



## Report on the 150<sup>th</sup> Session of the IACHR

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Washington, D.C.- The Inter-American Commission on Human Rights (IACHR) held its 150<sup>th</sup> regular session from March 20 to April 4, 2014. The IACHR calls attention to the active and abundant participation in this session of the Member States and representatives of civil society from around the region. The IACHR is made up of Tracy Robinson, Chair; Rose-Marie Belle Antoine, First Vice-Chair; Felipe González, Second Vice-Chair; and José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi, and James Cavallaro. The Executive Secretary is Emilio Álvarez Icaza Longoria.

During the 150<sup>th</sup> session, the Commission held productive meetings with high-level authorities from States, the Inter-American Court of Human Rights, Missions to the OAS, and civil society organizations, among others involved in the inter-American human rights system. The Commission held a meeting with the OAS Member States and another with the Caribbean Community (CARICOM), and marked the end of the session with a closing ceremony that included the participation of the Permanent Representatives of the Member States and civil organizations. The IACHR appreciates the constructive atmosphere in which these gatherings took place. In addition, the Rapporteurs on the Rights of Indigenous Peoples, Women, Lesbians, Gays, Bisexuals, Trans and Intersex Persons, and Human Rights Defenders held meetings with civil society organizations.

During the session, the Inter-American Commission examined the applications received for the position of Special Rapporteur for Freedom of Expression, in the context of a competition posted on December 19, 2013. The IACHR has selected six finalists: Ileana Alamilla Bustamante, Juan Pablo Albán Alencastro, Francisco Cox, Edison Lanza, Damian Loreti, and David Lovatón. Their résumés have been posted, in English and Spanish, on [this page](#) of IACHR website. Pursuant to the provisions of Article 15.4 of the IACHR Rules of Procedure, the IACHR will accept observations on these finalists from the OAS Member States and civil society from May 1 to May 31, 2014, and will interview them during the 151<sup>st</sup> session, which will take place at Commission headquarters in Washington, D.C., on July 14-26, 2014. During that session, the IACHR will announce the person selected for the position. The new Rapporteur will start on October 6, 2014. Pursuant to Article 15 of the IACHR Rules of Procedure, the Rapporteur is appointed for a three-year term, which can be renewed for another term, unless the mandate of the rapporteurship terminates earlier.

For this session, the IACHR received 61 requests to hold working meetings and 220 to hold hearings, including 12 requests from Member States. The active participation of States and civil society in these mechanisms and the constant increase in the requests received are indicators of these mechanisms' effectiveness, as well as an acknowledgment of the credibility and legitimacy of the inter-American human rights system as a whole. The public hearings were transmitted via webcasts, and 135,000 computers tuned in. Organizations and universities from the region invited audiences to follow the hearings live at various events, and some hearings were retransmitted live via open television channels. Over the past year, the Commission received 1.2 million visits to its website and had a more than 200% increase in the number of followers on social media. The IACHR

views as extremely positive the growing interest of people in the Americas to be informed about the human rights situation in the region and the inter-American human rights system's mechanisms to protect and promote fundamental rights so that they are respected and guaranteed.

During the session, the IACHR presented two Commission reports, one on guarantees for the independence of justice operators and the other on the use of pretrial detention in the Americas. The session included 55 public hearings with the participation of delegations from 20 OAS Member States, as well as 30 working meetings on petitions, cases, and precautionary measures. The hearings that were held and reports that were approved in this session reflect some of the structural human rights problems that persist in the region.

### **Regarding Individuals who Attend Hearings and Working Meetings**

The Commission expresses its deepest concern over the threats, reprisals, and acts of disparagement directed against some of the people who attend IACHR hearings and working meetings, both on the part of individuals and, in some cases, State authorities. The Commission considers unacceptable any type of reprisal or stigmatization that a State may undertake because of the participation or actions of individuals or organizations before the bodies of the inter-American system, in exercise of their treaty rights. The Commission reminds the States that Article 63 of the IACHR Rules of Procedure establishes that States “shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type,” and that States “may not prosecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission.”

Moreover, a democratic State must not for any reason hamper the participation of persons under its jurisdiction in hearings and working meetings of the Commission. Along these lines, the Commission deeply regrets that the Dominican State did not provide a passport or travel document for Juliana Deguis Pierre so that she could participate in the hearing on the situation concerning the right to nationality of Dominicans of Haitian descent. Her participation had been proposed by the organizations that requested the hearing. Even though she did not have a passport, the government of the United States granted Juliana Deguis Pierre a special visa, which allowed her to enter the country to appear at Commission headquarters. However, the Dominican immigration authorities prevented her from leaving the Dominican Republic. This constitutes an obstacle, imposed by the Dominican State, to the operation of the inter-American human rights system.

### **Regarding Precautionary Measures**

The IACHR notes that significant progress was made in various working meetings held during this session. In particular, the Commission appreciates the participation of representatives of States and petitioners from Argentina, Colombia, United States, Honduras, Jamaica, Paraguay, and Peru in working meetings on the implementation of precautionary measures in effect. This makes it possi-

ble to reach agreements and overcome hurdles, in order to ensure greater protection in the face of grave and urgent situations that pose a risk of irreparable harm to people.

The Commission is also concerned over the position expressed by some States to the effect that precautionary measures are nonbinding recommendations. The mechanism of precautionary measures has a more than three-decade history in the inter-American human rights system and has served as an effective instrument to protect the fundamental rights of thousands of inhabitants of the 35 States under the Inter-American Commission's jurisdiction.

The Commission's authority to request the adoption of urgent steps or to issue precautionary measures reflects a common practice in international human rights law. The States have given the Commission the mandate "to promote the observance and protection of human rights," under Article 106 of the Charter of the Organization of American States (OAS). To fulfill that mandate, the Commission informs the States when there is a grave and urgent situation that poses a risk of irreparable harm to persons or to the subject of a petition pending before the bodies of the inter-American system, and requests that they take steps to prevent this harm from occurring. This mechanism is called a "precautionary measure." Through this mechanism, the Commission provides assistance to the States so that they can carry out their bounden duty to protect human rights.

The Commission's authority to grant precautionary measures rests on the States' general obligation to respect and ensure human rights (Article 1 of the American Convention), adopt legislative or other measures as may be necessary to give effect to human rights (Article 2), and comply in good faith with the obligations acquired under the Convention and the OAS Charter. It also stems from the function assigned to the IACHR to see to it that States Parties comply with the human rights commitments they have made, a function established in Article 18 of the IACHR Rules of Procedure and Article 41 of the American Convention.

The OAS General Assembly has encouraged the Member States to follow through on the Commission's recommendations and precautionary measures. Moreover, in adopting the Inter-American Convention on Forced Disappearance of Persons, in the context of the General Assembly in 1994, the Member States recognized the efficacy of the mechanism of precautionary measures to examine these types of allegations. Precautionary measures have been recognized, over the decades, by the beneficiaries, the OAS Member States, the users of the inter-American system, and the human rights community as a whole. The mechanism of precautionary measures is frequently invoked in international law, and is a power held by the main courts and bodies established under treaties so that their decisions and the protection they exercise do not become merely abstract. As part of the historical development of this concept, the 1980 Rules of Procedure of the IACHR formalized a procedure for this mechanism, and the mechanism has remained in the IACHR Rules of Procedure for more than 30 years.

The Inter-American Commission calls on the Member States to avoid any setback in the construction of mechanisms to protect people's fundamental rights. Precautionary measures are the product of a step-by-step procedural development through practice, which responds to the inter-American

system's historical pattern of building mechanisms. Throughout the 55 years since the Inter-American Commission was created, steps have been taken to adopt mechanisms that make it possible to protect and defend human rights in ways that are increasingly effective. It is imperative for the States to respect the mechanisms and comply with the Commission's recommendations.

## Progress on Friendly Settlements

In view of the priority the IACHR has given to the friendly settlement procedure, during the 150<sup>th</sup> session the Commission made an effort to increase the number of meetings aimed at promoting reconciliation between parties. In this regard, it convened 19 working meetings on cases and petitions, of which 17 took place and 2 were cancelled due to the failure of petitioners to appear. Six working meetings addressed matters in different stages of negotiations toward a friendly settlement and 11 were on compliance with agreements signed by the parties.

The meetings that were held made significant progress in the negotiation of new friendly settlement agreements, as well as in the follow-through to those in the compliance stage. Along these lines, it is important to note that the meeting minutes were signed in two cases in which the parties made important steps toward finding an alternative consensus solution. First of all, the IACHR values the signing of the minutes during the meeting held between the State of Mexico and petitioners in Petition No. 1171/09, Ananías Laparra Martínez et al. The petition had been lodged with the IACHR over the alleged illegal detention and torture of Ananías Laparra Martínez and the alleged acts of torture perpetrated against her children, as well as over the mistaken criminal conviction, based on a confession and statements made under torture. During the meeting, the parties reached agreements on pending aspects to complete the negotiation of the agreement that will be signed in the near future, in Mexico City. Secondly, in the meeting on Case 12.905, Galván et al., Argentina—which involved alleged violations of the right to a fair trial, specifically concerning the right to appeal a decision to a higher judge or higher court—the parties confirmed their willingness to begin friendly settlement proceedings and laid the groundwork for that to happen.

Significant progress was also made in compliance with agreements, thanks to the work carried out jointly by the parties in different cases. In particular, two memorandums of understanding were signed in which the parties agreed on measures to promote compliance with the commitments pending in Case No. 12.041 (MM), Peru—involving the right to humane treatment, women's rights, and the right to a fair trial in the case of a woman who was a victim of sexual abuse in a medical office of the public health service—and in Case 12.350 (MZ), Bolivia, involving a woman's rape and the lack of due process of law. The Commission appreciates and values the efforts by the parties to try to resolve, in a friendly manner, cases pending before the IACHR, based on respect for human rights. Finally, the minutes of the working meeting on Peru's Press Release Cases were signed, in which the parties agreed to a plan for complying with the commitments made by the Peruvian State.

## Hearings Requested by the States

At the request of the State of Peru, the Commission held the hearing “Criminal Justice System in Peru.” Representatives of the State laid out the progress and pending challenges in the implementation of the New Criminal Procedural Code, enacted in 2006. The new code changed the legal framework from an inquisitorial to an accusatorial system, with adjustments aimed at bringing criminal procedural laws in line with the standards of due process and, hence, the guidelines established by the American Convention on Human Rights. In addition, the State reported on progress made in terms of the public defense of victims of crimes and human rights violations. Finally, the State reported that on December 1, 2013, the National Council on Criminal Policy approved the National Prevention and Treatment Plan for Adolescent Criminal Offenders. The plan spells out a public policy on the administration of justice for adolescents, along three main lines: the prevention of risk factors that affect young people and increase the probability of criminal activity; a justice system that can be adapted to the particular circumstances of adolescents; and resocialization measures. The Commissioners congratulated the State for these advances, while also expressing their concern over a reform to the criminal code declaring immunity from prosecution for personnel of the Armed Forces and the National Police of Peru who, in the course of carrying out their duties and using their weapons or other means of defense, cause injuries or death. The Commission was also concerned over the need to provide advocacy services for child and adolescent victims of human trafficking and to punish adults who involve children and adolescents in the commission of crimes.

At the request of the State of Mexico, the Commission held the hearing “Human Rights Public Policy and Good Practices in Mexico.” The State reiterated its commitment to the respect of human rights, and expressed its openness to scrutiny and visits by international organizations. In particular, it emphasized its connection with and contribution to the inter-American human rights system, and indicated that the strengthening of the system will enhance respect for human rights in the region. During the hearing, the Mexican State referred to various advances in human rights, such as legislation on the *amparo* action and on victims, educational reforms, access to public information, and the strengthening of public security tasks. It also indicated that it was aware of the challenges and the intensive work that must be done to bring about complete respect for human rights in the country. For its part, the IACHR recognized the legislative progress Mexico has made on human rights and asked questions about the process of implementing these advances. It also asked about the inclusion of civil society in the preparation of the National Human Rights Plan, and on the policy related to the security of migrants in Mexico. Finally, the IACHR welcomed the State’s willingness to work with the IACHR.

At the request of the State of Argentina, the Commission held a hearing on prosecution and human rights in Argentina, a hearing which took place on the 38<sup>th</sup> anniversary of the coup d’état. The State presented information on the new institutional design of the Public Prosecutor’s Office and indicated that one of the agency’s main goals was to increase the promotion and protection of human rights. The State reported on the creation of five special prosecutor’s offices focused on drug trafficking, economic crimes, institutional violence, human trafficking, and crimes against humanity. The State indicated that this last office will result in progress being made in these trials, noting that

as of 2013, 520 individuals had been convicted and 1,069 prosecuted, and there are 14 ongoing trials involving 267 defendants. It also indicated that the main obstacle in the management of the Attorney General's Office has been the resistance to the appointment of 40 ad hoc prosecutors. The Commission inquired about challenges that have arisen with the reform and about the reform's impact on reducing impunity, as well as about the guarantees for independence for agents of the Public Prosecutor's Office.

The State of Venezuela asked that a hearing be held on the general human rights situation. Considering that civil society organizations also asked for a hearing on the same subject, the Inter-American Commission granted both parties a hearing on the matter. A summary of this hearing is found in this report under the title "Hearing on the General Human Rights Situation in Venezuela."

For the second time in its history, the IACHR held a hearing requested by a group of States to address the subject of the death penalty in the Americas. Argentina, Brazil, Chile, Costa Rica, Honduras, Mexico, Panama, Paraguay, the Dominican Republic, Uruguay, and the Permanent Observer Mission of France to the OAS addressed the issue of the death penalty from a perspective of promoting and protecting human rights. This hearing, according to the participating States, constitutes a way not only to keep the subject on the IACHR agenda, but also to identify ways to move toward abolition of the death penalty in the Americas. A representative of Amnesty International, for her part, referred to some steps forward in the region in 2013. She indicated that in Grenada, Guatemala, and Saint Lucia, for the first time nobody was on death row, and that the "Greater Caribbean for Life" network had been established for the purpose of seeking abolition of the death penalty in the countries of the Caribbean. She also indicated that Barbados and Trinidad and Tobago continue to have a mandatory death penalty in their legislation, and that the United States continues to be the only country in the Americas that executes people who have been sentenced to death. According to the information provided, in 2013 the United States executed 39 persons, 10% fewer than in 2012. However, it continues to be among the five countries in the world that carry out the most executions.

The Commission stressed its great concern over the United States' failure to comply with the precautionary measures granted by the IACHR in cases involving the death penalty. For decades, the Inter-American Commission has addressed the issue of the death penalty as a critical human rights challenge. In its report "The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition," published in 2012, the IACHR recommended that the States impose a moratorium on executions as a step toward the gradual disappearance of this type of penalty. The IACHR welcomed the initiative by nearly one third of the Member States to request a hearing on this issue.

### **Hearing to Follow Up on the Recommendations in the Report on the Situation of Human Rights in Jamaica**

During the sessions, the IACHR held a hearing to follow up on the recommendations in its Report on the Situation of Human Rights in Jamaica, published in August 2012. The representatives of the State of Jamaica and of several civil society organizations provided updated information on the is-



sues addressed in the Commission’s report, including citizen security, the administration of justice, and the rights of children, persons deprived of liberty, persons with disabilities, LGBTI persons, and women. The State representatives recognized the challenges and problems, discussed them with a constructive attitude, and provided information regarding specific legislative and administrative measures to advance toward greater enjoyment of human rights. Some of these were the creation and strengthening of the Independent Commission of Investigations (INDECOM) to investigate killings and other abuse allegedly committed by police officers and members of security forces; the abolition of whipping and flogging; and the initiative to establish a national human rights institution. In addition, several issues of continued concern were stressed at the hearing, such as the high level of violence in the country, unequal access and protection of vulnerable populations, overcrowding and unacceptable detention conditions, criminalization of sodomy, and the stigma and discrimination suffered by LGBTI persons, sex workers, and people living with HIV.

### **Hearing on the General Human Rights Situation in Honduras**

Petitioners presented statistics placing Honduras as the most violent country in Latin America. The State’s response to that situation has allegedly involved privatization and militarization of public security, along with a lack of modernization and professionalization of the National Police. Petitioners also addressed the issue of a judicial purge carried out by the Council of the Judiciary and the Judicial Career Service through suspensions and dismissals without due process. They also referred to the fact that the Secretariats of State in the Justice and Human Rights Office and the Office on Indigenous Peoples and Afro-Hondurans had been absorbed into other Secretariats, thus losing autonomy and independence. The State indicated that it is in the process of strengthening its institutions in line with the Truth Commission’s recommendations and with international human rights standards, and that this process primarily responds to the outcry of Honduran society. The Commission expressed its concern regarding the lack of established procedures for suspending or removing judges from office, as well as the reach of the military police. The IACHR also raised questions about the validity of Decree 65-2003, which establishes mandatory pretrial detention for a list of 21 crimes.

### **Hearing on the General Human Rights Situation in Venezuela**

The Commission held a hearing on the general human rights situation in Venezuela, which had been requested both by the State and by a number of civil society organizations and was held with the participation of both. The IACHR was informed that 669 violations of the right to life were documented in 2013, along with 89 cases of alleged torture and other cruel, inhuman, and degrading punishment. Specifically, the organizations expressed their concern over an increase in cases involving violations of the right to life since implementation of a new citizen security policy by the Venezuelan State—the “Safe Homeland Plan,” which contemplates the intervention of the Bolivarian National Armed Forces in tasks involving citizen security. The organizations also said that a “structural situation of impunity” exists in the country. They indicated that, according to figures published by the Public Prosecutor’s Office, in 98% of cases, victims of human rights violations do



not have the opportunity to be heard by a judge. The State, for its part, acknowledged that there were some excesses by the police during the protest demonstrations that began in February and indicated that these were being investigated. The State laid the blame on the opposition for the deaths and injuries that have taken place in the protest demonstrations. Specifically, the representative of the Venezuelan State made stigmatizing comments in relation to the opposition as having been engaged in ‘terrorist acts’ in the context of the protest demonstrations. The Inter-American Commission does not condone violence and has stated repeatedly that those engaged in violence should be held accountable for their acts. However the Commission wishes to express its deep concern about these types of statements which are intolerant of political and democratic participation and hinder the full observance of human rights. These expressions can place those engaged in legitimate political activities and social protest in a position of greater vulnerability and at greater risk of possible attacks, due to the stigmatization they may generate. Finally, the Inter-American Commission reiterates its deep concern over the situation in Venezuela, and encourages the State to move forward with a process of dialogue to find a peaceful way to resolve the current situation, with full respect for human rights.

## **Hearing on the General Human Rights Situation in Colombia**

During the hearing on the general human rights situation in Colombia, the organizations addressed the situation of victims involved in the land restitution process and their special state of vulnerability. They also referred to the results obtained over the nine years the Justice and Peace Law had been in effect. In particular, they reported on alleged new forms of paramilitarism, indicating that the complete dismantling of paramilitary groups has not yet been achieved. On another matter, they indicated that more than 250 extrajudicial executions have been documented in recent years, and that in many cases members of the National Police are alleged to have participated. The Commission was concerned to hear that at least 13,000 people were reportedly victims of forced displacement in 2013 in the Municipality of Buenaventura, in the Department of Valle del Cauca, where at least 20 cases of “dismemberment” of bodies were said to have been documented. For its part, the State asserted that Colombia will overcome the challenges it faces with the end of the internal armed conflict. It indicated that the government has undertaken significant efforts to make progress on the protection of human rights and has continuously strengthened the dialogue with civil society, whose proposals had formed the basis for the design of public policies to ensure human rights with a focus on prevention. Specifically, the State referred to the implementation of the National Human Rights System, which seeks to create a comprehensive public policy to strengthen a culture of human rights with a differentiated focus, one that works in coordination with the system for providing comprehensive reparation to the victims of human rights violations.

## **Access to Justice and Judicial Independence**

The IACHR held a hearing on the situation concerning the right of access to justice in Brazil, which addressed in particular the suspension of judicial decisions (*ação de suspensão de segurança*). This type of mechanism allows the State to suspend judicial decisions in the event of serious harm to law

and order, the economy, or public security or health. According to the petitioning organizations, the State is using suspensions to the benefit of the execution of mega-projects and to the detriment of the indigenous communities affected by these projects. The petitioners also indicated that the suspension of judicial decisions violates the right to judicial protection established in Article 25 of the Convention inasmuch as it violates the rule of express jurisdiction and natural judge, and that the decision is not independent and impartial. The State, for its part, argued that this type of mechanism is compatible with the Convention and is an instrument for the protection of the collective public interest. The IACHR, for its part, expressed particular interest in the way the courts apply this mechanism, as well as in whether or not a contradiction exists both in the proceeding giving rise to the decision to which the suspension applies and in the application of this mechanism.

In a hearing on judicial independence in Chile, the petitioners reported that judges have suffered harassment, particularly on the part of other judicial bodies, when they have established the responsibility of State actors or applied the Convention in adherence to case law of the inter-American system, taking on a role of protecting human rights. The petitioners indicated that in such cases, disciplinary proceedings and public smear campaigns had been carried out against the judges. In that context, they asked the State to convene a working group to implement the IACHR report on “guarantees for the independence of justice operators.” For its part, the State denied that such incidents exist and argued that the principles of judicial independence and autonomy and the irremovability of judges prevail in Chile.

## Human Rights Defenders

During the hearings, the Commission received information about killings, extrajudicial executions, forced disappearances, attacks, threats, and acts of harassment directed against human rights defenders in the region. In the hearing on the situation of human rights defenders in the Americas, petitioners reported that incidents of harassment, attacks, and assaults continue, and they provided alarming figures on killings and attacks. They also considered the problem of criminalizing human rights defenders through the use of criminal law to bring charges such as “sabotage” and “terrorism,” which because they are vague or ambiguous can be used to prosecute defenders for legitimately carrying out their work. The Commission also received information on restrictions to the right of association through the dissolution of organizations via executive-branch decrees, allegedly without due process and on grounds that allow for discretion in their application. The human rights defenders alleged that some countries in the region continue to use force in an abusive way to put down social protest demonstrations, even when these are peaceful and unarmed. They also pointed to high rates of impunity—said to be as high as 98% in some cases—for crimes against human rights defenders.

The Commission received information indicating that groups of human rights defenders that are particularly exposed to risk are women defenders; campesino, indigenous, and community leaders; people of African descent; trade unionists; environmental and land activists; LGBTI defenders; and defenders of reproductive rights.

The Commission welcomes the information it received on countries that have implemented specific programs to protect human rights defenders at risk, such as Colombia, Mexico, and Brazil. Nevertheless, the Commission was concerned to receive information in several hearings on failings and weaknesses that stand in the way of implementing suitable, effective protection measures. Along those lines, it was reported that the program in Brazil does not have an adequate operating budget and that there are coordination problems among the agencies in charge of offering protection. With regard to the protection program in Mexico, the Commission received information indicating that the measures that are ordered lack a gender perspective or do not properly enable the beneficiaries to continue to do their work. It was also alleged that the mechanism needs to address problems related to a lack of promptness in the evaluation of risks, as well as the availability of resources to order effective protection plans. In the case of Colombia, petitioners pointed to a lack of a comprehensive policy on protection and said that sometimes, with the lack of progress in investigations, there had been a failure to effectively deactivate the sources of risk to human rights defenders.

The IACHR also received troubling information about human rights defenders reportedly being prosecuted in several States for committing crimes such as “sabotage” and “terrorism,” purportedly in the exercise of their legitimate activities to defend human rights. The Commission also received information on the excessive use of force by the police against human rights defenders who participate in protest demonstrations. Specifically, information was received on defenders who reportedly had been detained or attacked in the context of protesting for their rights in countries such as Brazil, Peru, and Venezuela.

With regard to freedom of association, the IACHR received information on Ecuador indicating that the “Regulations on the Operation of the Unified System of Social and Citizen Organizations”—Executive Decree No. 16, of June 20, 2013—use broad and ambiguous terms to describe grounds for breaking up organizations. These include, for example, “interference in public policies” and “attacks on State domestic security,” which could lead to a discretionary interpretation on the part of the public authorities in charge of enforcing the regulations. On this point, the Commission expresses its concern over the fact that the aforementioned decree could translate into an obstacle that keeps human rights organizations from operating freely. The Commission reiterates that the right to association is a human right which is fundamental for the consolidation of democratic societies, and that any restriction to that right should be adjusted to the standards of international law.

In a hearing on the situation of justice operators in Guatemala, the petitioners indicated that in a critical year, in which the heads of the Public Prosecutor’s Office, Court of Appeals, and Supreme Court are being elected, the Nominating Committees face considerable challenges in terms of their operations and performance. They pointed to limitations in the participation of civil society due to insufficient time periods to investigate the records of the candidates, as well as the lack of objective parameters to evaluate integrity. They noted that, since deans of law schools participate on the Nominating Committees, at least one law school with no students has been created for the purpose of participating on the committees. The petitioners also indicated that the decision by the Constitutional Court to shorten the term of Attorney General Claudia Paz is deeply flawed. The State of Guatemala explained the legal prerequisites for the appointment of all justice-sector operators. The

Commission asked questions regarding the mechanisms that ensure transparency and civil society participation in the processes to appoint justice operators.

## Human Rights Violations of the Past

The IACHR received information on access to justice by victims of the regime of Jean-Claude Duvalier in Haiti. Representatives of the Collectif contre l'impunité and of Lawyers Without Borders Canada indicated that the February 20, 2014, decision by the Port-au-Prince Court of Appeals, which ordered the investigation of grave human rights violations committed under the Duvalier regime, constitutes an historic step forward in the struggle against impunity and in the strengthening of the rule of law. However, they indicated that victims' right to access to justice continues to be seriously compromised, due primarily to the fragility of the judiciary and the lack of political will on the part of the government to create the conditions for these events to be prosecuted. The State, for its part, indicated that the Haitian government respects the separation of powers and therefore will allow justice to follow its course. It also made a commitment to implement the recommendations the IACHR made in its 2011 statement on the obligation to investigate the grave human rights violations committed during the Duvalier regime. The Inter-American Commission underscored the significance of the ruling by the Court of Appeals and indicated that this is a matter of great importance not only for Haiti but also for CARICOM and for the rest of the international community. The Commission welcomed the State's commitment to implement IACHR recommendations on this matter. It also pointed out that access to justice in this case will depend not only on the existence of an independent judiciary, but also on the State's allocating sufficient funds, protecting witnesses, and ensuring that victims are treated with dignity. Finally, the IACHR called on the Haitian government and any other State that may have documentation on violations perpetrated during the Duvalier regime to open their archives so that the victims can gain access to the information, which is critical for the establishment of justice.

With respect to Guatemala, during this session the IACHR continued to receive troubling information regarding the challenges faced by the National Reparation Program (PNR), which was created in 2003 as a mechanism to provide comprehensive reparation to victims of the internal armed conflict, in fulfillment of the commitments contained in the Peace Accords of December 29, 1996. In this regard, the hearing petitioners noted as major problems the lack of political will to implement the reparation measures established under the PNR in a way that is efficient, transparent, and comprehensive. They indicated, among other things, that the authorities who run the program create false expectations among the victims, impose onerous burdens of proof and excessive paperwork, and fail to meet the timelines and the agreements they reach with the communities, all of which has led to a widespread feeling of frustration and mistrust among the victims. The petitioners also expressed their deep concern over the fact that Government Accord No. 539/13, which extends the PNR for 10 more years, was issued without taking into consideration the contributions presented by representatives of the victims. They were also concerned that it abolishes relevant substantive sections of the previous legislation, eliminating concepts such as "crimes against humanity," "internal armed conflict," "civilian victims," and "massacres," among others. The State, for its part, mentioned that a re-launch of the PNR is being considered as part of a national strategic plan contem-

plated in the framework of the Comprehensive Human Rights Agreement. The IACHR again reminds the State of Guatemala that the purpose of the National Reparation Program is the comprehensive reparation of victims, and therefore it is fundamentally important that both the legal basis behind compensation as well as the way it is carried out be directed toward protecting the dignity of the victims. The Commission once again calls on the State to take the necessary steps to ensure that measures to ensure comprehensive reparation are implemented effectively, in a way that is appropriate from the standpoint of culture and gender, for the victims of the armed conflict. The Commission also underscores the importance of having proper mechanisms to monitor and measure the results obtained in the execution of reparations channeled through the PNR.

In another hearing, the Commission received information on the challenges to the work of the Truth Commission in the Mexican state of Guerrero. According to the petitioners, the Guerrero Truth Commission, which investigates human rights violations committed during what is known as the Dirty War, has faced obstacles in carrying out its mandate, primarily related to the lack of access to information. On this point, they specified limitations regarding access to documents considered “classified,” as well as to files that have allegedly been hidden or altered. They also expressed concern over restrictions in terms of the inclusion of victims, as well as the lack of security measures to carry out their work. On this last point, they pointed to different types of assaults, such as attacks and threats, perpetrated against their members and their facilities. For its part, the State of Mexico recognized the importance of the Truth Commission’s work in recovering historical truth, and made a commitment to overcome the challenges the organization faces, particularly to ensure access to information. The IACHR expressed its concern over the attacks that were reported and asked the State about measures to be adopted to ensure that the Truth Commission could effectively exercise its authority, including access to relevant information that would shed light on the cases it handles.

The IACHR subsequently received information indicating that on March 30, days after the hearing, a vehicle belonging to the Guerrero Truth Commission was stolen. The IACHR urges the State to urgently adopt protection measures for the members of the Truth Commission, to ensure that they can safely carry out their work. The IACHR also urges the State to investigate the attacks, assaults, and threats against members of the Truth Commission, and identify and punish the perpetrators through the appropriate judicial proceedings.

## **Political Rights**

The Commission held a hearing on the legal framework and institutional practice for imposing restrictions on political rights in Colombia. Prior to the hearing, the IACHR received a request from the Colombian State asking for the hearing to be canceled because the State believed it was not “appropriate for it to take place,” following the Commission’s decision to begin processing an individual petition. The State argued that, in its view, the subjects to be covered in the hearing would refer to “issues directly related to the merits of [that] petition.” As the Commission had previously informed the State and the petitioners, this was a thematic hearing. While the State of Colombia decided not to participate, it expressed its willingness to continue the dialogue with the Commission.

The Commission held the hearing with the organizations that had requested it. The IACHR was informed about decisions by the Constitutional Court of Colombia that have indicated the importance of political rights in the sense that these are intrinsic to a democratic system and allow citizens to participate in a country's political life. The participants indicated that the Colombian legal system contemplates restrictions to political rights for public servants. These involve, first of all, capacity requirements for a person to participate in government (incompatibility and ineligibility regime) and, secondly, the system of responsibilities—punitive, fiscal, and disciplinary. The participants indicated that in Colombia, such restrictions may be imposed not only by judicial authorities but by administrative authorities, specifically through the powers attributed to the Office of the Attorney General as the agency responsible for “carrying out oversight,” pursuant to the provisions of the Colombian Constitution and the Single Disciplinary Code. In that respect, the IACHR was informed about some 460 officials elected by popular vote, who had reportedly been removed from office by the Attorney General's Office during the 2004-2008 period.

### **Persons of African Descent and Situations involving Racial Discrimination**

The petitioners informed the Commission about the human rights implications of “Stand Your Ground” laws currently in force in some states of the United States, which extend immunity from criminal prosecution or civil suits to persons who use deadly force in self-defense beyond the home, without imposing a duty to retreat. The petitioners, who included the mother of Trayvon Martin and the father of Jordan Davis, provided firsthand accounts of the dangers these laws pose to communities and their devastating impact on minorities in the United States. The petitioners claimed that Stand Your Ground laws negatively and disproportionately affect African-Americans and other racial and ethnic minorities. The Commission was informed of the inconsistent and discriminatory application of these laws, promoting biases against African-American victims and legitimizing a “shoot first” mindset based on perceptions and prejudices. Moreover, individuals who tend to use a Stand Your Ground defense, such as survivors of domestic violence, are not necessarily those who are able to access the protections afforded by the law, especially when they are women of African descent. It was also argued that the number of homicides has increased in those states that have implemented some sort of Stand Your Ground laws. The State informed the IACHR of an open investigation related to Stand Your Ground laws, which is currently being undertaken by the United States Department of Justice. The Commissioners requested information from the parties about laws that could be adopted at the federal level to address the impact of Stand Your Ground laws, the inconsistent application of such laws to domestic violence cases, and the need for research and statistics on issues pertaining to race and their treatment by the criminal justice system.

In a hearing on Case 12.866, Henry Hill, United States, the Commission received arguments on the merits on the part of petitioners and the State. Henry Hill is an African-American who was sentenced when he was a minor to life in prison without the possibility of parole. During the hearing, the petitioners reported that currently there are 362 individuals in the state of Michigan who are serving life sentences without parole, of whom 69% are of African descent.



A hearing was also held on the right to nationality in the Dominican Republic; this is discussed in this report's section on statelessness. The IACHR received with concern information in this hearing indicating that Dominicans of Haitian descent, who are of African descent and are often identified as Haitians based on the color of their skin, are disproportionately affected by Judgment 168/13 of the Constitutional Court.

During the sessions, the Rapporteurship on the Rights of Persons of African Descent also received with concern information on alleged problems regarding the election of Non-Afro Colombians to congressional seats reserved for Afro-Colombians. The Inter-American Commission continues to follow up on this information.

## Indigenous Peoples

During its 150<sup>th</sup> session, the IACHR continued to receive troubling information on the situation of indigenous peoples in different countries of the region, such as Chile, Nicaragua, Panama, Peru, and Suriname.

With regard to Peru, a hearing was held on the human rights situation of indigenous peoples in isolation and initial contact who inhabit the Territorial Reserve of the Kugapakori, Nahua, and Nanti. The IACHR is pleased about information it received on the progress made by Peru, which has specific laws and institutions to protect the rights of these indigenous peoples. Nevertheless, the Commission expresses its concern over information indicating that there does not seem to be an effective implementation of mechanisms to protect and guarantee their rights. The IACHR reiterates the need for greater resolve in implementation—as arranged with the relevant indigenous organizations and communities in contact who live in the Territorial Reserve—which translates into the establishment of adequate checkpoints; the provision of an adequate budget and trained personnel; and high-quality, culturally appropriate health and education services for the communities in contact. The IACHR also received troubling information concerning the approval, allegedly without consultation, of the expansion of oil development on Lot 88, which reportedly poses a risk to the lives and physical and cultural survival of the indigenous peoples who live in the reserve. The IACHR welcomes the State's acknowledgment that indigenous peoples in initial contact have the right to a different form of consultation and its announcement of a consultation process for April 2014. The IACHR emphasizes that any measure that might affect the rights of peoples in isolation must be adopted taking into consideration the *pro personae* principle and assuming the no-contact principle as an essential condition.

On another matter, the IACHR received troubling information on the situation of indigenous peoples in Nicaragua, characterized by a failure to implement the process of demarcation and titling of indigenous territories; the infringement of indigenous peoples' right to consultation and prior, free, and informed consent in the concession of works and projects involving their territories; the absence of modifications to Electoral Law No. 331 to bring it in line with indigenous peoples' right to political participation; and a failure to implement safety rules and supervise working conditions for the Miskito deep-sea divers, which has led to frequent incidents, deaths, and cases in which people

have disappeared in the ocean. The Commission is particularly concerned about information it received regarding the Mayagna (Sumo) Community of Awas Tingni; it was reported that despite the judgment issued in the community's favor by the Inter-American Court more than 12 years ago, 91% of its territory has been invaded by third parties, the territory has been seriously polluted, and there have been incidents of violence. It is equally troubling to the IACHR that representatives of the Rama and Kriol territories reported on the implementation, without consultation, of the Grand Interoceanic Canal project, which would affect approximately 40% of their territory.

The IACHR also received troubling information on the implementation of the right to consultation and consent of indigenous peoples in Chile. The Commission was informed that while efforts have been made to establish a consultation mechanism, the result of this process, Supreme Decree No. 66, would reportedly entail restrictions to the rights of indigenous peoples, having to do with the exclusion of certain matters subject to consultation and the agencies to which the obligation to consult applies, among other things. Moreover, the Commission was informed that regulations affecting indigenous peoples had been adopted at the same time and without consultation, and that there are serious problems when it comes to implementing the right to consultation on a practical level. The Commission is very pleased about the Chilean State's expressed willingness to adapt its legal frameworks and make the changes needed to bring them fully in line with international standards. Toward that end, the IACHR calls on the State to take decisive steps to ensure that, in legal and practical terms, Chile's indigenous peoples can fully and effectively exercise their right to consultation and prior, free, and informed consent, pursuant to the standards of the inter-American system.

The Commission also received information about the impact on health and physical integrity as a result of mining activities in communities of the Wayana people in Suriname, such as the community of Apetina and segments of the Wayana people who live in isolation in the forested regions of southeastern Suriname. The IACHR was informed that the Suriname Indigenous Health Fund conducted studies that determined the presence of neurological disorders among the Apetina population, caused by mercury poisoning. Petitioners also reported that members of the Suriname Indigenous Health Fund had received threats that appeared to be linked to their activities in Apetina. The Commission calls on the State to act quickly to determine and eliminate the causes of the alleged mercury poisoning, adopt comprehensive measures to address the health situation of the Wayana people, and investigate the facts of which it was made aware and punish the perpetrators. The Commission also received with concern information during this hearing on alleged threats, attacks and intimidation against human rights defenders who work in the Suriname Indigenous Health Fund. The State representative assured in the hearing that there will be an investigation into these allegations. The Inter-American Commission will continue to follow up on this issue and expects to receive the results of this investigation.

Another troubling situation for the IACHR has to do with Panama's response to activities of human rights defenders over the implementation of development projects that would primarily affect indigenous territories. The Commission was informed that there have been a number of episodes involving a disproportionate use of force, violent suppression of protests, evictions, physical and verbal assaults, and even deaths. In particular, the IACHR received troubling information on the Barro

Blanco hydroelectric project, which would affect the Ngäbe-Buglé District and surrounding areas. According to the testimony of Weni Bagama, a Ngäbe leader, since finding out about the project in 2007, the community had taken steps to express its opposition, but “the only response to us has been with anti-riot forces.” The IACHR notes that the State acknowledged that there had been “unfortunate events,” emphasized its openness to dialogue, and reiterated its commitment to address this issue. The IACHR is pleased to hear this expressed by the State and calls to mind that, given the importance of the rights to association, protest, and freedom of expression for the consolidation of democratic societies, the Commission has maintained that any restriction to these rights must be justified by an overriding societal interest.

Meanwhile, on March 26, Rapporteur Rose-Marie Antoine met with representatives of indigenous peoples and organizations, as well as representatives from civil society organizations from different countries of the Americas who were attending the 150<sup>th</sup> session. At the meeting, the Rapporteur was able to share information about key concerns involving the situation of indigenous peoples in different countries in the region. The Rapporteur appreciates the presence of all who attended and reiterates her willingness to continue providing opportunities for dialogue to help strengthen the work of the Office of the Rapporteur.

## **Migrants, Refugees, Asylum Seekers, and Beneficiaries of Complementary Protection, the Stateless, Victims of Human Trafficking, and the Internally Displaced**

In a hearing on the human rights situation of Haitian migrant workers and their families in the Dominican Republic, the petitioners called attention to the poor living conditions and violations of labor rights of the *braceros*, which is the word used to identify Haitian migrants who work in the sugarcane fields. Details about this hearing are included in the section of this report on economic, social, and cultural rights.

During the hearings, the IACHR also received information on the situation involving the right to nationality of Dominicans of Haitian descent and the way their situation has worsened following Constitutional Court Judgment 168/13, which retroactively modified the criteria for acquiring nationality that had been in effect in Dominican constitutions from 1929 to 2010. On that point, the petitioning organizations expressed their concern that subsequent to Judgment 168/13, the Constitutional Court had upheld the criteria established in that ruling, through Judgments 275/13, 290/13, and 28/14. The organizations that requested the hearing argued that the implementation of the criteria established in these judgments would arbitrarily deprive tens of thousands of Dominicans of Haitian descent of their Dominican nationality, and would expose many of them to a situation of statelessness. The Commission was also informed about the troubling practice of reviewing Dominican birth certificates and transferring them to records on foreigners without notifying the person affected. For her part, the representative of the Dominican State laid out in detail the efforts made by the Central Electoral Board (JCE) to survey all birth certificates in the country to determine how many people could feel the impact of Judgment 168/13. In this regard, the State said that Judgment 168/13 would impact only a small part of the population. In addition, the State insisted that this

ruling was not discriminatory, since descendants of 117 other nationalities in the country could also see themselves affected. The Inter-American Commission regretted that Juliana Deguis Pierre was not allowed to leave the Dominican Republic and therefore participate in the hearing, as indicated in the section of this report on “individuals who attend hearings and working meetings.” The Commission requested that the State provide more information on the reasons for preventing her from leaving, and the information was received. The IACHR also expressed its deep concern over the situation of the more than 210,000 people left stateless as a result of the court ruling. It urged the State to guarantee that its administrative proceedings, particularly those in which changes are made to a person’s nationality, are more transparent and more accessible so that individuals who have been or may be affected can exercise their judicial guarantees and have judicial protection when it comes to decisions that could have an impact on their right to nationality. Lastly, the Commission reiterated the importance that any measures adopted by the Dominican State follow the recommendations made by the IACHR in the preliminary observations it made at the end of its December 2013 visit.

In the hearing on human rights and evictions in Paraguay, the Commission received information on persons said to be in a situation of internal displacement. This hearing is discussed in the section on economic, social, and cultural rights.

In the hearing on the general human rights situation in Colombia, information was also received concerning internally displaced persons. This hearing is discussed in the section covering hearings on general situations.

## **Children and Adolescents**

The Inter-American Commission held three hearings on different areas of juvenile justice in the countries of the region.

A hearing was held on criminal justice and human rights in the Americas, following up on recommendations the Commission made in its report “Juvenile Justice and Human Rights in the Americas.” The IACHR applauds the participation in the hearing of two adolescents who came to share the results of a debate carried out via REDNNYAS, a regional network of children and adolescents. The petitioners expressed particular concern over what they described as a regressive trend in terms of international standards than are excessively punitive toward adolescents. The petitioners posited that the most troubling regressive aspects are proposals for lowering the age of criminal culpability, as well as the fact that deprivation of liberty is used as a first resort. The youths who attended the hearing expressed their concern over the difficulties young people have in accessing justice, and the fact that adults who use adolescents to commit violent crimes are not investigated. The Commissioners stressed that its Report on Juvenile Justice establishes that the primary objective of criminal justice is rehabilitation; that deprivation of liberty should be used only as a last resort and should last the least amount of time possible; and that judicial proceedings should be specialized and accessible to children and adolescents.

The Commission also held a hearing on Case 12.866, Henry Hill et al., United States, which involves adolescents sentenced to life in prison without parole. The Commission also received information on the effects of the “Stand Your Ground” law in the U.S. state of Florida. The information indicates that the law disproportionately affects teenagers of African descent, who are said to be at great risk due to the widespread perception of their supposed “dangerousness.” The information on both of these hearings is included in the section on persons of African descent and situations involving racial discrimination.

In addition, several hearings during this session laid out concerns over the various forms of violence faced by children and adolescents in the region. The forms of violence examined in these hearings included sexual violence, violence based on sexual orientation or gender identity, obstetric violence, and violence suffered by adolescents in the context of health-care services.

In the hearing on “Access to Justice for Child and Adolescent Victims of Sexual Violence in Peru,” the organizations discussed the main barriers in access to justice faced by victims of these types of crimes when they are boys, girls, and adolescents, as well as the high rate of impunity involved. They attributed this phenomenon to the lack of specialized courts; the absence of an approach based on gender and on the rights of the child; difficulties in obtaining quality legal representation and advice free of charge for the victims; problems in gathering and evaluating evidence; and the unsuitability of some expert assessments, among other factors. In terms of evidence-gathering, they noted that young girls and adolescent girls are re-victimized due to a failure to implement the “single statement” approach and “Gesell chambers,” settings in which children can testify in an un intimidating environment and have their statements recorded so they do not have to repeat them. The State provided details on the content of Plenary Agreement No. 1-2011/CJ-116 of Peru’s Supreme Court—which establishes standards for proceedings for cases involving sexual violence against children and adolescents—although it acknowledged the importance of strengthening the training of justice operators so that the standards are applied correctly. During the hearing, the petitioners emphasized the need to invest greater effort in the prevention of these types of crimes.

In the hearings on public policies for protecting the human rights of LGBTI children and adolescents in Paraguay, and on the human rights situation of LGBTI persons in the Andean Region, the petitioners addressed the harassment and violence to which children and adolescents are subjected in the school environment because of their gender identity and sexual orientation. The petitioners in both hearings explained that harassment and violence against LGBTI adolescents are common at schools, both among peers and on the part of teachers toward LGBTI teens. Situations involving harassment and violence directed at LGBTI teachers by their colleagues were also identified. The organizations pointed out the importance of better educating adolescents on human rights, rights involving sexuality and gender, and sexual and reproductive health.

In the hearing on maternal health and reports of obstetric violence in Mexico, discussed in the section on the rights of women, the Commission was informed that around 20% of deliveries in Mexico are to adolescent mothers. The petitioners believe this statistic indicates the need to expand sexual and reproductive education for adolescents and to advance efforts to prevent teen pregnancy, an

aspect that was also indicated by the State as among the initiatives being carried out in the country. The situations the petitioners discussed in terms of health-care assistance also involve a risk to the lives, physical integrity, and health of newborns.

Finally, in the hearing on drug policy and human rights in the Americas, the petitioners reported on the effects of repressive anti-drug policies on the rights of children and adolescents. These rights, they said, are affected by the context of insecurity and violence associated with drug trafficking; the use of children and adolescents in trafficking; and the high number of women of limited economic resources who are incarcerated for micro-trafficking crimes, unable to take care of and raise their children. The Commission indicated that the Office of the Rapporteur on the Rights of Children is in the process of preparing a thematic report on organized armed violence in the region and how it affects the rights of children and adolescents; this will examine aspects related to the subject of the hearing.

## Women

During the session, the Inter-American Commission received extensive information from a variety of State and non-State actors related to the multidimensional nature of the challenges to the adequate implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Convention of Belém do Pará, 20 years after its adoption.

In the hearing “Challenges of Protecting Women from Violence 20 Years after the Convention of Belém do Pará,” the participating organizations laid out their views on unresolved issues regarding implementation. They stressed that in the Americas there continue to be differences of law in the legal standing of men and women, and emphasized the need to establish effective judicial procedures for women victims of domestic violence. In this regard, they indicated that the Convention of Belém do Pará establishes a wide-ranging State obligation, grounded in the understanding that violence against women has its roots in unequal gender relations and therefore State responses to the violence must take into account the gender-based social relations underlying the violence.

Secondly, the petitioning organizations discussed the specific situation of women human rights defenders in the Americas and described the adverse context they experience, which includes violence against them and a failure by States to act to prevent and investigate such attacks, provide effective protection, and punish those responsible. In addition, cases have been reported in which activities carried out by women human rights defenders have been criminalized and in which defenders have been subject to smear campaigns, excessive use of police force, and harassment. The organizations maintained that the overall impunity for violence affecting women human rights defenders not only affects their physical integrity, but also limits the political action of all women and perpetuates gender-based discrimination. In this regard, the petitioners stated that the violence suffered by women human rights defenders cannot be isolated from the experience of gender-based discrimination, characterized by blaming the victim, normalizing violence, and isolating any woman who is affected.



Several nongovernmental organizations from different regions in the Americas informed the Inter-American Commission of the persistent connection between the problems of violence and discrimination against women, and their negative impact on the exercise of women's civil, political, economic, social, and cultural rights. As examples, the organizations informed the Commission of impediments faced by women to access information, education, and services related to their sexual and reproductive rights; the unequal treatment of women in laws related to family and property matters; and the lack of an adequate judicial response to the problem of domestic violence, among other issues. Even though the Convention of Belém do Pará has been vital to the development of legislation concerning the issue of violence against women, this legislation has aimed more to protect the family unit than women as individual rights-holders.

The Commission also received disturbing information in the context of hearings concerning the legal and practical impediments faced by women to fully exercise their human rights in several areas. For example, the Commission received information about the barriers that women with disabilities face in Colombia to make decisions in the areas of sexuality and reproduction, as discussed in the section of this report on persons with disabilities. The Commission was also informed of the impunity surrounding acts of sexual violence perpetrated against girls in Peru, as explained in the section on children and adolescents.

With regard to the hearing on the human rights situation of women in the Dominican Republic, the petitioning organizations said that gender-based violence is being exacerbated by a situation of structural discrimination that particularly affects poor women. They also addressed the denial of women's sexual and reproductive rights, which translates into high rates of maternal mortality due to an absolute ban on abortion, an unmet need for birth control, a lack of sex education in schools, an increase in adolescent pregnancy, and violations of the human rights of women living with HIV. The organizations underscored the particular vulnerability of Dominican women of Haitian descent. The State delegation presented an overview of the laws and public policies designed to prevent and treat violence against women. The State pointed to the existence of a draft reform of the Criminal Code, which introduced language on therapeutic abortion when the mother's life is in danger or in the case of incest or rape.

In the hearing on the situation regarding the right to life for women in Bolivia, it was reported that the country has among the highest rates of killings of women in the region, and that such killings represent a more significant cause of death than violence from ordinary crime. Even though the State is said to have taken legislative measures in recent years to remedy the situation, these measures have reportedly not yet been implemented due to lack of budget and specialized personnel to handle the issue of gender-based violence. This situation is said to be aggravated by a justice system fraught with gender stereotypes which places less importance on these types of cases, which generally end up in impunity. The Commission was also informed that Bolivia has very high rates of maternal mortality, generated in large part by the criminalization of abortion, which forces women to turn to unsafe, clandestine abortion methods. The Commission, for its part, expressed its concern over the failure to implement legislation and the resulting ineffectiveness in turning

around the phenomenon of violence against women, as well as over the criminalization of abortion and the consequences on women's lives.

The Commission was also informed about the lack of equal access by African-American women to the protections afforded by Stand Your Ground Laws in domestic violence cases in the United States. The IACHR received information concerning the case of Marissa Alexander, an African-American woman who in 2010 fired a warning shot when she was attacked by her husband, who attacked, strangled, and threatened to kill her. She was arrested by the police, charged with aggravated assault, convicted, and sentenced to 20 years in prison due to the state's mandatory minimum sentencing laws.

The Commission also received information in the context of a hearing about the problem of obstetric violence in Mexico and its link to discrimination in access to maternal health services; incidents of cruel, inhuman, and degrading treatment in the offering of health services during pregnancy, childbirth, and the post-partum period; and the lack of access to justice and integral reparations for the victims involved. The petitioners in particular referred to the case of Irma, an indigenous woman from Mexico who was denied medical attention during labor and was forced to give birth on the lawn outside a health center.

Several of the States mentioned presented information to the Commission about a range of legal and policy efforts they are undertaking to properly respond to these serious women's rights problems.

The Commission referred to the importance of collaboration among the States to advance the effective protection of women human rights defenders, and agreed with the organizations on the need to address cases involving violence against them as manifestations of structural discrimination against women. The IACHR also underscored the importance of the Convention of Belém do Pará in the development of standards in the inter-American system on gender equality; the need for measures to address the context of discrimination underlying violence against women; and the need to take into consideration different needs for services among different groups of women, based on age, race or ethnic background, or economic position, among other factors, in accordance with Article 9 of the Convention of Belém do Pará.

The Commission takes this opportunity to remind States of the interrelated nature of the dispositions and obligations contained in the text of the Convention of Belém do Pará, in their response to the different facets of the problem of violence against women. According to Article 7, the obligation of States to take action on violence against women is immediate and comprehensive, including the adoption of measures of a legislative, policy, and programmatic nature to prevent and eradicate this human rights problem. It also provides that when acts of violence against women go unpunished and end in impunity, a social message is sent encouraging their tolerance and repetition. All actions of States concerning violence against women must also take into account, under Article 6, stereotypes and social and cultural practices based on the concept that women are inferior, which fuel acts of violence. States must also take into account the connection between the incidence of vio-

lence against women and the exercise of all women's rights included in Article 4. It is important that States also keep in mind the differences and needs among different groups of women, based on their age, race, ethnicity, economic position, disabilities, and other factors, as indicated in Article 9 of the Convention of Belém do Pará. Lastly, the Commission encourages States to interpret the provisions of the Convention of Belém do Pará expansively, incorporating its principles in the State response to other forms of violence against women of an institutional and structural nature.

## Persons Deprived of Liberty

In a hearing on the rights of persons deprived of liberty in Nicaragua, the IACHR was informed about overcrowding in Nicaraguan prison facilities and the subsequent saturation of provisional detention centers, which hold a third of the incarcerated population. The State acknowledged that this abnormal situation is the result, among other factors, of the recent adoption of laws restricting inmates' access to conditional release (Law No. 745, of 2011) and establishing the mandatory application of pretrial detention for certain crimes (Law No. 735, of 2010). Along these lines, the Commission calls to mind that pretrial detention is an exceptional measure, one whose implementation should be examined in accordance with the characteristics of the specific case in question, and that the only legitimate grounds for its application is to ensure the appearance of the accused in the proceedings or to keep the accused from hampering the investigations. The Commission also received troubling information indicating that acts of torture are committed on individuals in the custody of the State of Nicaragua, both in police custody and in prisons, and that such acts are allegedly not being properly investigated and punished by the relevant authorities. The IACHR underscores that the main means for prevention of torture is the proper investigation and punishment of such acts, even when these are committed by third parties. Moreover, the Commission reiterates that the management of prisons in general must be governed by strict criteria of transparency, openness, and independent oversight; therefore, it is important that arbitrary restrictions not be imposed on the entry of individuals or organizations that visit prisons for human rights-related activities, in adherence with existing laws and regulations.

In a hearing on challenges in the implementation of the accusatorial and oral criminal justice system in Mexico, the State reported that this justice system is operating partially in 16 of the 32 existing federal entities, and in only 3 of these (Chihuahua, Morelos, and the state of Mexico), it is operating in the entire territory and for all crimes. The State also presented detailed information about the progress that has been made. For their part, the participating organizations indicated that this transition process has been slow and cumbersome, among other reasons because it depends to a large extent on the willingness and cooperation of the various states. In this regard, they reported that the Technical Secretariat of the Coordination Council for Implementation of the Criminal Justice System (SETEC) does not have reliable, adequate, and objective information that would make it possible to understand how much progress has actually been made on the reforms and to verify whether the financial assistance given to each state corresponds to its level of progress. In addition, they noted that an essential part of this comprehensive reform of the justice sector refers to the adoption of a social reintegration model; however, this has not been carried out even though the constitutional deadline for this change expired in 2011. The State acknowledged that this was one

of the major pending issues. The parties also referred to the practice of a form of preventive detention known as *arraigo*, and the application of pretrial detention. In this regard, the Commission notes that any legal norm establishing mandatory pretrial detention runs contrary to the American Convention. The IACHR reiterates that the *arraigo* measure should be repealed in Mexican legislation at every level, as has in fact been done at the local level by the states of Oaxaca, Coahuila, and San Luis Potosí.

On another matter, the Commission received information indicating that in Venezuela, 506 individuals died and 616 were injured in centers for deprivation of liberty in 2013. This brings the number of deaths of persons deprived of liberty, in the period from 1999 to 2013, to 6,163. In terms of the general situation of the prison population, it is observed that the prison system has an installed capacity of 16,189 slots available for a total prison population of 53,566 individuals, 63.61% of whom are reportedly in the process of being prosecuted. The current level of overcrowding represents a 20% increase over 2012. The Inter-American Commission takes note of the information provided by the State, and views as positive the invitation made by the State's representative at the hearing, who conveyed the Venezuelan government's consent for the IACHR to verify, through a visit, the situation of persons deprived of liberty. In addition, the IACHR underscores the importance of investigating and punishing those responsible for bringing weapons, explosives, and other illicit items into prison facilities, even when such individuals are civilian officials or members of the National Guard, which handles security in the areas surrounding the prisons.

## Freedom of Expression

In the hearing on the situation concerning the right to freedom of expression and the concentration of media ownership in Peru, the petitioners indicated that the country faces a phenomenon of "concentration of ownership of the print media," which has given rise to an important national debate and is the subject of a domestic judicial proceeding. The petitioners indicated that this concentration threatens pluralism and diversity. The State, for its part, said that the matter is the subject of judicial debate in the country; indicated that there is an anti-monopoly law when it comes to radio and television media; and explained that in Peru there are full guarantees for the exercise of freedom of expression, as well as unbridled respect by the executive branch of decisions made by the judiciary.

In the hearing on the human rights situation of journalists in Cuba, the Commission was concerned to receive information on the constant violations of the right to freedom of expression, freedom of association, and freedom of movement of independent journalists in that country. This is evidenced through arbitrary detentions, attacks, and instances of persecution, harassment, and threats by agents of the State. In addition, the petitioners reported on the State's control of the broadcast media and the difficulties the Cuban people have in accessing the Internet. Moreover, the Commission received information on the existence of a legal framework that imposes criminal and administrative sanctions on the exercise of the right to freedom of expression when that freedom upsets the authorities or calls into question any government policy.

The IACHR received with concern information on the increase of violence against journalists in Honduras since 2009, and the situation of impunity said to surround such crimes. For its part, the State reported on the status of criminal proceedings related to some of the killings of journalists in that country, and provided information on the functioning of the various justice agencies that handle cases involving violence against journalists. The Inter-American Commission and the Office of the Special Rapporteur expressed their concern over the information provided by the petitioners; thanked the authorities for the information they provided; and requested information on concrete steps taken to protect journalists at risk in the country, reduce the rates of impunity, and identify the main factors that contribute to impunity for these crimes.

The IACHR was concerned to receive information on impunity for violations of the right to freedom of expression in the Americas. The petitioning organizations provided information on an increase of violence against journalists in the region and the high levels of impunity. The organizations identified at least five regional patterns: the existence of regions where violence is at a low level but is generating a high degree of self-censorship and impunity; the disparity between the violence perpetrated in urban centers and growing violence in outlying areas; the inability of institutions to combat the strong organized crime apparatus in some regions; the absence of guarantees for members of the media from segments of the population that have faced historical discrimination; and violence against the media by local or national agents of the State. The organizations pointed to some recommendations to address the problem, including the establishment of protection mechanisms and specialized justice agencies; political support from State authorities; and access to information about cases involving violence against journalists.

The IACHR was concerned about information it received on the situation regarding the right to freedom of expression in Ecuador. Specifically, it received information on the imposition of administrative and economic sanctions and the possibility of criminal sanctions on journalists and media outlets through the implementation of the Organic Communication Law. The IACHR received information on the stigmatization of citizens, journalists, and human rights defenders, as well as the detention of individuals who have offended the highest-level public officials. The petitioners provided examples of alleged attacks, acts of intimidation, threats, and detentions of people who have expressed, through gestures or words, their disagreement with the government. The petitioners reported that the General Regulations on the Communication Law were issued by executive decree; among other things, the regulations establish that digital media will also be regulated under that law. The petitioners also reported on systematic attacks carried out on journalists, citizens, and media outlets via the Internet and by blocking channels, videos, and websites. The State of Ecuador did not participate in the hearing.

The IACHR received with concern information on the situation regarding the right to freedom of expression in Venezuela. The Commission received troubling information on an alleged pattern of stigmatization, detentions, physical attacks, threats, acts of harassment, and theft of material carried out against journalists, media workers, and citizens attempting to cover the protests in several states of the country since February 2014. Information was also received on the alleged self-censorship of the audiovisual media in their coverage of the protests; the continuing scarcity of

newsprint; the blocking or restriction of Internet access; and the opening of a judicial proceeding against a columnist and board members of media outlets for “aggravated defamation” of the President of the National Assembly. The petitioners depicted the current situation as a threat to the right to physical integrity, the right to freedom, and the working conditions of journalists in Venezuela. The State, in turn, reported that in Venezuela there were complete guarantees for the exercise of freedom of expression and that what was happening in the country was a systematic disinformation campaign.

In the hearing on the situation regarding human rights and social protest in Brazil, the IACHR received troubling information on the different events that have occurred in demonstrations in the country. Along these lines, the petitioning organizations provided information concerning cases of violence by members of law enforcement against demonstrators and journalists during the protests, as well as impunity; detentions and criminal proceedings initiated against demonstrators; and draft legislation underway that could negatively impact social protests. For its part, the State reported that it has publicly recognized the right to protest and that it had begun a dialogue with civil society on the issue. The State also reported that it has issued specific resolutions on the use of force in social protest demonstrations and has taken measures to regulate the issue at the federal and state level. Lastly, it reported that it has taken steps to respond to the demands that led to the social protest demonstrations and to prevent human rights violations in these contexts.

## Persons with Disabilities

This session included the first regional hearing on the subject of legal standing and access to justice for persons with disabilities in Latin America. The IACHR especially appreciates the direct and active participation of persons with mental disabilities in the hearings. The petitioners stressed the lack of consistency between Latin American laws and international standards in this area, in particular as regards court-ordered prohibitions (interdictions). The petitioners also noted that for persons with disabilities to be able to exercise their rights—particularly the right of access to justice—States must incorporate a model for decision-making support for persons with disabilities. The Commission reiterated its commitment to this issue, and expressed its interest in the reasonable adjustments that should be established for access to justice by persons with disabilities, as well as support models so they can fully exercise their legal capacity.

With regard to the hearing “Human Rights Situation of Persons with Disabilities in Cuba,” the petitioners reported that laws and public policies for people with disabilities are not compatible with international standards on this subject. Specifically, they pointed to violations of the right to education, health, access to justice, and independent living for persons with disabilities in the community. The Commission reiterated its commitment to the issue, and expressed interest in learning more about the National Action Plan for Caring for Persons with Disabilities, and about the interdiction and commitment proceedings to which persons with mental disabilities are subject in Cuba.

In the hearing on violations of sexual and reproductive rights of persons with disabilities in Colombia, the petitioning organizations described a legal system that authorizes the absolute removal of



legal capacity for persons with disabilities, as well their institutionalization and segregation. Among the main problems, the petitioners identified the lack of access to information, education, and appropriate health services on sexual and reproductive issues; the violation of people's right to make decisions about their private and family life; and the State's failure to respond to acts of sexual violence and family- and gender-based violence. With respect to the institutional framework, they indicated that Colombian laws define persons with disabilities in terms of their deficits, and that public policies on disabilities are handled by the Ministry of Health, not only for matters related to the health of persons with disabilities, but for all aspects of their lives. They stressed that the judicial proceeding of interdiction is of particular concern, noting that it does not contemplate the participation of the person affected and has effects that include the lifelong removal of the legal capacity of someone with a disability. Finally, the petitioners asked the IACHR to designate a Rapporteur or Thematic Unit on disabilities, to raise awareness of standards on this issue and to include a focus on disabilities on matters the IACHR may address concerning sexual and reproductive rights. For their part, the representatives of the State said that the issue of disabilities should be handled from a standpoint of rights and protection, and that in recent years progress has been made in building a legal framework to properly ensure the rights of persons with disabilities. The State also agreed with the petitioning organizations on the need to reform the legal provisions on interdiction, and on this point said that national legislation has sought to move toward a new paradigm on disabilities, geared toward supported decision-making and the strengthening of the legal capacity of persons with disabilities. The IACHR expressed its concern over the situation of persons with disabilities and asked the State for more information on the availability of legal assistance for the victims of the rights violations to which the petitioners had referred. The Commission also asked for information on the existence of public policies specifically designed to safeguard the rights and dignity of those who may have acquired a disability as a result of the armed conflict. In addition, the IACHR asked the State whether there might be an initiative to suspend application of the judicial proceeding of interdiction while domestic legislation is being reviewed and adjusted to meet international human rights standards for persons with disabilities.

## **Economic, Social, and Cultural Rights**

The IACHR received troubling information on the situation of workers in the meatpacking and poultry industry in the United States, one of the most dangerous occupations in the country. Three people provided testimony on the abuse they suffered from their supervisors and the serious injuries they incurred due to the poor working conditions. The IACHR also heard the testimony of a mother whose son died when he fell into a processing machine that nobody knew how to turn off. When the authorities investigated the plant after the accident, they found 43 safety violations. According to the petitioning organizations, employers take advantage of the lack of regulations on the speed of the massive production lines and the negligence of the authorities. Moreover, according to the information provided, workers are forced to work under inhumane conditions, in some cases without being allowed to leave their posts to go to the bathroom, and without receiving adequate medical care when they are injured or when their condition worsens to the point where they are no longer able to work; as a result, when they are laid off, they have trouble finding other jobs due to the disabilities said to be caused by working in the meatpacking and processing industry. The State, for its

part, pointed to a significant reduction in the number of workplace deaths and accidents in recent decades, but noted that 12 people a day continue to die in work-related accidents. It also indicated that the government agency in charge of inspections has limited resources, and it would take more than 100 years to inspect every workplace under its jurisdiction. The IACHR expressed particular concern over the impact on migrant workers, who constitute a significant percentage of workers in the U.S. meatpacking and poultry industry. The IACHR also expresses its concern over the recognition of the incapacity of the State to inspect every workplace.

In the hearing on human rights and evictions in Paraguay, the petitioning organizations provided information concerning the grave situation in which peasant farmers are being evicted from the lands they occupy. According to the petitioners, 2.5% of the farms in Paraguay account for 85% of land devoted to agricultural production. They reported that the ownership of 54% of these farms is in dispute. They stated that from 1989 until now, 115 campesinos have been killed in rural conflicts, and they mentioned two cases involving the forcible eviction of more than 400 families, carried out violently and without prior notification or court order. According to the organizations, the State does not meet the minimum guidelines established under international law for these types of interventions. To illustrate the situation, the petitioners presented two cases of violent evictions that took place late last year in the settlements of Tapiracuai Loma and Laterza Cué. They also presented information on the killing of five campesino leaders, as well as on the health situation of five individuals detained in the Curuguay case, who at the time of the hearing had been on a hunger strike for more than 40 days to protest their conditions of detention and alleged irregularities in the judicial proceedings. The petitioners asked the IACHR to monitor the situation of peasant farmers closely and on an ongoing basis, and asked the State to adopt proper and complete protocols establishing guidelines of conduct for the authorities who carry out the evictions. The State, for its part, indicated that in the aforementioned interventions the authorities had complied with the legal provisions covering encroachment on the property of others. The State also reported that the cases of evictions involve failures to comply with court orders and indicated that under Paraguayan law, the occupation of someone else's property without the owner's consent is a crime. The Commission inquired into the situation of land distribution in Paraguay and the potential for a peaceful solution to the conflicts. The Commission also asked for more information on whether the State has initiatives to mediate in the situation before moving forward with eviction operations; on the persons who ended up dying as a result of these operations; and on the status of agrarian reform.

With regard to the right to health, in the hearing on maternal health and obstetric violence in Mexico, petitioners addressed the main practices involving human rights violations that affect women during pregnancy, delivery, and the post-partum period, and that can lead to maternal death. The petitioners reported on alleged discriminatory attitudes, barriers in access to services, denial of care in childbirth, and poor treatment by health-care workers, among other problems. According to the organizations, these practices especially affect poor women and indigenous women. For its part, the State indicated that there is a legal and institutional framework in the country to ensure women's human rights, and that any efforts should be geared toward effective application of that framework to improve provision of services. It also indicated that one of the main challenges for the State is access to justice for women. The IACHR asked about measures adopted in cases involving

women who had been denied medical care in childbirth, including judicial proceedings to identify and punish those responsible. It also underscored the importance of bringing dignity to health care for all women and ensuring informed consent.

In the hearing on the human rights situation of Haitian migrant workers and their families in the Dominican Republic, petitioners referred to a series of violations of the human rights of *braceros* (Haitian migrant sugarcane workers), specifically with regard to the lack of access to adequate food, housing, and medicine, among other things. They also indicated that only 7% of the approximately 75,000 elderly sugarcane workers receive pensions, which they said were inadequate. For its part, the State provided information on existing legislation to guarantee migrants workers' rights and protection, as well as on the creation, in 2012, of the Labor Migration Unit, with a mandate to safeguard compliance with the labor standards applicable to all foreign workers and ensure that their labor rights are respected.

In the hearing on human rights and labor conflicts in Venezuela, the Commission was informed that 37% of the protests in the last five years have been in the labor sector. Petitioners indicated that Venezuelan law contemplates the possibility of recurring to strikes as a last resort, but that this is being hampered in practice. They said that the process consists of presenting a bill of complaint, and after a period of time has passed without an agreement, the workers may proceed to strike. According to the petitioners, the State usually rejects or delays the complaints, which would mean the time period established by law would not elapse and therefore a strike in these circumstances would be considered illegal. The petitioners also alleged that there is a policy of interfering in labor unions, and said that while the Organic Labor Law tends to protect individual rights, these rights cannot be guaranteed in practice without collectives to defend them. Along these lines, the petitioners indicated that the ILO issued a series of recommendations to the Venezuelan State, which included an end to interference in labor unions; an end to delays in talks on collective bargaining agreements and to repeated violations of these agreements; and an end to bringing criminal charges against those who exercise the right to strike and mobilize peacefully. In this regard, they asked the IACHR to prepare and make public a special report on democracy and the right to peaceful protest in Venezuela; to promote, through institutional cooperation with the ILO, respect for collective bargaining agreements and an end to the criminalization of unions; and to urge the Venezuelan State to refrain from applying criminal charges intended to restrict the right to peaceful protest and strikes in the country. For their part, the representatives of the State said that the Venezuelan Constitution is the most advanced in human rights, because it assumes the participation of all social organizations so that they become directly involved in political life. They also indicated that the labor unions had been tainted and were not democratic, since many of them elected their leaders only once to lifetime positions and that they were charging to find work for their contributors. As to the failure to comply with collective contracts, the State indicated that this is because many labor union organizations tried to negotiate them after the time periods for them to exist had expired under the law.

## Situation of Lesbian, Gay, Bisexual, Trans, and Intersex Persons

The IACHR acknowledges the progress made by the States of Belize, Canada, Jamaica, and Paraguay in the protection of the rights of lesbian, gay, bisexual, trans, and intersex (LGBTI) persons, but remains concerned about the many challenges in law and in practice still facing LGBTI persons in these countries. Particularly, the IACHR remains alarmed about the impact of legislation that criminalizes same-sex consensual intimacy in Jamaica and Belize—even when not enforced—particularly with respect to the rights of LGBTI persons to life, personal integrity, personal liberty, privacy, and access to health and other services.

The State of Belize reported having carried out trainings for police officers in human rights, and Jamaica did so with regard to health-care operators. Additionally, positive statements regarding the rights of LGBTI persons by high-level officials were reported in both States. Nevertheless, the IACHR received information that acts of violence and discrimination against LGBTI persons continue to be widespread and, in turn, pose a serious deterrent to victims, who then choose not to report these crimes. In both hearings, petitioners reported abuse and discrimination against LGBTI individuals who were either ignored or laughed at when they attempted to report acts of violence, or were themselves the direct victims of police abuse, including arbitrary detention, blackmail, extortion, threats, and cruel and degrading treatment. Petitioners also reported that there are no designated investigative units for these violations and most of these crimes—if not all—remain in impunity. High levels of violence were also reported, including mob attacks against LGBTI people in Jamaica.

From the information given by petitioners from Bolivia, Ecuador, Peru, and Paraguay, the Commission could assess that, in spite of a few uncoordinated initiatives, States in the region lack an overall clear policy aimed at reducing and eradicating discrimination and violence against LGBTI persons.

Regarding the hearing on Belize, the IACHR values the State's position that it aims to ensure protection of the human rights of all Belizeans, without discrimination. Additionally, the IACHR values the State's commitment made in the hearing that it will investigate all the acts of violence against lesbian, gay, and trans persons that were reported by the petitioners in the hearing. However, the IACHR received troubling information on the high levels of violence, discrimination, hate crimes, and hate speech experienced by LGBTI persons on a daily basis. According to petitioners, these gravely disturbing issues remain insufficiently addressed by the State. In fact, petitioners cited numerous documented cases of police abuse and violence perpetrated by other individuals, all of which ended in impunity, there having been no investigation or prosecution of those responsible. Additionally, petitioners raised their concern over Belize's Immigration Act, which expressly prohibits LGBTI persons from entering the country. Regarding the attacks suffered by human rights defenders, the Commission stressed the importance of their role and the effect that such attacks may have among other defenders and society in general. The Commission also expressed grave concern about the entry ban on LGBTI persons and stressed that the rights of LGBTI migrants should be fully protected by the State.

The IACHR held a public hearing on the situation of LGBTI persons in Canada. Petitioners elaborated on hate crimes against LGBTI persons, school bullying and homelessness of LGBTI youth, high suicide rates, the lack of protection of indigenous LGBTI persons and LGBTI seniors, and the lack of legal protection against discrimination for trans persons under the Charter of Rights and Freedoms or the Canadian Human Rights Act. With regard to hate crimes, petitioners reported an increase of 10% in crime rates and stated that these crimes tend to be the most violent in Canada. As for anti-LGBTI school bullying, petitioners showed that 64% of LGBTI students felt unsafe in school. They also referred to the LGBTI population as highly overrepresented among the homeless due to early rejection from homes—especially trans youth—and emigration to big cities. Additionally, according to petitioners, the “Designated Country of Origin List” represents a problem for LGBTI asylum seekers in Canada and diminishes their possibility to appeal a rejection. The State admitted that, in spite of the many ways in which the government protects the rights of LGBTI persons, homophobia still exists in Canada. In regard to the lack of protection of trans persons under the Canadian Human Rights Act, the State affirmed that it had opposed the inclusion of “trans persons” because they understood the necessary protections already exist under the legal framework in force. The Commission expressed concern about hate crimes and violence against LGBTI persons, especially that affecting young persons. In regard to the protection of trans persons under the Canadian Human Rights Act, the Commission agreed that, as a matter of interpretation, the term “gender identity” could be understood to be included under the word “sex”; however, when a State has the option to legislate, it should give the fullest recognition to all those who suffer discrimination.

The IACHR held a public hearing on public policies on the protection of human rights of LGBTI children in Paraguay. Petitioners stressed that the State of Paraguay had failed to ensure access to sex education in schools due to the influence of Catholic and conservative groups. They showed that one in six young people aged 15 to 24 suffer from syphilis; 20% of pregnancies in Paraguay are teenage pregnancies; and, of the overall childbirths registered each day, two belong to teenagers aged 10 to 14. This age range also registers the highest numbers of new HIV transmissions. The State explained that sexual orientation and gender identity were taboo topics and progress was limited, but mentioned a list of initiatives to combat discrimination such as the drafting of a booklet of recommendations for the implementation of those received through the United Nations Universal Periodic Review (UPR); the Anti-bullying National Law No. 4.633, passed in 2012; and the implementation of the Clinical Handbook of Comprehensive Treatment for Adolescents, which incorporates the concepts of sexual orientation and gender identity. In relation to intolerant speech and resistance to the rights of LGBTI persons, the Commission emphasized that the State should play a role in encouraging respect for these rights, for instance, by means of awareness campaigns in the mass media. It also stressed that sex education is an extremely important tool for addressing inequality and discrimination and a very useful mechanism for addressing school bullying.

In the last hearing held during this period, concerning the status of LGBTI rights in Bolivia, Ecuador and Peru, the petitioners, while acknowledging certain best practices, particularly in the form of a few public policies, stressed that LGBTI persons in the three countries concerned face severe forms of violence and suffer pervasive discrimination in educational and health environments. Petitioners specified that, in Bolivia, as many as 70% of LGBTI persons report having been discriminated by

their teachers and 30% reported some sort of peer aggression. They also explained that 94% of LGBTI students did not have access to information on sexual orientation and gender identity and that 72% of those students had dropped out of high school. Petitioners reported equally troubling figures in Ecuador and identified numerous cases of severe abuse and discrimination against LGBTI students both by peers and teachers, including a case in which a gay student was obliged to take an HIV test and present the results to school authorities. According to petitioners, cyberbullying is on the rise in Peru, where non-heterosexual students suffer increasing levels of harassment and are at considerably higher risk of suicide. In regard to discrimination in health-care environments, petitioners indicated that in Bolivia, there are no policies in place aimed at mitigating the increasing prevalence of HIV among men who have sex with men. In addition, 41% of LGBTI persons reported being discriminated against in health-care facilities and 29% declared that they intentionally concealed their sexual orientation to avoid being mistreated. Petitioners also mentioned the implementation of conversion therapies and the prohibitions on donations of blood from LGBTI persons. Petitioners also elaborated on the existence of clinics that offer to “treat” homosexuality, in which LGBTI persons, especially lesbian women, are interned, exposed to psychological harm, and even subjected to “corrective rape.” In this specific regard, petitioners explained that several measures had been taken to shut down these “clinics” and that many of them had been actually closed. However, they also indicated that such response had been an initiative of the Ministry of Health alone and was not part of a coordinated government policy, there being no other agency or ministry taking part in it. Petitioners alerted about an HIV epidemic among LGBTI persons in Peru, specifying that, in the city of Lima, one in four gay men live with HIV, figures escalating to one in two in the case of trans women. In all three countries, LGBTI persons remain exposed to alarmingly high levels of violence, most of which is materialized through humiliation and verbal and physical attacks, either by law enforcement officers or by private individuals. The IACHR stresses that States must give particular attention to the responsibilities of teachers in regard to LGBTI children. In relation to HIV prevalence among LGBTI persons, the IACHR showed concern for the information received and also noted the historical neglect of lesbian women within the health care systems.

## Hearings on Petitions and Cases

This session included a hearing on Case No. 12.710, Marcos Gilberto Chaves and Sandra Beatriz Chaves, Argentina, so that the parties could present their arguments on the merits of the case and provide updated information on the situation of the alleged victims. In the processing of the case it is alleged, specifically, that Marcos Gilberto Chaves and his daughter, Sandra Beatriz Chaves, had been convicted to life in prison for a crime they did not commit, as a result of a criminal proceeding allegedly held without the judicial guarantees of due process. Specifically, they allege, among other things, that there had been violations of their right to a review of their conviction, the presumption of innocence, and the guarantee of equal treatment, over alleged transgressions into the private life of Mrs. Sandra Beatriz Chaves and the failure to take into account the testimony of the children from the marriage between Mrs. Chaves and her late husband, who allegedly witnessed the killing of their father. During the hearing, the State reported on the reform of the criminal legal system in the province of Salta, which contemplates, among other fundamental guarantees recognized for people facing prosecution, an extensive appeal remedy that includes issues of law and of fact. In ad-



dition, the State laid out a full array of gender-related public policies that had been adopted at the provincial level. Finally, the State expressed a willingness to begin to seek a friendly settlement, which was welcomed by the petitioners. The Commission made itself available to the parties in the search for a friendly settlement of the case.

The Commission held a public hearing in Case 11.227, Unión Patriótica, Colombia. This corresponds to a petition lodged by the organizations REINICIAR and CCJ, alleging the State's international responsibility for the "persecution of members of the political party Unión Patriótica [UP]" in Colombia. Petitioners alleged that since the formation of the UP, its members had been victims of "extra-judicial executions, disappearances, unfounded criminal prosecutions, attempts on their life, and threats." They maintained that these acts constituted a form of "eliminating the party as a political force by means of violence and intimidation directed at its members and leaders," and that this amounted to "an act of genocide and violation of the human rights protected by the Convention." The public hearing was held on March 24, 2014, for the purpose of receiving allegations from the parties on the merits of the case. During the hearing, the State expressed its willingness to resume the process of seeking a friendly settlement with the representatives and victims in the case. For their part, petitioners presented their views on the context in which the case was framed, as well as considerations of the facts and human rights violations being alleged before the Commission. Two days later, on March 26, 2014, the petitioners stated that they were not interested in "reopening the process of seeking a friendly settlement."

A hearing was also held in Case 12.866, Henry Hill, United States, which is referred to in this report in the sections on children and adolescents and on the rights of persons of African descent.

## Reports on Individual Petitions and Cases

The IACHR continued to study numerous individual petitions and cases that allege violations of human rights protected by the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and other inter-American Instruments. Following is the list of the petitions and cases for which reports of a public nature were approved during this session. Once the parties have been notified, these reports will be published on the IACHR website. In addition, the IACHR approved 11 reports that are confidential: 9 of them are reports on the merits, and 2 are final merits reports (of evaluation of compliance with the recommendations issued in a merits report).

### Admissibility Reports

- 265-00 – Agustina Alonso et al., Argentina
- 691-08 – Javier Villanueva Martino et al., Bolivia
- 1214-07 – Carlos Andrés Galeso Morales et al., Colombia
- 394-06 – José Orlando Giraldo Barrera and Family, Colombia
- 1625-07 – Y.C.G.M. and Relatives, Colombia
- 329-06 – Emilia Morales Campos and Jennifer Emilia Morales Campos, Costa Rica

- 1566-07 – Sipakepense and Mam Communities of the Maya People of the Municipalities of Sipacapa and San Miguel Ixtahuacán, Guatemala
- 525-07 – Baptiste Willer and Frédo Guirant, Haiti
- 495-07 – Ovidio Guiltrichs Vanegas et al., Costa Rica
- 4334-09 – Eulogia and Her Son Sergio, Peru

### **Archive Reports**

- 735-03 – Eduardo Francisco Yanno, Argentina
- 78-00 – Antonio Francisco Cano et al., Argentina
- 12.538 – Eugenio Sandoval, Argentina
- 12.016 – César Eugenio Jaramillo Gutiérrez, Ecuador
- 944-11 – Mark Anthony Stroman, United States
- 1281-06 – Mohammed Munaf, United States
- 1273-06 – Margarita María Garcés Zuluaga and Luis Guillermo Jiménez Montoya, Honduras
- 11.884 – Whitely Dixon, Jamaica
- 12.260 – Franklyn Villaroel, Trinidad and Tobago
- 11.837 – Indravani Pamela Ramjattan, Trinidad and Tobago
- 10.315 – Luis Miguel Villanueva, Venezuela

### **Report on Merits with Decision to Publish:**

- 12.231 – Peter Cash, Bahamas
- 12.422 – Abu-Ali Abdur' Rahman, United States

### **Working Meetings**

The 150<sup>th</sup> session included the following working meetings:

- Precautionary Measure 347/09 – Community of El Nogalito, Argentina
- Case 12.306 – Juan Carlos de la Torre, Argentina
- Case 12.905 – Posadas et al., Argentina
- Case 12.672 – Guillermo Lynn, Argentina
- Case 12.709 – Juan Carlos Flores Bedregal, Bolivia
- Case 12.350 – MZ, Bolivia
- Case 11.426, Bolivia

- Precautionary Measure 187/01 – Corporación Servicios Profesionales Comunitarios Sembrar, Colombia
- Precautionary Measure 93/13 – ASCAMCAT, Colombia
- Precautionary Measure 199/06 – COTRAGROBLAN, Colombia
- Precautionary Measure – 113/07 – CORPADES, Colombia
- Precautionary Measure 509/03 – GIDH/María Victoria Fallón, Colombia
- Precautionary Measure 641/02 – SINALTRAINAL, Colombia
- Precautionary Measure 339/09 – Claudia Julieta Duque and María Alejandra Gómez, Colombia
- Case 12.743 – Homero Flor Freire, Ecuador
- Precautionary Measure 05/11 – Gary Resil et al., United States
- Cases 9.245, 9.111, 9.326, 9.552, and 12.648; Petition 1610/09 – Follow-up on Friendly Settlements in Cases involving Forced Disappearances, Guatemala
- Case 11.550 – Maurilia Coc et al., Guatemala
- Precautionary Measure 403/09 – Donny Reyes and Patrick Pavón, Honduras
- Precautionary Measure 137/13 – Girls Deprived of Liberty in Adult Detention Centers, Jamaica
- Petition 1171/09 – Ananías Laparra Martínez et al., Mexico
- Case 12.359 – Cristina Aguayo Ortiz et al., Paraguay
- Case 12.330 – Marcelino Gómez Paredes and Cristian Ariel Núñez Lugo, Paraguay
- Case 12.329 – Vicente Ariel Noguera, Paraguay
- Precautionary Measure 54/13 – Ayoreo Totobiegosode Indigenous People and Groups in Voluntary Isolation, Paraguay
- Precautionary Measure 262/05 – Indigenous Peoples in Isolation, Mashco Piro et al., Peru

- Case 12.041 – MM, Peru
- Case 12.191 – María Mamérita Mestanza Chávez, Peru
- P452TE – Press Release Cases, Peru
- Case 12.897 – Community of Kaliña de Maho, Suriname

## Audio and Video of Public Hearings

Videos and photographs of the public hearings are available on the multimedia section of the IACHR website. In addition, [this page](#) provides access to the same materials and to the audio recordings of the hearings. The photos are also available via the IACHR's Flickr account and the videos via the IACHR's YouTube account. These materials may be published, reproduced, or used in the preparation of other products (such as documentaries) as long as appropriate credit is given to the OAS. The schedule of public hearings for this session is available in PDF version in the page on the Commission's [sessions](#).

## Financial Contributions

The IACHR would like to express special appreciation for the significant financial contributions made in 2013 and thus far in 2014 by countries in the region and beyond, as well as by international organizations and agencies, foundations, and other entities. These donations make it possible for the IACHR to carry out many of the activities related to its mandates from the political bodies of the OAS.

The IACHR particularly appreciates the recent contributions made by the governments of the following OAS member countries: Argentina, Canada, Chile, Costa Rica, Colombia, the United States, and Mexico. It would also like to thank the OAS observer countries that support the Commission's activities: Denmark, Spain, Finland, France, the Netherlands, the United Kingdom, Sweden, Switzerland, and the European Union. The Commission also values and appreciates the contributions it has received from the United Nations High Commissioner for Refugees (UNHCR), SOS Children's Villages, the Arcus Foundation, Plan International, the Joint United Nations Programme on HIV/AIDS (UNAIDS), Save the Children-Sweden, the United Nations Children's Fund (UNICEF), and the University of Notre Dame. These donations contribute very concretely to the strengthening of the inter-American human rights system across the Americas.