

Inter-American Commission on Human Rights

Reform Process – 2012

Reply of the Inter-American Commission on Human Rights to the Permanent Council of the Organization of American States regarding the recommendations contained in the Report of the Special Working Group to Reflect on the Workings of the IACHR with a View to Strengthening the Inter-American Human Rights System.

1. Respect for human rights is one of the founding principles of the Organization of American States (OAS). The Inter-American Commission on Human Rights (IACHR) fulfils its mandate to promote the observance and protection of human rights and to serve as a consultative organ of the OAS in these matters through the following functions: it receives petitions and requests for urgent measures of protection, monitors the human rights situation in the OAS member states, and, through its rapporteurships, devotes attention to priority thematic areas. In addition, it engages in actions and activities that include visits to OAS member states, writes reports on specific subjects and press releases, and provides training to government officials, civil society organizations, and other actors in the inter-American human rights system (IAHRS or System).
2. On June 29, 2011, the Permanent Council of the OAS established a Special Working Group to Reflect on the Workings of the IACHR with a View to Strengthening the IAHR ("Special Working Group"). On December 13, 2011, the Special Working Group approved a report containing 67 recommendations, 53 of them addressing the IACHR. The Report was adopted by the Permanent Council on January 25, 2012 and ratified by the General Assembly on June 5, 2012.
3. The Commission received these recommendations in an open and constructive frame of mind, based on the principle that any reform must be aimed at strengthening the protection and promotion of fundamental rights, which is the useful purpose for which this institution was established and one of the principal objectives of the Organization.
4. Thus, in its 144th and 145th periods of sessions, the IACHR decided to embark on a study of its procedures and mechanisms, through a process that included discussion Forums, public consultations, and hearings in order to garner the opinions, inputs, and experiences of the users of the System -- States, victims, civil society -- with a view to perfecting its procedures and responding to the recommendations made by the Special Working Group.
5. This paper is the outcome of that process and contains replies to the recommendations of the Special Working Group.
6. The Commission recognizes the Special Working Group for its recommendations, as well as the observations, opinions, and proposals of the Member States, national human rights institutions, civil society organizations, victims, academics, and other stakeholders. It welcomes each and every one of them as an expression of trust in its mandate and as key contributions to the process of strengthening the IAHR.

Washington, D.C.
October 23, 2012

INTRODUCTION

Background and principles

7. Respect for human rights is one of the founding principles of the OAS, reflected in its Charter. The principal function assigned to the IACHR in Article 106 of that Charter, namely "to promote the observance and protection of human rights and to serve as a consultative organ of the Organization" in these matters gives concrete expression to this commitment on the part of the States, which has materialized through the visions, perseverance, and practice of the different actors in the IAHRs, that is to say, the OAS member states ("member states"), the organs of the system, and civil society in the broad sense: victims, organizations and associations, litigants, academics and other individuals and groups of people involved in the IAHRs.
8. The Commission has developed and exercised its mandate based on the pro-person principle, which constitutes a fundamental criterion for its work, and, over time, it has generated the tools needed to put that principle into effect. As René Cassin said at the Inter-American Specialized Conference on Human Rights in 1969:

the Inter-American Commission on Human Rights, based on the voluminous texts constituting it, has done original empirical work that has yielded significant results in critical cases in which human rights were in jeopardy, not just the rights of isolated individuals but those of groups of citizens [...] it has taken steps, such as immediate in situ visits, that the European Community would not have been able to adopt, except in a few cases, and even in them there would have been numerous hurdles¹.
9. In the performance of its functions, the Commission applies substantive provisions (cf. the content of the rights recognized), the basis for which is to be found in the OAS Charter and in the American Declaration of the Rights and Duties of Man ("the American Declaration"), instruments adopted by the OAS in the conviction that "juridical organization is a necessary condition for security and peace founded on moral order and on justice"². With that, the American States placed themselves in the vanguard of international recognition of fundamental rights and guarantees, the substantive scope of which was supplemented in the decades to follow with the following treaties:
 - American Convention on Human Rights ("the American Convention");
 - Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador");
 - Protocol to the American Convention on Human Rights to Abolish the Death Penalty;
 - The Inter-American Convention to Prevent and Punish Torture;
 - Inter-American Convention on Forced Disappearance of Persons;
 - Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women;

¹ Inter-American Specialized Conference on Human Rights, San José, Costa Rica; November 7-22, 1969, Act and Documents. OEA/Ser.K/XVI/1.2. General Secretariat of the Organization of American States, Washington, D.C. (Republished in 1978) (Hereinafter, "Trabajos preparatorios" [Preparatory Work, available only in Spanish]), pp. 433-434

² Charter, in "Basic Documents pertaining to Human Rights in the Inter-American System, updated to June 30, 2010, document OAS-Ser.L/V/I.4, rev. 14; April 30 2012; hereinafter "Basic Documents"; Preamble, par. 7.

- The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities³.
10. All these instruments are also registered within the corpus of International Human Rights Law and subject to the general principles on interpretation codified by the Vienna Convention on the Law of Treaties, according to which
- [a] treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose⁴.
11. In performing its principal function of promoting the observance and defense of human rights, the Commission engages in a series of consultative and promotional activities, namely:
- issuing recommendations to the member states for the adoption of progressive measures to support human rights within the framework of their domestic legislation and constitutional precepts, along with appropriate measures to further the faithful observance of those rights;
 - preparing studies and thematic reports or reports on the human rights situation in the member states;
 - responding to human rights queries by the member states and advising thereon; and
 - developing awareness of human rights among the peoples of the Americas.
12. The OAS Charter establishes the IACHR as one of the Principal Organs of the Organization. The Statute safeguards the independence of the Commission based, *inter alia*, on the following guarantees:
- it establishes that the members of the Commission shall be elected "in a personal capacity"⁵;
 - it establishes that membership on the Inter-American Commission on Human Rights is incompatible with engaging in other functions that might affect the independence or impartiality of the member or the dignity or prestige of his post on the Commission⁶; and
 - grants the members of the Commission the privileges and immunities "required for them to perform their duties with independence"⁷.
13. Unlike other OAS organs, which are governmental in nature⁸ and whose members represent member states, the Commission is comprised of independent experts who do not represent States. The independence of the members of the Commission is a guarantee contained in the very instrument that ordered its establishment: Resolution VIII of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, held in Santiago, Chile, in 1959. Operative section II of that resolution established that the members of the Commission would be elected "as individuals."

³ See international instruments in IACHR, Basic Documents Pertaining to Human Rights in the Inter-American System, updated to April 2012.

⁴ Vienna Convention on the Law of Treaties, of 1969, Article 31.1

⁵ Statute of the Inter-American Commission on Human Rights, approved by Resolution No. 447 (IX-O/79), adopted by the General Assembly of the OAS at its ninth regular session, held in La Paz, Bolivia, October 1979 (hereinafter "Statute"), Article 3.1. In "Basic Documents", supra Note 2.

⁶ Statute of the Inter-American Commission on Human Rights, Article 8.1

⁷ Statute of the Inter-American Commission on Human Rights, Article 12.2

⁸ For instance, the Inter-American Children's Institute and the Inter-American Commission of Women.

14. The requirement that the Commission be independent dates back to the preparatory work for the Inter-American Specialized Conference on Human Rights.⁹ The preparatory work for that Conference places on record the concern that the Organization's General Assembly might insert into the Statute of the Commission "provisions that substantially modified [its] functions and powers"¹⁰. For that reason, the Specialized Conference expressly stated that "the Statute [...] shall not contain, in reference to structure and powers of the Commission on Human Rights, any provisions other than the complementary provisions"¹¹. As one delegate put it during the Conference, "[it is] absolutely necessary to guarantee the complete impartiality of the Commission [which] is above any consideration of a political nature. For that reason it is necessary to surround it with all the necessary guarantees."¹² In exercising that independence, the Convention established that the Commission "shall prepare its Statute, which it shall submit to the General Assembly for approval. It shall establish its own Regulations"¹³.
15. The Inter-American Court of Human Rights has underscored the importance of independence in the Commission's decision-making process, stating that the Commission's assessment [...] "must be the result of a collective and autonomous exercise carried out by the Commission as the oversight body of the American Convention."¹⁴
16. Since it was established on August 18, 1959, the IACHR has been perfecting its procedures, policies, and practices. That exercise has involved dialogue and ample consultation with the member states, civil society organizations, victims, and other users of the system. In these ongoing efforts to make its work more effective and to strengthen its capacity to execute its mandate, the IACHR has established its strategic objectives for 2011-2015 as follows:
- a. promoting full compliance with its decisions and recommendations;
 - b. facilitating victims' access to the Commission and running with optimum efficiency the individual petition system's processes and procedures;
 - c. staying current on the human rights situation in the member states of the Organization and taking the action that the situation dictates;
 - d. responding in all its activities to the specific needs of groups that have historically been victims of discrimination;
 - e. promoting the observance of human rights, knowledge and understanding of the system, and universal acceptance of the regional human rights instruments;
 - f. publicizing the Commission's work and, in so doing, instilling knowledge of human rights;
 - g. procuring sufficient resources to discharge its mandate and achieve its other strategic objectives; and

⁹ Inter-American Specialized Conference on Human Rights, San José, Costa Rica; November 7-22, 1969, Act and Documents. OEA/Ser.K/XVI/1.2. General Secretariat of the Organization of American States, Washington, D.C. (Republished in 1978) (hereinafter "Preparatory Work") Available in Spanish only.

¹⁰ Preparatory Work, p. 336.

¹¹ Preparatory Work, p. 337.

¹² Preparatory Work, p. 343.

¹³ American Convention on Human Rights, Article 39.

¹⁴ I/A Court H.R., Case of the 19 Merchants v. Colombia. Preliminary Objection. Judgment of June 12, 2002. Series C No. 93; paragraphs 31 to 33.

- h. striking a balance between the scrupulousness and predictability needed to maintain and underscore a situation in which legal certainty is at stake and the flexibility needed to adapt and respond to the needs of victims of human rights violations.

Process of reflection and strengthening 2011 - 2012

17. At the Summits of the Americas, the Heads of State and Government have pointed to the importance of strengthening the Commission¹⁵ and the OAS General Assembly has adopted numerous resolutions since the beginning of this Century stressing the importance of strengthening and perfecting the inter-American system¹⁶.
18. On June 29, 2011, the OAS Permanent Council established the Special Working Group that, on December 13, 2011, issued 53 recommendations to the IACHR, 13 to the member states, and one to the OAS Secretary General¹⁷. The Report of the Special Working Group was adopted by the Permanent Council on January 25, 2012¹⁸ and ratified by the OAS General Assembly on June 5, 2012.¹⁹
19. A significant number of civil society organizations, victims of human rights violations, and academics expressed their opinion of the recommendations made by the Special Working Group. For instance, on January 27, 2012, more than 90 organizations signed a communiqué expressing their points of view regarding the recommendations and emphasizing the need to open up a forum to discuss them²⁰. On March 28, 2012, the International Coalition of Human Rights Organizations of the Americas, representing more than 700 civil society entities, voiced its opinion regarding some of the recommendations at a public hearing before the IACHR.²¹
20. During its 144th period of sessions, as part of its reflection on its procedures and mechanisms, the IACHR conducted a hearing with non-State actors in the IAHRs, and on April 9, 2012, it presented the Permanent Council with a first response. On May 30, 2012, it conducted a Regional Seminar on the recommendations of the Special Working Group.²² During its 145th period of sessions, the Commission drew up a reflection and consideration agenda that attends to the concerns and recommendations put forward in the Report of the Special Working Group and other observations made by IAHRs stakeholders and decided to adopt a methodology for

¹⁵ On this, see the Final Declarations and Action Plans of the First Summit of the Americas (Miami, 1994), the Second Summit (Santiago, Chile, 1998), the Third Summit (Quebec 2001), and the Fourth Summit (Monterrey, Mexico, 2004).

¹⁶ See, for instance: AG/RES. 2030 (XXXIV-O/04), adopted on June 8, 2004; AG/RES. 1925 (XXXIII-O/03), adopted on June 10, 2003; AG/RES. 1890 (XXXII-O/02), adopted on June 4, 2002; AG/RES. 1828 (XXXI-O/01), adopted on June 5, 2001; and AG/RES. 1701 (XXX/O/00), adopted on June 5, 2000.

¹⁷ Report of the Special Working group to Reflect on the Workings of the Inter-American Commission on Human Rights with a View to Strengthening the Inter-American Human Rights System for consideration by the Permanent Council, OEA/Ser.G/GT/SIDH-13/11 rev., December 13, 2011.

¹⁸ See: (AG/doc.. 5310/12).

¹⁹ Resolution of the OAS General Assembly adopted at the fourth plenary session held on June 5, 2012, AG/RES. 2761 (XLII-O/12, "Follow-up of the recommendations of the "Report of the Special Working Group to Reflect on the Workings of the Inter-American Commission on Human Rights with a View to Strengthening the Inter-American Human Rights System."

²⁰ Observations on the Process of Reflection on the Workings of the Inter-American Commission with a View to Strengthening the Inter-American System for the Protection of Human Rights. Available at: <http://cejil.org/comunicados/observaciones-al-proceso-de-reflexion-sobre-el-fortalecimiento-del-sistema-interamericano>

²¹ Video of the hearing, available at: http://www.oas.org/OASPage/videosasf/2012/03/032812_PVidal_4.wmv

²² The audio recordings and presentations given at the seminar on May 30, 2012 have been posted at: <http://www.oas.org/es/cidh/actividades/seminario2012audios.asp>

undertaking a process of reform. That methodology was remitted to the member states on August 3, 2012 and published that same day.²³

21. In crafting this methodology, the Commission took the Permanent Council's work schedule very much into account, in order to ensure that its Work Plan afforded ample opportunity to establish points of contact between the processes conducted by the IACHR, the Permanent Council, and other stakeholders in the IAHRs, and it stressed that its reform process would bear three basic principles in mind:
 - broad participation by all stakeholders in the process of reviewing the rules, practices, and policies implemented by the IACHR;
 - consideration of all the inputs of the various actors and independent and autonomous adoption of the decisions most likely to be conducive to the fulfillment of its mandate; and
 - the importance of rendering all its acts as effective as possible.
22. On August 25, 2012, the IACHR published four consultation modules on matters addressed in its Rules of procedure, namely: individual petitions and cases, precautionary measures, monitoring of the human rights situation in countries, promotion, and universality. It also published a fifth consultation module on other aspects relating to strengthening of the system. This method of consultation yielded a total of 11 observations by member states and observations of over a hundred organizations and individuals.
23. As part of its efforts to elicit institution-building inputs, the IACHR convened five sub regional Forums in August and September 2012, in coordination with stakeholders in the Middle American, Andean, Southern Cone, Caribbean and North American regions:
 - a. the forum in Bogotá, Colombia, on August 22 and 23, 2012²⁴;
 - b. the forum in Santiago, Chile, on September 7, 2012²⁵;
 - c. the forum in San José, Costa Rica, on September 11, 2012²⁶;
 - d. the forum in Mexico City, Mexico, on September 14, 2012²⁷; and
 - e. the forum in Port of Spain, Trinidad and Tobago, on September 23, 2012²⁸.
24. The Forums afforded ample opportunity for discussion open to all system users and parties interested in strengthening it. High-level authorities and Ministers were among the participants. All the Forums were attended by members of the Commission and its Executive Secretary. Members of the Inter-American Court of Human Rights attended the Forums in Bogotá and San José. A member of the European Court of Human Rights and Fundamental Freedoms attended the forum in Bogotá, while the Director of the Inter-American Institute of Human Rights (IIHR) participated in the one held in San José. In sum, 122 individual experts and civil society organizations participated as speakers in the Forums: 27 in Bogotá, 9 in Santiago,

²³ The methodology document is available at: <http://www.oas.org/es/cidh/mandato/docs/Metodesp.pdf>

²⁴ For information on the forums in Bogotá, see www.oas.org/es/cidh/fortalecimiento/seminarios.asp and www.oas.org/es/cidh/fortalecimiento/foros.asp.

²⁵ For information on the forum in Santiago, see www.oas.org/es/cidh/fortalecimiento/seminarios.asp#tabSantiago.

²⁶ For information on the forum in San José, see www.oas.org/es/cidh/fortalecimiento/seminarios.asp#tabCR.

²⁷ For information on the forum in Mexico, see www.oas.org/es/cidh/fortalecimiento/seminarios.asp#tabMX.

²⁸ For information on the forum in Port of Spain, see www.oas.org/es/cidh/fortalecimiento/seminarios.asp#tabTT.

32 in San José, 47 in Mexico and 7 in Port of Spain. To these are added the several dozens of organizations that attended the Forums and events.

25. The Forums were broadcast live on the IACHR website. Videos of most of the Forums and transcriptions of some of the speeches and presentations were posted on the IACHR website²⁹. The Commission will publish summaries of the presentations in a document that will contain the principal contributions received during the five Forums.
26. Parallel to the forum in Mexico, a Meeting was held in Mexico City on September 13 and 14, with the participation of delegates from 21 OAS member states³⁰ and 26 representatives of civil society, to identify trends, proposals, and opinions regarding the strengthening of the work done by the IACHR.
27. Apart from the Forums convened by the IACHR, nongovernmental organizations have arranged activities on strengthening the IACHR, with the participation of members of the Commission and its Executive Secretary. For example, on October 15, 2012, a meeting on the future of the IAHRs was held in Washington, D.C, sponsored by the Law Faculty at American University and 34 other law faculties, while, on the following day, the Due Process of Law Foundation and the Legal Defense Institute (IDL) organized a meeting on the subject in Lima, Peru.
28. The recommendations and observations of the Special Working Group, member states, civil society organizations, victims, and other IAHRs stakeholders, received during the Forums, the IACHR's open consultation process, meetings organized by other entities or organizations, and, in general, the inputs afforded by the inter-American human rights community, have provided the IACHR with invaluable ideas for perfecting the System. After evaluating them, the Commission will now proceed to describe the changes to its institutional regulations, policies, and practices that it plans to implement in the coming months. Thereby the Commission provides answers to the recommendations of the Special Working Group and other stakeholders in the IAHRs.
29. For the Commission, it is vital to continue the dialogue that has begun among all the actors in the system. It regards this paper as one more step in that process. To endow it with continuity and follow-up, the IACHR has convened two hearings for October 30, 2012, with a view to providing an additional opportunity to discuss the considerations set forth in this paper.

²⁹ The programs, documents, and audiovisual materials relating to the forums are available at <http://www.oas.org/es/cidh/fortalecimiento/seminarios.asp>

³⁰ Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Panama, Paraguay, Peru, Suriname, United States, Uruguay, and Venezuela.

I. Medium- and Long-Term Challenges and Objectives

- a. ***Prepare a report on the impact of the non-universality of the American Convention on Human Rights and inter-American human rights instruments, as well as of the recognition of the adjudicatory jurisdiction of the Inter-American Court of Human Rights, on protection and promotion of human rights in the region.***
30. In 2013, the Commission will write a report on the consequences of the fact that not all member states have ratified the American Convention and other inter-American human rights treaties. In due course, it will request the Permanent Council to schedule a meeting for the presentation of that study.
31. The Commission emphasizes that, pursuant to Article 106 of the OAS Charter, its mandate is "to promote the observance and protection of human rights" in all the member states of the Organization. Accordingly, its competence to monitor the human rights situation and hear complaints is universal and applies to all of them. The IACHR takes cognizance of petitions regarding States that have yet to ratify the American Convention, and it does so based on the American Declaration, which was signed by all 35 member states.
32. The Commission notes that currently nine member states³¹ have not signed the American Convention, 11³² have not accepted the adjudicatory jurisdiction of the Court, and one has given notice that it intends to denounce the Convention³³.
33. The Commission takes up the call to promote universal ratification of the American Convention and of the other inter-American human rights instruments, by pursuing every course of action open to it and it considers that preparation of the report referred to at the start of this section, as recommended by the Special Working Group, will help achieve that goal.
- b. ***Actively incorporate as a priority in its strategies and work on human rights promotion, the signing of, ratification of, and accession to the American Convention on Human Rights and all other inter-American human rights instruments in those countries that have not yet done so.***
34. Promoting the signature and ratification of, and accession to, the American Convention will continue to figure on the IACHR agenda and, especially, in the following activities:
- in its visits to the member states, the IACHR will pursue an agenda of dialogue with the legislative, executive, and judicial branches of government, which will systematically include a review of the status of ratification of the regional instruments and exhortation to ratify them in cases where ratification is still pending;
 - in its recommendation in cases addressed under the individual petition system, the IACHR will reiterate, wherever relevant, the need to adhere to the inter-American regulatory framework;
 - in partnership with other areas of the OAS, the IACHR will conduct an electronic dissemination campaign to raise awareness of inter-American human rights instruments;

³¹ Antigua and Barbuda, Bahamas, Belize, Canada, United States, Guyana, San Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines.

³² Antigua and Barbuda, Bahamas, Belize, Canada, United States, Guyana, San Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Grenada and Jamaica.

³³ American Convention on Human Rights. Status of signatures and ratifications. OAS Department of International Law, available at: http://www.oas.org/dil/esp/tratados_B-32_Convencion_Americana_sobre_Derechos_Humanos.htm

- the IACHR will raise funds to publish pocket-sized editions of the Declaration, the Convention, and other basic documents pertaining to the IAHRs, in the four official languages of the OAS;
- the IACHR will hold technical meetings and seminars for government representatives, civil society organizations, and other nongovernmental organizations in the member states in which ratification of the inter-American human rights instruments is still pending, with a view to opening up opportunities for dialogue and exchanges of ideas and identifying the obstacles to ratification. The Commission intends to carry out at least one activity of this kind per year; and
- the IACHR will broaden its dialogue with the member states and the political bodies of the OAS, with a view to advancing accession to the inter-American instruments³⁴.

35. Some of the activities undertaken by the Commission to promote universality are:

- visits to countries that have not ratified the American Convention, for talks between Commissioners and government authorities;
- at least since 1999, inclusion of and emphasis on this topic in speeches by IACHR Presidents at the Summits of the Americas, General Assembly sessions, presentations of the Annual Report to the Committee on Juridical and Political Affairs, and the inaugural sessions of the IACHR's periods of sessions³⁵;
- press releases celebrating States' ratifications of inter-American human rights instruments, and periodic calls for universal ratification³⁶;
- Participation of IACHR members and Executive Secretariat staff in events designed to promote ratification of the instruments of the inter-American system.

c. *Strike a better balance between the functions of promotion and protection of all human rights.*

36. The IACHR acknowledges the importance of promotion as an activity that is complementary to the defense of human rights, essential to achieve respect and safeguard of human rights. To strike a balance between all its functions, the IACHR will do everything it can to strengthen its promotional activities.³⁷ Section VI of this paper describes the courses of action that the IACHR plans to pursue to promote human rights.

³⁴ During the forum held in Mexico City on September 13 and 14, 2012, several government delegations said that it was incumbent upon the member states and the political organs of the OAS to push for universal ratification of the treaties of the inter-American system. Along with other considerations, they pointed out that this matter should be a permanent item on the OAS Secretary General's agenda in his bilateral talks with the member states.

³⁵ Speeches posted at: <http://www.oas.org/es/cidh/actividades/discursos.asp>

³⁶ Press Release N° 62/07: IACHR President urges States to ratify human rights treaties. December 18, 2007 Available at: <http://www.cidh.org/Comunicados/Spanish/2007/62.07sp.htm>

³⁷ During the forums on strengthening the IAHRs, civil society organizations and the delegations of several member states underscored the fact that the tasks of promoting and protecting human rights are inextricably intertwined and stressed that the former tends to establish mechanisms through which human rights violations are prevented or, failing that, remedied within States. Also during the forums, many players in the system acknowledged that, through the individual petition system, including precautionary measures, influence has been brought to bear on training for government agents, on the design of public policies, and on the adoption of regulatory frameworks that are consistent with inter-American human rights standards. In the forum held in Mexico City on September 13 and 14, 2012, the delegations of several member states recommended that the IACHR broaden its technical training programs and dissemination of best practices to government officials as a means of preventing human rights violations.

37. Without prejudice to those activities, the IACHR underscores the promotional and preventive purposes underlying many of the *cessation* and *non-repetition* measures it recommends to States in its reports on the merits. The *cessation* and *non-repetition* references reflect the principle whereby every time a violation is found to have been committed that finding should be accompanied by recommendations to ensure that similar violations are not repeated. That is why the individual petition system has a broader impact, going beyond just seeing that justice is done in a particular case.
38. Furthermore, inasmuch as the member states consider and adopt the standards recognized in the IACHR's reports, the impact is both promotional and preventive. The "non-repetition" measures have a generalized impact on the human rights system in a State and constitute one way of preventing future violations. Based on final reports on the merits issued by the IACHR, with similar pronouncements by the Inter-American Court of Human Rights which respond to applications by the Commission, member states have adopted such measures as:
- training members of the security forces in principles and rules for protecting human rights and limitations on the use of force;
 - including training in the prevention of torture and other cruel, inhuman, and degrading treatment in courses taken by members of the security forces, and by investigation and other bodies responsible for the administration of justice;
 - establishing public policies regarding child offenders and educational and medical and psychological assistance programs for children deprived of their liberty;
 - implementing a training program for justice system personnel, the Office of the Attorney General, police and prison officers on principles and standards for the protection of human rights;
 - Implementing a training program for medical, psychiatric, psychological and nursing and other health care personnel on principles that should govern the treatment of patients and persons with mental disabilities;
 - training civil servants responsible for attending to applications to access to information controlled by the State in respect for inter-American parameters;
 - conducting an awareness campaign to educate the public and overcome widespread violence against women;
 - implementing programs and ongoing training courses for civil servants on diligent investigation of cases of sexual violence, including a gender and ethnicity perspective.
39. Thus, by establishing the scope and content of state obligations derived from the inter-American instruments in a specific field, the organs of the IAHRs give States parameters to enable them to bring their actions into line with the inter-American standards, including the establishment of appropriate regulatory and institutional frameworks.
- d. Continue to improve international human rights standards, in particular by deepening standards on enforceability and compliance with states' obligations in the area of economic, social, and cultural rights.***
40. The IACHR will continue striving to improve international standards and to enhance enforceability standards in the area of economic, social, and cultural rights (ESCR), and to that end it will broaden the objectives and plans contained in Section 4.6.iii of its Strategic Plan.

41. The Commission notes that, to date, 16 member states have ratified the Protocol of San Salvador and that through Article 19.6 of the Protocol, the member states restricted application of the system of individual petitions to Article 8.a and 13 of that instrument.
42. Those limitations notwithstanding, the IACHR will monitor compliance with the recommendations contained in the Report entitled *Access to Justice as a Guarantee of Economic, Social, and Cultural Rights*,³⁸ which systematizes the jurisprudence of the organs of the IAHRs with respect to judicial protection of the ESCR and addresses the following topics: i) the obligation to remove economic obstacles to, so as to ensure, access to the courts; ii) elements that comprise due process of law in administrative and judicial proceedings concerning social rights; and iii) elements of the right to effective judicial protection of individual and collective social rights.
43. On July 19, 2008, the IACHR adopted the *Guidelines for Preparation of Progress Indicators in the Area of Economic, Social, and Cultural Rights*, pursuant to an OAS General Assembly resolution.³⁹ These guidelines are meant to govern the evaluation and monitoring of the ESCRs established in the Protocol of San Salvador, with a view to "provid[ing] parties, other agencies of the Inter-American system, and civil society organizations with a tool that serves not only as a basis for the presentation of reports under the Protocol,⁴⁰ but also for the design of a permanent internal evaluation mechanism for each State party." The IACHR will also continue to play an active part in the work of the Special Working Group to Examine the National Reports Envisioned in the Protocol of San Salvador, a body established at the General Assembly session of 2007.⁴¹
44. Under the individual petitions system, at least since 2001, the IACHR has approved admissibility reports on petitions alleging violations of economic, social, and cultural rights, such as the right to social security,⁴² health,⁴³ education,⁴⁴ work,⁴⁵ and workers' right to organize trade unions.⁴⁶ The Commission has also approved admissibility reports on cases alleging violations of judicial guarantees, judicial protection, and access to information in connection with the right to a healthy environment⁴⁷ and just, equitable, and satisfactory working conditions.⁴⁸ Analysis of the

³⁸ Available at <http://www.cidh.org/countryrep/AccessoDESC07sp/Accessodescindice.sp.htm>

³⁹ Through resolution AG/RES. 2074, adopted at its thirty-fifth regular session, the OAS General Assembly asked the IACHR to propose to the Permanent Council "the progress indicators to be used for each group of protected rights" in the Protocol of San Salvador.

⁴⁰ Article 19.1 and 2 of the Protocol of San Salvador reads as follows: Pursuant to the provisions of this article and the corresponding rules to be formulated for this purpose by the General Assembly of the Organization of American States, the States Parties to this Protocol undertake to submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this Protocol. All reports shall be submitted to the Secretary General of the OAS, who shall transmit them to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture so that they may examine them in accordance with the provisions of this article. The Secretary General shall send a copy of such reports to the Inter-American Commission on Human Rights.

⁴¹ General Assembly resolution AG/RES. 2262 (XXXVII-O/07). See <http://www.cidh.oas.org/annualrep/2007sp/ANEXO.4.RESOLUCIONES.pdf>.

⁴² IACHR, Admissibility Report N° 03/01, Case 11.670: Amílcar Menéndez, Juan Manuel Caride et al (Social Security system) Argentina, January 19, 2001; paragraph 67.1.

⁴³ IACHR, Admissibility Report N° 76/09, Petition 1473-06: La Oroya Community, Peru, August 5, 2009, paragraph 74.

⁴⁴ IACHR, Case No. 2137: Jehova's Witnesses, Argentina, November 18, 1978; operative point No. 1

⁴⁵ IACHR, Admissibility Report N° 121/09, Petition 1186-04: Petition 1186-04: Opario Lemoth Morris et al (Miskito Divers), Honduras, November 12, 2009, paragraphs 46-50.

⁴⁶ IACHR, Admissibility Report N° 23/06, Petition 71-03: Union of Ministry of Education Workers (ATRAMEC), El Salvador, March 2, 2006; paragraph 31.

⁴⁷ IACHR, Admissibility Report N° 69/04, Petition No. 504/03: Community of San Mateo de Huanchor and its members, Peru, October 15, 2004, paragraph 66. In its admissibility report, the IACHR points out that there was unwarranted

merits of these and other similar cases will enable the IACHR to develop, approve, and deepen standards of enforceability and the scope of the obligation to progressively develop ESCRs.

45. ESCRs have been and will continue to figure prominently in the IACHR's thematic reports.⁴⁹ By acquiring sufficient resources, the IACHR will make every effort to strengthen its capacity to ensure that analysis of ESCRs is a cross-cutting feature of all its pertinent thematic reports and new specific reports are prepared on the subject of ESCRs. Furthermore, a substantial portion of the IACHR's country reports is devoted to evaluating and monitoring the exercise of ESCRs.⁵⁰ The IACHR will strive to enhance and extend its analysis of these rights when it prepares its country reports.

e. Strengthen its mechanisms for consultation with all users of the system.

46. The Commission recognizes the importance of dialogue with all users of the system and will explore new additional mechanisms to deepen that dialogue. On the regulatory side, the Commission is contemplating adding to Article 79 of its Rules of Procedure a rule establishing that it will make amendments to those Rules of procedure in consultation with the different stakeholders in the IAHRs.
47. The IACHR will request the funds needed to hold an annual meeting with the participation of representatives of civil society, delegations from the States, and independent experts with a view to discussing ways to improve its mechanisms, policies, and practices.⁵¹
48. The Commission will formally propose to the Permanent Council that a special meeting of that organ be set aside for the Commission to present its Annual Report and that it allow ample time for a constructive and fruitful dialogue between the Commission and the member states regarding the contents of that report. Likewise, the Commission will formally propose to the competent authorities that more time be assigned for the presentation of its Annual Report to the OAS General Assembly.
49. In that way, the Commission plans to participate in the following Forums for dialogue with users of the system in 2013:

delay in complying with administrative resolutions ordering the removal of the tailings and in the criminal proceedings. For that reason, it concludes that the American Convention's requirements regarding exhaustion of domestic remedies are not applicable and instead applies the exception contemplated in Article 46.2.c of that instrument.

⁴⁸ IACHR, Admissibility Report N° 121/09, Petition 1186-04:Petition 1186-04: Opario Lemoth Morris et al (Miskito Divers), Honduras, November 12, 2009, paragraphs 49 and 50:

⁴⁹ See, for instance, the report entitled *The Work, Education, and Resources of Women: The Road to Equality in Guaranteeing Economic, Social, and Cultural Rights*, OEA/Ser.L/V/II.143, Doc. 59, November 3, 2011; *Access to justice for Women Victims of Sexual Violence: Education and Health*, OEA/Ser.L/V/II., Doc. 65, December 28, 2011, pp. 28 to 33; *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, OEA/Ser.L/V/II. Doc. 64, December 31, 2011, pp. 199 to 218.

⁵⁰ See the reports *Justice and Social Inclusion: The Challenges of Democracy in Guatemala*, OEA/Ser.L/V/II.118, Doc. 5 rev. 1, December 29, 2003; *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser.L/V/II.123, Doc. 6 rev. 1, October 26, 2005; *Access to Justice and Social Inclusion: the Road towards Strengthening Democracy in Bolivia*, OEA/Ser.L/V/II, Doc. 34, June 28, 2007; *Honduras: Human Rights and the Coup d'état*, OEA/Ser.L/V/II, Doc. 55, December 30, 2009; *Democracy and Human Rights in Venezuela*, OEA/Ser.L/V/II, Doc. 54, December 30, 2009.

⁵¹ In the forum held in Mexico on September 13 and 14, 2012, several delegations of the member states and representatives of civil society urged that conditions be generated that would allow the Commission to hold this type of meeting at least once a year.

- dialogue with the member states in the Committee on Juridical and Political Affairs (first quarter 2013);
- presentation of the Annual Report to the Committee on Juridical and Political Affairs, the Permanent Council, and the General Assembly (May to June, 2013);
- presentations by Commissioners and/or the Executive Secretariat to the Committee on Juridical and Political Affairs, the Permanent Council, and the General Assembly (approximately nine presentations);
- meetings with civil society during each period of sessions (one general meeting per period of sessions);
- working visits and country visits.

50. Finally, the IACHR will institutionalize one meeting a year with each member state at OAS Headquarters or in the country concerned, depending on whether or not an invitation is extended and on budgetary resources, with a view to completing an agenda that includes, inter alia, the following items:

- providing information to all the officials selected by the State on the IACHR's procedures and mechanisms;
- examining the entire portfolio of petitions and cases;
- examining the entire portfolio of precautionary measures; and
- exploring possible opportunities for friendly settlements.

f. Continue to periodically divulge the criteria used to define its programmatic priorities and measure their results.

51. Pursuant to this recommendation, the IACHR will request an annual meeting of the Permanent Council to present the results of its Strategic Plan, which was crafted for the purpose of providing clear and transparent insight into its strategic and programmatic vision and priorities and in order to explain the resources needed for it to comply in a timely manner with all aspects of its mandate. The Strategic Plan contains a robust set of indicators for measuring results. Thanks to them, the IACHR is constantly evaluating management and performance. The IACHR has established its strategic objectives for 2011-2015 as follows:

- a. promoting full compliance with its decisions and recommendations;
- b. facilitating victims' access to the Commission and running with optimum efficiency the individual petition system's processes and procedures;
- c. staying current on the human rights situation in the member states of the Organization and taking the action that the situation dictates;
- d. responding in all its activities to the specific needs of groups that have historically been victims of discrimination;
- e. promoting the observance of human rights, knowledge and understanding of the system, and universal acceptance of the regional human rights instruments;
- f. publicizing the Commission's work and, in so doing, instilling knowledge of human rights;

- g. procuring sufficient resources to discharge its mandate and achieve its other strategic objectives; and
 - h. striking a balance between the scrupulousness and predictability needed to maintain and underscore a situation in which legal certainty is at stake and the flexibility needed to adapt and respond to the needs of victims of human rights violations.
52. This will allow monitoring of the efforts undertaken by the IACHR. On March 1 and 2, 2011, it presented its Strategic Plan at a technical meeting held in Ottawa, which was attended by OAS member states and permanent observers. The Strategic Plan was also distributed at a meeting in San Salvador on June 8, 2011. Since then, the IACHR has made a habit of referring to its Strategic Plan framework at all follow-up meetings with the Organization's technical and political bodies. The Commission will continue to conduct these kinds of activities, as well as explore additional ways of disseminating its programmatic priorities and measuring their results.
- g. Continue to disseminate annual statistics on petitions and requests for precautionary measures received; the total number of cases processed; the number of working groups in the IACHR Executive Secretariat, as well as their functions and staff, among other aspects.***
53. The Commission concurs with the content of this recommendation, as it is continually engaged in a process of improving the dissemination of statistics concerning the petitions and requests for precautionary measures it takes cognizance of and the decisions taken regarding them. Chapter III of the Commission's Annual Report contains a detailed explanation of the number of petitions and requests for precautionary measures received, country by country; admissibility reports and reports on the merits that it decides to publish; its resolutions to archive cases; decisions taken to grant precautionary measures; and its decisions to submit cases to the jurisdiction of the Inter-American Court. The statistical information in the Annual Reports on decisions with respect to petitions, cases, and requests for precautionary measures are posted on the IACHR website.⁵²
54. The IACHR's management of statistical information has kept abreast of new developments in information management systems, particularly with the creation of the Document Management System (DMS) and the Petitions and Cases Management System (PCMS). The Commission will continue to enhance its ability to gather and publish information of importance for users of the system. The IACHR is currently working on development of a users' portal through which they will be able to check the procedural status of matters before the IACHR, as well as to give notice of and receive documents regarding the processing of petitions, cases, and precautionary measures.
55. As for the number of working groups in the Executive Secretariat, their functions, and the personnel comprising them, in 2011, for the sake of transparency with regard to the workings of the Commission, the IACHR published a page on its website showing each staff member's curriculum vitae, together with an account of his or her functions, and the name of the group or section in which she or he works. The current structure of the Executive Secretariat is essentially shaped by the following three considerations: consolidation of specialized functional units; equitable distribution of the workload by combining geographical and procedural criteria; and the strengthening of middle management, responsible for the juridical, procedural, and administrative aspects of management. The idea underlying the consolidation of functional

52

See <http://www.oas.org/es/cidh/informes/anuales.asp>.

units is that specialization makes it possible to maximize output of admissibility reports and reports on the merits by assigning those functions to teams (Sections), established according to geographical criteria, without thereby detracting from the special attention required by other areas. The reorganization carried out in 2008 created a structure divided into the following Sections:

- Office of the Executive Secretary, which tends to all Commission members and manages executive affairs (Executive Secretary, Deputy Executive Secretary, one P-3, one P-2 and one administrative assistant G-4 part-time);
 - Registry, which receives, and performs an initial evaluation of, petitions (part-time of a P-4, one P-1, one consultant and 2 administrative assistants G-5);
 - Regional Sections, responsible for petitions during the admissibility phase and cases in the merits stage, follow-up to recommendations, and monitoring of the human rights situation in the 35 member states (one part-time P-5, two part-time P-4, two P-2, three P-3 –two P-3 full time and one part-time-, four P-2, two P-1 and two consultants, and five G-5 administrative assistants);
 - The Court Group, responsible for jurisdictional procedures before the Court (two P-2, one consultant and one administrative assistant);
 - The Protection Group, responsible for examining requests for, and keeping track of, precautionary measures (one part-time P-3, one P-1 and two G-5 administrative assistants, one full time and one part-time);
 - The Friendly Settlements Group responsible for providing technical support to the IACHR with respect to conflict resolution and, during an initial phase, compiling best practices (two P-1);
 - Support Personnel for the Rapporteurships and Thematic Units, responsible for attending to the thematic areas of the IACHR (one part-time P-5, three part-time P-4; two P-3s, one full time and one part time; one P-2; three P-1s, two consultants and one part-time administrative assistant). Additionally, the Team of the Special Rapporteurship for the Freedom of Expression is composed of the Rapporteur, two P-2, two P-1 and a consultant;
 - The Administrative and Financial Services Section, responsible for carrying out logistical, financial, systemic, fund-raising, and accountability activities (Half of the time of one P-4, two P-3s, two P-1s, four G-6 administrative assistants, one G-5 administrative assistant, and one G-4 administrative assistant).
56. Following this recommendation by the Special Working Group, the Commission has already posted its organizational chart on its website.⁵³
- h. Permanent functioning of the office of the President of the IACHR In the near-term, draw up, in collaboration with the OAS General Secretariat, a proposal regarding the permanent functioning of the office of its president at headquarters.***
57. The IACHR is currently seeking the funds needed to finance a full-time President and will present a proposal to that end to the General Secretariat. To date, the Governments of Chile

⁵³

See http://www.oas.org/es/cidh/docs/pdfs/Spain_CIDH_Org_11Oct2012%20v1.pdf

and Mexico have contributed US\$25,000 and 35,000, respectively, toward implementation of this measure.

i. Incorporate all rapporteur's reports under a single chapter of its annual report.

58. In order to strengthen the IACHR's promotional function and its Thematic Rapporteurships, and to achieve greater uniformity in the dissemination of its Annual Report, the Commission will adopt two complementary measures in response to the above recommendation, taking into account suggestions made by civil society⁵⁴ and the States:⁵⁵
- Incorporating in the Section on "Activities of the Rapporteurships" in Chapter II of the IACHR's Annual Report a summary of the activities of each of the Rapporteurships, Special Rapporteurships, and Thematic Units; and
 - Forwarding to the General Assembly, together with the IACHR's Annual Report, all the thematic or regional reports written or published during the year by all the Rapporteurships, Special Rapporteurships, and Thematic Units.
59. The IACHR's Annual Report, which is explicitly envisaged in the American Convention itself,⁵⁶ as well as in the Commission's Rules of Procedure,⁵⁷ is a tool through which the IACHR identifies best State practices, analyzes regional problems within its sphere of competence, and summarizes the international standards derived from legal doctrine and the jurisprudence currently in effect.
60. All the Rapporteurships and Thematic Units of the IACHR publish reports periodically and, generally speaking, they appear throughout the year, as they are approved, attract particular attention, and respond to appropriate timeliness criteria. In 2011, 11 thematic reports were adopted.⁵⁸
61. The decisions taken by the IACHR with regard to this recommendation will make its practices more consistent, draw attention to the work of the different thematic units and rapporteurships, and make it possible to maintain the impact and significance of the promotional work they perform, it being understood that this recommendation closely ties in

⁵⁴ On January 27, 2012, following the Permanent Council's adoption of the Working group's recommendations, more than 90 human rights organizations signed a [communiqué](#) stating that "We civil society organizations express our vigorous objection to a series of recommendations, included in the debate at the last minute and without civil society being given an opportunity to participate, which, while appearing to be couched in general terms, are designed to restrict the work and effectiveness of the Rapporteurship for Freedom of Expression." In March 2012, the International Coalition of Human Rights Organizations in the Americas, representing more than 700 civil society organizations, mentioned during a public hearing before the IACHR "the attempt by several member states of the Organization of American States (OAS) to weaken the work of the IACHR as such." Civil society has been united in its rejection of any attempt to weaken the work of the Rapporteurships and, in particular, that of the Special Rapporteur for freedom of Expression. On this, see: [IFEX-ALC, Reporteros Sin Fronteras y la Asociación Mundial de Radios Comunitarias \(AMARC\), International Press Institute, Alianza Regional por la Libertad de Expresión e Información, Comité para la Protección de Periodistas, the Instituto Prensa y Sociedad \(IPYS\) and the Consejo de la Prensa Peruana, Article 19, Fundación Pro Acceso](#), and the [Association of Caribbean Media Workers](#).

⁵⁵ At the meeting of the Permanent Council on January 25, 2012, several delegations expressed support for the Rapporteurships and in particular for the Special Rapporteurships. They stated that it was their understanding that the recommendations had been adopted solely with a view to strengthening, and not weakening, the mandate or the work of the IACHR and its Special Rapporteurships.

⁵⁶ American Convention on Human Rights, Article 41.g..

⁵⁷ Rules of Procedure of the IACHR, Article 59.

⁵⁸ Available at: <http://www.oas.org/es/cidh/informes/tematicos.asp>.

with those referring to the promotion of human rights.⁵⁹

⁵⁹

Bearing in mind the important function performed by the rapporteurships and thematic units, the IACHR included in its recent consultations with the stakeholders in the inter-American human rights system several matters relating to the promotion of human rights, the work of the rapporteurships, and the strengthening of national authorities' technical capacities (see <http://www.oas.org/es/cidh/fortalecimiento/consulta.asp>).

II. Precautionary measures

- a. ***Define and disseminate more precise objective criteria for granting, reviewing, and, as applicable, extending or lifting precautionary measures.***
62. The IACHR considers it appropriate to adopt reasoned resolutions for the decisions to grant and lift precautionary measures.⁶⁰ These resolutions would include a description of the facts presented by the requesters of the measure and the IACHR's analysis with respect to the requirements of seriousness, urgency, and irreparability. If there is a response from the State, the reasoning of that response would also be part of the resolution and would be transmitted to the parties.⁶¹
63. The IACHR will undertake to develop and subsequently publish a digest (i.e. a practice guide) that systematizes and explains the standards set in precautionary measures and best practices in designing protective measures. The digest will make it possible to disseminate the decisions on precautionary measures, how they have evolved, and the practices associated with them. The production of this digest is included in Action Plan 1.4 of the Strategic Plan (Identifying standards and developing manuals, studies, and protocols), and the IACHR is in the process of seeking resources to finance it.

⁶⁰ Since it was established, the IACHR, pursuant to its mandate "to promote the observance and protection of human rights" in the terms of Article 106 of the Charter of the Organization, and to assist the States in carrying out their inescapable duty of protection, began the practice of asking the States to adopt measures urgently in order to prevent irreparable harm and human rights violations with respect to certain persons or groups of persons. The inclusion of precautionary measures in the IACHR's Rules of Procedure and their progressive development through practice answer to the historical pattern of constructing protection mechanisms particular to the inter-American system. This provision emanates from the IACHR's function of overseeing the implementation of the commitments assumed by the States parties, established in Article 18 of the Commission's Statute and Article 41 of the American Convention, and it rests on the general obligation of the States to respect and ensure human rights (Article 1(1) of the American Convention), to adopt the legislative or other measures necessary to give effect to human rights (Article 2), and to carry out the obligations contracted pursuant to the Convention and the OAS Charter in good faith. The precautionary measures implemented by the States have helped safeguard the lives and integrity of thousands of persons, which has been highlighted by the States, civil society, and the international community as a whole. The OAS General Assembly has "encourage[d] member States to: ... Follow up on the recommendations of the IACHR, including, *inter alia*, precautionary measures." See, AG/RES. 2227 (XXXVI-O/06) Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights, approved in the fourth plenary session, held June 6, 2006. In the Forums organized by the IACHR in August and September 2012 on Strengthening of the Inter-American System, representatives of the States, victims of human rights violations, members of civil society and of international organizations, among others, ratified the importance of the mechanism for safeguarding fundamental rights.

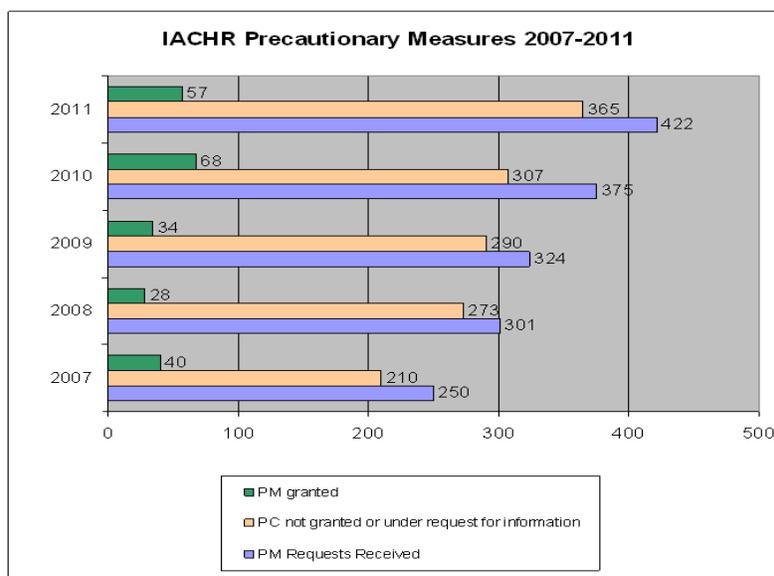
⁶¹ The IACHR receives more than 400 requests for precautionary measures each year, and is actively following up on more than 585 matters (measures granted and those situations on which information is being requested). In 2011 the IACHR received 5,210 communications and sent out 2,663 pieces of correspondence. In order to evaluate each request, consult with the different working groups within the Executive Secretariat, and consult with the Commissioners, the protection group of the IACHR has a coordinator (who also coordinates the work of the Rapporteurship on Human Rights Defenders), one specialist, and two administrative assistants (one of whom works part-time). Accordingly, in order to carry out the activities proposed in relation to the recommendations on precautionary measures it would be necessary to expand the staff in the group. This is especially important for preparing reasoned resolutions on granting precautionary measures, so that they can be prepared diligently, in timely fashion, and with the attention they merit so as to have a useful effect.

64. The members of the Commission and the staff of the Executive Secretariat will continue participating in seminars, workshops, talks, and other events to inform the users of the system of the grounding of precautionary measures, the historical development of its decisions, the criteria for adopting decisions to grant and lift measures, and the practice in reviewing and monitoring them, among other aspects. These issues will also be on the agenda of the annual working meetings that the Commission proposes to institutionalize with each member State of the Organization (see paragraph 50).

b. Confine the assessment for granting precautionary measures to the “seriousness” and “urgency” of situations, and avoid considerations on the merits of the matter.

65. The IACHR agrees with and values this recommendation.⁶² It considers that issuing reasoned resolutions on granting and lifting precautionary measures will allow for greater understanding of the distinction between the elements of urgency and seriousness and aspects related to the merits of a matter. Given their scope and nature, precautionary measures seek to prevent the consummation of harm whose seriousness will make impossible reparation for a right sought to be protected.⁶³

66. The following graph illustrates the exceptional nature of the decisions to grant precautionary measures in the last five years (2007 to 2011):



⁶² The recommendation reaffirms what is already established at Article 25(9) of the current Rules of Procedure of the IACHR, which states: “The granting of such measures and their adoption by the State shall not constitute a prejudgment on the violation of the rights protected by the American Convention on Human Rights or other applicable instruments.”

⁶³ The IACHR has followed the case-law of the Court in that “the Court cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons. Such other issues are properly brought before the Court only through contentious cases...” I/A Court H.R., *Matter of James et al. regarding Trinidad and Tobago*. Order of the Inter-American Court of Human Rights, August 29, 1998, Sixth considering paragraph; *Matter of Belfort Istúriz et al.*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights, April 15, 2010, Ninth considering paragraph; and *Matter of Eloisa Barrios et al.* Provisional measures regarding Venezuela. Order of the Inter-American Court of Human Rights, February 4, 2010, Third considering paragraph.

67. A large percentage of the requests for precautionary measures submitted to the IACHR are in the stage in which the Commission requests information to evaluate the requirements of seriousness and urgency and the risk of irreparable harm, or measures have not been granted considering that the facts alleged correspond to situations that do not fit these requirements and that raise issues of the sort decided in the individual petition system. Most of the Court's decisions on provisional measures and the IACHR's decisions on precautionary measures have been aimed at protecting the rights to life and humane treatment of persons or communities with a broad conceptualization of those rights. Of 227 precautionary measures granted from 2007 to 2011, 29 were aimed at preserving the purpose of a petition or case pending before the IACHR; of these, 17 had as their aim to suspend execution of a death sentence, and six to avoid the return of a person to a country where he or she was going to be subject to capital punishment, mistreatment, persecution, or other situations in violation of fundamental rights.
68. As a general rule, precautionary, provisional, or interim measures are established in the procedural rules of the leading tribunals and quasi-judicial organs authorized to hear allegations of human rights violations.⁶⁴
- c. *Define objective criteria or parameters for determining "serious and urgent situations" and the imminence of the harm, taking into account the different risk levels.***
69. The Commission recognizes the importance of this recommendation and will continue making efforts to disseminate the criteria and parameters it uses to evaluate the elements of seriousness and urgency in the analysis of requests for precautionary measures. In addition to incorporating the analysis of these requirements in the reasoned resolutions on the granting or lifting such measures, it will produce and publish practical guides on the subject and will redouble its efforts at dissemination (see paragraph 63 and 64).
70. Seriousness is analyzed in light of the threat of harm sought to be prevented, and urgency is determined by a reasonable presumption that the risk or threat involved may materialize, which requires that the response be immediate in order to prevent it. In any event, in order to fulfill its mandate, the IACHR must perform such analysis with a reasonable level of flexibility, aiming to meet the necessity of protecting the rights enshrined in the Convention.
71. The criteria that the IACHR applies at present are reflected in the two reports on the situation of human rights defenders in the Americas⁶⁵, in the section on precautionary measures in the 2011 Annual Report⁶⁶, and at the webpage where one finds the summaries of the precautionary

⁶⁴ Several organs of the universal system provide for this mechanism: Rules of Procedure of the Human Rights Committee, Rule 86, U.N. Doc. CCPR/C/3/Rev.3 (1994); Rules of Procedure of the Committee against Torture, Rule 108(1), U.N. Doc. CAT/C/3/Rev.3 (1998); Rules of Procedure of the Committee on the Elimination of Racial Discrimination, Rules 94, U.N. Doc. CERD/C/35/Rev.3, 01/01/89 (1989); Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Article 5, U.N. Doc. A/54/49 (Vol. I) (2000). All the regional systems have the power to issue interim or provisional measures, as in the American Convention on Human Rights with respect to the Inter-American Court of Human Rights (American Convention on Human Rights, Article 63(2)); Rules of Procedure of the European Court of Human Rights, Rules 39; Protocol to the African Charter on Human and Peoples' Rights, Article 27(2), OAU Doc. AU/LEG/EXP/AFCHPR/PROT (III) (1998). Rules of Procedure of the African Commission on Human and Peoples' Rights, *Rule 111 – Provisional Measures*.

⁶⁵ IACHR, Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124, Doc. 5 rev. 1, March 7, 2006, paragraph 244; IACHR. Second Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.Doc. 66, December 31, 2011, Chapter V Section B.6 Mechanisms of protection of human rights defenders within the Inter-American Commission on Human Rights: Precautionary Measures.

⁶⁶ Inter-American Commission on Human Rights, Annual Report 2011, Chapter III.C.1. Precautionary measures granted by the Commission in 2011.

measures granted, under the title “Precautionary Measures Granted.”⁶⁷ In those publications the IACHR publicized the aspects it takes into consideration when analyzing the elements of seriousness and urgency.⁶⁸ The IACHR will continue improving the mechanisms for publicizing these criteria.

d. *In order to reinforce the temporary nature of the measures requested, clearly establish, in consultation with the parties, a work plan for the periodic review of precautionary measures with its corresponding schedule.*

72. The IACHR maintains its commitment to continue periodically reviewing the precautionary measures in force, at the request of a party or on its own initiative, in order to evaluate whether they should be maintained, modified, or lifted. This review is done by receiving information submitted by the parties, and holding hearings and working meetings at headquarters and in the countries.

73. As a general rule, a precautionary measure remains in force so long as the situation that gave rise to the request is shown to persist, and is lifted when the situation that gave rise to it has ceased to exist, and when it is shown that the mechanisms implemented to remove the risk factors that gave rise to it have been effective. Nonetheless, the IACHR could establish a specific time frame when it grants a precautionary measure, depending on the characteristics of each matter.

74. The Commission intends to publish a plan to review inactive matters at its webpage⁶⁹.

75. The Commission may consider other alternatives for monitoring and evaluating precautionary measures, including on-site visits to verify the evolution of the situation of risk and the implementation of measures of protection by the State, among other aspects.

76. The IACHR will continue holding technical meetings with the States to apprise them of the procedural status of the precautionary measures and the actions that the Commission is implementing to address their concerns. The IACHR will establish this practice as an annual activity (see paragraph 50).

e. *In extremely serious and urgent cases where precautionary measures have been requested without first soliciting information from the State, review such measures as soon as possible in consultation with the State.*

⁶⁷ See <http://www.oas.org/es/cidh/decisiones/cautelares.asp>

⁶⁸ In those publications the IACHR established that on analyzing the element of seriousness it has taken the following aspects into account: the content of the threats received and the identification of their origin; the antecedents of acts of aggression against persons in an analogous situation; the direct acts of aggression perpetrated; an increase in the threats; advocacy of or incitement to violence against a person or group of persons because of their association with or belonging to a group or community; the action or lack of action by the State to address the situation of risk posed, and the effectiveness of such measures if any, among others. With respect to the element of urgency, the IACHR has taken into account the following criteria, among others: the existence of cycles of threats, attacks, or other risk factors; the continuity and proximity in time of those factors; the intensity of the risk factors that makes it necessary to adopt measures of protection immediately; and other particular and contextual elements of the country, such as the existence of an armed conflict, the existence of a state of emergency, the degrees of effectiveness, impartiality, and independence in the operation of the judicial system, and the checks brought to bear by the Executive over the other branches of government.

⁶⁹ Beginning in 2011, the IACHR undertook to clear up records of inactive matters. In the precautionary measures with long periods of inactivity letters were sent to the parties asking that they submit their observations on the possibility of lifting the measures, resulting in the lifting of 70 precautionary measures. In addition, 207 matters were closed that were in the stage of request for information from the parties, without any procedural activity for a considerable time.

77. The IACHR will implement this recommendation and will adopt a practice by which, when it grants a precautionary measure without having first requested information from the State, it will proceed to request information from the parties as soon as possible in order to review whether it should remain in force, be modified, or be lifted during its next period of sessions. The review would be called for after receiving substantive information from the parties on the adoption of the precautionary measures and the design of the measures to be implemented established to address the situation of risk.
- f. *Examine the rules on decision-making in cases of requests for precautionary measures where it has not been possible to request information from the State so that said measures can be adopted by a special (qualified) majority.***
78. All Commissioners are consulted on whether to grant, not grant, or lift precautionary measures. That decision is adopted by absolute majority after detailed considerations by electronic means, including virtual deliberation. The only scenario in which a member of the IACHR does not participate in the consideration and decision of a precautionary measure is when he or she is disqualified from doing so under the Rules of Procedure.⁷⁰
79. To make this process clearer, the IACHR will include the votes of its members in the resolutions on granting and lifting precautionary measures, as established in Articles 18 and 19 of the IACHR's Rules of Procedure.⁷¹
- g. *State and give reasons for the legal and factual elements considered for granting, reviewing, and, as appropriate, extending or lifting precautionary measures.***
80. As expressed in response to other recommendations, the IACHR shall adopt resolutions for the decisions to grant and lift precautionary measures; in those resolutions it will present the reasoning and the legal and factual considerations on which it bases its decision.
- h. *Improve the mechanisms for determining and individually identifying beneficiaries of precautionary measures.***
81. In order to address this recommendation, the IACHR, in addition to the criteria already established in the Rules of Procedure, will incorporate the criterion that the beneficiaries can be determined by geographic location or when one can identify the collective group, people, community, or organization to which they belong, and they are in a situation of risk as a result of being part of that community or group.
82. In this context, the IACHR and the Inter-American Court have found that measures of protection are not always for individual persons; the subject of protection may also be a collective or group that is at risk of suffering irreparable harm. Accordingly, the organs of the inter-American human rights system have developed criteria that enable the States to determine, in such measures, the group of persons to protect, and to adopt measures of protection that take account of their collective nature.
83. Collective measures are generally related to persons deprived of liberty, persons who are in a hospital, workers of an organization, or indigenous or tribal peoples and communities.⁷²

⁷⁰ Rules of Procedure, Article 17(2).

⁷¹ Rules of Procedure, Articles 18 and 19.

⁷² I/A Court H.R., *Case of Kichwa Indigenous People of Sarayaku v. Ecuador*. Judgment of June 27, 2012. At paragraph 231 the Court noted that: "On previous occasions, in cases concerning indigenous and tribal communities or peoples, the Court has declared violations to the detriment of members of indigenous or tribal communities and peoples."

84. The IACHR recognizes the challenges States face when it comes to implementing measures of this type because they do not answer to the individual protection scheme but require different forms of implementation and, in the case of indigenous or tribal peoples and communities, they must be culturally appropriate. The IACHR observes that several States have developed successful practices of protecting collective groups whose measures have been worked out in conjunction with the group affected and their representatives. The IACHR will produce manuals that will contain summaries of the case-law in this area and identify good practices developed by the States in such situations to serve as guidance for the users of the inter-American human rights system in determining the beneficiaries and implementing collective measures of protection.
- i. Confirm, where appropriate, that potential beneficiaries of precautionary measures have granted authority or consent for requests to be lodged on their behalf.*
85. The IACHR is considering including in its Rules of Procedure the terms “authorization” and “consent” (“*consentimiento*”) in addition to the element of express consent (“*expresa conformidad*”) of the potential beneficiaries which, according to Article 25(4)(c), the Commission may take into account when considering requests for precautionary measures.
86. In the event it is not possible to receive the beneficiaries’ consent, the IACHR will weigh the reasons given and will take them into account when analyzing the matter. In the event that the IACHR grants that measure, it shall state the reasons that are the basis for the decision in the respective resolution.⁷³
- j. Grant a reasonable amount of time for states to implement precautionary measures, taking into consideration, not only the seriousness and urgency, but also the nature and scope of the measures, the number of beneficiaries, and, the overall circumstances of the case.*
87. The IACHR is willing to reinforce its efforts to address the recommendation regarding time frames, but it considers that none of them should have the effect of thwarting the useful purpose of precautionary measures. Precautionary measures and requests for information from the States constitute an early warning that should motivate the State to deploy its system of protection. For this reason, the time frames established on granting a precautionary measure for the State to report on its implementation range, depending on the circumstances of each case, from 48 hours⁷⁴ to 20 days.

However, international legislation concerning indigenous or tribal communities and peoples recognizes their rights as collective subjects of International Law and not only as individuals. Given that indigenous or tribal communities and peoples, united by their particular ways of life and identity, exercise certain rights recognized by the Convention on a collective basis, the Court points out that the legal considerations expressed or issued in this Judgment should be understood from that collective perspective.” (*Case of the Awas Tingni Mayagna (Sumo) Community v. Nicaragua; Case of the Moiwana Community v. Suriname, Preliminary Objections, Merits, Reparations and Costs; Case of the Sawhoyamaya Indigenous Community v. Paraguay; Case of the Saramaka People v. Suriname, Preliminary Objections, Merits, Reparations and Costs; and Case of Xakmok Kasek v. Paraguay*).

⁷³ Some cases in which the IACHR could consider granting a precautionary measure without having the consent of the possible beneficiary include those involving uncontacted indigenous peoples, persons whose health conditions keep them from expressing themselves or communicating, persons deprived of liberty in a situation of restricted communication or isolation, and children and adolescents in certain situations, among others.

⁷⁴ The IACHR has asked the States to provide information within 48 or 72 hours in matters related to persons sentenced to death, where the request is tied to a petition, or persons who are to be returned imminently to a country where they may be subject to capital punishment or cruel, inhuman and degrading treatment, or when there is a report concerning an alleged forced disappearance, among others. The IACHR may also request information under the Inter-American Convention on Forced Disappearance of Persons for those countries that have ratified that instrument. The

88. Heeding this recommendation, when the situation so merits, the IACHR will require timelines of implementation consulted upon with the parties involved; this will enable it to evaluate the reasonableness of the deadlines in each specific matter.
89. The State should cooperate in the process of monitoring implementation of the precautionary measures by periodically presenting information on their implementation. In recent years, different models have been used for written follow-up to precautionary measures. Some models used in the past require the States to submit a report every 30 or 45 days, in the manner of the provisional measures ordered by the Inter-American Court. The most recent models for follow-up leave the pace of submission of information to the exchanges of viewpoints between the parties. After the State's first response, a copy of this report is sent to the requester for his or her observations with a deadline that varies depending on the urgency of the situation, but which is generally 30 days. Once its response is received it is sent to the State, for it to do likewise.
90. These exchanges enable the IACHR to keep tabs of progress in implementing precautionary measures on a monthly basis, and at even shorter intervals during periods in which the situation demands more frequent exchanges. The degree of the IACHR's involvement in these exchanges varies depending on the circumstances of each matter. In many cases the mere exchange of observations under the scrutiny of the IACHR encourages the parties to overcome disagreements or failures to find common ground in implementing precautionary measures. In other cases, the circumstances of the persons protected lead the IACHR to expressly ask the State to take certain security measures or to present certain information immediately.
- k. *Establish that the beneficiaries' refusal to accept precautionary measures, their misuse thereof, or a change in the circumstances that prompted them shall be cause for lifting them.***
91. The Commission will address this recommendation by periodically reviewing the precautionary measures in force, either at the request of a party or on its own initiative. Changes in circumstances due to the passage of time, the refusal of the beneficiaries to receive a given measure of protection they do not consider suitable, the inadequate use of measures of protection, among other situations, are evaluated in the monitoring procedure of the IACHR, hearing the observations of both parties.
92. In order to carry out this recommendation, the Commission needs the active participation of the parties presenting substantiated information that contains the considerations that, in their view, could give rise to the lifting of a precautionary measure. Through this and other types of monitoring mechanisms the IACHR can learn of any improper use of a mechanism of protection and make the related recommendations; it can also find out about failings in the protection systems implemented by the States.
93. The collaboration of the parties and the fluidity of the information they provide is particularly important in the cases in which persons at risk reject certain mechanisms or systems of protection; in some cases that refusal may be due to the perception that the protection offered accentuates the risk. This can be particularly so when the initial threat reported to the IACHR comes from security forces.

94. In these and other complex cases the Commission is open to the possibility of making visits to the countries to hold working meetings on precautionary measures in force in order to receive information and arguments from the parties on the need to maintain or lift a precautionary measure, to facilitate understanding of the implementation of the measure, and to monitor compliance.
95. In the manuals and guides on practices, doctrine, and decisions that the IACHR plans to publish, experiences on specific matters will be included to improve and strengthen best practices in implementing, monitoring, and lifting precautionary measures.
- I. *Refrain from adopting or maintaining precautionary measures when the Inter-American Court has refused an application for provisional measures for the same situation.***
96. In the event that the I/A Court H.R. rejects a request for provisional measures, the Commission will consider the matter with all the information at its disposal and decide on whether to grant, maintain, or lift the respective precautionary measure in a reasoned resolution.
97. The possibility of making a new evaluation to analyze a possible situation of present risk is a consistent practice of the IACHR. In effect, when the IACHR decides not to grant precautionary measures, the requester is informed in the following terms: "You may, if you wish, present additional information concerning the elements of seriousness, urgency or the need to avoid irreparable harm." The text of the letter lifting precautionary measures issued by the IACHR indicates: "The foregoing is without prejudice ... to decisions relating to any future requests for precautionary measures concerning these beneficiaries, where a change in circumstances may justify a new evaluation as to whether the requirements under Article 25 of the Rules have been established." In other words, the very nature of a precautionary measure requires that the Commission be prepared at every moment to evaluate or re-evaluate the situation, even if the Commission itself or the Court had evaluated the matter shortly before, since the circumstances of that person or group of persons could have changed from the prior evaluation, and constitute a new situation in which the criteria of seriousness and urgency are put forth that justify granting the measures.
98. At any moment the users of the inter-American human rights system may request a precautionary measure based on a present situation of alleged risk or new facts, triggering the competence of the IACHR to analyze such a request independent of a dismissal of a request for provisional measures by the I/A Court H.R. In addition, the IACHR has competence independent of that of the I/A Court H.R. in the exercise of its competence to oversee compliance by the States with their international obligations.

III. Procedural matters in petitions and cases

a. *Rigorously apply admissibility criteria, including the examination of the requirement of previous exhaustion of domestic remedies to avoid parallel processed between national instances and the IACHR.*

99. The IACHR acknowledges the importance of rigorous application of admissibility criteria described in articles 31 to 34 of its Rules, and which faithfully reflect articles 46 and 47 of the Convention. In its reports on admissibility, the Commission analyzes each one of these requirements even when the parties did not interpose them. When the Commission decides in its Admissibility Report that one of the exceptions of the principle of previous-exhaustion applies⁷⁵, it carries out a detailed explanation.

100. Any measures to be adopted in this connection cannot undermine the protection of human rights, or the Commission's capacity to effectuate this protection. For instance, exhaustion requirements are defenses that States may tacitly renounce before the Report on Admissibility⁷⁶; the onus of demonstrating the existence of an adequate remedy is on the respondent State.

101. The IACHR will develop a practical guide with information as to these criteria.

b. *Develop and amplify the instances of archiving.*

102. The IACHR acknowledges the importance of following up inactive petitions to archive them after long periods of inactivity. In the last two years the IACHR has archived 109 cases in which the lack of activity was incumbent on the petitioner⁷⁷.

103. In response to the recommendation of the Special Working Group, the Commission is currently considering the following amendments to the rules of procedure:

- Including a provision in the Rules of Procedure under which the absence of any procedural momentum by the petitioner would be grounds for archiving the respective case file;
- Including a provision in the Rules of Procedure under which decisions to archive would be considered final or with prejudice, except in special circumstances, when called for in the interest of justice, such as in instances of error or fraud or when important facts come to light of which the IACHR was not aware at the time of making the decision.

104. The logic behind establishing such preclusion to the proceedings, however, is not applicable to cases in which the delay can be attributed to the State concerned or the Commission itself.

⁷⁵ Article 46.2 of the American Convention establishes that the requirements for previous exhaustion and lapse for presentation established under article 46.1.a) and b) of that instrument do not operate when the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b. the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

⁷⁶ This is a well established principle, pursuant to the *pro persona* principle.

⁷⁷ Article 42.1 of the Rules reflect Article 48.1.f) of the American Convention. In their turn, Article 42.2, brought into the Rules in the reform decided by the Commission during its 137 Session, between October and November 2009, regulates the decision. It establishes that before considering the archiving of a petition or case, it shall request that the petitioners submit the necessary information and notify the possibility of a decision to archive. Once the time limit specified for that purpose has expired, the Commission shall proceed to adopt the corresponding decision.

c. Put into effect deadlines (at least on an indicative basis) for each procedural stage.

105. The IACHR recognizes the importance of the recommendation and realizes that delays in decision-making on petitions and cases adversely affect the interests of all users of the system. The Commission is engaged in implementing performance-based management practices and has created specialized working groups within the Executive Secretariat and, in so doing, has been successful in the past years at decreasing procedural backlog of matters in the initial review phase and increasing the number of decisions issued.
106. A program to eliminate procedural backlog in the initial review stage has been implemented since 2007. In the early days of the program, the average duration of the initial review process⁷⁸ was 50.2 months; currently it is down to 27 months. This drop is the result of a strategy of focusing resources on the Registry section of the Executive Secretariat to prioritize the first response to a petition. Maintaining this pace of reduction in procedural delay for petitions in the initial review stage and extending it to the other stages of the procedure (admissibility and merits) requires additional resources. In its Strategic Plan, the IACHR was transparent about the resources that would be required to reduce procedural backlog for each stage of the procedure; however, no additional resources have been obtained. In order to continue the reduction in backlog, during the rest of the year 2012 an estimated 14.400 hours of legal analysis would be required. Unfortunately, only a fifth of these are currently available.
107. The Commission underscores that the aforementioned measures involve case management; however, setting time periods to preclude the adoption of decisions on petitions and cases would be a measure that weakens the individual petition system, because it would transfer to the alleged victims of human rights violations the consequences of the inadequate funding available to the IACHR to serve the universe of matters before it. In light of the foregoing, the Commission finds that in order to strengthen its capacity to swiftly and efficiently provide a response to the parties, it is absolutely essential to have the resources that it has called for in its Strategic Plan.

d. Define objective criteria or parameters and provide cause and grounds for applying the exceptional mechanism of joining the admissibility and merits stages.

108. In response to this recommendation, the Commission shall consider amending Article 36.3 of its Rules of Procedure, by establishing that decisions to join these stages must be made on the basis of well supported rulings and only in exceptional circumstances that warrant taking the measure, such as:
- When there is an inextricable link between the merits of the matter and consideration as to whether any of the grounds for exception applies to the prior exhaustion of domestic remedies requirement; and
 - When the passage of time may undermine the practical effect of the petition.

e. Establish mechanisms for determining and individually identifying alleged victims.

109. In response to the recommendation of the Working Group, the Commission is considering incorporating into its Rules of Procedure the main elements of the jurisprudence of the organs of the Inter-American system with regard to the identification of alleged victims.

⁷⁸ The average duration of the initial evaluation process is the average time between the receipt of the petition before the IACHR and the adoption of a decision of receivability, i.e. on whether the petition is transmitted to the State, not accepted for processing, or whether or not additional information is requested from petitioner.

110. These legal precedents of the Inter-American Court and IACHR doctrine establish that, when it is impossible to individually identify the victims, the circumstances of time and space in which the alleged human rights violations have taken place or information on belonging to a particular group (a family, organization, indigenous community, presence in a prison facility), as well as any other type of information that would enable the respondent State to determine who the victims are, should be provided.
111. In this context, as well as in other ones, the IACHR deems it relevant to mention the challenge at the core of the process of reform to which the IACHR is committed: striking a delicate balance. The Commission recognizes its duty to strictly apply existing procedures to ensure not only legal certainty, but also due process of the law. At the same time, the situation of many of the victims that resort to the system makes it necessary to maintain a reasonable degree of flexibility. Thousands of the individuals resorting to the Inter-American system are from the poorest and most excluded social strata of the hemisphere and do not have any legal counsel available to them. The reforms adopted by the Commission, particularly as they concern the system of individual petitions, must recognize this uneven playing field by building in flexibility and informality into its procedures, in order to not extend to the supranational arena the obstacles to access to justice, which unfortunately are prevalent in some countries of the region. For the system of individual petitions to be effective, all potential victims of human rights violations need to be able to gain simple and prompt access to the Commission, both parties must be able to assert the right to present their points of view at each stage of the process, the decision of the Commission must be timely and implementation of the recommendations by States concerned must be effective.
- f. *Ensure prompt notification of initial petitions to states, immediately after they have been registered.***
112. The IACHR has adopted the necessary measures to implement this recommendation. Additionally, the Commission has made the decision that it will prioritize resources in the future to make sure that the time between the end of the initial review stage and the State's notification of the respective petition is never longer than one month.
- g. *Provide factual updates on initial petitions that are transmitted to states a considerable time after registration or when there are long periods of procedural inactivity.***
113. The IACHR recognizes the importance of the recommendation and realizes that delay in reviewing and serving notice of petitions compromises efficiency in the petition and case procedure.⁷⁹
114. The IACHR follows the practice of requesting information from the petitioner when facts are lacking in order to make a decision as to whether to begin processing the petition or not. When the petitioning party does not submit the requested information within the time period granted to it to do so and the information available is insufficient to formulate a recommendation on possibly beginning the processing of the petition, the respective case file is placed on the inactive docket. As a result of that practice, the Executive Secretariat renders a high number of petitions inactive periodically.

⁷⁹ During the activities of September 13, 2012, in the context of the Mexico Forum, delegations of different States noted that it was difficult to obtain information and copies of judicial case files with regard to complaints on crimes alleged by the petitioner that go back very far in time.

h. Continue to develop objective criteria for setting priorities regarding treatment of petitions and other cases, considering the nature, complexity, and impact of the alleged situations.

115. This recommendation has been reiterated both by delegations of the Member States and by members of civil society at Forums on the Strengthening Process. The Commission maintains a policy of handling petitions on a first-come, first-served basis. However, to effectively protect human rights, certain exceptions must be made. For example, death penalty-related petitions, as an institutional policy, are forwarded to the State within 24 hours of being received by the IACHR, and processing is triggered with the mere affirmation that the death penalty has been imposed and is legally valid, though the Commission has historically decided that all petitions relating to application of the death penalty receive a higher level of scrutiny.

116. Exceptions to the first-come, first-served rule are handled under the procedure known as *per saltum*, which involves the initial review of the petition departing from the chronological order in which it was received, inasmuch as it is believed that the passage of time would substantially affect the very purpose of the functions of the Commission. Past performance of the Executive Secretariat shows that the maximum capacity to handle petitions on a *per saltum* basis is at 10% of all petitions reviewed.

117. Moreover, in light of current needs with regards to this issue, and in accordance with the recommendation of the Special Working Group, the plenary Commission has taken under advisement including in its Rules of Procedure the possibility of expediting the review of petitions that are in the initial review phase when they meet certain requirements such as:

- When the alleged victims are elderly, children or when the passage of time strips the petition of its practical effect;
- When the alleged victim is afflicted by a terminal disease;
- When it is claimed that the alleged victims may be subject to application of the death penalty;
- When the subject of the petition is connected to an ongoing precautionary measure;
- When the alleged victims are persons deprived of liberty;
- When the State formally expresses its intention to reach a friendly settlement in the matter;
- When one of the following circumstances arises:
 - o The decision may have the effect of remedying serious structural situations that have an impact on the enjoyment of human rights;
 - o The decision may help to bring about changes in laws or in government practices and avoid the filing of multiple petitions regarding the same matter; or
 - o As a result of exceptional circumstances, delay in a ruling on the merits of the matter may strip the petition of its practical effect.

i. Grant reasonable deadlines and extensions for states to relay observations on petitions, considering the time elapsed since the facts stated in the petition and the volume of the background material, and/or the complexity of the matter.

118. The IACHR is considering amending Article 30.3 of its Rules of Procedure and lengthening the time period for States to relay their responses on admissibility to three months, with the possibility of an extension of an additional month. It is also considering perhaps amending Article 37.1 of its Rules of Procedure and lengthening the time period for the parties to submit

observations on the merits to four months, with the possibility of an extension of two additional months.

119. The IACHR believes that lengthening the periods for the parties to submit observations would not lead to further delay in the processing of petitions and cases, but instead would make additional time available to States and petitioners to provide information and higher quality factual information to the IACHR; but it will also be taking into consideration the observations that it has received through the consultation module on this issue of the Individual Petition System.

j. Grant reasonable deadlines and extensions for states to follow up on the recommendations of the IACHR in the light of their nature and the scope of the actions requested of the State, as appropriate, subject to applicable standards.

120. The Commission is currently considering changing its Rules of Procedure to include the possibility of granting extensions of time when recommendation implementation involves different branches of government, coordination between central and regional governments or other types of complexity, in the view of the Commission members. Additionally, the Commission shall take into consideration the existence of domestic laws that establish mechanisms for implementation of the decisions of the bodies of the system. The IACHR could, as a practice, require States to provide an implementation timetable of the recommendations issued in its final report on the merits. The IACHR could also establish as a practice that, after granting an initial extension, any further extensions would be conditioned upon an explanation by States of the measures that they have been taking in order to implement the recommendations issued in the final merits report.

121. With regard to this recommendation, as with the previous one, the Commission will also be taking into consideration the observations that it has received on this issue through the consultation module on the Individual Petition System. It will also bear in mind that, for States accepting the contentious jurisdiction of the Inter-American Court, Article 46 of its Rules of Procedure already establishes that in order to grant extensions, the State concerned must make an express request, which must meet the following formal requirements:

- That the State shows its willingness to implement the recommendations included in the merits report through the adoption of concrete and adequate measures of compliance; and
- That in its request the State expressly and irrevocably accepts the suspension of the time limit established in Article 51.1 of the American Convention for the submission of the case to the Court and consequently expressly waives the right to file preliminary objections regarding compliance with the aforementioned time limit in the event that the matter is later referred to the Court.

k. Improve mechanisms to enable states, petitioners, and victims concerned to access records of petitions and cases in electronic format in order to encourage the prompt solution of said cases.

122. The Commission has developed, in cooperation with the OAS Department of Information and Technology Services, a system of digital management of petitions, cases and precautionary measures, which has been the recipient of several international awards. Over this year, the IACHR expects to publish the first module of this system, whereby the access of Commissioners to the digital records will be further enhanced, and States and petitioners will be able to check

the procedural status of petitions, cases and precautionary measures. Throughout several different stages of the procedure, parties can check digital case files of the matters before the IACHR, as well as send in and receive from the IACHR documents, letters and audiovisual materials in electronic format.

123. The final stage of this process is to digitize all case files, which would mean that any person with Internet access could submit documents and manage their matters with the IACHR without incurring any costs in sending materials to the headquarters of the Commission.

124. In designing these tools, the need to safeguard sensitive information in the custody of the IACHR has been taken into account and, consequently, guidelines have been drafted on access to information and how secret and confidential information will be managed.

I. Consider the development of an electronic mechanism designed to systematize background material, reports, and decisions of the IACHR.

125. The IACHR recognizes the importance of this recommendation, and it plans to implement a new on-line search system for precautionary measures and case reports, similar to the HUDOC system used by the European Court of Human Rights, which allows for advanced legal precedent searches. The IACHR is seeking the funding required for implementation of this project.

IV. Friendly settlements

a. *Progressively strengthen the working group on friendly settlements.*

126. The IACHR recognizes the importance of the recommendation, which reflects the concerns of different users of the system. During the Forums on the Strengthening Process, several users said it was important for the IACHR to place greater emphasis on friendly settlement agreements between parties. The IACHR expanded those thoughts and comments with the remarks received between December 2011 and January 2012 from States and Civil society organizations in response to its consultation on friendly settlements. See, in this regard, the enclosed document.
127. In February 2011, the IACHR launched an externally funded project for the creation of a Friendly Settlements Group. Currently, this group's main tasks are to systematize the Commission's practices with the friendly settlements mechanism, and to draft an impact report on lessons learned through this mechanism since the adoption of the first report in 1985. The impact report is expected to be ready for publication in the next six months.
128. Once the necessary resources have been secured, the Friendly Settlements Group will support the processing of cases that are at that stage in the proceedings. To this end, during 2012 a pilot plan was launched through which the Group assists the Regional Sections with those cases that are at the negotiation stage or the agreement compliance monitoring stage.
129. Regarding the IACHR's practices, since the late 1990s all its notifications of the adoption of an admissibility report have included a paragraph in which the Commission states its willingness to work for a friendly settlement and requests the parties' views on the suggestion. With the December 2000 amendments to the Rules of Procedure, that statement became an obligatory stage in case processing. Since May 2012, the offer has been included in the letters opening the processing of petitions, a practice that the plenary of the IACHR is considering including in the Rules of Procedure.
130. As explained in the relevant section (cfr. Paragraph 50), the IACHR plans to hold annual meetings with each of the member states in order to discharge an agenda that includes exploring possible cases for the negotiation and adoption of friendly settlement agreements. In addition, and in accordance with the recommendation, the IACHR will seek the resources and means necessary to involve mediation specialists in the negotiation stages of friendly settlement proceedings.

b. *Charge a member of the Commission with leading the future working group on friendly settlements.*

131. The IACHR's practice has been to assign each Commissioner the lead role in negotiating and directing friendly settlement procedures involving those countries for which they serve as rapporteurs. In accordance with the recommendation, the IACHR will strengthen the practice of having each rapporteur lead the negotiations in friendly settlement proceedings and the facilitation thereof. In addition, it will seek to consolidate a practice pursued during working visits in recent years, whereby meetings are held with representatives of the states and petitioners in those cases in which the parties have expressed their interest in beginning the

friendly settlement procedure, in order to mediate in the negotiations and pursue friendly settlement agreements.

132. Regarding those agreements covered by a Final Report under Article 49 of the American Convention, the country rapporteurs will be responsible for following up on the implementation of the commitments assumed by the parties.

c. *Extend the availability of friendly settlement proceedings, so that the mechanism is offered not only during the examination of the petition, but also, if appropriate, following the registration of the petition and even after a Report on the Merits has been adopted.*

133. In accordance with this recommendation, the IACHR is considering including a provision in its Rules of Procedure stating that if the parties agree on a compliance agreement following the adoption of a final report on the merits, the IACHR will take that into consideration in evaluating the State's compliance with its recommendations.

134. Regarding matters under study in the initial stage, when the State has not yet been notified of the complaint, there have been cases in which the State and the petitioners have indicated their interest in beginning friendly settlement proceedings. In those cases, the IACHR has expedited the initial review and consequent notification of the start of processing, in order to make itself available to the parties to mediate a possible friendly settlement.

135. In addition, the IACHR is also considering including a provision in its Rules of Procedure whereby if a State formally indicates its interest in resolving a petition that is at the initial study state, the *per saltum* criterion (see Recommendation 3.h) will be applied and it will be examined out of its chronological sequence in order to offer a friendly settlement.

d. *Set deadlines to expedite the issuing of reports on friendly settlement proceedings, once the IACHR has been notified of the agreements.*

136. The IACHR acknowledges the importance of the recommendation and notes that during the Forums on the Strengthening Process, delegations from the states and members of civil society said that the IACHR's practices regarding the juncture when friendly settlement agreements are validated should be improved.

137. In line with this, at the consultation organized by the IACHR, states, members of civil society, and experts agreed that the Commission should avoid the use of friendly settlement proceedings as a delaying tactic to postpone the publication of an admissibility or merits report. They therefore suggested that the Commission set deadlines for the presentation of proposals and the signing of friendly settlement agreements, as well as for their compliance and subsequent adoption through the publication of a report.

138. The friendly settlement of a matter depends on the willingness of the parties, and the specific circumstances of each case must be taken into account in deciding the best time to adopt the report; consequently, the Commission is considering the possibility of asking the parties to include in their own friendly settlement agreements a clause stating the deadlines for compliance with the commitments. Once it has been established that the victims or their heirs have consented to the agreement and that the agreement is based on respect for the human rights enshrined in the American Convention and other applicable instruments, the Commission will issue the friendly settlement report.

e. *Prepare a handbook or practical guide to friendly settlements, including, inter alia, the applicable regulations within the IAHRs, a collection of past successful experiences or good*

practices, a catalogue of possible reparation measures, etc. The possibility of cooperating with universities or professional associations in preparing such a guide could be explored.

139. The work of the Friendly Settlements Group is geared around four central tasks: (1) preparing a diagnostic assessment for internal use on the strengths and weaknesses of the procedure, and on the good practices that have been followed over time, (2) setting out, in internal protocols, the IACHR's criteria relating to friendly settlement procedures, (3) providing technical training for the Executive Secretariat's staff and the Commissioners on alternative conflict resolution methods applied to cases of human rights violations, and (4) publishing an impact manual with information on the successes of the IACHR's friendly settlement proceedings.
140. The aim of these initiatives is to encourage the use of the friendly settlement mechanism through the dissemination, among the system's users, of information on the procedure and the advantages it offers to both petitioners and states. Thus, the Commission understands that it must prepare support tools to help users during the start of proceedings and case processing and, for that reason, has plans to work on a practical guide with information on the nature of the friendly settlement procedure and the steps the parties must go through for its successful completion.

f. Provide IACHR staff members with training on facilitating friendly settlement proceedings.

141. The IACHR agrees with the importance of this recommendation. The members of the IACHR and the staff of the Executive Secretariat involved in the friendly settlements mechanism have held and they will continue to have meetings with experts in mediation, arbitration, and other forms of alternative conflict resolution.
142. In addition, the Commission organized a training workshop for Secretariat personnel, given by an expert in alternative conflict resolution who also gave a special presentation to the members of the IACHR in March 2012. A second series of workshops is planned for the first half of 2013.

V. Criteria for preparing Chapter IV of the IACHR's Annual Report: Human Rights Developments in the Region

a. *Reflect on the effectiveness of Chapter IV of the IACHR's Annual Report in promoting human rights in the Hemisphere.*

143. The IACHR places the highest importance on the recommendations of the Special Working Group on Chapter IV of its Annual Report, in which the Commission conducts regular examinations of the human rights situation in countries requiring its particular attention and identifies situations and circumstances that undermine the enjoyment of human rights in certain states. In particular, the IACHR welcomes the recommendation to reflect on the effectiveness of that chapter in connection with the promotion of human rights in the region.
144. The country monitoring offered by the IACHR in Chapter IV of its Annual Report has served to raise the regional profile of human rights situations that warrant the attention of the OAS and of its member states. The mechanism's effectiveness depends largely on the importance given to the Annual Report by the OAS's political bodies.
145. The IACHR will work to bolster the usefulness of Chapter IV of its Annual Reports by expanding its dialogue with the member states on the situations described therein. The Commission will also work to find forms of constructive dialogue with the Chapter IV countries, in order to advise them and assist them in overcoming the issues and situations that led the Commission to conclude that they warranted special attention.

b. *Review the criteria, methods, and procedure used to prepare Chapter IV, including the use of public and private sources.*

146. The Commission will work to improve its criteria for including countries,⁸⁰ the contents, and the methods⁸¹ used to prepare Chapter IV of its Annual Report, in order to bolster the predictability and transparency of that mechanism.

⁸⁰

The criteria for including countries in Chapter IV that the Commission has followed since 1997 are the following: The first criterion encompasses those states ruled by governments that have not come to power through popular elections and secret, genuine, periodic, and free suffrage, according to internationally accepted standards and principles. The Commission has repeatedly pointed out that representative democracy and its mechanisms are essential for achieving the rule of law and respect for human rights. As for those states that do not observe the political rights enshrined in the American Declaration and the American Convention, the Commission fulfills its duty of informing the other OAS members states as to the human rights situation of the population.

The second criterion concerns states where the free exercise of the rights set forth in the American Convention or American Declaration have been effectively suspended, either totally or in part, by virtue of the imposition of exceptional measures, such as a state of emergency, state of siege, suspension of guarantees, or exceptional security measures, and the like.

The third criterion to justify a particular state's inclusion in this chapter is when there is clear and convincing evidence that a state commits massive and grave violations of the human rights guaranteed in the American Convention, the American Declaration, and any other applicable human rights instruments. In so doing, the Commission highlights the fundamental rights that cannot be suspended; thus, it is especially concerned about violations such as extrajudicial executions, torture, and forced disappearances. Therefore, when it receives credible communications denouncing such violations by a particular state which are attested to or corroborated by the reports or findings of other intergovernmental bodies and/or of respected national and international human rights organizations, the Commission believes that it has a duty to bring such situations to the attention of the Organization and its member states.

The fourth criterion concerns those states that are in a process of transition from any of the above three situations.

147. Pursuant to this recommendation, the IACHR is reviewing the criteria for including a country in Chapter IV. The Commission is currently considering including new criteria in its Rules of Procedure. It is also assessing the adoption of a specific provision to regulate the criteria whereby a country is kept in Chapter IV of the Annual Report or removed from it the year after its first inclusion, as well as a new rule setting forth the sources of information used in deciding on inclusion of countries in Chapter IV.
148. Among the rules governing the inclusion or otherwise of a country in Chapter IV, the IACHR is considering adding a provision to its Rules of Procedure whereby those countries that have received an on-site visit cannot be included in Chapter IV of the Annual Report for that year, on the grounds that the monitoring of that country's human rights situation will be carried out by means of the Country Report adopted following the visit. In addition, the Commission is evaluating the inclusion of a provision in its Rules of Procedure stating that the follow-up on the IACHR's recommendations and, in general, the monitoring of the human rights situation in a country that received an on-site visit will be recorded in Chapter V of the Annual Report for the year following that visit. In subsequent follow-up exercises, the IACHR will decide on a case-by-case basis whether to continue monitoring that country's human rights situation in Chapter V, whether to include it again in Chapter IV, or whether that member state no longer needs special scrutiny or follow-up.
- c. *Expand the scope of Chapter IV of the IACHR's Annual Report so that it analyzes, objectively and comprehensively, the human rights situation in all the region's states, regardless of whether or not they are parties to the inter-American human rights instruments.***
149. The IACHR monitors the human rights situation in all the Organization's countries, since Article 106 of the Charter instructs it "to promote the observance and protection of human rights" in all the member states. That follow-up is carried out by means of the various procedures and mechanisms available, including the petitions system, country visits, precautionary measures,

The fifth criterion regards temporary or structural situations that may appear in member states confronted, for various reasons, with situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration. This criterion includes, for example: grave situations of violence that prevent the proper application of the rule of law; serious institutional crises; processes of institutional change which have negative consequences for human rights; or grave omissions in the adoption of the provisions necessary for the effective exercise of fundamental rights.

⁸¹ In its 2011 Annual Report, the Commission described in detail the method used to prepare Chapter IV. On that occasion, it explained that it evaluates the human rights situation in all the member states during the year and gathers information from numerous sources in order to apply the five criteria outlined above. The Commission stated that, in conducting that evaluation, it uses reliable information from the following sources:

1. Official governmental acts, at any level and in any branch of government, including Constitutional amendments, legislation, decrees, judicial decisions, statements of policy, official submissions to the Commission and other human rights bodies, and any other statement or action attributable to the government.
2. Information available in cases, petitions and precautionary/provisional measures in the Inter-American system, as well as information about state compliance with recommendations of the Commission and judgments of the Inter-American Court.
3. Information gathered during on-site visits by the Commission, its rapporteurs, and its staff.
4. Information obtained through public hearings held by the Commission during its sessions.
5. Findings of other international human rights bodies, including UN treaty bodies, UN rapporteurs and working groups, the Human Rights Council, and other UN organs and specialized agencies.
6. Information from human rights reports of governments and regional bodies.
7. Reports from civil society organizations, and reliable, credible information submitted by them and by individuals.
8. Public information widely disseminated in the media.

hearings, working meetings, country reports, requests for information addressed to states, press releases, etc.

150. The purpose of Chapter IV is to analyze the situation in certain countries regarding which the Commission has particular concerns. That does not prevent the situation in countries not included in Chapter IV from being addressed by the Commission through its other mechanisms.

d. Consider including economic, social, and cultural rights in Chapter IV, in addition to civil and political rights.

151. The IACHR welcomes this recommendation and it is preparing to expand and strengthen its analysis of economic, social, and cultural rights in preparing Chapter IV of its Annual Report.

152. The Commission is charged with promoting and protecting the human rights enshrined in the American Declaration, the American Convention, and other instruments, all of which recognize political, civil, economic, social, and cultural rights. In pursuit of this mandate, the IACHR comprehensively monitors the rights protected by those instruments and, with respect to the latter, has already presented information under paragraphs 40 to 45 of this document.

153. The IACHR has included an analysis of the situation with economic, social, and cultural rights in Chapter IV for several years.⁸² Nevertheless, the Commission will expand and deepen that analysis and will ensure that it is included in the review of each country covered by that chapter. To better implement that decision, the Commission will take on board and give particular consideration to the reports that the states parties to the Protocol of San Salvador submit to the Secretary General in compliance with the Article 19 thereof.⁸³ Regarding the attention it pays to ESCR, the Commission has addressed this matter in detail in its reply to the Special Working Group's recommendation I.d.

⁸²

2011 Annual Report:

"II. Analysis of the Situation of Economic, Social, and Cultural Rights," in the section on Cuba;

"III. Analysis of the Situation of Economic, Social, and Cultural Rights," in the section on Venezuela.

2010 Annual Report:

"VI. Economic, Social, and Cultural Rights," in the section on Venezuela.

2009 Annual Report:

Paragraphs 515 to 521 in the section on Venezuela;

"V. Situation of Human Rights in Cuba: Positive Aspects and General Progress," in the section on Cuba.

2008 Annual Report:

"III. Economic, Social, and Cultural Rights," in the section on Venezuela;

"III. Situation of Human Rights in Cuba: (A) Positive Aspects and General Progress," in the section on Cuba.

⁸³

The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador") provides as follows:

1. Pursuant to the provisions of this article and the corresponding rules to be formulated for this purpose by the General Assembly of the Organization of American States, the States Parties to this Protocol undertake to submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this Protocol.

2. All reports shall be submitted to the Secretary General of the OAS, who shall transmit them to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture so that they may examine them in accordance with the provisions of this article. The Secretary General shall send a copy of such reports to the Inter-American Commission on Human Rights.

VI. Promotion of Human Rights

- a. *Continue to engage in human rights promotion activities in coordination with interested states.***
154. The IACHR will do its utmost to broaden its promotional activities and expand cooperation projects in partnership with the States and their institutions, with a view to designing and carrying out actions to strengthen national capacities to safeguard human rights and formulate public policies that serve that purpose.
155. Along with other initiatives, the IACHR will seek to boost dialogue with the member states, and others, in order to forge public policies designed to strengthen the observance of human rights as a key ingredient in government reform processes; to provide ongoing opportunities for civil society organizations to play an active part in formulating public policies; to undertake comprehensive reform of national systems for ensuring and administering justice; to bring legislation into line with international human rights instruments; and to establish courses on human rights in all educational institutions.
156. In addition, the IACHR will continue implementing, and raise the funds needed to expand, educational and training opportunities for young attorneys in the Americas through fellowship programs⁸⁴, including:
- Fellowship program: every year the IACHR conducts a training program for lawyers and law students throughout the Hemisphere. That program affords young professionals the opportunity to get to know and help apply the protection mechanisms of the inter-American human rights system.
 - "Rómulo Gallegos" scholarships: a program targeting attorneys in the OAS member states;
 - "Notre Dame" scholarships: under an agreement with the University of Notre Dame;
 - "Brian Tittmore" scholarships: under an agreement with the University of Quebec; and
 - *Scholarships for specific area studies*: as with the "Rómulo Gallegos" scholarships, training for young professionals from OAS member states in the thematic areas of the IACHR⁸⁵.
157. Since 1990, 121 young people from countries in the Americas have received IACHR scholarships.⁸⁶ A high percentage of them have gone on to work in defense of human rights, in a variety of spheres. Some have done so in government institutions, for instance by lending support to divisions devoted to inter-American affairs; others, in civil society organizations, or as petitioners, or as representatives of victims of human rights violations; while still others do so in academia or as teachers⁸⁷. These scholarships have had an obvious multiplier effect on the

⁸⁴ <http://www.oas.org/es/cidh/empleos/becas.asp>

⁸⁵ Under this program, a number of successful projects have been implemented, using external funds to award scholarships to indigenous and Afro-descendant attorneys. The IACHR plans to go on seeking funds to continue and expand these types of scholarship programs.

⁸⁶ The complete list of former IACHR scholars is posted at: <http://www.oas.org/es/cidh/empleos/becarios.asp>

⁸⁷ Some former IACHR scholars have recorded their experiences at: <http://www.oas.org/es/cidh/empleos/becarios.asp>

dissemination and spread of inter-American human rights standards and on the way the IAHR works and have turned into a very effective mechanism for promoting human rights.

158. The IACHR will continue to welcome young students and recent graduates in the Americas under the Program for Interns managed jointly with the OAS Internships Program, which affords participants an opportunity to work in the Commission and receive training during their internship.
159. The IACHR will continue to play an active part in training programs throughout the Hemisphere, by giving presentations and delivering papers at seminars, workshops, and conferences and participating in other training activities. Thus, members of the Commission and the staff of its Executive Secretariat will continue to take part in academic visits and training activities in the member states. In recent years, the Commission has begun conducting training programs for dozens of justice system operators in the member states, generally at the behest of their Supreme Courts. The IACHR will continue and step up its participation in these kinds of programs.
160. In addition to taking part in seminars and conferences to which it is invited, the Commission organizes its own workshops and training courses. The IACHR offers at least one course a year for government officials, two for civil society entities and human rights defenders and at least one for journalists.
161. The IACHR will continue to organize in situ and working visits to member countries by its thematic and country rapporteurs. These visits depend on the invitations extended, the assent of the States concerned, the Commission's evaluation of the particular situation in each member states, and the availability of funds. Such visits, whether in situ or working visits, make it possible to pursue agendas at the national level, which include numerous promotional activities, such as participation in academic Forums, workshops, and seminars organized by the State, civil society, or the Commission itself. They enable the IACHR to hold press conferences and give interviews to the media, through which human rights standards are disseminated and human rights issues are placed on the local media's agenda.
162. The IACHR will continue to publish thematic and country reports. The reports provide an opportunity to highlight human rights topics and issues in a country or in the region as a whole, to compile and disseminate best practices, to establish and develop human rights standards, and to issue both general and specific recommendations to the member states in a constructive spirit of cooperation. The reports are designed to help the authorities craft and implement effective responses to the human rights challenges they face.
163. The IACHR will strive to step up and broaden its efforts to disseminate its thematic reports. Currently, the IACHR publishes a press release summarizing the main contents of those reports; prepares a folder for the media containing their principal conclusions and recommendations in an easy-to-read format for mass distribution; presents those conclusions and recommendations at meetings at Headquarters and in the member states; organizes seminars, panel discussions, and Forums to exchange ideas regarding the contents of the reports and experiences relevant to implementing their recommendations. The IACHR will seek funds for organizing more numerous events at which to present the thematic reports and discuss their contents with stakeholders, in the hopes of presenting each thematic report in as many languages and member states as possible. The IACHR will also organize training seminars for government officials involved with the subject matter addressed in a particular report, in order to engage in dialogue regarding the contents and regarding implementation of the recommendations made therein.

164. As for its country reports, the IACHR will continue to organize campaigns to ensure that they are widely distributed upon publication. As with the thematic reports, the IACHR will organize a series of seminars and publicity events in the country addressed in the report, directed at civil servants, civil society organizations, and academic circles.
165. In recent years, the IACHR has made a significant effort to improve its mechanisms for publicizing its activities. That has included revamping the design of its website in both English and Spanish (and currently funds are being sought to move the French and Portuguese versions to the new format). New sections have also been added to the website, such as the page containing information about all the IACHR staff, together with a description of the functions performed by each staff member,⁸⁸ the section on scholarship-holders and interns,⁸⁹ the section on promotional activities,⁹⁰ the section on country visits,⁹¹ the page on cooperation agreements currently in effect,⁹² and others. Thus, in its quest for increasing transparency, the IACHR is continually expanding its website. One example of that is the recent posting of a new page for disseminating all the IACHR's public presentations to the political bodies of the OAS.⁹³
166. In recent years, as part of its program of disclosure and mass dissemination of human rights-related activities and standards, the IACHR has sought to use new channels of communication to reach different audiences, such as "Facebook"⁹⁴, "Twitter"⁹⁵, "Youtube,"⁹⁶ and "Flickr."⁹⁷
167. The IACHR will continue to publish leaflets, basic documents, and other materials aimed at promoting dissemination of the inter-American system, such as the "Basic Documents Pertaining to Human Rights in the Inter-American System," and the Information Brochure on the Individual Petition System, protocols, and instruments on best practices in different fields. The Commission will also continue to produce publications of a general nature that are key tools for getting to know the inter-American system and how it works.
168. Likewise, as mentioned elsewhere in this paper, the IACHR will prepare practical guides and information brochures to systematize information and provide background on precautionary measure decisions and decisions regarding the admissibility of petitions. These new projects are additional to the one already way aimed at producing an information brochure on friendly settlements.
169. With respect to its historical archive, the IACHR plans to take concrete steps to enhance access to the information it contains, especially when those requesting documents and other materials in the archive are courts seeking to expand their investigation into grave human rights violations and to use those materials to advance the judicial processing of such cases.
170. The IACHR will continue to organize and take part in exchanges, academic activities, and fact-finding visits with organs of a similar nature in the African, European, Asian, and universal systems.

⁸⁸ <http://www.oas.org/es/cidh/mandato/personal.asp>

⁸⁹ <http://www.oas.org/es/cidh/empleos/becas.asp>, <http://www.oas.org/es/cidh/empleos/becarios.asp>,
⁹⁰ <http://www.oas.org/es/cidh/empleos/experiencias.asp> y <http://www.oas.org/es/cidh/empleos/pasantias.asp>

⁹¹ <http://www.oas.org/es/cidh/actividades/promocion.asp>

⁹² <http://www.oas.org/es/cidh/actividades/visitas.asp>

⁹³ <http://www.oas.org/es/cidh/mandato/acuerdos.asp>

⁹⁴ <http://www.oas.org/es/cidh/actividades/politico.asp>

⁹⁵ www.facebook.com/CIDH.OEA

⁹⁶ @CIDHPrensa and @IACHRPress

⁹⁷ www.youtube.com/CIDHPrensa

www.flickr.com/photos/cidh/

171. At the same time, the IACHR will continue to develop its work of advising the political bodies of the OAS. The IACHR lends its support to the political organs of the OAS, especially the General Assembly and the Committee on Juridical and Political Affairs. The Commission hopes to expand that contribution, disseminating standards and making specific recommendations for discussions on conventions, protocols, declarations, and resolutions.
172. Finally, the IACHR will strengthen coordination with OAS entities, whose mandates include activities involving the promotion of, and training in, human rights, such as the Inter-American Institute of Human Rights, the IIN, the Inter-American Commission of Women, and others.
- b. Collaborate with states in strengthening their domestic law enforcement and justice administration institutions or authorities, including in the training of their officials.**
173. The IACHR will endeavor to expand opportunities to provide training and engage in other promotional activities for the member states' law enforcement and justice administration officials.
174. Some states have taken the initiative of signing cooperation agreements with the IACHR, under which IACHR have taken part in training workshops for civil servants on a number of human rights topics. For instance, on October 24, 2011, the Supreme Court of Justice of Mexico signed an agreement with the IACHR⁹⁸ under which 12 attorney experts participated in training workshops for federal judges and magistrates responsible for observance of international conventions and standards on the forced disappearance of persons and military tribunals. To date, more than 1,200 federal judges and magistrates from all over Mexico have taken part in training workshops. Mexico's Supreme Court of Justice financed the program. The IACHR regards that as a very valuable experience, which hopefully can be replicated in other countries.
175. In its Strategic Plan, the IACHR outlined its program for promoting human rights and described the resources needed to strengthen its activities in this sphere and the expected outcomes. Those resources have not materialized, but the IACHR is completely open to other possible ways of overcoming the challenge of the lack of funding, so long as the Commissioners and staff of the Executive Secretariat can organize or take part in activities to promote human rights, including training courses for officials in the countries. To that end, the IACHR is ready to enter into cooperation agreements on the subject with the member states.
- c. Contribute to the strengthening of national human rights protection institutions through cooperation agreements with them.**
176. The IACHR realizes how important this recommendation is and is very much aware of the vital role played by national human rights institutions. During its consultations with IAHRs users, the IACHR specifically addressed international federations of Ombudspersons with a view to eliciting their concerns and those of national and regional human rights commissions in the member states, including entities devoted to the protection of human rights.
177. The IACHR will make every effort to raise funds and promote cooperation projects with the states and especially their authorities and national human rights institutions, with a view to designing and executing actions to strengthen national human rights implementation capabilities. It will also invite staff members of national human rights institutions to take part in courses at Headquarters on the inter-American system.

⁹⁸

The agreement is posted on the IACHR website: <http://www.oas.org/es/cidh/mandato/acuerdos.asp>

178. It is important to mention that some countries' national human rights institutions act as petitioners to the IACHR, a practice that has enabled several members of their staff to specialize in the standards upheld by the System.

d. Disseminate more widely the promotion work it carries out.

179. The IACHR agrees with this recommendation. To that end, it will publish an electronic bulletin from time to time, reporting on activities carried out in each period. That information will cover visits to member states, participation in meetings of OAS political bodies, participation in seminars and training workshops, the publication of case reports, summaries of thematic and country reports, decisions to grant precautionary measures, and other activities.

180. The IACHR will also look for the funding needed to prepare multimedia materials on its workings and operational mechanisms. It will devote a separate chapter in its Annual Report to a detailed description of its promotional activities in the year under review and it will post on its website training tools for users of its various mechanisms.

e. Identify and group for each state the most recurring problems in the petitions submitted, in order to cooperate with national authorities in dealing with them, seeking comprehensive and lasting solutions.

181. The IACHR acknowledges the importance of this recommendation and is ready to improve its system for managing documents, petitions, and cases so as to be able to identify patterns in human rights violations and recurring issues in member states⁹⁹.

f. Provide advisory services to the states for compliance with the IACHR's recommendations.

182. This recommendation is vital and the IACHR will, among other measures, look for funding to prepare a study on the status of compliance with its decisions, that will emphasize trends and best practices in the countries of the region, as well as comparative analysis of the domestic legislation governing compliance with decisions taken by the organs of the inter-American system. The IACHR considers that a study of that kind could pave the way for proposals regarding effective mechanisms for ensuring compliance with those organs' decisions.

183. Another proven useful mechanism is working visits to countries designed to promote agreement between the parties on compliance with IACHR recommendations. Those agreements should include schedules for carrying out activities, tailored to each State's circumstances and the needs of those representing victims of human rights violations. During such visits, meetings with government officials in charge of implementing the recommendations have proved to be a highly effective way of advising States.

184. Without prejudice to that option, the IACHR is more than willing to provide States with the technical advice they request and to continue holding hearings and follow-up meetings aimed at promoting compliance with its recommendations.

g. Introduce a code of conduct to govern the management of IACHR rapporteurships in order to ensure the requisite coordination between those mechanisms and States.

185. Exercising its functional autonomy, the IACHR has established both Country and thematic Rapporteurships, depending on the specific requirements of its functions and the challenges it

⁹⁹ During the forums on the strengthening process, civil society organizations and representatives of the member states underscored the importance of ensuring that the Individual Petition System and other IACHR tools are used to identify trends and patterns in human rights violations in the member states, so that those states can take steps to remedy the situation.

has had to face. In the Commission's previous Rules of Procedure. There were general provisions regulating the mandates of the thematic and country rapporteurships. More detailed provisions regulating those offices were included in the 2009 amendments to the IACHR's Rules of Procedure (Article 15). Article 15.7 establishes that "The activities and functions provided for in the Rapporteurships' mandates shall be performed in accordance with the present Rules of Procedure and the guidelines, codes of conduct and manuals that the Commission might adopt."

186. It is worth noting that the IACHR's rapporteurships are governed by strict rules established in its Rules of Procedure and in practices established by the plenary of the Commission, which approves those offices' reports and work plans and evaluates execution of their mandates. Because they are offices specializing in specific subject matters and established by the IACHR itself, the IACHR Rules of Procedure detail the procedure by which they are established and how the thematic, country, or special rapporteurs are elected¹⁰⁰. Thus, the Rules of Procedure regulate the functions performed by the IACHR, in which its rapporteurships participate¹⁰¹. At the same time, IACHR practice has determined what procedures and consultations apply when the rapporteurships communicate with the States. The aforementioned rules and practices amount to an important set of regulations governing the conduct of all the rapporteurships and they lay down strict procedures to be followed.
187. Given the importance of this matter, as well as the above-mentioned background to the subject, the IACHR requested in its recent consultations with users of the IAHRs that they comment on, *inter alia*, the "criteria and procedures for improving coordination between the IACHR and its rapporteurships with players in the system with respect to promotion"¹⁰². The existence of rules and practices applying to the work of the rapporteurships will enable the IACHR to compile and publish a manual or set of instructions systematizing them, in such a way as to enhance predictability for all actors in the system and thereby improve coordination with respect to promotion. In that way, it will be possible to achieve the objective of documenting and clearly disclosing the applicable rules and practices that establish the procedures and duties that are binding for the rapporteurs.
188. Any systematization would, in any case, begin by acknowledging that the effectiveness of the promotion and protection of human rights pursued by the IACHR depends on its rapporteurs acting with the independence, transparency, and high moral authority befitting their position and the importance of the mission entrusted to the Commission¹⁰³.

¹⁰⁰ See Rules of Procedure of the IACHR, Article 15.2 -15.4.

¹⁰¹ See, for example, Rules of Procedure of the IACHR, Articles 53-57, on on-site observations.

¹⁰² http://www.oas.org/es/cidh/consulta/4_promocion.asp.

¹⁰³ See Statute of the IACHR, Article 9.4.

VII. Financial strengthening of the IACHR

a. *Include clear and accessible information in its annual report on the management of resources received.*

189. The IACHR recognizes the importance of transparent management and, under current arrangements; Chapter II.G of its Annual Report lists the contributions received from each donor. On its website, the IACHR publishes information on the specific funds contributions it has received, the percentage of the OAS budget allocated to the IACHR, and its sources of financing.

190. In keeping with the above recommendation, the IACHR has published on its *web* site detailed information on: voluntary contributions from member states, permanent observers, non-member states and organizations; its current budget allocation and the expenditure¹⁰⁴. All budgetary information is broken down into Regular Fund and Specific Funds, and its management and execution broken down as follows:

- by source of financing;
- by Regular Fund or specific funds; and
- by expenditure item.

191. The IACHR will include this information in its Annual Report.

b. *Invite donors to make their voluntary contributions without specifying the purposes, while the goal of providing the IAHRs with sufficient resources from the regular budget is being fulfilled.*

192. The IACHR agrees with the recommendation and, due to the constraints associated with receiving special purpose (earmarked) funds, adopted its Strategic Plan for 2011-2015, aimed at receiving adequate financing from voluntary contributions for all its activities. This Strategic Plan is the principal tool for defining the Commission's priorities and in Chapter III of that Plan the Commission worked out the structure of a "basket" or common fund to provide an incentive for overall financing of its activities, to which several member states and permanent observers have already responded.

c. *Assign adequate, sufficient, and balanced resources to all its rapporteurships, working groups, and units, as well as an efficient and transparent management of those resources.*

193. The Commission has a work plan specifying its thematic priorities, the objectives to be met with respect to each of those priorities, and the corresponding activities and costs. This Plan is drawn up and adopted in its entirety by the IACHR, based on the priorities it perceives in the Hemisphere.

194. A major task facing the IACHR is to boost financing for its rapporteurships and units, so that they can do the job envisaged for them in the Work Plan. The Regular Fund resources allocated in

¹⁰⁴ View <http://www.oas.org/en/iachr/mandate/finances/2011eng.pdf>
at page: http://www.oas.org/en/iachr/mandate/financial_resources.asp

the OAS budget are insufficient to finance those activities: currently those funds cover 54 percent of the Commission's financial needs¹⁰⁵.

195. The stated objective of the IAHR is to ensure that the IACHR's activities are financed in their entirety by the OAS Regular Fund. Until that objective is achieved, the Commission has given priority to raising external funds through cooperation projects, so as to be able to meet the need for promoting and protecting fundamental rights.
196. The primary source of funding is the Regular Fund. A second source consists of voluntary contributions by member states or permanent observers. The IACHR requests that these funds be used for activities established in its Strategic Plan. However, in the event that a State, from the start, establishes thematic priorities for which its funds are to be used, the IACHR will accept them provided that the thematic objective coincides with its strategic priorities and previously established action plans. These kinds of external funds finance most of the activities of the rapporteurships: Women, Children, Afro-descendants, Indigenous Peoples, Persons Deprived of Liberty, Migrants, Human Rights Defenders, Lesbians, Gays, and Bisexual, Transgender, and Intersex People, and Freedom of Expression.
197. A third source of financing consists of international cooperation funds, accessed through public competitive bidding. The projects submitted are based on the Strategic Plan drawn up by the IACHR and they are subject to a strict set of controls aimed at ensuring that they are approved by evaluation and legal and financial oversight committees. Once a project has been authorized, it enters a bidding process with the cooperation agency concerned. All the rapporteurships and units that receive external funds are required to pay OAS administration 13.6 percent of all the funds they execute as a way of recouping indirect costs (ICR)¹⁰⁶.
198. The IACHR has frequently resorted to these kinds of bidding processes and especially in order to execute projects through its rapporteurships, including the Special Rapporteurship on Freedom of Expression. Taking these considerations into account, the only way to address the recommendation formulated by the working group and, at the same time, comply with the demand by various States and civil society organizations not to weaken any office would be to seek new funding that would allow the funding levels for all rapporteurships to rise to the levels necessary to comply with their mandates. In effect, prohibiting or impeding any of the aforementioned funding sources would lead to the immediate structural weakening of the thematic rapporteurships and units, as well as the important promotional and technical assistance activities that these offices carry out.
199. In order to implement this important recommendation, the IACHR will strengthen its capacity to raise funds for thematic areas, in accordance with the goals established in its Strategic Plan. Full implementation of this recommendation will to a large extent depend on an increase in the Regular Fund budget allocation to the IACHR, so that it can regularly satisfy the requirements established in the Strategic Plan.

Washington, D.C.

¹⁰⁵ IACHR. Financial Resources 2011 Available at: <http://www.oas.org/es/cidh/mandato/finanzas/2011esp.pdf>

¹⁰⁶ OAS. General Standards to Govern the Operations of the General Secretariat of the Organization of American States. Chapter IV. (General Provisions of a Financial and Budgetary Nature). OEA/Ser.D/I.1.2 Rev.16. June 4, 2012 Article 80. Available at: <http://www.oas.org/legal/spanish/normas/espanol/VerDefNorm1Index.htm>; OAS. General Secretary. Executive Order No. 07-01 Rev. 1 Policy on Indirect Cost Recovery . May 29, 2007 Available in English at: <http://www.oas.org/legal/english/gensec/EXOR0701REV1.pdf>

October 23, 2012