

Honduras

I. Introduction

233. The Commission has followed the human rights situation in Honduras with particularly close attention, and it has observed, through its reports, a series of structural issues in the areas of justice, security, marginalization and discrimination, which have affected for decades the human rights of its people. In addition, it has observed that since the 2009 *coup d'état* there have been human rights violations that have gravely affected the Honduran population, the effects and repercussions of which have continued, persisted, and made the situation of the country more complex.

234. In the years 2009, 2010, 2011 and 2012, the IACHR decided to include Honduras in Chapter IV of its Annual Report, in accordance with Article 59(1)(h) of its Rules of Procedure, because it considered that the situation met the criteria contained in its Annual Report of 1997.

235. The information received on Honduras over 2013 points to structural situations, which are viewed by the IACHR with particular concern; specifically, the situation of citizen security, Independence of the judicial and other branches of government, weaknesses of the administration of justice associated with high levels of violence and impunity, the situation of human rights defenders, freedom of expression, indigenous peoples, as well as discrimination and marginalization of segments of society.

236. Having evaluated the human rights situation in Honduras, the Commission decided to include it in the present Chapter because it finds that it meets the criterion set forth under Article 59 subsection 6.d of the IACHR Rules of Procedure, which came into force on August 1, 2013, and cites “the presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments,” “among others: i serious institutional crises that infringe the enjoyment of human rights”. To that end, the IACHR recounts the activities conducted in 2012 in connection with Honduras, analyzes its human rights situation, identifies good government practices, and makes recommendations.

237. On November 19, 2013, the Commission forwarded to the State of Honduras the draft instant report and the State submitted its observations on the draft on December 19, 2013.

II. Analysis of the human rights situation in Honduras

238. With the purpose of monitoring the situation in Honduras, in 2013 the Commission used a variety of mechanisms, which included public hearings on general topics, and hearings on specific cases held during the Commission’s 147th (March 7 to 22, 2013) and 149th periods of sessions (October 24 to November 8, 2013);²¹⁸ press

²¹⁸ During its 147th regular session, the Commission held the public hearing on Honduras: the “General Situation of Human Rights in Honduras.” During the 149th session, the IACHR held the following public hearings on the “Judicial Independence in Honduras”, “Implementation of precautionary measures in Honduras” and “Prior Consultation and megaprojects in Honduras. Hearings and videos available at: www.iachr.org.

releases;²¹⁹ requests for information to the State pursuant to Article 41²²⁰ of the American Convention on Human Rights, and visits.²²¹

239. The information on Honduras received in 2013 pertains to a series of structural issues in the areas of justice, security, marginalization and discrimination, which have affected for decades the human rights of its people. Additionally, part of the information relates to the effects or consequences of the 2009 *coup d'état*, particularly on the right to freedom of expression and the situation of human rights defenders, who have continued to monitor situations spawned in the wake of the coup. The information points to the fragility of democratic institutions in Honduras and the fragmentation of the institutions of the State, which work in the field of human rights.

A. The 2009 *coup d'état*²²²

240. As to the coup and its consequences, it will be recalled that on June 28, 2009, the Constitutional President of Honduras, Manuel Zelaya Rosales, was overthrown in a civilian-military *coup d'état*. In the wake of the *coup*, a *de facto* government held power until January 27, 2010.

²¹⁹ In 2013, the IACHR issued the following press releases in connection with Honduras: [58/13 - IACHR Presents Report on Persons Deprived of Liberty in Honduras](#). Washington, D.C., August 2, 2013; [55/13 - IACHR Condemns Murder of Judge in Honduras](#). Washington, D.C., July 30, 2013; [52/13 - IACHR Condemns the Murder of Lenca indigenous leader and injuries to a child in Honduras Military operation](#). Washington, D.C., July 19, 2013; [R50/13 - Office of the Special Rapporteur Condemns Murder of Kidnapped Journalist in Honduras](#). July 15, 2013; [3/13 - In View of Situation in Honduras, IACHR Stresses Importance of Principle of Independence of the Judiciary](#). Washington, D.C., January 3, 2013. Press releases available at: www.iachr.com.

²²⁰ In 2013, the IACHR requested information from the Honduran State for the following reasons: Information was requested on June 14, 2013 concerning the creation by the National Congress in April of a Supervisory Commission in the Office of the Attorney General [*Ministerio Público*]. The final version of the preliminary draft law on mechanisms to protect [human rights] defenders was also requested. On October 23, 2013, the IACHR requested information concerning modifications to Article 321 of the Criminal Code.

²²¹ - The Rapporteurship for Honduras visited the country on May 14-18 in response to an invitation to participate in the III Assembly of REdlad (Latin American and Caribbean Network for Democracy). The Rapporteur met with some Government authorities, indigenous women and representatives of civil society organizations. She held two meetings on friendly settlement cases and three meetings on precautionary measures. During her visit, she gathered information about the human rights situation in the country.

- On August 2, 2013, the Rapporteur on the Rights of Persons Deprived of Liberty, Rodrigo Escobar Gil, presented in Tegucigalpa the report on the Situation of Persons Deprived of Liberty in Honduras. The IACHR Rapporteur on the Rights of Persons Deprived of Liberty presented the report to the President of the Republic, Porfirio Lobo, to the families of the victims of the fire in the Comayagua National Prison, to other senior Government officials, and to civil society organizations, as well as to the public at large via the media

- On October 14-17, Rapporteur Rosa María Ortiz visited the country invited by the United Nations Children's Fund (UNICEF). The Rapporteur met with State organizations in relation to children and organized armed violence and organizations of children and youth.

²²² In its observations on the draft instant report, the State of Honduras noted that "in light of the 2012 IACHR Annual Report, it is not consistent to bring up again each year the same reference to the 2009 political crisis, when precisely in the section titled 'Introduction,' the IACHR itself finds that the reason for including the country in the chapter this year is mainly for structural reasons." Communication of the State of Honduras, Official Letter No. SP-A-34-2013, dated February 22, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras." As is established in paragraph 7 of this report, the information on Honduras received in 2013 pertains to a series of structural issues which have affected for decades the human rights of its people. Additionally, part of the information relates to the effects or consequences of the 2009 *coup d'état*, particularly on the right to freedom of expression and the situation of human rights defenders, who have continued to monitor situations spawned in the wake of the coup.

241. In response to the unconstitutional interruption of democratic order in Honduras, the General Assembly adopted AG/RES. 2 (XXXVII-E/09) where it resolved “[t]o suspend the Honduran state from the exercise of its right to participate in the Organization of American States, in accordance with Article 21 of the Inter-American Democratic Charter.”²²³

242. The IACHR immediately condemned the *coup d'état* in Honduras. In exercise of its authority as the organ charged with promoting observance and respect for human rights in the hemisphere, and in furtherance of the aforementioned General Assembly resolution AG/RES. 2 (XXXVII-E/09) –in which the Assembly had urged the IACHR to continue to take all necessary measures to protect and defend human rights and fundamental freedoms in Honduras-, since the *coup* the Commission has closely monitored the human rights situation in that country. In 2009, it conducted an on-site visit to Honduras, published the report titled “*Honduras: human rights and the coup d'état*,” granted numerous precautionary measures, filed requests for information under Article 41 of the American Convention and Article XIV of the Inter-American Convention on Forced Disappearance of Persons, and issued multiple press releases.

243. The 2009 Annual Report was the first time the Commission decided to include Honduras in Chapter IV, which it did on the basis of the first three criteria that the Commission considered when identifying the OAS member states that, in its view, were to be included in that chapter of its annual report.²²⁴

244. In May 2010, the Commission conducted another visit, this one to follow up on the August 2009 on-site visit and on the report *Honduras: Human Rights and the Coup d'État*. In July 2010, the Commission published its preliminary observations from the visit.²²⁵

245. Former President Manuel Zelaya returned to Honduras on May 28, 2011. At its forty-first special session, held on June 1, 2011, the OAS General Assembly resolved to lift, with immediate effect, the suspension of the Honduran State’s right to participate in the Organization of American States, which it had put into effect through resolution AG/RES. 2 (XXXVII-E/09), which it adopted on July 4, 2009.²²⁶

246. Because of the *coup d'état* and the consequences it had in the area of human rights, the IACHR decided to include Honduras in Chapter IV of its 2010 Annual Report.²²⁷ It included Honduras

²²³ AG/RES. 2 (XXXVII-E/09), RESOLUTION ON SUSPENSION OF THE RIGHT OF HONDURAS TO PARTICIPATE IN THE ORGANIZATION OF AMERICAN STATES. OEA/Ser.P. July 4, 2009. Thirty-seventh Special Session.

²²⁴ The criteria for including a country in Chapter IV of the Annual Report are explained in the IACHR’s 1997 Annual Report.

²²⁵ IACHR, Preliminary Observations of the Inter-American Commission on Human Rights on Its Visit to Honduras, May 15 to 18, 2010. June 3, 2010.

See at: <http://www.cidh.oas.org/countryrep/Honduras10eng/Honduras10TOC.eng.htm> .

²²⁶ AG/RES. 1 (XLI-E/11), resolution on the “Participation of Honduras in the Organization of American States” OEA/Ser.P. June 1, 2011. Forty-first Special Session.

²²⁷ The IACHR included Honduras in Chapter IV of its 2010 Annual Report because in its view it fit the first, second and third criteria set out in the 1997 Annual Report.

again in Chapter IV of the 2011 Annual Report, because in its view it qualified for inclusion based on criteria three and five, set forth in the 1997 Annual Report, and in 2012, by virtue of the fifth criterion.

B. Truth and Reconciliation Commission

247. On July 7, 2011, the Truth and Reconciliation Commission (CVR),²²⁸ created in 2010, released its report “*Para que los Hechos no se Repitan*”²²⁹ [‘So that the events are not repeated’]. In its report, the CVR found the events of June 28, 2009 to be a *coup d’état*, and not constitutional succession, as the de facto government of Roberto Micheletti regarded them.²³⁰ Additionally, the CVR established in its report that “Honduras lacks a clear procedure to settle disputes between the Branches of the State and a way to address and solve when a president or high-level official must undergo investigation or removal. The lack of a defined procedure can cause the overstepping of functions of the National Congress.”²³¹

248. In the chapter “Findings and Recommendations,” the CVR noted that it confirmed the disproportionate use of force by the military and police institutions during the *coup d’état* and the *de facto* government; the result of which were human rights violations, which manifested themselves in the form of violent deaths, deprivation of liberty, torture, rape and political persecution. In this regard, it recommended the State to publically recognize that its authorities and agents committed human rights violations, apologize to the victims and pledge to them and to society that such violations will not be repeated.²³²

249. Additionally, the CVR recommended that the State investigate, prosecute and punish those responsible for the human rights violations taking place from June 28, 2009 until January 27, 2010.²³³

²²⁸ The Truth and Reconciliation Commission (CVR) was created on April 13, 2010, under Executive Decree PCM-011-2010, issued by President Porfirio Lobo Sosa. On May 4, 2010, the CVR began its work and was made up of Eduardo Stain, Coordinating Commissioner; Michael F. Kergin, María Amabilia Zavala Valladares, Julieta Castellanos and Jorge Omar Casco Zelaya, Commissioners and Sergio Membreño Cedillo as Executive Secretary.

²²⁹ Report “*Para que los Hechos no se Repitan*” [‘So that the events are not repeated’], available at: <http://www.cvr.hn/assets/Documentos-PDF/Informes-Finales/TOMO-I-FINAL.pdf>

²³⁰ In the Report “*Para que los Hechos no se Repitan*”, Findings and Recommendations Section – Principal Findings in connection with the events of June 28, 2009,” the Commission expressly notes in paragraph 6: “We the commissioners recognize that the call by the President of the Republic to a consultation first and opinion poll afterwards, known as the fourth ballot, marked a definitive and irreversible element of confrontation, culminated in the arrest of President Jose Manuel Zelaya under judicial order and then his expulsion to San Jose, Costa Rica, the *coup d’état* against the Executive Branch being executed in this way.”

²³¹ CVR, Report “*Para que los Hechos no se Repitan*”, Findings and Recommendations Section – Principal Findings in connection with the events of June 28, 2009, para. 15. Available at <http://www.cvr.hn/assets/Documentos-PDF/Informes-Finales/hallazgos-y-recomendaciones-low.pdf>.

²³² CVR, Report “*Para que los Hechos no se Repitan*”, Findings and Recommendations Section – Principal Findings in connection with the events of June 28, 2009, para. 35. Available at <http://www.cvr.hn/assets/Documentos-PDF/Informes-Finales/hallazgos-y-recomendaciones-low.pdf>.

²³³ CVR, Report “*Para que los Hechos no se Repitan*”, Findings and Recommendations Section, III, Elements so that the events are not repeated, Recommendations in the area of human rights, para. 12.

250. The CVR also recommended the following to the Honduran State:

The Government and National Congress of Honduras must publically pledge to the victims to redress them for the damage that its agents caused them, under standards of restitution, indemnification, rehabilitation, satisfaction and guarantees of non repetition, and should establish a national reparation plan to ensure full redress of the victims of human rights violations stemming from the political crisis following June 28, 2009.

The Government and Judiciary must ensure full reparation to the victims of human rights violations stemming from the political crisis following June 28, 2009, under the responsibility of the State of Honduras or, as appropriate, under the responsibility of the perpetrators of said violations.

The State of Honduras must take measures of public acknowledgement of the victims individually and collectively, such as naming public facilities, monuments or commemorative plaques or other appropriate things after them.

The State of Honduras must publically acknowledge that the authorities and agents committed human rights violations, apologize to the victims and promise them and society that such violations shall not be repeated.

The State of Honduras must provide to the victims of human rights violations, or to their loved ones, the information that is in the possession of the state security forces on them [the victims] and disclose how it has been used.²³⁴

251. Based on a report following up on the recommendations of the CVR issued by the Unit for Follow-Up of the CVR's Recommendations in May 2013, 26 of the 84 recommendations put forward have been complied with and 42 are in the process of being complied with.²³⁵ In its observations on the draft instant report, the State noted: "as of October 2013, 32 recommendations have been complied with and another 37 are in the process of being implemented and the remaining 17 are still pending implementation."²³⁶

252. The State also noted that:²³⁷

²³⁴ CVR, Report "Para que los Hechos no se Repitan", Findings and Recommendations Section, III, Elements so that the events are not repeated, Recommendations in the area of human rights, paras. 22 a 26.

Available at <http://www.cvr.hn/assets/Documentos-PDF/Informes-Finales/hallazgos-y-recomendaciones-low.pdf>.

²³⁵ Secretariat for Justice and Human Rights, Report to Follow Up on the recommendations of CVR Report, Unit for Follow Up of the CVR's Recommendations, May 2013. Available: <http://www.sjdh.gob.hn/sites/default/files/INFORME%20DE%20SEGUIMIENTO%20A%20LAS%20RECOMENDACIONES%20DEL%20INFORME%20DE%20LA%20CVR.pdf>

²³⁶ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²³⁷ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

Even though the political crisis of 2009 “generated many difficulties which became evident and worsened as of that fateful point in the social and political lives of Hondurans, those events generated a polarization in Honduran society that remained up to the time of the general elections in which the current Constitutional President of the Republic was elected, which constituted the beginning of the restoration of the climate of National Unity and Reconciliation; since the time of those events, political conditions in Honduras have substantially improved, and consequently efforts have been redirected toward ensuring respect for human rights in the country, by generating the necessary conditions for effective protection and compliance with them [human rights] (....).

Proof that an evolution is taking place in the country has been that general elections were held on November 24 this year, in which nine political parties took part (...). Said elections had the highest voter turn out as well as the widest coverage of national and international observers, who recognized the transparency of said process. In this electoral process, Attorney Juan Orlando Hernandez, of the National Party, was declared President Elect. This stands as proof of the strength of democratic institutions in Honduras.

C. The general human rights situation

1. The State’s respect for and observance of the rights to life, humane treatment and personal liberty. Citizen Security in Honduras

253. As will be shown throughout this report in connection with the State’s respect for and guarantee of the rights to life and to humane treatment, in 2013 the Inter-American Commission received disturbing information on the situation of journalists, human rights defenders, the peasants in Bajo Aguán, indigenous peoples and LGTBI persons, persons deprived of liberty, all against the backdrop of high rates of murder and impunity²³⁸ that strike particularly hard at women, children and adolescents, amid a serious citizen security problem which has left Honduras with the highest murder rate in the world. In its observations on the draft instant report, the State noted that it is aware of the situation of violence existing in the country and reiterated what it said in the observations on the 2011 and 2012 IACHR Annual Reports: “reports of high levels of violence in Honduras are alarming for all inhabitants of the country because there have been deaths, assaults and attacks against persons engaged in particular activities, professions and trades, and not only against specific groups [of people]”²³⁹.

²³⁸ According to a [Informe Especial sobre la Prevención y la Investigación del Delito](#) “La Seguridad Pública: Una Prioridad en la Agenda Nacional” [Special Report on Crime Prevention and Investigation, “Public Security: A Priority on the National Agenda], prepared by the Office of the National Commissioner for Human Rights of Honduras (CONADEH), in October 2010, which examined information from the Public Prosecutor’s Office for the 2005-2009 period, the Public Prosecutor’s Office received 320,153 complaints; 250,216 were referred to the Office of the National Director for Criminal Investigation (DNIC) for investigation. According to that report, the DNIC came back with an investigation report for the Public Prosecutor’s Office on 48,626 complaints, which is 19% of the total. According to the Special Report, the DNIC sent the Public Prosecutor’s Office an investigation report in 48,626 of those complaints, which is the equivalent of 19% of the total; the other 201,590 cases (81%) of reported crime either remained under investigation or possibly went unpunished.

²³⁹ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

a. Citizen Security²⁴⁰

254. As the Commission has noted previously, according to the [Global Study on Homicide](#) prepared by the United Nations Office on Drugs and Crime (UNODC) and published in October 2011, Honduras has the world's highest homicide rate per 100,000 inhabitants. According to the study, the five countries with the highest homicide rates are:²⁴¹

- 1) Honduras (82.1)²⁴²
- 2) El Salvador (66)
- 3) Ivory Coast (56.9)
- 4) Jamaica (52.1)
- 5) Venezuela (49)

255. During a promotional visit to Honduras in May of this year, the Rapporteur noted a widespread feeling of insecurity among the population at large, in a country that is heavily armed. According to information received, there are said to be 70,000 private security guards, in comparison with 14,000 police. Part of this feeling of insecurity derives from the police themselves. Information was received about allegations of the complicity of members of the police force in murders, and their alleged collusion with organized crime. Despite the government's initiatives to purge the police force, the IACHR has received no information on concrete results of implementing these measures. In its observations on the draft instant report, the State provided information on efforts made by the Directorate of Investigation and Evaluation of the Police Career (DIECP) with regard to application of proof of trust (vetting), evaluation of members of the police force and criminal and administrative proceedings against some of its members.²⁴³

256. The IACHR also received information on the number of deaths of women. According to the *Foro de Mujeres por la Vida*, violent deaths of women has been trending upward between 2005 and 2012, rising from 175 murders of women to 606 in 2012, an increase of 246.3%²⁴⁴. Fifty-one women on

²⁴⁰ In its observations on the draft instant report, the State notes that it considers the proper name to be 'Public Security' because the term 'Citizen Security' is exclusive. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁴¹ In October 2011, the United Nations Office on Drugs and Crime (UNODC) published its first Global Study on Homicide. The study found that young males, particularly in Central and South America, the Caribbean and Southern and Middle Africa, were at greater risk of becoming the victims of intentional homicide, whereas women were at greater risk of being killed in domestic violence. The report indicated that the evidence suggests an increase in the homicide rate in Central America and the Caribbean, countries "where today it can be seen to be nearing crisis point". See report at: http://www.unodc.org/documents/southerncone/noticias/2011/10-outubro/Globa_study_on_homicide_2011_web.pdf

²⁴² In its observations on the draft instant report, the State noted that the UNODC would have to update the report for this year to determine the exact ranking of Honduras on the referenced scale. It also notes that the UNODC accounts for variations in what each country considers a violent death, as well as challenges in documenting such deaths. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁴³ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁴⁴ University Institute for Democracy, Peace and Security, IUDPAS – Observatory on Violence, Faculty of Social Sciences, Special Edition, No. 9, Tegucigalpa, January 2013. *Foro de Mujeres por la Vida*.

average are killed each month, one every fifteen hours and thirty seconds²⁴⁵. On this topic, in its observations on the draft instant report, the State noted that based on the statistics for deaths of women nationwide gathered by the Public Prosecutor's Office, in 2008, the number was 569; in 2009, it was 407; in 2010, it was 351; in 2011, it was 464; and in 2012, 315. In 2013, the State notes that the figures given in the Bulletin of the Violence Observatory has reached 323 and, therefore, a growing trend cannot be cited²⁴⁶. The Inter-American Court has observed that gender-based murders of women, also known as femicide, is a function of a structural situation and a social and cultural phenomenon deeply rooted in customs and mindsets and that these situations of violence are founded in a culture of gender-based violence and discrimination."²⁴⁷ Therefore, it is up to the State to adopt measures to prevent, investigate and prosecute these crimes.

257. Another sector of the population that has been hard hit by the levels of violence in Honduras are children. The United Nations Special Rapporteur on the sale of children, child prostitution and child pornography visited Honduras from August 30 to September 7, 2012, and commented that "socioeconomic disparities, insecurity and violence all contribute to children's vulnerability to multiple forms of economic and/or sexual exploitation."²⁴⁸ She also observed that because the judicial investigations are slow, and some exploiters of children are never punished, there is no way to ensure rapid and efficient protection to victims and witnesses.²⁴⁹

258. In response to the high levels of violence, the Secretariat received information about steps the Government was taking to militarize some areas of the country. A law was enacted to create the Instituto Armado Tropas de Inteligencia y Grupos de Respuesta Especial de Seguridad (TIGRES) [*Armed Intelligence Troops and Special Security Response Groups*]. This specialized police force will be independent of the National Preventive Police and will be attached to the Office of the President of the Republic via the Secretariat for Security. In its observations on the draft instant report, the State noted as well that, when performing its special security mission duties, the Tigres Unit will always be accompanied by prosecutors and judges with national jurisdiction and experience in organized crime investigation, who are assigned by the appropriate authorities through the National Defense and Security Council.²⁵⁰

259. Additionally, on August 24, 2013, Decree No. 168-2013 was published in the Official Gazette, whereby the National Congress created the Military Public Order Police of the Armed Forces.

²⁴⁵ University Institute for Democracy, Peace and Security, IUDPAS – Observatory on Violence, Faculty of Social Sciences, Special Edition, No. 9, Tegucigalpa, January 2013. *Foro de Mujeres por la Vida*.

²⁴⁶ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁴⁷ I/A Court H.R.. *Case of González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 16, 2009. Series C No. 205, para. 133.

²⁴⁸ UN expert calls on Honduras to step up efforts to protect children from sexual exploitation. UN News Centre. Available at: <http://www.un.org/apps/news/story.asp?NewsID=42839#.UOGM-m9ZWS0>

²⁴⁹ *Special Rapporteur on the Sale and Exploitation of Children Concludes her Mission to Honduras* United Nations Office at Geneva News & Media, September 10, 2012. Available [in Spanish only] at: [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/9779E01A89BC9E1BC1257A750034ED7F?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/9779E01A89BC9E1BC1257A750034ED7F?OpenDocument) [translation ours].

²⁵⁰ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

Under the Decree, a military unit was set up “in accordance with the hierarchy and command established in the Law Creating the Armed Forces of Honduras.” Said decree provides that in addition to those [actions] set forth under the Law against the Financing of Terrorism, actions carried out by organized crime aimed at terrorizing institutions and the population by means of extortion, blackmail or any intimidation, which in any way limits the performance of operators of justice or fundamental rights are also considered acts of terrorism.²⁵¹

260. Said decree also provides that the following are considered a violation of human rights:

Actions against persons or their property committed by organized crime, and therefore the respective legislation shall be applicable to the members thereof and they will be held civilly liable for compensation and reparation with their own assets.²⁵²

261. The obligations of the Military Public Order Police include:

- Rapid response to circumstances of insecurity affecting the public order, which constitute situations of emergency and/or affect persons or their property.
- Cooperate in taking back areas, neighborhoods, subdivisions, human settlements or public spaces where organized crime carries out its criminal activities restricting free movement or jeopardizing the lives or physical integrity of persons and their property or disturbing public order in any way.
- Arrest and bring before the competent authorities persons associated with organized crime, or who in any way disrupt public order, as well as submit evidence so they may be properly prosecuted.
- Conduct investigations and intelligence work in combatting activities of organized crime and other work assigned to the National Police in the law.

262. The IACHR also notes that in the performance of its duties, the Military Public Order Police shall be accompanied by judges and prosecutors with national jurisdiction and competence and that said judges and prosecutors may reside outside the country and report their entry and departure into and from national territory in special circumstances. Additionally, the judges and prosecutors may hold hearings with the defendants and other parties via electronic means without it being required to establish the physical location of the judges or prosecutors. Under said decree, the Armed Forces of Honduras are also authorized to increase the number of military troops to 5,000 members.

263. The Inter-American Commission again underscores its concern over the armed forces’ involvement in professional activities that, given their nature, should be the exclusive purview of the police. Time and time again, the Commission has observed that because the armed forces do not have training appropriate for controlling citizen security, it is the job of an efficient civil police force, respectful of human rights, to combat insecurity, crime and violence on the domestic front.

264. Given the grave situation of the Honduran people where citizen security is concerned, the IACHR is compelled to remind the State of the IACHR’s recommendations in its Report on Citizen

²⁵¹ Decreto No. 168-2013, artículo 5.

²⁵² Decreto No. 168-2013, artículo 7.

Security and Human Rights.²⁵³ The State has a duty to protect and guarantee human rights. Accordingly, States must:

- Discharge their international obligations to protect and ensure the human rights at stake in citizen security by designing and implementing comprehensive public policies involving simultaneous performance of specific measures and strategic plans at the operational, normative, and preventive levels. These policies must be sustainable, which will necessitate the required political and social consensuses. At the same time, evaluation and accountability systems will have to be in place to check these policies in a context of broader citizen participation.
- Generate the institutional capacity within the public sector to carry out the measures included in the plans and programs associated with public policy on citizen security, while making available adequate human, technical, and economic resources. This means, inter alia, improving the process for selecting and training the personnel of the institutions involved in implementing the policy on citizen security (especially the police, the members of the judicial branch, the staff of the public prosecutor's office and those of the prison system) and earmarking the material resources needed to provide the public with quality service.
- Adapt the domestic laws and State apparatus to ensure democratic governance of citizen security. The legitimate political authorities of the State will have to shoulder their responsibility for designing, executing and monitoring public policy on citizen security, with the support of multidisciplinary technical teams.
- Put into practice accountability systems and procedures that apply to all those authorities who have some role in the policy on citizen security. The procedures will use internal and external control mechanisms, thereby strengthening the institutions of democratic government, fostering transparency in the exercise of public office, and implementing measures to deal with impunity and corruption.
- Ensure the special standards of protection needed or those persons or groups that are particularly vulnerable to violence and crime, such as children and adolescents, women the indigenous population, afro-descendants, migrants and their families, notwithstanding the obligations that the member states have undertaken to protect and ensure the human rights at stake in the policy on citizen security to all persons subject to their jurisdiction.²⁵⁴

b. Situation in Bajo Aguan²⁵⁵

265. There has been a long-standing dispute over land between peasant farmers and business interests in the Bajo Aguan area, Tocoa. The Commission was informed that since the *coup* on June 28, 2009, the number of deaths, threats and acts of intimidation against peasant farmers in the region has reportedly increased and the agrarian conflict has been stigmatized and criminalized.²⁵⁶ In

²⁵³ IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, para. 232. See at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>

²⁵⁴ IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, para. 232. See at: <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>

²⁵⁵ The IACHR also learned of the situation through PM 240-11; information has been requested from the State in connection with this precautionary measure.

²⁵⁶ IACHR, Preliminary Observations of the Inter-American Commission on Human Rights on its Visit to Honduras, May 15 to 18, 2010, June 3, 2010. The Bajo Aguán Situation, paragraphs 118-121, available at: <http://www.IACHR.org/countryrep/Honduras10eng/Honduras10.Situation.htm>. See also: IACHR, Annual Report, Chapter IV, Honduras, Bajo Aguán Situation, paragraphs 543-551.

April 2010, the National Government signed an agreement with the peasant organizations in the area, which was meant to be a solution to the problem. Nevertheless the acts of violence have continued.

266. In 2013, the IACHR continued to receive information on the serious situation of conflict in the area. According to a network of national and international organizations, which has been tracking this situation, 57 individuals who were either sympathizers or affiliated with the peasant farmer organizations of Bajo Aguán, plus one journalist and his partner, were murdered from September 2009 to March 2013 in the context of the agrarian conflict inflicting the region. Additionally, one peasant farmer continues to be missing since May 15, 2011. They also claim to have documentation on cases of involuntary displacement. Based on data provided by the Office of the Special Prosecutor for Human Rights in Honduras, there has not been any efficient investigation into these crimes.²⁵⁷

267. After concluding its recent visit to Honduras February 18-22, 2013, the United Nations Working Group on the use of mercenaries also “expressed its concern over the involvement of private security companies hired by large land-tract owners in human rights violations, including murders, disappearances, forced evictions and sexual violence against representatives of the peasant associations of the region of Bajo Aguán.”²⁵⁸

268. In 2013, information was received regarding the fact that members of the agrarian movement who participated in the electoral process of November 2013 are being criminalized, and that they are the targets of threats and assaults. The Commission has also been informed of a series of threats and other acts of harassment against human rights defenders, who work in the area, which shall be further explained in the section on human rights defenders in Honduras.

269. In its observations on the draft instant report, the State stressed that the situation in Bajo Aguán stems from conflicts between peasants and businessmen “with regard to which the State has taken steps to put an end to it [said situation], by entering into compensation Agreements with the land owners so that the peasant farmer groups have their own land to farm for their own benefit.” It also noted that, even so, the violence is continuing “because there is a complex situation that goes beyond agrarian conflict, and entering the fray along with the traditional actors have been others such as drug cartels, hired assassins, African palm plantation robbers and looters, and rivalries between peasant farmer groups have cropped up, among other factors.”²⁵⁹

²⁵⁷ Comunicado de de fecha 1 de marzo de 2013, organizaciones y redes internacionales de la sociedad civil: APRODEV (Asociación de Agencias de Desarrollo ligadas al Consejo Mundial de Iglesias), CIDSE (Alianza Internacional de Organizaciones Católicas para el Desarrollo), CIFCA (Iniciativa de Copenhague para América Central y México), FESPAD (Fundación de Estudios para la Aplicación del Derecho), FIAN Internacional (Organización Internacional por el Derecho a la Alimentación), FIDH (Federación Internacional de Derechos Humanos), HIC (Habitat International Coalition), LAWG (Latin America Working Group), La Vía Campesina, MISEREOR, OXFAM, PIDHDD (Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo), Rel-UITA (Regional latinoamericana de la Unión Internacional de los Trabajadores de la Alimentación, Agrícolas, Hoteles, Restaurantes, Tabaco y Afines), TROCAIRE. Ver en: http://www.fian.org/fileadmin/media/publications/Pronunciamento_Internacional_CAO_-_Bajo_Aguan_01-03-201.pdf

²⁵⁸ Comunicado de 25 de febrero de 2013 de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, *Honduras requiere supervisión robusta y eficaz de empresas militares y de seguridad, dice grupo de expertos de la ONU* Ver en: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=13032&LangID=S>

²⁵⁹ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

270. The State also noted the following:²⁶⁰

(...) in the State's Observations on the 2011 and 2012 Annual Reports, it is rejected that civil society organizations only decry the deaths of peasants as acts of violence in Bajo Aguán because the State of Honduras has proven repeatedly that there have been several instances of deaths of security guards and the death of agricultural day workers and persons who are not peasants or non-security guards, which truly shows the scope of the situation in that region, not as just a peasant criminalization or persecution movement.

As of the present date, 89 deaths have taken place, 51 of which are peasants; 18 are security guards, 4 are allegedly peasants (it is unknown whether or not they belong to some movement); 5 are neither peasants nor security guards; 1 is an agricultural day worker; 3 are unidentified; 3 with unknown occupation and 3 are police or military members. Of these cases, 5 have been prosecuted: 1 case (the killing of five individuals), 1 case (the killing of three individuals) and 3 cases (the killing of one individual each). The most difficult part of prosecuting the cases stems from the scant support of the family members and other persons close to the victim, particularly from the peasant groups. In many instances, these groups do not even allow the body to be removed and, therefore, it becomes necessary to request exhumations, which are also difficult to carry out and, consequently, investigations are limited in scope. Notwithstanding, the investigation units are being strengthened in order to provide a response.

2. Guarantees of due process of law and of effective access to justice. The independence of the judicial branch²⁶¹

271. One of the principles underpinning the rule of law and a democratic society is the independence of the branches of government.²⁶² In the case of the judicial branch, under the principles of separation of powers and an independent judiciary, judges must be able to perform their functions without undue interference from the executive and legislative branches, the parties to the proceedings, social actors and other parties associated with the administration of justice.²⁶³ The Inter-American Commission has written that the independence of the judiciary must be assured as it reviews the constitutionality and legality of the acts of public power and administers justice.²⁶⁴

²⁶⁰ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁶¹ Regarding this section, in its observations on the draft instant report, the State noted that the Judiciary has been making efforts to improve the administration of justice. It also reaffirmed its willingness to continue to meet its international human rights obligations. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁶² IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, paragraph 180. Available at: <http://www.IACHR.org/countryrep/Venezuela2009eng/VE09.TOC.eng.htm>

²⁶³ IACHR, *Application filed with the Inter-American Court of Human Rights in the Case of Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz (Corte Primera de lo Contencioso Administrativo) v. Venezuela*, Case 12.489, November 29, 2006, paragraph 83..

²⁶⁴ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, paragraph 183. Available at: <http://www.IACHR.org/countryrep/Venezuela2009eng/VE09.TOC.eng.htm>

272. An independent judiciary is vital to enabling victims of human rights violations to have access to the courts.²⁶⁵ Therefore, the IACHR has been particularly attentive to the degree of Independence that the Honduran judiciary enjoys and has been receiving reports concerning a number of problems the judicial branch has encountered since the 2009 *coup*.

273. Generally speaking, the Commission has observed that in the years since the *coup*, the process of rebuilding the democratic order in Honduras has posed great challenges for those who run the State's justice system. On occasion, a variety of actors, including members of other branches of government and even organized crime, have interfered. That interference, combined with the danger threatening some judges when they perform their functions, can affect the independence of Honduras' judicial branch and access to justice for those whose rights have been violated.

274. This concern is one shared by the United Nations Special Rapporteur on the Situation of Human Rights Defenders who, after her visit to Honduras in February 2012, said she had received "disconcerting information indicating a lack of independence and impartiality of the judiciary which undermines both the effectiveness of the administration of justice and the potential role of judges as human rights defenders."²⁶⁶ Given these circumstances, the IACHR has devoted this chapter of the report to reiterate some of the problems facing Honduras' Judicial Branch of Government.

a. Background: The Judicial Branch during and after the *coup*

275. During the *in loco* visit that it made to Honduras in 2010, the IACHR was told of acts of harassment committed against judges identified as being opposed to the 2009 *coup*. At the time, the Commission stated that it was "unacceptable that those persons in charge of administering justice who were opposed to the democratic rupture would face accusations and dismissals for defending democracy."²⁶⁷

276. In that regard, on July 6, 2010, the IACHR received a petition against Honduras alleging the unlawful, arbitrary and politically motivated dismissal of Tirza del Carmen Flores, Magistrate of the San Pedro Sula Appellate Court; Guillermo López Lone, Judge of the San Pedro Sula Trial Court; Ramón Enrique Barrios, San Pedro Sula Trial Court Judge, and Luís Alonso Chévez, Domestic Violence Judge, all members of the *Asociación de Jueces por la Democracia* (AJD) alleged to have engaged in activities

²⁶⁵ In its 2006 report, the Commission noted "the valuable work of those individuals and authorities whose functions include protecting, enforcing, promoting, or defending the human rights [...]. Judges, prosecutors, public defenders, and police precinct chiefs, as agents of the administration of justice, play a fundamental role as a liaison between the state and the general population. Moreover, they are the ones who carry out the investigation, prosecution, and punishment of perpetrators of human rights violations.". IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, paragraph 223.

²⁶⁶ Statement of the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, on the conclusion of her official visit to Honduras. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11830&LangID=E>.

²⁶⁷ In press release 54/10, the IACHR issued an urgent call to stop the harassment of Honduran judges. On May 28, 2010, in exercise of its authority under Article 41 of the American Convention, the IACHR asked the Honduran Supreme Court to provide information on the situation of judges that faced disciplinary action because of their participation in protests against the coup. See IACHR, *Preliminary Observations of the Inter-American Commission on Human Rights on Its Visit to Honduras, May 15 to 18, 2010*, paragraph 82.

opposing the *coup*. The Inter-American Commission declared the petition admissible during its 141st session;²⁶⁸ the case is now in the merits phase.

b. The situation of the Judicial Branch in Honduras in 2013

277. As part of their duty to guarantee the independence of the Judicial Branch, States have an obligation to guarantee, in law and in fact, that prosecutors and judges are able to perform their functions independently. To achieve that objective, the Inter-American Commission and the Inter-American Court have highlighted the following as ways to guarantee the independence of the courts: a) establish a proper system for appointment and removal of judges and prosecutors;²⁶⁹ b) guarantee that judges shall not be removed from the bench for the duration of their term²⁷⁰ and c) provide guarantees to protect them from external pressure.²⁷¹ The Commission will examine the facts brought to its attention in 2013, bearing the above criteria in mind, as they are the conditions *sine qua non* for the independence of the Honduran judicial branch. In its observations on the draft instant report, the State noted that it is making efforts to improve the Administration of Justice, knowing that it is necessary to implement as soon as possible, the legal instruments that have been approved with the purpose of solving any inconvenience that may arise.²⁷²

c. Procedure for appointing and removing judges

278. As the Inter-American Court has written, when the States establish procedures for the appointment of their judges,²⁷³ they have to consider that not just any procedure will satisfy the conditions required under the Convention for proper implementation of a truly independent system.²⁷⁴ An appropriate procedure for appointing members of the judiciary -one that is transparent and guarantees that the candidates will be given equal consideration- is a fundamental guarantee for judicial independence.²⁷⁵ The institutions in charge of appointing, promoting and disciplining judges play an important role and must be objective. Accordingly, the Commission has recommended that States establish an independent body whose functions are to appoint, promote and remove judges.²⁷⁶

²⁶⁸ IACHR, Report No. 70/11. Petition 975-10. Adán Guillermo López Lone *et al.* (Honduras), March 31, 2011.

²⁶⁹ I/A Court H.R., *Case of the Constitutional Court v. Peru*. Judgment of January 31, 2001. Series C No. 71, paragraphs 73-75.

²⁷⁰ I/A Court H.R., *Case of the Constitutional Court v. Peru*. Judgment of January 31, 2001. Series C No. 71, paragraph 75; *Case of Apitz Barbera et al. (Corte Primera de lo Contencioso Administrativo) v. Venezuela*, Judgment of August 5, 2008. Series C No. 182, paragraph 138.

²⁷¹ I/A Court H.R., *Case of the Constitutional Court v. Peru*. Judgment of January 31, 2001. Series C No. 71, paragraph 75.

²⁷² Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

²⁷³ I/A Court H.R. *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74.

²⁷⁴ I/A Court H.R. *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74.

²⁷⁵ IACHR. *Democracy and Human Rights in Venezuela*, para. 187.

²⁷⁶ See, IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2012, para. 374. See also, Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, CCPR/CO/84/TKJ, 18 June 2005, para. 17.

- *Honduras' Council of the Judiciary*

279. In December 2011, the National Congress of Honduras passed Decree No. 219, establishing the Law on the Council of the Judiciary and Judicial Career Service. The Council's creation was an important step toward relieving the Supreme Court of the administrative functions it was performing.

280. The Council of the Judiciary is the organ of governance of the Honduran Judiciary. Under Article 3 of that law, its functions include "Organizing and directing the financial and administrative affairs of the Judicial Branch" and "appointing and removing magistrates on the courts of appeals and judges, and the other officials and judicial aides, administrative and technical staff." The Council of the Judiciary is also in charge of running the disciplinary system for members of the Judicial Career Service.²⁷⁷

281. As for the Council's membership, under Article 4 of the law, the Council shall have five permanent members and two alternates, one of whom shall be the Chief Justice of the Supreme Court, who shall also chair the Council; two members are elected by associations of judges; one by the Honduran Bar Association and another representing the National Association of Employees and Staff of the Judicial Branch. The candidates that each of these bodies nominates are referred to the National Congress, which elects the Council's members by a qualified majority.²⁷⁸

282. The Commission notes that Article 8 of the original version of the Law on the Council of the Judiciary and Judicial Career Service, published in December 2011, provided that the members of the Council had to have served in some judicial post for five years or had to have taught law in a university for ten years. In March 2012, the National Congress published a "*Fe de Erratas*" amending those requirements to allow professionals with other university degrees to serve on the Council, provided they had ten years' experience in their given professions or in teaching.²⁷⁹ The Commission observes that although the "errata" introduced a substantive change in the requirements to be eligible to serve on the Council, the amendment was done almost three months after the law was published and did not follow the normal process of legislative amendment.

283. The information received by the IACHR suggests that there are some aspects of the process of election of the members of the Council of the Judiciary that may not be conducive to enabling the Council to function as it should in administering the Judicial Branch. Here, the Commission observes that: i) because the institutions participating in the selection process may nominate candidates who are not from the judicial branch, the Council ended up having more members from the other associations than it had tenured judges (two); ii) the law does not prescribe the legal requirements or procedures that the institutions charged with selecting candidates for the Council must observe, which means that their selection may be based on considerations other than merit and that candidates can anticipate; and lastly iii) the Chief Justice of the Supreme Court is the one who chairs the Council of the Judiciary.

²⁷⁷ The law can be consulted at: <http://www.tsc.gob.hn/leyes/Ley%20del%20Consejo%20de%20la%20Judicatura%20y%20la%20Carrera%20Judicial.pdf>

²⁷⁸ The law can be consulted at: <http://www.tsc.gob.hn/leyes/Ley%20del%20Consejo%20de%20la%20Judicatura%20y%20la%20Carrera%20Judicial.pdf>

²⁷⁹ Radio Honduras, *Trastocan Ley del Consejo de la Judicatura y de la Carrera Judicial* [Law on the Council of the Judiciary and the Judicial Career Service changed], March 27, 2012. Available at: <http://www.radiohrn.hn/l/content/trastocan-ley-del-consejo-de-la-judicatura-y-de-la-carrera-judicial>. See also: *El Heraldo*, *Congreso Nacional reforma la Ley de la Judicatura con fe de erratas en la Gaceta* [National Congress amends Judiciary Law with fe de erratas in the Official Gazette].

284. Here, the Commission observes that the United Nations Special Rapporteur on the independence of judges and lawyers has written that a number of factors have to be taken into consideration to guarantee the independence of the governing body of the Judicial Branch. She wrote that “it is important that judges constitute the majority of the body so as to avoid any political or other external interference.” In the opinion of this Rapporteurship, “if the body is composed primarily of political representatives there is always a risk that these “independent bodies” might become merely formal or legal rubber-stamping organs behind which the Government exerts its influence indirectly.”²⁸⁰ The Special Rapporteur has recommended that the Council of the Judiciary should be presided over by someone other than the Chief Justice of the Supreme Court.²⁸¹

285. Given these features of the law, the Commission has observed that the current arrangement for determining the Council of the Judiciary’s membership has been called into question by various actors, mainly because of the risk that the institutions authorized to nominate candidates for the Council will be influenced by the National Congress, which, in the final analysis, will choose the Council’s members.²⁸² The Commission has observed that the Commission for Public Security Reforms has presented a set of draft amendments that would imply changes in the procedure followed to appoint members of the Council of the Judiciary²⁸³ and proposes that the Chief Justice of the Supreme Court not be the person to preside over the Council and that the Council members be chosen by a Selection and Evaluation System in which the personal and professional merits of the candidates are weighed.²⁸⁴

286. On September 6, 2013, the National Congress elected the members of the Council of the Judiciary. The election was adopted by majority, with 110 votes in favor, two against and 10 abstentions. At the public hearing held in October 2013, during the 149th regular session of the IACHR, the Association of Judges for Democracy reported on the process of selection of the members of the Council of the Judiciary by the Congress. At the hearing, the requesting parties made reference to an obvious political bias in favor of the candidates nominated by Association of Judges and Magistrates, one of the two judges associations existing in Honduras, over and above candidates nominated by the Association

²⁸⁰ UN General Assembly, *Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy*, A/HGRC/11/41, March 24, 2009, paragraph 28. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/125/66/PDF/G0912566.pdf?OpenElement>

²⁸¹ The following was among the recommendations made by the Special Rapporteur on the Independence of Judges and Lawyers: “The Council of the Judiciary should be presided over by someone other than the Chief Justice of the Supreme Court, who has important, full-time duties to discharge.” See UN General Assembly, *Report of the Special Rapporteur on the independence of Judges and Lawyers*, A/HRC/17/30/Add.3, April 18, 2011. Recommendation 94(i). Available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.30.Add.3_en.pdf

²⁸² At the conclusion of her 2012 visit, the United Nations Special Rapporteur on Human Rights defenders noted the adoption of Decree 219-2011 on the Law on the Council of the Judiciary and Judicial Career Service (*Ley del Consejo de la Judicatura y la Carrera Judicial*), but observed that an independent body should be established to safeguard the independence of the judiciary and to oversee the appointment, promotion and regulation of the profession in accordance with international human rights standards.. Statement of the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekagya, on the conclusion of her official visit to Honduras. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11830&LangID=E>.

²⁸³ *La Prensa.hn*, *Presentan proyectos de ley para reformas al sistema de justicia* [Bills introduced to reform justice system]. October 26, 2012. Available at: <http://www.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Presentan-proyectos-de-ley-para-reformas-al-sistema-de-justicia#.UNN0grKPxmk>

²⁸⁴ *La Prensa.hn*, *Presidente de la Corte quedaría fuera del Consejo de la Judicatura* [Chief Justice of the Supreme Court off Council of the Judiciary], November 5, 2012. Available at: <http://www.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Presidente-de-la-Corte-quedaría-fuera-del-Consejo-de-la-Judicatura#.UNNDYLKPxmk>

of Judges for Democracy, who were not taken into account in the selection process in violation of the law itself. In this regard, based on information available to the public, on October 30, 2013, the Association of Judges for Democracy filed for constitutional relief (*amparo*) before the Supreme Court against the election of members of the Council of the Judiciary.

287. It was also claimed at the hearing that at least two months after its members were elected and sworn into office, judges were chosen without following the competitive process. Judgeships that were filled by simple appointment, as mentioned at the hearing, included three judges of the Court of Appeals and one judge assigned to accompanying the military police on its operations.

288. The IACHR also notes with concern information provided at said hearing indicating that the recently elected Council of the Judiciary has announced the application of disciplinary procedures, even though the current Law of the Council of the Judiciary on the Judicial Career does not define offenses and respective punishments. Regarding this point, the IACHR notes that Article 317 of the Honduran Constitution itself establishes that “Judges and Magistrates may not be removed, suspended, transferred, demoted or retired from office, except under the grounds and with the guarantees provided for in the Law.” The IACHR expects the Honduran State to establish disciplinary procedures based on respect for due process, with clear, pre-established grounds and punishments, and with effective means of challenge in place.

d. Irremovability of judges

289. In order to safeguard their independence and impartiality, judges must have “reinforced guarantees” of job stability.²⁸⁵ This right to remain on the bench for the duration of their appointment is a “reinforced guarantee”²⁸⁶ which is an essential condition for judicial independence.²⁸⁷ This guarantee protects judges, who may only be removed for serious misconduct previously established in law; other disciplinary measures may be considered for cases of negligence or incompetence.²⁸⁸ Accordingly, judges may only be suspended or removed for reasons of incapacity or behaviour that renders them unfit to discharge their duties.²⁸⁹ If none of these grounds is present, a judge should remain on the bench for the duration of his or her appointment.²⁹⁰

²⁸⁵ I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, paragraph 67.

²⁸⁶ IACHR, *Application filed with the Inter-American Court of Human Rights in the Case of Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz (Corte Primera de lo Contencioso Administrativo) v. Venezuela*, Case 12.489, November 29, 2006, paragraph 85.

²⁸⁷ IACHR, *Democracy and Human Rights*, paragraph 229.

²⁸⁸ IACHR, *Application filed with the Inter-American Court of Human Rights in the Case of Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz (Corte Primera de lo Contencioso Administrativo) v. Venezuela*, Case 12.489, November 29, 2006, paragraph 87.

²⁸⁹ Principle 18 of the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from August 26 to September 6, 1985, and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. Available at: <http://www2.ohchr.org/english/law/indjudiciary.htm>

²⁹⁰ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2012, paragraph 367.

- *Removal of justices from the Constitutional Chamber of the Supreme Court*

290. In 2013, the Commission closely followed the process whereby the National Congress ousted four of the five justices of the Supreme Court's Constitutional Chamber in the early morning hours of December 12. According to the information available, during the debate, which ended with the justices' dismissal from the bench, the Congress building was surrounded by military and police forces.²⁹¹

291. As background to this event, the information available indicates that on November 27, 2012, the Constitutional Chamber ruled that Legislative Decree No. 89-2012 was unconstitutional. That Legislative Decree contained the so-called "Police Purge Law". The majority of the justices were of the view that the law would allow tests like polygraphs, which would be violations of the basic rights of members of the Police Force. Because the vote was four to one, the appeal challenging the constitutionality of the law would then be taken up by the Supreme Court *en banc*.²⁹²

292. On Monday night, December 10, a deputy asked Congress to form a Committee of Inquiry to examine the administrative conduct of the justices who voted to declare the law unconstitutional. According to reports, the argument made in the motion was that the Decree establishing the "Police Purge Law" would have taken effect six months following its publication and the Supreme Court's decision was issued some days after the decree expired. This, it was argued, would have "adverse consequences for the country's already weak economy" because of the compensatory damages that would have to be paid to the affected police officers. Therefore, the motion maintained that by "their infidelity to the Republic, and failing to comply with and enforce the Constitution and the law, which is the duty of every public official, [the justices] put the safety of the citizenry in imminent peril."²⁹³

293. On December 12, 2012, the National Congress received the Committee of Inquiry's report, in which it stated, *inter alia*, that:

TWELVE: The decision handed down by the Constitutional Chamber, unless Congress deems otherwise, is inconsistent with the security policy implemented by the legislative and executive branches of government and puts the State in grave jeopardy because it represents a setback in the progress thus far made in fighting crime, imperils the security of the citizens and their property, and paves the way for the State to be sued for millions by members of the National Police who have been separated from the service in application of that decree.²⁹⁴

²⁹¹ *El Heraldo*, *Congreso de Honduras asesta golpe técnico al poder judicial* [Honduran Congress deals a technical blow to the judicial branch], December 12, 2012, available at: <http://www.elheraldo.hn/Secciones-Principales/Al-Frente/Congreso-de-Honduras-asesta-golpe-tecnico-a-la-CSJ>

²⁹² *El Heraldo*, *Ley de depuración policial pasa a la CDJ* [Police Purge Law passes the CDJ], November 27, 2012. Available at: <http://www.elheraldo.hn/content/view/full/99393>

²⁹³ *La Tribuna*, *Con esta moción destituyeron a los magistrados de la Sala constitucional* [Justices in the Constitutional Chamber dismissed with this motion], October 12, 2012. Available at: <http://www.latribuna.hn/2012/12/12/con-esta-mocion-destituyeron-a-los-magistrados-de-la-sala-constitucional/>. See also: TIEMPO, *Investigación sobre la conducta administrativa de los magistrados de la CSJ* [Supreme Court justices' conduct on the bench under investigation], December 13, 2012. Available at: <http://www.tiempo.hn/portada/item/3603-los-documentos-que-echaron-a-andar-suerte-de-los-magistrados>

²⁹⁴ The text is available at: *La Prensa*, *Conozca el informe presentado por la Comisión al Congreso Nacional* [Read the report by the National Congressional Committee], October 13, 2012. Available at: <http://m.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Conozca-el-informe-presentado-por-la-comision-al-Congreso-Nacional>. See also: TIEMPO, *Investigación sobre la conducta administrativa de los magistrados de la CSJ* [Administrative conduct of Supreme Court justices

294. On the strength of that argument, at around 4:00 a.m. on Wednesday, December 12, the National Congress decided to remove the following Supreme Court justices: Rosalinda Cruz Sequeira, Francisco Ruiz Gaekel, Gustavo Enrique Bustillo Palma and José Antonio Gutiérrez Navas, none of whom had been heard or submitted to any other procedure. That same day, at around 6:00 a.m., Congress appointed and swore in the new justices to serve on the Constitutional Chamber's bench.²⁹⁵

295. The Commission notes that during the proceedings to remove the justices, public officials made statements calling the Constitutional Chamber's decision into question. With regard to the decision to declare the "Police Purge Law" unconstitutional, the President of the Republic, Mr. Porfirio Lobo Sosa, reportedly said the following:

"Honduras is in mourning over the Constitutional Chamber's decision. Whose side are they on? On the side of criminals or on the side of the honest people of this country...? The victims or their assailants? I tell you this: I feel deceived. I sincerely do."²⁹⁶

296. The Commission also received information to the effect that the deputy who introduced the motion for the judges' removal allegedly told the media that "the justices' conduct jeopardizes citizen security." Another deputy reportedly told the media that "we are troubled by the fact that there are those within the Supreme Court who would obstruct the country's development;" still another reportedly said that Congress' action was justified since the judges had "colluded with organized crime and prosecutors also linked to crime."²⁹⁷

297. On December 17, 2012, the IACHR requested information from the Honduran State in exercise of its authority under Article 41 of the American Convention. It was asking for information concerning the removal of the justices of the Constitutional Chamber. In its communication, the IACHR stressed the point that "given the principle of the irremovability of judges, the grounds for disciplinary investigations and sanctions imposed on a judge should never be the legal judgment developed in a decision."²⁹⁸

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under investigation], October 13, 2012. Available at: <http://www.tiempo.hn/portada/item/3603-los-documentos-que-echaron-a-andar-suerte-de-los-magistrados>

²⁹⁵ *Proceso, Nombran y juramentan a nuevos magistrados de la Sala de lo Constitucional* [New Constitutional Chamber justices named and sworn in], December 12, 2012. Available at: <http://proceso.hn/2012/12/12/Nacionales/Nombran.y.juramentan/61391.html>

²⁹⁶ *La Prensa.HN. Hn, Lobo arremete contra la Corte ¿de qué lado están?* [Lobo assails Court: Whose side are they on?] December 4, 2012. Available at: <http://www.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Lobo-arremete-contra-la-Corte-De-que-lado-estan-dice#.UNN80LKPXmk>. See also *Tiempo, Magistrados piden cesar ataques contra la independencia judicial* [Justices ask for attacks on judicial Independence to stop], December 5, 2012. Available at: <http://tiempo.hn/portada/item/2867-magistrados-piden-cesar-ataques-contra-la-independencia-judicial>.

²⁹⁷ *El Universal, Temen crisis en Honduras tras destitución de magistrados* [Crisis feared in Honduras after dismissal of justices], December 13, 2012. Available at: <http://www.eluniversal.com/internacional/121213/temen-crisis-en-honduras-tras-destitucion-de-magistrados>. See also: *La Tribuna, Destituidos* [Dismissed], December 11, 2011. Available at: <http://www.latribuna.hn/2012/12/11/destituidos/>

²⁹⁸ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2012, para. 376. See also, IACHR, *Application filed with the Inter-American Court of Human Rights in the Case of Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz (Corte Primera de lo Contencioso Administrativo) v. Venezuela*, Case 12.489, November 29, 2006, para. 89.

298. On February 5, 2013, the State's response was received regarding the request for information that had been made by the IACHR, as provided for in Article 41 of the American Convention to which the Commission referred. Based on the information submitted, Congress removed from office Supreme Court Justices Rosalinda Cruz Sequeira, José Francisco Ruiz Gaekel, José Antonio Gutiérrez Navas and Gustavo Enrique Bustillo Palma, because their conduct was overtly contrary to the public interest of the State of Honduras. Also, under Decree Law, the Congress approved the replacement of the aforementioned Justices with the following Justices, who currently sit as members of the Constitutional Chamber: Silvia Trinidad Santos, Víctor Manuel Lozano Urbina, Germán Vicente García García and José Elmer Lizardo Carranza.

e. Guarantees against external pressure

299. Protection of judges from external pressure is a fundamental part of the guarantee of an independent judiciary and means that judges are able to decide the cases they hear on the basis of the facts and the law, free of any undue constraints, influence, inducements, pressure, threats or interference, either direct or indirect, from any quarter or for any reason.²⁹⁹ If States fail to protect their judges and magistrates from any kind of external pressure, including reprisals directed at attacking their person and family and those intended to affect their permanence on the bench and professional future, exercise of the judicial function can be seriously affected, rendering courts unable to protect victims of human rights violations and frustrating full performance of the judicial function and full observance of the standards that must govern due process of law.³⁰⁰

- *Assassination and intimidation of judges and prosecutors*

300. Throughout 2013, the Commission continued to receive reports on assassinations and intimidation of judges in Honduras. The IACHR received information about the assassination of Mireya Efigenia Mendoza Peña, a trial court judge in El Progreso, Yoro and Assistant Secretary of the Association of Judges for Democracy, an organization that works to defend judges in Honduras. According to the information received, on July 24, 2013, Mireya Efigenia Mendoza Peña was murdered by several gunshots fired by two killers on motorcycles when she was driving her truck out of a shopping mall. According to information supplied by the National Human Rights Commissioner, her death brought to 64 the number of law professionals who had lost their lives in violent circumstances since January 2010.

301. Based on information provided by the State in its observations on the instant report, on July 27, the Public Prosecutor's Office brought charges before the Courts of National Jurisdiction against one of the persons allegedly responsible for the murder. Additionally, on August 1, 2013, a preliminary hearing was held wherein a preventive detention order was issued. Several other investigatory measures are still pending.³⁰¹

²⁹⁹ Principle 2 of the Basic Principles on the Independence of the Judiciary adopted by the Seventh United Nations Congress and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. Available at <http://www2.ohchr.org/english/law/indjudiciary.htm>.

³⁰⁰ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2012, para. 384.

³⁰¹ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

302. The State also made reference to the murder of attorney Orlan Arturo Chávez, Chief of the Money Laundering Unit of the Office of the Special Prosecutor against Organized Crime of the Public Prosecutor's Office, on April 18, 2013, as an example of another operator of justice, who was a murder victim this year. The State noted that the investigation into this case is still open.³⁰²

303. The IACHR must point out that the Honduran State has an obligation to investigate these events and open lines of inquiry that consider whether the murders were committed because of the murdered judges' service on the bench. An ineffective response on the State's part could encourage further crime, instill fear in judges and severely curtail the rights of those who turn to the Honduran courts in search of justice.

304. Based on the observations contained in this section, the Commission is calling upon the Honduran State to take the measures necessary to guarantee the independence of judges and prosecutors, so as not to allow undue interference from other powers to affect their independence. The IACHR is also urging the State to adequately protect the lives and personal integrity of judges against any kind of external pressure that might influence their performance on the bench.

3. State observance and guarantee of the exercise of freedom of expression³⁰³

a. Progress

305. The IACHR is pleased to take note of the bill drafted by the Secretariat of Justice and Human Rights of Honduras, which proposes a reform to the Criminal Code. The bill partly repeals the criminal offenses of defamation [*injuria*, *calumnia* and *difamación*] in keeping with the recommendation made to the States of the region by the Office of the Special Rapporteur for Freedom of Expression in the 2012 Annual Report of the Inter-American Commission on Human Rights, concerning criminal or civil provisions that sanction expression.³⁰⁴ The Commission urges the government to move forward in said process of reform.

306. In April, the Sentencing Court of San Pedro Sula convicted an agent of the National Police to five years imprisonment for the torture of a cameraman on May 6, 2011, in Valle de Sula. The sentence was commutable and the convict could pay a fine of 10 lempiras (some US\$ 0.5) per day of jail term.³⁰⁵ On May 6, 2011, cameraman Uriel Rodríguez, who at the time was working for *Globo TV*, was allegedly beaten by the agent of the National Police, while he was filming the breaking up of a

³⁰² Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

³⁰³ The Inter-American Commission tasked the Office of the Special Rapporteur for Freedom of Expression with preparation of this section of the report.

³⁰⁴ Secretaría de Estado en los Despachos de Justicia y Derechos Humanos. May 22, 2013. Communication to the Office of Special Rapporteur for Freedom of Expression. Available for consultation at: Archives of the Office of Special Rapporteur for Freedom of Expression.

³⁰⁵ La Tribuna. April 17, 2013. [Cinco años de cárcel para policía agresor](#); Revistazo. April 18, 2013. [Condenan policía que agredió a reportero gráfico en Honduras](#); El Libertador. April 22, 2013. [Honduras: mandan a la cárcel a policía por torturar a camarógrafo en 2011](#).

demonstration. The reporter sustained injuries on the head and thorax and required hospitalization. On November 18, 2011, the Office of the Public Prosecutor brought charges for the Crime of Torture.³⁰⁶

307. The Inter-American Commission received information indicating that the Government of Honduras had turned over at least nine frequencies for community radio broadcasters. On August 26, President Porfirio Lobo reportedly handed over decisions from the National Telecommunications Commission (CONATEL) to five organizations, allocating frequencies for them to operate community radio stations.³⁰⁷ On October 1, the president reportedly turned over another four CONATEL decisions that grant frequencies for community broadcasting to four organizations.³⁰⁸

308. In its communication of December 19, 2013, the State of Honduras informed the IACHR that the Ministry of Justice and Human Rights signed a Cooperation and Technical Assistance Agreement with the non-governmental organization Centro de Investigación y Promoción de los Derechos Humanos de Honduras [Center for the Research and Promotion of Human Rights in Honduras] (CIPRODEH), to advocate for the enactment of a Special Law for the Protection of Human Rights Defenders; the Protocol for the implementation of security, precautionary, and provisional measures granted by national authorities, the Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights, respectively.³⁰⁹

309. It also reported that it has promoted the draft bill of the “Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners,” which will implement Resolution 13/13 of the United Nations Human Rights Council on the “Protection of Human Rights Defenders.”³¹⁰ According to the information received, the Draft Law provides for the creation of a National Protection Council attached to the Office of the Secretary of State for Justice and Human Rights that should act as “an executive, deliberative, and advisory body to guarantee and enforce the rights enshrined in the Protection Law [...] and to advise the Office of the President of the Republic on matters concerning the protection of the groups enumerated in the law,” which would include journalists.³¹¹ The Draft Law establishes that the Council will be comprised by representatives of State institutions and civil society organizations.³¹² The Draft Law also stipulates that the Office of Protection Mechanisms for

³⁰⁶ IACHR. [Annual Report 2011. Annual Report of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere) OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 344.

³⁰⁷ Presidencia de Honduras. August 27, 2013. [Gobierno firma convenio para electrificar centros educativos](#); El Heraldo. August 27, 2013. [Presidente Lobo entrega frecuencias de radio](#).

³⁰⁸ Presidencia de Honduras. October 1, 2013. [Available for consultation at: http://www.noodls.com/view/E0B4B9B8004194E347FD7C34877267217629CED3](#)

³⁰⁹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³¹⁰ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³¹¹ Estado de Honduras. Progress report on implementation of the National Plan for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. October 23, 2013. P. 8. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. See also, IACHR. 149 Period of Sessions. Hearing on the Implementation of Precautionary Measures in Honduras. October 28, 2013. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/hearings.aspx?lang=en&session=132>

³¹² According to Article 17 of the Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners, the National Protection Council will be composed of representatives from: the Office of the Secretary of State for Justice and Human Rights; the Office of the Secretary of State for Security; the Office of the Secretary of State for

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Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners, will be the body responsible for “handling complaints of risk to the beneficiaries of this law, and the instructions and policies issued by the National Protection Council.”³¹³ Accordingly, the Draft Law provides that the Office of Protection Mechanisms will have three auxiliary units: the Case Intake, Risk Evaluation, and Immediate Response Unit³¹⁴, the Prevention, Monitoring, and Analysis Unit³¹⁵, and the Unit for the Protection of At-Risk Individuals.³¹⁶ Additionally, the Draft Law contains various preventive and protective measures that will be able to be implemented according to the risk faced by the beneficiary, and provides that, “to the extent possible, the protection measures shall not restrict the normal activities of the beneficiaries or involve unwanted surveillance or intrusions in their personal or professional lives.”³¹⁷ The State reported that the Draft Law was introduced to the Congress of the Republic on August 28, 2013 for debate and approval.³¹⁸ Different civil society organizations reportedly made important observations to the draft bill at the hearing on the implementation of precautionary measures in Honduras, held on October 28, 2013, during the 149 Period of Sessions of the IACHR, especially insofar as it refers to the participation of social organizations in the protection mechanism, its

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Foreign Affairs; the Office of the National Human Rights Commissioner; the Office of the Public Prosecutor; the Office of the Attorney General of the Republic; the Judiciary; the Honduran Bar Association; the Honduran Association of Journalists; and by five representatives of civil society organizations. Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Article 17. Information provided by the State at the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Session of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹³ Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Article 25. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹⁴ This unit will be in charge of receiving complaints involving situations of risk, examining and evaluating the reported risk, recommending the adoption of protection measures, and identifying the urgent cases that will be dealt with through the extraordinary procedure. Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Article 31. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹⁵ The unit will be responsible for ordering measures for the prevention of risks to individual beneficiaries, monitoring the protection measures implemented, and ordering any necessary corrective measures. Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Article 34. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹⁶ The Unit will be attached to the Office of the Secretary of State for Security, and will operate as a specialized technical body to implement preventive, protective, and urgent protection measures. Therefore, the Draft Law provides that this unit will have its own security personnel in charge of implementing the measures. Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Articles 36 and 37. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹⁷ Draft Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. Article 44. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

³¹⁸ Estado de Honduras. Progress report on implementation of the National Plan for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. October 23, 2013. P. 10. Information provided by the State within the Hearing on the Implementation of Precautionary Measures in Honduras, held during the 149 Period of Sessions of the IACHR. Available for consultation at: Archives of the Office of the Special Rapporteur for Freedom of Expression.

institutional design, and the indiscriminate treatment under the draft bill of the populations subject to protection.³¹⁹

310. In its communication of December 19, 2013, the State reported on the approval of the National Plan for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners. The State reported that the plan was “in a process of socialization” and that an “awareness plan for the national authorities concerned with its implementation” had been approved for its proper implementation. The State also reported that a national directory of human rights defense organizations, journalists, media workers, and legal practitioners had been established, with the participation of 50 non-governmental organizations. According to the information provided by the State, a Working Table was assembled to monitor the implementation of the Plan for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners, comprised by representatives from government institutions, academia, professional associations, and civil society. The State also reported that it convened civil society organizations to form the “National Protection Network for Human Rights Defenders, Media Workers, and Legal Practitioners, as a space for coordination, collaboration, and open dialogue among those organizations, with a view to empowering and strengthening the work of local, regional, and national alliances and networks.”³²⁰

311. Additionally, at the hearing on the implementation of precautionary measures in Honduras, held on October 28, 2013 during the IACHR’s 149 Period of Sessions, the State provided information on the creation of a “High Impact Deaths Unit” assigned to the Office of the Special Prosecutor for Crimes against the Person. According to the information received, the unit was established to identify the murders of persons belonging to groups particularly affected by violence, such as journalists, legal practitioners, and human rights defenders. According to the information received, the unit was involved in 26 investigations into the murder of journalists during the period from 2009 to 2013, of which 10 have reportedly been prosecuted.³²¹ The State reported that the case of the May 15, 2012 murder of journalist Alfredo Villatoro³²² “was pending trial” against four defendants accused of aggravated kidnapping. According to reports, the trial is set for March, 2014.³²³

b. Murders³²⁴

³¹⁹ IACHR. 149 Period of Sessions. Hearing on the Implementation of Precautionary Measures in Honduras. October 28, 2013. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/hearings.aspx?lang=en&session=132>

³²⁰ Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³²¹ IACHR. 149 Period of Sessions. Hearing on the Implementation of Precautionary Measures in Honduras. October 28, 2013. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/hearings.aspx?lang=en&session=132> [\(video\)](#) [00:44:00].

³²² IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 304.

³²³ IACHR. 149 Period of Sessions. Hearing on the Implementation of Precautionary Measures in Honduras. October 28, 2013. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/hearings.aspx?lang=en&session=132> [\(video\)](#) [00:44:50].

³²⁴ During 2013 the Office of the Special Rapporteur reported the assassinations of journalists Aníbal Barrow and Juan Carlos Argeñal. The latter took place after the closing of this report. IACHR. Office of the Special Rapporteur for Freedom of Expression. December 11, 2013. [Press Release R 98/13. Office of the Special Rapporteur Condemns Murder of Journalist in](#)

312. On July 9, the lifeless body of journalist Aníbal Barrow was found in the municipality of Villanueva, Department of Cortes. Barrow had been abducted on June 24 by armed individuals in the City of San Pedro Sula, Cortés.³²⁵ According to the information received, the journalist, the host of the television program 'Aníbal Barrow y nada mas ['Just Aníbal Barrow'], broadcast by *Globo TV*, was in his automobile along with two family members and a driver, when unidentified individuals took control of the vehicle and, after releasing those who were accompanying him, proceeded to abduct him. The vehicle was found a few hours later with traces of blood and signs of gunshots. The authorities began an intensive search to find the journalist, who was finally found on July 9 in the area of a lake in the municipality of Villanueva. According to the report, the body of the journalist was mutilated and partially burned. The police authorities have reported that there are five suspects in custody and an arrest warrant is outstanding for another three individuals for their alleged association with the crime.³²⁶

313. With regard to Barrow's murder, in a communication dated December 19 the State reported that the Office of the Public Prosecutor (MP) had indicted eight individuals for the offenses of murder, aggravated robbery, and criminal conspiracy, and that hearings before the respective court are forthcoming. The State further indicated that it would continue the preliminary investigation to identify other persons involved.³²⁷

314. Also, on July 9, the same day the body of Aníbal Barrow was found, journalist Eduardo Maldonado, the owner of the television channel *Hable como habla*, publicly exposed during the program 'Hable como Habla' that he had received a threatening text message: "That's why you're getting killed assholes because you gettled in things you shouldn't, you're scared you'll be killed too."³²⁸

315. Additionally, on July 15, journalist Aldo Calderón of *Channel 11* and the daily newspaper *Diario Tiempo*, was allegedly poisoned to death, after ingesting aluminum phosphide.³²⁹ Subsequently, the former chief of the office known at the time as the Internal Affairs Unit of the National Police stated to the organization C-Libre that at the time of his death, the journalist was in the process of investigating the murder of Aníbal Barrow. According to this account, the journalist had found evidence implicating

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[Honduras](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. July 15, 2013. [Press Release R 50/13. Office of the Special Rapporteur Condemns Murder of Kidnapped Journalist in Honduras.](#)

³²⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. July 15, 2013. [Press Release R 50/13. Office of the Special Rapporteur Condemns Murder of Kidnapped Journalist in Honduras](#); Proceso Digital. July 10, 2013. [Fiscalía confirma que cuerpo encontrado en Siboney pertenece a Aníbal Barrow](#); La Prensa. July 10, 2013. [Honduras: Confirman que cadáver hallado es de Anibal Barrow.](#)

³²⁶ El Heraldo. September 25, 2013. [Cae supuesto asesino de Aníbal Barrow](#); El Tiempo. September 25, 2013. [De chiripa cae sospechoso de asesinar a Aníbal Barrow](#); La Prensa. October 3, 2013. [Supuesto asesino de Barrow seguirá en el penal.](#)

³²⁷ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³²⁸ IFEX/C-Libre. July 16, 2013. [Honduran reporter threatened with same fate as murdered colleague.](#)

³²⁹ La Tribuna. July 16, 2013. [Fallece periodista Aldo Calderón.](#)

authorities in the Barrow crime.³³⁰ According to the State, in relation to Calderón's death, "there is no evidence that his death was a murder; rather, it would appear to be a suicide."³³¹

316. In its December 19, 2013 communication, the State of Honduras asserted that, just as it had indicated in its Observations to the 2011 Annual Report, "in the context of general violence that the country is unfortunately experiencing, there have been murders, attempts, and threats against members of the media during the past five years." As it stated in those Observations, "The State of Honduras is aware of its commitment to guarantee that diligent and exhaustive investigations are conducted into the facts. Accordingly, the State of Honduras took part in the public hearing before the IACHR entitled 'Situation of the Right to Freedom of Expression in Honduras,' held in October 2010, and in the 'Hearing on the General Human Rights Situation' of March 2013." It further indicated that "the preliminary investigations confirm that the homicides perpetrated are the result of common crime or organized crime, and it has not been determined that the opinions expressed by the media workers about the government served as the motive for their deaths. Proof of this cooperation is the progress made in the investigation and prosecution of those cases."³³²

317. Principle 9 of the IACHR Declaration on Freedom of Expression, approved in 2000, establishes that "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

318. In their duties to protect and guarantee, States must carry out diligent, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers. This entails the creation of specialized units and special investigative protocols, as well as the identification and exhaustion of all possible case theories related to the professional work of the victim.

c. Attacks on and Threats against Media Outlets and Journalists

319. In early 2013, journalist and human rights defender Itsmania Pineda Platero was the victim of harassment, threats and email and blog account hacking. Consequently, the journalist announced that she was compelled to close the offices of her human rights defense organization, Xibalba Arte y Cultura.³³³ The journalist had been the victim of threats in the past.³³⁴ With respect to

³³⁰ IFEX/C-Libre. July 29, 2013. [Reportero hondureño muere después de investigar asesinato de otro periodista](#); ADEPA. July 30, 2013. [Periodista hondureño que investigaba asesinato de colega muere envenenado](#).

³³¹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³³² In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³³³ Reporters Without Borders. January 8, 2013. [RWB alerts minister to case of journalist threatened by her "protectors"](#); C-Libre. January 8, 2013. [Continúan agresiones contra periodistas](#); Knight Center for Journalism in the Americas. January 10, 2013. [Two Honduran journalists under threat, warn organizations](#).

³³⁴ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 313.

the incidents occurred in 2013, the State indicated that there wasn't any complaint filed in the office of the Office of the Public Prosecutor (MP) regarding those events, and therefore asks the affected person to file the respective complaint "in order for the pertinent investigations to be conducted."³³⁵

320. Television reporter Selvin Martínez, of the city of Puerto Cortés, reported that he had received death threats since early 2013 via text message.³³⁶ In 2012, the journalist was the victim of two armed assaults and several threats.³³⁷

321. With respect to the attacks, the State reported that the Office of the Public Prosecutor (MP) had filed an indictment charging one individual with "attempted murder," and that the court ordered his pretrial detention following an initial hearing. The public, oral phase of the trial will take place in March 2014. The State indicated with regard to the text message threats that Martínez had told the Prosecutor handing his case that they had stopped; "however, the Office of the Public Prosecutor (MP) took several steps, including filing a request for a wiretap."³³⁸

322. On January 15, alleged agents of the National Police arrested Honduran historian and writer Edgar Israel Soriano and transferred him in a supposed patrol car to police facilities. According to the information received, as soon as situation came to the attention of special Human Rights Prosecutor Leonel Casco Gutiérrez, he went to the police station and personally requested the release of the writer and said prosecutor was also arrested for allegedly disrespecting authorities. Both men were released the following morning.³³⁹ After decrying these incidents, the Office of the Special Prosecutor for Human Rights of the Office of the Public Prosecutor brought charges against Harold Bonilla Andara, head of Metropolitan Police Station Number 1 of Tegucigalpa, the official who had ordered the arrest of Casco Gutiérrez, for abuse of authority and unlawful detention.³⁴⁰ Available information indicates that in the context of this process, a hearing was held before a criminal court judge, who dismissed the charges and, consequently, the defendant was released in late May 2013.³⁴¹ Casco Gutiérrez is the beneficiary of precautionary measures issued by the Commission [72-11].

³³⁵ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³³⁶ C-Libre. January 8, 2013. [Continúan agresiones contra periodistas](#); El Heraldo. March 10, 2013. [Persisten amenazas y agresiones contra la libertad de expresión](#); Knight Center for Journalism in the Americas. January 10, 2013. [Two Honduran journalists under threat, warn organizations](#).

³³⁷ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 328.

³³⁸ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³³⁹ Comisionado Nacional de los Derechos Humanos. January 16, 2013. [Comunicado](#); IFEX/C-Libre. January 21, 2013. [Escritor de opinión hondureño detenido por la noche](#); Habla Honduras. January 16, 2013. [Defensores de derechos humanos víctimas de detención ilegal](#).

³⁴⁰ El Heraldo. February 7, 2013. [Requerimiento fiscal para exjefe policial](#); La Tribuna. February 6, 2013. [Dictan requerimiento fiscal contra jefe de la Metropolitana](#); El Heraldo. May 7, 2013. [En audiencia inicial comparece exjefe policial](#).

³⁴¹ Conexihon. April 11, 2013. [Medidas sustitutivas contra subcomisionado por detener ilegalmente a historiador y procurador de DD.HH.](#); La Prensa. June 1, 2013. [Nuevo requerimiento fiscal contra ex director de Policía Metropolitana](#); Proceso Digital. June 1, 2013. [Ministerio Público libró requerimiento contra ex director de Policía Metropolitana](#); Honduras Tierra Libre.

323. With regard to these events, the State indicated in a communication dated December 19, 2013 that “the Office of the Public Prosecutor (MP) took the appropriate steps against Mr. Harold Bonilla Andara. The Office of the Public Prosecutor (MP) filed the respective appeal of the Court’s ruling, which is currently pending decision.”³⁴²

324. On January 23, journalist Renato de Jesús Álvarez, news editor-in-chief of the news program *TNS* and of the program ‘Frente a Frente,’ reported that he feared for his life as a consequence of an alleged stigmatization campaign against him fostered by a member of the National Congress and candidate for the presidency of the country. Álvarez alleges that the congressman accused him of being identified with ultra rightwing of his country. According to the journalist, said campaign was triggered by critical news coverage of several congressional acts.³⁴³ The following day, the chief of the National Police Juan Carlos Bonilla contacted the journalist and offered him protection, as a result of evidence that his life may be endangered.³⁴⁴ Additionally, in early January, Álvarez announced the alleged opening of fake Twitter and Facebook accounts in his name, which were used to extort his friends and tarnish his image.³⁴⁵

325. On February 5, journalist César Silva and cameraman Samuel Aguilera, of television network *Globo TV*, were assaulted by alleged private transportation workers, while they were covering a demonstration of union members of that trade, nearby the Presidential Palace in Tegucigalpa. According to broadcasters, while the assaults were taking place, they called on members of the presidential guard to come to their aid, and were ignored by them.³⁴⁶ With respect to these incidents, the State indicated that “it has not been able to locate any complaint regarding these events”, and therefore requests that the affected person file the respective complaint “in order for the pertinent investigations to be conducted.”³⁴⁷

326. On February 18, journalist Isaac Leonardo Guevara Amaya, correspondent of *Radio Progreso* in the municipality of Tela, was verbally threatened by alleged agents of the National Police.

...continuation

May 29, 2013. [Honduras: se reafirma la política de protección a violadores de derechos humanos. Sobreseimiento definitivo a jefe de Policía Metropolitana.](#)

³⁴² In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁴³ C-Libre. January 23, 2013. [Periodista denuncia campaña de odio](#); La Prensa. January 22, 2013. [Renato Álvarez denuncia a Juan Orlando Hernández](#)

³⁴⁴ La Prensa. January 24, 2013. [Policía tiene indicios de agresiones contra Renato](#); Proceso Digital. January 23, 2013. [“Tigre” Bonilla ofrece protección a Renato Álvarez ante “indicios” de fraguarse un atentado](#); El Herald. January 23, 2013. [Policía sospecha que quieren afectar a Renato.](#)

³⁴⁵ Proceso Digital. January 3, 2013. [Crean cuentas falsas en redes sociales para suplantar al periodista Renato Álvarez](#); Knight Center for Journalism in the Americas. January 28, 2013. [Honduran TV journalist accuses presidential candidate of supporting a “hate campaign” against him.](#)

³⁴⁶ IFEX/C-Libre. February 11, 2013. [TV journalists attacked during transport protest in Honduras](#); ArgenPress. February 8, 2013. [Periodistas hondureños agredidos y amenazados. Solidaridad internacional a los colegas hondureños.](#)

³⁴⁷ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

According to reports, Guevara Amaya was following the protests against mining projects. The alleged police agents stopped the vehicle he was riding in and ordered him to stop taking photographs.³⁴⁸ With respect to these incidents, the State indicated that “it has not been able to locate any complaint regarding these events”, and therefore requests that the affected person file the respective complaint “in order for the pertinent investigations to be conducted.”³⁴⁹

327. It came to the attention of the IACHR that on March 4 journalist Julio Ernesto Alvarado, director of the programs ‘Medianoche’ of *Radio Globo* and ‘Mi Nación’ of *Globo TV*, announced his decision to resign from hosting the program ‘Medianoche’ because of repeated threats he had received. According to the information received, on March 1 and 2, the journalist was followed and harassed around his workplace. Similarly, in March 2012, Alvarado’s vehicle was vandalized and he was followed by unknown men several times. The journalist stated that, on his program, he regularly leveled complaints and criticism of the police and the armed forces and that on March 1, he issued a sharp denunciation against a high-ranking police official.³⁵⁰

328. On April 8, journalist Fidelina Sandoval of *Globo TV* was the target of an attempt on her life nearby the offices of this TV station. According to the information provided, two unknown individuals fired a gun in her direction. A few days earlier, the journalist had received two suspicious calls requesting personal information. The journalist indicated that the incidents could be related to reporting the week before on the process of “police purging” and on the land conflicts in the area of Bajo Aguan.³⁵¹

329. On April 20, journalist and executive director of the Committee for Freedom of Expression (C-Libre, as it is known in shorten form in Spanish), Héctor Longino Becerra, received three telephone threats. In the last one of the three, the unknown individuals warned him that they were waging a campaign to kill him and his family. On April 22, the journalist filed a formal complaint with the Committee of Families of the Detained and Disappeared in Honduras (COFADEH) and with the Secretariat for Justice and Human Rights.³⁵²

³⁴⁸ Cerigua. February 20, 2013. [Corresponsal de Radio Progreso en Honduras denunció amenazas por parte de la Policía Nacional](#); Reporters Without Borders. February 22, 2013. [HONDURAS | Amenazas e intimidaciones a periodistas por parte del ejército y la policía](#).

³⁴⁹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁵⁰ Reporters Without Borders. March 18, 2013. [Journalist suspends popular radio programme amid mounting threats](#); Front Line Defenders. March 8, 2013. [Honduras: Human rights defender and journalist Mr Julio Ernesto Alvarado resigns from national radio programme due to fears for his life](#); Knight Center for Journalism in the Americas. March 19, 2013. [Honduran journalist cancels radio and TV programs after threats](#).

³⁵¹ IFEX/C-Libre. April 9, 2013. [Targeted Honduran journalist escapes shooting unharmed](#); La Prensa. April 8, 2013. [Atentan contra periodista hondureña de Globo TV](#); Front Line Defenders. April 10, 2013. [Honduras: Shots fired at human rights defender and journalist Ms Fidelina Sandoval](#); Committee to Protect Journalists (CPJ). April 10, 2013. [Armed men shoot at TV journalist in Honduras](#).

³⁵² IFEX/C-Libre. April 26, 2013. [Director of Honduran free expression NGO warned of plot against him](#); Cerigua. April 26, 2013. [C-Libre denunció amenazas de muerte contra su director](#); Amnistía Internacional. May 5, 2013. [¿Quién quiere matar al periodista hondureño Héctor Longino Bacerra?](#)

330. On April 22, the daily newspaper *El Heraldo* reported information on a plan to kill three public figures: journalist Renato Álvarez, congressman Augusto Cruz Asensio and Police officer Héctor Iván Mejía. According to the story in *El Heraldo*, it involved “a plot orchestrated by persons linked to drug trafficking and organized crime with close ties to political and official sectors,” and that their purpose was to set fan the flames of “the climate of social chaos and ungovernability in the country, prior to the electoral process of November” 2013. Renato Álvarez, editor-in-chief of *Canal 5*, is a journalist who has come out sharply criticizing organized crime, as well as other aspects of the nation’s political life.³⁵³ The alleged offended parties confirmed the reports published by *El Heraldo* and the Council of Defense and Security ordered investigations to be opened into the complaint.³⁵⁴

331. In the municipality of Nacaome of the Department of Valle, journalist Leonel García, of the programs ‘Noticias al pueblo’ and ‘Dígalo como quiera’ of *Radio Discovery*, charged that he had been the target of death threats and intimidation by means of emissaries, who approached him as he left the radio station, as well as calls and text messages to his cell phone. According to the journalist, the intimidation could be linked to criticism on his news shows of local issues and authorities and the fact that he encouraged citizen participation during his news slots.³⁵⁵

332. With regard to the case of journalist Leonel García, in its communication of December 19, 2013 the State referred to an event from 2011, indicating that “there was a complaint before the Office of the Public Prosecutor (MP) alleging threats and battery, but upon investigation the Office of the Public Prosecutor (MP) determined that they were not acts that constituted crimes, but rather were misdemeanors, as they were insults.” It adds that, “there have been no other complaints since then.”³⁵⁶

333. On May 4, radio broadcaster and president of the Association of Independent Radio and Television Networks, Elías Javier Chahín, was beaten and threatened by three young men when he was leaving the premises of the radio stations *La Buenísima* and *Estéreo Tic Tac*. The assailants threatened to take his life. Chahín claimed that a few weeks earlier, an unidentified man doused gasoline on his house and set it on fire and he alleged that the incident was related to his criticism of the draft reform to the telecommunications law. President Porfirio Lobo condemned the acts and ordered an investigation and that security be provided to the businessman.³⁵⁷

334. In a December 19, 2013 communication, the State reported that on May 10 Chahín was deposed before the Office of the Public Prosecutor (MP), and was ordered to undergo a physical

³⁵³ El Heraldo. April 22, 2013. [Al descubierto plan para ejecutar figuras públicas en Honduras](#); Prensa Libre. April 22, 2013. [Denuncian plan para asesinar a periodista, diputado y policía hondureños](#); Terra. April 22, 2013. [Honduras: revelan plan para matar a políticos y periodista](#).

³⁵⁴ El Heraldo. April 22, 2013. [Ordenan que se investigue plan para ejecutar a figuras públicas](#); Proceso Digital. April 22, 2013. [Planes para cometer asesinatos selectivos son reales: comisionado Iván Mejía](#); La Prensa. April 22, 2013. [Alertan de posible plan para asesinar personajes públicos en Honduras](#).

³⁵⁵ IFEX/C-Libre. April 23, 2013. [Honduran radio journalist constantly threatened for his reporting](#); Cerigua. April 23, 2013. [Honduras: Dos comunicadores son víctimas de censura y amenazas](#).

³⁵⁶ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁵⁷ La Prensa. May 5, 2013. [Elías Chahín recibe golpiza por cuestionar "ley mordaza"](#); El Heraldo. May 5, 2013. [Atentan contra empresario Elías Chahín por cuestionar "ley mordaza"](#); Inter American Press Association (IAPA). May 6, 2013. [Condena la SIP agresión contra empresario periodístico en Honduras](#).

evaluation by the Office of Forensic Medicine. Other proceedings were also reportedly conducted, “including investigations in the area into potential witnesses or video recordings,” and the State reported that “the preliminary investigation is ongoing in an attempt to identify the suspects.”³⁵⁸

335. On May 7, a team from *Radio Televisión Española (RTVE)* reported that it would leave the country and would stop recording a special feature report, because of threats from members of “maras” (criminal gangs) while filming in the city of San Pedro Sula.³⁵⁹ With respect to these events, the State of Honduras indicated that “it is unknown whether a complaint was filed before any State institution.”³⁶⁰

336. On May 15, journalist Geyby Arriaga, opinion columnist of the magazine *Revista Imagen*, was assaulted by unidentified individuals, who fired on the vehicle she was riding in with her husband, in the city of San Pedro Sula, Department of Cortés.³⁶¹ With respect to these incidents, the State indicated that “it has not been able to locate any complaint regarding these events”, and therefore requests that the affected person file the respective complaint “in order for the pertinent investigations to be conducted.”³⁶²

337. On May 20, in the city of La Ceiba, journalist Ramón Maldonado, correspondent of the television channel *Hable como habla* and host of the program ‘Noticias con Café’ of the TV station *Litoral Atlántico*, and cameraman Daniel Sánchez were the targets of an attempt on their lives by alleged hired hit men, who fired several shots at the vehicle they were driving in. Neither of the men was hit by the bullets. Maldonado reported the incidents and contended that the assault could be linked to broadcasting of reports criticizing issues tied to the local government.³⁶³ The State of Honduras indicated that the Office of the Public Prosecutor (MP) learned of these events through the media, and “immediately proceeded to obtain a statement from Mr. Maldonado”; nevertheless, he declined to file a formal complaint before the Office of the Public Prosecutor.³⁶⁴

338. Journalist Isabel Antúnez, reporter of the television news program ‘Última Hora’ of *Nortv Tocoa Canal 38*, was assaulted by a public official of the Department of Justice of the Municipality of Tocoa, as she attempted to ask him questions about the presence of vendors stands on public

³⁵⁸ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁵⁹ RTVE. May 7, 2013. [Susto y fin de la grabación](#); Proceso Digital. May 8, 2013. [Equipo de Radio Televisión Española asegura que abandona Honduras por amenazas de mareros](#).

³⁶⁰ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁶¹ IFEX/C-Libre. May 24, 2013. [Journalists targeted in gunfire in northern Honduras](#); Reporters Without Borders. June 27, 2013. [Journalist abducted just days ahead of military coup anniversary](#).

³⁶² In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁶³ El Heraldo. May 20, 2013. [Atentan contra equipo de Hable Como Habla](#); La Tribuna. May 20, 2013. [Periodista ceibeño sufre atentado](#); Committee to Protect Journalists (CPJ). May 23, 2013. [Honduras should investigate attack on two journalists](#).

³⁶⁴ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

roads.³⁶⁵ In its December 19, 2013 communication, the State of Honduras informed the IACHR that the Office of the Public Prosecutor (MP) “took the respective victim statement, however [the journalist] indicated that she did not want to have trouble with anyone.” The State reported that a document was drawn up informing the journalist of her right to file a formal complaint against the Municipal Judge.”³⁶⁶

339. On July 4, journalist Mario Castro, host of the program ‘El Látigo Contra La Corrupción’ [‘The Whip against Corruption’], broadcast by *Globo TV*, was threatened via text message, in which he was warned that the same thing would happen to him as to his colleague, apparently in reference to journalist Anibal Barrow, abducted on June 24 and found dead five days later, on July 9.³⁶⁷ The State indicated that it has not been able to locate a complaint regarding these events and therefore requests that the affected person file the respective complaint “in order for the pertinent investigations to be conducted.”³⁶⁸

340. On July 17, journalist Joel Coca, coordinator of the program ‘Más Noticias’ of *Canal 12* and correspondent of *Canal 11* in the city of Puerto Cortés, was assaulted by two individuals, who beat him with a baseball bat and a weapon. He sustained two broken fingers, and had to receive medical care. The journalist linked the assault to his reporting work, because he had received threats for allegedly speaking out against local corruption on his program. Coca filed a complaint with the National Directorate of Criminal Investigation (DNIC) in Puerto Cortés.³⁶⁹ Subsequently, the journalist and his family left the country for reasons of security.³⁷⁰

341. With regard to this case, the State of Honduras reported that the Office of the Public Prosecutor had knowledge of the complaint and initiated the respective proceedings, but indicated that “Mr. Coca had not cooperated subsequently in the investigation.”³⁷¹

342. On August 18, broadcaster Rosa Álvarez, manager of the community radio station radio *Wagia*, was assaulted by an unidentified individual, who allegedly attempted to sexually assault her. Neighbors to the station came to the aid of the broadcaster, and were successful at preventing the assault. The director of the community radio station, Horacio Martínez Cálix, asserted that the assault was no isolated incident, but was instead linked to the station’s reporting criticizing the local

³⁶⁵ Conexhion. May 5, 2013. [Funcionario municipal agrade a periodista en Tocoa](https://es-es.facebook.com/pages/Nortv-Tocoa-Canal-38/424930090869091); Nortv Tocoa Canal 38/Facebook. May 2, 2013. Disponible en: <https://es-es.facebook.com/pages/Nortv-Tocoa-Canal-38/424930090869091>

³⁶⁶ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁶⁷ IFEX/C-Libre. July 16, 2013. [Honduran reporter threatened with same fate as murdered colleague](#); Inter American Press Association (IAPA). [Assembly: 2013 – General Assembly of the IAPA - Denver, United States, Reports. Country Report: Honduras.](#)

³⁶⁸ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁶⁹ C-Libre. July 17, 2013. [Con bate de madera golpean a periodista hondureño](#); La Prensa. July 18, 2013. [Atentan contra periodista Joel Coca cuando salía de su trabajo](#); Committee to Protect Journalists (CPJ). July 24, 2013. [Assailants attack Honduran TV journalist.](#)

³⁷⁰ Tiempo. September 1, 2013. [Periodista Durón Coca abandona el país por temor](#); Inter American Press Association (IAPA). [Assembly: 2013 – General Assembly of the IAPA - Denver, United States, Reports. Country Report: Honduras.](#)

³⁷¹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

situation.³⁷² The State indicated that it has not been able to locate a complaint regarding these events and therefore requests that the affected person file the respective complaint “in order for the pertinent investigations to be conducted.”³⁷³

343. On September 26, the daily newspaper *El Heraldo* denounced that armed individuals had told journalists of the company that they had orders from their superiors to follow the staff of the media outlet closely. In addition to intimidating the journalists, the alleged University Teaching Hospital security guards prevented them from taking photographs and conducting interviews.³⁷⁴ According to press reports, members of the Office of the Public Prosecutor (MP) had expressed concern over the alleged intimidation and threats of the reporters of the daily newspaper *El Heraldo*, and had started an investigation.³⁷⁵

344. The State informed the IACHR that “The Office of the Public Prosecutor (MP) was aware and made statements in the media indicating that the reporters should go to the Office of the Public Prosecutor (MP) to file a complaint,” but that “there is no record of any complaint having been filed.”³⁷⁶

345. On October 28, journalist Adolfo Hernández decried before the Human Rights Commissioner (CONADEH) that his television program ‘No se Deje’ [‘Don't give in’], broadcast from Monday to Friday by *Telered 21*, was taken off the air as a result of political pressure after broadcasting reports of alleged acts of corruption involving public officials. The broadcaster also denounced that in the days prior to the suspension of his program, had had received death threats.³⁷⁷ The State of Honduras informed the IACHR that the case had been taken up by the Office of the Public Prosecutor (MP) and that the appropriate investigative proceedings were being conducted.³⁷⁸

346. In its communication of December 19, the Honduran State indicated to the IACHR that “with respect to the complaints of threats and assaults, the State has made efforts to investigate the cases and punish the perpetrators, whether or not they are State agents, who have violated the rights of these persons. It has done so in compliance with its international and constitutional commitments, bearing in mind that it is necessary for a complaint to be filed before the authorities in order for the pertinent investigations to be conducted; under the Criminal Code, threats constitute a criminal offense that is actionable by the public prosecutor only at the request of the victim.” The State indicated that in

³⁷² C-Libre. September 3, 2013. [Pobladores frustran ataque contra administradora de radio comunitaria.](#)

³⁷³ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁷⁴ *El Heraldo*. September 26, 2013. [MP indaga amenazas contra EL HERALDO](#); Inter American Press Association (IAPA). [Assembly: 2013 – General Assembly of the IAPA - Denver, United States, Reports. Country Report: Honduras.](#)

³⁷⁵ *El Heraldo*. September 26, 2013. [MP indaga amenazas contra EL HERALDO](#); Inter American Press Association (IAPA). [Assembly: 2013 – General Assembly of the IAPA - Denver, United States, Reports. Country Report: Honduras.](#)

³⁷⁶ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁷⁷ C-Libre. October 29, 2013. [Político ordena cierre de espacio informativo](#); Proceso Digital. October 28, 2013. [Periodista “Yofo” Hernández denuncia amenazas a muerte ante el Conadeh](#); La Tribuna. October 28, 2013. [Cierran programa de televisión a “Yofo” Hernández.](#)

³⁷⁸ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

most cases the investigations have revealed that they are private situations unrelated to the exercise of the right to freedom of expression and completely unrelated to the victims' occupation, as crimes and attempted crimes have been committed against professional journalists and members of the media for different reasons."³⁷⁹

347. Principle 9 of the IACHR Declaration on Freedom of Expression, approved in 2000, establishes that "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

348. In their duties to protect and guarantee, States must carry out diligent, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers. This entails the creation of specialized units and special investigative protocols, as well as the identification and exhaustion of all possible case theories related to the professional work of the victim.

d. Access to Public Information

349. The IACHR received information to the effect that the Sentencing Court with Nationwide Jurisdiction in Criminal Matters had denied a request made by a journalist for access to a copy of the transcript of the public oral trial against a group of police agents convicted of murdering two university students. Journalist Wendy Funes requested a copy of the judgment and of the volumes of the case file. The coordinator of the Sentencing Court argued that the journalist did not state the purpose she was pursuing in requesting said information. Additionally, the coordinator contended that she was unable to disclose the names of the witnesses who had already testified in the trial.³⁸⁰

350. In relation to this case, the State of Honduras indicated that "in view of the Trial Court's alleged denial, [the journalist] should have made that request following the process" established in the law "that provides that in case of the denial of information by a State authority, the IAIP facilitates and guarantees public information."³⁸¹

351. In addition, with respect to access to public information, the State of Honduras reported that by means of Decree 170-2006 of November 27, 2006, which contains the Transparency and Access to Public Information Act, the State "promotes the development and implementation of the National Transparency Policy, as well as the exercise of the right of every person to access public information in order to strengthen the rule of law and consolidate democracy through citizen participation." The State indicated that although "it is undeniable that the subculture of secrecy and opacity still prevails in some sectors of government," the enactment of the Transparency and Access to Public Information Act (LTAIP) "has laid the foundation for a culture of transparency, and made significant progress so that the public nature of government acts will be the rule and not the exception." The State indicated that "in

³⁷⁹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

³⁸⁰ IFEX/C-Libre. September 3, 2013. [Corte Suprema en Honduras se niega acceso a información sobre juicio público.](#)

³⁸¹ In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras."

order to attain this transition from opacity to transparency, among other actions, results-based management has been implemented at all levels of government. This is the model of public resources administration that centers on accomplishing the strategic actions defined in the government plan for a specific period of time.” The State reported that the Institute for Access to Public Information (IAIP) takes steps to promote the culture of transparency, the right to access to public information, accountability, and the protection of personal data, through the implementation of formal and informal educational activities in different sectors of the population. It reported that “it is a great initiative that seeks to educate students in their last year of teacher training, using content that revolves around transparency in order for them to replicate it in their teaching practice as a prerequisite to graduation.” It indicated that in 2013 “training conferences were held with students at the teacher training colleges in cities like La Paz (La Paz), Juticalpa (Olancho), Danlí (El Paraíso), La Esperanza (Intibucá), and Gracias (Lempira), reaching 2,602 students.” The State further reported that “training on the Transparency and Access to Public Information Act has been provided through symposiums, forums, trainings, workshops, and panels aimed at: the university community; public information officers; civil society; public servants, and teachers.” The State also informed the IACHR that in 2013 the IAIP created “the Verification and Transparency Management Office, for purposes of corroborating the information that the Obligated Institutions are required to publish on their transparency portals.”³⁸²

352. In fact, the right of access to information is a universal human right and because of that the IACHR notes with satisfaction the measures adopted to implement it. In this regard, it should be mentioned that everyone is entitled to request access to information, as set forth in Article 13 of the American Convention. In this regard, the Inter-American Court has clarified that it is not necessary to prove a direct interest or any infringement of one’s own rights in order to obtain information in the possession of the State, except in instances in which a legitimate restriction applies, as defined under the American Convention. Additionally, should the information requested contain confidential or classified information, public agencies must produce a redacted version of the information leaving out or excluding only the classified information.

353. Principle 4 of the IACHR Declaration on Freedom of Expression, approved in 2000, establishes that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

e. Stigmatizing Statements

354. On February 18, in a press conference and release issued that day, the Xatruch Joint Task Force of the Armed Forces made statements accusing journalists and human rights defenders of carrying out a “Disinformation Campaign” and of tarnishing “the image of the Honduran nation” by allegedly publishing communications, which are “groundless and far from the truth” about the performance of its members.³⁸³

³⁸² In Communication from the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the State of Honduras on the Draft Report on the Situation of Human Rights in Honduras.”

³⁸³ Fuerza de Tarea Conjunta “Xatruch”. February 18, 2013. [Conferencia de Prensa](#); Reporters Without Borders. February 22, 2013. [HONDURAS | Amenazas e intimidaciones a periodistas por parte del ejército y la policía](#); Front Line Defenders. February 21, 2013. [Honduras: Military Commander accuses human rights defenders of orchestrating a campaign of](#)

f. Other Relevant Situations

355. Journalist and owner of the daily newspaper *El Libertador*, Jhonny Lagos, denounced that the staff and the media company was under surveillance by a person allegedly linked to the Armed Forces of Honduras. Additionally, the newspaper company had been the victim of hacking several times.³⁸⁴

356. On August 19, the agent of the Special Forces of the National Police in charge of the investigations into the attempts on the lives and assaults against journalist José Luis Galdámez Álvarez and his family, was murdered. Police inspector Rubén Rolando Méndez Montenegro was shot to death by unidentified individuals.³⁸⁵ Galdámez and his family are beneficiaries of precautionary measures granted in 2010 by the Inter-American Commission to a group of community leaders, journalists and human rights defenders, who were victims of state persecution.

357. The Inter-American Commission reminds the State of the obligation to ensure the security of authorities responsible for investigations and to adopt whatever measures or means necessary to prevent inquiries from being hampered, in addition to measures designed to provide security to witnesses, victims, family members and other judicial representatives vis-à-vis threats and acts of intimidation or assaults, which are aimed at obstructing these processes. In this same vein of thought, the Inter-American Court has held categorically that, in order to meet the obligation to investigate within the framework of guarantees of due process of the law, the State must facilitate all necessary means to protect operators of justice, investigators, witnesses and family members of the victims from harassment and threats that are intended to hinder the investigation, prevent the truth of the facts to be known and avoid the identification of those responsible.³⁸⁶

III. GOOD PRACTICES ADOPTED BY THE STATE³⁸⁷

- **Truth and Reconciliation Commission**

358. The Commission again welcomes the creation of the Truth and Reconciliation Commission (CVR), established by an executive decree of April 13, 2010, for the purpose of “clarifying the events that took place prior to and after June 28, 2009 in order to identify the acts that led to the

...continuation

[disinformation](#); Cerigua. February 22, 2013. [Ejército realiza acusaciones contra periodistas y defensores de derechos humanos en Honduras.](#)

³⁸⁴ El Libertador. July 29, 2013. [Honduras: organizaciones civiles se solidarizan con EL LIBERTADOR por represión](#); C-Libre. July 30, 2013. [Periódico bajo supuesta vigilancia de Inteligencia militar.](#)

³⁸⁵ IFEX/C-Libre. August 23, 2013. [Police officer killed after investigating threats against Honduran journalist.](#)

³⁸⁶ I/A Court H.R., *Rochela Massacre v. Colombia Case. Merits, Reparations and Costs*. Judgment of May 11, 2007. Series C No. 163. Para. 171.

³⁸⁷ The State of Honduras reiterates its appreciation, as it did in its observations on the 2012 draft general report, for including this section in the IACHR report. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

crisis situation and provide the people of Honduras with the wherewithal to keep these events from being repeated.”³⁸⁸ As was mentioned, the CVR released its Final Report on July 7, 2011.

359. The IACHR appreciates the efforts of the Truth Commission, but deems it important to reiterate that the release of its report and the important findings set forth therein, do not relieve the State of its international obligation to investigate, try and punish through the judiciary, agents of the State who have committed human rights violations³⁸⁹. However, as already observed, the Commission notes that of the 84 recommendations that the CVR made, only 26 have been carried out.

- **Secretariat for Justice and Human Rights**

360. The Secretariat for Justice and Human Rights was created in 2010³⁹⁰ to promote, coordinate, craft, harmonize, implement and evaluate policies in the area of justice and human rights.³⁹¹ This Secretariat has played an important role in public policy on human rights, having taken a number of measures to promote and protect them.

361. In December 2012, Minister Ana Pineda, in charge of the Secretariat, delivered to the President the First Public Policy and National Plan of Action in Human Rights. According to the Secretariat, “for more than a year and a half the public and civil society organizations took part in broad discussions [of the public policy and plan of action]. As a result, these tools accurately reflect reality and the need for a State response. These two tools together represent the national human rights agenda until 2021, and dovetail with the Country Vision and Plan for the Nation.” The policy and plan of action were approved by the President of the Republic on January 22, 2013.³⁹²

362. In its observations on the draft report, the State noted that the First Human Rights Public Policy and National Plan of Action encompasses 27 plans of action pertaining to 17 rights and 10

³⁸⁸ Executive Decree PCM-011-2010, Article 1.

³⁸⁹ In a letter sent on December 22, 2011, by the Secretary of State in the Ministry of Justice and Human Rights, Ana Pineda H., noted that the Commission of Truth and National Reconciliation issued 84 recommendations contained in the Report “For that the Events are not Repeated”, which are not limited to overcome the causes and effect of the June 28, 2009, “because it aimed at the structural problems of the State of Honduras.” For this, the State informed that on November 8, 2011, the President, Porfirio Lobo Sosa, created the Unit for Following the Recommendations of the Commission of Truth and Reconciliation, attached to the Secretary of State in the Ministry of Justice and Human Rights. Observations of the Secretary of State in the Ministry of Justice and Human Rights to the “Draft of the General Report on the Situation of Human Rights in Honduras”, approved by the Commission, dated December 21, 2011, pg. 3.

³⁹⁰ Legislative Decree No. 177-2010 amended articles 28 and 29 of Decree No. 146-86 of October 27, 1986, on the General Public Administration Act, and created the Secretariat for Justice and Human Rights..

³⁹¹ Executive Decree No. PCM-027-2011 “Amendments to the Regulations Governing the Organization, Operation and Authorities of the Executive Branch”, Article 1 –amendment adding articles 87-D, 87-E and 87-F to the Regulations Governing the Organization, Operation and Authorities of the Executive Branch, which appear in Executive Decree No. PCM-008-97 of June 2, 1997.

³⁹² The State reported that four strategic guidelines were established in those documents: Human Security (right to education, to health, sexual and reproductive rights, right to food, work, decent housing, water, and environment); Justice System (right to life, security, physical integrity and freedom, justice); Democracy (freedom of expression, access to information, citizen participation, political participation, and democratic governance); and Population Groups. Communication of the State of Honduras, document No. SP-A-34-2013 of February 22, 2013, “Comments by the State of Honduras on the Draft General Report on the Situation of Human Rights in Honduras.”

vulnerable population groups. Among these 10 population groups, the National Human Rights Plan of Action includes a specific protection plan for human rights defenders, journalists, social broadcasters and operators of justice, consisting of 40 strategic actions. The State mentioned the Draft Law for the Protection of Human Rights Defenders, Journalists, Social Broadcasters and Operators of Justice. Based on the information provided, the Secretariat of Justice and Human Rights sent said legislative bill to the Secretariat of State in the Office of the President on July 22, 2013, which introduced the bill on August 28, 2013 before the National Congress of the Republic for discussion and approval.³⁹³

363. The State also cited other initiatives such as the Working Table to monitor and implement the Plan of Protection for Human Rights Defenders, Journalists, Social Broadcasters and Operators of Justice, the creation of a National Network of Protection for Human Rights Defenders, Journalists, Social Broadcasters and Operators of Justice, the drafting of an Interagency Coordination Protocol for the enforcement of Provisional Measures, Precautionary Measures and Security Measures issued by the Inter-American Court, the Inter-American Commission and national authorities, which is currently in the final review stage, an outline of a National Education Program on Justice, Human Rights and Culture of Peace, and the creation of a Bilateral Human Rights Group.³⁹⁴

- **Invitation to conduct an *in loco* visit**

364. In a communication dated August 21, 2013, the Government of Honduras extended an invitation to the IACHR to conduct a country visit in order to verify the human rights situation. The IACHR reiterates to the Government its appreciation and the broad terms in which the invitation was worded and hopes that it can take place very soon.

VI. SITUATION OF SPECIFIC GROUPS

A. Situation of human rights defenders and officers of the court

365. In 2013, the information received in 2013 indicates that the attacks, threats, alleged criminalization and harassment of community leaders and human rights defenders persist. Additionally, reports continue to come in regarding the challenges faced by operators of justice in the performance of their duties in Honduras.

366. In particular, during the visit to Honduras, the Rapporteur noted the serious situation with regard to threats and attacks against human rights defenders and journalists, and the resulting defective implementation of precautionary measures, as a consequence, inter alia, of limited resources to do so. She also noted the lack of coordination among the State institutions that work on the subject of human rights.

³⁹³ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras." The State also cited several difference advocacy efforts made by the Secretariat of Justice and Human Rights, which were aimed at getting the bill approved.

³⁹⁴ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

1. Human Rights Defenders

367. During the visit to Honduras, the Country Rapporteur verified the grave situation of threats, murders and attacks against human rights defenders. Particularly, in the past few months, the Commission has received information about the murder of Tomás García, member of the Civic Council of People's and Indigenous Organizations of Honduras (COPINH), who was shot several times while taking part in a peaceful sit down strike in Achotal, Río Blanco, in the Department of Intibucá, on July 15, 2013.³⁹⁵ According to the account of the civil society organizations, on August 25, 2013, three Tolupan indigenous members, María Enriqueta Matute, Ricardo Soto Fúnez and Armando Fúnez Medina, were murdered, allegedly because of their efforts to defend the natural resources of their community, in San Francisco Locomapa, Yoro.³⁹⁶ It was also contended that death threats continued to be made against Tolupan leaders José María Pineda, Consuelo Soto, and Ramón Matute.³⁹⁷ On September 1 and 7, 2013, the main office of the LGTBI Association Arcoiris was allegedly burglarized a several different pieces of equipment were stolen. The circumstances of the alleged burglary suggest that it was an attack targeting the organization, this being the most recent incident of a longstanding string of alleged acts of harassment against members of the organization.³⁹⁸ The Commission has also received consistent information about the critical situation faced by indigenous community leaders, who follow up on issues pertaining to natural resource extraction undertakings and prior consultation in Honduras.³⁹⁹

368. The bodies of the inter-American system have indicated that attacks on the lives of human rights defenders have a multiplier effect, which goes beyond the person of the defender. When an assault is committed in reprisal for a defender's actions, it produces a chilling effect on those connected to the defense and promotion of human rights, which directly diminishes their possibilities of carrying out this activity.⁴⁰⁰ The Inter-American Court has indicated that the fear caused by such an event "can directly reduce the possibility of human rights defenders exercising their right to perform their work [...]"⁴⁰¹

³⁹⁵ See: Press release of Front Line Defenders, "Tomas Garcia Murdered," dated July 15, 2013. In its observations on the draft instant report, the State noted that on July 17, 2013, the Public Prosecutor's Office brought charges against a member of the armed forces for the crimes of homicide against Tomás García and attempted first degree homicide against minor child Allan García Domínguez, with the hearing to arraign and take the initial statement of the defendant being held on the same date. On July 22, 2013, an warrant for imprisonment was issued, however, the Office of the Public Prosecutor appealed said decision. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

³⁹⁶ See: "Press release of OFRANEH, Massacre of Tolupan Indigenous and Failure to Apply Prior, Free and Informed Consent" dated August 27, 2013.

³⁹⁷ See: "CEJIL press release, Joint pronouncement on criminalization of human rights defenders in Honduras" dated September 27, 2013.

³⁹⁸ See: "Front Line Defenders press release, "Honduras: Burglary and theft at offices of LGTB Arcoiris Association, dated September 4, 2013.

³⁹⁹ See: IACHR, "Hearing prior consultation and megaprojects in Honduras" of 149th Regular Session of IACHR, dated October 28, 2013.

⁴⁰⁰ IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, para. 43; I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para 153; I/A Court H.R., *Case of Huilca-Tecse v. Peru*. Merits, Reparations and Costs. Judgment of March 3, 2005. Series C No. 121, para. 78.

⁴⁰¹ I/A Court H.R., *Case of Valle-Jaramillo et al. v. Colombia*. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192, para. 96.

369. In this alleged context, the IACHR has been monitoring the steps forward taken by the State to consolidate a mechanism to protect human rights defenders, particularly, for beneficiaries of precautionary and provisional measures, with a special focus in the wake of the 2009 coup d'état. On this issue, civil society organizations have identified the following challenges under the current protection program provided by the State:⁴⁰² i) decreased number of state agents assigned to the Human Rights Unit, which is responsible for the implementation of and follow up on protection measures; ii) protection program beneficiaries have reported that, in some instances where escorts have been assigned for protection, the beneficiary has been charged for meals and transportation expenses of the escorts; iii) no clear procedures are in place in Honduras as to the range of protection measures available, or monitoring and risk evaluation systems; iv) a practice of providing credentials to the beneficiaries of precautionary measures was set up, but the credentials expire shortly after being handed out; v) there has been a failure to investigate the incidents that were the reason the beneficiaries were admitted to the protection program in the first place; among other situations.

370. In light of the situation, during her visit to Honduras, the Country Rapporteur was informed of a preliminary draft law that was being prepared on mechanisms to protect defenders. The aforementioned draft "Human Rights Defenders, Journalists, Broadcasters and Operators of Justice Protection Law," will presumably govern protection policy for these groups and beneficiaries of precautionary measures of the Inter-American system. Regarding this point, the Commission has received consistent information from civil society about certain challenges that said bill would pose, which include: i) decreased or no participation of civil society and experts on the subject in the crafting and discussion of the draft bill; ii) alleged conceptual confusion about the terms being used and the proposed purpose of the protection mechanisms; iii) a complex institutional design with duplication of roles and with insufficient clarity as to operational structure; iv) ambiguity as to creation of a model of risk assessment to make it possible to adequately determine risk level and the respective protection measures, particularly, based on the particular needs of each applicant, including a gender, indigenous and afrodescendant community perspective; v) absence of budget to implement the protection program.⁴⁰³ In such circumstances, the organizations highlighted the lack of measures, which include attaching high priority to investigations, such as a mechanism to prevent repetition of any risky situation for human rights defenders in Honduras.⁴⁰⁴

371. In this regard, the Commission must recall that since its 2006 report, it has noted that an effective protection program requires to be supported by a strong political commitment of the state⁴⁰⁵. This commitment is reflected in the way that performance of the program is legally ensured, as for the effectiveness in the commandments of the authorities who are in charge and the resources and personnel that are assigned to it⁴⁰⁶. In particular, the Commission has held that states must adopt rules which limit the powers and responsibilities of the authorities involved in the implementation and

⁴⁰² See: IACHR, "Hearing on compliance with precautionary measures in Honduras" of the 149th Regular Session of the IACHR, dated October 28, 2013.

⁴⁰³ Ibid.

⁴⁰⁴ Ibid.

⁴⁰⁵ IACHR, Report on the situation of Human Rights Defenders in the Americas, paragraph 133

⁴⁰⁶ Ibidem, paragraph 133.

monitoring of measures⁴⁰⁷. As another part of the political commitment of the States, the protection program for defenders must have sufficient human resources, trained and qualified to receive requests for protection, assess the level of risk⁴⁰⁸. In addition, States should provide budgetary and logistical resources necessary to ensure the effectiveness of the program⁴⁰⁹.

372. The Commission has also received information from several organizations about the practice of criminalizing human rights defenders in Honduras. The alleged situation of Berta Isabel Cáceres, general coordinator of the Civic Council of People's and Indigenous Organizations of Honduras (COPINH) and beneficiary of precautionary measures, has been particularly noted. Based on the information provided, on September 20, 2013, Judge Lisseth Knight Reyes, of the First Trial Court of the Department of Intibucá, issued a preventive detention order against Berta Isabel Cáceres, in the context of a criminal proceeding in which she is charged with instigation of the crime of usurpation, coercion and ongoing damages to a private company. According to background information, that was submitted regarding this situation, six months ago the community of Río Blanco in the Department of Intibucá began to engage in a peaceful protest against the building of the Agua Zarca hydroelectric dam, which allegedly would affect the course of the Gualcarque River and about which it is alleged that no prior consultation was conducted with the indigenous communities of the area.⁴¹⁰ In the context of this alleged conflict, State authorities allegedly charged Berta Isabel Cáceres, as well as defenders Aureliano Molina and Tomás Gómez Membreño, of "inciting the residents" to commit said crimes and causing damages to the company.⁴¹¹

373. In its observations on the draft instant report, the State noted that acceptance of this project by indigenous communities has not been peaceful and, therefore, State intervention at the highest level has been necessary. The President of the Republic at the time was instrumental in bringing about the signing of an Agreement of Cooperation, Mutual Understanding, Community and Environmental Compensation between power-developer Empresa de Desarrollos Energéticos S.A. de C.V

⁴⁰⁷ See: IACHR, "Second Report on the Situation of Human Rights Defenders in the Americas", December 31st, 2001, paragraph 489.

⁴⁰⁸ Ibidem, paragraph 493.

⁴⁰⁹ Ibidem, paragraph 495.

⁴¹⁰ In its observations on the draft instant report, the State of Honduras noted that at the Hearing during the 143rd Session on October 24, 2011, a certified copy was submitted of all administrative proceedings that were conducted in processing the request filed with the Secretariat of National Resources and the Environment for development of the hydroelectric project known as Agua Zarca. In said case file, it can be observed that all legal requirements for the granting of exploitation permits have been met. The State also claimed that said project has a bearing on 16 communities and all of them have given their consent for development of the project except for COPINH and, therefore, said community is not representative of the will and sentiment of the other communities. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴¹¹ See: "CEJIL press release, Joint pronouncement on the criminalization of human rights defenders in Honduras" September 2013. On this score, in its observations on the draft instant report, the State noted that Berta Cáceres was released on personal recognizance, has not appeared voluntarily before the authorities and the Public Prosecutor's Office has not requested that an arrest order be issued, even though she is in contempt of court. The State indicated that a conciliation hearing was convened for November 29 and that Mrs. Cáceres did not appear and, therefore, it was not held. The State notes that in this case, the representatives of Berta Cáceres, the beneficiary of precautionary measures, commended the Office of the Attorney General of the State, as the entity responsible for defending the interests of the State and the offended party in the instant case, for its conciliatory attitude. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

(HESA) and the rural civic associations of Rio Blanco, Norte de Intibucá and Sur de Santa Bárbara, which banded together in the Regional Management and Development Council and encompasses the Agua Zarca project.⁴¹² Said Agreement was signed on September 3, 2013.⁴¹³

374. Similarly, the IACHR has also received information, of a general nature, regarding the alleged situation of Magdalena Morales, leader of the National Central Union of Field Workers (Central Nacional de Trabajadores del Campo), who allegedly was accused of the crime of usurpation, to the detriment of a Sugar company, in the context of a proceeding to recover lands by certain communities and also regarding several complaints against attorneys Víctor Fernández, Martín Fernández and the members of the Civic Association (Patronato) of the community of Nueva Esperanza, as result of their opposition to a hydroelectric dam project.⁴¹⁴

375. The Commission recalls that, in addition to the obligation to investigate and punish those who violate the law within their territory, States have the duty to take all necessary measures to prevent unfair or unfounded trials to people who legitimately demand respect and protection of human rights. The initiation of criminal investigations or baseless lawsuits against human rights defenders, not only has the effect of intimidating their work, but can also generate a paralyzing effect on their work defending human rights as for their time, resources and energy should pursue their own defense⁴¹⁵. In this regard , the Commission consistently has recommended that States " [e] nsure that their authorities or third persons will not manipulate the punitive power of the state and its organs of justice in order to harass those who are dedicated to legitimate activities, such as human rights defenders(...)"⁴¹⁶ .

2. Operators of Justice

376. The Commission has received consistent information on the absence of a specific protection program designed to protect the life and physical integrity of operators of justice and their families from threats and risks stemming from the performance of their duties. According to the operators of justice, the lack of a program to protect their lives and personal integrity makes them a vulnerable group to threats, intimidation and interference in the performance of their duties, which must be fulfilled with independence and impartiality.⁴¹⁷ On this issue, in its observations on the draft instant report, the State noted that the Legislative Bill for the Protection of Human Rights Defenders, Journalists, Social Broadcasters and Operators of Justice is designed mainly to promote and protect the

⁴¹² Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴¹³ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴¹⁴ Ibid.

⁴¹⁵ See: IACHR, "Second Report on the Situation of Human Rights Defenders in the Americas", December 31st, 2001, paragraph 489

⁴¹⁶ See: IACHR Report on the situation of Human Rights Defenders in the Americas, recommendation 11.

⁴¹⁷ See: IACHR, "Hearing on judicial independence in Honduras" 149th Session of the IACHR, dated October 28, 2013.

rights and fundamental liberties of every individual and legal entity engaged in human rights promotion and defense, including operators of justice.⁴¹⁸

377. The Secretariat received information about the creation by the National Congress in April of a Supervisory Commission in the Office of the Attorney General. As part of an accountability process to measure the performance of justice workers, the Attorney General, Luis Alberto Rubí, appeared before the National Congress and said publicly that 80% of the homicides committed in Honduras went unpunished because of the incapacity of the investigating agencies. Given this situation, the Congress approved an intervention in the Office of the Attorney General [*Ministerio Público*], and hence suspended the Attorney General, Luis Rubí, and the Assistant Attorney General, Roy David Urtecho. In its observations on the draft instant report, the State noted that on April 15, 2013, the plenary National Congress unanimously approved the operators of justice report submitted by the Special Security Commission, which called the heads of the bodies of the operators of justice to testify, recommending that the Public Prosecutor's Office be taken over and that the Attorney General of the Republic and the Assistant Attorney General be temporarily removed from office⁴¹⁹. It approved the decree creating a Supervisory Commission for two months in the first instance; it was to have broad powers and, among other duties, would take on all of the work of the Attorney General, conduct a full investigation of the institution, reorganize the departments and special prosecutors' offices, among others, and, inter alia, develop and implement an evaluation and streamlining of the Attorney General's Office by using confidence testing.

378. According to the information received, the Honduran Association of Public Prosecutors filed a case alleging that the Commission was unconstitutional. For many representatives of civil society, the intervention represented another interference by the National Congress in other branches of the State, like the removal of Supreme Court judges in December 2012 and which was addressed by the IACHR in its 2012 Annual Report.

379. The first report by the Supervisory Commission in the Attorney General's Office revealed irresponsible, defective management of investigations and many defects and irregularities in the Attorney General's administration. The National Congress extended the remit of the Commission for an additional 45 days. The Vice President of the Legislature, Marvin Ponce, publicly asked the Attorney General to resign and prevent the Congress from bringing a political trial. The Attorney General of Honduras, Luis Alberto Rubí, and the Assistant Attorney General, Roy David Urtecho, submitted their resignations to the National Congress. In light of this, the plenary of the National Congress began the process of drafting and agreeing a new law on the Office of the Attorney General, to allow this legislature to elect its new officers—an authority that belonged to the next Congress that will be elected in November of this year. Notwithstanding, in August of this year, Oscar Chinchilla was sworn in as Attorney General and Rigoberto Cuellar as Assistant Attorney General. Based on information received by the IACHR, Oscar Chinchilla was the only member of the Constitutional Chamber of the Supreme Court, who was not removed from office this past December after Decree 89-2012, approving the vetting of the members of the National Police, was found unconstitutional; and Rigoberto Cuellar was the Minister of the Environment until he was named Assistant Attorney General.

⁴¹⁸ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴¹⁹ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

380. With regard to other potential challenges faced by operators of justice, the Commission received information on the possible use of “tests of trust” (vetting) of operators of justice, which would involve clearance regarding their assets, drug testing and, most importantly, polygraph tests.⁴²⁰ The purpose of such testing would be to remove from office operators of justice, prosecutors, among other officials, who did not pass these clearance tests. On this score, operators of justice have expressed their concern that these measures may be used to call into question the legitimacy of the performance of their duties, lead to arbitrary interference in their private lives, among other potential infringements to other rights.⁴²¹

B. Persons deprived of liberty

381. Despite some formal progress, the situation of persons deprived of liberty in Honduras worsened in 2013. In its observations on the draft report, the State notes that in order to decentralize the administration of prison facilities and simplify the procedures necessary to improve treatment of the national inmate population, as of August 2013, the organizational structure of the National Penitentiary Institute has created and put into operation 7 strategic regions. It has also strengthened the different programs providing formal education within prison facilities ((EDUCATODOS and PRALEBAH), which are under the Secretariat of State in the Departments of Education and the Christian program known as ALFSIC of Honduras, which has been certified by the Secretariat of Education and duly authorized by the Special Commission for the Transition of the National Prison System, in order to conduct educational activities at prison facilities. It also has entered into an Interagency Cooperation Agreement with the Vocational Education Institute and the National Prevention, Rehabilitation and Reintegration Program for the training of persons deprived of liberty in different trades that may be useful for their reeducation, rehabilitation and reintegration into society, and applicable to the whole prison system.⁴²²

382. A new prison system law was approved in December 2012, establishing a mechanism for staged transition of prison administration from the National Police to a National Penitentiary Institute. However, this process has come up against major obstacles, such as the lack of a budget appropriation for the new institution—in fact, instead of funds, what was transferred were liabilities of several million dollars—and failure by the National Police to cooperate in the transfer of authority.

383. Measures have also been taken that would have a negative impact on the prison situation, including the approval in April of Decree 65-2013, which came into force in May 17⁴²³, which amends the Code of Criminal Procedure to provide for mandatory preventive detention for a catalogue of 21 crimes. With this, a person charged with the commission of one of these crimes may be deprived of liberty solely on the basis of the prosecutor’s classification of the type of crime. This decree was criticized by the Ministry of Justice and Human Rights. As was established on a visit conducted by the Rapporteur on the Rights of Persons Deprived of Liberty in August of this year, State officials, particularly, the Congress, did not carry out any study prior to approving this law, to examine the impact

⁴²⁰ Dichas pruebas se estarían aplicando actualmente a miembros de la policía y del Ministerio Público.

⁴²¹ See: IACHR, “Hearing on judicial Independence in Honduras” 149th Session of the IACHR, dated October 28, 2013.

⁴²² Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

⁴²³ Republic of Honduras, Decree 56-2013, April 25, 2013.

it would have on the prison system, or the effect it would have on the enjoyment of fundamental rights such as the presumption of innocence, personal liberty and due process of the law. In this regard, the Commission takes note that on July 4, 2013, the Secretariat of Justice and Human Rights issued a technical opinion laying out the facts about and consequences of Decree 56-2013 on the enjoyment of the human rights of persons charged with criminal offenses and the prison system. It also recommended to the Congress of the Republic: “the appointment of a special Commission to review the impact that said reform is having on the increased overcrowding in prisons and decree a new reform to restore the procedural value of the precautionary measure of preventive detention, in keeping with international standards in the subject matter” (Technical Opinion of July 4, 2013).

384. As for the inmate population, in its observations on the draft instant report, the State noted that the housing capacity of prison establishments is currently 8,603 persons; however, the current inmate population is 13,091 individuals. In order to house the excess number of inmates, the State asserted that the system of building two or three-tiered bunk beds was adopted some time ago and, consequently, overcrowding in real terms of persons deprived of liberty is 4,488, or 34.98%. Of this total, 6,746 are untried and 6,345 are convicted prisoners. The State also claimed that approximately 75% of the prison population has access to education.⁴²⁴

385. There has been very little compliance in general with the judgment of the Inter-American Court in the case of Pacheco Teruel: apart from the passage of the abovementioned law and the public apologies that were issued, none of the other remedies ordered by the Court has been put in place. Similarly, following the fire in Comayagua in February 2012 in which 362 people died, nothing has been done to assess security conditions in the prisons or to take the necessary security measures. The Commission also finds it particularly troubling that the budget for food services has been reduced from 13 to 8 lempiras per day per inmate, which as the Commission views it, is leading to strained situations of short supply of food in several prison facilities of Honduras. This situation was brought to the attention of the President of the Republic himself at a meeting with the Rapporteur on Persons Deprived of Liberty. In its observations on the draft instant report, the State asserted that the creation of a Project Management Office is planned for 2014, with plans drawn up for at least five projects to kick off self-sufficiency of food supplies at the following establishments: prison facilities of Comayagua, Danlí, Gracias, Lempira El Porvenir in Atlántida and La Paz, as well as carrying out cash purchases of supplies, in order to lower costs and improve, to the extent possible, the diet of the prison population.⁴²⁵

386. On August 3, the day following the formal presentation of the IACHR report on prisons in Honduras by the Rapporteur on the Rights of Persons Deprived of Liberty, a violent clash took place between prisoners in the National Penitentiary in Tegucigalpa, in which three prisoners died and several were wounded, submachine guns and grenades having been used. The prison was put under military control that day for security reasons, as was the Teaching Hospital where those arrested were taken.

387. The Commission notes with great concern that the State has not adopted decisive measures to ensure effective segregation of men and women in prison facilities where this minimum requirement is not met, particularly at the Centro Penal of San Pedro Sula, where the cells of female

⁴²⁴ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

⁴²⁵ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

inmates are located inside the cell block areas of the general male prison population. The Commission stresses that it is alarming that the State does not remedy this aberrant situation, which runs counter to international law.

388. Additionally, the IACHR values positively the economic aid provided by the President of the Republic to some of the families of the victims of the fire of Comayagua prison. The IACHR reiterates to the State the fundamental duty to investigate with due diligence the facts occurred, sanction the responsables and adequately redress the victims and their families. This includes adequate medical care to those inmates who survived the fire who still suffer physical and psychological effects of the fire.

389. Regarding the investigation of incidents in Comayagua, in its observations on the draft instant report, the State noted that the Public Prosecutor's Office brought charges against several individuals, who were allegedly responsible for the crimes of the negligent homicide of the 360 persons who lost their lives at Comayagua Prison and interference with the duties of public officials. The initial appearance and statement hearings of the defendants took place on May 21, June 11 and June 17, 2013. On August 31, 2013, the Trial Court of the Judicial District of Comayagua issued a ruling on the Initial Hearing and decided to a) lodge a formal indictment against two prison officials for the crimes of interference with performance of duties of officials of the Public Administration and negligent homicide of the 360 persons who died, b) issue an indictment against some members of the police force for the crimes of interference with the duties of public officials of the Public Administration and negligent homicide of the 360 persons who died, and c) dismiss with prejudice the case of the others who were charged. The 60-day period to hold the preliminary hearing is coming to its conclusion, unless the defense files an appeal.⁴²⁶

390. Over the course of this year, the Commission published the *Report on the situation of persons deprived of liberty in Honduras*, examining the major structural deficiencies currently plaguing prisons in that country and making recommendations to the State, which are supplementary to those already made by other United Nations human rights mechanisms, and ordered by the Inter-American Court of Human Rights in the case of *Pacheco Teruel*. The full text of the report is available at: <http://www.oas.org/es/cidh/ppl/docs/pdf/HONDURAS-PPL-2013ESP.pdf>

C. Situation of women

391. According to information received by the IACHR, violence against women is an alarming problem in the country. Information was received in 2013 about reforms to the Criminal Code to include the crime of femicide. However, women's groups told the Secretariat that this would not represent progress, given the absence of effective mechanisms for investigating cases of violence against women. As noted in the section on citizen security, according to information received, violent deaths of women has been trending upward between 2005 and 2012, rising from 175 murders of

⁴²⁶ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

women to 606 in 2012, an increase of 246.3%⁴²⁷. Fifty-one women on average are killed each month, one every fifteen hours and ten seconds⁴²⁸.

392. At a hearing before the IACHR during the 149th Regular Session, civil society organizations stated that from January 1 to September 30 of this year, 336 femicides have taken place.⁴²⁹ It was also noted that a pattern of brutal viciousness of women's corpses can be identified in Honduras, who are not only murdered, but are also the victims of rape, torture and mutilation prior to their deaths.⁴³⁰

393. According to the organization "Foro de Mujeres por la Vida" [*Women for Life*], in 2012, forty-seven cases of parricide and murders and homicides of women were prosecuted in court. Only twenty-nine were convicted—and they probably did not correspond to crimes committed in 2012. In addition, in 2012, 18,381 cases of domestic violence were filed in civil court or before justices of the peace, of which 20% were resolved⁴³¹.

394. In its observations on the draft instant report, the State provided statistics from the Office of the Special Prosecutor for Women, regarding violence against women. According to the information provided, from 2008 to 2012, 1,791 certificates of removal of bodies were recorded, of which 236 cases were prosecuted, 157 administrative closures took place and 74 convictions were obtained. As to the motives, in fewer than 50% of the cases, the deaths were perpetrated by persons linked to organized crime, 30% were gang-related, 20% of the deaths were in a family setting and the remaining 10% were the result of motives such as robbery, among other ones.⁴³²

395. As for cases of domestic violence, the State claimed that, based on information provided by the Office of the Special Prosecutor for Women, in 2009, 1,661 complaints were lodged and 1,452 convictions were obtained; in 2010, 1,557 complaints were filed and 1,259 convictions were obtained; in 2011, 1,436 complaints were leveled and 1,094 convictions were attained; in 2012, 1,777 complaints were brought and 1,501 convictions were obtained. From January to October 2013, 1,720 complaints have been filed and 1,089 convictions have been obtained.⁴³³

396. The IACHR received information about the less than proactive role of the National Institute for Women, and the closing down of the Femicide Investigation Unit in the Office of the Attorney General; it is being absorbed into a larger unit on high impact crimes. On this score, in its observations on the draft instant report, the State noted that the INAM has played a leading and

⁴²⁷ University Institute for Democracy, Peace and Security, IUDPAS – Observatory on Violence, Faculty of Social Sciences, Special Edition, No. 9, Tegucigalpa, January 2013.

⁴²⁸ University Institute for Democracy, Peace and Security, IUDPAS – Observatory on Violence, Faculty of Social Sciences, Special Edition, No. 9, Tegucigalpa, January 2013.

⁴²⁹ IACHR, Hearing on the situation of violence against women in the Americas, 149th Session, October, 29 2013.

⁴³⁰ IACHR, Hearing on the situation of violence against women in the Americas, 149th Session, October, 29 2013.

⁴³¹ Women for Life. Report on Violence against Women and Security. SPS, 2013.

⁴³² Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴³³ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

ongoing role, has worked on policies and plans to provide for equity and equal opportunity throughout the nation and region.⁴³⁴

397. As for the Femicide Investigation Unit at the Public Prosecutor's Office, the State claimed that said unit has not been shut down, but rather in order to make maximum use of resources, that Unit along with its staff and capacities, has been folded into the Office of the Special Prosecutor for Crimes against Life, which brings together all of the units dealing with the subject matter of the death of persons, which had been spread out among each Office of the Prosecuting Attorney. The State also claimed that in no way has it ceased to act on a specialized basis and that its staff and resources work exclusively on cases of deaths of women and not on any of the other activities that the Office of the Special Prosecutor for Women deals with.⁴³⁵

398. During the Country Rapporteur's visit to Honduras, information was received on the continued trafficking in indigenous women, particularly girls, which is said to be linked to organized crime. According to the indigenous leaders with whom the Commissioner met during her visit, "mothers have to remove their 9-15 year old daughters from the villages because organized crime grabs them like objects[...]. They seek them out for prostitution and trafficking". They added that organized crime takes control of the communities and that the State does not provide the security that is needed.

399. With respect to women's reproductive health, the IACHR has been informed that the decree issued in 2009 criminalizing the use of emergency birth control methods by all women including those who "whose contraceptive method failed or who were at risk of pregnancy resulting from sexual coercion," is still in effect.⁴³⁶

D. Situation of children and adolescents

400. The UN Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, issued a report on her visit to the country on August 30-September 7, 2012, and indicated: given the clandestine and often transnational nature of the sale and sexual exploitation of children, and the lack of centralized, disaggregated data, the true extent of these phenomena is difficult to measure. The Inter-Agency Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents has identified three basic forms of commercial sexual exploitation of children: the use of boys and girls in paid sexual relations; the use of boys and girls in pornography and public or private sex shows, both as part of child-trafficking operations and by local and national exploiters; and sex tourism.

401. She also indicated that the issue that has received the most attention in recent years is trafficking, owing to the ties between commercial sexual exploitation in Honduras and the trafficking

⁴³⁴ The State cites 35 operations conducted by the INAM in the framework of its duties, as an example of the ongoing efforts it is making. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴³⁵ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴³⁶ CIDH, Audiencia sobre derechos reproductivos y contracepción de emergencia en las Américas, 149 Periodo Ordinario de Sesiones, 29 de octubre de 2013. Amnesty International, Annual Report 2012, *The State of the World's Human Rights*, <http://www.amnestyusa.org/sites/default/files/air12-report-english.pdf>

networks operating at the Latin American level, in which Honduras plays a major part on account of its geographical location. Honduras has been identified as both a transit country and a country of origin for victims of commercial sexual exploitation who are taken north. According to civil society organizations, since 2000, Honduran child victims of sexual exploitation have been found in several countries – mainly in Guatemala, but also in Mexico, El Salvador and the United States. She went on to say that the Ministry of Justice and Human Rights reported that 61 complaints had been filed with its Human Trafficking Unit between 2009 and April 2012. They all involved children aged between 6 and 18 years (52 girls and 6 boys).⁶ Of the 61 complaints, 24 were investigated and 35 were prosecuted, but only one case resulted in a conviction. Of the 1,327 complaints received by the Office of the Special Prosecutor for Children between January and November 2011 in Tegucigalpa, several were linked to trafficking and sexual exploitation (6 to child pornography, 10 to procuring children for prostitution, 4 to paid sex with minors and 14 to child trafficking). The Special Rapporteur regretted that she was not given more precise data and that the statistics provided were not more clearly broken down by type of exploitation. Casa Alianza, one of the organizations that is most deeply involved in fighting sexual exploitation in Honduras has estimated that there may be 10,000 victims in the country⁴³⁷.

402. In its observations on the draft instant report, the State submitted the following statistics provided by the Investigation Unit against Crimes of Commercial Sexual Exploitation and Human Trafficking of the office of the Prosecutor for Children: from January to September 2013, 28 complaints were lodged, of which 3 were for sexual procuring; 2, for pornography; 11, for human trafficking; 4, for commercial sexual exploitation; 6 are pending further investigation; and 2 were for remunerated sexual relations. During that period of time, two convictions were obtained.⁴³⁸

403. On the World Day against Child Labor, the Honduran ombudsman stated that 11.77 % of Honduran children work. More than 412,000 Honduran minors between the ages of five and seventeen engage in domestic, agricultural or commercial work, and most of them do not go to school, said the ombudsman, Ramón Custodio: 76% of children living in rural areas work, while in urban areas, the figure is 26 %. In Honduras, the minimum age for starting work is fourteen; adolescents may work only out of school hours and not more than six hours per day. Most working children in Honduras work in agriculture and mining, and then domestic work, performed chiefly by girls, where they are exposed to sexual abuse⁴³⁹.

E. Indigenous peoples

404. In 2013, indigenous peoples in Honduras continued to face serious challenges linked mostly to (i) persistent threats and the impact of development and investment and natural resource extraction concession plans and projects on their ancestral territories, (ii) the serious insecurity and violence that indigenous peoples and communities are experiencing as a result of the imposition of such plans and projects, (iii) the excessive use of force against social protests and the participation of military forces in citizen security activities, and (iv) the persecution and criminalization of indigenous leaders for reasons linked to the defense of their ancestral territories.

⁴³⁷ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/102/25/PDF/G1310225.pdf?OpenElement>

⁴³⁸ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴³⁹ <http://www.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Mas-de-412-000-ninos-trabajan-en-Honduras-para-sobrevivir#.UgutDLG81E>

405. In fact, in 2013, representatives of the indigenous peoples of Honduras continued to report to the IACHR that they were adversely affected by planning and implementation of plans and projects such as mining concessions, hydroelectric dams, tourism investment, model cities, logging or the establishment of protected areas. According to statements of indigenous leaders and organizations of the country, such development, investment and natural resource exploitation plans and projects were proposed, approved or implemented by State authorities without engaging in good faith, prior, free and informed consultation in order to secure the consent of the indigenous peoples and communities, who may be affected. Some of these projects are scheduled to be implemented on ancestral territories, which have still not been titled, delimited and demarcated in the name of the respective communities, or whose legal status is uncertain.

406. Particularly troubling to the indigenous peoples and communities are mining exploration and exploitation initiatives,⁴⁴⁰ and hydroelectric dams,⁴⁴¹ inasmuch as they adversely affect a high number of ancestral territories. Foreseeable effects of these projects include sweeping environmental degradation, damage or destruction to ancestral territory, displacement of entire communities, trespassing of non-indigenous actors onto the territories, jeopardizing the social organizational structures and, in the most extreme case, the physical and cultural extinction of the respective peoples. The information received suggests that in many instances the processes are completely ignored in these initiatives; in other instances, mere “processes of dissemination” are carried out with the communities; and occasionally, the process of consultation takes place subsequent to the granting of the concessions.⁴⁴² They further reported that the Office of the Prosecutor for Ethnic Affairs and Cultural Heritage has instituted at least four criminal proceedings for the crime of abuse of authority against officials of the Secretariat of Natural Resources and against municipal officials for granting licenses in violation of the right to prior consultation, even though the projects are still moving forward.⁴⁴³

407. It was also brought to the attention of the IACHR that domestic legislation was enacted violating the territorial rights of the indigenous peoples, and that provisions of the law in line with these rights were repealed.⁴⁴⁴ Additionally, information was submitted to the effect that legal provisions are

⁴⁴⁰ Based on the information provided by the Honduran Institute of Geology and Mines, in early 2013, there were 97 approved gold and silver mining projects, 320 new projects being processed, 193 non-metal projects approved and 233 applications for new project approval. Movimiento Amplio por la Dignidad y la Justicia (MADJ), Centro Hondureño de Promoción para el Desarrollo Comunitario (CEHPRODEC), Centro de Investigación y Promoción de los Derechos Humanos (CIPRODEH), Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), Convergencia por los Derechos Humanos (CDH), and Equipo de Reflexión, Investigación y Comunicación de la Compañía de Jesús (ERIC-SJ). Report submitted to the IACHR in the context of the thematic hearing on prior consultation and megaprojects in Honduras’] October 28, 2013.

⁴⁴¹ Particularly, worrisome information was received about at least ten hydroelectric dam projects in Lenca Territory, three in Pech, Tawahka and Misquito territories, three in Tolupan territory and five in Garifuna territory. MADJ, CEHPRODEC, CIPRODEH, COPINH, CDH and ERIC-SJ. [Report submitted to the IACHR in the context of the thematic hearing on prior consultation and megaprojects in Honduras’] October 28, 2013.

⁴⁴² IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁴³ MADJ, CEHPRODEC, CIPRODEH, COPINH, CDH and ERIC-SJ. Report submitted to the IACHR in the context of the thematic hearing on prior consultation and megaprojects in Honduras, October 28, 2013.

⁴⁴⁴ Particularly, it was noted that the new General Mining Law, approved under Decree 238-2012 and published on April 2, 2013 and in force since that date, is incompatible with such rights inasmuch as it allows for the forced expropriation of
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still in effect, which are incompatible with the right of indigenous peoples to prior, free and informed consultation and consent. For example, it was noted that, under provisions governing the procedures for mining concessions, communities have 15 days to mount a challenge to the granting thereof, as of the date of publication in a print media. Nonetheless, as was reported, “that publication never comes to the communities, the amount of copies and capacity for distribution make certain that the communities will not challenge and the mining authority will always rule that the challenge filing is untimely.” In this way, the provision itself prevents the communities from having any real chance of challenging the concessions.⁴⁴⁵

408. In response, the Honduran State asserted that efforts have been under way to move forward in the implementation of the right to prior, free and informed consultation in its domestic laws and that it has put into place “a critical road map containing the basis on which the right of consultation will be developed.”⁴⁴⁶ It noted that for this purpose it requested the support of the International Labor Organization (ILO) and, specifically, specialists in oversight of ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries, ratified by Honduras on March 28, 1995.⁴⁴⁷ It claimed that, independently of this process of implementation, prior consultation has been taking place in some communities for some time now, through town meetings. It emphasized that, because of this policy, “in

...continuation

communities based on public utility or common good, the use by mining companies of water resources regardless of whether or not such resources are located inside or outside of the property awarded under the concession, and the open pit mining, despite community opposition to including this type of mining in the law. Information was also received regarding the repeal of laws prohibiting the execution of hydroelectric dam projects in protected areas, such as Ministerial Decrees 001-96 and 158-2009, repealed under Decree 233-2010. IACHR. Prior Consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

In its observations on the draft instant report, the State indicated that the purpose of the General Mining Law, approved in January 2013, is to regulate mining and metallurgy activities in the country, by making sure that mining procedures are in line with the principles of legality, transparency, certainty, simplicity, public disclosure, uniformity, efficiency, citizen participation, simultaneity and sustainability. The State also noted that:

In accordance with the Law, at no time shall the Mining Authority grant mining rights in the following areas: a) Declared protected areas registered as such in the Catalogue of Inalienable Public Forest Heritage and in the Registry of Real Property, declared water-producing areas, beaches and low tidal areas declared as tourist spots; b) Areas, which having been interfered with for any type of project or other reason, are undergoing recovery and specific environmental mitigation as determined or authorized by the Environmental Authority; c) Renewable energy-generating areas when it is incompatible with the mining activity or is more profitable than the mining project; and d) Areas declared as national heritage and those that UNESCO has declared as world heritage sites. It also asserted that the General Mining Law establishes that: Prior to the Decision to Grant Mining Rights, the Mining Authority shall request the respective Municipal Corporation and the population to conduct a referendum among the local citizens, the result or decision of which is binding on the granting of the mining concession.

⁴⁴⁵ IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁴⁶ IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁴⁷ Documents submitted by the Honduran State at the hearing on “prior consultation and megaprojects in Honduras,” held on October 28, 2013, during the 149th regular session of the IACHR. Annex 10. Report of the technical mission to Honduras for the application of the right to consultation of indigenous peoples in accordance with ILO Convention 169, from September 24-28, 2012.

every project authorized by the Secretariat of Natural Resources, the communities have been heard through the town meetings.”⁴⁴⁸

409. In this regard, the IACHR recognizes that States have the “freedom to exploit their natural resources, including [granting] of concessions and opening up to international investments,” in keeping with the right of people to develop. However, it has held that “development must be managed in a sustainable way,” and that, under the provisions of the Inter-American human rights system, it must take place in conditions of respect and guarantee for human rights.⁴⁴⁹ In this scenario, the protection of the right to collective property, as provided for in Article 21 of the American Convention, is particularly important to indigenous peoples, because the guarantee of the right to territorial ownership is the fundamental basis for the development of culture, spiritual life, the integrity and economic survival of indigenous communities,⁴⁵⁰ and it constitutes a prerequisite for the exercise of other fundamental rights.⁴⁵¹

410. In the view of the IACHR, “protection of the right of indigenous peoples to their ancestral territory is an especially important matter, as its enjoyment involves not only protection of an economic unity but also protection of the human rights of a collectivity whose economic, social and cultural development is based on its relationship with the land.”⁴⁵² The Inter-American Court, in turn, has underscored that territorial rights of indigenous peoples are related to “the collective right to survival as an organized people, with control over their habitat as a necessary condition for reproduction of their culture, for their own development and to carry out their life aspirations.”⁴⁵³ One of the specific guarantees of the right to collective property of indigenous peoples that the bodies of the Inter-American system have established is the obligation of States to consult, in a prior, free and informed way, the indigenous peoples and ensure their participation in decision-making pertaining to any measure that may affect their territories, taking into consideration the special relationship between these peoples, the land and natural resources.

⁴⁴⁸ IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁴⁹ IACHR, *Report on the human rights situation in Ecuador*. Doc.OEA/Ser.L/V/II.96, Doc. 10 rev.1, April 24, 1997; and IACHR, *Rights of tribal indigenous peoples over their ancestral lands and natural resources*, OEA/Ser.L/V/II., Doc. 56/09, December 30, 2009, par. 204.

⁴⁵⁰ IACHR. Arguments before the Inter-American Court of Human Rights in the case of *Sawhoyamaya v. Paraguay*. Cited in: IA Ct. of HR. *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Merits, Reparations and Costs. Judgment March 29, 2006. Series C No. 146, par. 113(a).

⁴⁵¹ IACHR. Arguments before the Inter-American Court of Human Rights in the case of *Awas Tingni v. Nicaragua*. Cited in: IA Ct. of HR. *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. Merits, Reparations and Costs. Judgment August 31, 2001. Series C No. 79, par. 140(f). CIDH. *Democracia y Derechos Humanos en Venezuela*. Doc. OEA/Ser.L/V/II, Doc. 54, December 30, 2009, pars. 1076-1080.

⁴⁵² IACHR. Arguments before the Inter-American Court in the case of *Yakye Axa v. Paraguay*. Cited in: IA Ct. of HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations and Costs. Judgment June 17, 2005. Series C No. 125, par. 120(c).

⁴⁵³ IA Ct. of HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations and Costs. Judgment June 17, 2005. Series C No. 125, par. 146. IA Ct. of HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations and Costs. Judgment June 17, 2005. Series C No. 125, pars. 146 and 147. IACHR. Arguments before the Inter-American Court in the case of *Yakye Axa v. Paraguay*. Cited in: IA Ct. of HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations and Costs. Judgment June 17, 2005. Series C No. 125, par. 120(g).

411. The IACHR views in a favorable light the efforts put forth by Honduras in implementing this right and calls on it to step up its efforts to establish, with the full participation of the indigenous peoples, legislative or other measures required to make effective the right to prior, free, informed and good faith consultation and consent, in keeping with international human rights standards. On this score, the IACHR recalls that under Inter-American human rights instruments, investment and development plans or projects or natural resource extraction concessions on indigenous territories, which are on a large scale and may have a far-reaching impact on the life of the affected communities or peoples, require not only the prior, informed and culturally appropriate and good faith consultation, but also the free, prior and informed consent of the respective indigenous people.⁴⁵⁴

412. The IACHR also received information indicating that, in this context, many indigenous peoples and communities, who were against the execution of projects on their ancestral territories, have been the targets of persecution, harassment, threats and acts of violence, which have placed their safety and lives at great risk. Based on the reports, such acts are carried out by private security guards or hired hit men paid for by the companies and it is claimed that these crimes are brought to the attention of the State authorities, who do not respond by taking the necessary protection measures. It was reported as well that cases have arisen of direct involvement of members of the National Police and local authorities in these acts. The information received by the Commission suggests that the situation of insecurity being experienced by some communities has reached such an extreme point that community leaders and other community members have been forced to move away.

413. One of the most troubling situations to the IACHR is plight of the communities of the Regional Civic Association (Patronato Regional) of la Florida Sector, in the Municipality of Arizona, Department of Atlántida, which has been affected by, among other projects, the Buena Vista¹ project, consisting of iron oxide open pit mining. The information received indicates that these communities have been the target of heavy intimidation and harassment to sell their lands to the company and to drop their opposition to the project. It was noted that the community of Nueva Esperanza, in particular, is going through a serious situation of insecurity, given that beginning in March 2013, from 10 to 12 police agents detailed to the area, together with a group of around twelve unidentified individuals, who are heavily armed and masked, have been carrying out operations to sow fear and exert control over the community. It was reported that there have been acts of violence against members of the community, abductions of community leaders, a high number of death threats, forced displacement of persons, and the community school has been closed down. According to the reports, as a result of these incidents, at least eight complaints have been filed, though all of them have gone unheeded.⁴⁵⁵

414. The IACHR is also concerned about the situation of 19 Tolupan people communities, on whose ancestral territory several different mining and hydroelectric dam projects have been developed without any consultation with them. The information received indicates that, in this context, members of the communities, especially leaders, have been the victims of persecution and death threats by hit men hired by the companies of the area. They specifically claim that on August 25, 2013, armed men at the service of the companies murdered three leaders of the community of San Francisco de Locomapa,

⁴⁵⁴ IA Ct. of HR. *Case of the Saramaka People v. Surinam*. Preliminary Objections, Merits, Reparations and Costs. Judgment November 28, 2007. Series C No. 172, par. 134. IA Ct. of HR. *Case of the Saramaka People v. Surinam*. Interpretation of judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008 Series C No. 185, par. 17.

⁴⁵⁵ MADJ, CEHPRODEC, CIPRODEH, COPINH, CDH and ERIC-SJ. *Report submitted to the IACHR in the context of the thematic hearing on prior consultation and megaprojects in Honduras*. October 28, 2013.

who were engaged in acts of protest at the time (also see section on human rights defenders). They reported that eight leaders had to move away from their communities fearing they would be victims of similar acts of violence and threats on their lives. In this regard, the Honduran Office of the Public Prosecutor reported to the IACHR that arrest warrants had been issued and were pending execution against the persons allegedly responsible. Community leaders also contended that two months have gone by since the arrest warrants were issued and no operations have been conducted to execute them, even though the individuals have been fully identified.⁴⁵⁶

415. The IACHR emphasizes that indigenous peoples are entitled to be protected by the State from assaults by third parties, especially when such assaults occur in the context of conflicts over ancestral territory.⁴⁵⁷ In such instances, State authorities are obligated to prevent said conflicts from happening, protect the indigenous communities from violent attacks, and effectively investigate and punish those responsible.⁴⁵⁸ Additionally, the Commission wishes to remind the State that there have been consistent references to the unsubstitutable mission of police forces for the adequate functioning of a democratic system, because of their fundamental role in protecting the right to life, liberty and the security of persons.⁴⁵⁹ In this regard, consistent with the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, it has held that Member States must take into account that the job of police forces “constitutes a social service of great importance and, consequently, it is necessary to maintain and, whenever necessary, improve the working conditions and the situation of these officials.”

416. Accordingly, the IACHR regards as very serious the reports that police agents were directly involved in acts of harassment, intimidation and violence against indigenous communities and the members thereof. Therefore, it urges the Honduran State to strive to immediately put a halt to these acts and make sure that the activities performed by the public security forces in the context of the defense by indigenous peoples and communities of their ancestral territories, are consistent with their fundamental role of protecting the right to life, liberty and the security of persons.

417. A third aspect pertaining to the situation of indigenous peoples that the IACHR has noted with concern in 2013 involves the excessive use of force against social protest and the participation of the military forces in citizen security operations. The information submitted to the Commission suggests that some demonstrations and protests conducted by indigenous peoples and communities have been responded to with repressive crackdowns and excessive violence by the public security forces. Specifically, on July 15, of this year, members of the Honduran Army executed Lenca

⁴⁵⁶ IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁵⁷ IACHR. *Third Report on the Human Rights Situation in Colombia*. Doc. OEA/Ser.L/V/II.102, Doc. 9 rev. 1, February 26, 1999, Chapter X, Recommendation 3.

⁴⁵⁸ IACHR. *Democracy and Human Rights in Venezuela*. Doc. OEA/Ser.L/V/II, Doc. 54, December 30, 2009, pars. 1062-1066; 1071; 1137 – Recommendations 1-4.

⁴⁵⁹ In this regard, it has stated that “the Police constitute a fundamental institution for respect of the rule of law and to ensure the security of the population. Given its national coverage and the variety of its functions, it is one of the institutions of the State that most frequently interacts with citizens” [IACHR. Report on the human rights situation in Venezuela, 2003, Chapter III, “Security of the State: Armed Forces and Security Police Corps,” paragraph 294]. Similarly, it emphasized that an “honest, professional and efficient police force is the basis for building the trust of citizens” [IACHR. Report on the Human Rights Situation in Mexico, 1998, chapter V, paragraph 392]. Cited in: IACHR. *Report on Citizen Security and Human Rights*. OEA/Ser.L/V/II. Doc. 57. December 31, 2009. Paragraph 100.

indigenous member Tomás García, leader of the Civic Council of People's and Indigenous Organizations of Honduras (COPINH), and caused serious harm to the physical integrity of his son, 17 year old Allan García Domínguez. These incidents took place when they were participating in a demonstration against the Agua Zarca hydroelectric dam project, which the company is attempting to implement on the ancestral territory of the Lenca without conducting any process of prior, free and informed consultation. On July 19, 2013, the Commission condemned these acts; it called on the State to ensure the physical integrity and security of the Lenca people's leaders and members in the demonstrations against the project; and to investigate the acts of violence, prosecute those responsible in court and punish them.⁴⁶⁰ Based on the information provided by representatives of the Honduran Office of the public Prosecutor, criminal proceedings were brought against the infantry private, who carried out the shootings for the crime of homicide and attempted homicide, he was formally charged and was taken into preventive custody.⁴⁶¹

418. On this issue, the Commission reiterates that demonstrations and protests are an expression of the right to association and to freedom of expression, both fundamental rights ensured by the American Convention on Human Rights and essential for the existence and functioning of a democratic society. The Commission recalls as well that a State may impose reasonable restrictions on demonstrations in order to ensure the peaceful unfolding thereof or disperse any demonstrations, which may turn violent, provided that such restrictions are governed by the principles of legality, necessity and proportionality. In this vein, the Commission urges the Honduran State to adopt mechanisms to avoid the excessive use of force by public security agents at protest marches and demonstrations.

419. The IACHR reminds the State of its obligation to clarify via judicial proceedings the acts of violence, to punish those responsible, and to make reparations for the consequences. Therefore, it views positively that criminal proceedings have been instituted against the actual perpetrator of the murder of Tomás García and the of the bodily harm caused to Allan García Domínguez. In this regard, the Commission emphasizes that, as has been affirmed by the Commission and the Court consistently in their legal precedents, the obligation to investigate and punish those responsible for human rights violations requires all actual perpetrators involved in the crimes to be punished as well as all accessories before and after the fact and masterminds thereof.⁴⁶² In order to fulfill their duty to investigate with due diligence, the State must "effectively seek the truth," strive to punish those responsible as both actual perpetrators and masterminds of the crimes, and the investigation "must be undertaken in a serious manner and not as a mere formality preordained to be ineffective,"⁴⁶³ and involving every State institution.⁴⁶⁴

⁴⁶⁰ IACHR. *IACHR condemns the murder of Lenca indigenous leader and injuries to a child in a Honduras Military operation*. Press release 52/13. July 19, 2013. Available at: <http://www.oas.org/es/cidh/prensa/comunicados/2013/052.asp>.

⁴⁶¹ IACHR. *Prior consultation and megaprojects in Honduras*. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁶² IA Court of HR. *Case of the Gómez Paquiyauri Brothers v. Peru*. Merits, Reparations and Costs. Judgment July 8, 2004. Series C No. 110, par. 146; *Case of Myrna Mack Chang v. Guatemala*. Merits, Reparations and Costs. Judgment November 25, 2003. Series C No. 101, par. 275; and *Case of Juan Humberto Sánchez v. Honduras*. Preliminary objections, Merits, Reparations and Costs. Judgment June 7, 2003. Series C No. 99, par. 186.

⁴⁶³ IA Ct. of HR. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment July 29, 1988. Series C No. 4, par. 177.

⁴⁶⁴ IA Ct. of HR. *Case of Cantoral Huamani and García Santa Cruz v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment July 10, 2007. Series C No. 167, par. 130; *Case of the Massacre of de Pueblo Bello v. Colombia*. Judgment

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420. Information was also received suggesting that, beyond this concrete crime, military forces were engaged in tasks of citizen security to provide protection to extractive companies, particularly in the areas of greatest conflict. Without denying military involvement in these activities, the Honduran State explained that “damages had been reported by project implementers being pressured at their facilities by communities and that is why there is a military presence in said projects.”⁴⁶⁵ Indigenous organizations also expressed their concern to the IACHR because the new General Mining Law provides for payment of security fee, consisting of 2% of the profits of each mining project, that would be used to strengthen the Police and National Army. They expressed their fear that “the Police and the Army become partners of the mining companies, and that it generates a higher level of defenselessness, risk and threats to communities and defenders, who oppose projects for which no consultation process was held.”⁴⁶⁶

421. Lastly, in 2013, the IACHR received worrisome reports about threats against the lives and safety of indigenous leaders, and processes of criminalization against them, which at times have given rise to deprivation of their liberty. Such acts were decried as a strategy of persecution aimed at muzzling the defense of the rights of indigenous peoples over the land, territory and natural resources. Particularly troubling to the IACHR is the persecution of Berta Cáceres, general coordinator of COPINH and the murder of three indigenous leaders from San Francisco de Locomapa, crimes to which the IACHR made reference above (see situation of defenders).

422. As was stated by the Commission, many of the attacks on the lives and personal integrity of indigenous leaders “are intended to curtail the activities of defense and protection of territories and natural resources, as well as the defense of the right to autonomy and cultural identity.”⁴⁶⁷ In the opinion of the IACHR, at the same time that the assaults, attacks and harassment against the leaders seriously upset cultural integrity, they break up the cohesion of the community around the defense of their rights.⁴⁶⁸

F. Lesbians, Gays and Trans Persons, Bisexuals and Intersex (LGTBI)

423. In its 2009 report *Honduras: Human Rights and the Coup d’État*, the IACHR noted a surge in discrimination and violence against members of the lesbian, gay, bisexual, transgender and intersex (LGTBI) community in the context of the coup d’état⁴⁶⁹. In January 2011, the IACHR voiced its deep concern over the murders of transgender persons in Honduras, particularly in light of the fact that

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January 31, 2006. Series C No. 140, par. 120; and IA Ct. of HR. *Case of Huilca Tecse v. Peru*. Judgment March 3, 2005. Series C No. 121, par. 66.

⁴⁶⁵ IACHR. Prior consultation and megaprojects in Honduras. 149th regular session. October 28, 2013. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴⁶⁶ MADJ, CEHPRODEC, CIPRODEH, COPINH, CDH and ERIC-SJ. *Report submitted to the IACHR in the context of the thematic hearing on prior consultation and megaprojects in Honduras*. October 28, 2013.

⁴⁶⁷ IACHR. *Second Report on the Situation of Human Rights Defenders in the Americas*. OEA/Ser.L/V/II. Doc. 66. December 31, 2011. par. 298.

⁴⁶⁸ IACHR. *Second Report on the Situation of Human Rights Defenders in the Americas*. OEA/Ser.L/V/II. Doc. 66. December 31, 2011. par. 298.

⁴⁶⁹ IACHR, *Honduras: Human Rights and the Coup d’État*, OEA/Ser.L/V/II. Doc. 55, December 30, 2009, par. 198 et seq.

seven transgender persons had been murdered in a two-month period⁴⁷⁰. In 2012, the IACHR continued to state its concern over these murders⁴⁷¹. In 2013, information was received to indicate that high rates of violence against LGBTI persons persist and that, despite the State's efforts, such acts generally continue to go unpunished⁴⁷².

424. In the first half of 2013, a significant change took place in the legislation on the rights of the LGBTI population, a change that was welcomed by organizations that work to promote and defend the rights of this population. In particular, the National Congress adopted a number of changes to the Criminal Code, including: (i) establishment as aggravating factors in a crime that they are committed "out of hatred of or with contempt for the sexual orientation or gender identity" of the victim; (ii) imprisonment and fines in cases of the restriction or arbitrary illegal annulment of the exercise of individual or collective rights, and the refusal to provide professional services on the grounds of sexual orientation or gender identity, among other grounds; (iii) imprisonment and fine in the case of public incitement to hatred or discrimination for reasons of sexual orientation or gender identity, among other grounds⁴⁷³.

425. On the matter of discrimination on account of sexual orientation and gender identity, the Office of the Prosecutor for Human Rights of Honduras opened an investigation against Evelio Reyes, Pastor of the Vida Abundante evangelical church, based on a complaint filed by civil society in 2012 over statements he made against gays and lesbians⁴⁷⁴. It is also reported that members of the evangelical community met with the President of Honduras at the beginning of August 2013 to try to have the Pastor Reyes case dismissed, and to amend the criminal provisions that had recently been changed, as

⁴⁷⁰ IACHR, "IACHR Deeply Concerned about Murders of Members of Transgender Community in Honduras", January 20, 2011, available at http://www.oas.org/en/iachr/media_center/PReleases/2011/004.asp.

⁴⁷¹ IACHR, Press Release No. 109/12, "IACHR Condemns the Murder of a Trans Woman in Honduras", August 28, 2012, http://www.oas.org/en/iachr/media_center/PReleases/2012/109.asp. See also IACHR, Press Release No. 129/12 "IACHR Urges the States to Adopt Urgent Measures against Homophobic and Transphobic Violence in the Region", October 29, 2012, http://www.oas.org/en/iachr/media_center/PReleases/2012/129.asp; IACHR, Press Release No. 146/12, "IACHR expresses concern regarding homicides and acts of violence against LGBTI persons in the Americas", December 12, 2012, http://www.oas.org/en/iachr/media_center/PReleases/2012/146.asp.

⁴⁷² See, for example, information presented by APUVIMEH, August 1, 2013, available at: <http://www.hondurastierralibre.com/2013/08/honduras-aumento-en-crime-nes-de-odio.html>. La Tribuna, "La Comunidad Gay exige alto a la ola de violencia", July 28, 2013, available at: <http://www.latribuna.hn/2013/07/28/la-comunidad-gay-exige-alto-a-la-ola-de-violencia/>. Periódico Las Américas, "Comunidad Homosexual de Honduras exige a la Fiscalía esclarezcan 117 crímenes", July 21, 2013, available at: <http://www.lasamericasnews.com/index.php/es/noticias-es/america-latina/1093-comunidad-homosexual-de-honduras-exige-a-la-fiscalia-esclarezcan-117-crime-nes/>.

In its observations on the draft instant report, the State submits as positive actions: setting up at the national level Tables of Access to justice for LGBTI persons, made up of state entities and Honduran LGBTI organizations. Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴⁷³ Decree signed by Juan Orlando Hernández Alvarado, President of the National Congress, Amendment of Articles 27 and 321 of Decree No. 144-83 dated August 23, 1983, containing the Criminal Code, May 14, 2013. Published in the Official Gazette on April 6, 2013.

⁴⁷⁴ La Prensa, "Dictan medidas sustitutivas al pastor evangélico Evelio Reyes", July 23, 2013, available at <http://www.laprensa.hn/Secciones-Principales/Sucesos/Judiciales/Dictan-medidas-sustitutivas-al-pastor-evangelico-Evelio-Reyes#.Ufv5ZinnblU>.

described above⁴⁷⁵. The IACHR was informed that in August 2013, the case of Pastor Evelio Reyes was finally dismissed.⁴⁷⁶ On this score, the State reported that because it did not agree with the dismissal, the Public Prosecutor's Office filed an appeal and the respective ruling is forthcoming.⁴⁷⁷

426. In parallel with these events, the IACHR has been receiving information on the creation of a Parliamentary Committee in the National Congress, whose mandate would be to examine the new reform to Article 321 of the Criminal Code. Civil society organizations reported to the Commission that this reform proposal, forcefully promoted by evangelical groups, aims to remove any reference to "sexual orientation" and to "gender identity" from the articles to which they had been added in the reform of April 2013. Consequently, using the powers conferred upon it under Article 41 of the American Convention, the IACHR sent a letter to the Honduran State requesting additional information about the forming of said Parliamentary Committee, the current status of the reform initiative and the basis for and purposes pursued by the bill. The Honduran State replied to said request by asking for an extension of the deadline for the reply, which was duly granted. The Commission is currently awaiting the response of the State. In its observations on the draft instant report, the State claimed that:

In principle, there has been no specific action of Congress with regard to this issue, and it has not been possible to identify the source of this assertion and it is conducting the respective investigation in order to officially respond to the IACHR.⁴⁷⁸

427. These amendments to the law notwithstanding, the legislative landscape in Honduras produces in practice situations where human rights are violated, particularly those of transgender persons. For example, the Law on the Police and Social Harmony enacted in 2001⁴⁷⁹ has been broadly criticized by civil society organizations, which have stated that it facilitates police abuse and arbitrary detentions of transgender people⁴⁸⁰. They say that transgender persons, particularly transgender

⁴⁷⁵ La Tribuna, "Evangélicos alistan marcha por la moralidad ante dilema gay", August 2, 2013, available at: <http://www.latribuna.hn/2013/08/02/evangelicos-alistan-marcha-por-la-moralidad-ante-dilema-gay/>

⁴⁷⁶ El Heraldo, "Sobreseimiento definitivo para Evelio Reyes", 31 agosto de 2013, disponible en <http://www.elheraldo.hn/Secciones-Principales/Sucesos/Sobreseimiento-definitivo-para-Evelio-Reyes>; Tiempo, "Tribunales capitalinos dan sobreseimiento definitivo al pastor Evelio Reyes", 30 de agosto de 2013, disponible en <http://www.tiempo.hn/portada/noticias/tribunales-capitalinos-dan-sobreseimiento-definitivo-al-pastor-evelio-reyes>; La Tribuna, "Sobreseimiento definitivo a favor de Evelio Reyes", 30 de agosto de 2013, disponible en <http://www.latribuna.hn/2013/08/30/sobreseimiento-definitivo-a-favor-de-evelio-reyes/>

⁴⁷⁷ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴⁷⁸ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

⁴⁷⁹ This law states that the function of the police is to preserve the peace, morality and good custom and to eliminate any disturbance thereof. The law gives the police the authority to detain any person who "acts against decency, good custom or public morality" or whose "immoral conduct that disturbs the peace". Articles 1, 5, 142.3, and 142.9, Law on the Police and Social Harmony, 2001.

⁴⁸⁰ HRW, "Not worth a penny: Human rights abuses against transgender people in Honduras", May 2009, available at http://www.hrw.org/sites/default/files/reports/honduras0509web_0.pdf. See also Global Rights: Partners for Justice, Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Honduras, a Shadow Report, October 2006.

women, are at risk of being subject to abuse and arbitrary detentions by the police, regardless of whether they perform sex work or not⁴⁸¹.

428. Civil society organizations have claimed that between June 2008 and July 2013, 112 LGTBI persons were murdered in Honduras, the great majority of which took place in the cities of Comayagüela, San Pedro Sula and Tegucigalpa⁴⁸². According to figures given to the IACHR, a large majority of these deaths took place after the 2009 coup d'état. This significant increase in homicides can be attributed to a number of factors, including a rise in generalized violence throughout the country and the failure to punish the murders of LGTBI persons⁴⁸³. The nature of these homicides was reported by civil society as follows:

Over a period of nineteen years (1994-2003), the Cattrachas Media Monitoring Center recorded archival evidence of a total of 118 violent deaths among the LGTTBI community, 56 of whom were male homosexuals, 56 transgender persons and six lesbians. Ninety-nine of these 118 deaths have been recorded since 2009. Twenty-two of those killed were minors; of the 56 male homosexuals, thirty-two were killed in places they had thought were safe, such as their homes, hotels or workplaces; 45 were over the age of 28; the murders were committed using knives or blunt objects.

Of the 56 transsexual individuals who were killed, 39 were women who were engaged in sex work; 37 were executed or riddled with bullets, 49 were under the age of 33; the weapon most often used was a firearm. The six lesbians, who were over the age of twenty-age, were all killed with firearms⁴⁸⁴.

429. Based on up-to-dated information provided to the Commission by civil society organizations in November 2013, during the early part of the year, 10 trans women, 10 gay men and 4 lesbians were murdered. As a result of the disaggregation of the data, the IACHR was able to note that more than 75% of the trans women were under 33 years of age. Many of these murders were covered in a timely fashion in IACHR press releases issued in the second half of the year, citing murders of and assaults on LGTBI persons in the region, including Honduras.⁴⁸⁵ In its observations on the draft instant report, the State provided the following figures from the Unit for the Investigation into Sexual Diversity-Related Deaths, which is currently part of the Office of the Special Prosecutor for Crimes against Life of Tegucigalpa and San Pedro Sula: 114 cases of investigations into deaths of persons belonging to LGBT

⁴⁸¹ HRW, "Not worth a penny: Human rights abuses against transgender people in Honduras", May 2009, available at http://www.hrw.org/sites/default/files/reports/honduras0509web_0.pdf.

⁴⁸² Report presented by Cattrachas, Organización Lésbica Feminista, to Commissioner Robinson during her visit to Honduras on May 14-18, 2013, on file in the Executive Secretariat of the IACHR. See also, Cattrachas, Red Lésbica Feminista, Informe "Muertes Violentas de LGTTBI por Orientación Sexual, Identidad de Género por Año", July 31, 2013. On file in the Executive Secretariat of the IACHR.

⁴⁸³ Report presented by Cattrachas, a feminist lesbian organization, to Commissioner Robinson during her visit to Honduras on May 14-18, 2013, May 2013. On file in the Executive Secretariat.

⁴⁸⁴ Report presented by Cattrachas, a feminist lesbian organization, to Commissioner Robinson during her visit to Honduras on May 14-18, 2013, May 2013. On file in the Executive Secretariat.

⁴⁸⁵ CIDH, Comunicado de Prensa 79/13, *La CIDH expresa su preocupación por los ataques de grupos violentos, abuso policial y otras formas de violencia contra las personas LGTBI*, 24 de octubre de 2013, disponible en: <http://www.oas.org/es/cidh/prensa/Comunicados/2013/079.asp>; CIDH, Comunicado de Prensa 60/13, *La CIDH expresa preocupación por la violencia y discriminación contra personas LGTBI, en particular jóvenes, en las Américas*, 15 de agosto de 2013, disponible en: <http://www.oas.org/es/cidh/prensa/comunicados/2013/060.asp>.

groups, prosecution of 24 cases and 6 convictions of such persons. It also asserted that it has not been possible to prove any case in which hate crimes were involved.⁴⁸⁶

430. Other organizations that have monitored the state of violence have confirmed that there are serious problems with attacks motivated by prejudice against transgender women, and indeed, have indicated that there was involvement of members of the Honduran police in some of the attacks⁴⁸⁷. They also state that these attacks are rarely investigated seriously and that criminal sentences are rarely achieved⁴⁸⁸.

431. At the end of 2012, the IACHR received information that indicated that the killings of LGBTI persons are not properly investigated because it is assumed that they are crimes of passion— which ignores the social environment of discrimination, which leads to violence motivated by prejudice. It is also claimed that the authorities’ lack of sensitivity and understanding of these matters has meant that no serious investigations are carried forward, in addition to the lack of information systems that can identify which cases were committed on account of the sexual orientation or gender identity of the victim⁴⁸⁹.

432. The IACHR was advised that, with the institutional support of the United States Embassy and FBI agents, a Unit to investigate violent deaths of LGBTI persons was created, attached to the Office of the Prosecutor of Common Crimes, with offices in Tegucigalpa and San Pedro Sula, which were established in February 2011 and January 2012 respectively. On April 9, 2013, the Office of Public Prosecutor of the Republic published its report to the National Congress in which it said that 115 violent deaths had been recorded, 35 cases had been prosecuted and there had been a verdict in eight cases⁴⁹⁰. The IACHR also received information to the effect that in April 2013, one of the chief suspects in the murder of Walter Tróchez, a defender of LGBTI rights, was captured; the IACHR had condemned this homicide at the time⁴⁹¹.

433. Even though some progress has been seen in the investigation and punishment of some specific cases, civil society claimed in 2012 that the Unit was investigating only cases from 2010, and only cases having to do with gay men, and that it was ignoring the murders of lesbian women and

⁴⁸⁶ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, “Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras.”

⁴⁸⁷ Human Rights Watch, *World Report: Honduras 2012*, available at: <http://www.hrw.org/world-report-2012/world-report-chapter-honduras>.

⁴⁸⁸ Human Rights Watch, *World Report: Honduras 2012*, available at: <http://www.hrw.org/world-report-2012/world-report-chapter-honduras>.

⁴⁸⁹ Public hearing “Homicides of LGBTI Persons and Impunity in the Americas” held November 1, 2012. Organizations attending the hearing were: Colombia Diversa, Caribe Afirmativo, Santamaría Fundación, Red Lésbica Catrachas and TRANSSA.

⁴⁹⁰ Report available at <http://www.youtube.com/watch?v=YHubC8C-sxw&list=UUT0mV2yIMTDGTFN5iClJzEg&index=1>, quoted in the report presented by Catrachas, a feminist lesbian organization, to Commissioner Robinson during her visit to Honduras on May 14-18, 2013, May 2013. On file in the Executive Secretariat.

⁴⁹¹ IACHR, “IACHR Deeply Concerned about Murders of Members of Transgender Community in Honduras”, January 20, 2011, available at: http://www.oas.org/en/iachr/media_center/PReleases/2011/004.asp. See also, IACHR “Preliminary Observations of the Inter-American Commission on Human Rights on its Visit to Honduras, May 15 to 18, 2010, OEA/Ser. L/V/II Doc. 68, June 3, 2010, available at <http://www.cidh.org/countryrep/Honduras10eng/Honduras10TOC.eng.htm>.

transgender persons⁴⁹². In April 2013, civil society maintained that complaints of torture, arbitrary detentions, and excessive use of force by agents of the State against LGBTI persons that had been filed with the Office of the Special Prosecutor for Human Rights had not been brought to trial⁴⁹³.

434. At a public hearing in March 2013, the IACHR received information on the state of violence facing the defenders of the rights of LGBTI persons in Honduras⁴⁹⁴. In a press release at the end of its session, the IACHR indicated that it acknowledged the developments in public policy and legislation to advance human rights for these persons, and encouraged Honduras to continue strengthening protection of these rights. However, it stated its concern over the situation of LGBTI human rights defenders, and called on the State of Honduras to conduct appropriate investigations of acts of violence and discrimination against LGBTI human rights defenders, and adopt effective measures to respect and guarantee their human rights⁴⁹⁵. It should be noted that the IACHR received a new request for precautionary measures in 2013, presented on behalf of a defender of the rights of LGBTI persons, who was arbitrarily detained in January of this year. The request also indicates that another defender of the rights of LGBTI persons had also been arbitrarily detained in the same month. It was further alleged that a third defender of LGBTI rights had been subjected to police abuse, having been beaten up by three military personnel and his home raided illegally⁴⁹⁶.

G. Migrant workers and members of their families

435. High rates of poverty and violence, together with the coup d'état of 2009, have spurred the migration of Hondurans abroad, particularly to the United States. Most of those who emigrate do so irregularly, which exposes them to being detained in or deported from countries they are passing through or headed towards, mainly Mexico and the United States. In 2011, more than 26,000 Honduran immigrants were held in migrant detention centers in the United States⁴⁹⁷. Deportations cause serious difficulties in providing assistance for and reintegrating the deportees into the country. In 2012, Mexican immigration authorities repatriated 18,099 Honduran immigrants⁴⁹⁸. Most of the Honduran immigrants are between the ages of 18 and 32. Once deported to Honduras, their job situation is precarious. There is no Government program to assist with social or workforce reentry. The Law to

⁴⁹² Remarks by Indyra Mendoza, *Violencia en contra de Lesbianas, Gays, Bisexuales, Transgéneros e Intersexuales en Honduras, obstáculos y desafíos*, LASA 2012, available at: <http://lasa.international.pitt.edu/members/congress-papers/lasa2012/files/36495.pdf>. See also, RedLacTrans, HIV/AIDS Alliance, "La Noche es otro País: Impunidad y Violencia contra mujeres transgénero defensoras de derechos humanos en América Latina", 2012, p. 9.

⁴⁹³ Cattrachas Lesbian Network, *Informe Intermedio Alternativo a las Recomendaciones al Examen Periódico Universal, Honduras*, April 21, 2013, p. 6.

⁴⁹⁴ Hearing on the general situation of human rights in Honduras", March 15, 2013, video available at <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=es&Session=131&page=2>.

⁴⁹⁵ IACHR, Press Release No. 23A/13, Annex to the Press Release Issued at the Close of the 147th Session, April 5, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/023A.asp.

⁴⁹⁶ Information presented by CIPRODEH as part of the request for precautionary measures for Erick Vidal Martínez Salgado, presented to the IACHR in January 2013 (request currently under study).

⁴⁹⁷ DEPARTMENT OF HOMELAND SECURITY, *Immigration Enforcement Actions: 2011*. United States. Available at: http://www.dhs.gov/sites/default/files/publications/immigration-statistics/enforcement_ar_2011.pdf [Retrieved on September 14, 2012].

⁴⁹⁸ INSTITUTO NACIONAL DE MIGRACIÓN, *Boletín mensual de estadísticas migratorias 2012*. Mexico. Available at: http://www.inm.gob.mx/index.php/page/Extranjeros_Alojados_y_Devueltos_2012 [Retrieved on September 14, 2012].

Protect Honduran Migrants and their Families was approved on a second reading in 2011, but so far, it has not been enacted into law.

436. Regarding trafficking in persons, the Commission is aware of trafficking in women for sexual exploitation from neighboring countries to Honduras and from rural areas to urban centers within the country. It is also aware of cases of exploitation in agricultural and domestic service jobs. The National Congress approved the Law to Prevent and Punish Trafficking in Persons, but it has not yet entered into force⁴⁹⁹, which has prevented effective criminal prosecution of the crime. The Honduran Government has made minimal efforts to identify the victims, and all of the specialized shelters are run and financed by civil society organizations. In terms of prevention, no efforts have been reported to reduce the demand for forced labor or the child sex trade⁵⁰⁰.

437. In its observations on the draft instant report, the State reported that on November 5, 2013, the Council of Ministers approved the Inter-Institutional Commission for the protection of persons displaced by violence, under which policies will be formulated and measures will be taken to prevent forced displacement by violence, as well as for the care, protection and to provide solutions for displaced persons and their families. It further noted that said Commission shall take the necessary steps so that national responses to the phenomenon of forced displacement for reasons associated with violence and crime, are brought in line with international standards of human rights protection and best practices promoted by international organizations.⁵⁰¹

V. Recommendations

438. Based on the foregoing analysis and, in particular, the monitoring conducted by the IACHR of the human rights situation, the Commission makes the following recommendations to the State of Honduras:

Citizen Security

- Take comprehensive measures to ensure citizen security, especially with regard to the homicide rate;
- Train the public servants entrusted with the task of maintaining public order on the topic of protection and respect for human rights;
- Define how the members of the armed forces are to be involved in public order operations, which are under the jurisdiction of the police and, when they are involved in exceptional circumstances, have them be subordinate to civilian authority.

⁴⁹⁹ La Tribuna, "Piden al Presidente sancionar la Ley contra la Trata de Personas". 12 Junio 2012. Available at: <http://www.latribuna.hn/2012/06/07/piden-al-presidente-sancionar-ley-contra-la-trata-de-personas/> [Retrieved on September 14, 2012].

⁵⁰⁰ DEPARTMENT OF STATE, *2012 Trafficking in Persons Report*. June 2012. Available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/> [Retrieved on September 14, 2012].

⁵⁰¹ Communication of the State of Honduras, Official Letter No. SP-A-166-2013, dated December 19, 2013, "Observations of the Honduran State on the General Report on the Human Rights Situation in Honduras."

Administration of Justice

- Make sure that the administration of justice system provides effective access to justice for all persons.
- Investigate, prosecute and punish those responsible for human rights violations.
- Investigate by means of specialized independent bodies the murders of human rights defenders, community leaders, journalists and broadcasters. Prosecute and convict those responsible for these murders.
- Ensure protection of judges from any type of external pressure.
- Guarantee the independence and impartiality of operators of justice, the necessary conditions to perform their duty of investigating, prosecuting and punishing those who undermine human rights.
- Draft disciplinary procedures for operators of justice that are in line with international standards on the subject matter.

Human Rights Defenders

- Ensure conditions so that human rights and labor rights defenders can freely do their job, and refrain from any action and from adopting any legislation that restricts or hampers their work.
- Prevent murders, threats and intimidation against human rights defenders, journalists, broadcasters and community leaders by properly and efficiently implementing the precautionary measures granted by the IACHR.

Freedom of Expression

- Adopt adequate mechanisms to prevent violence against broadcasters, including public condemnation of any act of aggression, training public officials and, particularly, the police or security forces and, when necessary, issue codes of conduct or guidelines with regard to this right.
- Adopt effective protection measures to ensure the safety of those who are at special risk because of exercising their right to freedom of expression.
- Conduct serious, impartial and effective investigations into murders, assaults, threats and acts of intimidation perpetrated against journalists and media workers.
- Move forward in amending laws on criminal defamation in order to do away with the use of criminal proceedings to protect honor and reputation when information is disseminated regarding matters of public interest, concerning public officials or candidates to serve in public office.
- Encourage democratic discussion by means of public statements, practices and policies that promote tolerance and respect for every person equally, regardless of their thinking or ideas.
- Foster effective and efficient implementation of the laws and regulations governing access to information, by adequately training officials and educating citizens with a view to eradicating the culture of secrecy and in order to provide citizens with the tools to engage in effective monitoring of the functioning of the State, public administration and control of corruption, all of which is essential in the democratic process.

Persons Deprived of Liberty

- Review and bring into line with international standards on the subject matter Decree 65-2013, which establishes mandatory preventive detention for 21 offenses.
- Increase the budget for the meals of persons deprived of liberty.
- Implement the recommendations issued by the IACHR in the 2013 report on the Situation of Persons Deprived of Liberty in Honduras.

Women

- Adopt the necessary measures to ensure that cases of gender-based violence are investigated with due diligence in a timely, comprehensive and impartial manner, that the persons responsible are duly punished and that the victims receive full reparation.
- Adopt a comprehensive, coordinated and adequately funded State policy to make sure that victims of violence have full access to adequate judicial protection, and that acts of violence are adequately prevented, investigated, punished and redressed.

Children

- Adopt the necessary measures to combat impunity, ensuring the capacity of the State to prevent, investigate and punish any human rights violation stemming from the actions or failure to act of states agents in the framework of juvenile justice, as well as violent acts occurring within facilities where adolescents are deprived of liberty.
- Make sure that the juvenile justice system and the punishments given therein fulfill the objectives of specialized justice, that is, the rehabilitation and reintegration of these children into society.

Indigenous Peoples

- Step up efforts to protect the effective enjoyment of the right to territory of indigenous peoples and their members, as the first step toward safeguarding their fundamental rights, taking into account the particular importance that Inter-American human rights law has attached to the territorial rights of indigenous peoples, and the central role that ancestral territories play in the respect and guarantee of their rights.
- Reinforce efforts aimed at establishing, within a reasonable period of time and with the full participation of indigenous peoples, the necessary legislative, administrative and other types of measure to make effective the right to prior, free and informed consultation and consent, in keeping with international standards on the subject matter; amend any provisions of the law that stand in the way of their full and free exercise; and refrain from adopting any provisions running counter to this right.
- Ensure, by means of the different entities involved, that indigenous peoples and communities in Honduras are consulted in such a way that is prior, free and informed and fully in keeping with applicable international standards, in any instances when any natural resource extraction activity or projects, or any development plan or investment of any other nature that may potentially entail an infringement of their rights, are intended to be executed on their territories.

- Protect the lives and safety of Honduran indigenous people, in keeping with its obligation under the American Convention on Human Rights; especially, to prevent assaults and harassment of indigenous leaders and persons about whom it is aware of a real and imminent danger; and refrain from conducting actions that could give rise to agents of the State or third parties acting with the consent or tolerance of the State, which could jeopardize the lives and safety of such individuals.
- Take immediate action to make sure that any activities conducted by the Police and National Army in the context of indigenous peoples and communities defending their ancestral territories and exercising their rights, are compatible with the functions that they are entrusted with in a democratic system and in keeping with Inter-American standards on the subject matter.
- Implement decisive measures to secure the return of displaced indigenous leaders to their communities, through a process that ensures respect for their lives and safety.
- Adopt measures of special and differential protection to safeguard the lives and safety of indigenous leaders and traditional authorities, who have been under threat for reasons linked to the defense of ancestral territories.
- Establish mechanisms to prevent the excessive use of force by public security agents at protest demonstrations, through measures of planning, prevention and investigation, in keeping with Inter-American standards on the subject matter.
- Investigate human rights violations perpetrated against indigenous peoples and the members thereof, regardless of whether or not the acts are committed by states agents or private individuals; punish those responsible as actual perpetrators and masterminds; and provide reparation on an individual and collective basis to the victims.
- Continue with efforts to conduct a serious, diligent and impartial investigation, punish, when appropriate, those responsible as actual perpetrators and masterminds, and redress the consequences of the acts of violence committed on July 15, 2013 against Tomás García and Allan García Domínguez, allegedly by members of the National Army.

Lesbians, Gays and Trans, Bisexual and Intersex Persons (LGTBI)

- Use due diligence to prevent, punish and investigate acts of violence and discrimination against LGBTBI persons.
- Adopt measures to strengthen the Unit for the investigation of violent deaths of LGBTBI persons attached to the Office of Common Crimes, with a view to ensuring that all cases of murders of persons based on sexual orientation or gender identity are investigated properly, including the cases of the deaths of lesbians and trans persons.
- Adopt the necessary state measures, including of a legislative nature, to protect and ensure the rights of LGBTBI persons in Honduras, without any discrimination based on sexual orientation, gender identity or expression.
- Take measures to make sure that existing legislation is not used to stigmatize or criminalize LGBTBI persons, based on sexual orientation and gender identity and expression.
- Adopt specific measures required to protect and ensure the rights of defenders of LGBTBI persons' rights.
- Take state measures required for the right to a life free of discrimination and violence of LGBTBI persons to be respected and guaranteed by states agents, in order to prevent acts of police abuse of authority.

- Conduct campaigns and training programs for State security officials on human rights and the protection of the rights of LGBTI persons.
- Adopt state measures to contribute to building a climate of tolerance and respect in which all persons, including gays, lesbians, trans, bisexual and intersex persons and those who defend their rights, are able to express their thoughts and opinions without fear of being attacked, punished or stigmatized as a result of it.
- Design and implement public policies and campaigns to raise awareness and respect for the human rights of LGBTI persons, as a measure to combat the prejudice motivating the violence tied to sexual orientation and gender expression.

Migrants

- Adopt measures to identify the number of persons that have been forced to be displaced as a consequence of organized crime.
- Adopt the necessary measures to provide assistance and protection to internally displaced persons.
- Additionally, order the necessary measures to protect the marginalized and most vulnerable segments of the Honduran population, such as children, the LGBTI community, women and indigenous peoples and the Garifuna.