; cuts in supply; lack of access to sanitation services by those who have been discriminated against historically, such as homeless people; and other situations involving contamination as a result of uranium mining, nuclear plants, and the use of pesticides and fertilizers. The organizations also presented information on emerging best practices to prevent and redress violations of the right to water; these include recognition of the right to water and affordability policies in which users' income is considered in determining the cost of service. For its part, the State indicated that it has no international obligations based on the International Covenant on Economic, Social and Cultural Rights as it is not a party to that treaty. However, the State delegation presented information regarding international and national programs that establish quality standards for the provision of water service. The State also reported that control and monitoring measures have been adopted since the Flint crisis to address the situation and to prevent it from happening again. The IACHR called to mind that States have an obligation to protect people who have been subject to discrimination historically, as well as to respect human rights and guarantee the necessary conditions for a life of dignity.

Right to Freedom of Association in Paraguay

The participating organizations provided information regarding policies and practices carried out by the State of Paraguay to deny or hold up the official registration of labor unions. In addition, the hearing addressed complaints concerning the situation of union activists and leaders who are alleged to be victims of acts of anti-union discrimination, including massive dismissals and an excessive use of force by security forces. In conclusion, the participants presented information concerning the many legislative obstacles that exist with regard to limitations placed on types of unions, requirements for a minimum number of members, and obstacles to serving on boards of directors, among others. The State indicated that it has ratified a number of international law treaties on the subject and that the Constitution recognizes freedom of association as a right. The State also rejected the organizations' allegations and indicated that the Labor Ministry has granted a reasonable number of union registrations and has made substantial progress on the mediation of collective disputes. The Commission said it appreciated the relevance of the issue discussed in the hearing and the presence of worker unions; it also expressed concern over repression and limitations to the exercise of unionized workers' right to protest.

Sexual Violence and Human Rights of Children and Adolescents in Paraguay

The organizations that requested the hearing explained the problem of high levels of sexual violence against girls between 10 and 14 years of age in Paraguay, and the various consequences on victims' lives, personal integrity, and physical and psychological health. According to the information presented, 421 complaints of sexual abuse of girls under the age of 14 were filed from January to May 2015; however, the organizations said, these figures do not reflect the magnitude of the problem, as many cases are not reported. The consequences of sexual violence are particularly negative for girls and female adolescents, with lasting impacts on their lives as well as exposure to unwanted pregnancies. Pregnancies among girls and adolescents account for 20 percent of all births in Paraguay. The organizations emphasized that girls between the ages of 10 and 14 are two to five times more likely to die during pregnancy or in childbirth, and they stated that 28 girls under age 14 had died recently giving birth in that country. Paraguay's domestic laws provide for the possibility of interrupting a pregnancy in cases in which the mother's life is at risk; however, there is no effective access to adequate health services for the victims given the lack of medical care protocols establishing how, when, and by whom the interruption of a pregnancy can be determined. This means, in practice, that victims do not have access to these procedures and that medical personnel are at risk of being criminally prosecuted. The organizations reported that intimidation and threats are directed toward those who defend sexual and reproductive rights, as well as family members who defend the rights of girls who are victims of sexual violence. They also stressed that while Paraguay's Criminal Code establishes age 14 as the age of consent for having sexual relations and establishes that sexual relations under that age constitute a crime, there is a high level of impunity for these types of crimes. Among the problems they identified are a lack of protocols that would allow for an effective investigation into allegations of sexual violence without re-victimizing the victim. The organizations cited the case of a girl name Mainumby by way of example. The State,

for its part, presented the programs it is developing to prevent violence against children, interventions to address trafficking for sexual exploitation, and social awareness campaigns in Spanish and the Guaraní language. The Commission reiterated its concern regarding the lack of protocols that would make it possible to provide adequate health care for girls who are victims of sexual violence, including the legal interruption of pregnancy; the lack of education in sexual and reproductive health for boys and girls; and the practice of institutionalizing pregnant girls.

Measures to Reduce Pretrial Detention in the Americas

In this hearing convened by the IACHR on its own initiative, the participating organizations expressed their concern over the excessive use of pretrial detention in the Americas and the resulting consequences, such as overcrowding, prison violence, and corruption. They also pointed to instances in the region in which laws have been toughened in response to problems related to citizen insecurity; this translates into a growing list of behaviors considered crimes, harsher penalties, and an increase in the number of crimes for which pretrial detention can be imposed. The IACHR was also informed about the lack of a gender perspective in policies to address the drug problem. This has reportedly made it impossible to address the differentiated impacts of deprivation of liberty on men and women, and has meant that in countries such as Argentina, Brazil, Costa Rica, and Peru, more than 60 percent of the women who were arrested and are being held in custody are linked to drug-related crimes. The participants also pointed to some measures that States have taken to reduce the use of pretrial detention; these include custody hearings in Brazil, plans to reduce congestion in the criminal justice system in Bolivia, and the use of restorative justice through the “conditional suspension of criminal prosecution” in Guatemala. For its part, the Commission indicated that the excessive use of pretrial detention represents “a failure in the justice administration system” and that the system can address this problem through the application of alternative measures to pretrial detention. The IACHR also referred to prison overcrowding, which to a large extent results from the excessive use of pretrial detention and which is a “hotbed” for violations of the human rights of persons deprived of liberty.

Right to Health and Tobacco Addiction in the Americas

The participating organizations indicated that tobacco is a lethal product that causes the deaths of half of its users and is the leading cause of illness and disability. They also noted that tobacco addiction perpetuates poverty and stands in the way of States’ sustainable development, disproportionately affecting social sectors that have historically faced discrimination. They maintained that this has also generated enormous economic impacts on health systems due to the high cost of treating tobacco-related illnesses. The participating organizations stated that the tobacco industry, in order to keep its products on the market and increase earnings, targets its advertising campaigns to groups that historically have faced discrimination, such as women, children and adolescents, and LGBTI persons. They also stated that these companies develop strategies to rein in government efforts to regulate tobacco and promote public health policies,

through the use of litigation, legislative lobbying, and actions that are ethically and legally questionable. The organizations also indicated that there is sufficient scientific evidence showing what policies are effective and should be implemented to slow down the epidemic of tobacco addiction and protect people's rights to life and health. In fact, they indicated that the Framework Convention on Tobacco Control of the World Health Organization (WHO) establishes specific measures the States Parties should implement to minimize the impact of tobacco on public health. In this context, and in order to comply with international human rights obligations, the organizations indicated that States should urgently implement tobacco control measures and should ensure transparency in their dealings with tobacco companies. The IACHR stressed the importance of the first hearing held on this issue as an opportunity to learn together. The Commission also underscored the importance of a discussion that weighs the relationship between individual liberties and the rights to health and equality.

Case 12.932 – Agapito Pérez Lucas, Luis Ruiz, Nicolás Mateo, Macario Pu Chivalán, Guatemala

Participants in the hearing included representatives of the State of Guatemala and, for the petitioners, the Consejo de Comunidades Étnicas RUNUJEL, JUNAM (CERJ) and the Robert F. Kennedy Human Rights Center. The petitioning party laid out its allegations regarding the alleged forced disappearance of Agapito Pérez Lucas, Luis Ruiz, Macario Pu Chivalán, and Nicolás Mateo, members of the Maya-Quiché people, at the hands of the Guatemalan army. The petitioner also explained the active efforts these individuals had carried out within CERJ as human rights promoters, and argued that their forced disappearance had been committed in retaliation for these efforts. The petitioner also alleged that, to date, no diligent investigation has been undertaken to search for the alleged victims, nor have adequate steps been taken to identify and punish those responsible, and that there has clearly been unwarranted delay in obtaining justice. Pedro Mateo, son of Nicolás Mateo, offered testimony at the hearing about the facts surrounding his father's alleged forced disappearance and the impact this event has had on his life. The Commission also received testimony from Amílcar Méndez Urizar, who provided details about the work the alleged victims had done as human rights defenders. Mr. Méndez also gave testimony about the efforts he had made in the country to try to obtain a response and to obtain justice. Responding to the witness statements and the petitioners' arguments, the State expressed its interest in beginning a process of dialogue with the victims in order to carry out any unfinished business and come to a resolution of the case. The commissioners present noted the State's position and the importance of the friendly settlement process within the Commission's system of cases and petitions. At the request of the petitioners, the representatives of the State pledged to arrange for meetings in Guatemala with the authorities in charge so as to obtain a specific proposal of the actions the State would carry out. If a formal friendly settlement process is begun, the parties will inform the Commission in a timely manner.

Right of Women to a Life Free of Violence in Guatemala

The participating civil society organizations presented information regarding the human rights situation of women in Guatemala and the situation of widespread violence they face. According to information provided by the organizations, even though Guatemala has a legal framework that protects the rights of women, the government's actions have weakened and limited national processes to eradicate violence against women. In this regard, the participating organizations requested that the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women (CONAPREVI) be reactivated immediately and that a specific law be issued to strengthen this council. The organizations also asked that the government continue strengthening the Centers for Comprehensive Support for Female Survivors of Violence (CAIMUS) and that the law governing the Ministry of Women be issued to strengthen the Presidential Secretariat for Women, as well as a specific law on the Office of the Ombudsman for Indigenous Women. For its part, the State delegation acknowledged that throughout its history, Guatemala has been marked by patriarchal cultural patterns, and said it agreed with the need to guarantee to Guatemalan women a life free of violence and access to development on equal terms with men. The delegation reaffirmed its commitment to continue establishing a legal framework designed to prevent, punish, and eventually eradicate violence against women through the ratification of international instruments on the subject, legal reforms, and national action plans. With regard to CONAPREVI and the changes to its institutional and operational structure, the government indicated that this institution was created to meet the country's international obligations and that its mandate and structure are still in the process of being defined. In this regard, it expressed its willingness to continue to hold meetings among institutions and with civil society to keep moving forward in this process. The State also expressed its willingness to amicably address the problems raised with regard to decision-making spaces in which women's organizations participated. The IACHR welcomed this willingness and the constructive attitude of the delegation of Guatemala, and offered its support in bringing positions closer together. The Commission also stressed the idea that while laws are not the only element capable of changing cultural patterns, they are a good start and therefore steps should be taken to effectively implement them. In this regard, the Commission recommended the establishment of a permanent, ongoing platform for dialogue between civil society and the State of Guatemala.

Right of Children to Food in Guatemala

The participating organizations presented information concerning the widespread context of violence in Guatemala in which children and adolescents are victims of high rates of violent deaths and sexual crimes. They also expressed concern over the limited extent to which the Law on Comprehensive Protection of Children and Adolescents has been implemented due to lack of resources and institutional coordination and shortage of personnel. The participants also denounced that the government institutions linked to the cases involving child malnutrition among indigenous children have failed completely or partially to comply with legal decisions handed down in 2013. Finally, the participating organizations presented information regarding attacks and acts of intimidation and stigmatization directed toward indigenous communities and those who defend the right to food. For its part, the State reported on its efforts to protect and guarantee the right to food,

such as the adoption of the national system on food and nutritional security in 2005. The State also indicated that it has been progressively complying with court orders in favor of indigenous children through the issuance of a participatory protocol. The Commission stressed the importance of the State of Guatemala's progress on the legal front and called for the promotion of long-term measures to provide a structural solution to the problem of child malnutrition.

Right to Freedom of Expression and Regulation of Audiovisual Media in the Americas

In this thematic hearing, the delegation from the International Association of Broadcasting (IAB) expressed its concern over the fact that in the last five years there has been an increase in various types of actions and trends that directly or indirectly restrict freedom of expression and the operations of media outlets, journalists, and communication workers in a number of countries in the region. Specifically, participants referred to the approval of laws that had the announced goal of democratizing the media but that, in their opinion, were used to go after media outlets that were critical of the government. For its part, the Observacom delegation presented a study on the progress of the transition to digital television in the region. Participants indicated that this is not just a technological change but that it implies a more efficient use of the broadcast spectrum, which enables new voices to be included on television. They indicated that some countries have passed legislation to better allocate the so-called digital dividend, but others are not taking advantage of the opportunity to bring greater diversity and pluralism to broadcasting, and the trend toward higher levels of concentration among few actors has worsened. The Special Rapporteur for Freedom of Expression acknowledged that any regulation of the media is complex and must be done with respect for the demands of freedom of expression. He noted that while there have been bad experiences in this area, there have also been some positive public policies in the Americas and in Europe. He asked the participating organizations what types of practices would better ensure due process in access to licenses. Also, given the existence of groups that control large numbers of frequencies, allegedly restricting access to new players, he asked the organizations what they considered reasonable limits to the monopolization of this resource. The Commission calls to mind that different types of media outlets (public but independent of the executive branch; private, for-profit; and nonprofit community or private) should be recognized and given equitable access to all available broadcasting platforms, including the new digital dividend, and that the authority that applies and supervises broadcasting regulations should act transparently and with respect for due process.

General Situation of Human Rights in Colombia

The organizations that requested the hearing said they were optimistic regarding the progress made in the peace process; however, they indicated that measures should be implemented to ensure that human rights violations and the armed conflict and its structural causes are not repeated. They said that paramilitary actions continue and have increased in Colombia, and identified a lack of clear strategies by the State to effectively dismantle the paramilitary. They also

indicated that so far this year there has been an increase in killings and attacks against human rights defenders throughout the country, with a total of 28 individuals killed—13 of whom were human rights defenders and leaders of social movements, and the other 15 who died in actions related to so-called “social cleansing”—and that 54 attacks against human rights defenders have been reported. They said that in 2015, 682 rights defenders were attacked; 539 were threatened (an increase of 10 percent over the previous year); 64 rights defenders were killed (an increase of 13 percent over the previous year); 3 were made to disappear; 35 were targets of attempts on their life; 26 were arbitrarily detained; 8 were subject to arbitrary use of the criminal justice system; and 8 were victims of information theft. They indicated that those allegedly responsible for these acts are, for the most part, paramilitary groups. The organizations asked the State to recognize that paramilitarism persists; to truly dismantle it; and to prosecute and punish its members and officials who tolerate paramilitarism. They accused the Attorney General’s Office of failing to act diligently to investigate paramilitaries, in contrast to obvious efforts being taken to establish the responsibility of members of the guerrillas, and also pointed to the high rate of impunity in cases involving sexual violence. The State, for its part, indicated that current homicide statistics are the lowest they have been in 40 years; displacement has dropped by some 80 percent in the last five years; kidnappings have been cut in half; and the recruitment of minors has dropped by 90 percent. The State also expressed its recognition and respect for the work of human rights defenders and reiterated the importance of defenders in a democratic society. The Commission expressed its concern over the increase in human rights violations perpetrated against human rights defenders. It indicated that it values the progress made in the peace process in Colombia and said that it will, within the sphere of its authority, follow and analyze the resulting agreements and their implementation. The Commission reiterated that the consolidation of the peace process and the expectations for achieving a stable and lasting peace are cross-cutting factors in the human rights situation.

Search for the Missing and Excavations in La Escombrera, in Medellín, Colombia

The organizations that requested the hearing indicated that from 2002 to 2010 Colombia established a policy of “democratic security,” which promoted military operations throughout the country, and that in 2002, 19 of these operations were carried out in Comuna 13, a borough in Medellín. They said that from 2002 to 2004, 130 people had been made to disappear in Comuna 13 and that even though the cases were reported, they had gone unpunished for 14 years. The organizations said that the Justice and Peace Chamber of the Medellín Superior Court established that “the situation of La Escombrera, where the bodies of hundreds of the disappeared in Medellín were buried and hidden away, constitutes an affront to the victims and a gross violation of the State’s commitments and obligations. To continue dumping rubble over the missing violates the most basic sense of humanity.” The court ordered the mayor to stop the dumping of rubble and to restore this area as a way to remember and bring dignity to the victims and the disappeared. The organizations maintained, however, that this order has still not been carried out, two years after being issued. They also indicated that search efforts in one area of La Escombrera [“the dump”] have yielded no results and that no searching has been done since December of last year. They

proposed the need for urgent search measures to locate and identify the remains and return them to their family members with dignity, as well as a comprehensive search plan that establishes the total number of the missing and the crimes committed. They said this should include the use of international protocols, independent teams, and institutional coordination, and should include the participation of victims and provide psychological and social support for them. The State pointed to the creation of the Truth Commission and the Missing Persons Search Unit, and stated that Colombia will clear its territory of landmines and investigate all hidden graves. The State indicated that the technical study on exhumations at La Escombrera brought to light problems such as ground movements and environmental risk. The Commission expressed the need to ensure that there is an adequate mechanism in place to search for the missing, one that respects international standards related to protecting the victims of forced disappearance. The Commission also urges the State to redouble its efforts to clear up what happened to the victims; determine their whereabouts; and identify their remains and return them to their families, with mechanisms in place to ensure the families' participation in the process.

Case 12.954 - Jineth Bedoya, Colombia

A hearing was held on the merits in Case 12.954, Jineth Bedoya Lima, Colombia, with the participation of the Fundación para la Libertad de Prensa (FLIP), the Center for Justice and International Law (CEJIL), journalist Jineth Bedoya Lima, and the Colombian State. During the hearing, the petitioners laid out their arguments concerning the State of Colombia's international responsibility in the kidnapping, torture, and rape of journalist Jineth Bedoya on May 25, 2000. They alleged that these acts were motivated by Jineth Bedoya's work as a journalist and took place in a broader context of sexual violence in the internal armed conflict in Colombia. The petitioners maintained that the State failed to meet its obligation to protect the journalist and that it has not conducted an investigation into these events with due diligence. Specifically, they alleged that the investigation had not managed to deactivate the threats against Bedoya Lima, nor has it been able to determine all those responsible for the crime, particularly the masterminds. For its part, the Colombian State expressed its recognition of Jineth Bedoya Lima's work as a journalist and human rights defender and affirmed its commitment to ensure that acts such as those reported in this case do not happen again. In addition to explaining the proceedings that have been carried out in domestic courts, including information about the convictions in the last two months of two participants in the crimes, the State said that it was willing at any time to arrange with the journalist for her security plan to be strengthened. Subsequent to the hearing, the petitioners informed the IACHR that a message reportedly jeopardizing the life and integrity of journalist Jineth Bedoya had circulated on social media networks after the public hearing, in direct retaliation for her participation. The Commission reiterates its concern regarding the threats, reprisals, and smear tactics to which some people who participate in hearings and working meetings at the IACHR are subjected, either at the hands of private individuals or, in some cases, of State authorities.

Case 12.807 - Jahel Quiroga Carrillo, Colombia

The IACHR held a hearing on the merits with the participation of Corporación REINICIAR, of which the alleged victim is the director, and the State of Colombia. During the hearing, the petitioners alleged that Jahel Quiroga Carrillo had endured attacks, threats, acts of harassment, unwarranted judicial investigations, and interceptions of her communications, and had been publicly singled out by State authorities, among other incidents. They alleged that these violations had occurred as a result of intelligence information that had been collected unlawfully by State authorities because of the work she does to defend human rights in Colombia. They claimed that there is a “pattern of systematic persecution” of the alleged victim and that these incidents, which have hampered her work as a human rights defender, have gone unpunished. Finally, they stated that the alleged victim has not had sufficient resources to obtain effective protection against the risk she faces, such as to gain access to the intelligence information and be able to request that it be corrected or purged. For its part, the State recognized the work Jahel Quiroga has done in defense of human rights in Colombia, as well as her participation in the development of public policies related to the protection of human rights defenders in the country. The State rejected the notion that there is a “pattern” of attacks against her and condemned any incident in which she had been stigmatized or threatened. It also reiterated its willingness to offer her protection measures and presented information regarding the measures it has adopted to the benefit of Corporación REINICIAR and the members of Unión Patriótica. In terms of the alleged existence of intelligence information, the State explained the review and purge process it began in 2004, and claimed that Jahel Quiroga’s requests had been addressed and that it had been determined that there is no record of her in the intelligence archives. In addition, the State presented information regarding internal investigations into the incidents reported by the alleged victim. It indicated that elements of context have been taken into consideration; however, it suggested that the ability to obtain concrete results in the investigation has been hampered by certain obstacles related mainly to the identification of suspects. The State denied that the judicial investigations brought against the alleged victim had been carried out based on intelligence information.

Human Rights Situation of LGBT Persons in Honduras

The participating organizations reported that State institutions are permeated with discrimination and stigma against lesbian, gay, bisexual, and trans (LGBT) persons. They also reported that there is an atmosphere of impunity with regard to acts of violence against LGBT persons, which translates into the fact that only 12.5 percent of cases that are reported end up being prosecuted. They also informed the Commission about the failure to collect statistics on violence against LGBT persons; the discrimination, torture, and maltreatment by police officers; discrimination and exclusion in educational and health-care settings; abuse at the hands of criminal gangs; and ineffectiveness in the implementation of precautionary measures for human rights defenders who advocate for LGBT rights. The State, for its part, reported that the National Human Rights Plan has a specific component for LGBT persons, and said that so far only 30 percent of the plan has been implemented. It also informed the Commission that human rights training has been provided to law enforcement agents; observations benefiting LGBT persons deprived of liberty have been made to

disciplinary rules; the CIVIDE platform was launched to monitor the human rights situation of key populations; efforts were made with a view to keeping the text of Article 321 of the Criminal Code intact; and new clinics have been established across the country where LGBT persons can receive differentiated and confidential medical treatment, among other measures. The IACHR welcomes the efforts made in this area by the State of Honduras and urges the State to adopt measures to ensure effective compliance with precautionary measures; ensure due diligence in proceedings to investigate and punish acts of violence based on prejudice, including cases of torture, police abuse, and institutional abuse of LGBT persons; guarantee that the existing legal framework is not applied in such a way as to criminalize LGBT persons; and revise the legal framework governing sex work so that it is not applied in a way that stigmatizes or discriminates against LGBT persons.

Human Rights Situation in Bajo Aguán, Honduras

The hearing began with a moment of silence and applause in memory of Berta Cáceres Flores. Her daughter, Berta Zúñiga Cáceres, indicated that, one month after her death, the State had not provided answers as to what happened and that the investigation file had been classified. The organizations participating in the hearing stated that prosecutions and murders of human rights defenders in the country had increased. More environmental and land rights defenders have reportedly been killed in Honduras, per capita, than in anywhere else in the world. In the Bajo Aguán Valley, 700 people were said to have been prosecuted from 2010 to 2016. This territory has been in permanent dispute between large businessmen, landholders, alleged drug traffickers, politicians, and peasant families; consequently, human rights defenders in this region face a specific context of violence, with abuses that are not investigated. The organizations referred to the special situation faced by female rights defenders and the lack of a gender perspective in the investigation of these cases. They also referred to the region's militarization, which they said serves as a measure for repression and persecution, through a strategy that terrorizes the population. They indicated that the Law on the Protection of Human Rights Defenders, Journalists, Media Workers, and Justice Operators has not been implemented and that precautionary measures granted by the IACHR are not applied effectively by the State. They reported that 17 human rights defenders who were beneficiaries of precautionary measures had been killed in the country, including the case of Berta Cáceres. The State of Honduras, for its part, confirmed the importance of taking a comprehensive approach to the conflict from a human rights perspective and reiterated that the State is not encouraging the criminalization or persecution of the campesino movement. It explained that a number of factors converge in the conflict in Bajo Aguán, noting that drug trafficking is a factor generating violence—one that Honduras has focused its efforts on combating, through comprehensive strategies. It reported, among other things, on the creation of the Violent Deaths Unit of Bajo Aguán, which is handling an average of 121 cases. It indicated that the State's efforts have led to a reduction in violence in Bajo Aguán. The IACHR stressed the urgency of implementing the Law on the Protection of Human Rights Defenders, Journalists, Media Workers, and Justice Operators; the importance of creating protocols to investigate human rights violations affecting rights defenders; and the need to resolve the conflict in the Aguán region.

General Situation of Human Rights in Mexico

The State presented information on policies and programs designed to promote and protect human rights in Mexico. It talked about progress that has been made since the IACHR made its recommendations on citizen security, disappearances, torture, extrajudicial executions, access to justice, people in a vulnerable situation, LGBT persons, women, children, indigenous peoples, human rights defenders, journalists, and migrants. Specifically, the State indicated that the creation of a single State police force had been agreed upon in January 2016, an initiative that will be proposed to the Senate so as to give it constitutional standing. With respect to the military, the State indicated that the armed forces have always had a presence throughout the country. The State indicated that in mid-2014 it had launched a strategy to attend to cases before the inter-American human rights system, which has had the effect of increasing attention to human rights violations, particularly through friendly settlements. The State also recognized that the challenges it faces with regard to human rights are enormous, and it reiterated that the State as a whole has the commitment, willingness, and capacity to address these challenges effectively. The participating organizations, for their part, said that Mexico is undergoing a situation in which human rights violations are widespread and, in the case of torture and forced disappearance of persons, not just widespread but systematic. They also said that there is a situation of structural impunity. They expressed particular concern over the situation of internal forced displacement due to violence; the negative consequences for migrants of the implementation of the Southern Border Plan; and the contrast between the State's supposed openness to dialogue and its policy of hostility toward international organizations and the Interdisciplinary Group of Independent Experts in the Ayotzinapa case. The organizations indicated that in December 2015 the President sent to the Senate draft legislation on torture, which proposes to make it legal to use evidence obtained in some cases under torture and cruel, inhuman, or degrading treatment, in contravention of international standards. The IACHR questioned the State over the strong public attacks in Mexico on the Group of Independent Experts' work and the harm done to the Executive Secretary of the Commission as a result of the criminal complaint filed against him in Mexico. It also regretted the government's criticisms of the last IACHR report on human rights in Mexico and urged the State to recognize reality.

Rights of Persons Deprived of Liberty and the Privatization of the Prison System in Mexico

The participating organizations expressed their concern over this "critical" moment for the Mexican prison system, reflected in the massacre that took place in the Topo Chico Prison this year, which the IACHR commented on in [Press Release 16/16](#), dated February 18, 2016. They also referred to the privatization of Mexican prisons and their accreditation by the American Correctional Association (ACA). Far from fitting in with a public policy focused on human rights, these models promote corruption and a lack of transparency and do not help build a prison system that guarantees the rights of those deprived of liberty, their family members, and society in general, according to the organizations. The Mexican State, for its part, recognized that one of the challenges

still to be resolved is that the legal framework governing the rights of persons deprived of liberty dates back to 1971 and has remained “dormant” and “inconsistent” with international standards in this area. In this regard, Mexico said it hoped that this year the legislative branch would issue new regulations in line with the major reforms that have been made in Mexico in the area of criminal justice, in 2008, as well as human rights, in 2011. The Inter-American Commission expressed its concern over the high operating costs of the prisons run by private companies. Specifically, the Commission was informed that the cost per inmate in private prisons is as high as around \$90 per day, compared with an average ranging from \$8 to \$22 per day in state and federal public prisons. The IACHR also reiterated to the Mexican State that it is interested in learning what standards govern the operations of detention centers in Mexico, in terms of receiving ACA certification, and it expressed its interest in having information regarding measures the State adopts to guarantee medical care to persons deprived of liberty.

Missing Children and Adolescents in Mexico

The organizations that requested the hearing noted that the grave human rights crisis in Mexico has a serious and disproportionate impact on certain groups in a vulnerable situation, including children and adolescents. They indicated that there is a widespread context of disappearances in which approximately 30 percent of the cases on file through 2015 involved children and adolescents, with a significant increase in cases of female adolescents from 2012 to the present. However, official figures do not reflect the scope of the problem, given the failure to report and problems in the case registration system. The participants stressed that the State’s response has been insufficient and inadequate, as there are no effective, secure, and nimble mechanisms in place to report, investigate, and search for missing persons, as well as to clarify who is responsible. In part, they said, this is because these mechanisms operate at the local level and fail to recognize that the disappearance of children and adolescents is linked to organized crime and/or federal crimes. They also pointed to cases of collusion between State authorities and criminal organizations engaged in the trafficking of children and adolescents for sexual exploitation. The civil society organizations proposed that recognition of the particular situation of children and adolescents be included in the draft General Law on Disappearances and that specific provisions be introduced, including the creation of a Single Action Protocol for missing children and adolescents, one that considers the activation of alerts and immediate searches in the first hours after a disappearance. For its part, the State welcomed the information provided by civil society and the recommendations made by international organizations on this subject. The authorities reported that significant legislative progress has been made, including the approval in 2014 of the General Law on the Rights of Children and Adolescents and the ongoing establishment of the national system for comprehensive protection at the state, federal, and municipal level. The State also reported improvements in search protocols and missing-persons records, and talked about the creation of a National Register of Social Assistance Centers, both public and private, and a record of the children and adolescents who are there, in order to prevent disappearances in these centers. The State also expressed its commitment to introduce specific measures pertaining to children and adolescents in the General Law on Disappearances; create an interdisciplinary working group to examine

advances in the area of missing children; and produce public information regarding the results in this area, which will be sent to the IACHR for its information. It extended an invitation to the Rapporteur on the Rights of the Child to visit the country to learn about these efforts firsthand.

Access to Information and Indirect Restrictions on Freedom of Expression in Mexico

Participants referred to the various mechanisms allegedly used in Mexico to indirectly censor freedom of expression and block access to public information. The organizations denounced the lack of a specific law requiring public officials to disclose their assets and conflicts of interest. They also denounced the absence of a clear regulation on allocation of official advertising, which they said has allowed this to be used as a means to punish media outlets whose editorial stance is not in line with the government and to encourage concentration of media ownership, adding that most of the advertising goes to certain media groups. The organizations expressed their concern that the Federal Institute of Telecommunications (IFT) imposes what they said were disproportionate licensing and other requirements on community media outlets. The organizations informed the Commission about electronic surveillance activities they said are shielded by laws that are too broad and ambiguous. They also talked about a bill now in Congress on the protection of personal data and said that this legislation was not in sync with the right to access to public information or with the handling of data obtained under surveillance, and that it also includes the so-called right to be forgotten. Finally, they asked the Special Rapporteur for Freedom of Expression to carry out an onsite visit to Mexico. The State delegation expressed its commitment to transparency and to the guarantees of freedom of expression. It maintained that there are laws and mechanisms in place that seek to improve the criteria for allocating government advertising and the transparency of that process. The State also noted that under the Federal Telecommunications Law, broadcasting frequencies had been reserved for community and indigenous media outlets and that numerous applications were under review. Finally, the State referred to the constitutional reform that created a system for transparency, access to public information, and protection of personal data, run by a national institute specified as a specialized, professionally licensed organization with guarantees of operational autonomy and independence. The State recognizes that there are major challenges in the fight against corruption, but asserted that the government has taken a series of steps to address this issue.

Follow-up on the Report “Missing and Murdered Indigenous Women in British Columbia, Canada”

This hearing was convened by the Commission on its own initiative, to follow through on the report “Missing and Murdered Indigenous Women in British Columbia, Canada,” published by the IACHR in January 2015. The hearing included the participation of civil society organizations, the State, and the United Nations Special Rapporteur on violence against women, Dubravka Šimonović. The civil society organizations began by recognizing the change in government, noting that the new administration has shown many good intentions in terms of its relationship with indigenous

peoples; however, they maintained that the crisis situation still continues. As far as the recommendations made by the Commission are concerned, the organizations informed the IACHR that these are not being implemented, with the exception that a national inquiry on missing and murdered indigenous women has been initiated, though that also has its critics. The organizations stressed three main criticisms: First, they said that the national inquiry does not focus on racial, sexual, social, and economic violence, which is the structural cause of the violence faced by indigenous women in the country. Second, they expressed their concern regarding the marginalization of indigenous women's organizations in the conception and design of the national inquiry, as the federal government had empowered only organizations led by men. They indicated that indigenous women have been discriminated against historically by the federal government and in turn by official indigenous organizations and that, ironically, the national inquiry was replicating this same discrimination. Third, they were concerned about whether the inquiry would be national or apply solely to federal agencies. As to the other recommendations made by the IACHR, the organizations reported that, among other things, there is still no safe public transportation along the "Highway of Tears," and no comprehensive, transparent plan with a clear budget to implement the recommendations from the Oppal report, which they said creates a process of partial compliance, one that is opaque and impossible to monitor. The UN Special Rapporteur on violence against women underscored the importance of her project "Femicide Watch" and urged the State to develop disaggregated data on gender violence so as to be able to determine the causes and patterns of violence against women and to prevent these cases from happening in the future. The State, for its part, was very open to dialogue. It recognized the importance that international institutions participate in the design of the national inquiry and pointed to different parts of its budget devoted to attacking the problem of discrimination and violence against indigenous women. The IACHR emphasized the State's goodwill and said the Commission would continue to follow the situation.

National Child Protection Systems in the Americas

This hearing was convened by the IACHR on its own initiative, as part of a process of preparing a thematic report on national systems to protect the rights of children and adolescents in the region. The organizations participating in the hearing gave an overview of how these systems work and provided some examples related to Argentina, El Salvador, and Peru. The participants agreed that States in the region have made considerable efforts to bring their legal frameworks into line with the United Nations Convention on the Rights of the Child, though they said the main challenge for the effective exercise of the rights of children is the proper functioning of child protection systems—in other words, the establishment of policies, programs, services, and the necessary institutions to guarantee the rights recognized under the law. The problematic aspects the organizations discussed during the hearing included: insufficient decentralization of services to the local level; the need to strengthen coordination among sectors; the lack of sufficient financial resources; the lack of specialized personnel; flaws in information management mechanisms and systems to monitor and evaluate public policies; and barriers in terms of accessibility and adaptability of services, to ensure inclusion and provide a differentiated focus to properly attend to

the needs of all children. The organizations emphasized that there are asymmetries and inequalities based on geography, given the disparities in capacity and resources among local institutions. They said that countries should have National Action Plans for Children that ensure sustained, coordinated, and evaluable interventions, and specified the importance that civil society and children and adolescents themselves participate in the design, monitoring, and evaluation of public policies, programs, and services. The organizations also talked about the need to improve connections between child protection services and community structures to be able to better identify, refer, and attend to cases in which children lack protection. The organizations also recommended creating single registers, care plans, and action protocols that are integrated and facilitate child protection actions. Finally, they stressed the importance of strengthening aspects related to prevention, since child protection systems still focus heavily on responding to situations involving a lack of protection and violations of rights.

Human Rights Situation of Afro-Descendant Women in Brazil

The organizations that requested the hearing presented information concerning the serious situation of structural violence against women of African descent in Brazil. The participants said that while the number of violent deaths of white women decreased from 2002 to 2013, the percentage of black women killed remains at 64 percent of the total. This suggests that the *María da Penha* Law on violence against women has not decreased attacks on Afro-descendant women, nor has it reduced impunity in these cases. The participants also reported on the situation of killings and other violence against trans women of African descent and the lack of statistics on these crimes. Finally, the participants expressed their concern over the high rates of maternal mortality of black women as a consequence of institutional racism in the provision of health care. For its part, the State asserted that Brazil's policy of racial equality is one of the most advanced in the region. The country's Secretariat for Racial Equality has advanced projects to strengthen black women's organizations; substantially improved the establishment of social indicators differentiated by gender and race; and carried out differentiated programs in the areas of health, education, and attention to violence. The Commission expressed its concern regarding the disproportionate number of attacks on black women and emphasized the importance of including them in high-level decision-making. Finally, the Commission stressed that the State has an obligation to ensure adequate health care to women of African descent, and particularly to provide sexual and reproductive health-care services. The IACHR urges the State authorities to adopt effective measures to prevent, investigate, and punish violence against trans women of African descent, including those who are deprived of their liberty.

Student Protests and Human Rights in São Paulo, Brazil

The organizations that requested the hearing talked about a "persistent and systematic attack on protests in Brazil," with attacks on demonstrators and journalists who cover these events, as well as the use of an "excessive number" of police officers for these operations. According to civil society,

victims of disproportionate force by the police in some cases included children and adolescents who were participating in student protests. The organizations said that in the last three years there were more than 1,500 protests in Brazil and that these have taken place in a “context of real repression of the demonstrators.” Students who had participated in the protests attended the hearing and recounted cases of abuse by police officers and an attempt to silence their dissident voices. The State of Brazil, meanwhile, said that the occupation of public spaces—referring to schools—is not a right, and said that police force was not used to evict the protesters. It added that this is not a debate about the right to demonstrate but about the right to occupy public property. The State also indicated that the demonstrators had not given prior notice to the authorities, which it understood was necessary to cause the least disruption to traffic and, for example, to protect other people’s right to health with unobstructed access to hospitals. The Special Rapporteur for Freedom of Expression, Edison Lanza, said that the State has an obligation to facilitate protest and asked about protocols in place to manage these situations. He also stated that the use of criminal charges such as contempt (*desacato*) is incompatible with inter-American human rights standards.

Cultural Rights and the Internet in Brazil

The State requested this hearing to discuss the threat to cultural rights and to the guarantee of freedom of expression and preservation of cultural memory of indigenous peoples posed by policies on allegedly indecent Internet content, set by companies that own the most widely used social networks in the region. As an example, the State noted that Facebook had censored an antique photo of a Botocudos indigenous couple, based on the company’s policy on nudity. The State delegation alleged that this violated the Constitution of Brazil and the Statute of the Indian, and stressed the importance that States get involved in Internet-related issues. The State also said there is a need to understand to what extent the subject of social networks is a matter of law and order, and what is the proper sphere in which to address these issues. The delegation talked about the need to apply the guarantees of freedom of expression found in Article 13 of the American Convention and in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in these spaces that are public forums under the control of private corporations. For their part, civil society organizations said that the incident in question is important, especially for people who have been marginalized, as digital exclusion denies the rights of those not yet online, and talked about the need to safeguard the Internet and protect human rights. They also discussed problems related to the protection of women’s rights on Internet platforms, particularly with regard to the posting, without consent, of images or videos taken in private. They requested that the State of Brazil establish public policies on universal online access that do not entail agreements with companies that limit access to the Internet by currently excluded sectors. The organizations also raised questions with the Brazilian State regarding its Internet surveillance policies.

Human Rights and Citizen Security in Nicaragua

The State of Nicaragua did not appear at the hearing. The organizations that requested the hearing expressed their concern over the entry into force of the “Sovereign Security Law of the Republic of Nicaragua,” which establishes that it is up to the discretion of officials and prosecutors to define, according to their objective criteria, what acts or actions by citizens could be considered to be a risk to, an attack on, or a threat to sovereign security. The organizations indicated that this law limits the exercise of citizens’ right to express themselves, have an opinion, and move about freely. They also stressed that officials from every branch of government act within a framework of party loyalty and not the objective of the institution they represent. They stated that the police force is not independent, but rather subordinate to a political party, and that the Supreme Electoral Council is partisan, with acts of corruption and delays in justice. The organizations stressed that the State does not demonstrate the political will to bring about human rights and citizen security in Nicaragua and that this failure poses a danger to social stability and perpetually promotes injustice, indifference, and impunity. The participants also addressed the matter of civil registration and voting among Nicaraguans who live abroad, a human right they said was being denied by the State. They said that while the president of the Electoral Council refers to a lack of economic resources by way of justification, some consulates do issue an identity card, which seems to suggest an intention to prevent Nicaraguans abroad from being able to exercise their right to vote. The participants also expressed their interest in asking the Nicaraguan State if it would be willing to receive an onsite visit by the IACHR, in order to demonstrate compliance with human rights in the context of the inter-American system of which Nicaragua is a Member State. The IACHR regretted the State’s failure to appear, given that the purpose of the hearing is precisely to have the opportunity to hear both parties and build bridges of communication to start a process of coming together to address the issue at hand.

General Situation of Human Rights in Nicaragua

The State of Nicaragua did not appear at the hearing. The participating organizations depicted a situation of impunity, lack of independence of the judiciary, and suppression of social and political protests. They indicated that there is a government policy of exclusion and intimidation of the media and independent journalists, which has led to self-censorship, as well as an accelerated process of concentration of ownership in the electronic media and the discretionary allocation of radio and television broadcasting licenses. The organizations also reported on the violence that persists in 12 Northern Caribbean indigenous communities due to the invasion of their territories by settlers or third parties as a result of the government’s failure to implement the formalization of land titles. They added that the effects of megaprojects on indigenous peoples will impinge upon five indigenous communities, and said that Nicaragua continues to be under concession due to the interoceanic canal project. On another matter, the organizations addressed the problem of sexual abuse in the country. According to one of the organizations, pregnancies in girls and adolescents account for between 22 and 25 percent of total births and many are the result of rape, but this issue is hushed up. Finally, the organizations asked the IACHR to continue requesting an onsite visit in order to verify the deterioration of human rights in Nicaragua. The IACHR regretted the absence of

the State delegation, which passed up the opportunity to expound its point of view. Nonetheless, the IACHR expressed its commitment to seek a dialogue with the government.

Case 12.717 – Ngobe Indigenous Communities et al., Panama

Participants in the hearing included the petitioning organizations—Alianza para la Conservación y el Desarrollo (ACD) and Cultural Survival—and the State of Panama. The petitioners laid out their arguments regarding the 20-year concession the State granted in 2007 to the AES-Changuinola company over a 6,215-hectare territory that is claimed by the Ngobe people. The petitioners maintained that this concession was granted without prior consultation with the communities and said that, despite precautionary measures the IACHR granted at one point, the State had not adopted adequate measures to protect the communities. They indicated that the concession included the construction of the Chan-75 hydroelectric dam on the Changuinola River, which has affected the communities referred to as alleged victims in this case. During the hearing, three members of the Ngobe indigenous communities gave testimony. Carolina Tera, Enoc Villagra, and Tomás Villagra gave statements about the impact the construction of this dam has had on the life of the communities. They described the flooding that was caused and the alteration of the normal course of the Changuinola River, which is an essential source for their survival. They testified about the harm they said the construction of the dam had inflicted on the territory, environment, way of life, and worldview of the Ngobe people. They also discussed the ineffectiveness of the appeals filed in domestic courts for annulment of the concession and said that these appeals have yet to be resolved. For its part, the State expressed its commitment and respect for the human rights of indigenous peoples. It also pointed to actions it said had been taken to guarantee the lives and personal integrity of the communities affected by the concession and reiterated its willingness to begin a friendly settlement process with the petitioners, taking into account that a process of dialogue on the issue had already been going on within the country. The State emphasized that resettlements of communities have taken place, processes that have been respectful of the needs and collective nature of the Ngobe people, and that individuals have been granted compensation.

Right to Freedom of Expression and Changes to the Law on Audiovisual Communication Services in Argentina

The hearing participants talked about the impact on the right to freedom of expression caused by three executive branch decrees that modified the Law on Audiovisual Communication Services. The organizations explained that their delegation was made up of representatives of sectors of civil society that for decades had been demanding an audiovisual law that would make it possible to democratize communication. They also explained that some of the organizations participating in the hearing had started the “Coalition for Democratic Broadcasting,” which actively participated in drafting the Law on Audiovisual Communication Services. The organizations said that the decrees modifying the law represent a setback. The State, for its part, reported that under the previous government the guarantee of freedom of expression had been seriously compromised. It noted that

there were journalists who were harassed and jailed, that official advertising was allocated arbitrarily and was used to censor the press, and that there were an excessive number of State media outlets. The State noted that the government's enormous political propaganda machine, which extended even to the program *Fútbol para Todos*, imposed State hegemony on the media. The State delegation included two former IACHR Rapporteurs for Freedom of Expression, Santiago Canton and Eduardo Bertoni.

Case 12.056 – Gabriel Oscar Jenkins et al., Argentina

A hearing on the merits was held, in which the petitioners discussed the facts of the case and indicated that, in the course of the criminal prosecution of Gabriel Oscar Jenkins for the crime of drug trafficking, a transcript of a telephone recording that was used did not jibe with the recording itself. As a result, the alleged victim was absolved after three years and six months of being deprived of liberty. They indicated that the time the alleged victim was in custody qualifies as an anticipated sentence imposed on him. The petitioners referred to the actions attempted in domestic courts and indicated that, more than 22 years after the fact, the State had not remedied the violations against the alleged victim. For its part, the State argued that the grievances denounced by Gabriel Oscar Jenkins were resolved by domestic courts, and it requested that the IACHR proceed to archive the case. In that regard, the State pointed out that in the context of the criminal case against Gabriel Oscar Jenkins, the judge had accepted the allegation of the alleged victim's defense and had ordered his release on November 13, 1997, and his pardon on December 23, 1997. The State added that the court ordered an investigation of the prosecutors involved in the case against Gabriel Oscar Jenkins, both at the administrative and criminal level, and they were not found to be responsible. Finally, the State indicated that the alleged victim's demand for damages is inadmissible, as his pardon did not result from judicial error but from a lack of sufficient evidence.

Human Rights Situation of LGBT Persons in Bolivia

The organizations that requested the hearing reported that gay and bisexual persons had been expressly prohibited by law from donating blood. They also explained that only 4 percent of municipalities in Bolivia recognize the rights of lesbian, gay, bisexual, and trans (LGBT) persons. The organizations talked about extremely cruel acts of violence against LGBT persons in a context with a high level of impunity, in which there has been only one judgment out of 600 cases. They also explained that of 15 actions included in the National Human Rights Plan 2009-2013, 11 were not carried out. One trans woman who participated in the hearing testified that it was impossible for her to exercise her right to be elected to public office because she was required to comply with legal requirements that apply only to men, such as the military service document. Finally, the organizations mentioned two draft laws before the Plurinational Legislative Assembly, one on the Family Life Agreement covering same-sex couples and another on change of information related to sex and name for trans persons. Both the State and the participating organizations mentioned some of the legal advances that have been made, including the constitutional prohibition on and

criminalization of discrimination based on sexual orientation and gender identity, as well as ministerial decrees officially designating June 28 as a day to recognize people of different sexual orientations and May 17 as a day to mark the fight against homophobia and transphobia. The State reported that audiovisual materials on discriminatory conduct have been prepared, in conjunction with the Ministry of Communication. The IACHR urges that inter-American standards be taken into account in the discussion and issuance of the two draft laws currently before the Plurinational Legislative Assembly. It also urges the State of Bolivia to investigate with due diligence, prosecute, and punish violence against LGBT persons, and to include avenues of investigation that make it possible to determine whether the violence is motivated by victims' sexual orientation or gender identity. The IACHR urges respect for people's gender identity in the enforcement of laws, regardless of the sex a person was assigned at birth. Specifically, it urges Bolivia to recognize, as other countries in the region have done, that trans women are women, and not to demand that they meet requirements for men, such as proof of military service.

Situation of the Right to Freedom of Association in the Americas

A number of civil society organizations from Latin America came to the IACHR during this 157th session to talk about barriers they face in exercising their right to freedom of association in the region. These organizations, in a follow-up to the 2012 regional hearing on the right to association, informed the IACHR that many countries have seen no improvement in the last four years and that in others, such as Bolivia and Ecuador, the situation has worsened. Among other barriers to the exercise of the right to association in the region, the organizations pointed to the fact that in many countries, the process of setting up organizations is governed by decrees and ministerial resolutions and not by laws approved in the legislature; that to obtain legal status organizations must get prior authorization to carry out their activities; and that this process is centralized and restricted by bureaucratic barriers that are onerous, redundant, discriminatory, and arbitrary. They also pointed to problems that arise for organizations that already have obtained authorization, such as the arbitrary suspension of some organizations' authority to operate and the existence of criteria that are vague, ambiguous, discretionary, and arbitrary for revocation and dissolution (such as technical errors that have a minimal impact and are easy to correct, or criteria related to protection of the public interest, order, or security). The organizations also informed the IACHR about violations of freedom of expression and assembly of these social organizations through campaigns to publicly repudiate the organizations' work; official pronouncements made against organizations as a consequence of their participation in the public debate; violent break-ups of peaceful demonstrations on grounds that they are obstructing roadways; and the criminalization of public protest through vaguely defined anti-terrorism laws, measures that have a chilling and dissuasive effect on democratic participation. The IACHR expressed its concern over restrictions that smack of authoritarianism that have been seen in the region. The Executive Secretary, Emilio Álvarez Icaza, asserted that freedom of expression and freedom of association are the oxygen of democracy.

National Protection Systems for Human Rights Defenders and Justice Operators in the Americas

In this hearing convened by the IACHR on its own initiative, the participating organizations reported on progress and difficulties in the creation and operation of national systems for the protection of human rights defenders and justice operators in the Americas. The organizations proposed the need for a change in perspective in terms of protection of human rights defenders, one that goes beyond the idea of protection as merely a guarantee of defenders' physical integrity. They suggested that the challenge instead should be how to guarantee the right to defend human rights as an autonomous, independent right, addressing the structural causes of risk. Based on that reasoning, the organizations proposed that a protection approach should be geared toward establishing State public policies that—in line with recent case law of the Inter-American Court of Human Rights—take into account civil society participation in the development of norms and offer a comprehensive, interinstitutional approach to the problem in keeping with the risks posed by each situation. According to the organizations present at the hearing, protection mechanisms do not have preventive or investigative tools and are not designed to eradicate the structural causes of risk. In this sense, the organizations stressed the need to emphasize a risk-evaluation approach that is relevant to new contexts of threats, evaluating protection from a holistic perspective that takes into account the multiple, diverse, and concurrent factors upon which the risk situation can be evaluated from a complex standpoint, with a response that corresponds to the specific needs of rights defenders.

Autonomy of Public Defenders in the Americas

The organization that participated in the hearing pointed to four resolutions adopted by the OAS General Assembly that have to do with the role of public defender offices and access to justice. The organization indicated that the four resolutions recognize the autonomous nature of the right of access to justice, which enables the exercise and protection of other rights; at the same time, these resolutions promote the role of public defenders as an effective mechanism for access to justice for people in vulnerable circumstances. The participating organization discussed the state of autonomy of the region's various public defender offices and identified the main problems as the lack of budget allocations, the fact that public defense is restricted to criminal matters, limitations to international litigation, and the absence of operational autonomy in those cases in which the office of public defender is part of the executive branch. The IACHR acknowledged and expressed appreciation for the work done by the participating organization as well as by offices of public defenders in the region. It also requested information regarding shared challenges involving threats and harassment directed toward public defenders, and corroboration of whether there are best practices at the national level in terms of how to respond to the risks public defenders face in connection with their work.

Political Rights of Dominican Persons of Haitian Descent in the Dominican Republic

The organizations that requested the hearing used statistical data and specific cases to show the Commission the impact that the process of denationalizing Dominicans of Haitian descent in the Dominican Republic has had on the exercise of political rights. Participants in the hearing asserted that, despite the international obligations assumed by the State and its constitutional and legal framework, Dominicans of Haitian descent will be hampered from participating in public affairs as a result of the many obstacles they have faced in obtaining the required official documentation. They said that it has not been possible to overcome these obstacles by bringing cases to trial, because when favorable rulings have been handed down, the authority against which the case was filed has refused to obey them. The organizations emphatically denounced the Central Electoral Board's defining role in the design of practices and public policies that restrict the political rights of this segment of the population, as this body is responsible for administering the civil register and organizing elections, and stressed that it was imperative to separate these two functions. The State expressed surprise that this hearing had been granted, despite consideration of this topic in previous sessions and the recent release of the country report on Haiti, and despite the imminence of the elections. The State also regretted that its request to postpone the hearing had been rejected. It maintained that all Dominicans exercise their rights to citizenship without discrimination, as dictated by the Constitution of the Republic and other relevant norms. The State rejected as unfounded the arguments of the organizations that requested the hearing, and said that the State was not aware that a single formal complaint had been filed. It also emphatically criticized the conclusions the Commission had reached in its country report, saying that the State's response to the migration issue has been fair, appropriate, legally valid, and politically viable. The Commission expressed particular concern over the situation discussed in the hearing, considering that individuals who are deprived of documentation do not exist as far as the State is concerned. The Commission indicated that by granting this hearing it had in fact sought to open an active dialogue between the parties and identify immediate solutions with a view to the upcoming elections. It also clarified that the Commission's persistence in addressing the issue shows its deep concern and its disposition for dialogue between the parties; nevertheless, the Commission said, it has been met with denial and resistance from the State, with the result that many human rights violations are repeated. The Commission praised the significant efforts the State had made on this issue, but emphasized that denying structural discrimination does not help to solve the problem.

Situation of Human Rights Defenders in Cuba

The participating organizations presented information regarding the recent increase in the prosecution and harassment of members of the opposition, journalists, and human rights defenders in Cuba. They especially emphasized the increase in arbitrary detentions and police violence, and said that even though these incidents had been widely reported to the authorities, the authorities had not begun any type of investigation. Participants also talked about smear campaigns undertaken through State-run media and restrictions to recognition of organizations' legal status, as well as restrictions to the rights of assembly, free movement, and free speech. They asked the Commission to invite the Cuban government to rejoin the inter-American system; to review its laws

with a view to reconciling them with international standards on the rights to assembly, association, peaceful protest, and freedom of expression; and to take decisive action against those who harass and threaten human rights defenders in public protests. The participating organizations also requested that all complaints on the indiscriminate and excessive use of force by police and State security forces be investigated, and urged the Cuban government to eliminate all legal obstacles that in practice keep organizations from exercising the right to register as legal entities, recognizing the role of organizations as human rights defenders. The IACHR regretted the State's failure to appear and expressed deep concern over the information that was presented. It also requested information regarding the existing legal barriers to recognition of legal status and the criminal charges used to prosecute human rights defenders.

Situation of Human Rights Defenders in Haiti

This hearing was canceled.

National Reparations Plan in Peru

In this hearing, representatives of the State noted that the number of individual and collective beneficiaries of economic reparations had increased, which has meant significant budgetary outlays for the State, given the efforts that have been made since 2012. The State also specified that there have been a series of developments in terms of reparations—in the area of education, through the “Repared” scholarships; in access to housing, through the “Programa Techo Propio”; in health; and in symbolic ceremonies, including public apologies, which are decentralized and held in the population centers where the victims are from. The representatives also indicated that work had been done on restitution of rights, with the designation of public defenders. The participating organizations commended the efforts the State had made through the reparations program and at the same time raised a series of questions. They indicated that the program has not been carried out based on United Nations basic guidelines related to victims’ rights and human rights violations, as it does not cover all forms of reparation related to restitution, rehabilitation, satisfaction, and guarantees of non-repetition with respect to the armed conflict. They also questioned the time limits established, noting that these were short and did not consider the fact that many victims had to come from remote rural regions; the amounts of the reparations; and the problem of multiple reparations in cases involving more than one violation. They also indicated that there has not been a gender focus that incorporates victims of rape and various forms of sexual violence. In terms of the right to a defense, the organizations indicated that the number of public defenders is insufficient. The Commissioners concurred that the State of Peru has made significant progress, noting the historic importance of the mechanism, which is a model for other countries with comparable experiences with conflict, and the country’s commitment to the inter-American human rights system. The Commission also recognized the challenges in this regard mentioned by civil society. Commissioner and Rapporteur for Peru Enrique Gil Botero expressed his willingness to go to Peru to hold a seminar—along with the State, victims’ organizations, and civil society—on the

principle of comprehensive reparations and human rights, a proposal welcomed both by the State and by the participating organizations.

Human Rights of Indigenous Peoples and Campesino Communities in Espinar, Cusco, Peru

The organizations that requested the hearing arrived with a delegation that included Melchora Surco Rimachi, an indigenous woman; Fernando Osoreo Plenge, a doctor and environmentalist; and Juan Carlos Ruíz Molleda, a lawyer from the Instituto de Defensa Legal. They told the IACHR that the indigenous population and campesino communities located in Espinar-Cusco have been chronically exposed to heavy metals (such as lead, cadmium, mercury, and arsenic) in quantities that far exceed the maximum allowable limits for humans established by the World Health Organization (WHO). They said that this has caused severe health problems, such as cancers, and that the State has not provided them with the medical care they need and has not recognized the link between their health condition and the mining activity in the area. The victim who came to represent her community as a witness stated that members of the community were like “animals with worms,” a powerful and compelling image to describe the critical situation. The organizations said that the State not only has failed in its obligation to take the necessary steps to immediately address the situation, but it has also contributed to creating a hostile environment toward the work of human rights defenders responsible for advising and representing those affected. For its part, the State asserted that while it had been recognized that the population has had chronic exposure to heavy metals, the source of that exposure had not yet been established. The State argued that all necessary measures were being taken to address the problem, but that studies of this sort took time. The Commission has reiterated its concern over indigenous peoples’ rights to health and to a healthy environment in the context of mining exploitation in its report “Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities,” in which it stated, “The impacts of the presence of heavy metals in the bodies of human beings may be irreparable if States do not take special and urgent measures to deal with each case.” It goes on to say, “For this reason, the IACHR believes that it is necessary for States to take measures that will allow for the repair of territories degraded and contaminated by the realization of extractive activities, which should include the implementation of special programs that include as one of its core actions attention to the health of indigenous peoples.”

Human Rights Situation of Labor Union Leaders in Peru

The participating organizations reported on the context of risk faced by union leaders, particularly in the civil construction sector. These risks, they said, include death threats, impunity for acts of harassment and murders, and actions by non-State actors against them. The organizations denounced the killings of 15 union leaders in the last four years at the hands of hitmen; the lack of thorough investigations to identify the sources or risk; the lack of protection and prevention measures; and the absence of real controls for the registration of union organizations. This last

point, according to these organizations, has allowed criminal organizations to operate under the guise of these types of legal entities, collecting payments from the owners of construction companies and harassing workers. The State indicated that it was taking measures to bring the situation under control, and it emphasized the legislative effort to provide for the creation of registers of workers in civil construction projects and public works. It also underscored the recently approved Vice-Ministerial Resolution on Human Rights and Access to Justice, which resolves to create a protocol to guarantee the protection of human rights defenders. The Commission expressed its concern over the grave situation of killings, urged the State to investigate these cases, and underscored the importance that the State support the exercise of the right to join a union. In this regard, the Commission offered its support to help with initiatives and protocols to improve the protection of rights defenders in Peru.

Working Meetings Held

During the 157th session, working meetings were held with regard to the following cases:

- PM 339/09 - Claudia and M.A.Duque, Colombia
- PM 186/13 - Carlos E.Mora and Family, Colombia
- PM 140/14 - Yomary Mendoza et al., Colombia
- PM 180/01 - Embera Katio People of the Alto Sinù, Colombia
- PM 70/99 - CAVIDA, Colombia
- Case 11.007 – Massacre of Trujillo, Colombia
- Case 12.713 - Jose Rusbel Lara, Colombia
- Case 12.541 - Omar Zúñiga Vasquez et al., Colombia
- Case 10.455 - Valentín Bastos Calderón, Colombia
- P/1159-08 A.N. and P/1377-13 Aurora, Costa Rica
- PM 362/02 - Luis A. Gutiérrez Olvera et al., Mexico
- Case 12.130 - Miguel Orlando Muñoz Guzmán, Mexico
- PM/422-14 - Mustafa al-Hawsawi, United States
- Case 12.249 - Jorge Odir Miranda Cortez, El Salvador
- Case 10.488 - Ignacio Ellacuría et al., El Salvador
- Case 12.932 - Agapito Pérez Lucas, Luis Ruiz, Nicolás Mateo, Macario Pu Chivalán, Guatemala
- Case 12.191 - Mamérita Mestanza and Family Members, Peru
- PM/121-11 - Q'eq'chi Communities of Alta Verapaz, Guatemala
- PM 370/12 – Patients of the Federico Mora National Mental Hospital, Guatemala
- PM/277-08 - Vilma N. de Escorcía and Members of CENIDH, Nicaragua
- PM/505-15 - Miskitu Wangki Twi-Tasba Raya Indigenous People, Nicaragua
- PM/104-12 – Prison Units 46, 47, and 48 in Buenos Aires Province, Argentina
- Case 12.094 - Lhaka Honhat, Argentina
- PM/404-10 - “La Primavera” Community, Argentina

- Case 12.528 - Raul Garcia Linera, Bolivia
- Case 11.426 - Marcela Alejandra Porco, Bolivia
- P1186/09 - Adela Villamil Vda. de Flores Bedregal, Bolivia
- Case 11.607 - Víctor Hugo Maciel, Paraguay
- Case 12.330 - M.Gómez Paredes and C.A. Lugo, Paraguay
- PM/335-14 - Leopoldo López, Daniel Ceballos, and Family Members, Venezuela
- Case 11.545 - Marta Saire, Honduras
- PM 112/16 - Relatives of Berta Cáceres, Honduras

The working meetings had to do with 17 petitions and cases involving Argentina, Bolivia, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Paraguay, and Peru, related to matters in different stages of negotiation of friendly settlement agreements and follow-up on compliance with agreements and recommendations. The IACHR was able to hear directly from victims in three matters, as they participated in the working meetings via videoconference. The 157th session included the signing of the minutes of the meeting in three cases, as well as the signing of two friendly settlement agreements. In Case 12.541, Omar Zúñiga, the “José Alvear Restrepo” Lawyers Collective, acting on behalf of the victims, signed a friendly settlement agreement with the State of Colombia, in a solemn ceremony at which one of Omar Zúñiga’s relatives was present. The Commission also notes as a positive development the signing of a friendly settlement agreement in Case 11.007, Massacre of Trujillo, between the State of Colombia and the “José Alvear Restrepo” Lawyers Collective and the Comisión Interclesial de Justicia y Paz, in representation of the victims. The case has to do with a series of threats, forced disappearances, torture, arbitrary detentions, and extrajudicial executions committed between October 28, 1988, and May 5, 1991, in the municipality of Trujillo, in the Cauca Valley. The friendly settlement agreement reached by the parties includes the acknowledgment of new victims; the creation of a special working group to investigate the events; a commemoration ceremony to mark what occurred; the creation of an audiovisual documentary to restore the memory of the victims; and the creation of a Comprehensive Plan to Prevent Human Rights Violations and Infringements of International Humanitarian Law in Trujillo, as well as economic compensation to the relatives of the victims of the events that took place in Trujillo. The petitioners consider the agreement in this case to mark a historic step in the search for truth, justice, reparation, and non-repetition guarantees for the victims movement, a view shared by the IACHR.

Reports Approved on Petitions and Cases

During this session, the IACHR approved the following admissibility reports:

- Report No. 9/16, Petition 149-02, Eduardo Rico, Argentina
- Report No. 10/16, Petition 387-02, Carlos Andrés Fraticelli, Argentina
- Report No. 11/16, Petition 362-09, Luiza Melinho, Brazil
- Report No. 12/16, Petition 11.888, Alfredo Acero Aranda et al., Colombia

- Report No. 13/16, Petition 942-07, Diego Armando Plazas Gómez and Family, Colombia
- Report No. 14/16, Petition 1108-08, Jhonny Silva Aranguren and Family, Colombia
- Report No. 17/16, Petition 1132-06, Hortencia Neyid Tunja Cuchumbe et al., Colombia
- Report No. 18/16, Petition 1208-07, Carlos Manuel Camacho Coloma, Ecuador
- Report No. 19/16, Petition 3546-02, Galo Robert Matute Robles, Ecuador
- Report No. 20/16, Petition 12.208, Robert Angelo Vera Gómez, Ecuador
- Report No. 21/16, Petition 419-08, Khaled El-Masri, United States
- Report No. 22/16, Petition 189-08, Saúl Gamarro Meneses, Guatemala
- Report No. 23/16, Petition 873-04, José Alejandro Reséndiz Olvera, Mexico
- Report No. 24/16, Petition 66-07, Santiago Leguizamón Zaván and Family, Paraguay
- Report No. 25/16, Petition 895-04, Ángel Gilberto Lockward Mella, Dominican Republic

In addition, the IACHR approved inadmissibility reports with regard to the following petitions:

- Report No. 26/16, Petition 932-03, Rómulo Jonás Ponce Santamaría, Peru
- Report No. 27/16, Petition 30-04, Luis Alexander Santillán Hermoza, Peru

The Commission also adopted a decision to publish the following reports on the merits:

- Report No. 7/16, Case 12.213, Aristeu Guida da Silva and Family Members, Brazil
- Report No. 8/16, Case 11.661, Manickavasagam Suresh, Canada

The Commission also approved the following friendly settlement reports:

- Report No. 15/16, Petition 1171-09, Ananías Laparra and Family Members, Mexico
- Report No. 16/16, Case 12.847, Vicenta Sanchez Valdivieso, Mexico

In addition, the IACHR approved five reports on the merits, which are confidential.

Decisions to Archive Petitions and Cases

So far in 2016, the IACHR has adopted decisions to archive with respect to the following petitions and cases:

- Petition 1178-09, L. A. B., Brazil
- Case 12.425, Jorge César Mendonça da Silva, Brazil
- Case 12.392, Pedro Antonio Mejía Guerra, Honduras

- Case 12.960, Ronal Jared Martínez and Family and Marlón Fabricio Hernández Fúnez, Honduras

Financial Contributions

The IACHR is especially grateful for the significant financial contributions made so far in 2016 by countries within and outside the region, as well as by international organizations and agencies, foundations, and other entities. These donations make it possible for the IACHR to carry out many of its activities related to mandates from the political bodies of the OAS.

In particular, the IACHR appreciates the recent contributions made by the governments of the following OAS member countries: Argentina, Peru, the United States, and Uruguay. In addition, in 2016 Mexico financed the execution of the second phase of the project “International Technical Assistance in the Investigation into the Forced Disappearance of 43 Students in Ayotzinapa, Guerrero,” which was executed independently by the Interdisciplinary Group of Independent Experts.

The Commission also thanks the permanent observer countries that support its work: Denmark and Spain. The Commission also welcomes and appreciates the contributions received from Avinna and Stanford University. These donations contribute concretely to strengthening the inter-American human rights system in the Americas.

A principal, autonomous body of the OAS, the IACHR derives its mandate from the OAS Charter and the American Convention on Human Rights. The Inter-American Commission has a mandate to promote respect for human rights in the region and acts as a consultative body to the OAS in this area. The Commission is composed of seven independent members who are elected in an individual capacity by the OAS General Assembly and who do not represent their countries of origin or residence.