

ANNEX 2

# Impacts of Cases

## Violence and Discrimination against Women and Girls



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Annex 2

# Impacts of Cases of Discrimination and Violence against Women, Girls and Adolescents

Violence and Discrimination against Women and Girls: Best  
Practices and Challenges in Latin America and the Caribbean

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## INTRODUCTION

### A. *Background, Scope and Purpose of the Report*

1. Women, girls and adolescents are at greater risk of becoming victims of discrimination and violence, as their rights tend to be ignored and their needs constantly silenced. Throughout the Americas, women, girls and adolescents encounter different forms of violence and discrimination in employment, education, healthcare, the political sphere, their private lives and other social scenarios.<sup>1</sup> Moreover, the States of the region continue to face numerous challenges in fulfilling their obligations to effectively and adequately respond to historical and structural discrimination, inequality and violence against women, girls and adolescents.
2. Risk factors of violence and discrimination against women, girls and adolescents vary according to the social and cultural scenarios in which these human rights violations occur and are related to both the social and individual contexts of female victims.<sup>2</sup> Violence against women, girls and adolescents occurs in both public and private spheres. It can be physical, sexual, psychological, economic, spiritual, obstetric or symbolic, with femicide being its most extreme expression.<sup>3</sup> Violence against women, girls and adolescents can be committed or condoned by the State or its agents.<sup>4</sup> It has serious consequences, commonly causing victims “long-term physical, mental and emotional health problems” and, in many cases, resulting in their deaths.<sup>5</sup> Further, violence against women, girls and adolescents often results in negative consequences for society as a whole.<sup>6</sup>
3. The violence inflicted on women, girls and adolescents is increasingly receiving more attention due to its widespread nature. The magnitude of this violence is rooted in the fact that it manifests itself in events that, rather than being isolated

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<sup>1</sup> IACHR, Strategic Plan 2017-2021, OEA/Ser.L/V/II.161. Doc. 27/17, 20 March 2017, p. 41.

<sup>2</sup> IACHR, Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II.143, 2015, paras. 28 and 43.

<sup>3</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention Belém do Pará”, Articles 1 and 2; UN, Declaration on the Elimination of Violence against Women, 20 December 1993, A/RES/48/104, article 1.

<sup>4</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention Belém do Pará”, Article 2; UN, Declaration on the Elimination of Violence against Women, 20 December 1993, A/RES/48/104, Article 2.

<sup>5</sup> United Nations, 2015. *The World’s Women 2015: Trends and Statistics*. New York: United Nations, Department of Economic and Social Affairs, Statistics Division. Sales No. E.15.XVII.8, p. 139.

<sup>6</sup> Violence Against Women in Latin America and the Caribbean: A comparative analysis of population-based data from 12 countries. Washington, DC: PAHO, 2012, p.1.

incidents, constitute a pattern of systematic human rights violations.<sup>7</sup> Worldwide, 35 per cent of women have experienced either physical and/or sexual violence by an intimate partner or by a non-partner.<sup>8</sup> Throughout the Americas, violence and structural discrimination against women, girls and adolescents remains highly prevalent.<sup>9</sup> According to the United Nations, in 2015, between 14% and 38% of women in Latin America and the Caribbean had experienced intimate partner violence at least once in their lifetime.<sup>10</sup>

4. The strong predominance of violence against women, girls and adolescents throughout the Americas is connected with the multiple forms of discrimination that affect them. Different manifestations of this discrimination generate increased vulnerability for Indigenous and Afro-descendant women, women with disabilities, women living with HIV/AIDS, children, lesbians, trans women, women in situations of human mobility and women human rights defenders. Further, many women face multiple and intersectional forms of discrimination.<sup>11</sup> All of these forms of discrimination committed against women, girls and adolescents are rooted in patriarchal societies and cultures that have not only excluded them from social participation and decision-making positions, but have also created obstacles regarding the exercise of their economic, social and cultural rights in areas such as healthcare, education, labor, and access to and control of economic resources.<sup>12</sup>
5. While significant efforts and good practices have been adopted throughout the Americas regarding the protection of the rights of women, girls and adolescents, violence and discrimination against them remains widespread. Therefore, promoting and protecting their rights results in dismantling the historical discrimination that has been inflicted against them and providing them with the opportunity to increase their place, equally and free from violence, in American societies.<sup>13</sup>
6. The Inter-American Commission on Human Rights (hereinafter the “Inter-American Commission,” “Commission,” or “IACHR”) is a principal organ of the Organization of American States (hereinafter “OAS”), whose main function is to promote and protect human rights in the region through its individual petition and case system, its

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<sup>7</sup> IACHR, 144/18, IACHR Expresses Concern over Prevalence of Murder and Other Forms of Extreme Violence against Women in Peru, 2 July 2018.

<sup>8</sup> UNDP and UN Women, *From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean: Regional Analysis Document*, 2017.

<sup>9</sup> IACHR, Press Release 44/18, On International Women’s Day, the IACHR Urges States to Refrain from Adopting Measures that Would Set Back Respect for and Protection of Women’s Rights, 8 March 2018.

<sup>10</sup> UN, *The World’s Women 2015: Trends and Statistics*, 2015, Chapter 6: Violence against women.

<sup>11</sup> IACHR, *Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application*, OEA/Ser.L/V/II.143, 2015, paras. 28 and 43.

<sup>12</sup> IACHR, *Strategic Plan 2017-2021*, OEA/Ser.L/V/II.161 Doc.27/17, 20 March 2017, p. 32.

<sup>13</sup> IACHR, *Combating discrimination and violence against women and girls in Latin America and the Caribbean, Work Plan July 2017 – March 2018*, p. 5.

monitoring of human rights situations in OAS Member States, and by providing technical assistance and cooperation to States and other actors.<sup>14</sup>

7. In the implementation of its mandate, the Commission considers that special attention must be paid to persons, communities and groups who have historically been subjected to discrimination.<sup>15</sup> The IACHR has further acknowledged that the adoption of a gender and diversity perspective is essential for ensuring the full protection and guarantee of human rights.<sup>16</sup> In this sense, the IACHR has been particularly committed to protecting women's, girl's and adolescents' rights, paying special attention to the obstacles that prevent them from freely and fully exercising their basic rights.<sup>17</sup> The Commission's actions are guided by the principle Inter-American instruments, including the American Convention on Human Rights, the American Declaration on the Rights and Duties of Man, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter "the Convention of Belém do Pará"), among others.<sup>18</sup>
8. Through the Commission's individual petition and case system, individuals, groups of individuals or organizations have the possibility of filling a petition before the Commission regarding situations in which the full enjoyment of human rights by women, girls and adolescents has been affected.<sup>19</sup> The Commission reviews the admissibility of each petition submitted to it<sup>20</sup> and if it finds a petition admissible, it analyzes the facts and subject matter of the alleged violations.<sup>21</sup> Subsequently, the IACHR declares whether the State in question is responsible for violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Convention of Belém do Pará and other Inter-American human rights treaties. When the IACHR establishes the occurrence of human rights violations in a merits report, it may decide to either submit the report to the Inter-American Court of Human Rights or publish it, in accordance with Articles 50 and 51 of the American Convention, and Articles 45 and 47 of the Commission's Rules of Procedure. When the Commission decides to publish a merits report, this report includes recommendations to the State in

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<sup>14</sup> IACHR, Strategic Plan 2017-2021, OEA/Ser.L/V/II.161 Doc.27/17, 20 March 2017, p. 9.

<sup>15</sup> IACHR, Strategic Plan 2017-2021, OEA/Ser.L/V/II.161 Doc.27/17, 20 March 2017, p. 9.

<sup>16</sup> IACHR, Strategic Plan 2017-2021, OEA/Ser.L/V/II.161 Doc.27/17, 20 March 2017, p. 41.

<sup>17</sup> The IACHR, through its Rapporteurship on the Rights of Women and the Rapporteurship on the Rights of Children, also works on studies on particular issues, helps to develop new jurisprudence on women's and children's rights within the individual case system, makes specific recommendations that encourage States to meet their priority obligations for equality and non-discrimination, support research on various issues that affect the rights of women and girls in specific countries of the region, through its country visits and reports, and raise awareness about the need to take new steps to ensure that women are able to exercise their basic rights. For more information, see: <http://www.oas.org/en/iachr/mandate/rapporteurships.asp>

<sup>18</sup> IACHR, Strategic Plan 2017-2021, OEA/Ser.L/V/II.161 Doc.27/17, 20 March 2017, p. 41.

<sup>19</sup> IACHR, Rules of Procedure, Articles 26-29.

<sup>20</sup> IACHR, Rules of Procedure, Articles 30-36.

<sup>21</sup> IACHR, Rules of Procedure, Articles 37-42.



question to redress the damages caused to the victims as the result of the human rights violations that it committed.<sup>22</sup>

9. The IACHR formulates its recommendations in order to redress the damages in accordance to the notion of comprehensive reparations, which includes the adoption of both individual and non-repetition measures. On the one hand, individual measures consist of measures in the restoration the infringed rights - when it is feasible - and measures of compensation, satisfaction, rehabilitation, and truth and justice. On the other hand, the recommendations of non-repetition or structural rehabilitation measures may include public policies, reforms to a State's legal framework or institutional strengthening measures.
10. Through the recommendations that the IACHR has issued to the States of the region regarding situations of violence and discrimination against women, girls and adolescents, the Commission has requested States to provide individual reparations to victims, including the payment of compensation, the investigation of the violations and the issuance of public apologies, as well as the adoption of structural measures which transcend the direct victims of the case and which are aimed at addressing the structural issues which led to the occurrence of the violations in the first place. In this sense, the IACHR has ordered the adoption of legislation and the implementation of training programs and public policies, among other measures, as a means of combating violence and discrimination against women, girls and adolescents. Further, the merits reports approved by the Inter-American Commission have developed important and novel inter-American standards and jurisprudence on a variety of issues related to the protection of women, girls and adolescents from violence and discrimination.
11. Having issued recommendations to a State regarding a particular case through the approval of a merits report, and deciding to publish the report, the Commission then has the role of following up on said State's compliance with and implementation of those recommendations. The IACHR's mandate to follow up on its recommendations is set out in various inter-American instruments. Article 48 of the IACHR's Rules of Procedure states:
  1. Once the Commission has published a report on a friendly settlement or on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties and holding hearings in order to verify compliance with friendly settlement agreements and its recommendations.
  2. The Commission shall report on progress in complying with those agreements and recommendations as it deems appropriate.

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<sup>22</sup> IACHR, Principal Guidelines for a Comprehensive Reparations Policy, OEA/Ser/L/V/II.131, doc. 1, February 19, 2008, para. 1.

12. In this sense, the IACHR requests information from States and from petitioners regarding the actions adopted by the State in question to comply with the recommendations issued in published merits reports. The Commission publishes this information in its Annual Reports<sup>23</sup>, in which it undertakes an analysis of the measures adopted by the State to determine the level of compliance with the recommendations.
13. Complete compliance by States with the recommendations of the Commission issued in published merits reports is essential for ensuring that human rights have full force in OAS Member States.<sup>24</sup> The recommendations of the IACHR, when implemented by States, are an effective tool by which States strengthen their mechanisms to protect and promote human rights.<sup>25</sup> Factors such as political will, the ability of State institutions to prevent and respond to human rights violations, the strength of civil society, the general public's knowledge of their human rights and the creation of conditions conducive to the exercise of human rights are fundamental for achieving compliance with the obligations contained in the instruments of the inter-American human rights system.<sup>26</sup>
14. This report analyzes the impacts that the recommendations issued by the Inter-American Commission in published merits reports addressing situations of violence and discrimination perpetrated against women, girls and adolescents have had in guaranteeing their human rights, in correcting the structural discrimination and pervasive violence that continues to exist in the region, and in providing remedies and reparations for victims who have brought their cases before the IACHR. In the report "Violence and discrimination against women, girls and adolescents: Standards, recommendations, challenges and good practices in Latin-American and the Caribbean",<sup>27</sup> the Commission analyzes the current situation in the region.
15. In this sense, through an analysis of the main results and challenges in Member States' implementation of the recommendations of the IACHR, this report seeks to demonstrate the impacts of effective mechanisms for redressing human rights violations committed against women, girls, and female adolescents, using a gender perspective. This report places emphasis on the information provided by Member States and petitioners to the Commission during the follow-up of recommendations procedural stage. The production of this report was made possible thanks to the valuable financial support of Global Affairs Canada.

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<sup>23</sup> IACHR, Rules of Procedure, Article 59, 2c, vii.

<sup>24</sup> IACHR, 2018 Annual Report, Chapter II.F: Status of compliance with the recommendations of the IACHR and friendly settlements of the IACHR, para. 179.

<sup>25</sup> IACHR, Strategic Plan 2011-2015, p. 8. See: <https://www.oas.org/en/iachr/docs/pdf/iachrstrategicplan20112015.pdf>

<sup>26</sup> IACHR, Considerations Related to the Universal Ratification of the American Convention and other Inter-American Human Rights Treaties, OAS/Ser.L/V/II.152 Doc. 21, 14 August 2014, para. 77.

<sup>27</sup> IACHR, Violence and Discrimination against Women, Girls and Adolescents: Standards, recommendations, challenges and good practices in Latin-America and the Caribbean.

## B. Methodology and Structure

16. This report analyzes the level of compliance, main challenges, results and impacts of the recommendations issued by the Inter-American Commission in the merits reports that the IACHR has published which involve situations of violence and discrimination against women, girls and adolescents.
17. The Commission prepares a follow-up report of each published merit report in Chapter II of its Annual Report in which it analyzes the measures adopted by the State in question to comply with the recommendations issued by the IACHR in the specific case. These reports are prepared taking into consideration the information received from the parties throughout the year in communications submitted to the IACHR, working meetings and hearings, among other sources. In this sense, the IACHR reviewed the published merits reports whose compliance it monitors in its Annual Report. It initially identified that, out of a total of 113 merits reports published from 2001 to 2018, 27 cases involve both situations of gender-based violence and discrimination against women, girls and female adolescents, and human rights violations that were not exclusively perpetrated on the grounds of gender, but in which the rights of women, girls and adolescents were affected.<sup>28</sup> After analyzing these 27 cases, the Commission identified that 21 of them were not specifically related to human rights violations that entail discrimination and violence against women, girls and adolescents, on the grounds of gender. The IACHR proceeded to finally selected and included the remaining 6 cases in the present report, taking into consideration that the analysis of impacts is directed at finding out how the recommendations of non-repetition measures of the IACHR have contributed to address situations of discrimination and violence against women, girls and adolescents, when they have being perpetrated because of the gender of victims. Out of the 6 cases included in this report, in 3 of them the parties have signed compliance agreements that are aimed at implementing the recommendations issued by the Commission in the Merits Reports.

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<sup>28</sup> Case 12.632, Adriana Beatriz Gallo, Ana María Careaga and Silvia Maluf De Christin (Argentina); Case 12.051, Maria da Penha Maia Fernandes (Brazil); Case 12.053, Comunidad Maya del Distrito Toledo (Belize); Case 11.556, Corumbiara (Brazil); Case 12.001, Simone André Diniz (Brazil); Case 12.142, Alejandra Marcela Matus Acuña y Otros (Chile); Case 12.469, Margarita Barbería Miranda (Chile); Case 12.799, Miguel Ángel Millar Silva and others (*Radio Estrella del Mar de Melinka*) (Chile); Case 11.654, Masacre de Riofrío (Colombia); Case 12.009, Leydi Dayan Sánchez (Colombia); Case 10.455, Valentín Basto Calderón and others (Colombia); Case 12.713, José Rusbel Lara and others (Colombia); Case 11.656, Marta Lucía Álvarez Giraldo (Colombia); Case 12.476, Oscar Elías Biscet et al. (Cuba); Case 12.127, Vladimiro Roca Antunez and others (Cuba); Case 11.992, Dayra María Levoyer Jiménez (Ecuador); Case 9.903, Rafael Ferrer Mazorra and others (United States); Case 11.140, Mary and Carrie Dann (United States); Case 11.204, Statehood Solidarity Committee (United States); Case 12.534, Andrea Mortlock (United States); Case 12.626, Jessica Lenahan (United States); Case 10.573, José Isabel Salas Galindo and others (United States); Case 11.625, María Eugenia Morales de Sierra (Guatemala); Case 9.111, Ileana del Rosario Solares Castillo and others (Guatemala); Case 11.565, González Pérez Sisters (México); Case 12.551, Paloma Angélica Escobar Ledezma and others (México); Cases 10.247 and others, Luis Miguel Pasache Vidal and others (Perú).

18. Following the identification of the cases analyzed in this report, the IACHR primary used the information received from the States and petitioners of the selected cases. This information was used to analyze the main results and impacts of the recommendations, including the progress and challenges in the implementation process. As for secondary sources, the report took into account academic research and articles, press articles and other publicly available information.<sup>29</sup>
19. This report is divided into two chapters and a conclusion. In the first chapter, the Commission presents the 6 published merits reports, describing the facts of each case, the main issues analyzed, the inter-American standards related to discrimination and violence against women, girls and adolescents developed, and the recommendations issued, and their level of compliance. The second chapter presents, at the beginning, information on the overall level of compliance with the recommendations issued by the Commission in the 6 merits reports. Subsequently, the second chapter presents the main results, challenges, and impacts of States' compliance with the recommendations issued in the merits reports, specifically, related to guaranteeing and protecting the human rights of women, girls and adolescents throughout the Americas. This report concludes by reiterating the importance of OAS Member States implementing the recommendations issued by the Inter-American Commission as a means of comprehensively repairing the human rights violations perpetrated against women, girls and adolescents, and of more effectively addressing and preventing situations of violence and discrimination against them.

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<sup>29</sup> IACHR, Rules of Procedure, Article 59, 5.



CHAPTER 1

PROTECTION OF WOMEN AND  
GIRLS AGAINST VIOLENCE AND  
DISCRIMINATION IN THE INTER-  
AMERICAN HUMAN RIGHTS  
SYSTEM



## PROTECTION OF WOMEN AND GIRLS AGAINST VIOLENCE AND DISCRIMINATION IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

20. The Inter-American Commission on Human Rights has been particularly committed to protecting the rights of women, girls and adolescents, and has paid special attention to the obstacles that prevent them from freely and fully exercising their fundamental rights.<sup>30</sup> Developments of international and inter-American instruments in this area, such as the Convention of Belém do Pará, have been reflected in statements made by the various mechanisms of the Inter-American Human Rights System, including decisions that the IACHR publishes through its petition and case system, and emblematic judgements issued by the Inter-American Court concerning the cases forwarded by the Commission.<sup>31</sup> Not only have these cases been instrumental in providing reparations to female victims of human rights violations, they have also resulted in the development of important inter-American standards and jurisprudence related to the protection of the human rights of women, girls and adolescents.
21. The 6 merits reports analyzed in this report were published from 2001 to the date of publication of this report.<sup>32</sup> These cases involve 14 female victims from diverse sectors of the population, including Indigenous women, lesbians, women who were deprived of their liberty, female adolescents and girls. In these merits reports, the IACHR primarily declared State responsibility for violations of the rights to judicial guarantees and judicial protection, humane treatment, life, equal protection before the law and the protection of children, together with the obligation of States to respect human rights and to adopt domestic measures to give effect to those rights, as enshrined in the American Declaration and the Convention on Human Rights. In some cases, the Commission also held States responsible for violations of the rights protected in the Convention of Belém do Pará and the Inter-American Convention to Prevent and Punish Torture.
22. Through these merits reports, the Commission has issued 34 recommendations to the States of Brazil, Colombia, Guatemala, Mexico, and the United States to provide redress to the victims for the human rights violations that they suffered, as well as

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<sup>30</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II. Doc. 11, 2015.

<sup>31</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II.143, 2015, paras. 16, 17 and 32.

<sup>32</sup> Rules of Procedure of the Inter-American Commission on Human Rights (2013), Arts. 59(2)(c)(vii) y (iv). Merits reports and friendly settlement agreements began to be followed up on more effectively, and have been included in Chapter II since 2001, following an amendment to the Rules of Procedure, which was approved in 2000, and which entered into force on May 1, 2001 (Article 46).



to tackle structural issues related to violence and discrimination against women, girls and adolescents.

23. This Chapter presents an overview of these 6 published merits reports, in chronological order of their date of approval, with the purpose of better understanding the challenges related to the full enjoyment of human rights by women, adolescents and girls in the region over the years. A summary of each case follows, which includes a description of the facts, the rights affected and the main findings of the IACHR, the recommendations issued and their level of compliance, and the applicable inter-American standards.

## ***A. An Overview of the Cases***

### **1. Case 11.625, Merits Report No. 4/01, María Eugenia Morales de Sierra (Guatemala)**

24. At the moment that the petition was presented to the Inter-American Commission, Articles 109, 110, 113, 114, 115, 131, 133, 255 and 317 of the Civil Code of the Republic of Guatemala defined the roles of male and female spouses within the institution of marriage.<sup>33</sup> These norms resulted in discriminatory distinctions regarding married women, including María Eugenia Morales de Sierra, as follows:<sup>34</sup>

Article 109	Conferred the power to represent the marital union upon the husband.
Article 110	Addressed responsibilities within the marriage, conferring upon the wife the special “right and obligation” to care for minor children and the home.
Article 113	Provided that a married woman may only exercise a profession or maintain employment where this does not prejudice her role as mother and homemaker.
Article 114	Established that a husband may oppose his wife’s activities outside the home, as long as he provides for her and has justified reasons. In the case of a controversy with respect to the foregoing, a judge shall decide.
Article 115	Set forth the exceptional instances when the wife may exercise the representation of the marital union.
Article 131	Empowered the husband to administer marital property.
Article 133	Provided limited exceptions to the rule according to which the husband has the power to administer marital property.

<sup>33</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), paras. 1-2, 20, 21 and 28.

<sup>34</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), paras. 28, 39 and 44.

Article 255	Conferred primary responsibility on the husband to represent the children of the union and to administer their property.
Article 317	Provided that, by virtue of her sex, a woman may be excused from exercising certain forms of guardianship.

25. In Merits Report No. 4/01, published on January 19, 2001, the Commission concluded that the State of Guatemala violated the rights of Ms. Morales de Sierra to equal protection, respect for family life and respect for private life.<sup>35</sup> The IACHR held that the gender-based distinctions set out in Guatemala’s Civil Code could not be justified and therefore, they contravened Ms. Morales de Sierra’s right to equal protection, given that, as a married woman, she was denied protections on the basis of her sex that married men and other Guatemalans were accorded.<sup>36</sup>
26. The Commission stated that the nine articles of the Civil Code institutionalized disparities in the rights and duties of the spouses, given that they established “a situation of *de jure* dependency for the wife and create[d] an insurmountable disequilibrium in the spousal authority within the marriage,” and further, that they applied “stereotyped notions of the roles of women and men which perpetuate *de facto* discrimination against women in the family sphere, and which have the further effect of impeding the ability of men to fully develop their roles within the marriage and family.”<sup>37</sup> The IACHR also found that the articles made a woman’s right to work dependent on the consent of her husband which had the effect of denying women the equal right to seek employment and to benefit from the increased self-determination and independence that this affords.<sup>38</sup>
27. The State of Guatemala amended Articles 109, 110, 115, 131 and 255 of the Civil Code, and derogated Articles 114 and 133, in order to comply with the recommendations of the Commission issued in the preliminary merits report.<sup>39</sup> However, given that additional reforms were needed, the Commission made the following recommendations to the State in Merits Report No. 4/01.

**Recommendations:**

1. Adapt the pertinent provisions of the Civil Code to balance the legal recognition of the reciprocal duties of women and men in marriage and take the legislative and other measures necessary to amend Article 317 of the Civil Code so as to bring national law into conformity with the norms of the American Convention and give full effect to the rights and freedoms guaranteed to María Eugenia Morales de Sierra therein.

<sup>35</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 83.

<sup>36</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 39.

<sup>37</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 44.

<sup>38</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 49.

<sup>39</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 57 and 78.

**Recommendations:**

2. Redress and adequately compensate María Eugenia Morales de Sierra for the harm caused by the violations established in this Report.

28. On March 3, 2006, the petitioners and the Guatemalan State signed a “Specific Agreement for Compliance with Recommendations,” which sets out specific actions that the State committed to implementing in order to comply with the recommendations issued by the IACHR in Merits Report No. 4/01.<sup>40</sup>
29. In its 2018 Annual Report, the IACHR concluded that the State of Guatemala had partially complied with Recommendation 2 issued in Case 11.625 and that it had totally complied with 4 of the clauses of the compliance agreement. The Commission determined that the case has an overall level of partial compliance.<sup>41</sup>
30. To declare the responsibility of the State of Guatemala in the Merits Report No. 4/01, the Commission applied the inter-American standard of equal protection of the law, which requires that States shall ensure that women are accorded equality with men before the law.<sup>42</sup> In this sense, the Commission stated that the gender-based distinctions established in the challenged articles cannot be justified, and contravene the rights of María Eugenia Morales de Sierra set forth in Article 24 of the American Convention. The IACHR concluded that, as a married woman, she is denied protections on the basis of her sex which married men and other Guatemalans are accorded. It further stated that challenged articles have a continuous and direct effect on the victim in this case, in contravening her right to equal protection and to be free from discrimination, in failing to provide protections to ensure that her rights and responsibilities in marriage are equal to and balanced with those of her spouse, and in failing to uphold her right to respect for her dignity and private life.<sup>43</sup>

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<sup>40</sup> IACHR, 2006 Annual Report, Case 11.625, Report No. 4/01, María Eugenia Morales de Sierra (Guatemala), para. 251.

<sup>41</sup> The clauses of the compliance agreement which have been fully complied with are: A (IACHR 2015 Annual Report, para. 852), J (IACHR 2015 Annual Report, para. 853), L (IACHR 2015 Annual Report, para. 852) and M (IACHR 2015 Annual Report, para. 855); IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 11.625, Report No. 4/01, María Eugenia Morales de Sierra (Guatemala). (para. 23 factsheet)

<sup>42</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 32.

<sup>43</sup> IACHR, Case 11.625, [Merits Report No. 4/01, María Eugenia Morales de Sierra \(Guatemala\)](#), para. 39 and 52.

## 2. Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico)

31. On June 4, 1994, a group of military agents detained Ana, Beatriz and Celia González Pérez, and their mother Delia Pérez de González, in the state of Chiapas, Mexico, in order to interrogate them. The four women were held for approximately two hours. During this time, the three sisters were separated from their mother, beaten and raped several times by military agents. On June 30, 1994, a petition was filed with the Federal Public Prosecutor's Office. The case was transferred to the Office of the Public Prosecutor for Military Justice, in September 1994, but was subsequently closed.<sup>44</sup>
32. In Merits Report No. 53/01, published on April 4, 2001, the IACHR stated that, given that the physical and sexual abuse inflicted upon Ana, Beatriz and Celia González Pérez occurred while they were illegally detained, a few months following the armed rebellion of the EZLN, against a backdrop of harassment of persons considered to be Zapatistas, indicated that the military agents wanted to humiliate and punish the women for their alleged links with the EZLN. The Commission concluded that the rape and other abuses which targeted the physical, mental and moral integrity of the three sisters committed by agents of the Mexican State constituted torture, resulting in violations of Articles 5 and 11 of the American Convention.<sup>45</sup> Further, considering that Celia González Pérez was 16 years old at the time that the violations took place, the IACHR found that the State violated its duty to accord her the special protection guaranteed to her as a child. The IACHR also held that the fact that the case was investigated by the military courts, in addition to the continuing impunity of the perpetrators at the time that the Merits Report was published, was a violation of the rights to a fair trial and to judicial protection enshrined in the American Convention, as well as Article 8 of the Inter-American Convention to Prevent and Punish Torture.<sup>46</sup>
33. In addition, given that Ana, Beatriz and Celia González Pérez, and Delia Pérez de González are members of the Tzeltal indigenous community, the Commission highlighted that the pain and humiliation that they suffered was aggravated by their condition as indigenous peoples, not only because of their lack of knowledge of the language of their aggressors and of the other authorities, but also because the violations inflicted against them forced them to flee their community in a situation of fear, shame and humiliation.<sup>47</sup>
34. In the merits report, the IACHR recommended that the State of Mexico conduct an investigation to determine the criminal liability of those responsible for the

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<sup>44</sup> IACHR, Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), para. 2.

<sup>45</sup> IACHR, Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), para. 50 - 52 and 60.

<sup>46</sup> IACHR, Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), paras. 82, 88 and 90.

<sup>47</sup> IACHR, Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), paras. 52 and 95.

violations established in the report, as well as provide adequate compensation to the victims.

**Recommendations:**

1. Conduct a complete, impartial, and effective investigation, within the regular criminal courts in Mexico, to determine the responsibility of all persons who violated the human rights of Ana, Beatriz, and Celia González Pérez, and Delia Pérez de González.
2. Adequately compensate Ana, Beatriz, and Celia González Pérez and Delia Pérez de González for the human rights violations established in this report.

35. In its 2018 Annual Report, the IACHR concluded that the State had not fully complied with either of the recommendations issued in Case 11.565, thus it has an overall level of pending compliance.<sup>48</sup>
36. To declare the responsibility of the State of Mexico in Merits Report No. 53/01, the Commission applied the inter-American standard that involves the duty of States to act with due diligence in the context of sexual violence perpetrated against women, girls and adolescents. In this sense, the Commission stated that the State failed to fulfill its duty to prevent, investigate and sanction the violation of all rights protected under the American Convention.<sup>49</sup> The decisions on the cases of Raquél Martín de Mejía<sup>50</sup> and Ana, Beatriz and Celia Gonzalez Perez<sup>51</sup> marked the first time the IACHR addressed the concept of sexual violence as torture and access to justice for victims in the individual case system.<sup>52</sup>

### 3. Case 12.051, Merits Report No. 54/01, Maria da Penha Maia Fernandes (Brazil)

37. On May 29, 1983, María da Penha Maia Fernandes was shot by her then husband while she was sleeping at her home in Fortaleza, Ceará, Brazil. This attack culminated a series of acts of aggression which he had inflicted upon her throughout their married life. As a result of this attack, Ms. da Penha sustained serious injuries, had to undergo numerous operations, and continues to suffer from irreversible paraplegia and other physical and psychological trauma. At the time that the petition was presented to the IACHR, the State of Brazil had not adopted measures to

<sup>48</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 11.565, Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), paras. 1-3, 8 and 13.

<sup>49</sup> IACHR, Case 11.565, Merits Report No. 53/01, Ana, Beatriz and Celia González Pérez (Mexico), paras. 45, 46, 47, 58-61, 83-88.

<sup>50</sup> IACHR, Report on the Merits No. 5/96, Case 10,970, *Raquel Martín de Mejía* (Peru) of March 1, 1996.

<sup>51</sup> IACHR, Report on the Merits No. 53/01, Case 11,565, *Ana, Beatriz, and Cecilia González Pérez* (Mexico), April 2, 2001.

<sup>52</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II. Doc. 11, 2015, para. 25.

prosecute and sanction Ms. da Penha's former husband, despite the fact that she had reported the incidents to the relevant authorities.<sup>53</sup>

38. In Merits Report No. 54/01, published on April 16, 2001, the Commission applied the Convention of Belém do Pará for the first time holding that the State of Brazil had failed to act with the due diligence required to prevent, punish and eradicate domestic violence for not having convicted or punished the perpetrator of the violence committed against Ms. da Penha for 17 years.<sup>54</sup> The Commission was emphatic in declaring that the obligation of the State to act with due diligence goes beyond the obligation to prosecute and convict those responsible, and also includes the obligation to prevent these degrading practices. Further, the IACHR found violations of Articles 8 and 25 of the American Convention given that more than 17 years had passed since the investigation began and the process against the accused remained open, without any final judgment.<sup>55</sup>
39. The Commission further noted that the case of Maria da Penha was part of a general pattern of State tolerance and judicial inefficiency in cases of domestic violence in Brazil, stating that “[t]he condoning of this situation by the entire system only serves to perpetuate the psychological, social, and historical roots and factors that sustain and encourage violence against women.”<sup>56</sup> The Commission established that general and discriminatory judicial ineffectiveness creates an environment that is conducive to domestic violence, since there is no socially perceived evidence of the will and effectiveness of the State, as the representative of society, to punish such acts.<sup>57</sup>
40. In the merits report, the IACHR issued a series of specific recommendations to the State aimed at providing individual reparations to Ms. da Penha and at combatting the pervasive pattern of tolerance of violence against women in the country through non-repetition measures.

#### **Recommendations:**

1. Complete, rapidly and effectively, criminal proceedings against the person responsible for the assault and attempted murder of Mrs. Maria da Penha Fernandes Maia.
2. In addition, conduct a serious, impartial, and exhaustive investigation to determine responsibility for the irregularities or unwarranted delays that prevented rapid and effective prosecution of the perpetrator, and implement the appropriate administrative, legislative, and judicial measures.

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<sup>53</sup> IACHR, [Case 12.051, Merits Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#), para. 2 and 8.

<sup>54</sup> IACHR, [Case 12.051, Merits, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#), para. 60.

<sup>55</sup> IACHR, [Case 12.051, Merits, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#), para. 8.

<sup>56</sup> IACHR, [Case 12.051, Merits Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#), para. 55.

<sup>57</sup> IACHR, [Case 12.051, Merits Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#), para. 56.

**Recommendations:**

3. Adopt, without prejudice to possible civil proceedings against the perpetrator, the measures necessary for the State to grant the victim appropriate symbolic and actual compensation for the violence established herein, in particular for its failure to provide rapid and effective remedies, for the impunity that has surrounded the case for more than 15 years, and for making it impossible, as a result of that delay, to institute timely proceedings for redress and compensation in the civil sphere.

4. Continue and expand the reform process that will put an end to the condoning by the State of domestic violence against women in Brazil and discrimination in the handling thereof. In particular, the Commission recommends:

a. Measures to train and raise the awareness of officials of the judiciary and specialized police so that they may understand the importance of not condoning domestic violence.

b. The simplification of criminal judicial proceedings so that the time taken for proceedings can be reduced, without affecting the rights and guarantees related to due process.

c. The establishment of mechanisms that serve as alternatives to judicial mechanisms, which resolve domestic conflict in a prompt and effective manner and create awareness regarding its serious nature and associated criminal consequences.

d. An increase in the number of special police stations to address the rights of women and to provide them with the special resources needed for the effective processing and investigation of all complaints related to domestic violence, as well as resources and assistance from the Office of the Public Prosecutor in preparing their judicial reports.

e. The inclusion in teaching curriculums of units aimed at providing an understanding of the importance of respecting women and their rights recognized in the Convention of Belém do Pará, as well as the handling of domestic conflict.

41. In its 2018 Annual Report, the IACHR concluded that the State of Brazil had fully complied with Recommendations 1, 3 and 4.a issued in Case 12.051, and determined that the case has an overall level of partial compliance.

42. This case is emblematic in the Inter-American System of Human Rights given the fact that, besides applying the Convention Belém do Pará for the first time, the IACHR recognized that the human rights violations committed against Maria da Penha were part of a general pattern of negligence and lack of effective action by the State in prosecuting and convicting aggressors.<sup>58</sup> In the merits report, to hold the State of Brazil responsible, the IACHR referred to the reinforced duties of protection in contexts of violence against women. Furthermore, it considered the immediate obligation of States to act with due diligence to prevent, investigate, and punish swiftly and without delay acts of violence against women.<sup>59</sup>

<sup>58</sup> IACHR, *Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application*, OEA/Ser.L/V/II. Doc. 11, 2015, para. 23.

<sup>59</sup> IACHR, *Legal Standards: Gender Equality and Women's Rights*, OEA/Ser.L/V/II. 143, Doc. 60, 26 January 2015, paras. 18 and 22.

#### 4. Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzales) (United States)

43. Despite the issuance of a restraining order against Simon Gonzales – the ex-husband of Jessica Lenahan and the father of their 3 minor daughters, – the United States failed to protect Ms. Lenahan and her daughters from acts of domestic violence. Ms. Lenahan repeatedly called and notified the police during the evening of June 22, 1999 that her ex-husband had violated the restraining order by taking their three minor daughters, however, the police failed to adopt reasonable measures to implement the protection order at issue. As a result, her three minor daughters were found shot to death in the back of their father’s truck after a gunfight with the local police. At the time that the petition was presented to the IACHR, the State had not duly investigated and clarified the circumstances of the death of her daughters and consequently, Ms. Lenahan still did not know the cause, time and place of her daughters’ death.<sup>60</sup>
44. In Merits Report No. 80/11, published on July 21, 2011, the IACHR pronounced, for the first time, on the issue of discrimination against women under the American Declaration and its close link to the problem of violence against women.<sup>61</sup> The IACHR addressed the victims’ right to judicial protection under Article XVIII of the Declaration, explaining that this article guarantees the right to investigation and clarification of the facts. Given that there had not been an adequate and diligent investigation into the girls’ deaths and that more than 11 years had passed without clarity regarding the cause, time and place of their deaths, the Commission found a violation of the right to judicial protection.<sup>62</sup>
45. Further, the IACHR found that the case of Jessica Lenahan fit into the larger context of the widespread treatment of the problem of domestic violence as a private matter in the United States.<sup>63</sup> In this sense, the Commission found that State responsibility under the due diligence standard can be implicated for failure to protect women from domestic violence perpetrated by private actors when the authorities knew, or ought to have known, that the victims were at risk.<sup>64</sup> The fact that a restraining order was issued and that the State acknowledged that it represented “an assessment of risk and a form of State protection” indicated that the State knew that the victims were at risk and needed protection.<sup>65</sup>

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<sup>60</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), paras. 1 and 2.

<sup>61</sup> IACHR, Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application. Updates from 2011 to 2014. Update approved January 26, 2015, pg. 72, para. 134.

<sup>62</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), para. 199.

<sup>63</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), para. 93.

<sup>64</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), paras. 133-136.

<sup>65</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), paras. 133-136.



46. The IACHR made a number of recommendations to the State in the merits report pertaining to investigating the facts of the case, providing reparations to Ms. Lenahan and adopting structural measures to avoid repetition of similar cases in the future, in particular with regards to situations of domestic violence and the enforcement of restraining orders.<sup>66</sup>

**Recommendations:**

1. Undertake a serious, impartial and exhaustive investigation with the objective of ascertaining the cause, time and place of the deaths of Leslie, Katheryn and Rebecca Gonzales, and to duly inform their next-of-kin of the course of the investigation.
2. Conduct a serious, impartial and exhaustive investigation into systemic failures that took place related to the enforcement of Jessica Lenahan's protection order as a guarantee of their non-repetition, including performing an inquiry to determine the responsibilities of public officials for violating state and/or federal laws, and holding those responsible accountable.
3. Offer full reparations to Jessica Lenahan and her next-of-kin considering their perspective and specific needs.
4. Adopt multifaceted legislation at the federal and state levels, or to reform existing legislation, making mandatory the enforcement of protection orders and other precautionary measures to protect women from imminent acts of violence, and to create effective implementation mechanisms. These measures should be accompanied by adequate resources destined to foster their implementation; regulations to ensure their enforcement; training programs for the law enforcement and justice system officials who will participate in their execution; and the design of model protocols and directives that can be followed by police departments throughout the country.
5. Adopt multifaceted legislation at the federal and state levels, or reform existing legislation, including protection measures for children in the context of domestic violence. Such measures should be accompanied by adequate resources destined to foster their implementation; regulations to ensure their enforcement; training programs for the law enforcement and justice system officials who will participate in their execution; and the design of model protocols and directives that can be followed by police departments throughout the country.
6. Continue adopting public policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims, and to promote the eradication of discriminatory socio-cultural patterns that impede women and children's full protection from domestic violence acts, including programs to train public officials in all branches of the administration of justice and police, and comprehensive prevention programs.
7. Design protocols at the federal and state levels specifying the proper components of the investigation by law enforcement officials of a report of missing children in the context of a report of a restraining order violation.

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<sup>66</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), para. 199.

47. In its 2018 Annual Report, the IACHR concluded that the State had partially complied with Recommendations 4, 5, 6 and 7 issued in Case 12.626, therefore determining that the case has an overall level of partial compliance.<sup>67</sup>
48. In the case of Jessica Lenahan, the IACHR reiterated that there is a consistently highlighted strong connection between the problems of discrimination and violence against women.<sup>68</sup> The IACHR applied the inter-American standard of reinforced duties of protection in contexts of violence against women, specifically in situations of domestic violence, and the immediate obligation of States to act with due diligence.<sup>69</sup> In this sense, it underscored that States are obliged under the American Declaration to give legal effect to the duties of equal protection and non-discrimination contained in Article II, and that these duties include the prevention and eradication of violence against women as a key component of the duty of the State to eliminate all forms of direct and indirect discrimination.<sup>70</sup>

## 5. Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar Ledezma et al. (Mexico)

49. On March 2, 2002, Paloma Angélica Escobar left her home to attend school in the city of Chihuahua and was not seen again until her body was discovered on March 29, 2002. The State did not carry out a timely, immediate, serious and impartial investigation into her disappearance, and at the time that the petition was presented to the IACHR, the case continued in impunity.<sup>71</sup>
50. In Merits Report No. 51/13, published on July 12, 2013, the IACHR found the Mexican State responsible for violations of Article 7 of the Convention of Belém do Pará, as well as the rights to a fair trial, the child, to equal protection of the law and to judicial protection under the American Convention to the detriment of Paloma Angélica Escobar and her family members.<sup>72</sup> The IACHR held that the State's investigation during the eight years since the occurrence of the facts and the publication of the merits report did not meet its obligation to act with due diligence. In addition to the flaws in the recording of the chain of custody of samples taken from the body, the incoherence between expert reports and the failure to cross-check witness statements, the IACHR emphasized the fact that State authorities

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<sup>67</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.626, Report No. 80/11, Jessica Lenahan (Gonzales) (United States), para. 30.

<sup>68</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), paras. 110, 111.

<sup>69</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), para. 111.

<sup>70</sup> IACHR, Case 12.626, Merits Report No. 80/11, Jessica Lenahan (Gonzalez) et al. (United States), paras. 160.

<sup>71</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), paras. 11-19.

<sup>72</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), paras. 152-153.

planted fake evidence at the crime scene to obstruct justice.<sup>73</sup> The Commission further explained that the facts of this case were part of a larger pattern of violence against women and impunity perpetrated in the state of Chihuahua, and found that the State, by leaving this act of violence in impunity, had fostered an environment conducive to the repetition of such acts of violence.<sup>74</sup>

51. The IACHR made a number of recommendations to the State of Mexico related to the provision of individual reparations measures to the victims, as well as the adoption of measures of non-repetition to combat violence against women and girls.<sup>75</sup> In addition, on August 3 and 4, 2011, the parties signed a compliance agreement regarding the recommendations issued by the IACHR in the case.<sup>76</sup> These two agreements contain 28 clauses which detail specific actions that the State must adopt to comply with the 9 recommendations issued by the Commission.

#### **Recommendations:**

1. Complete the investigation in a timely, immediate, serious, and impartial manner for the purpose of clarifying the murder of Paloma Angélica Escobar and identifying, prosecuting, and, as appropriate, punishing the persons responsible.
2. Make full reparation to the next-of-kin of Paloma Angélica Escobar for the violations of human rights established herein.
3. Implement, as a measure of non-repetition, a coordinated state policy, backed with adequate public resources, to ensure that specific cases of violence against women are adequately prevented, investigated, punished, and remedied in the city of Chihuahua.
4. Adopt reforms in state education programs, starting at the pre-school and early stage, in order to promote respect for women as equals and observance of their right not to be subjected to violence or discrimination.
5. Investigate the irregularities in the investigation of the case that have been committed by state agents and punish the persons responsible.
6. Strengthen the institutional capacity to fight impunity in response to cases of violence against women in the state of Chihuahua through effective criminal investigations with a gender perspective that have consistent judicial follow-up, thereby guaranteeing adequate punishment and reparation.
7. Implement public awareness measures and campaigns on the duty to observe and ensure children's human rights.
8. Develop training programs for state officials that take into account the international standards established in the Istanbul Protocol, so that those officials have the technical and scientific foundations necessary for evaluating the murders of women.

<sup>73</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 68.

<sup>74</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), paras. 80 and 104.

<sup>75</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 173.

<sup>76</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico), para. 1.

**Recommendations:**

9. Continue adopting public policies and institutional programs aimed at restructuring stereotypes concerning the role of women in the state of Chihuahua and promoting the eradication of discriminatory sociocultural patterns that impede their full access to justice, including training programs for public officials in all state sectors, including the education sector, the different branches of justice administration and the police, and comprehensive prevention policies.

52. In its 2018 Annual Report, the IACHR concluded that the State of Mexico had fully complied with Recommendations 2 and 6 issued in Case 12.551, and with 15 of the clauses contained in the compliance agreement signed between the parties, therefore determining that the case has an overall level of partial compliance.<sup>77</sup>
53. To declare the responsibility of the State of Mexico in this case, the Commission applied the standard regarding the reinforced duties of protection and due diligence in contexts of violence against women and, specifically, concerning disappearances and femicides.<sup>78</sup> Furthermore, it referred to the heightened duties of State protection of girls in cases of violence and rape.<sup>79</sup> In addition, the IACHR reiterated that, according to the Convention Belém do Pará, the obligation to act with due diligence takes on a special meaning in cases of violence against women, thus, States should investigate with a gender perspective.<sup>80</sup> Additionally, the IACHR stressed that, with regards to girls, States should take into consideration that the factors linked to their age and development expose them to certain forms of violence more than adult women.<sup>81</sup>

**6. Case 11.656, Merits Report No. 122/18, Marta Lucía Álvarez Giraldo (Colombia)**

54. In 1994, Marta Lucía Álvarez, a woman deprived of her liberty, requested an intimate visit with her female partner. This visit was denied by the Office of the Director of the Pereira Women's Prison based on the fact that Resolution 5889/93, which regulated the right to intimate visits in prisons, exclusively referred to visits between a man and a woman. Furthermore, the Office indicated that allowing an

<sup>77</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico), para. 35.

<sup>78</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 80.

<sup>79</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 87.

<sup>80</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 80.

<sup>81</sup> IACHR, Case 12.551, Merits Report No. 51/13, Paloma Angélica Escobar et al. (Mexico), para. 88.

intimate visit between a same-sex couple represented a threat to prison security because of the risk that the visitor could switch places with the inmate. The prison authorities further suggested that the rights of the families, spouses, permanent partners and children of the other inmates in the prison could be negatively affected given the low level of societal tolerance for same-sex couples. In addition, they stated that the rules governing intimate visits were informed by principles of “family planning and birth control.” The decision also acknowledged that Ms. Álvarez had the “right to have her private, homosexual inclinations respected [...] under normal circumstances”; however, this right could be restricted while she was incarcerated.<sup>82</sup> Following her request for an intimate visit, Ms. Álvarez became the target of disciplinary measures which resulted in her not being able to request intimate visits and being transferred to different prisons on multiple occasions. In 2002, the National Penitentiary and Prison Institute (INPEC) finally authorized Ms. Álvarez an intimate visit, only after said authorization had been ordered by the Constitutional Court of Colombia.<sup>83</sup>

55. In Merits Report No. 122/18, published on October 5, 2018, the Commission stated that the denial of Ms. Álvarez’s right to an intimate visit constituted discriminatory treatment on the basis of her sexual orientation and consequently, held the State of Colombia responsible for violations of the right to equal protection.<sup>84</sup> The Commission further found that the State tolerated discrimination against Ms. Álvarez when prison and court authorities had a disproportionate and unjustified interference in her private life.<sup>85</sup> Finally, the Commission considered that the judicial authorities which supported the denial of Ms. Álvarez’s requests for intimate visits violated her right to access to justice by not having guaranteed her a hearing or an impartial process.<sup>86</sup>
56. Additionally, the Commission considered that intimate prison visits cannot have human reproduction as their sole objective, while completely disregarding the exercise of an inmate’s sexuality as independent from reproduction. This is particularly relevant with respect to the negative social stereotypes associated with women’s exercise of their sexuality, on the one hand, and lesbian women’s, on the other.<sup>87</sup> In this sense, the IACHR concluded that “factors that interfere with a woman’s ability to decide matters related to the exercise of her sexuality must be free of any stereotyped notions regarding the scope and content of this aspect of her private life, especially when combined with consideration of her sexual

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<sup>82</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 63, 68, 100, 167, 168 and 169.

<sup>83</sup> The Constitutional Court of Colombia made this decision through the judgement T-499 de 2003. IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), paras. 112, 119, 131, 132, 136 and 139-141.

<sup>84</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), paras. 170, 179-180.

<sup>85</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 205.

<sup>86</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 214-215.

<sup>87</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 173.

orientation.”<sup>88</sup> Finally, in relation to the denial of Ms. Álvarez’s intimate visit in order to “protect the rights of third parties”, the Commission found that the State cannot use societal stereotyped assumptions that reject sexual acts between woman as a justification for denying the rights of individuals subject to its jurisdiction.<sup>89</sup>

57. On July 14, 2017, the parties signed a Compliance Agreement in which they agreed to a number of specific actions that the State would adopt to comply with the recommendations issued by the IACHR in the preliminary merits report.
58. The Commission published Merits Report No. 122/18 with a level of partial compliance given that, at the date of its publication, the 5 recommendations that were previously issued in the Report No. 3/14 had been substantially complied with by the State of Colombia.<sup>90</sup>

#### **Recommendations:**

1. Make full reparations to Marta Lucía Álvarez Giraldo, both pecuniary and non-pecuniary, and include measures of satisfaction for the harm done.
  2. To ensure, through the National Penitentiary and Prison Institute (INPEC), that women and lesbian women are able to exercise their right to intimate visits, according to domestic law. In particular, to adopt protocols and directives aimed at state officials, including penitentiary authorities at all levels, with the purpose of ensuring this right; as well as to establish monitoring and inspection mechanisms for compliance.
  3. To undertake a reform of the regulations of INPEC regarding penitentiaries and prisons, with the purpose of ensuring the right of persons deprived of liberty not to be discriminated against based on their sexual orientation, in compliance with decision T-062 of 2011 issued by the Colombian Constitutional Court.
  4. Continue adopting the necessary state measures, including training of state officials, and put monitoring mechanisms in place, to ensure that persons deprived of liberty are not subject to discriminatory treatment –including disciplinary actions due to demonstrations of affection between women in penitentiaries and prisons- by State authorities or by other persons deprived of liberty based on their sexual orientation.
  5. Take the State measures necessary to ensure that persons deprived of their liberty in
59. In this case, the Commission analyzed how being a woman, a lesbian and a person deprived of her liberty had an influence on the occurrence of the human rights violations committed against Martha Lucía Álvarez. In consequence, in declaring the responsibility of the State of Colombia, the Commission applied the standard of the reinforced duties of protection regarding certain groups of women whose vulnerability to violations of their human rights increases when they are discriminated against on the basis of “more than one factor”.<sup>91</sup> In this regard, the IACHR considered that this special protection requires the elimination of provisions

<sup>88</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 186.

<sup>89</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 176.

<sup>90</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), paras. 248-249.

<sup>91</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), paras. 164-165, 198.

or practices that discriminate against women. In addition, the Commission also applied the standard of respect and guarantee of sexual rights of women, establishing that an intimate visit cannot have human reproduction as its sole objective, while altogether disregarding the exercise of one's sexuality per se, independent from reproduction. In this sense, the IACHR concluded that the State cannot operate on the basis of stereotypical assumptions regarding sexual acts between women, rather it must contribute to gradually eradicating these very pernicious prejudices.<sup>92</sup>

## **B. General Observations**

60. In various published merits reports, the Inter-American Commission on Human Rights has concluded that Member States are responsible for committing human rights violations related to situations of gender-based violence and discrimination against women, girls and female adolescents. According to the analysis of the facts and subject matter of each case, the IACHR recommended the adoption of measures to redress the damages caused by these violations and to prevent their reoccurrence. In the context of structural discrimination, this report emphasizes the need for reparations to have a transformative role and not merely restore women victims to their previous situation of pre-existing discrimination.<sup>93</sup> The Commission also considers it essential that States implement reparation measures through an integral and holistic approach using specialized institutions and personnel.<sup>94</sup> The Commission further underscores the importance of adopting a gender perspective in the implementation of all reparations.<sup>95</sup> The IACHR has emphasized that discrimination does not affect all women, girls and adolescents in the same way, and that States need to enhance duties of prevention and protection with regards to women, girls and adolescents in situations of intersectional discrimination.<sup>96</sup>
61. This chapter presented a description of 6 published merits reports in which the Commission determined the international responsibility of different OAS Member States. From 2001 to the date of publication of the present report, the Commission

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<sup>92</sup> IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 173.

<sup>93</sup> IACHR, *Truth, Justice and Reparation: Report on the Situation of Human Rights in Colombia*, OEA/Ser.L/V/II. Doc. 49/13, December 31, 2013, para. 462: “[a]lso, in situations of structural discrimination, the reparations should take on a transformative role in this situation, such that they have an effect that is not only restorative but corrective. In this sense, it is not acceptable to restore the same structural situation of violence and discrimination.”

<sup>94</sup> IACHR, *Truth, Justice and Reparation: Report on the Situation of Human Rights in Colombia*, OEA/Ser.L/V/II. Doc. 49/13, December 31, 2013, para. 463.

<sup>95</sup> IACHR, *Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application*, OEA/Ser.L/V/II. Doc. 11, 2015, para. 73.

<sup>96</sup> IACHR, Press Release No. 161/18, *On International Afro-Latin American, Afro-Caribbean and Diaspora Women’s Day*, the IACHR calls on States to encourage and strengthen their political participation, July 25, 2018; IACHR, [Indigenous Women and their Human Rights in the Americas](#), OEA/Ser.L/V/II.Doc. 44/17, 17 April 2017, paras. 81 and 131; IACHR, [Violence against LGBTI Persons](#). OAS/Ser.L/V/II.rev.1. Doc. 36. 12 November 2015, paras. 41 and 270.

has progressively developed standards related to the respect for and guarantee of the human rights of women, girls and adolescents in individual cases, and it has contributed to their development and future application in other cases. The IACHR has also increasingly incorporated the idea of transformative reparations into its recommendations contained in the merits reports that it has published regarding violence against women and the idea of gender-specific considerations in the granting of reparations.<sup>97</sup>

62. The merits reports published by the IACHR have significantly contributed to raising awareness about gender-based discrimination and violence against women, girls and adolescents in the Americas. These reports demonstrate that these human rights violations are not isolated cases. Rather, they represent endemic situations rooted in the historically unequal power relations between women and men.<sup>98</sup>

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<sup>97</sup> IACHR, Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II. Doc. 11, 2015, para. 61.

<sup>98</sup> Womens Link Worldwide, Proyecto CLADEM-UNIFEM, Study of the Maria da Penha Case (Brazil) (“*Estudio de caso Maria da Penah (Brasil)*”), Accessed on 26 August 2019 (original in Spanish); Convention Belem do Para”, Preamble; Mexican Commission for the Defense and Promotion of Human Rights, We lost the brightness of the sun that day: Report on the psychosocial impact of femicide in the case of Paloma Angélica Escobar Ledezma (“El brillo del sol se nos perdió ese día: Informe sobre el impacto psicosocial del feminicidio en el caso de Paloma Angélica Escobar Ledezma”), 2009, p. 84 (original in Spanish).





CHAPTER 2

MAIN IMPACTS AND  
CHALLENGES IN THE  
IMPLEMENTATION OF  
RECOMMENDATIONS  
REGARDING THE PROTECTION  
OF WOMEN AND GIRLS AGAINST  
VIOLENCE AND DISCRIMINATION



## MAIN IMPACTS AND CHALLENGES IN THE IMPLEMENTATION OF RECOMMENDATIONS REGARDING THE PROTECTION OF WOMEN AND GIRLS AGAINST VIOLENCE AND DISCRIMINATION

### A. Introduction

63. The consequences of serious violations of human rights in people's lives are often devastating, thus the possibility and ability to access and receive effective remedies is of great importance. It is a principle of international law that any breach of an international obligation resulting in harm gives rise to the duty to adequately redress such harm. Victims of human rights violations have the right to comprehensive reparations for the harm that they have suffered, which encompasses individual measures aimed at restoring, compensating and rehabilitating the victim, as well as satisfaction and guarantees of non-repetition.<sup>99</sup> Further, States cannot modify or disregard this obligation by relying on its domestic law.<sup>100</sup>
64. In cases of violence and discrimination perpetrated against women, girls and adolescents, ensuring the effective implementation of reparation measures requires a full understanding of the gendered nature of human rights violations. Furthermore, the States which are responsible for these violations should address the differentiated harms suffered by the victims in these cases. In this sense, gender inequalities should be taken into account when implementing reparations in order to ensure that these measures do not exclude, marginalize or penalize women, girls and adolescents.<sup>101</sup>
65. In this same sense, it is also important that reparation measures be implemented from an intersectional approach, which considers the unique circumstances and

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<sup>99</sup> IACHR, *Principal Guidelines for a Comprehensive Reparations Policy*, OEA/Ser.L/V/II.131, doc. 1, 19 February 2008, para. 1; IACHR, *Access to justice for Women Victims of Violence in the Americas*, para. 58; IACTHR, *Case of Atala Riffo and daughters v. Chile*. Merits, Reparations and Costs. Judgment of February 24, 2012, Series C, No. 239, para. 241.

<sup>100</sup> IACTHR, *Case of La Cantuta v. Peru*. Merits. Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 200.

<sup>101</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II.143, 2015, para. 28, 103.

situation of each individual victim. This perspective recognizes that not all women, girls and adolescents are alike. Consequently, States have the duty to take special account of the inextricable link between the factors that expose women to discrimination including their sex, age, race, ethnicity and economic position, among other factors.<sup>102</sup> In the particular context of sexual violence, understanding the obstacles that victims face in seeking or obtaining redress, as a result of the physical and psychological impact of sexual violence, in addition to the stigma associated with it, is essential.<sup>103</sup> Furthermore, the participation of victims, and their representatives, if they so desire, in the design, implementation, monitoring and evaluation of reparation measures is imperative. Consequently, taking into account cultural, linguistic, social and other particularities will help ensure that these measures achieve their intended impact, as well as to provide ownership of the process.<sup>104</sup>

66. The Commission has recognized that girls often experience difficulties in enjoying the full exercise of their rights.<sup>105</sup> When they become victims of human rights violations, the granting of reparations must bear in mind that they are particularly vulnerable to violence.<sup>106</sup> This vulnerability “translates into the State’s obligation to act with greater and more rigorous diligence to protect and ensure the exercise and enjoyment” of their rights, according to the Article 19 of the American Convention.<sup>107</sup>
67. This Chapter presents the information regarding the overall level of compliance with the recommendations established in the 6 merits reports selected, based on the information of the IACHR’s 2018 Annual Report and of the Merits Report No. 122/18, in the case of Martha Lucía Álvarez Giraldo (Colombia). Subsequently, this chapter analyzes the main results, impacts, and challenges related to the implementation of the recommendations of the Commission primarily based on the information received from the States and petitioners in the cases being analyzed. Academic research, press articles and other publicly available information were also considered to analyze said impacts and challenges. These results correspond to the compliance with the 34 recommendations included in the 6 merits reports and the compliance agreements that were signed between the States and the victims and their representatives in 3 of these cases. These impacts and challenges were

<sup>102</sup> IACHR, Legal Standards related to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II.143, 2015, para. 28.

<sup>103</sup> UN, Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence, June 2014, p. 5.

<sup>104</sup> UN, Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence, June 2014, p. 10-11.

<sup>105</sup> IACHR, Press Release 147/2016, IACHR Calls Attention to the Continuing Challenges Facing Pre-teen and Teenage Girls in the Region, 12 October 2016.

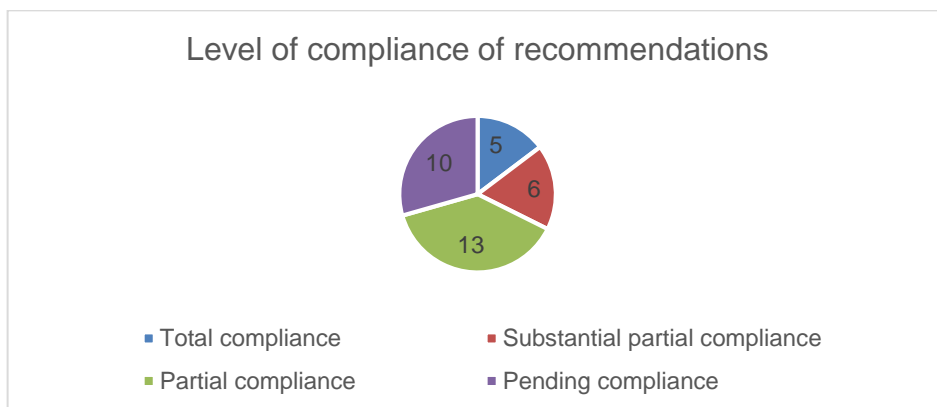
<sup>106</sup> IACHR, Violence and Discrimination against Women, Girls and Adolescents: Standards, recommendations, challenges and good practices in Latin-America and the Caribbean, para. 105; IACtHR, Case of V.R.P., V.P.C. et al. v. Nicaragua. Preliminary Objections, Merits, Reparations and Costs. Judgment of March 8, 2018. Series C No. 350, para. 156 (Only in Spanish).

<sup>107</sup> IACtHR, Case of Véliz Franco et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C No. 277, para. 134 and 139; IACtHR, Case of V.R.P., V.P.C. et al. v. Nicaragua. Preliminary Objections, Merits, Reparations and Costs. Judgment of March 8, 2018. Series C No. 350, paras. 290 and 295 (Only in Spanish).

grouped together based on the type of reparation measure: on the one hand, individual measures, which include compensation, rehabilitation, satisfaction, and truth and justice measures, and, on the other hand, guarantees of non-repetition, which include legislative and regulatory reforms, public policies and institutional strengthening measures.

## ***B. Analysis of the Overall Level of Compliance of the Recommendations Issued in Cases of Discrimination and Violence against Women, Girls and Adolescents***

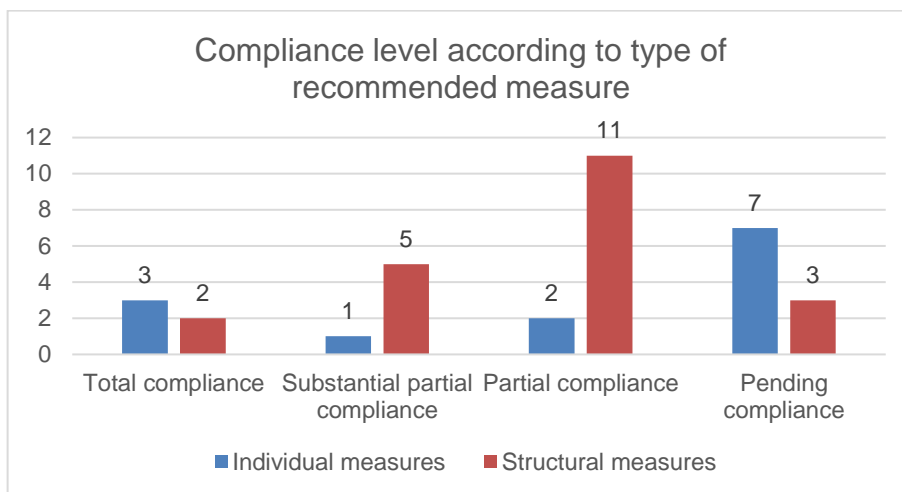
68. The IACHR analyzes the level of compliance of the recommendations issued in published merits reports in Chapter II.G of its Annual Report. Since 2018, the IACHR uses the following criteria to analyze the level of compliance of the recommendations in the Annual Report: a. total compliance; b. substantial partial compliance; c. partial compliance; d. pending compliance; and, e. non-compliance.
69. When analyzing the level of compliance of the recommendations issued in the 6 published merits reports included herein, out of a total of 34 recommendations, 5 have been fully complied with, 6 substantially partially complied, 13 partially complied,<sup>108</sup> and 10 are pending compliance. In accordance to this information, nearly 39% of these recommendations have been partially complied. Furthermore, although almost 15% of these recommendations have been totally complied, approximately 17% have been complied at a substantial level. 29% of these recommendations still remain pending compliance.



70. When analyzing the level of compliance according to the type of recommended reparation measure (individual or structural), out of the 5 recommendations which

<sup>108</sup> In the Case No. 11.625, Maria Eugenia Morales de Sierra expressly waived the financial compensation that the IACHR had recommended to the State of Guatemala because “her cause was to win recognition of women’s dignity”. IACHR, 2007 Annual Report, Chapter III: The petition and case system, Status of compliance with the recommendations of the IACHR, para. 356.

have been totally complied with, 3 correspond to individual measures and 2 to structural measures. Out of the 6 recommendations with substantial partial compliance, 1 refers to individual measures and 5 to structural measures. Of the 13 recommendations with a level of partial compliance, 11 correspond to structural measures and 2 to individual measures. Finally, out of the 10 recommendations that are pending compliance, 7 are individual measures and 3 are structural measures.

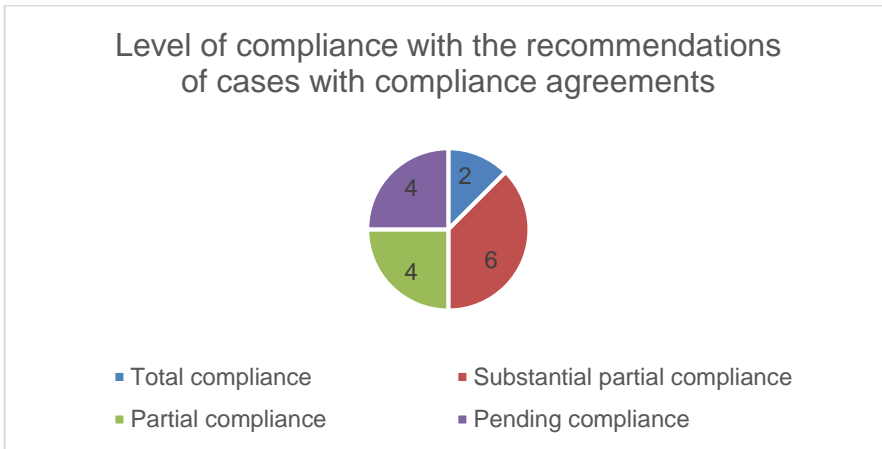


71. In addition, out of the 3 totally complied recommendations that correspond to individual reparation measures, one included both compensation and satisfaction measures; another one included compensation, satisfaction and rehabilitation measures, and the third one included truth and justice measures.<sup>109</sup>
72. The overall period in which the 5 recommendations were totally complied is approximately 7.5 years after the publication of the merits reports. On the one hand, the average of years to comply with the recommendations that correspond to individual measures is approximately 6 years, which include the adoption of measures of truth and justice, compensation, satisfaction, and rehabilitation. On the other hand, 9 years is the average of compliance with the 2 recommendations that include structural measures.<sup>110</sup> The IACHR underscores the fact that the different recommendations have diverse levels and scopes. Whereas some of them demand concrete and immediate responses, others are to be complied with progressively, not immediately, and some of them require a reasonable time frame in order to be fully implemented.
73. Concerning the cases in which the parties have signed compliance agreements, out of the 6 cases included in this report, the States and the victims and their representative signed them in 3 of them, corresponding to 52 clauses related to 16 recommendations. Out of these 16 recommendations, 2 of them have been totally

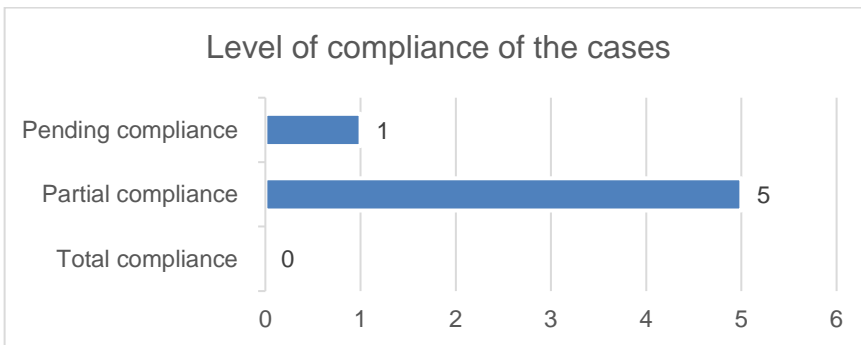
<sup>109</sup> In these cases, the number of measures that are adopted to comply with the recommendations can be higher than the number of recommendations.

<sup>110</sup> Out of the two totally complied recommendations that include structural measures, one of them was declared totally complied 15 years after the publication of the merits report, and the other one 3 years after.

complied, 6 of them are substantially partially complied, 4 are partially complied, and 4 are pending compliance. In accordance to this information, although 12.5% of these recommendations have been totally complied, around 37.5% of them are substantially partially complied, 25% have been partially complied. The remaining 25% of these recommendations are still pending compliance. According to this information, the cases in which the parties have been signed compliance agreements reports a high level of recommendations that have been partially complied, specially, at a substantial level.



74. Concerning the level of compliance of the cases, out of 6 cases included in this report, 5 -which represents 83%- have been partially complied, and 1 is pending compliance, corresponding to 17%.



75. The Commission understands that effectiveness of the Inter-American system rests, to a large measure, on compliance with the decisions of its organs, including the judgments of the Inter-American Court of Human Rights and IACHR Reports on Merits and Friendly Settlements, which set forth the recommendations and agreements on full reparation for victims of human rights violations. In this regard, States' willingness to comply with the purposes and objectives of the American



Convention on Human Rights and the American Declaration of the Rights and Duties of Man is essential, by virtue of the principle of *pacta sunt servanda*, under which States must comply in good faith with the obligations they undertake to fulfill in treaties.<sup>111</sup>

## C. *Analysis of the Results, Impacts and Challenges in the Implementation of the Recommendations Issued in Cases of Discrimination and Violence against Women, Girls and Adolescents*

### 1. Compensation Measures

76. Compensation measures are intended to compensate both pecuniary and non-pecuniary damages caused to victims as the result of the violation of their human rights, depending on the nature of the specific case.<sup>112</sup> In accordance with the Inter-American standards of reparations, compensation can be monetary or in kind. Monetary compensation involves the provision of a sum of money, while in kind compensation requires the provision of a material good of the same characteristics and under the same conditions as that of which the victims were deprived of, when their human rights were violated.<sup>113</sup> Pecuniary damage is related exclusively to the effects of the human rights violation on the victim's property and assets.<sup>114</sup> This type of damage can be quantified in specific monetary amounts, if there is evidence available to do so. Pecuniary damage includes *damnum emergens* and *lucrum cessans*. Non-pecuniary damage encompasses, among others, the suffering and afflictions caused to the victims and/or their family members, the impairment of significant values for individuals, and alterations, of a non-pecuniary or pecuniary nature, to the living conditions of the victims and/or their next of kind.<sup>115</sup>

<sup>111</sup> Vienna Convention on the Law of Treaties, U.N. Doc. A/CONF.39/27 (1969), Article 26: "*Pacta sunt servanda*". Every treaty in force is binding upon the parties to it and must be performed by them in good faith. IACHR, 2018 Annual Report, Chapter II.G: Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, para. 181.

<sup>112</sup> IACTHR, *Court H.R., Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgement of November 28, 2018. Series C No. 371*, para. 363-376. (Only in Spanish); IACTHR, *Case Velásquez Rodríguez v. Honduras, Reparations and Costs, Judgement of July 21, 1989*, Serie C No. 7, para. 26.

<sup>113</sup> IACTHR, *Case Velásquez Rodríguez v. Honduras, Reparations and Costs, Judgement of July 21, 1989*, Serie C No. 7, para. 28.

<sup>114</sup> IACTHR, *Case Garibaldi v. Brasil, Preliminary objections, Merits, Reparations, and Costs, Judgement of September 23, 2009*, para. 182; IACTHR, *Case Dacosta Cadoogan Vs. Barbados. Preliminary Objections, Merits, Reparations, and Costs, Judgement of September 24, 2009*, Serie C No. 203, para. 111.

<sup>115</sup> IACTHR, *Case Velásquez Rodríguez v. Honduras, Reparations and Costs, Judgement of July 21, 1989*, Serie C No. 7, párr. 56; IACHR, *Impact of the Friendly Settlement (Second Edition)*, OEA/Ser.L/V/II.167, Doc. 31, 1 March 2018, para. 178.

77. The payment of compensation as a reparation measure contributes to the achievement of justice in individual cases.<sup>116</sup> In situations of discrimination and violence against women, girls and adolescents, compensation measures have the potential to empower victims.<sup>117</sup> On the one hand, these measures provide them with resources to assist them in rebuilding their lives, if possible. On the other hand, these types of measures aim at transforming the conditions of discrimination and inequality that were the cause of the human rights violation by ensuring material conditions that promote their autonomy and overcoming their conditions of vulnerability.<sup>118</sup> Although the merits reports in which the Commission has recommended compensation measures do not specify the amount of compensation to be paid, States, when determining these amounts, should follow the standards established by the Inter-American Human Rights System.
78. The implementation of the recommendations issued by the Inter-American Commission on Human Rights have resulted in various victims of discrimination and violence against women and, their family members, have received monetary payments relieving the pecuniary and non-pecuniary damages caused by the violations. Although these recommendations do not specify the amount of compensation that should be paid, States, when determining these amounts, should follow the standards established by the Inter-American Human Rights System in this regard. The IACHR has been informed that, in compliance with its recommendations, compensation has been paid by the State of Brazil to Maria da Penha Maia Fernandes by way of a law that was approved by the Legislative Assembly of the state of Ceará.<sup>119</sup> The State of Colombia paid compensation to Marta Lucía Álvarez Giraldo,<sup>120</sup> and the State of Mexico paid compensation to Paloma Angélica Escobar's parents, and to her brother.<sup>121</sup> In the last two cases, the payment of pecuniary compensation was in accordance with the clauses agreed to by the

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<sup>116</sup> IACHR, Impact of the Friendly Settlement (Second Edition), OEA/Ser.L/V/II.167, Doc. 31, 1 March 2018, para. 174.

<sup>117</sup> UN, Report of the UN Special Rapporteur on Violence against Women, its Causes and Consequences, A/HRC/14/22, 23 April 2010, para. 24.

<sup>118</sup> UN, Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence, June 2014, p. 14; UN, Report of the UN Special Rapporteur on Violence against Women, its Causes and Consequences, A/HRC/14/22, 23 April 2010, para. 54.

<sup>119</sup> The State informed the Commission that the payment of compensation was made to the victim as material reparation, on July 7, 2008, during the ceremony paying tribute to the victim for her struggle on behalf of women victims of domestic violence. IACHR, 2008 Annual Report, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, para. 103.

<sup>120</sup> On February 19, 2019, the INPEC issued the Resolution No. 000428, which ordered to grant compensation to Martha Lucía Álvarez. This payment was made on February 28, 2019, in accordance to the compliance agreement signed between the State and the petitioners on July 14<sup>th</sup>, 2017. Information presented to the IACHR by *Red Nacional de Mujeres, Colombia Diversa* and CEJIL on August 9, 2019.

<sup>121</sup> The payment of the compensation was included in the compliance agreements signed on August 3, 2011, with Mrs. Norma Ledezma Ortega and Fabian Alberto Escobar Ledezma and, on August 4, 2011, with Dolores Alberto Escobar Hinojos. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

parties in the compliance agreements that they signed to implement the recommendations of the Commission.

79. Three additional observations should be made with regards to the granting of compensation for the victims of the cases included in this report. First, in the case of María Eugenia Morales de Sierra (Guatemala), despite the recommendation of the Commission, the victim specifically renounced the individual economic reparations,<sup>122</sup> which constitutes a legitimate manifestation of the agency and autonomy of the victims in the granting of reparations. Although the compliance agreement signed between the parties did not include compensation as an individual reparation measure, it declared that the State would comply with a number of measures aimed at promoting the respect and guarantee of the rights of women in Guatemala.
80. Second, in the case of Ana, Beatriz and Celia González Pérez, the State of Mexico reported that, on April 4, 2011, the victims and their mother received a sum of money from the Government of Chiapas. Despite this payment, the State specified that the support granted to the victims was aimed at providing them with humanitarian assistance, and was not an acknowledgment of the State's responsibility for the human rights violations established in the merits report. Consequently, the State has held that this amount cannot be considered as compensation for damage.<sup>123</sup> The parties are still negotiating the compensation amount.
81. Regarding the case of Jessica Lenahan (United States), the State has not yet provided Ms. Lenahan and her son with financial compensation stating that it is unable to do so absent an act of Congress.<sup>124</sup>
82. The Commission reminds the States of its obligations to repair the pecuniary and non-pecuniary damages caused by human rights violations proportionately.<sup>125</sup>

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<sup>122</sup> IACHR, 2007 Annual Report, Chapter III: The petition and case system, Status of compliance with the recommendations of the IACHR, para. 356.

<sup>123</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up factsheet, Case 11.565, Report No. 53/01, González Pérez Sisters (Mexico), para. 23.

<sup>124</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up factsheet, Case 12.626, Report No. 80/11, Jessica Lenahan (Gonzales) (United States), para. 17.

<sup>125</sup> IACtHR, Case of La Cantuta Vs. Peru, Judgement of November 29, 2006. Series C No. 162, paras. 199-200; UNGA, Resolution 60/147 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 16 December 2005. A/RES/60/147; IACtHR, Case of González et al. ("Campo Algodonero") Vs. Mexico, Preliminary Objection, Merits, Reparations, and Costs. Judgement of November 16, 2009. Series C No. 205, para. 451.

## 2. Rehabilitation Measures

83. The main purpose of rehabilitation measures is to achieve the physical, psychological and social rehabilitation of the victims. On the one hand, physical and/or psychological rehabilitation measures are intended to counteract the effects on the physical and mental health of the victims and/or their family members caused by the human rights violations committed against them, particularly diseases and the deterioration of their living conditions.<sup>126</sup> On the other hand, social rehabilitation measures are aimed at repairing the victims and/or their family members through the recognition and provision of actions that favorably have an influence on their social conditions. These measures may be aimed at restoring social conditions that were seriously affected by the human rights violations or even at transforming the social conditions that promoted or caused the human rights violations.<sup>127</sup>
84. In conformity with the jurisprudence and decisions of the Inter-American Human Rights System, rehabilitation measures require the provision of specialized, individualized, preferential, accessible, comprehensive, culturally appropriate and free services, including the provision of medicines and, where appropriate, the supply of goods and services. This specialized attention must take into account their condition as victims of human rights violations, in addition to the particular conditions of each individual victim. The Inter-American Court of Human Rights has held that the provision of general social services provided by the State to individuals cannot be confused with the reparations to which victims of human rights violations are entitled due to the specific damage caused by the violation.<sup>128</sup>
85. The implementation of the recommendations issued by the Commission has led to the adoption of rehabilitation measures in favor of the family members of Paloma Angélica Escobar Ledezma (Mexico).<sup>129</sup> The provision of such measures to her family members was agreed to upon by the parties and included in the compliance agreement that they signed on August 3, 2011. The adoption of these measures serves to relieve the damages caused and to mitigate the effects of the violations of the victims' human rights. In this sense, the Commission was informed that the State of Mexico provided Paloma Angélica's mother and her brother, with public health

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<sup>126</sup> IACHR, Impact of the Friendly Settlement (Second Edition), OEA/Ser.L/V/II.167, Doc. 31, 1 March 2018, para. 104.

<sup>127</sup> IACHR, Impact of the Friendly Settlement (Second Edition), OEA/Ser.L/V/II.167, Doc. 31, 1 March 2018, para. 115.

<sup>128</sup> IACtHR, Case of González et al. ("Campo Algodonero") Vs. Mexico, Preliminary Objection, Merits, Reparations, and Costs. Judgement of November 16, 2009. Series C No. 205, para. 529.

<sup>129</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

care services.<sup>130</sup> Further, according to the information received by the IACHR, the State also provided social rehabilitation measures to the victims in this case. Specially, the State provided economic support to her brother so that he could finance his university and postgraduate studies.<sup>131</sup> The State further provided Mrs. Ledezma with economic support so that she could purchase a house.<sup>132</sup> When the beneficiaries of rehabilitation measures are female victims seriously affected by human rights violations that have been perpetrated against them on the grounds of their gender, rehabilitation measures have a significant impact in empowering these victims, enhancing their autonomy and changing the situation of discrimination that underlies these violations,<sup>133</sup> always prioritizing the particular needs and requests of victims.<sup>134</sup> The provision of these measures depends on the individual conditions of each specific victim, in order to redress the intersection of different forms of discrimination that they may face on the grounds of their age, race, ethnicity and economic position, among other factors.<sup>135</sup> Furthermore, the beneficiaries of rehabilitation measures may include indirect victims that have been affected by human rights violations perpetrated against women, girls and adolescents, such as their family members, which reaffirms that the serious effects of human rights violations go beyond the direct victims, transcending to their families and to the society, as a whole.<sup>136</sup>

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<sup>130</sup> On February 2, 2010, the Commission was informed that both family members of Paloma Angélica Escobar were formally enrolled in the health care service provided by the *Instituto Chihuahuense de Salud*. IACHR, Report No. 51/13, Case 12.551 Paloma Angélica Escobar Ledezma *Et. Al.*, Merits, Mexico. para. 164.

<sup>131</sup> The Commission was informed that the Government of Chihuahua awarded Fabián Alberto Escobar Ledezma economic support for his university and postgraduate studies, a measure that was agreed upon between the parties in the compliance agreement signed on August 3, 2011. Mr. Fabián Alberto Escobar Ledezma is in charge of the administration of the resources provided with education purposes. The autonomy to manage these resources recognizes the agency of this victim in deciding how and when to complete his studies. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

<sup>132</sup> On July 4, 2018, an agreement was entered into between Mrs. Norma Ledezma and the Government of the State of Chihuahua, which established that, since the Mexican State had been unable to find a house suitable for her, it would provide her with a sum of money so that she could purchase a house. The Commission was informed that, on August 17, Mrs. Ledezma received the respective cheque from the Government of the State of Chihuahua. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico), para. 15.

<sup>133</sup> UN, Report of the Office of the United Nations High Commissioner for Human Rights: Analytical study focusing on gender-based and sexual violence in relation to transitional justice, A/HRC/27/21, 30 June 2014, para. 55.

<sup>134</sup> IACHR, The situation of people of African Descent in the Americas, OEA/Ser.L/V/II. Doc.62, December 5, 2011, para.60. See also: IACTHR, Court H.R., Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 371, para. 351. (Only in Spanish)

<sup>135</sup> Article 9, Convention of Belém do Pará; IACHR, Indigenous Women, OEA/Ser.L/V/II., Doc. 44/17, 17 April 2017, para 24; IACHR, Legal Standards: Gender Equality and Women's Rights, OEA/Ser.L/V/II.143, Doc. 60, 3 November 2011, para. 28-31.

<sup>136</sup> IACHR, Press Release No. 20/04, IACHR Special Rapporteur evaluates the effectiveness of the right of women in Guatemala to live free from violence and discrimination, 18 September 2004.

86. In the case of Ana, Beatriz and Celia González Pérez (México), according to the recommendation of the Commission to provide reparations, the victims and their representatives expressed that the González sisters do not wish to use the regular public health services. Thus, they requested adequate health care, according to the gender, ethnic and cultural particularities of the victims and in keeping with their indigenous worldview. In response to this request, the State reported that this service could only be provided through resources available, which include several specialized medical institutions, including two that were created to respond to the cultural diversity of the Mexican population. The victims and their representatives ultimately considered that the provision of health care through those institutions would result more burdensome, complicated and unhelpful to the sisters, given that they are located in Mexico City, which is far from where the victims live, and because they lack indigenous language translators.<sup>137</sup>
87. While granting rehabilitation measures, States should consider the reinforced duties of protection concerning women, girls and adolescents, and the importance of granting measures according to the particularities of this specific group.<sup>138</sup> The provision of rehabilitation programs need to take into account that human rights violations cause differentiated impacts on women, adolescents and girls, thus these measures need to recognize their specific damages and needs, in accordance with their race, ethnicity, religion or belief, health, status, age, class, caste, sexual orientation and gender identity.<sup>139</sup> Likewise, the provision of these services to the victims of human rights violations should be different from those that are provided to the general population.<sup>140</sup> In this sense, the Commission reminds States of the importance of providing rehabilitation measures to victims of human rights violations in accordance with the relevant inter-American standards.

### 3. Satisfaction Measures

88. In accordance with the international standards on reparations, satisfaction measures include symbolic, moral and non-pecuniary measures aimed at the disclosure of the truth as the first prerequisite to justice.<sup>141</sup> These measures can take various forms, depending on the circumstances of each particular case, and

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<sup>137</sup> IACHR, 2017 Annual Report, Chapter II, Section D: Status of compliance of the recommendations of the IACHR, para. 1587, 1591 and 1595.

<sup>138</sup> IACtHR, Case of V.R.P., V.P.C. et al. v. Nicaragua. Preliminary Objections, Merits, Reparations and Costs. Judgment of March 8, 2018. Series C No. 350, para. 155 (Only in Spanish).

<sup>139</sup> IACtHR, Case of González et al. (“Campo Algodonero”) Vs. Mexico, Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 243; UN, Guidance note of the Secretary-General: Reparations for Conflict-Related Sexual Violence, June 2014, p. 19.

<sup>140</sup> IACHR, Impact of the Friendly Settlement (Second Edition), OEA/Ser.L/V/II.167, Doc. 31, 1 March 2018, para. 110. UN, Report of the Office of the United Nations High Commissioner for Human Rights: Analytical study focusing on gender-based and sexual violence in relation to transitional justice, A/HRC/27/21, 30 June 2014, para. 55.

<sup>141</sup> UN, Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, E/CN.4/Sub.2/1993/8, 2 July 1993.

therefore, can be as broad as the diversity of non-pecuniary damage suffered by victims of human rights violations.<sup>142</sup>

89. The implementation of the recommendations issued by the Commission in the merits reports included in this report have led to important impacts on the adoption of measures to recognize States' international responsibility for human rights violations, to publicly apologize to victims, to honor and preserve the historical memory of the victims and the violations, and to reinforce States' commitments to not repeat similar events in the future. It is important that these measures be agreed upon with the victims themselves and/or their family members, given that, when this does not occur, these measures do not fulfill the purpose for which they were conceived.

### **a. Acts of Recognition of Responsibility and Public Apologies**

90. Acts of recognition responsibility generally include a statement from the State to the effect that it failed to comply with its international human rights obligations, an identification of the victims of the human rights violations, recognition of the need to redress the harm caused, and an acknowledgement of responsibility on behalf of the State concerned for the human rights violations which occurred. Public acts of apology can result in the reestablishment of some form of trust between the victims and the State, representing the being of a new relationship. They also serve as an opportunity to restore the victim's reputation and have a pedagogical value that seeks to prevent similar human rights violations from occurring in the future.<sup>143</sup> The direct participation of victims, and their representatives, in the design and implementation of acts of recognition of responsibility and public apologies is crucial. At the same time, in some cases, victims may prefer that a private ceremony be held or that their identity not be revealed. In these situations, the State must respect the victim's wishes.
91. The implementation of the recommendations issued in the merits reports published regarding situations of discrimination and violence against women, girls and adolescents have had important impacts in revealing the truth of the facts, and restoring the honor and dignity of the female victims, through acts in which States have publicly acknowledged international responsibility for the violations committed and have apologized to the victims for these violations. The Commission has further identified that these acts represent efforts to bring closure to victims and society as a whole for violations committed in the past and seek to prevent the reoccurrence of similar violations in the future.

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<sup>142</sup> IACHR, Impact of the Friendly Settlement Procedure (Second Edition), OEA/Ser.L/V/II.167 Doc. 31, 1 March 2018, para. 124; IACtHR, Case of Furlan and family v. Argentina, Preliminary Objections, Merits, Reparations and Costs, Judgment of August 31, 2012, Series C No. 246, para. 288.

<sup>143</sup> IACHR, Impact of the Friendly Settlement Procedure (Second Edition), OEA/Ser.L/V/II.167 Doc. 31, 1 March 2018, paras. 125-127.

92. For instance, on July 7, 2008, the State of Brazil held a public ceremony at which it paid tribute to Maria da Penha Maia Fernandes for her struggle on behalf of female victims of domestic violence.<sup>144</sup> In addition, the Deputy Governor of the state of Ceará publicly apologized to Maria da Penha for the Judicial Branch's delay in resolving her case.<sup>145</sup>
93. Likewise, the Commission has identified that the signing of compliance agreements between States and victims and their representatives helps facilitate their direct participation in the development and implementation of satisfaction measures. For instance, on February 23, 2012, the State of Mexico held a public ceremony in which it acknowledged its international responsibility for the human rights violations committed against Paloma Angélica Escobar Ledezma, and apologized to her family members. In the ceremony, the State indicated "...[T]he loss of a life caused by a crime causes us all deep pain when it happens to a girl; it fills us with anger and anguish for a lost future, for a blinded hope, for a destroyed future...".<sup>146</sup>
94. Further, in accordance with the compliance agreement signed between the parties, on December 6, 2017, the Colombian State held a ceremony to recognize its responsibility and to public apologize to Marta Lucía Álvarez Giraldo for discriminating against her on the basis of her sexual orientation and gender which was broadcast to 118 prison facilities around the country. This act was extremely important given that it represents the first time that the State of Colombia has issued an apology to the country's LGBT community.<sup>147</sup> In this ceremony, the Minister of Justice of Colombia apologized to Marta Lucía stated:

"... The Colombian State makes the present acknowledgment of international responsibility and sincerely apologizes, under the understanding that, as a measure of reparation, the effects of this recognition and apology are oriented at mitigating, in some way, the effects caused to Ms. Marta Lucía Álvarez. Having denied her the right

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<sup>144</sup> IACHR, 2008 Annual Report, Chapter III, Section D: Status of compliance of the recommendations of the IACHR, para. 103. At the ceremony, the Federal Secretary for Women's Policies of the Federal Government stated that "Maria da Penha represents a milestone [...] every woman who, today, is a victim of domestic violence, ends up receiving help from Maria da Penha, who has never given up fighting." Terra, Maria da Penha receives compensation after 25 years ("*Maria da Penha ganha indenização após 25 anos*"), 7 July 2008 (original in Portuguese).

<sup>145</sup> The Deputy Governor of the state of Ceará stated "[t]his act represents our sincere apologies and an effort to prevent situations like this from happening again." Terra, Maria da Penha receives compensation after 25 years ("*Maria da Penha ganha indenização após 25 anos*"), 7 July 2008 (original in Portuguese).

<sup>146</sup> The State further demanded that each and every one of its law enforcement and justice public servants do absolutely everything within their power so that what happened to Paloma Angélica, her relatives and friends never happens again. The terms and logistics of the ceremony were agreed upon with the victim's mother, Norma Ledezma. IACHR, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico), para. 164. El Universo, Mexico recognizes responsibility in case of Paloma Escobar ("*México reconoce responsabilidad en caso de Paloma Escobar*"), 23 February 2012 (original in Spanish).

<sup>147</sup> CIDH, Recognition of the Rights of LGBTI Persons, OEA/Ser.L/V/II.170, Doc. 184, 7 December 2018, para. 184; Colombia Diversa, The case of Marta Lucía (original in Spanish).



to an intimate visit based on her sexual orientation was an act of extreme discrimination [...]. We apologize for the actions and omissions of State agents, who committed the violation of her rights to personal integrity, honor, dignity, judicial guarantees, judicial protection and the right to equality before the law.”<sup>148</sup>

## **b. Construction of Buildings or Monuments in Honor of the Victims**

95. The Inter-American Commission has repeatedly acknowledged the fundamental value of recovering the historical memory of grave human rights violations as a means of preventing the repetition of such acts in the future. In this sense, the Inter-American Court has said that part of the process of comprehensive reparations for human rights violations involves carrying out public works or ceremonies to publicly restore the memory of the victims.<sup>149</sup> The construction of monuments in honor of the victims, the elaboration of documentaries that dignify their memory, the naming of public spaces and buildings after the victims and the installation of commemorative plaques, among other actions, recognize their dignity, preserve the memory of the human rights violations that occurred and serve as guarantees of non-repetition.<sup>150</sup>
96. The Commission has identified that the implementation of the recommendations issued in the merits reports published on discrimination and violence against women, girls and adolescents have had paramount impacts on honoring the memory of the human rights violations against female victims. These measures have further contributed to preventing the repetition of these human rights violations, to firmly denounce their occurrence, and to share the experiences of the victims and other women, girls and adolescents that have faced similar human rights violations.
97. In this sense, the State of Mexico honored the memory of Paloma Angélica Escobar Ledezma through a memorial that was inaugurated at the Center for Justice for Women of the Attorney General of Chihuahua (Centro de Justicia para las Mujeres de la Fiscalía General de Chihuahua), the characteristics of which were agreed to upon with her mother, Norma Ledezma. Further, the Center for Justice for Women,

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<sup>148</sup> The ceremony was held at the ceremony carried out at *El Buen Pastor* Women’s Prison Center in Bogota, one of the places where she had been deprived of her liberty. During the ceremony, Marta Lucía’s diary, “I Tell My Story” (*“Mi historia la cuento yo”*), which she wrote while she was in prison and published as a reparation measure by the State, was officially released. Following the ceremony, Marta Lucía expressed the following: “Returning to *El Buen Pastor*, this time in completely different conditions makes me feel that I do have rights. Life is giving me the opportunity to return, but this time empowered, full of pride and as a reference for women deprived of their liberty. It is a different feeling.” Universo Gay, [Colombia apologizes to Marta Álvarez Giraldo after violating her rights for being a lesbian](#) (“*Colombia pide perdón a Marta Álvarez Giraldo tras haber violado sus derechos por ser lesbiana*”), 12 August 12 (original in Spanish). The ceremony was attended by more than 150 persons deprived of liberty, 103 civil society representatives, current and former public officials, as well as being broadcast via videoconference to 118 prison facilities in Colombia. IACHR, [Case 11.656, Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 241.

<sup>149</sup> IACHR, Press Release No. 1/10, [Opening of Chile’s Museum of Memory](#), 11 January 2010.

<sup>150</sup> IACHR, [Impact of the Friendly Settlement Procedure \(Second Edition\)](#), OEA/Ser.L/V/II.167 Doc. 31, 1 March 2018, paras. 166-67.

which is responsible for cases of gender-based violence in Chihuahua, was renamed in honor of Paloma Angélica.<sup>151</sup>

98. Additionally, various States of the region have adopted other means of honoring victims of discrimination and violence against women, girls and adolescents. In Brazil, Law No. 11.340, enacted on August 7, 2006, which consists of a series of government actions to prevent, investigate and punish all forms of domestic and family violence against women, was symbolically named the Maria da Penha Law, in honor of Maria da Penha Maia Fernandes.<sup>152</sup> Likewise, in the case of Marta Lucía Álvarez Giraldo (Colombia), in accordance with the compliance agreement signed between the parties, Marta Lucía's diary "I Tell My Story" ("Mi historia la cuento yo") was published and disseminated to 344 public libraries and 103 law schools in Colombia.<sup>153</sup>
99. In the case of Jessica Lenahan (United States), the State has not yet issued a public apology to the victim. Further, the United States has reiterated that its federal system limits the provision of reparations to victims of human rights violations.<sup>154</sup>
100. The Commission calls on the States to fully comply with the recommendations that entail satisfaction measures in benefit of victims of discrimination and violence against women, adolescents and girls, ensuring their participation in the process to determine these measures. The IACHR further reminds that these measures should

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<sup>151</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

<sup>152</sup> IACHR, 2006 Annual Report, Chapter III, Section D: Status of compliance of the recommendations of the IACHR, paras. 86-87; IACHR, Press Release No. 30/06, The IACHR Rapporteurship On The Rights Of Women Celebrates The Adoption In Brazil Of A Specific Law To Prevent And Eradicate Domestic And Family Violence, 11 August 2006. Further, Maria da Penha was awarded the Citizen Bertha-Lutz prize, which was bestowed on her following a nomination by the Office of the Secretary of Policy for Women. IACHR, 2006 Annual Report, Chapter III, Section D: Status of compliance of the recommendations of the IACHR, para. 86.

<sup>153</sup> The release of her diary occurred during the during the public ceremony held on December 6, 2017. 24 copies of this diary were sent to the Bank of the Republic, the Secretariat of Planning – Directorate of Sexual Diversity, the Ombudsperson's Office, the Congress of the Republic, the Ministry of Social Integration – LGBTI Subdirectorates, the Office of the Comptroller General of the Republic and the Office of the Attorney General of the Nation. IACHR, Case 11.656, Merits Report No. 122/18, Marta Lucía Álvarez Giraldo (Colombia), para. 237 and 241. The diary states that "[t]he dissemination of the facts is one of the best tools for preventing human rights violations, as it serves as a means of conveying the truth to society, as well as a way of committing to ensure that, not only are the facts not repeated, but that they are faithfully disapproved of." Marta Lucía Álvarez, *I Tell My Story* ("*Mi historia la cuento yo*"), Red Nacional de Mujeres, Colombia Diversa and the Center for Justice and International Law, back cover. Further, at the December 6 ceremony, one of Marta Lucía's representatives stated "[...] the publication of her diary is a reinvidicating action not only for Marta but for all LGBT people who at some time have lived with the weight of having to hide their identity and history." Universo Gay, Colombia apologizes to Marta Álvarez Giraldo after violating her rights for being a lesbian ("*Colombia pide perdón a Marta Álvarez Giraldo tras haber violado sus derechos por ser lesbiana*"), 12 August 2017 (original in Spanish).

<sup>154</sup> IACHR, Press Release No. 131A/14, Report on the 153rd Session of the IACHR, 29 December 2014; IACHR, 2012 Annual Report, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, para. 647.

be adopted with a gender perspective, bearing in mind all the individual and cultural circumstances of the victim.<sup>155</sup>

#### 4. Truth and Justice Measures

101. In accordance with the inter-American instruments and standards, States are obliged to prevent, investigate, identify, prosecute and punish the material and intellectual authors of human rights violations and those who aid and abet them. This duty to investigate must be discharged with due diligence, within a reasonable period of time and in compliance with the standards established by international law and jurisprudence.<sup>156</sup> On this matter, the Inter-American Court has indicated that investigations must be conducted “in a serious manner, not as a mere formality that is doomed to fail from the very beginning and it must pursue a goal and be undertaken by the State as its own legal duty rather than a mere processing of private interests”.<sup>157</sup> Investigation and punishment measures, in addition to constituting manners of administering justice, are designed to maximize the knowledge of the truth of what happened. Regarding cases of violence against women,<sup>158</sup> the Convention of Belém do Pará underscores the State’s duty of ensuring due diligence in the investigations and provide appropriate judicial protection.<sup>159</sup>
102. In cases of discrimination and violence against women, girls and adolescents, the implementation of the recommendations of the Commission which require States to adequately investigate the human rights violations have impacts on providing truth and justice measures to the victims, responding to their claims of justice, ending the context of impunity, and sending the message to society that the occurrence of similar acts will be punished, which serves as a deterrent to the repetition of such events.

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<sup>155</sup> IACTHR, *Case of González et al. (“Campo Algodonero”) Vs. Mexico*, Preliminary Objection, Merits, Reparations, and Costs, Judgement of November 16, 2009, Series C No. 205, para. 451.

<sup>156</sup> IACHR, *Impact of the Friendly Settlement Procedure*, OEA/Ser.L/V/II.167. Doc. 31, 30 March 2018, paras. 152, 160 and 162.

<sup>157</sup> Inter-American Court of Human Rights, *Case of Albán Cornejo et al. Vs. Ecuador*, Merits, Reparations, and Costs, Judgement of November 22, 2007, Series C No. 171, para. 62.

<sup>158</sup> Violence against women “shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.” Article 1, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará).

<sup>159</sup> The American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women affirm the right of women to simple and effective judicial remedies, with all due guarantees, when they report acts of violence; they also establish the State’s obligation of acting with due diligence to prevent, investigate, punish, and provide redress for such acts. The right of women to effective judicial protection is also enshrined in the Convention on the Elimination of All Forms of Discrimination against Women. IACHR, *Access to Justice for Women Victims of Sexual Violence: Education and Health*, OEA/Ser.L/V/II., Doc 65, 28 December 2011, paras. 8 and 23.

103. In the case of Maria da Penha Maia Fernandes (Brazil), the Commission issued in Merits Report No. 54/01 two recommendations aimed at the implementation of truth and justice measures. On the one hand, the first recommendation included to complete, rapidly and effectively, criminal proceedings against the person responsible for the assault and attempted murder of Maria da Penha. The implementation of this recommendation led the State of Brazil to arrest Maria da Penha Maia Fernandes's former husband on October 31, 2002, and sentenced to a prison term of 8 years and 6 months for attempted homicide. Although, on March 5, 2004, he was initially granted the benefit of the semi-open regime and, subsequently, on August 24, 2004, reassigned to the open regimen or work release program (*régimen abierto*)<sup>160</sup>, the Commission declared that this recommendation was at last totally implemented given that he finally served the penalty imposed.<sup>161</sup> On the other hand, the second recommendation of the Commission included to conducting a serious, impartial, and exhaustive investigation to determine the responsibility for the irregularities or unwarranted delays that prevented rapid and effective prosecution of the perpetrator. Responding to the second recommendation of the IACHR, the State of Brazil opened two processes to investigate the irregularities in the prosecution of the perpetrator of the attacks against Maria da Penha. The first process was opened in June 19, 2008, before the National Council of Justice (*Conselho Nacional de Justiça* - CNJ). However, the CNJ decided to archive the case, because it found no irregularities inasmuch as the prisoner was convicted and was serving the sentence he was given.<sup>162</sup> The second process (*Processo de Sindicância*) was opened in November 28, 2011 against the Justice Tribunal of the State of Ceará (*Tribunal de Justiça do Estado do Ceará*). This process was also archived on May 23, 2013, when the CNJ considered that there was no evidence of irregular conduct related to the administration of justice. The CNJ further stated that, even had such conduct been identified, any verdict or punishment would not have been possible because of the application of the statute of limitations.<sup>163</sup> Regarding this second process, the IACHR has considered that, as of the date of the publication of Merits Report No. 54/01, on April 16, 2001, the five-year statute of limitations in the administrative sphere would not yet have been expired, nonetheless, the State did not initiate the administrative procedure until ten years after the publication of the Merits Report. Consequently, the IACHR found that the application of the statute of limitations is attributable to the omission of the

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<sup>160</sup> IACHR, 2004 Annual Report, Chapter III, Section D: Status of compliance of the recommendations of the IACHR, para. 71.

<sup>161</sup> IACHR, 2008 Annual Report, Chapter III, Section D: Status of compliance of the recommendations of the IACHR, para. 101. The conviction of Maria da Penha's aggressor was broadcast through national press media. Proyecto CLADEM/UNIFEM, Balance on efforts and activities aimed at eradicating violence against women in Latin America and the Caribbean ("*Balance sobre esfuerzos y actividades dirigidas a erradicar la violencia contra las mujeres en América Latina y el Caribe*"), Accessed on 26 August 2019, (original in Spanish), p. 10.

<sup>162</sup> IACHR, 2011 Annual Report, Chapter III, The Petition and Case System, D. Status of compliance with the recommendations of the IACHR, para. 243.

<sup>163</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil), para. 11.

Brazilian State, that is, the negligence of the authorities allegedly have led the facts of case to remain unpunished.<sup>164</sup>

104. In the case of Paloma Angélica Escobar Ledezma and others (Mexico), the implementation of the recommendation of the Commission led the State to adopt actions aimed at providing justice measures by fully ensuring the third-party rights of the mother of Paloma Angélica, and allowing her to participate in the investigations, although they are not enough to entirely comply with its obligations to investigate.<sup>165</sup> Additional measures are required to complete the investigation of the disappearance and subsequent murder of Paloma Angélica Escobar Ledezma, given the fact that challenges to still be overcome in this case are related to the long time elapsed since the occurrence of the facts and the lack of information that allow to identify and sanction the persons responsible.
105. The issuing of recommendations related to these measures by the Commission highlights the impunity and lack of effective and timely investigations which exist in cases of violence against women, girls and adolescents.<sup>166</sup> Despite the efforts to investigate these crimes, the high levels of impunity in these cases result in the reoccurrence of such violations and further, dissuade victims from bringing their cases forward and seeking judicial assistance.<sup>167</sup> In this sense, there persist challenges in guaranteeing access to justice as a crosscutting core principle for the protection of women's rights.<sup>168</sup> For instance, in the cases of Ana, Beatriz and Celia González Pérez (Mexico) and Jessica Lenahan (United States), the long periods of time since the occurrence of the violations and the absence of concrete and effective investigative actions represent important challenges that impede the adequate granting of justice, which still need to be overcome by the responsible States. The Commission calls on States to fulfill their obligations to act with due diligence to prevent, investigate and punish swiftly and without delay all acts of violence against women, girls and adolescents committed by State and non-state actors.<sup>169</sup>

<sup>164</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil), para. 13.

<sup>165</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico); Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), *The shine of the sun was lost that day: Report of the psychosocial impact of femicide in the case of Paloma Angélica Escobar Ledezma ("El brillo del sol se nos perdió ese día: Informe sobre el impacto psicosocial del feminicidio en el caso de Paloma Angélica Escobar Ledezma")*, June 2009, p. 80.

<sup>166</sup> IACHR, *Situation of Human Rights in Honduras*, OEA/Ser.L/V/II. Doc. 42/15, 31 December 2015, par. 126; IACHR, *Press Release No. 24/19, IACHR Expresses Deep Concern over Alarming Prevalence of Gender-based Killings of Women in Brazil*, 4 February 2019.

<sup>167</sup> IACHR, *Press Release 11/07, Justice fails in defending women victims of violence: there is a pattern of impunity and discrimination*, 6 March 2007.

<sup>168</sup> IACHR, *The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights*, OEA/Ser.L/V/II.143, Doc. 59, 3 November 2011, para. 15.

<sup>169</sup> IACHR, *Legal Standards: Gender Equality and Women's Rights*, OEA/Ser.L/V/II., Doc. 11, 2015, paras. 6-13.

## 5. Non-Repetition or Structural Measures

106. In accordance to the case law of the Inter-American human rights system, under the general duty contemplated in Article 1(1) of the American Convention, States have an obligation to take all necessary measures to prevent the repetition of the human rights violations. The Commission has stated that this duty covers all those legal, political, administrative and cultural measures that serve to safeguard human rights and ensure that their violation will be regarded and dealt with as punishable offenses for those who commit them. It also involves the duty to make reparations to the victims for the harm inflicted on them.<sup>170</sup>
107. The Inter-American Commission has played a vital role in tackling the situations of discrimination and violence against women through the formulation of recommendations that have had a significant structural impact, not only on the immediate female victims of the human rights violations, through the granting of comprehensive reparation measures, but also on other women, girls and adolescents that have faced similar events, and on society as a whole. Responding to the recommendations formulated by the IACHR, the States have adopted reparation measures with tangible results that have fostered the transformation of both socio-cultural patterns in which historical and structural gender-based discrimination and violence in the region are based on, and the context in which the violations occurred. In this sense, the Commission has identified that its recommendations have resulted in the adoption of non-repetition guarantees, including reforms to the legislation or other types of regulations, the creation and implementation of public policies and the adoption of institutional strengthening measures. They are aimed at structurally combating and transforming patriarchal attitudes and mentalities, and the stereotyped perception of men's and women's social roles, especially, in order to address violence and discrimination against women, girls and adolescents.

### a. Legislative and Regulatory Reform

108. The jurisprudence of the IASHR has repeatedly asserted that States have an obligation to guarantee the non-repetition of human rights violations through the adoption, adaption or repeal of legislation or regulations. The legal basis for this obligation is found in Article 2 of the American Convention, which establishes that State have a duty to adopt legislative or other measures to give effect to the rights and freedoms recognized in the Convention.<sup>171</sup> These measures refer to reforms to a State's legal framework, including adapting domestic legislation to Inter-American human rights instruments.
109. The recommendations of the Commission in cases of discrimination and violence against women, girls and adolescents have resulted in the adoption of critical laws and regulations reforms through which the States of the region have progressively

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<sup>170</sup> IACHR, Impact of the Friendly Settlement Procedure (Second Edition), OEA/Ser.L/V/II.167 Doc. 31, 1 March 2018, para. 187.

<sup>171</sup> IACHR, Impact of the Friendly Settlement Procedure (Second Edition), OEA/Ser.L/V/II.167 Doc. 31, 1 March 2018, para. 162.

ensured that their domestic legislations are consistent with the Inter-American and international standards. The legislative reforms adopted on the basis of the recommendations have reported clearly positive impacts in the region in structural terms. They have fostered significant transformations of the causes of discrimination and violence against women, girls and adolescents by providing tools to investigate and combat their occurrence, address gender-based prejudices and stereotypes, and reduce occurrence of damages caused by patriarchal societies.

110. As a result of the recommendations formulated by the Inter-American Commission in the preliminary merits report of the case of Maria Eugenia Morales de Sierra, the State of Guatemala reformed Articles 109, 110, 115, 131 and 255, and derogated Articles 114 and 133 of the Civil Code, which regulated the legal status of married women. Based on the recommendation of the IACHR, the Guatemalan legislature carried out and culminated an amendment process of an anachronistic civil legislation on the legal status of married women.<sup>172</sup> This legislation, which was in force in the 1990s, allowed legal discrimination against Guatemalan married women in different aspects of their personal and family life. Because of this legislation, they were legally subjected to their husbands in different aspects, such as the administration of family assets, the choice of a professional career, or the authority over the children, preventing them from defending their legal interests, reinforcing outdated notions of gender roles within marriage, and perpetuating the systemic disadvantages of Guatemalan women. Following the approval of the merits report issued by the Commission, the Guatemalan Congress approved the repeal of numerous articles of this legislation, adjusting the legal framework of this country to inter-American standards, benefiting millions of married women who finally materialized this first formal aspect of your right to equality. The legal reforms boosted a first crucial step towards the elimination of stereotypes related to the family roles of women and men within the institution of marriage, and the protection of the fundamental rights of Maria Eugenia Morales and other women in Guatemala.<sup>173</sup>
111. The implementation of the recommendations formulated by the Inter-American Commission in the case of Maria da Penha Maia Fernandes led the State of Brazil to propose and approve the Law No. 11.340, enacted on August 7, 2006, which was named as the Maria da Penha Law. This law consists of a novel body of government actions and legal provision to prevent, investigate and punish all forms of domestic and family violence against women in Brazil. Its adoption has had a significant

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<sup>172</sup> These legislative reforms were adopted in accordance to the Report N° 86/98, in which the Commission recommended the Guatemalan State to adopt the necessary measures to amend, repeal or definitively leave without effect Articles 109, 110, 113, 114, 115, 131, 133, 255 and 317 of the Civil Code so as to bring national law into conformity with the norms of the American Convention. In the Merits Report No. 04/01, the IACHR valued the reforms made by the State and considered that it should still adapt the pertinent provisions of the Civil Code to balance the legal recognition of the reciprocal duties of women and men in marriage and take the legislative and other measures necessary to amend Article 317 of the Civil Code so as to bring national law into conformity with the norms of the American Convention and give full effect to the rights and freedoms guaranteed to Maria Eugenia Morales de Sierra therein. IACHR, Case 12.625, Merits Report No. 04/01, Maria Eugenia Morales de Sierra (Guatemala), paras. 55, 57, 78 and 79.

<sup>173</sup> Red-DESC, Maria Eugenia Morales de Sierra. Case N° 11.625, Merit Report N° 4/01, Accessed on 2 September 2019.

impact on defending and protecting women's rights in Brazil<sup>174</sup>, and led to no longer recognize domestic violence as a crime of low potential offensive.<sup>175</sup> The adoption process of the Maria da Penha Law has been recognized as an important illustration of democratic maturation in the country because it involved the active participation of civil society organizations, public institutions and academia.<sup>176</sup> Furthermore, concerning the effectiveness of the Maria da Penha Law, it has been found that its implementation has led to a significant statistical reduction of gender-related killings of women, which may be related to hundreds of thousands of incidents of domestic violence occurring in Brazil every year. According to research, considering that domestic violence attends to cycles evolving from lower offensive to more serious aggressions, being killings an often response of acute crisis, if the Maria da Penha Law has effects on the interruption of domestic violence processes, it is reasonable to conclude that it reduces lethal results, although this is a second order consequence.<sup>177</sup>

112. Besides the Maria da Penha Law, the recommendations of the Commission have caused the adoption of other regulations with an impact in the State operation in order to better combat domestic violence against women in Brazil. First, the Law No. 10.745/03 defined 2004 as the Year of Women. Second, the Law No. 10.778/03 makes it mandatory for health services within the national territory to report cases of women in which they indicate having been victims of violence. Third, the Law No. 10.886/04 increased the punishments applicable for the crime of bodily harm in domestic violence cases. Forth, the Judiciary Reform bill (Constitutional Amendment No. 45) would add a chapter to the Maria da Penha Law, introducing rules of procedure tailored to prosecuting the types of cases regulated by the law. Finally, the Decree No. 104 of January 25, 2011, issued by the Ministry of Health, established mandatory reporting of cases of domestic and sexual violence against women.<sup>178</sup>
113. On account of the recommendation to formulate a reform of the regulations of the National Penitentiary and Prison Institute (INPEC, by its acronym in Spanish) regarding penitentiaries and prisons, which was formulated in the case of Marta Lucía Álvarez Giraldo, and whose implementation was included in a compliance agreement signed between the parties, the State of Colombia undertook a major reform of the General Regulation of National Prison Establishments in the country

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<sup>174</sup> The IACHR Rapporteurship on the Rights of Women recognized the participatory process that led to the development of the law, including the essential role of civil society organizations working to defend and protect women's rights. IACHR, Press Release No. 30/06, [The IACHR Rapporteurship On The Rights Of Women Celebrates The Adoption In Brazil Of A Specific Law To Prevent And Eradicate Domestic And Family Violence](#), 11 August 2006. The Law Maria da Penha is widely known by the population in Brazil. Interview to Maria da Penha, by Wania Pasinato. Por um resgate de trajetória feminista, February – March 2017, p. 101.

<sup>175</sup> UN Women, Maria da Penha Law: A name that changed society, 30 August 2011.

<sup>176</sup> IPEA, *Avaliando a efetividade da Lei Maria da Penha* (Available in Portuguese), March 2015, p. 32.

<sup>177</sup> IPEA, *Avaliando a efetividade da Lei Maria da Penha* (Available in Portuguese), March 2015, p. 13, 33 and 34.

<sup>178</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#).



to ensure the right of persons deprived of liberty not to be discriminated against, on the basis of their sexual orientation.<sup>179</sup>

114. Likewise, in the case of Jessica Lenahan, the recommendations of the Commission have led to structural impacts at the Federal, state and local levels. In this sense, four Federal Government Proclamations were issued in 2014 and 2016 to reaffirm the “basic human right to be free from violence and abuse”. Furthermore, since 2011, 35 local bodies, including counties, towns and municipal governments across the United States, adopted resolutions that specifically have recognized that “freedom from domestic violence is a basic human right”, which mostly cite to the case of Jessica Lenahan.<sup>180</sup> These resolutions and proclamations reaffirm that domestic violence is a public problem that must not be relegated to the private sphere. They further promote that local bodies adopt effective measures to improve the protection and attention to victims of domestic violence in the country, and that states and local governments should secure the right to be free from this type of violence.<sup>181</sup> This measure responds to the IACHR’s recommendation of adopting public policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims, and promoting the eradication of discriminatory socio-cultural patterns that impede women full protection from domestic violence acts. In addition to this measure, because of the implementation of the recommendations, additional legal reforms were adopted intended to improve the enforcement of protection orders in the United States. The IACHR was further informed that the U.S. Congress added a new statutory purpose area to the STOP Violence Against Women Formula Grant Program in the Violence against Women Act (VAWA) of 2005, allowing states to use STOP funds to place special victim assistants, known as “Jessica Gonzales Victim Assistants,” in local law enforcement agencies. Furthermore, in Illinois, the Illinois Sexual Violence Procedure Act (ISVPA) in 2017, which addresses gender bias in law enforcement and medical responses to victims, was adopted.<sup>182</sup>

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<sup>179</sup> On December 19, 2016, INPEC issued the General Regulation of National Prison Establishments, whose sections on the rights of LGBTI persons were crafted jointly between the State and the victim’s representatives, with technical input from the IACHR. IACHR, Case 11.656, [Merits Report No. 122/18, Marta Lucía Álvarez Giraldo \(Colombia\)](#), para. 228 and 242.

<sup>180</sup> Cornell Law School, [Freedom from Domestic Violence as a Fundamental Human Right: Resolutions, Presidential Proclamations, and Other States of Principle](#); Cornell Law School, [Discussion of Resolutions by County, Town, and Municipal Governments](#); IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up factsheet, Case 12.626, Report No. 80/11, Jessica Lenahan \(Gonzales\) \(United States\)](#).

<sup>181</sup> The Advocacy Center of Tompkins County, The Avon Global Center for Women and Justice at Cornell Law School and The Cornell Law School Global Gender Justice Clinic, [Recognizing Freedom from Domestic Violence as a Fundamental Human Right](#), 2014, p. 2; The University of Texas at Austin, [Freedom From Domestic Violence as a Fundamental Human Right](#), 2014, p. 1; Columbia Law School Human Rights Institute, Miami Law Human Rights Clinic, ACLU Women’s Rights Division, [Domestic Violence and Sexual Assault in the United States: A Human Rights-Based Approach and Practice Guide](#), 2014, p. 8.

<sup>182</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up factsheet, Case 12.626, Report No. 80/11, Jessica Lenahan \(Gonzales\) \(United States\)](#).

115. The Commission recalls on States to adopt norms and regulations that tackle the situations of discrimination and violence against women, girls and adolescents, ensuring the non-repetition of such events.<sup>183</sup> Likewise, the adoption of these measures should be accompanied by adequate strategies of implementation.

## **b. Adoption of Public Policies**

116. This measure refers to the creation and implementation of public policies on human rights. A public policy with a human rights focus is the set of decisions and actions that the State designs, implements, monitors and evaluates – from a permanent process of inclusion, deliberation and effective social participation – with the objective of protecting, promoting, respecting and guaranteeing the human rights of all persons, groups and communities that make up society, under the principles of equality and non-discrimination, universality, access to justice, accountability, transparency, and cross-cutting and intersectional perspectives.<sup>184</sup>
117. The recommendations that the Commission has adopted in the cases of discrimination and violence against women, girls and adolescents have fostered the adoption of numerous public policies in the region aimed at structurally tackling the conditions that gave rise to these human rights violations and preventing its occurrence in the future. The adoption of these public policies represents tangible results of the work of the IACHR by boosting the creation and adoption of a series of institutional mechanisms with structural and long-term results in the region with direct impacts on several spheres, such as public spaces, education system, and families. The implementation of these decisions have led to obtain beneficial results on modifying and counteracting the prejudices and social and cultural gender-stereotypes that are the main cause of discrimination and violence against women, girls and adolescents.
118. The structural results of the recommendations formulated by the Inter-American Commission manifests, for instance, in the case of Maria da Penha Maia Fernandes (Brazil), in which the State implemented a series of structural actions in the framework of a significant institutional strategy to tackle violence against women in the country. The Commission has been informed that, over the years, at the Federal level, as part of this strategy, in 2003, the State adopted the National Policy for Confronting Violence against Women, including several measures with respect to fighting domestic violence. It later launched the “National Partnership for Confronting Violence against Women”, during the opening of the Second National Conference of Policies for Women, in 2007. At the local level, in the state of Ceará, the State Plan of Actions for implementing the National Pact to Confront Violence

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<sup>183</sup> IACtHR, *Case of González et al. (“Campo Algodonero”) Vs. Mexico, Preliminary Objection, Merits, Reparations, and Costs. Judgement of November 16, 2009.* Series C No. 205, para. 450.

<sup>184</sup> IACHR, *Public Policy with a Human Rights Approach*, OAS/Ser.L/V/II. Doc. 191, 15 September 2018, para. 147.

against Women was launched, with a view to preventing and combating all forms of violence against women from an integral approach.<sup>185</sup>

119. Furthermore, over the years, as part of the actions adopted to implement its recommendations, the State of Brazil adopted notable public policies aimed at having a positive impact in tackling gender-based discrimination and violence by introducing issues related to human rights, gender-based discrimination and violence and diversity in the education system. Among these measures are included the National Guidelines for Education in Human Rights, a Guidance for the National Program for Educational Books, the National Common Base Curriculum (BNCC, acronym in Portuguese), the University Pact for Fostering Respect for Diversity, a Culture of Peace and Human Rights, and continuing education projects on “Human Rights and Diversity Education”.<sup>186</sup> Furthermore, over the years, the State of Brazil has also reported the launching of several campaigns aimed at raising awareness on the serious consequences of violence against women, such as the campaign titled “Your life begins when the violence ends” (“*Sua vida começa quando a violência termina*”), launched in 2004; the national campaign “Commitment and Attitude to the Law Maria da Penha - Law is Stronger!” (“*Compromisso and Atitude pela Lei Maria da Penha - ¡Lei é Mais Forte!*”), launched in 2003<sup>187</sup>, and “Justice for Peace at Home” campaign (“*Justiça pela Paz em Casa*”), launched in 2015, which was transformed by the National Council for Justice in a program, through Ordinance No. 15 of 2017.<sup>188</sup> Likewise, the National Secretariat of Public Security (SENASP) and

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<sup>185</sup> The partnership ensured, from 2008 to 2011, investments of R\$ 1,000,000,000 (one billion reals) for actions to address violence against women through a concerted action by different ministries and secretariats, under the coordination of the Special Secretariat for Policies for Women. IACHR, 2008 Annual Report, [Chapter III, Section D: Status of compliance of the recommendations of the IACHR](#), para. 104, 108 and 109.

<sup>186</sup> First, the Resolution No. 1 of 2012 of the Council for Education adopted the National Guidelines for Education in Human Rights . Second, the Guidance for the National Program for Educational Books (Decree No. 9.099/2017) stated that educational books will address gender issues and drive discussion about overcoming all forms of violence. Third, BNCC was adopted in 2018, supported by the states and municipalities according to the Ministry of Education’s program that promotes its curricula. It promotes the application of “empathy, dialogue, conflict resolution and cooperation, gaining respect while respecting others, and human rights, welcoming and valuing diversity of individuals and social groups, their knowledge, identities, cultures, and potentialities, without prejudice of any kind”. It also establishes the importance of discussing and analyzing “the causes of violence against vulnerable populations (Afro-descendant, indigenous, women, LGBTI, peasants, the poor, etc.), to build awareness and a culture of peace, empathy, and respect of persons”. Fourth, the University Pact gathers more than 330 institutions of higher education, public and private, in preparing working plans for the promotion of human rights. Fifth, the continuing education projects were delivered by SECADI, under the Ministry of Education. These projects have already been implemented in four federal universities to train 1,000 education professionals. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#).

<sup>187</sup> This campaign involves the executive branch, as well as the administration of justice and public security organs, in tackling the impunity that surrounds acts of violence against women. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#).

<sup>188</sup> This campaign was launched to streamline hearings and trials relating to serious threats against women. As part of it, three major rallies were held in March, August and November 2016, and all of the courts of justice of the country took part. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with

the Secretariat of Policies for Women (SPM) instituted the program Women: Living without Violence, which aims to integrate and expand public services aimed at the protection of women in situations of violence.<sup>189</sup> The Commission has also been informed of additional initiatives adopted by the State at the Federal level and within the state of Ceará to tackle violence against women, such as the programs “Maria da Penha Patrol” (*Patrulha Maria da Penha*), and “Woman, Living Violence-Free”.<sup>190</sup> At the federal level, the Commission was informed of the adoption of the Policing Policy Focused on Domestic Violence (*Policiamento de Prevenção Orientado à Violência Doméstica – PROVID*).<sup>191</sup> With regard to actions related to the judiciary branch, the National Council for Justice introduced the National Judicial Policy for Confronting Violence against Women in the Judiciary Branch, through the Ordinance No. 15, of March 8, 2017.<sup>192</sup> Despite the results achieved by the State of Brazil, the petitioners have recently informed the Commission their concern of possible setbacks concerning public policies to combat domestic violence against women in Brazil, and the Commission called the State to keep implementing the recommendations of the Commission to tackle domestic violence in the country.<sup>193</sup>

120. Likewise, the impacts of the recommendations of the IACHR manifest in the case of Marta Lucía Álvarez Giraldo (Colombia) in which, according to a compliance agreement, the State started the creation of a Program of Continuous Training in Human Rights of LGBTI incarcerated population that, in 2018, facilitated the visit of Martha Lucía Álvarez to the reclusion centers in the cities in which she remained deprived of her liberty. In said visits, the victim actively participated from a raise-

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Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>189</sup> This program was implemented through the Decree No. 8.086/2013. Among its actions, the State remarked the process of registering proposals in the Federal Government Agreement System for the implementation of Specialized Police Stations Women (DEAMs) for the states of Bahia, Ceará, Espírito Santo, Maranhão, Mato Grosso do Sul, São Paulo and the Federal District, which resulted in the establishment of two agreements to expand the DEAM service nationwide. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>190</sup> These programs were implemented to support and follow up on urgent protection measures, making home visits and interacting with the multi-disciplinary protection network. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>191</sup> This policing policy was implemented through community engagement, solidarity visits, and educational activities, including conducting training courses about PROVID. Likewise, the State informed the Commission that the institutional goal of the CNMP’s National Strategy for Public Safety is to reduce the number of judicial proceedings related to femicide. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>192</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>193</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

awareness act with regard to the rights of the LGBTI population deprived of liberty.<sup>194</sup>

121. In the case of María Eugenia Morales de Sierra, the State of Guatemala have adopted important public policies that have contributed to raise awareness in Guatemalan society about aspects of vulnerability of women.<sup>195</sup> In this sense, on the basis of the compliance agreement signed between the parties, the State supported the creation of a foundation called “the Maria Eugenia Morales Aceña de Sierra Foundation for Dignity (FUNDADIG).”<sup>196</sup> Regardless of this measure, the Guatemalan government authorities still need to take action to ensure the effective start of the work of the Foundation “FUNDADIG”.<sup>197</sup>
122. Pursuant to a compliance agreement signed between the parties, in the case of Paloma Angélica Escobar Ledezma and others (Mexico), the Commission has been informed that, as a result of its recommendations, various public policies have been created in order to raising awareness on the importance of tackling discrimination and violence against women within the society. These measures have included dissemination campaigns directed at reducing the level of gender-based violence in different spheres, such as public spaces, families, internet and social networks and multidimensional programs.<sup>198</sup>
123. The IACHR notes the positive effects of the implementation of public policies that are aimed at facing the structural causes of violence and discrimination against women, girls and adolescents. However, said causes are not an isolated problem and are symptomatic of a pattern of gender-based violence against them, which remains in the region. Likewise, the IACHR remarks the increased risks that women in situations of special vulnerability face on the basis of their ethnic or racial origin, sexual orientation, both real or perceived gender identity, situation of poverty or human mobility, or because their condition of human rights defenders or journalists. The recommendations established by the IACHR, through the selected cases in this

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<sup>194</sup> Information provided by the petitioners to the Commission on August 9, 2019.

<sup>195</sup> The IACHR was informed that the States had created publicity banners and posters, and had broadcasted three radio spots. IACHR, 2015 Annual Report, Chapter II.D. Status of compliance with the recommendations of the IACHR, para. 853.

<sup>196</sup> IACHR, 2015 Annual Report, Chapter II, Section D: Status of compliance with the recommendations of the IACHR, para. 852.

<sup>197</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 11.625, Report No. 04/01, María Eugenia Morales de Sierra (Guatemala).

<sup>198</sup> In 2018, the State informed about the nationwide dissemination campaigns, such as the version of the “Not all of us men are equal” campaign known as “Start Now Sign the Pact”, carried out in partnership with UN WOMEN Mexico and linked to the HeForShe campaign. Furthermore, it was launched the version of the Violence Prevention campaign called #NavegaSegura (moms and dads), focused on prevention of the trafficking of adolescents, who are lured over social networks. The State of Mexico also produced the campaigns *Espacios públicos Libres de Violencia* and *Espacios públicos Internet*, which are focused on preventing sexual harassment in public spaces, internet and social networks. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

report, represent an important road map, by means of the implementation of public policies that are aimed at intervening the structural causes of discrimination and violence against women, girls and adolescents.

124. The Commission reminds the importance of implementing a gender perspective in the adoption of public policies in order to reach equality.<sup>199</sup> The implementation of public policies should embrace a transformative approach, facing the structural causes of these human rights violations.<sup>200</sup> Based on this, the Commission recalls the States of the region to adopt public policies aimed at repairing and preventing the occurrence of human rights violations against women, girls and adolescents, ensuring the continuity and sustainability of the measures to face violence and discrimination against women and girls.

### **c. Institutional Strengthening**

125. In accordance to the decisions adopted within the Inter-American Human Rights System, the structural measures adopted by the States to implement the recommendations of the IACHR include measures aimed at strengthening the State's operational capacity to comply with its human rights obligations.<sup>201</sup> The adoption of these measures attend to comply with the duty of States to organize their governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of ensuring the free and full enjoyment of human rights.<sup>202</sup>
126. The Commission's recommendations in the merits reports published have notably contributed to transforming institutional and societal perspectives in regard to the free exercise of rights of women, girls and adolescents, through the adoption of institutional measures within the States that are aimed at strengthening their capacity to adequately respond to situations of gender-based discrimination and violence. These measures are aimed at achieving the positive transformation of public institutions, the improvement of the articulation among them, and have comprehensively contributed to achieve collective and structural actions to provide better attention to female victims, training public agents, and adopting institutional tools that allow to adequately tackling the gender-based human rights violations.
127. One major example that represents several measures adopted to tackle violence against women because of the Commission's recommendations is the case of Maria da Penha Maia Fernandes (Brazil) in which a range of institutional measures have

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<sup>199</sup> IACHR, The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights, OEA/Ser.L/V/II.143, Doc. 59, 3 November 2011, para. 78.

<sup>200</sup> IACHR, Legal Standards: Gender Equality and Women's Rights, OEA/Ser.L/V/II. 143, Doc. 60, 3 November 2011, para. 59.

<sup>201</sup> IACtHR, Case Velásquez Rodríguez v. Honduras, Reparations and Costs, Judgement of July 21, 1989, Serie C No. 7, para. 28.

<sup>202</sup> IACtHR, Case of Velásquez Rodríguez Vs. Honduras, Judgement of July 29, 1988, para. 166.

been adopted to improve the State’s response to domestic violence in the country. In this sense, accordingly to the information received by the IACHR, the Commission highlights the implementation and improvement of services to support and attend victims of domestic violence to facilitate their protection and care. Among these measures are included the implementation of Ombudspersons for women since 2007,<sup>203</sup> and the implementation in 2010 of the “Women’s Help Line – Dial 180,” a direct access line for women experiencing violence; the investment in 2011 of R\$2,062,432.40 for the precincts specializing in women’s care; in 2017, there were 248 Referral Centers for the Care of Women and 92 shelters, and, at the federal district, specialized Care Centers offering psychological, social, and legal support had been also established.<sup>204</sup> Likewise, the adoption of these measures have led to achieve notable results that affects the operation of the judicial branch and Public Minister, such as the creation of specialized courts and gender prosecutor’s offices, and the signing of a technical cooperation agreement with research purposes and another one to contribute to the implementation of the Maria da Penha law<sup>205</sup>. In the executive branch, measures of institutional strengthening have included the creation of specialized defender’s offices, specialized police stations, and women’s units in the Office of Public Advocacy (*Defensoria Pública*).<sup>206</sup> In addition, through the implementation of the recommendations of the IACHR, the State has also carried out training programs directed at public agents in order to enhance the institutional responses to the occurrence of domestic violence in the country.<sup>207</sup> The Commission

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<sup>203</sup> IACHR, 2008 Annual Report, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, para. 108.

<sup>204</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>205</sup> Concerning measures related to the judiciary branch and the public minister, in 2011, the State informed that 46 courts specializing in domestic violence in 22 states of the federation, and 16 gender prosecutor’s offices in the Office of the Attorney General. In 2017, these numbers increased to 136 Courts for Domestic and Family Violence against Women and 94 specialized prosecutors’ offices. In 2017, a technical cooperation agreement was signed with the Institute for Applied Economic Research (IPEA, the Portuguese acronym) to work on the research project, “The Judiciary Branch and its confrontation of domestic and family violence against women”, which focuses on assessing the attention being paid by the Judiciary Branch to women who face domestic and family violence. Likewise, the State of Brazil has reported the existence of the technical cooperation agreement No. 31 of 2011, between the CNJ, the National Judges Training School (ENFAM, from its Portuguese acronym) and the Ministry of Justice to establish technical cooperation in activities that contribute to the dissemination, consolidation and implementation of the instruments provided for in Law No. 11.340/2006. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil). Furthermore, the National Council of Justice published in 2017 and 2018 the annual reports “O Poder Judiciário na Aplicação da Lei Maria da Penha”. Information provided by the State to the Commission on November 19, 2019.

<sup>206</sup> Regarding the institutional strengthening measures adopted by the State of Brazil with an impact in the executive branch, in 2011, the State created 26 specialized defender’s offices. In 2017, the State reported that 496 Police Stations were specialized in the Care of Women and Women’s Care Units in police stations and 40 Women’s Units in the Office of Public Advocacy. Furthermore, the State informed that educational and training activities were organized by the Federal District Military Police to foster respect for women. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil).

<sup>207</sup> The Commission has been informed that, in 2004, a Pedagogical Workshop for Devising Instructional Materials for Creating Comprehensive Attention Networks for Women Victims of Domestic and Sexual Violence was held and the National Curriculum for the Training of Police Officers was reviewed, in order to include topics

has been further informed that, on the basis of its recommendations, the State has created or improved institutions in charge of implementing measures to protect the human rights of women, or monitoring its effective application. For instance, the State informed that, in 2006, it created an Observatory to monitor the implementation of the Law No. 11.340 of 2006 (Maria da Penha Law), dated August 7, 2006, as well as the Convention of Belém do Pará in the entire territory of the state. The State further informed that, in 2013, a series of State mechanisms to promote the defense of the rights of women were created, such as the Women's Commission on the National Council of General Public Defenders - (*Comissão da Mulher on the Conselho Nacional dos Defensores Públicos Gerais* - CONDEGE, by its acronym in Portuguese).<sup>208</sup> Likewise, in 2018, the State informed that the CNJ established the monitoring of the state coordinators of women in situations of domestic and family violence of the Tribunals of Justice.<sup>209</sup> The State also reported several instruments and tools, such as protocols or manuals, targeted at public agents to improve the institutional responses to violence against women and

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addressing gender discrimination. In 2013, the State implemented training programs related to the Maria da Penha Law in coordination with various entities related to the administration of justice, and created the National Forum of Judges related to Domestic and Family Violence against Women (FONAVID) to promote a permanent space of discussion related to the Maria da Penha Law and domestic violence. In the same year, the State informed the implementation of training programs related to the Maria da Penha Law in coordination with various entities related to the administration of justice. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#). Likewise, the State reported the adoption of the technical cooperation agreement No. 004/2017 with the National School of Training and Improvement of Magistrates (*Escola Nacional de Formação e Aperfeiçoamento de Magistrados*), focusing on restorative practices and leading to the implementation of the multidisciplinary course “Domestic Violence: A matter of gender, values and possibilities”, which was held two times in December, 2017 and February, 2018, with 142 magistrates attending. A second course named “Restorative justice: Fundamentals, principles, and valued” was made in March 2018, with the support of the Canadian embassy, to which 90 magistrates attended. The State also reported the Workshop regarding the Maria da Penha Law (*Jornadas de Trabalho sobre a Lei Maria da Penha*), with 11 working sessions in August 2018. Likewise, the IX Workshop Maria da Penha (IX *Jornada Maria da Penha*) was held on August 2017, with the participation of 186 professional including 84 judges and 16 prosecutors, and the XII *Workshop* was held in August 2018, on the topic of femicide, and the implementation of the national guidelines to investigate, process and judge this crime with a gender perspective, and to grant the application of the Law No. 13.104/2015 and the Maria da Penha Law. The Workshops have contributed to implement the Maria da Penha Law, establish specialized agents in the states, training judges, unify the procedures regarding domestic violence against women, granting efficiency in these process, and to adopt restorative justice practices with the respect and protection of the rights of victims. The State also reported the signing of a technical cooperation agreement with IPEA, through the Department of Judicial Research (DPJ / CNJ), the Directorate of State Policies and Studies, the Institutions and Democracy (Diest/Ipea) and the Directorate of Studies and Social Policies (Disoc/Ipea), for the execution of the research project “The Judiciary Power in the fight against domestic and family violence against women”. Information provided by the State to the Commission on November 19, 2019.

<sup>208</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#).

<sup>209</sup> In the framework of this monitoring, in 2018, there were 24 meetings with their representatives, with visits to fifteen courts to learn and verify their structures. The CNJ further established a partnership with the Federal Council of Psychology (CFP), to strengthen the multidisciplinary technical teams of the tribunals with competence for the actions related to domestic and family violence against women. Information provided by the State to the Commission on November 19, 2019.



mechanisms to enhance the register and administration of statistical data related to these events.<sup>210</sup>

128. Despite the efforts carried out by the State of Brazil, discrimination and violence against women still constitute a structural problematic in the country. Within the framework of its thematic and geographic monitoring functions, the IACHR received information regarding violence against women, especially domestic violence. In October 2018, at the conclusion of its on-site visit to Brazil, the IACHR expressed its concern over the increasing violence and lack of safety for the State’s citizens, which are reflected in high rates of domestic violence and femicide, delays in investigations, and judicial proceedings that have high rates of impunity.<sup>211</sup> Subsequently, in February 2019, the IACHR reiterated its concern about the alarming prevalence of women murdered because of their gender. The Commission verified that, in the majority of cases, the women who were murdered had previously reported their aggressors, had faced serious incidents of domestic violence, or had suffered assaults or prior attempted murders. The Commission warned that, in many of these cases, the aggressors were or had been the victims’ partners, that almost half of all murders of women in Brazil are committed with a firearm and that, in most cases, the murders occurred in the woman’s own home.<sup>212</sup>

<sup>210</sup> In accordance to the information received by the Commission, in 2011, the “Manual of Routines and Structure for the Courts of Domestic and Family Violence against Women” was updated with the purpose of revising procedures and flows that are treated independently of rules of procedure to make court cases more standardized, uniform, and speedy. The IACHR has been informed that the National Council for Justice modified the unified procedural tables (Resolution No. 46, of December 18, 2017) to correct and refine the calculation of statistical data related to court cases of domestic violence against women; the data that is captured through the “Justice in Numbers” and “Monthly Productivity Module” data systems. Further, by means of the CNMP Resolution No. 135/2016, modified by CNMP Resolution No. 167/2017, the National Registry of Domestic Violence (*Cadastro Nacional de Violência Doméstica*) established the attribution of the Public Prosecution Service to register cases of domestic and family violence against women. On November 22, 2017, the National Council for the Prosecutor’s Office and the Federal Attorney-General’s Office signed a Technical Cooperation Agreement to share data from the National Registry of Domestic Violence, the goal of which is to streamline and increase the effectiveness of actions against the perpetrators of domestic violence against women. Likewise, the State reported the modernization of criminal prosecution instruments available to agents of the Prosecutor’s Office, through the Latin-American Model Protocol for the Investigation of Violent Deaths of Women. Furthermore, in 2018, the analytical report “Between Retributive and Restorative Practices: the Maria da Penha Law and progress and challenges for the Judiciary Branch” was published by the Judicial Research Department of the National Council for Justice. The State also reported several procedures and operating standards for women facing violence, including the publication of the Technical Rules for Standardizing Police Stations that Specialize in the Care of Women. Finally, a study was conducted and published under the title, “Overview of the DEAM in Brazil and Identifying Best Practices”. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes \(Brazil\)](#).

<sup>211</sup> IACHR, Press release No. 238/18, [IACHR Concludes Visit to Brazil. Annex. Preliminary observations of the visit. Rio de Janeiro](#), October 30, 2018.

<sup>212</sup> According to data from the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), 40% of all murders of women in both regions occur in Brazil. According to media reports, in the state of Rio de Janeiro, an average of 300 women are murdered each year and in the state of São Paulo alone, from January to November last year, 377 women were murdered. IACHR, IACHR, Press release No. 24/19, [IACHR Expresses Deep Concern over Alarming Prevalence of Gender-based Killings of Women in Brazil](#), February 4, 2019; IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued

Furthermore, recently, the petitioners have informed the IACHR their concern because of a risk of setbacks related to the dismantling of institutions aimed at protecting women in Brazil.<sup>213</sup> Despite the progress informed by the Brazilian State, the IACHR views with concern the persistent social tolerance that persists in the face of acts of gender-based violence, as well as the impunity that continues to surround these serious cases. The Commission recalls the importance to adopt the necessary measures to preserve the progress already made and structurally address the prevalence of these events.

129. The vital impacts of the recommendations formulated by the Commission are also recognized in the advances achieved in the case of Marta Lucía Álvarez Giraldo (Colombia) to structurally tackle the discrimination against women on the grounds of gender and sexual orientation, and to change institutional practices in regard to the respect and guarantee of human rights inside of prisons. In this sense, on the basis of a compliance agreement signed between the parties, the Commission has been informed of a group in charge of monitoring the application of the General Regulation of National Prison Establishments in Colombia, which ensures the right of persons deprived of liberty not to be discriminated against on the basis of their sexual orientation. This group further coordinates the reforms to the internal regulations of prisons.<sup>214</sup> The State also reported measures to design a Program of Continuous Training in Human Rights of LGBTI incarcerated population, under the monitoring of the Ministry of Justice and Law (*Ministerio de Justicia y del Derecho*). This program is aimed at raising awareness and strengthening educative process for administrative agents and incarcerated population. Finally, the IACHR has been informed that, as a consequence of its recommendations, a Virtual Observatory of Jurisprudence was created, in which judiciary decisions related to the rights of LGBTI incarcerated population are disseminated. Decisions registered in this observatory have included cases that involve the rights of lesbian and trans incarcerated women.<sup>215</sup> Challenges to be overcome in this case are related to the

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in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil), para, p. 20.

<sup>213</sup> IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil), para, 19.

<sup>214</sup> This group is integrated by *Ministerio de Justicia y del Derecho, Procuraduría General de la Nación, INPEC, Defensoría del Pueblo, and Ministerio del Interior*, with the participation of *Colombia Diversa*. The Commission has been informed that, out of 135 intern regulations, 80 of them have been recently adjusted, 18 of them were already approved by the group and 37 are in the phase of revision. Likewise, the petitioners have informed the importance of strengthening the dissemination of the new internal regulations within the prisons, in order to prevent obstacles in the effective results of the new guidelines concerning the protection of human rights of LGBTI incarcerated population. Colombia Diversa, Red Nacional de Mujeres and CEJIL, Report on compliance of the recommendations to be included in the Annual Report presented to the Commission by the petitioners, 9 August 2019.

<sup>215</sup> The decisions registered in this observatory are specially focused on the right to the intimate visit and LGBTI couples. The link of this observatory is <http://www.politicacriminal.gov.co/Observatorio/Decisiones-judiciales-LGBTI>. Likewise, the petitioners have considered the State still should clarify the dates in which this Observatory is updated and the decisions which are progressively included in it. Colombia Diversa, Red

effective implementation of the reforms to the internal regulations of prisons and to guaranteeing that the Program of Continuous Training is directed at all administrative agents of the INPEC and incarcerated population, on an ongoing basis.

130. The case of Paloma Angélica Escobar Ledezma and others (Mexico) also represents the achievement of important impacts because of the implementation of the IACR's recommendations through the adoption of a broad range of measures that are aimed at achieving institutional strengthening concerning the eradication and prevention of violence against women. In this sense, the Commission has been informed that, as a result of its recommendations, the State adopted actions directed at creating or improving public entities in charge of the prosecution and attentions of acts of violence against women. Among these measures are included the creation of the Specialized Prosecution Unit for Women Victims of Crime in the State of Chihuahua, the approval of the Internal Rules of Procedure of the Office of the State Prosecutor General, and the signing of the Cooperation Agreement on Public Security and Crime Prevention with *Asociación de Maquiladoras A.C.*, in Ciudad Juárez.<sup>216</sup> Furthermore, the Commission has been informed of measures aimed at establishing instruments and protocols to provide public agents, such as the General Guidelines on standardization of investigations of crimes concerning the disappearance of women, rape, and female homicide on gender-related grounds. Furthermore, the Charter on the Rights of Crime Victims was presented, and the standardized investigation procedures and the use of tailored protocols regarding assistance, response and coordination by the Office of the Attorney General of the state of Chihuahua were established.<sup>217</sup> Another group of these measures has been implemented in order to

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Nacional de Mujeres and CEJIL, Report on compliance of the recommendations to be included in the Annual Report presented to the Commission by the petitioners, 9 August 2019.

<sup>216</sup> In 2012, the Congress of the state of Chihuahua created the Specialized Prosecution Unit for Women Victims of Crime. Likewise, on July 25, 2012, the gubernatorial decision enacting the Internal Rules of Procedure of the Office of the State Prosecutor General was published in the Official State Gazette. Those rules set out the areas assigned to the Specialized Prosecution Unit for Women Victims of Gender Crimes as well as its functions. On January, 2012, the Office of the General Prosecutor of the State of Chihuahua signed a Cooperation Agreement on Public Security and Crime Prevention with *Asociación de Maquiladoras A.C.*, in Ciudad Juárez. In December 2012, the Special Prosecution Unit was given sufficient human and material resources to improve its operation. For 2018, the Unit was operating with 350 public employees, whose profile includes specialization in the gender perspective. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others \(Mexico\)](#).

<sup>217</sup> For instance, the Commission was informed in 2018 that the government of the state of Chihuahua, through its own state Office of the Attorney General and several state offices, had been worked to draft a Consensus Agreement called "Pilot Program of Continuing Education for the Prevention of Gender-based Violence and Human Trafficking." Likewise, in 2011, the final version of the General Guidelines on standardization of investigations of crimes concerning the disappearance of women, rape, and female homicide on gender-related grounds was presented. This document was approved at the National Conference on Law Enforcement with the result that each law enforcement agency would design their own protocol in line with their resources, precisely identifying the special measures that they will adopt to ensure its application and compliance in their jurisdiction. Furthermore, according to the information provided by the State, the Charter on the Rights of Crime Victims was drafted, distributed to various local authorities and posted in the different prosecutors' offices and in other public institutions. In 2018, the Mexican State reported that standardized investigation procedures and the use of tailored protocols regarding assistance, response and coordination were

training public agents on the approach and prevention of gender-based violence. For instance, the Office of the Attorney General of Chihuahua gave refresher, specialization and initial training courses on the subject of human rights to public servants. Likewise, courses, workshops, and training for the prevention of violence against women were completed from 2016 to 2017, in sessions that are open to the public and to public servants from different government offices of the state on issues of gender, violence and women's human rights.<sup>218</sup>

131. Finally, the Commission has also identified that some valuable structural results in the case of Jessica Lenahan (United States) to improve the operational capacity of the State to respond to these acts, based on the recommendations formulated by the IACHR. These measures have resulted in the improvement of the institutional responses to victims of violence against women. For instance, the Commission has been informed of the use of STOP funds provided by states to place special victim assistants, known as "Jessica Gonzales Victim Assistants," in local law enforcement agencies. Furthermore, the Office on Violence against Women has also implemented a host of training and technical assistance projects aimed at increasing the enforcement of protection orders and improving the response to violence against women, such as the National Center for Full Faith and Credit, the Project Passport, the publication of the manual "Civil Protection Orders: A Guide for Improving Practice", the Blueprint for Safety Initiative, Lethality Assessment TA Project, and the Danger Assessment and Risk Management Training Project. In addition, the OVW hosted best practices materials, and a lethality assessment program in Douglas County, Colorado, was adopted.<sup>219</sup> The adoption of institutional instruments to strengthen the State's responses to acts of violence against women has also led to

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established, as part of efforts made by the Office of the Attorney General of the state of Chihuahua to develop the competencies of its operational personnel. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

<sup>218</sup> In 2018, the State informed the Commission that the Office of the Attorney General of Chihuahua gave refresher, specialization and initial training courses on the subject of human rights to public servants about specific topics such as: 1) Expert witness functions with a human rights approach, combating and preventing torture, due process as prevention of human rights violations; 2) Equality and non-discrimination, social prevention of violence with an anti-discriminatory approach; 3) Istanbul Protocol, model and use of force, combating and preventing torture, legality and migrants' human rights, investigation of gender-based homicides of women and young girls, searching for and locating missing women and girls, human rights from a gender perspective, disappearance of persons, forced disappearance, and locating human remains. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, Follow-up Factsheet, Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma and others (Mexico).

<sup>219</sup> Likewise, in 2012, the State stressed that OVW has supported the development of a host of best practices materials related to the enforcement of protection orders. At the level of states, the IACHR was informed that a lethality assessment program in Douglas County, Colorado, was adopted in 2016, through which law enforcement officials evaluate the potential threat to potential victims of domestic level and, if necessary, subsequently adopt preventative measures to protect women from imminent acts of violence. IACHR, 2012 Annual Report, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, para. 648.

the elaboration of guidelines and the provision of training to adequately attend situations of violence against women, girls and adolescents.<sup>220</sup>

132. The Commission reminds that a gender perspective must be implemented through the adoption of strengthening institutional measures. It further recalls the importance of implementing measures to strengthen the State's operation capacity to comply with its human rights obligations to adequately respond and prevent discrimination and violence against women, girls and adolescents, and to respect and protect their human rights.

## ***D. General Observations***

133. The adoption of structural actions must bear in mind that human rights violations have a differentiated impact on female victims. Therefore, the adoption of measures that are aimed at redressing these events must include a gender perspective that, furthermore, recognizes the specific conditions and particularities of women, girls and adolescents in accordance to their age, cultural and religious context, ethnicity, race, sexual orientation, gender identity or any other factor that makes them subjects of reinforced protection.<sup>221</sup>
134. Over the years that these 6 cases have been in the follow-up recommendations procedural stage, the Inter-American Commission has convened 4 hearings, 22 working meetings during its Period of Sessions; issued 2 press releases regarding the cases; conducted 1 visit to follow up on the recommendations issued in one of

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<sup>220</sup> In 2012, the State reported the "Gender Discrimination Findings and Recommendations in New Orleans Police Department Consent Decree," which stemmed from the settlement, in July 2012, regarding the Division's investigation into the New Orleans Police Department. Likewise, the Office on Violence against Women provided, as a federal entity, training to the Castle Rock Police Department during the spring of 2013. At the federal level, on June 20, 2013, the Office of Community Oriented Policing Services, the Office of Victims and Crime and the Office on Violence against Women of the Department of Justice issued a joint statement on gender discrimination in policing. This statement stated that prevention of sex-based discrimination by law enforcement is a top priority of the Civil Rights Division of the U.S. Department of Justice given the negative role gender-bias plays in the law enforcement response to crimes against women. Additionally, the U.S. Department of Justice released, in 2015, official DOJ guidance to law enforcement agencies on how to prevent gender bias in their response to such crimes – Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence. In 2016, the U.S. Department of Justice established a \$9.85 million grant program to implement the Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence guidance nationwide. Finally, in 2012, the State informed that OVW held a series of focus groups to explore issues around custody and safety for women and children, which resulted in OVW's decision to undertake a new demonstration initiative: the Family Court Demonstration Initiative (FCDI), the goal of which is to determine what family court procedures, practices and structures related to custody and visitation can help keep victims of domestic violence and their children safe from further violence and trauma. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of compliance with Recommendations Issued in Merits Reports, [Follow-up factsheet, Case 12.626, Report No. 80/11, Jessica Lenahan \(Gonzales\) \(United States\)](#).

<sup>221</sup> IACHR, *The situation of people of African Descent in the Americas*, OEA/Ser.L/V/II. Doc.62, December 5, 2011, para.60. See also: United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), *General Recommendation 28* on the Obligations of States Parties under Section 2 of the CEDAW, October 19, 2010, para. 18. IACHR, *Indigenous Women*, OEA/Ser.L/V/II., Doc. 44/17, 17 April 2017, para. 38.

the merits reports; and, provided technical assistance regarding the implementation of the recommendations issued in 1 of the cases.

135. As of the date of publication of this report, the Commission has declared that 5 of these recommendations have been fully complied, 6 has been partially substantially complied, 13 have been partially complied, and 10 are pending compliance. Based on this, out of the 6 cases analyzed in this report, 5 have been partially complied with and 1 remains pending compliance.
136. Concerning human rights violations in which women, female adolescents and girls have resulted victimized, the provision of adequate and comprehensive reparations that the IACHR has recommended has achieved numerous positive functions, constituting means for individuals to assert their rights. Among other purposes, these measures have provided remedies to power imbalances that underlie the violations. They further have sought to provide victims with instruments to combat the harmful effects of the violations, and to rebuild their lives and restoring their dignity. In addition to the adoption of individual measures aimed at repairing the damages suffered by the victims, the recommendations of the Commission have contributed to the achievement of structural results that have had a positive impact, not only in the direct victims, but also in all women, girls and adolescents in the region, and in the society as a whole. The implementation of measures in response to the IACHR's recommendations have contributed to decrease manifestations of violence against women, to progressively transforming patriarchal and discriminatory social patterns that have underlined these human rights violations, to improve the prosecution of manifestations of violence, and to provide specialized attention in benefit of female victims. The implementation of these structural measures have included several actions, such as significant and numerous public policies, and institutional and legislative reforms in different countries of the region. These measures have gradually contributed to consider and treat discrimination and violence against women, girls and adolescents as major concerns that must engage significant efforts by States.
137. Regarding the 6 merits reports included in this report, the results achieved in each of these cases allow to conclude that the recommendations of the Inter-American Commission have led to achieve structural impacts that go beyond the mere compliance of the recommendations and that significantly contribute to address the structural discrimination against women, girls and female adolescents. These recommendations have significantly fostered the development of the standards of the Inter-American System on gender equality and women's rights<sup>222</sup>, such as the close relation between discrimination and violence against women, the duty to act with due diligence and the reinforced duties of protection for women in condition of vulnerability caused by the intersection of different forms of discrimination.<sup>223</sup> Furthermore, within the cases analyzed in this report, the standards and

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<sup>222</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II. Doc. 11, 2015, para. 4.

<sup>223</sup> IACHR, Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application, OEA/Ser.L/V/II. Doc. 11, 2015, para. 20.

recommendations established by the IACHR regarding violence and discrimination against women, girls and adolescents in itself has raised some important national and international repercussion in regard to mechanisms of protection and reparations for female victims. With regard to the impacts of the measures adopted by States to comply with the recommendations of the Commission, this report has identified that this implementation have led to achieve important individual and structural changes aimed at transforming the historical discrimination and violence against women, girls and female adolescents and preventing the occurrence of these events in the future. These effects are in accordance to the importance of granting reparations that seek a progressive change in the gender-based conditions of inequality.

138. The IACHR's recommendations have resulted in the adoption of measures with important impacts, not only on the immediate victims of the human rights violations, but also on society as a whole. In this sense, their adequate application has contributing to tackling historical power imbalances between men and women, and challenging the structural, historical, social and other factors that caused the violations of women, girls and adolescents' human rights in the first place.

CHAPTER 3  
CONSLUSIONS





## CONCLUSIONS

139. The Inter-American Commission on Human Rights has been particularly committed to protecting the rights of women, girls and adolescents, through its different mechanisms, such as the petition and case system and the monitoring system. These efforts have resulted in the establishment of standards and jurisprudence regarding respect for and the protection of the human rights of women, girls and adolescents within the Inter-American Human Rights System.
140. The recommendations issued by the Commission seek to provide victims with instruments to combat the harmful effects of the violations, to rebuild their lives and restoring their dignity. Additionally, they contribute to the prevention of violations, through the adoption of actions such as public policies, and institutional and legislative reforms, through measures that seek improving the prosecution of manifestations of violence or the specialized attention in benefit of female victims.<sup>224</sup>
141. The analysis undertaken in the this report allows to conclude that the measures implemented by States to comply with the recommendations issued by the Commission in its merits reports leads to obtaining structural impacts that benefit women, girls and adolescents in general. This compliance is essential to address the structural and historical discrimination against women, girls and adolescents, contributing to structurally transforming the causes of these human rights violations.
142. The Commission values the efforts made by the States to comply with the recommendations included in the 6 cases analyzed in this report. The actions adopted to implement these recommendations represent important steps towards the transformation of the gender-based inequalities that underlie the perpetration of human rights violations against women, girls and adolescents. The Commission further recognizes that the different measures of reparations adopted in each of these cases positively contribute to address the serious consequences that human rights violations have on women, girls and adolescents. They further represent important practices that States in the region can replicate if they involve respect and protection of human rights of female victims.
143. Likewise, the analysis undertaken in the present report demonstrates different challenges in the implementation of the recommendations that entail the granting of reparations in benefit of women, girls and adolescents. Therefore, the Commission invites States to adopting actions and strategies to overcome these

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<sup>224</sup> IACtHR, *Case of González et al. ("Campo Algodonero") Vs. Mexico, Preliminary Objection, Merits, Reparations, and Costs. Judgement of November 16, 2009.* Series C No. 205, para. 450.

challenges in order to guarantee the female victims have access to reparations on the grounds of the reinforced duties of protection that the Inter-American Human Rights System has recognized in their favor. It further recalls the importance of implementing significant efforts to adequately implement non-repetition guarantees and measures aimed at transforming the causes of these violations.

144. The IACHR concludes this report by encouraging States to implement all measures at their disposal to grant reparations for human rights violations perpetrated against women, girls and adolescents. It further reminds that, in accordance to the inter-American standards, these measures should be implemented in accordance to a gender perspective, addressing the specific needs and particularities of female victims when belonging to diverse sectors of the population and always considering the intersectionality between different factors that increase their vulnerability.