

## Chapter V

Follow-up of  
recommendations made  
by the IACHR in its  
country or thematic  
reports

**Fifth follow-up report on the  
recommendations issued by the  
IACHR in its report on the Human  
Rights Situation in México**

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## CHAPTER V

### FOLLOW-UP TO RECOMMENDATIONS MADE BY THE IACHR IN ITS COUNTRY OR THEMATIC REPORTS

#### FIFTH FOLLOW-UP REPORT ON RECOMMENDATIONS ISSUED BY THE IACHR IN ITS REPORT ON THE HUMAN RIGHTS SITUATION IN MEXICO\*

##### I. INTRODUCTION

1. The purpose of this Chapter is to follow up on the recommendations issued in the report entitled "The Human Rights Situation in Mexico," adopted on December 31, 2015 by the Inter-American Commission on Human Rights ("the Commission," "the Inter-American Commission," or "the IACHR") pursuant to Article 59(9) of its Rules of Procedure. Under that provision, by means of Chapter V of its Annual Report, the Commission shall follow-up on measures adopted to comply with the recommendations issued in its country report. Through that follow-up, the Chapter addresses the principal current human rights problems identified in the United Mexican States ("Mexico," "the Mexican State," or "the State"). They have to do with citizen insecurity and militarization, disappearances, torture, access to justice and impunity, the situation as regards freedom of expression, and the situation of particular groups within that context.

2. Invited by the United Mexican States ("Mexico," "Mexican State," or "State"), the IACHR paid an on-site visit to the country from September 28 to October 3, 2015. The IACHR wrote the Report on the Human Rights Situation in Mexico, along with a series of recommendations to the Mexican State, based on findings and information obtained before, during, and after the on-site visit. It also based its report on investigations conducted at its own initiative, information provided by the State, inputs from the various mechanisms through which the IACHR has monitored progresses in the country, newspaper articles, and decisions and recommendations made by specialized international organizations, as well as other sources, pursuant to Article 59(5) of its Rules of Procedure.

3. In the country report the Commission pointed out that Mexico had been going through a severe crisis of violence and insecurity for several years. The IACHR identified serious situations of violence, which increased following the start of the so-called "war on drugs" in 2006 and escalated to alarming levels, resulting in the deaths of more than 100,000 people since 2006, more than 27,000 disappearances acknowledged by the State, over 2,000 investigations into cases of torture, and conditions that have prompted the displacement of thousands of people in the country. According to the report, in response to the surge in violence, as of 2006 the authorities opted to increase the role played by the Armed Forces in public security tasks, which included a policy of active confrontation with organized crime and the deployment of joint operations by the Armed Forces and state and municipal security institutions. That measure triggered violence and grave violations of human rights, in respect of which the IACHR observed a lack of accountability by international standards.

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\* In accordance with Article 17(2) of the Rules of Procedure of the IACHR, Commissioner Joel Hernández, a Mexican national, did not participate in the discussion, research, deliberation or adoption of this report.

4. In a context characterized by high levels of violence and security policies that have proven ineffective over the years, the IACHR expressed particular concern in its Report about reports of disappearances; the forced **disappearance of 43 young students of the “Raúl Isidro Burgos” rural teachers college in the state of Guerrero, on September 26 and 27, 2014**; extrajudicial executions and torture; and the dangers to which women, children, migrants, human rights defenders, and journalists are exposed, many of whom have been victims of murder, disappearance, kidnapping, torture, threats, and harassment. The IACHR also emphasized that Mexico is considered one of the most dangerous countries in the world, other than those at war, for journalists.

5. During its on-site visit, the Commission ascertained critical levels of impunity and inadequate and insufficient care for victims and members of their families. The lack of access to justice has led to structurally embedded impunity, which has the effect of perpetuating and, in some cases, encouraging the repetition of grave human rights violations. The threats, harassment, murders, and disappearance of persons seeking truth and justice have intimidated Mexican society, as the IACHR ascertained through numerous interviews with people unwilling to report those violations to the authorities for fear of reprisals, thereby contributing to extensive under-reporting in official figures. The obstacles to access to justice, ineffectiveness of law enforcement, and the impunity often associated with them have weakened the rule of law and pose urgent challenges.

6. The Commission valued the measures taken by the State to deal with the situation described in the Report. In particular, it has acknowledged the important constitutional and legislative reforms that Mexico has embarked upon since 2011, including the amendment of the Constitution and the recently adopted protocols for investigating cases of torture and forced disappearance, as well as other initiatives mentioned in the Report. Notwithstanding the progress made, the State's response has continued to encounter shortcomings, inadequacies, and obstacles to implementation. The IACHR found a deep divide between the legislative and judicial framework and the day-to-day realities on the ground for millions of people in the country, in terms of their access to justice, crime prevention, and other government initiatives. The IACHR pointed out that the major challenge facing the Mexican State is breaking the cycle of impunity in order to achieve the effective investigation, prosecution, and punishment of those responsible for human rights violations.

7. The first, second, third, and fourth reports following up on the recommendations issued in the Country Report, corresponding to 2016, 2017, 2018, and 2019, respectively, included relevant comments received from the Mexican State, organizations, and civil society.

8. For this report, by communication of September 23, 2020, the IACHR asked the Mexican State to submit information regarding compliance in 2020 with the recommendations contained in the Country Report. The State's response was received on October 29, 2020.<sup>1</sup> The Commission assigns value to and thanks the State for the information received, which, where applicable, was included in the present report. In addition, the IACHR is grateful for the information submitted by civil society organizations and by the National Human Rights Commission (CNDH: Comisión Nacional de los Derechos Humanos).<sup>2</sup>

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<sup>1</sup> Communication from the Mexican State. Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations of the IACHR. Chapter V, OAS Letter 03390/4.2.0.1 of October 29, 2019.

<sup>2</sup> The IACHR also received information submitted by the National Human Rights Commission (hereinafter “the CNDH”), the Centro de Derechos Humanos Miguel Agustín Pro Juárez (hereinafter, “the Centro PRODH”), the Mexican Commission for the Defense and Promotion of Human Rights (hereinafter “the CMDPDH”), Servicios y Asesoría para la Paz –

9. In its report on compliance with recommendations in 2020, the Mexican State called on the IACHR to consider "their validity and the terms under which they were issued, more than five years after this Commission made its *in loco* visit to [Mexico] and issued the Report (...), as well as the specific context in Mexico."<sup>3</sup> It also indicated that "in view of the emergency caused by the COVID-19 pandemic (...) the Mexican State reiterates its commitment to continue strengthening dialogue with the Commission in order to guarantee the full and effective enjoyment of human rights in Mexico" and offered "its recognition for the work of [the] Commission, as well as its commitment to keep the IACHR strong so it can address the challenges facing the hemisphere."<sup>4</sup>

10. Likewise, in accordance with Article 59 (10) of its Rules of Procedure, the IACHR sent this report to the Mexican State for its comments on January 5, 2021. By note No. OEA128 / 4.2.0.2 dated January 19, 2021, the State requested an extension that was granted by the IACHR for a period of 7 days. On January 28, 2021, through note OEA215 / 4.2.0.1, the State forwarded its observations<sup>5</sup>, the relevant parts of which were incorporated in the final version of this report. This report was approved by the IACHR on March 5, 2021.

11. In its observations on the draft of this report, the State reiterated "its full willingness to attend all the recommendations issued by that inter-American body, for which it takes note of its assessment of degree of compliance." It also indicated that "Mexico reiterates its commitment to strengthen collaboration and dialogue with the Commission for the effective execution of its functions of promotion and protection of human rights."<sup>6</sup>

12. This follow-up report is divided into seven sections to consider the measures adopted by the State to implement the recommendations of the Commission and the pending challenges. The recommendations are evaluated according to the general guidelines on following up on recommendations and decisions of the IACHR,<sup>7</sup> following the structure used in the IACHR report subject to the follow-up of this report. Each section refers to the recommendations issued by the IACHR in the respective chapters and the main areas of progress and challenges identified by the IACHR, in light of the information submitted by the State and civil society organizations, as well as the information that the Commission has collected in monitoring the general human rights situation in the country. To this end, the Commission has drawn on the information received from the State in public hearings, investigations conducted at the Commission's initiative, input from the mechanism of petitions and cases, precautionary measures, and requests for information under the power established at Article 41 of the American Convention on Human Rights, as well

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SERAPAZ (hereinafter "SERAPAZ"), Amnesty International – Regional Office for the Americas, the Centro de Derechos de la Mujer de Chiapas (hereinafter "the CDMCH"), and the Fundación Arcoiris on respect for sexual diversity.

<sup>3</sup> Report of the Mexican State on Compliance with the Recommendations of the Inter-American Commission on Human Rights issued in its report on the "Situation of Human Rights in Mexico," following its visit to Mexico on September 28 to October 2, 2015, pg. 2. [Hereinafter the "Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico.""]

<sup>4</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 2.

<sup>5</sup> Diplomatic Note OEA215/4.2.0.1 Observations and comments of the Mexican State on the draft of Chapter V on the follow-up to the recommendations made by the Inter-American Commission on Human Rights in the Report on the "Situation of human rights in Mexico", January 29, 2021. [Hereinafter "Observations and comments of the Mexican State of January 29, 2021"]

<sup>6</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 4.

<sup>7</sup> IACHR, [General Guidelines on the Follow-up of Recommendations and Decisions of the Inter-American Commission on Human](#), OEA/Ser.L/V/II.173 Doc. 177, September 30, 2019.

as information available from other public sources and the decisions and recommendations of specialized international agencies, among others. Finally, the IACHR presents its conclusions and recommendations.

## II. FOLLOW-UP ON RECOMMENDATIONS

### A. Citizen Security

- Develop a concrete plan for the gradual withdrawal of the Armed Forces from public security tasks and for the recovery of such tasks by the civilian police forces.
- Strengthen the capacity of police forces to carry out public security tasks according to international human rights standards.
- Adopt a General Law regarding the use of force according to international human rights standards.
- Implement measures so that federal and state public servants abstain from issuing public statements regarding the legality of the acts of security forces in cases that may constitute an undue use of force before the results of an investigation are available.
- Adopt and implement accountability measures by an agency that is independent of all security forces, in relation to their operations and public security tasks whenever there is use of lethal force.
- Ensure that in cases of forced disappearances, extrajudicial executions and torture, investigation lines relate not only to the material perpetrators, but also include the responsibility of those in the chain of command.
- Create systems for the information, compilation and analysis of data regarding the violence that affects the different groups addressed in this Report, such as women, children and adolescents, migrants, human rights defenders, justice operators, LGBT persons, indigenous peoples, and persons deprived of liberty.
- Re-direct the approach to the issue of drugs in Mexico, away from a focus on militarization and “frontal attack” using public force, to one with an integral approach of human rights and public health regarding addictions and consumption without intent to distribute.

13. Hereinafter, the IACHR will refer to the first two recommendations of this section: **develop a concrete plan for the gradual withdrawal of the Armed Forces from public security tasks and strengthen the capacity of police forces to carry out public security tasks according to international human rights standards.** In this respect, the State reported on the process of constitutional amendments on internal security that resulted in the creation of the National Guard and the adoption of the agreement ordering the regular Armed Forces to conduct public security work on an exceptional basis, with regulation and oversight, and in a subordinate and complementary manner, on May 11, 2020, in the Official Gazette of the Federation (hereinafter “the NG Agreement”). With regard to the NG Agreement, the State indicated that the Armed Forces would participate in the work of the National Guard on an exceptional basis, with regulation and oversight, and in a subordinate and complementary manner for a period of five years, while the National Guard consolidated its structure. According to the information received, the Secretariat of the Navy (hereinafter “the SEMAR”) issued the “Guidelines for actions to be taken by naval personnel when conducting public security work with regulation and oversight, and in a subordinate and complementary manner” with the purpose of

"preventing incidents during the performance of public security work by supplementary Naval personnel supporting and collaborating" with the National Guard.<sup>8</sup>

14. With regard to the recommendation on strengthening police capacity on citizen security and human rights, the State reported two training actions, although only one took place in 2020: "Module: Nondiscrimination on Mexico's southern border and the human rights of migrants," which saw the participation of 205 attendees, including personnel from SEMAR and the National Defense Secretariat (hereinafter "SEDENA"), along with representatives from 27 municipalities. Likewise, in its observations on the draft of this report, the State indicated that, since January 2021, the Secretariat for Public Security and Citizen Protection (hereinafter "the SSPC"), the National Guard, SEDENA, and the Secretariat for Foreign Affairs (hereinafter "the SRE"), in coordination with the Office in Mexico of the United Nations High Commissioner for Human Rights, have been working on an advisory and technical assistance agreement for training on human rights, and to monitor the compliance of international human rights standards by the National Guard, and that in the future it could involve other United Nations human rights agencies.<sup>9</sup>

15. The IACHR observes that during the period covered by this report, there were new changes to citizen security laws. As the Commission has been noting in its follow-up reports, over the last two years, there have been a series of profound constitutional and legal changes with regard to citizen security, leading to the creation of the National Guard.<sup>10</sup> In 2020, the NG Agreement was adopted, as the State indicated in its response. Regarding this agreement, the IACHR stated that it had noted the concerns of civil society organizations regarding the compatibility of the NG Agreement with Mexico's international human rights obligations related to citizen security policies and reiterated to the Mexican State the international standards according to which the participation of armed forces in citizen security must be extraordinary, subordinate, complementary, regulated, and monitored.<sup>11</sup>

16. In its press release, the IACHR also reminded the State that, under international human rights standards, and as a general rule, the job of maintaining public order and citizen security is primarily reserved for civilian police. Without prejudice to this, the Commission indicated to the State that the armed forces may take part in security work on an exceptional basis as long as their participation respects the limits set forth in the previous paragraph with the categories being substantive, not simply nominal.<sup>12</sup>

17. For its part, the OHCHR indicated that the NG Agreement did not contain "information or provisions enabling an evaluation of whether it complies with constitutional and international standards" on citizen security. The aforementioned United Nations body also asked the State to review the NG Agreement "with the aim of guaranteeing respect for human rights and the security of the population, while at the same time strengthening civilian public security

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<sup>8</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 3 – 4.

<sup>9</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 5.

<sup>10</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 16; IACHR, [Annual Report 2018. Chapter V, Mexico](#), para. 18.

<sup>11</sup> IACHR, [IACHR Reminds Mexico of Its International Human Rights Commitments Concerning Citizen Security](#), Press Release 178/20, July 25, 2020.

<sup>12</sup> IACHR, [IACHR Reminds Mexico of Its International Human Rights Commitments Concerning Citizen Security](#), Press Release 178/20, July 25, 2020.

institutions in Mexico and devising an exit strategy with a timetable for the gradual, orderly, and verifiable withdrawal of the Armed Forces from work that does not belong to them.”<sup>13</sup>

18. Civil society organizations also expressed deep concern at the vagueness of the NG Agreement on exceptionality, temporary application, and geographical scope, indicating as well that it represents a setback in terms of the demilitarization of security in Mexico.<sup>14</sup> The Centro PRODH indicated that the composition of the National Guard is essentially military and there is a significant military connotation in the deployment of security forces that operate as militarized security.<sup>15</sup> The Mexican Commission for the Defense and Promotion of Human Rights (hereinafter “the CMDPDH”) indicated that, although the NG Agreement stipulates a deadline of five years for the withdrawal of the Armed Forces from National Guard work, no plan has been developed for the recovery of such tasks by the civilian police forces.<sup>16</sup> The CMDPDH also indicated that recruitment for the National Guard is mainly being carried out through the SEDENA; that its ranks are being filled with transfers of personnel from the SEDENA (around 20,000 soldiers), the SEMAR (around 6,500 sailors), and the defunct Federal Police; and that the National Guard is being led by a military officer.<sup>17</sup>

19. For its part, the CNDH indicated that the NG Agreement only indicates that the Armed Forces will be under the supervision and control of the corresponding superior body, but does not establish an independent, transparent, and impartial mechanism for accountability regarding the operations in which its agents participate. Likewise, the CNDH stated that although the NG Agreement establishes a duty to “coordinate” in defining the participation of the Armed Forces, the instrument does not specify the complementarity and subordination between the military forces and the National Guard, nor does it establish which institution or official is responsible for command decisions.<sup>18</sup>

20. With regard to the NG Agreement, the Executive stated that the “Armed Forces were needed for national security, as their discipline and good reputation should be taken advantage of to provide protection to the population.”<sup>19</sup> Additionally, on May 11, 2020, the IACHR learned that the Supreme Court of Justice of the Nation (hereinafter “the SCJN”) admitted a suit brought by the President of the Chamber of Deputies seeking Constitutional review of the NG Agreement. The case remains pending resolution.<sup>20</sup>

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<sup>13</sup> OHCHR-MX, [Preocupación a la ONU-DH Acuerdo que dispone de las Fuerzas Armadas para tareas de seguridad pública](#), May 13, 2020.

<sup>14</sup> Colectivo Seguridad sin Guerra, [Press release of May 11, 2020](#).

<sup>15</sup> Centro PRODH, follow-up information to the report “Human Rights Situation in Mexico,” 2015, October 27, 2020.

<sup>16</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report “Human Rights Situation in Mexico,” October 30, 2020, pg. 2.

<sup>17</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report “Human Rights Situation in Mexico,” October 30, 2020, pg. 2.

<sup>18</sup> CNDH, Update for 2020 to the National Human Rights Committee’s (CNDH) contribution in the framework of review of compliance with recommendations set forth in the “Report on the Situation of Human Rights in Mexico,” published by the Inter-American Commission on Human Rights (IACHR) in 2015, pg. 4. [Hereinafter: “CNDH Contribution 2020”]. In its [Press release DG/185/2020](#), of June 21, 2020, the CNDH indicated that the NG Agreement failed to define its terms: “extraordinary,” “supervised,” “subordinated,” and “complementary,” indicating a failure “of the principle of legal certainty, as it is not clear in which situations the Armed Forces would be able to act.”<sup>18</sup> It urged the Congress of the Union to provide the corresponding legal definitions.

<sup>19</sup> *El Universal*, [Defiende AMLO a Ejército en Guardia Nacional](#), May 15, 2020

<sup>20</sup> *El Sol de México*, [Que la Corte decida](#), June 30, 2020.

21. Likewise, the CMDPDH expressed its concern about the Agreement that assigns to the General Directorate of Procedural Security of the Unit of Specialized Bodies by Competence of the National Guard, the functions of Supervisory Authority for Precautionary Measures and Suspension Conditional of the Process issued on October 23, 2020, which would have deepened the militarization of citizen security since the General Directorate of Procedural Security of the National Guard would now gather more powers that were under the responsibility of civil authorities. According to the Agreement, the National Guard "will be in charge of supervising the application of precautionary measures for persons subject to criminal proceedings, and it must also provide the parties with information on the risk assessment represented by the accused."<sup>21</sup>

22. Thus, regarding the recommendation to withdraw the Armed Forces from public security tasks, the IACHR observes that the NG Agreement establishes a deadline of five years for the gradual withdrawal recommended by the Commission. The IACHR observes that while the constitutional reforms determined that the National Guard is a civilian body with police functions, in its transitory regulation, now supplemented with this NG Agreement, this new institution has been consolidated as a body whose ranks and structure are military, rather than a quintessentially civilian security institution. Along with this, the IACHR observes that there are court cases challenging the compatibility of the NG Agreement with human rights obligations, along with constitutional challenges to the National Guard laws; the use of force; the Detentions Registries; and the National Public Security System, as described by the IACHR in its 2019 Annual Report.<sup>22</sup> In view of the considerations set forth, the IACHR finds that this recommendation remains pending compliance.

23. Regarding the recommendation to strengthen the police in their public security work with a basis in human rights standards, according to information provided by the CMDPDH, since 2018, the budgets for local police strengthening have decreased or been eliminated.<sup>23</sup> The Centro PRODH indicated that the federal entities are in charge of strengthening policing bodies, as established in transitory article 7 of the National Guard Act. In this regard, it underscored that the Budget Outlays of the Federation Bill for 2021 proposes increasing the budget for the Armed Forces and cutting and even eliminating funds intended to strengthen state and municipal police forces.<sup>24</sup>

24. The CNDH reported that the Citizen Security and Protection Secretariat published its Citizen Security and Protection Sector Program 2020-2024, the objective of which is to improve the regional security conditions of the national territory to build peace in order to address criminality and the multiple causes of security decline in the country. The CNDH highlights that the program calls for the creation of 32 State Liaison Offices and 266 Regional Liaison Offices for Building Peace and Security, out of which the National Guard will operate.<sup>25</sup>

25. With regard to compliance with the recommendation to strengthen the police, the IACHR observes that the State declared it would conduct training in this area for police forces. Additionally, the CNDH indicated that the Citizen Security and Protection Sector Program 2020-2024 uses a multidimensional approach to citizen security that the Commission views positively.

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<sup>21</sup> CMDPDH, Communication of January 5, 2021.

<sup>22</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 27.

<sup>23</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 2.

<sup>24</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015, October 27, 2020, pg. 2.

<sup>25</sup> CNDH, Submission from the CNDH 2020, pgs. 4-5.

Nevertheless, the IACHR notes with concern the reductions in budget that contradict the supposed interest in strengthening the police in matters of human rights. Therefore, the IACHR finds that the recommendation remains pending compliance.

26. As regards the recommendation to **adopt a National Law on the Use of Force in keeping with international human rights standards**, the State reported that this recommendation has been complied with, given that on May 27, 2019, the National Use of Force Act was adopted.<sup>26</sup>

27. As the IACHR noted in its 2019 report,<sup>27</sup> the text of the aforementioned law indicates that the use of force by security agents is governed by the principles of absolute necessity, legality, prevention, proportionality, and accountability, as well as full respect for human rights.<sup>28</sup> The Commission also notes that in chapters IX and X, it includes, respectively, the obligation to issue detailed reports on the operations in which force or lethal weapons are used, and the institutionalization of training and professionalization relating to the use of force (weapons, methods, and techniques), human rights, non-discrimination, gender perspective, and police ethics and doctrine, among other aspects.<sup>29</sup>

28. Regarding this recommendation, the Centro PRODH indicated that although the aforementioned law is a step forward in regulating the use of force, it does not fully meet international standards on the use of lethal force or the use of force in contexts of social protest.<sup>30</sup> The CMDPDH indicated that the actions of the Army and the National Guard have led to grave human rights violations, noting that since its creation in March 2020, the National Guard has been the subject of 111 complaints before the CNDH, including reports of arbitrary detentions (27), torture (17), and arbitrary use of force (15).<sup>31</sup>

29. Additionally, these organizations reiterated to the IACHR that the constitutional challenge filed by the CNDH against the Use of Force Act before the SCJN remains pending resolution, as already indicated in this report.<sup>32</sup>

30. Based on the foregoing, and given that the State has already adopted a General Law on the Use of Force, but as the CNDH has brought a constitutional challenge against it that remains in progress, and with regard to which the State has not provided any information, the IACHR considers that the recommendation has met with partial substantial compliance, and it will continue to monitor the implementation of the law.

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<sup>26</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 4 – 5.

<sup>27</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 28-29.

<sup>28</sup> [National Use of Force Act, May 27, 2019](#).

<sup>29</sup> [National Use of Force Act, May 27, 2019](#).

<sup>30</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015, October 27, 2020, pg. 3.

<sup>31</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 3.

<sup>32</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015, October 27, 2020, pg. 3; CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 3.

31. With regard to the recommendation to **implement measures so that federal and state public servants abstain from issuing public statements regarding the legality of the acts of security forces in cases that may constitute an undue use of force before the results of an investigation are available**, the State indicated that the SEDEMA annually reiterates its instructions regarding how senior officers and subordinates handle statements to the media and their responsibilities to High Command in exercising these authorities in their jurisdiction. According to the information provided, the authorities are instructed not to provide information that would endanger the personnel, materiel, facilities, or operations of the Mexican Navy. The State also indicated that in August 2020, the Navy Joint Chiefs instructed Naval Command that, when releasing information or a press release, or giving a presentation to the public, they are not to divulge personal information (or must use the terms “alleged,” “supposed,” or “accused”); rather, they are only to describe the context or circumstances in which the facts occurred, without circumventing the Federal Transparency and Access to Public Information Act, the General Transparency and Access to Public Information Act, or the General Protection of Personal Information in Possession of Obligated Subjects Act.<sup>33</sup>

32. The IACHR notes positively the measures reported by the State. However, the Commission remarks on the need for these instructions to also apply to the federated entities. In this regard, the IACHR observes that, in the case of social protest in Guadalajara, Jalisco, following the death of Mr. Giovanni López, in which several human rights organizations reported the excessive use of force and harsh police repression, the state’s governor said that “the police acted with prudence and did what they could to resist the onslaught of people who came to provoke them. I won’t accept any other description of what happened because what the police had to do yesterday was truly an act of discipline and bravery that we should all recognize and express thanks for.”<sup>34</sup> Likewise, regarding the removal of demonstrators who had taken over the offices of the General Investigator of the Commission on Human Rights of the State of Mexico (CODHEM) in Ecatepec, State of Mexico, the IACHR notes that the Office of the Attorney General of Justice in that state rejected the idea “that excessive force had been used and that any illegal procedure had been used against anyone during this operation.”<sup>35</sup>

33. In this regard, the IACHR notes examples provided in which it is observed that the practice of Mexican authorities of describing operations as legal prior to conducting an investigation has not been completely eradicated. Therefore, the Commission considers that the recommendation still meets with partial compliance.

34. Regarding the recommendation to **adopt and implement accountability measures by an agency that is independent of all security forces, in relation to their operations and public security tasks whenever there is use of lethal force**, the State reported that the Office of the Attorney General of the Republic (hereinafter “the FGR”) is the autonomous authority in charge of receiving complaints and bringing criminal actions against anyone responsible for committing a crime. In addition, the General Transparency and Access to Public Information Act (2015) establishes obligations that include the members of security forces to provide information that is requested from them, which can only be kept “classified” on an extraordinary and temporary basis, for reasons of public interest and national security. The State

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<sup>33</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 5.

<sup>34</sup> *Animal Político*, [SEGOB miente sobre caso de Giovanni, dice Alfaro; hubo violación de derechos](#), by Sánchez Cordero, June 5, 2020.

<sup>35</sup> *Animal Político*, [Policías agreden y detienen a mujeres que tomaron sede de la CODHEM en Ecatepec](#), September 11, 2020.

reminded the Commission that, according to its laws, information related to grave human rights violations or crimes against humanity cannot be classified.<sup>36</sup>

35. With regard to this recommendation, the Centro PRODH indicated that the National Use of Force Act does not include mechanisms for guaranteeing adequate control over the use of force, including when it leads to the loss of life, as preauthorized in article 36 of that law. Also, subsequent to the use of force (lethal or not), the security agent must deliver a report to their commanding officer, and the security agencies must submit regular reports on these types of operations. According to the Centro PRODH, those documenting and evaluating the use of force are the same institutions that use it, and it is not clear if these reporting requirements apply to the Armed Forces.<sup>37</sup> Regarding liabilities, the Centro PRODH also indicated that the aforementioned law establishes that it applies with regard to “applicable civil, criminal, or administrative provisions” (article 43), and when an improper use of force comes to light, there is an obligation to report it to the competent authority (article 44).<sup>38</sup>

36. The IACHR also notes that in the case of *Women Victims of Sexual Torture in Atenco v. Mexico*, before the Inter-American Court, one of the measures of reparation ordered by the court was that the State of Mexico must establish a federal-level “Independent Observatory to monitor implementation of accountability policies and the use of force by the Federal Police and the police of the State of Mexico, which should include the participation of members of civil society. Likewise, the observatory shall generate information to enable institutional improvements in this area. For these purposes, the State must establish information systems that make it possible to: (i) evaluate the effectiveness of existing mechanisms for supervising and overseeing police operations before, during, and after the use of force; and (ii) provide feedback on the institutional improvements needed according to the information obtained through the Observatory.”<sup>39</sup>

37. In view of the foregoing, the IACHR notes that more than a year after its enactment, the State has not provided information on the implementation of the National Use of Force Act as regards accountability. Because the IACHR’s recommendation directs that accountability in this area should be entrusted to a body independent of the security forces, precisely to ensure impartiality in handling the information reported, this Commission concludes that compliance with the recommendation remains partial.

38. As regards the recommendation to **ensure that in cases of forced disappearances, extrajudicial executions and torture, lines of investigation relate not only to the material perpetrators, but also include the responsibility of those in the chain of command**, the State reiterated that in cases of forced disappearance, extrajudicial execution, and torture, the lines of investigation include not only the perpetrator but also responsibility along the chain of command, independent of the general laws establishing the criminal offense to be applied. It indicated that the Federal Penal Code includes among the perpetrators or participants in a crime those who prepare to commit it or use others to commit it on their behalf. Therefore,

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<sup>36</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 6.

<sup>37</sup> Centro PRODH, follow-up information to the report “Human Rights Situation in Mexico,” 2015, October 27, 2020, pg. 4.

<sup>38</sup> Centro PRODH, follow-up information to the report “Human Rights Situation in Mexico,” 2015, October 27, 2020, pg. 4.

<sup>39</sup> Inter-American Court. Case of *Women Victims of Sexual Torture in Atenco v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 371, para. 356.

the public prosecutors who investigate grave violations are required to look into these types of responsibilities as well.<sup>40</sup>

39. The State also indicated that article 32 of the National Use of Force Act establishes that superiors will be responsible when they have or should have knowledge that the agents under their command have made unlawful use of force or of their tools or weapons, and do not stop it or report it to the corresponding authorities.<sup>41</sup>

40. For its part, the CMDPDH pointed to the low number of convictions for human rights violations. In its analysis on cases related to forced disappearance, torture, and extrajudicial executions, it determined that the judgments only condemned the direct perpetrators of the crimes, which are generally low- or middle-ranking individuals, and that very rarely are the masterminds held responsible, and that when a high-ranking security agent is included, execution of the arrest warrant tends to be slow.<sup>42</sup>

41. In this regard, the IACHR has already indicated that Chapter XI of the National Use of Force Act, on responsibilities, is a step forward in terms of fighting impunity in the area of public security, strictly regulating the use of force in official operations and by uniformed agents. Nonetheless, acts of torture, forced disappearance, and extrajudicial executions may be committed in clandestine operations, with the omission or acquiescence of state agents, or by third parties.<sup>43</sup> Likewise, the IACHR has also indicated that under applicable law on forced disappearance, investigations into this crime should include the chain of command.<sup>44</sup>

42. In view of the foregoing considerations, although the IACHR views positively that the legal structure on responsibility for and investigation of grave violations requires including the chain of command in the lines of investigation, the evidence provided does not indicate any progress has been made in implementing this practice jurisdictionally. The IACHR thus finds that the State has partially complied with its recommendation.

43. As regards the recommendation about **creating systems for the information, compilation and analysis of data regarding the violence that affects women, children and adolescents, migrants, human rights defenders, justice operators, LGBT persons, indigenous peoples, and persons deprived of liberty**, with regard to the LGBT population, the State indicated that the National Council for the Prevention of Discrimination (hereinafter “the CONAPRED”) conducted a survey on acts of exclusion and violence against intersex persons to delve further into the social environments in which they take place and related sociodemographic and cultural factors in order to design public policies aimed at promoting their social inclusion, without discrimination. As reported by the survey, 4 out of 10 intersex people surveyed reported having undergone some type of surgery, without their consent, during childhood<sup>45</sup>. In its observations, the State indicated that the information generated could design better public

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<sup>40</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 7.

<sup>41</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 7.

<sup>42</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report “Human Rights Situation in Mexico,” October 30, 2020, pg. 4.

<sup>43</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 42.

<sup>44</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 43.

<sup>45</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 6.

policies to address the main problems, experiences of discrimination, and other violations of human rights against intersex people.<sup>46</sup>

44. As regards migrants, the State reported that the SEGOB's Office on Migration Policy and Identity of Persons Registration (hereinafter "the UPMRIP") conducts investigations into human mobility that are aimed at producing public policies. According to the information provided, the studies have looked at the refugee system in Mexico, the characteristics of the regular and irregular flows in Mexico, the labor dynamics on Mexico's southern border, changes and trends in entry and return of undocumented migrants; and the impact of COVID-19, among other matters covered by a variety of digital media outlets. The State reported that its UPMRIP collects and publishes statistics disaggregated by sex and age group, as well as by accompanied status in the case of migrant children and adolescents.<sup>47</sup>

45. With regard to protections of human rights defenders, the State indicated that the Mechanism for the Protection of Human Rights Defenders and Journalists publishes statistical reports regularly, with data disaggregated by sex, status, group, human rights defenders, journalists, and other categories. The State also indicated that the national system monitors attacks, recording the prevalence of situations of risk, threats, and aggressions against journalists and human rights defenders, as well as the social phenomenon that trigger such situations.<sup>48</sup>

46. With regard to this information and the collection of statistics on violence against women, the State indicated that the National Institute for Women (INMUJERES) produces statistical information on gender through the Gender Indicators System and the System of Indicators for Monitoring the National Program for Equality between Women and Men. In its observations, the State added that within the framework of the Specialized Technical Committee on Information with a Gender Perspective (CTEIPG) the Integrated System of Statistics on Violence against Women was developed, which is a website that gathers numerous statistics on the matter that allow characterize violence against women<sup>49</sup>.

47. In 2020, INMUJERES drafted documents on women and violence in public and on women and cyber harassment. The State also reported that for 2021, it is planning to conduct the "National Survey on the Dynamics of Domestic Relationships," which will collect information on the types of violence against women over the age of 15 and where it occurs. The State also indicated that the SEBOG leads the integrated gender violence prevention strategy, especially in the framework of the COVID-19 pandemic.<sup>50</sup>

48. Along these lines, the State reported that basic indicators were built on violence against women in times of pandemic. The document collects information on femicides and

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<sup>46</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 6.

<sup>47</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 7-8.

<sup>48</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 9.

<sup>49</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 6.

<sup>50</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 9 – 10.

homicides against women, rates of violence per state, the impact on children and adolescents, and other information.<sup>51</sup>

49. Additionally, with regard to children and adolescents, the State pointed to its centralized platform on information about children and adolescents ([infosipinna.segob.gob.mx](http://infosipinna.segob.gob.mx)), which tracks 141 UNICEF indicators and 36 indicators from the Specialized Technical Committee on Information on the Comprehensive Protection of the Rights of Children and Adolescents (CTEIPIDNNA) (30 on development and 6 on demographic context). According to the State, it plans to modernize the web platform in 2021<sup>52</sup>, and that it is also working on the design of the database on children in the context of migration, in coordination with the National Institute of Migration and the Mexican Commission for Refugee Aid.<sup>53</sup> The State also indicated that it was undertaking a process to collect information on 46 indicators in the 32 federal entities on special protection (national and international adoptions and their corresponding processes; accompanied and unaccompanied to children and adolescent migrants; rights restoration; information on children and adolescents in social assistance centers; identity and privacy of children and adolescents) to be validated and fed into the National Information System.<sup>54</sup>

50. In its observations on the draft of this report, the State indicated that the National System for the Integral Development of the Family (SNDIF) coordinates the National Information System on Social Assistance (SNIMAS), which currently has 63 variables and on which is reported quarterly through the State Systems for the Integral Development of the Family.<sup>55</sup>

51. The IACHR also notes that the State reported on two information systems. In the framework of the Executive Victim Services Commission (hereinafter “the CEAV”), it indicated that it is improving the quality and disaggregation of its information collection systems, with the support of the Center on Investigation and Innovation in Information and Communication Technologies of the National Council on Science and Technology. It also indicated that the FGR is working to strengthen its [justici@net](mailto:justici@net) system, which aids in remote processing of case files. In its observations on the draft of this report, the State reported on holding meetings with peer agencies from other countries in the region and other United Nations human rights bodies with the aim of improving the information system and registry of victims.<sup>56</sup>

52. For its part, the CNDH indicated that, with regard to collecting information on children and adolescents, the Specialized Technical Committee on Information on the Comprehensive Protection of the Rights of Children and Adolescents moved to analyze the indicators of the National Strategy on Early Child Care and found there was a need to produce new indicators in the context of the COVID-19 pandemic on school dropouts, violence against children and adolescents, teen pregnancy, government budgets, child labor, birth records, poverty, and food insecurity. Along the same lines, the CNDH has also indicated that the National Population Council created the indicator system for monitoring and following up on the National

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<sup>51</sup> INMUJERES, [Violence against Women, Basic Indicators in Times of Pandemic..](#)

<sup>52</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 11.

<sup>53</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 6.

<sup>54</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 10 – 11.

<sup>55</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 6.

<sup>56</sup> Observations and comments of the Mexican State of January 29, 2021, pgs. 6-7.

Strategy for Preventing Teen Pregnancy (ENEAPEA), which seeks to monitor and evaluate the indicators of the institutional information systems to meet the main targets of the strategy, which are to eradicate pregnancy in girls between the ages of 10 and 14 and reduce pregnancy by 50% among girls between the ages of 15 and 19, including through early identification of sexual violence against children and adolescents and implementing rapid and integrated protection services.<sup>57</sup>

53. The State did not submit information on information systems, collection, and analysis of data on the incarcerated population. Regarding this, during the last period, the IACHR reported that the National Survey of the Population Deprived of Liberty (hereinafter “the ENPOL”) had been suspended, with no indication that it would be restarted.<sup>58</sup> Neither was information submitted on indigenous peoples or the documentation of data on their exposure to violence.

54. The IACHR thus observes that the State has programs for collecting information with indicators and statistics on violence related to women, children and adolescents, and human mobility. However, the IACHR observes that the systems on violence against LGBT persons reported by the State are insufficient, and regarding persons deprived of liberty and indigenous peoples, the State reported no progress complying with the recommendation. Regarding human rights defenders, the State pointed to the information processed and produced by the Mechanism on Human Rights Defenders and Journalists on violence against this population. Although this statement is viewed positively by the IACHR, it no doubt contrasts with public information indicating that the Mechanism’s budget is unstable—which the State has not addressed, and which will be looked at later in this report. In view of the foregoing, the Commission considers that the recommendation has met with partial compliance.

55. With regard to the recommendation to **re-direct the approach to the issue of drugs**, the State pointed to the National Development Plan (2019-2024), which established that the fight against drugs would be reformulated in 2019. It also pointed to the National Program on Integrated and Differentiated Drug Policies (PNPIDD) 2019-2024, which is focused on preventing drug abuse, violence, and other harms associated with the illegal market using an approach that the State describes as systematic, integrated, and balanced between public health interventions, social policy, and delivering justice, using a gradual process for regulating certain drugs. Along with this, the State indicated that the National Strategy for Addiction Prevention, presented by the Department of Health, focuses on prevention and protection of minors, adolescents, and young people, and has created an integrated model for mental health care and addiction treatment. The State also informed the IACHR of the National Commission against Addictions and its objective to prevent children and adolescents from consuming and becoming addicted to drugs using educational programs that include families and teachers. The State also pointed to the amendments of the antitobacco Acts, the regulation of electronic devices, and the regulation of the sale of loose cigarettes, as well as the minimum age for consuming alcohol and control of residential treatment programs, although it did not provide specific information.<sup>59</sup>

56. In its observations on the draft of this report, the State indicated on different information campaigns on the consequences of substance abuse and on the promotion of mental health. The State referred to the carrying out of training activities regarding addictions targeted

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<sup>57</sup> CNDH, Submission from the CNDH 2020, pg. 7.

<sup>58</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 50.

<sup>59</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 11 – 12.

to crime prevention agents, from October 2019 to December 2020, in which 5,792 participants (public servants) benefited from, of which 3,003 are women and 2,789 men; the foregoing, through 153 courses on human rights.<sup>60</sup>

57. The IACHR has learned that the Mexican Senate passed the bill establishing the General Cannabis Regulation Act, regulating the cultivation, production, distribution, sale, and consumption of marijuana, in compliance with the SCJN judgment ordering legislation in this area. It allows possession of 28 grams for persons older than 18 and between six and eight plants per home. The bill was sent to the Chamber of Deputies for final approval.<sup>61</sup>

58. From the information provided, the Commission notes the creation of a body of general planning instruments showing a transformation of policies on addressing drugs with a public health approach, and that legislative progress has been made toward regulating the consumption of marijuana using a non-criminalizing approach. Nevertheless, the IACHR also notes that this transformation has taken place at the programmatic level, but the State has not provided information on the implementation of these policies, and cannabis legislation remains in the legislative process and not adopted. Therefore, the IACHR concludes that the recommendation has met with partial compliance.

## **B. Disappearances and Forced Disappearances**

- Adopt a General Law regarding Disappearances and Forced Disappearances, and adopt all necessary measures to ensure that both at the federal and state level, the laws and practices comply with international standards on the subject.
- Establish mechanisms of immediate search for disappeared persons in the entire national territory.
- Improve the National Registry of Disappeared Persons to become a sole registry of disappearance so that it can also register a person as a victim of forced disappearance. A database should contain personal information of the disappeared persons, all necessary information, primarily genetic information and cellular samples, of relatives of disappeared persons with their consent, and genetic information and cellular samples from any unidentified person who is deprived of life. Such personal information shall be protected on the Registry's platform in accordance to international standards regarding access to information.
- Strengthen existing mechanisms in terms of early alerts and urgent search in cases of disappearances of women and children, to ensure their effective application at the federal, state, and municipal levels. In addition, strengthen the National Registry of Data of Missing or Disappeared Persons, so that it may provide precise and reliable information about women and girls who are disappeared and forcibly disappeared.
- Follow the recommendations of the Interdisciplinary Group of Independent Experts (GIEI) in accordance with the attributes established by its mandate, specifically the reiterated request to interview the members of the Army and visit Battalion No. 27, and continue the investigation of the Ayotzinapa case. Consider utilizing similar mechanisms for other cases of gross human rights violations.

<sup>60</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 7.

<sup>61</sup> Senate of the Republic, [Senate passes bill regulating cannabis](#), November 19, 2020; *El Economista*, "[Ley de cannabis espera ahora aval de la Cámara de Diputados](#)," November 22, 2020.

59. **On the recommendation to adopt a General Law on Disappearances and Forced Disappearances, and adopt all measures necessary to ensure that, both at the federal and state level, the laws and practices comply with the relevant international standards,** as the Commission has previously reported, the Mexican State adopted the General Forced Disappearance and Disappearance Committed by Private Persons Act (hereinafter “the General Act”) on November 17, 2017, and it took effect on January 16, 2018. In view of the foregoing, the State has complied with the first part of the recommendation.<sup>62</sup>

60. As regards the other measures to ensure that practices meet the international standards in this area, the State reported on the recent approval of the Standardized Protocol on the Search for Disappeared and Missing Persons (hereinafter the “Standardized Search Protocol” or “PHB”), adopted during a special session of the National Search for Persons System (hereinafter “SNB”) on August 27, 2020,<sup>63</sup> and published in the Official Gazette of the Federation dated October 6, 2020.<sup>64</sup> According to the information provided by the Centro PRODH, the approval of this search tool was not backed-up by two relevant actors involved in its implementation, the FGR and the National Conference on the Administration of Justice.<sup>65</sup>

61. The IACHR welcomes the good practice of the Mexican State of guaranteeing the effective participation of the relatives of disappeared persons and civil society organizations in building and designing public policies on search, something that was reflected in the consultation processes on strengthening the Standardized Search Protocol conducted by the National Commission on the Search for Persons (hereinafter the “CNB”).<sup>66</sup> Likewise, pursuant to section 9.1 of the PHB, the IACHR has been invited to participate in the meetings of the committee on implementing, monitoring, evaluating, and updating the protocol. Since its establishment, the IACHR has attended pilot training sessions and coordination meetings as an observer, and it reiterates its willingness to continue making technical contributions to State policy on the fight against disappearance and forced disappearance. The Commission will continue to observe the PHB’s implementation process and monitor as the authorities in this area perform regular reviews and updates.

62. The Commission also observes that, in a public statement on November 25, 2020, the CNB announced the coming launch of public consultation processes on the draft Standardized Protocol on the Search for Disappeared Children and Adolescents.<sup>67</sup>

63. Based on the information disseminated publicly by the State, the IACHR views positively that, although the General Act establishes that the obligations for forensic identification

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<sup>62</sup> IACHR, [Annual Report, Mexico](#), 2019, para. 57; IACHR, [Annual Report, Mexico](#), 2018, para. 40.

<sup>63</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 12.

<sup>64</sup> Official Gazette of the Federation, [Agreement SNBP/002/2020 whereby the Standardized Protocol on the Search for Disappeared and Missing Persons is adopted, which is attached to this Agreement and forms integral part of it](#), October 6, 2020.

<sup>65</sup> Centro PRODH, follow-up information to the report “Human Rights Situation in Mexico,” 2015. Information sent on October 2, 2019, pg. 5.

<sup>66</sup> CNB, [Call for participation in the process of strengthening the draft Standardized Protocol on the Search for Disappeared and Missing Persons](#).

<sup>67</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

correspond to justice officials and to the forensic medical services at different levels of government, the CNB has done important advocacy work on the identification of human remains, particularly by strengthening forensic capacity throughout the country and by supporting the Special Forensic Identification Mechanism (hereinafter the "MEIF"). In the former, the head of the CNB has publicly announced a series of training sessions in different federal entities in collaboration with the Forensic Anthropology Commission of Guatemala, as well as the recent establishment and inauguration of the Regional Center for the Identification of Human Remains, headquartered in Coahuila, whose work will have an impact in the federal entities of Coahuila, Durango, Nuevo León, and Tamaulipas.<sup>68</sup> Along with this, the IACHR notes that, as of the drafting of this report, the following public works that will be engaged in forensic identification were under construction: (i) the Human Remains Identification Center in San Luis Potosí, which is projected to be open by December 31, 2020; (ii) two collection centers located in the municipalities of El Mante and San Fernando, Tamaulipas; (iii) a forensic collection center in Morelia, Michoacán; and (iv) the next delivery of two mobile forensic labs for Sonora.<sup>69</sup>

64. Regarding the MEIF, the CNB has publicly announced that the State is working on the call for national and international experts to establish the Coordinator Group, which will be comprised of seven permanent members.<sup>70</sup> The IACHR takes note of the publication of the agreement on the creation of the MEIF in the Official Gazette of the Federation on March 19, 2020.<sup>71</sup> For its part, as an observer of the MEIF process, the IACHR has witnessed the joint participation of State authorities and the relatives of disappeared persons and other civil society actors in designing, establishing, and launching this mechanism. At the request of the families, the State has been making progresses to arrange for the MEIF's Coordinator Group to be hired through an international agency to enhance its autonomy. Additionally, four selection committees, comprised of State representatives and independent experts, will select the seven members of the Coordinator Group.<sup>72</sup> The Mexican State recently reported that it would budget 40 million Mexican pesos for the launch of the MEIF.<sup>73</sup>

65. For its part, the CNDH informed the Commission of the recent ratification of the competence of the United Nations' Committee on Enforced Disappearances to receive and examine individual petitions; and the publication of the Standardized Search Protocol, which includes an immediate search mechanism, something that was also welcomed by the IACHR at the time.<sup>74</sup> Along with this, the CNDH also reported on the existence of the Unit on the Search for Persons Forcibly Disappeared in the Context of the Dirty War, under the CNB, as well as the release of a public version of the National Registry of Disappeared and Missing Persons (hereinafter the "RNPDO"). Regarding this latter tool, the CNDH noted some inconsistencies in its launch, particularly the failure to provide the methodology used to obtain the statistics and the

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<sup>68</sup> Secretary of Interior Affairs, [Report on the search for and identification of disappeared persons in the country](#), October 7, 2020.

<sup>69</sup> Secretary of Interior Affairs, [Report on the search for and identification of disappeared persons in the country](#), October 7, 2020.

<sup>70</sup> Secretary of Interior Affairs, [Report on the search for and identification of disappeared persons in the country](#), October 7, 2020.

<sup>71</sup> Official Gazette of the Federation, [AGREEMENT SNBP/001/2019 approving the creation of the Special Forensic Identification Mechanism](#), March 19, 2020.

<sup>72</sup> SERAPAZ, Bulletin: indigenous rights; forced disappearances; human rights budget; six years after the disappearance of the 43 students, October 12, 2020.

<sup>73</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

<sup>74</sup> IACHR, <https://twitter.com/CIDH/status/1301232560752689153>, September 2, 2020.

impossibility of precisely disaggregating the cases of disappearance. The CNDH also noted the advocacy work of the CNB on forensic identification.<sup>75</sup>

66. The CNDH also reported on the measures it has taken on disappearance.<sup>76</sup> In this regard, the IACHR takes note of the interagency collaboration between the CNDH and the CNB and justice officials in more than 1,250 procedures related to the casefiles of persons reported as disappeared and missing, more than 130 of which were queries connected with prosecutorial investigations, along with multiple requests from legal counsel representing indirect victims of disappearances.<sup>77</sup>

67. As far as bringing state laws into line with the General Act, civil society organizations have expressed concern at omissions and deficiencies in the approval of laws on disappearance by state legislatures.<sup>78</sup> According to information from the Observatorio Ciudadano de Derecho de las Víctimas, in June 2020, only Aguascalientes, Baja California Sur, Mexico City, Coahuila, State of Mexico, Guanajuato, Sinaloa, Oaxaca, Tabasco, Veracruz, and Zacatecas had enacted local legislation that harmonized with the General Act. Regarding the other states, according to the observatory, four states had enacted deficient legislation;<sup>79</sup> the debate on a bill continued in eight of them; and in nine states, there was neither legislation nor any bill.<sup>80</sup> In this regard, the Inter-American Commission observes that the deadline for adopting harmonized local legislation was in April 16, 2018.

68. Along with this, the General Act orders states to make provision for the Special Declaration of Absence in local jurisdictions to ensure the protection of juridical personalities and the rights of disappeared persons, as well as provide the most extensive protection to their relatives.<sup>81</sup> However, the IACHR notes that, according to figures from the Observatorio Ciudadano de Derecho de las Víctimas, as of June 2020, 10 states<sup>82</sup> were still missing a harmonization law in this area; 14 were in the process of debating a bill;<sup>83</sup> and 8 states had a law enacted in this area.<sup>84</sup>

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<sup>75</sup> CNDH, Submission from the CNDH 2020, para. 32 – 34.

<sup>76</sup> The most relevant actions include the issuing of four recommendations on forced disappearances and disappearances committed by private parties, as well as the establishment in January 2020 of the CNDH Special Office for the Investigation of Repression and Forced Disappearances in State Political Violence in the Recent Past, the objective of which is to conduct a comprehensive investigation into the human rights violations that took place during the period known as the "Dirty War" and establish the truth of what happened in the forced disappearances of the past. The CNDH also reported more than 270 instances of work to support the relatives of disappeared persons and persons who filed complaints before the three ordinary government authorities, as well as its participation in a number of interviews and working meetings with federal authorities (more than 129 occasions), with state authorities (on 52 occasions), with state human rights commissions (on 12 occasions), and with the relatives of disappeared persons (on 18 occasions).

<sup>77</sup> CNDH, Submission from the CNDH 2020, para. 42 – 45.

<sup>78</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pgs. 4 – 5.

<sup>79</sup> Chiapas, Colima, Nayarit, and Sonora.

<sup>80</sup> Observatorio Ciudadano de Derecho de las Víctimas, [Monitoring the Disappearance Act](#).

<sup>81</sup> General Act, articles 142 and 144.

<sup>82</sup> No legislation has been issued on the Special Declaration of Absence in: Campeche, Ciudad de México, Durango, Hidalgo, Nayarit, Puebla, Querétaro, Quintana Roo, Sonora, and Yucatán.

<sup>83</sup> A Special Declaration of Absence bill is being debated in Baja California, Baja California Sur, Chiapas, Colima, Estado de México, Guanajuato, Guerrero, Jalisco, Michoacán, Morelos, Oaxaca, Tabasco, Tlaxcala, and Zacatecas.

<sup>84</sup> Observatorio Ciudadano de Derecho de las Víctimas, [Monitoring the Disappearance Act](#).

69. Following the adoption of the General Law and the establishment of the CNB, the IACHR recognizes the complexity of implementing the legal mandate with respect to the creation of the National Search for Persons System (hereinafter the “SNB”). This mandate incorporates and creates a series of bodies, tools, and mechanisms of coordination at the state and federal levels. The Inter-American Commission generally views it as positive that, compared to fiscal year 2019, the State increased the budget for searching for persons by approximately 79% during fiscal year 2020.<sup>85</sup> Of these resources, more than 450 million Mexican pesos are designated as subsidies for establishing, consolidating, and strengthening Local Search Commissions (hereinafter the “CLBs”).<sup>86</sup>

70. Based on the information analyzed in this report, is the IACHR's view that one of the focal points for proper implementation of the General Act is the adoption of positive measures for the entry into force of the National Search System and the tools for handling information on disappeared persons. In these terms, in this report, the Commission will review the status of the implementation of the bodies that play a role—according to the General Law—in the National Search System:

- a. Local Search Commissions: On October 7, 2020, the CNB announced that the 32 state CLBs are currently in place. In the same announcement, the State reported that, as of October 2020, more than 333 million Mexican pesos had been turned over to the 26 CLBs that had requested a federal subsidy. For its part, the IACHR notes that no one has been appointed to head the CLBs in Mexico City,<sup>87</sup> Oaxaca,<sup>88</sup> and Yucatán,<sup>89</sup> while the CLB in Veracruz<sup>90</sup> has an acting head rather than a permanent one. Along with this, the organization SERAPAZ indicated that in the states of Baja California, Colima, and Nayarit, the process to select commission heads was deficient in terms of transparency and the participation of family members of disappeared persons and other civil society actors. It also expressed concern at the limited human resources of the CLBs in Campeche, Sonora, Tabasco, and Tlaxcala, which have fewer than five public servants to do their work.<sup>91</sup>
- b. Special Prosecutor Offices on the investigation and pursuit of crimes of forced disappearance of persons and disappearances committed by private parties (hereinafter the “Special Prosecutors Offices”): According to information provided by the Observatorio Ciudadano de Derecho de las Víctimas as of July 2020, 26 federal entities had created the corresponding Special Prosecutor Offices, but only 19 had a designated head. Unfortunately, the states of Baja California, Sonora, Durango, San Luis Potosí, Oaxaca, and Yucatán have not yet complied with their obligation to

<sup>85</sup> The 2019 budget was a little more than 400 million Mexican pesos. During 2020, the budget was 720.396 million pesos.

<sup>86</sup> Secretary of Interior Affairs, [Press Release 380/2019](#), December 25, 2019.

<sup>87</sup> I(dh)eas, [Public letter on the appointments of the head of the Commission on the Search for Disappeared Persons of Mexico City](#), November 4, 2020.

<sup>88</sup> *Excélsior*, [“Piden se emita convocatoria para Comisión de Búsqueda de Personas de Oaxaca”](#), November 17, 2020; SERAPAZ, “Actualización sobre desaparición de personas en México,” May 11, 2020, pg. 3.

<sup>89</sup> *El Economista*, [Las estructuras estatales para buscar a desaparecidos a medias](#), August 6, 2020; SERAPAZ, “Actualización sobre desaparición de personas en México,” May 11, 2020, pg. 3.

<sup>90</sup> *Diario Presencia*, [Ante postergación de nombramientos, se acumulan más; Comisión de Búsqueda e IVM sin titulares](#), July 10, 2020.

<sup>91</sup> SERAPAZ, Update on the Disappearance of Persons in Mexico, May 11, 2020, pg. 3.

establish local Special Prosecutor Offices.<sup>92</sup> In this regard, SERAPAZ expressed concern at the inadequate budget allocated for the Federal Special Prosecutor's Office, which stood at 22 million Mexican pesos for the 2020 fiscal year, much lower than the budget allocated to other specialized offices of the FGR, such as the Special Assistant Attorney General's Office for Investigating Organized Crime, which is provided with 569 million Mexican pesos.<sup>93</sup>

- c. National Citizens Council: Taking into consideration that in previous reports, the IACHR did not have information on the activities of the National Citizens Council, the Commission will provide an account of the work it has done since its establishment. The IACHR notes that the National Citizens Council was established on April 19, 2018. Its members serve for a period of three years, so the new council members will take up their duties on April 19, 2021.

According to the 2018-2019 activities report, in its first year in operation, the National Citizens Council met seven times. The main activities carried out include: (i) the drafting of contextual analysis; (ii) evaluation of the progress and challenges in the implementation of the General Act; (iii) participation in the design of the Standardized Protocol on Investigating Crimes of Forced Disappearance and Disappearances Committed by Private Parties; and (iv) involvement in the establishment of a working group on identifying human remains with representatives from prosecutors' offices, with support from the CNB.<sup>94</sup>

Along with this, on July 11, 2018, the National Citizens Council issued Recommendation 01/2018, addressed to the then Office of the Attorney General of the Republic, the Secretary of Interior Affairs, and the CNB.<sup>95</sup> According to information provided by SERAPAZ, this recommendation has so far not been followed.<sup>96</sup> The IACHR also takes note of the issuance of other letters with recommendations to different authorities, as well as the publication of press releases by the National Citizens Council.<sup>97</sup>

So far, the National Citizens Council has published two reports. The first was a progress report one year from the entry into force of the General Act, and it reported delays in the immediate search mechanism and in the creation of the institutions and tools set forth in the General Act.<sup>98</sup> The second reviewed whether the establishment

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<sup>92</sup> Observatorio Ciudadano de Derecho de las Víctimas, [Monitoring the Disappearance Act](#).

<sup>93</sup> SERAPAZ, Update on the Disappearance of Persons in Mexico, May 11, 2020, pg. 5.

<sup>94</sup> National Citizens Council, [Activities Report, 2018-2019](#), April 18, 2019, pgs. 15 – 22.

<sup>95</sup> National Citizens Council, [Recommendation 01/2018](#), July 11, 2018.

<sup>96</sup> SERAPAZ, Update on the Disappearance of Persons in Mexico, May 11, 2020, pg. 4.

<sup>97</sup> National Citizens Council, [Activities Report, 2018-2019](#), April 18, 2019, pgs. 22 – 29.

<sup>98</sup> National Citizens Council, [Results one year from the enactment of the General Law on Forced Disappearances, Disappearances Committed by Third Parties, and The National Search for Persons System](#), January 22, 2019, pgs. 2 – 10.

of the CNB and the CLBs was adequate.<sup>99</sup> The latter report evaluated the CNB and the 25 CLBs<sup>100</sup> that responded to the request for information.

Lastly, the IACHR deems it important to highlight that, according to information from the Observatorio Ciudadano de Derecho de la Víctimas, as of July 2020, only seven Local Citizen Councils have been established, in the federal entities of Mexico City, Coahuila, Hidalgo, Morelos, Puebla, Tamaulipas, and Veracruz.<sup>101</sup> The IACHR calls on the Mexican State to take concrete measures to ensure the mechanisms of family and civil society participation are set up and operating soon.

- d. Search groups: The IACHR does not have information with respect to the establishment, operation, or startup of the search groups.
- e. National Exhumation and Identification Program: The National Exhumation and Identification Program is the main instrument for identifying persons who have died in Mexico, and the FGR is in charge of its design, publicization, and implementation. However, as of the approval of this report, the Inter-American Commission does not have information on the program's progress. At the same time, civil society organizations say no progress has been made on it.<sup>102</sup>
- f. National Search Program: The IACHR does not have information on the progress made by this program. For their part, civil society organizations agree that no progress has been made on this tool. They also indicate that as of the end of 2019, the CNB announced a collaboration between the state governments of Coahuila, Durango, Nuevo León, and Tamaulipas to establish a Northeast Regional Search Plan to address the issues specific to these federal entities. However, no progress has been reported.<sup>103</sup>

71. In addition, with respect to the tools for information management provided for in the General Law, the following information has been received:

- a. National Registry of Disappeared and Missing Persons: State search authorities have made regular announcements of the efforts they have made in coordination with the FGR and state prosecutors offices to put together reliable figures on the number of disappeared and missing persons. However, they have also reiterated that the RNPDNO largely depends on the information provided by the agencies involved in the administration of justice.<sup>104</sup> The State has announced that the RNPDNO is the only one of its kind that allows real-time consultation of the number of reports of disappeared or missing persons. It also allows real-time reporting, including

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<sup>99</sup> National Citizens Council, [Results of the Launch of the Search Commissions 2019](#), September 2020.

<sup>100</sup> The Search Commissions that answered were the ones in: Baja California, Baja California Sur, Chiapas, Chihuahua, Ciudad de México, Coahuila, Colima, Durango, Estado de México, Guerrero, Hidalgo, Jalisco, Michoacán, Nayarit, Nuevo León, Puebla, Querétaro, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, and Zacatecas.

<sup>101</sup> Observatorio Ciudadano de Derecho de las Víctimas, [Monitoring the Disappearance Act](#).

<sup>102</sup> SERAPAZ, Update on the Disappearance of Persons in Mexico, May 11, 2020, pg. 5.

<sup>103</sup> Secretary of Interior Affairs, [Fora launched for building the Northeast Regional Search Plan](#), October 1, 2019; SERAPAZ, Update on the disappearance of persons in Mexico, May 11, 2020, pg. 5.

<sup>104</sup> Secretary for Interior Affairs, [Report on the Search for, Identification of, and Registration of Disappeared Persons](#), August 6, 2020.

anonymous reports and without any need of filing a criminal complaint.<sup>105</sup> Regarding the public version of the RNPDO, both the CNDH<sup>106</sup> and civil society organizations<sup>107</sup> expressed concern at the public database's lack of transparency for accountability, verification, comparison, or disaggregation of information by specific case, as well as the lack of methodological transparency regarding how the data was collected.

- b. National Forensic Data Bank: According to the General Law, the Bank is under the FGR and its purpose is to pull together information relevant for searching for and identifying disappeared persons. The CNDH reported that on November 12, 2018, the Office of the Attorney General of the Republic issued technological guidelines for creating the National Forensic Data Bank. However, there has been no progress on designing, establishing, or launching this registry.<sup>108</sup> Civil society organizations agree on this information.<sup>109</sup>

In its observations on the draft of this report, the State informed that, within the framework of the Merida Initiative Bilateral Cooperation Agreement of the United States Embassy, it signed a Memorandum of Understanding between the FGR and the Federal Bureau of Investigation (FBI) in order to implement, with the support of the Antinarcotics and Law Enforcement Section (INL) of said government, the National Bank of Genetic Information that will be fed and operated through the Combined DNA Index System (CODIS) in the Forensic Genetics laboratories linked to law enforcement in Mexico. As reported, the State plans to implement the CODIS system in 3 phases, to have the National Genetic Information Base in Mexico in 30 months and to achieve full coverage in 2023. On December 11, 2020, the Procurators and Prosecutors joined to the three normative documents on research methods in genetic matter constructed within the framework of the National Genetics Committee (CONAGEN).<sup>110</sup>

- c. National Registry of Deceased Persons Not Identified and Not Claimed: According to the General Law, the Registry is the instrument that collects the forensic information that has been processed on the human remains found on national territory. The FGR is in charge of putting it together. Regarding this, the State reported that the FGR, state prosecutor offices, and the special prosecutor offices are working on validating and updating the registry.<sup>111</sup>
- d. National Gravesite Registry: The Inter-American Commission notes that as of the adoption of this report, this registry has not been created, even though it is past the

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<sup>105</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

<sup>106</sup> CNDH, Submission from the CNDH 2020, para. 33.

<sup>107</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pgs. 4 – 5.

<sup>108</sup> CNDH, Submission from the CNDH 2020, para. 38 and 40.

<sup>109</sup> SERAPAZ, Update on the Disappearance of Persons in Mexico, May 11, 2020, pg. 6.

<sup>110</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 7 – 8.

<sup>111</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 14.

legal deadline to do so.<sup>112</sup> However, it should be noted that during 2020, search authorities submitted three reports on updates to the historic registry on gravesites on national territory: the first on January 6; the second on July 13; and the third on October 7. According to the most recent information, between 2006 and September 30, 2020, 4,092 secret gravesites were located, from which 6,900 bodies have been exhumed.<sup>113</sup>

- e. Administrative Registry of Detentions: According to the information submitted by the State, the Administrative Registry of Detentions is being implemented gradually. As of November 23, 2019, the Secretary of Citizen Security and Protection made the technologic platform of the national Registry of detentions available to security and justice agencies and updated the information on federal crimes. As of April 1, 2020, information on local offenses had yet to be added to the registry. Currently, the deadline for updating the information in administrative registries is April 1, 2021.<sup>114</sup>
- f. AMBER Alert: The IACHR did not identify up-to-date information with respect to operation of the AMBER alerts in the event of a disappearance of persons as part of the SNB.
- g. Standardized Search Protocol: As previously mentioned, the PHB was adopted on August 27, 2020,<sup>115</sup> and published in the Official Gazette of the Federation on October 6, 2020. Transitory article 1 establishes that it is to enter into force on January 6, 2021.<sup>116</sup> (For more details, see section *supra* par. 54 – 56 and *infra* par. 68 – 69).
- h. Standardized Investigation Protocol (hereinafter the “PHI”): The IACHR was informed of the drafting of the PHI by the Office of the Attorney General of the Republic and its adoption by the National Conference on the Administration of Justice in 2018. The civil society organizations highlighted the lack of consultation with family members and other actors, as well as the lack of differentiated approaches regarding vulnerable population.<sup>117</sup> For its part, the National Citizens Council has recommended amending it. Nevertheless, the information provided by the State gave no indication of progress.<sup>118</sup> The Inter-American Commission recalls

<sup>112</sup> Movimiento por nuestros desaparecidos en México. Alternative report for the United Nations Human Rights Committee. September 10, 2019, pg. 3.

<sup>113</sup> *Noticieros Televisa*. [Existen 3,024 fosas clandestinas en México, informa gobierno de AMLO](#), August 30, 2019; *Milenio*. [En 13 años, se hallaron 3 mil 24 fosas clandestinas; con AMLO, 522](#), August 30, 2019; Amnesty International, document “Mexico, input for the Annual Report of the Entire American Commission,” October 31, 2019.

<sup>114</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 17.

<sup>115</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 12.

<sup>116</sup> Official Gazette of the Federation, [Agreement SNBP/002/2020 whereby the Standardized Protocol on the Search for Disappeared and Missing Persons is adopted, which is attached to this Agreement and forms integral part of it](#), October 6, 2020.

<sup>117</sup> Meeting held on Thursday, October 17, 2019, with representative of FUNDAR-Centro de Análisis e Investigación, SERAPAZ-Servicios y Asesoría para la Paz, Fundación para la Justicia y el Estado Democrático de Derecho, and the Movimiento por Nuestros Desaparecidos en México. Alternative report for the United Nations Human Rights Committee. September 10, 2019. Pg. 9.

<sup>118</sup> [Standardized Protocol for Investigating Crimes against Forced Disappearance of Persons and Disappearances Committed by Private Persons](#)

that, pursuant to the obligations set forth in articles 99 and 100 of the General Law, the Standardized Investigation Protocol must be regularly revised and updated, always with respect for the principle of joint participation of the family members of disappeared persons and other civil society actors.

72. In sum, the State has taken measures toward implementing the General Law, particularly with regard to the establishment of the SNB and the creation and launch of search tools. The latter has been reflected in the full establishment of the Local Search Commissions, as well as the adoption of the Standardized Search Protocol and the implementation of the public version of the RNPDNO, with above-noted issues. However, more than two years from the entry into force of the General Law, there are still deficiencies in the establishment of the Special Prosecutor Offices in the federal entities, as well as the creation of tools under the FGR. The IACHR also notes that the adoption of the National Program of Exhumations and Identification and the National Search Program, as well as the establishment of the Local Citizen Councils and Search Groups, has been almost or completely nonexistent. One reaches the same conclusion with respect to the information management tools, as indicated above, with special emphasis on the National Forensic Data Bank and the national Registry of Deceased and Unclaimed Persons. The IACHR views positively the Mexican State's commitment to fully implementing the General Law and calls on it to redouble its efforts toward fully complying with its programmatic and legal obligations on disappearance. Therefore, the IACHR concludes that substantive compliance with this recommendation remains partial.

73. As regards the recommendation to **establish mechanisms of immediate search for disappeared persons**, the State indicated that on September 1, 2020, the Senate of the Republic unanimously approved a declaration by the United Mexican States recognizing the competence of the United Nations Committee on Enforced Disappearances to receive and examine individual communications. The corresponding decree was published in the Official Gazette of the Federation on September 18, 2020. In this way, the State highlights that, in addition to national mechanisms and institutions, decisive actions have been taken in the framework of international cooperation.<sup>119</sup> In this regard, the Commission reiterates its observations related to the adoption of the Standardized Search Protocol to the effect that it provides a mechanism for immediate search.

74. The Commission observes that according to Idheas, some operational challenges persist with regard to the types of immediate and individualized search provided for under the PHB, as the resources available to the State for searching for disappeared persons are more extensive compared to the resources used to search for missing persons. In this regard, civil society organizations have expressed disagreement with the legal distinction between disappeared persons and missing persons, arguing that it is inadequate to Mexico's social context and to international standards on search.<sup>120</sup>

75. Although the Commission views positively the establishment of immediate search under the PHB, in view of the questions raised by civil society organizations, it will continue to follow up on the entry into force of the PHB during the next year and the implementation of the immediate search mechanism, as well as guarantee that all State institutions required to participate in the search do so in the scope of their competencies.

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<sup>119</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 13 – 14.

<sup>120</sup> Idheas, [Observations on the draft Standardized Protocol on the Search for Disappeared and Missing Persons \(PHB\)](#).

Therefore, the IACHR considers that the recommendation has met with substantial partial compliance.

76. As for the recommendation to **improve the National Registry of Disappeared Persons to become a single registry of disappearance with genetic and protected information**, as mentioned previously, the Mexican State has taken measures to update the National Registry of Unidentified Deceased Persons. Mexico reported that the FGR, state prosecutor offices, and the special prosecutor offices are working on validating and updating the registry. Along with this, the CNB has released a public version of the RNPDPNO as a search and identification tool, although it is concerning that the methodology used for collecting information has not been transparent.<sup>121</sup>

77. Although the IACHR views positively the progress reported previously by the State, it observes that this recommendation is aimed at the integration of genetic and confidential information, which in effect is provided for in the General Law through the National Bank of Forensic Data and the National Registry of Deceased Persons Not Identified and Not Claimed. However, as described above, these tools are not yet operating.

78. Additionally, this recommendation is closely related to the current MEIF implementation process. In this regard, the IACHR reiterates its previous comments on the announcement of the agreement creating the MEIF, the sessions to support its establishment, and its funding through an international organization. For their part, the search authorities have indicated that the creation of this mechanism is not a substitute for authorities' obligations to administer justice or conduct forensic identification of human remains.<sup>122</sup>

79. Based on the foregoing, the IACHR takes note of the lack, at this time, of a national, unified, and updated registry, integrated with the Forensic Data Base and its corresponding National Registry of Deceased Persons Not Identified and Not Claimed, as provided for under the General Law. In light of this situation, the IACHR understands that the recommendation has met with partial compliance.

80. With respect to the recommendation to **strengthen existing mechanisms in terms of early alerts and urgent search in cases of disappearances of women and girls, and to strengthen the National Registry of Data on Missing or Disappeared Persons, so that they provide precise and reliable information about women and children**, the Inter-American Commission notes that the RNPDPNO allows examination of records on the disappearance of women and girls, but it notes with concern the complaint of human rights organizations on their lack of access to the information to verify, compare, and disaggregate it by specific case.

81. As regards early alert and urgent search mechanisms in cases of the disappearance of women and girls, Mexico reiterated the recent adoption of the Standardized Search Protocol.<sup>123</sup> In this regard, the IACHR praises the fact that the PHB includes a specialized and differentiated chapter with a gender perspective on cases of the disappearance of women, adolescent women, and girls. The Commission also welcomes the State's good practice of

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<sup>121</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pgs. 4 – 5.

<sup>122</sup> Secretary of Interior Affairs, [Report on the search for and identification of disappeared persons in the country](#), October 7, 2020.

<sup>123</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 15.

assuming a crime has been committed whenever a girl, adolescent women, or woman disappears, as provided for under the PHB. This step forward requires legal authorities to immediately open an investigation and to use all available law enforcement resources to locate them.<sup>124</sup>

82. Without prejudice to the foregoing, the IACHR expresses concern at the fact that, as of November 25, 2020, at least 19,450 women were missing in the country, 50% of which are between the ages of 10 and 24.<sup>125</sup> The State has indicated a possible link between the disappearances and crimes of gender-based violence, sexual violence, human trafficking, and femicide.<sup>126</sup> The IACHR observes that compliance with the recommendation requires establishing search tools and public policies with a gender-based approach that make it possible to analyze regional patterns of crime against women and girls to help prevent their disappearance, to take the measures necessary to solve those disappearances that have already taken place, and to take action to locate them quickly.

83. In view of the gender-related progress made on the search for women and girls as a result of the adoption of the Standardized Search Protocol, the IACHR considers this recommendation to have met with substantial partial compliance.

#### **Follow-Up to the Ayotzinapa Case**

84. In 2020 the Special Mechanism for Follow-up on the Ayotzinapa Case (hereinafter “MESA”) pushed for the reinstatement of the Interdisciplinary group of Independent Experts (GIEI), adopted a new MESA-GAT 2020 Work Plan to continue follow-up on the precautionary measures granted (MC/409-14) and on the recommendations of the GIEI and MESA in their reports, and continued participating in work spaces related to the Ayotzinapa case throughout Mexico through the Technical Assistance Group (hereinafter “GAT”).

85. In 2020, following the requests submitted by the IACHR to the Mexican State in December 2019,<sup>127</sup> MESA continued to take the steps necessary to finalize the International Agreement for the reinstatement of the GIEI. Toward this, the IACHR and the Mexican State, with the participation of the representatives of the family members and former members of the GIEI, reached an agreement to reinstate the GIEI. The international agreement was signed by the IACHR, the Mexican State, and the representatives of the disappeared students and their families, with the Comisión para la Verdad y Acceso a la Justicia del Caso Ayotzinapa (COVAJ) as witnesses of honor.<sup>128</sup> The State indicated that the four experts worked together with the Office of the Attorney General to strengthen lines of investigation and on the charging sheet for eventually

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<sup>124</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

<sup>125</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

<sup>126</sup> Presidency of the Republic, [Transcription of the morning press conference of President Andrés Manuel López Obrador](#), November 25, 2020.

<sup>127</sup> IACHR, [IACHR Suggests that Mexico Restore the Interdisciplinary Group of Independent Experts for Ayotzinapa](#), December 17, 2020.

<sup>128</sup> IACHR, [IACHR and Mexican State Sign Agreement to Reinstate the Interdisciplinary Group of Independent Experts \(GIEI\) for the Ayotzinapa Case](#), May 7, 2020.

prosecuting the case.<sup>129</sup> In its observations to the draft of this report, the State highlighted the important work of the relatives of the disappeared students in reinstating the GIEI.<sup>130</sup>

86. Along the same lines, the IACHR updated its MESA-GAT Work Plan with the objective of verifying and providing technical assistance in complying with the recommendations issued by the GIEI and MESA—in regard to MC 409-14—on search, investigation, victim support, and structural measures and measures of non-repetition. It can also provide technical assistance and support in capacity-building on issues related to the disappearance of and search for persons, investigations, victim support, and comprehensive reparations, among other subjects related to human rights in which its assistance is needed. MESA also has a Technical Support Group stationed permanently in Mexico.

87. The simultaneous operation of the GIEI and MESA will enable the IACHR to provide extensive support if needed. The support for and participation in the investigation will be provided through the GIEI, while MESA's constant presence in Mexico will enable it to conduct timely follow-up on compliance with the precautionary measures. MESA also participates in the implementation of structural measures of non-repetition on forced disappearance through the construction of the Special Forensic Identification Mechanism (MEIF) and provides technical assistance to the National Search Commission (CNB) at its request.

88. Despite the health crisis, the GIEI has continued to provide support and technical assistance to the investigation of the Ayotzinapa case and issued a report to the public on October 28, 2020. In its report, the GIEI said it had informed the Special Investigation and Litigation Unit for the Case (hereinafter "the UEILCA") of new findings that could help identify municipal police, justice officials, and members of Battalion 27 who may have participated in the disappearance of the students; identify state agents who had committed acts of torture against people held as suspects to force them to incriminate themselves; and identification of new forensic leads in the search for the disappeared students, among the most important points. Likewise, the GIEI analyzed the main obstacles the case is currently facing, emphasizing the problem of information leaks and the need to expand the investigative authorities of the UEILCA, something that was recently granted. For its part, the State indicated that, at the GIEI's request, the President of the Republic ordered declassified all documents that may be useful for the investigation and ordered immediate filing of the corresponding criminal complaints and warrants for the arrests of officials involved in the investigation's irregularities.<sup>131</sup>

89. Likewise, since its creation in 2018, MESA has regularly attended the COVAJ sessions. The IACHR notes positively that the COVAJ has provided an important space for coordination that includes the participation of the parents and their representatives, and is supervised by organizations. In meetings with the COVAJ, senior authorities from the different branches of State dialogue with the parents of the disappeared students to agree on courses of action for addressing their stances. The IACHR observes the restoration of the centrality of the victims, channeling their expectations and contributions authentically, and it urges Mexico to continue to guarantee victims' right to participation.

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<sup>129</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 15.

<sup>130</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 8.

<sup>131</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 16.

90. As regards the work of searching for and determining the whereabouts of the students, the IACHR highlights as an important step forward the identification of bones belonging to student Christian Rodríguez Telumbre, found in Barranca de la Carnicería. Upon this discovery, the Commission welcomed the State's public announcement of the end of the so-called "historic truth" and the ruling out of the hypothesis connecting the Cocula garbage dump and the San Juan River to the facts of the case.<sup>132</sup> According to the information disseminated during the COVAJ sessions, new skeletal remains are in the possession of the Office of the Attorney General, which is awaiting the reopening of borders to transport them to the laboratory at the University of Innsbruck, Austria, for the corresponding genetic analysis. In its observations on the draft of this report, the State indicated that it is currently waiting to take 14 evidence to the Innsbruck laboratories for analysis, when sanitary conditions would allow it<sup>133</sup>.

91. The State added that, because of the change in the narrative of the so-called "Historical Truth" due to the findings of human remains in a place different from the Cocula Dump and the San Juan River; as well as for the verification of the crime of Forced Disappearance; and the investigation into the irregularities committed by high command agents of the defunct Attorney General's Office; now the investigation has transcended the local sphere to encompass state and federal authorities. As reported, the Prosecutor's Office has obtained 70 arrest warrants, from which 44 have been completed, and the investigation has been reoriented towards verifying the crime of Forced Disappearance, obtaining 14 arrest warrants for said crime<sup>134</sup>.

92. Along with this, MESA has been participating as an observer in the search activities conducted by the UEILCA—with the support of COVAJ—in the commons in Carrizalillo and Barranca de la Carnicería, Cocula. In particular, MESA was present at a procedure in which the parents of the students participated where it was able to verify that the authorities in charge of the investigation guaranteed the right to participation and provided the information requested, answering the questions of the families present. The Commission will continue to participate as an observer in the search procedures to which it is invited. The State added in its observations that 35 search operations have been carried out in 6 municipalities in the state of Guerrero.<sup>135</sup>

93. Additionally, regarding the investigation and prosecution of the case, the IACHR observes that for this reporting period, a significant procedural effort has led to a change in the investigation's hypothesis, the establishment of criminal responsibility, and the building of a body of evidence. The Commission notes that this progress is the result of the establishment of the UEILCA as a prosecutorial body dedicated exclusively to investigating this case, as was recommended by the GIEI and MESA. As reported by the COVAJ, the Commission observes that the investigation has resumed and efforts that were before inconclusive are getting another look.

94. In its observations on the draft of this report, the State informed that for the first time the arrest warrants include two high-ranking officers of the then Attorney General's Office: Tomás N., who was Head of the Criminal Investigation Agency, for various irregularities committed in the investigation; as well as Carlos N., who served as Head of the Federal Ministerial Police, in this case for the crime of torture. In the this sense, the State reported that a judicial order was carried out against an agent of the Public Ministry of the Federation, linked to a process with an preventive detention measure. The State also indicated that it took criminal action against

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<sup>132</sup> IACHR, [Six Years on, the IACHR Acknowledges Progress in the Investigation and the Search for 43 Missing Students from Ayotzinapa and Stresses Its Commitment to the Students' Families](#), September 26, 2020.

<sup>133</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 8.

<sup>134</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 8.

<sup>135</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 9.

three members of the then Federal Police, as well as a member of the Mexican Army, issuing a formal arrest warrant against one of the federal police officers and against a military officer, and reversed acquittal sentences granted in 2019 for various irregularities committed in the process<sup>136</sup>. The Commission views it as important for the State to continue making all possible efforts to carry out the detentions and, through a regular process, issue the respective formal indictments, while respecting the procedural guarantees of persons brought before the justice system. Especially relevant are the State efforts to implicate military officials in the investigation of the Ayotzinapa, as consistently described in the GIEI and MESA reports.

95. For the IACHR, it is particularly relevant that the prosecutions carried out during 2020 were for the crime of forced disappearance, as recommended by the GIEI and MESA, and it urges the State to reorient previous prosecutions toward the crime of forced disappearance, while taking due care to respect the judicial guarantees of the individuals being prosecuted. Additionally, the IACHR has learned of the serious concerns of the parents of the disappeared students over the leaks of information from the investigation to the media, presented as final versions of the reconstruction of the facts<sup>137</sup> or false information<sup>138</sup> whose veracity must later be clarified.<sup>139</sup> The IACHR views it as a priority to take action to find the source of the leaks and implement measures to ensure the right to access to information regarding matters in the public interest arising from the Ayotzinapa case is respected, but while protecting the integrity of the investigation such that these expectations do not lead to acts of obstruction of justice through release of sensitive information.

96. As regards support for victims, MESA has held meetings with representatives of victims to assess the status of support protocols and has taken note of the reports submitted by the Secretary of Health in the COVAJ meetings. In this regard, the IACHR reiterates the need to remove administrative obstacles that could hinder or disincentivize victims' access to health services. Although many of these obstacles have to do with structural factors of state health services' infrastructure, the IACHR views it as important to establish mechanisms for coordinating state and federal entities to manage care for victims in order to streamline the provision of health services.

97. Regarding structural measures to prevent repetition of what took place at Ayotzinapa, MESA has participated in MEIF sessions as described in this report and provided technical support to the CNB in designing the Comprehensive Search Protocol, as well as in its implementation. MESA also participated in the first session of the National Search System. Regarding this, the IACHR views positively the furtherance of actions aimed at addressing the problem of forced disappearance in Mexico pursuant to GIEI and MESA recommendations.

98. The IACHR will continue participating and performing its monitoring and technical assistance functions with respect to the tasks entailed in searching, investigating, assisting victims, and establishing structural measures of non-repetition, pursuant to the precautionary measures for 43 disappeared students and their families, and its mandates pursuant to the American Convention and other inter-American human rights treaties. Regarding the recommendation in question on following up on the recommendations of the GIEI and continuing the investigations, the IACHR concludes that significant progress has taken place and

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<sup>136</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 8.

<sup>137</sup> *Revista Proceso*, "La verdad histórica que encubría el Ejército", No. 2280. July 12, 2020.

<sup>138</sup> *La Jornada*, [Fracasa arresto de dos militares por fallas del fiscal para Ayotzinapa](#), November 15, 2020.

<sup>139</sup> *La Jornada*, [Ningún fracaso en captura de 2 militares por el caso de los 43: SG](#), November 16, 2020, *La Jornada*, [Desmiente el fiscal de Ayotzinapa fallas en casos contra otros dos militares](#), November 17, 2020.

there has been a significant transformation in how the case is handled through the reorientation and extension of lines of investigation to resolve the facts and determine the corresponding responsibilities, including the participation of victims in actions aimed at securing justice. The IACHR notes that several of the GIEI and MESA recommendations are being addressed progressively, and it therefore concludes that compliance with this recommendation is partial.

### C. Torture

- Adopt a General Law against Torture and other cruel, inhuman or degrading treatment or punishment, and adopt all necessary measures to ensure that both at the federal and state levels the laws and practices comply with international standards on the subject, particularly the Inter-American Convention to Prevent and Punish Torture and the Optional Protocol to the UN Convention Against Torture.
- In particular, ensure that the General Law against Torture excludes “evidence” or “confessions” obtained through the use of torture from the criminal process of the tortured person and of other persons implicated in such confessions. Establish clearly in the law that the prosecution has the burden of proof to prove the lawfulness of any questioned evidence or confession.
- Create a Single National Registry of detained persons and ensure that such persons are taken immediately before a judge under risk of sanctions for failure to do so.
- Investigate cases in which judges have not ordered an investigation where there are reports of indications that torture or mistreatment took place. Ensure that the Istanbul Protocol is applied at the national level by competent and independent authorities in an expedited manner and under risk of sanctions for failure to do so.
- Establish the mandatory use of cameras and other security protocols during interrogations and inside police vehicles, as a measure to prevent torture and other cruel, inhuman and degrading treatments.
- Establish federal and state-level guidelines regarding the collection of uniform statistics regarding gross human rights violations. In particular, the State should improve its system to compile information that is disaggregated, transparent and that follows a consistent methodology.
- Eliminate “arraigo” and quasi flagrante delicto (flagrancia equiparada) from the Mexican legal framework.

99. As regards the recommendation to **adopt a General Law against Torture and ensure that the practices comply with the relevant international standards**, the Commission notes that the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter “the General Law on Torture”) was published in the Official Gazette of the Federation on June 26, 2017. In view of the foregoing, the State has complied with the first part of the recommendation.<sup>140</sup>

100. As regards the other measures included in the recommendation, the Mexican State reiterated the entry into force of the General Law against Torture.<sup>141</sup> For its part, the CNDH

<sup>140</sup> IACHR, [Annual Report, Mexico](#), 2019, para. 95; IACHR, [Annual Report, Mexico](#), 2018, para. 71.

<sup>141</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 16.

reported that the National Mechanism for the Prevention of Torture (hereinafter the "Mechanism for the Prevention of Torture" or the "MNPT") is conducting an analysis on the process to implement the General Law against Torture in eight federal entities in order to issue a diagnosis and a proposal for harmonizing laws.<sup>142</sup>

101. In a public hearing before the IACHR, the civil society organizations expressed regret that, more than a year after the General Law against Torture had taken effect, the Mexican State had still not released the National Program to Prevent and Punish Torture, nor had it launched the National Registry on the Crime of Torture. They also expressed concern that several federal entities had failed to create and establish the special prosecutor offices to investigate torture. According to information received by the Commission, the National Program on Torture should have been released in December 2017, and despite the establishment of working groups with civil society organizations and technical support from the OHCHR in Mexico during 2019, the State had not complied with this obligation. Along with this, they indicated that as of the end of 2019, only four of the 32 federal entities had a local registry on the crime of torture that met the requirements established by the General Law against Torture. This makes it impossible to know the real scope of the commission of this crime in the country and makes it difficult to put together a registry broken down by federal entities.<sup>143</sup>

102. Civil society organizations also emphasized the persistent situation of impunity surrounding torture in the country, reflected in the fact that few to no cases of torture have been prosecuted. In a public hearing before the IACHR, the civil society organizations indicated that between September 2019 and July 2020, the FGR's Office of the Special Prosecutor on the Crime of Torture had opened more than 5,000 investigations into torture; however, only two of them were prosecuted. The State confirmed this information.<sup>144</sup> They also indicated that between September 2019 and May 2020, the Federal Institute on the Public Defense filed criminal charges—both locally and federally—over acts of torture or abuse in more than 1,300 cases.<sup>145</sup> They also expressed their concern at public statements made by the Federal Executive stating that no torture took place under his administration,<sup>146</sup> even as federal data indicated otherwise.<sup>147</sup> For its part, in a public hearing, the State reported on the creation of an evaluation and follow-up mechanism to monitor the implementation of the General Law against Torture.<sup>148</sup>

103. Although it is true that the Mexican State enacted the General Law against Torture in 2017, it is also true that more than three years since its entry into force, no information has been provided on its implementation progress with regard to the programmatic, harmonization, and institutionalization obligations at the different levels of government. In this regard, the State reported in its observations to the draft of this report that the SCJN has undertaken various initiatives to train members of the Judiciary on the prohibition of torture and

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<sup>142</sup> The CNDH also indicated that between January and September 2020, the Mechanism for the Prevention of Torture conducted 115 oversight visits to different prisons throughout the country. It also conducted follow-up on cases likely to involve torture or abuse where complaints were submitted to the CNDH or before the competent prosecutor offices; CNDH, Submission from the CNDH 2020, para. 38 and 40.

<sup>143</sup> IACHR, [Public Hearing – Combating Torture in Mexico](#), 178th Period of Sessions, December 4, 2020.

<sup>144</sup> IACHR, [Public Hearing – Combating Torture in Mexico](#), 178th Period of Sessions, December 4, 2020.

<sup>145</sup> IACHR, [Public Hearing – Combating Torture in Mexico](#), 178th Period of Sessions, December 4, 2020.

<sup>146</sup> IACHR, [Public Hearing – Combating Torture in Mexico](#), 178th Period of Sessions, December 4, 2020.

<sup>147</sup> Secretary for Interior Affairs, [Transcript. Second year of the historic democratic triumph of the people of Mexico](#), July 1, 2020.

<sup>148</sup> IACHR, [Public Hearing – Combating Torture in Mexico](#), 178th Period of Sessions, December 4, 2020.

the use of the Istanbul Protocol, through courses on updating the cited Protocol and its application in specific cases in closed training sessions with a reduced number of participants, and which were aimed at judges of federal criminal proceedings and taught by teachers of the Anti-Torture Initiative of the American University Washington College of Law and the Omega Research Foundation.<sup>149</sup> The State also added that the Action Protocol for those who administer justice in matters involving acts constituting torture and ill-treatment is in the process of being updated and the new version will be published in 2021.

104. The IACHR welcomes the efforts to strengthen the training of its agents on torture. Notwithstanding the foregoing, the IACHR reiterates the importance of the State adopting the necessary measures in order to guarantee that these practices, in terms of their programmatic and normative implementation in the different branches of the State, are in accordance with the General Law on Torture and the international standards on the matter, therefore it concludes that the recommendation is partially complied with.<sup>150</sup>

105. Regarding the recommendation to ensure that **the General Law against Torture excludes evidence or confessions obtained through the use of torture and that the prosecution has the burden of proof to prove the lawfulness of any questioned evidence or confession**, the IACHR observes that the this law provides, in Article 51, for excluding or annulling evidence obtained through torture or via any other human rights violation.<sup>151</sup> In addition, the provision stipulates that “in all cases, the prosecution shall have the burden of showing that the evidence has been obtained lawfully.”<sup>152</sup> The IACHR therefore deems this recommendation to have been fully complied with.

106. Without prejudice to this, civil society organizations indicated that Mexico's judiciary tends to omit the exclusion of evidence obtained under torture even though national and international law requires it be dismissed and places the burden of proof of the legality of the evidence on the Office of the Public Prosecutor. Specifically, they indicate that it is concerning that judicial authorities dismiss allegations of torture by admitting only expert medical evidence and refusing to admit other types of evidence, such as testimony of the complainant, circumstantial evidence surrounding the detention, witness testimony, interrogation of those allegedly responsible for the torture, and others.<sup>153</sup>

107. In addition, the IACHR reiterates its concern, shared by the civil society organizations,<sup>154</sup> over the adoption by the Supreme Court of a jurisprudential thesis that provides that only in cases of self-incrimination must one remand a criminal proceeding in which the person convicted asserts that his or her conviction was based on evidence fabricated under torture,<sup>155</sup> as it would allow other evidence obtained using torture to be admitted and used in

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<sup>149</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 11.

<sup>150</sup> IACHR, [Annual Report, Mexico](#), 2017, párr. 84.

<sup>151</sup> IACHR, [Annual Report, Mexico](#), 2017, para. 85.

<sup>152</sup> [General Law to Prevent, Investigate, and Sanction Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), Official Gazette of the Federation, June 26, 2017, article 51.

<sup>153</sup> Instituto Federal de Defensoría Pública *et. al.*, request for a thematic hearing on combating torture and other cruel, inhuman, or degrading treatment or punishment in Mexico, pg. 5.

<sup>154</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 6.

<sup>155</sup> SCJN, [Torture. Remanding the procedure is unnecessary when there has been no confession of the facts alleged or any act entailing self-incrimination of the accused](#), November 2017.

criminal processes. Furthermore, the IACHR notes the caselaw of the SCJN published on October 14, 2020, finding inadmissible an indirect *amparo* appeal of resolutions finding baseless an incident of exclusion of illegal evidence obtained through torture regarding mixed criminal processes, under the argument that the violation did not transcend the entire ruling.<sup>156</sup>

108. Regarding the foregoing, the State pointed out in its observations to the draft of this report that the reestablishment of the procedure proceeds in all cases where there is a connection between the alleged acts of torture and the incriminating evidence, and not only in those that exist confession by the accused. This derives from a comprehensive understanding of the criteria issued by the High Court, as detailed below<sup>157</sup>. The State reported to the Commission that it is not necessary to indicate that only self-incrimination under torture would restore the criminal process, since a harmonious reading of the precedent in question allows it to be maintained that the reestablishment of the procedure for the purposes noted is appropriate in all the cases that there might be a connection between the alleged acts of torture and the evidentiary elements that can be considered when delivering a judgement and not only in those that there is a confession on the part of the accused.<sup>158</sup>

109. Regarding this same matter, the State also referred to the admission of the *amparo indirecto* against the incident of exclusion of evidence, indicating that the decision confirming the resolution to the incident of exclusion of evidence allegedly obtained by torture, does not have the connotation of an act whose effects are impossible to repair for purposes of the admission of the *amparo indirecto* suit. This is due to the fact that this determination does not cause material impairment to any substantive right, since it does not prevent the exercise of any fundamental right in current or present form, but rather that such injury depends on whether or not it transcends to outcome of the criminal process, and whether the incident of exclusion of evidence has effect until the delivery of judgement in the criminal process.<sup>159</sup>

110. As regards the recommendation to **create a Single National Registry of detained persons and ensure that such persons are taken immediately before a judge**, the State reported that the Federal Law on the Registry of Arrests was being implemented gradually. As of November 23, 2019, the Secretary of Citizen Security and Protection made the technology platform of the national Registry of detentions available to security and justice agencies and updated the information on federal crimes. As of April 1, 2020, information on local offenses had been added to the registry. As regards information on detentions of an administrative nature, the legal deadline for updating it is April 1, 2021. Likewise, in its observations to the draft of this report, the State indicated that at present the Agents of the Public Ministry of the Federation have access codes granted for registration with the Single National Registry of detained persons.<sup>160</sup>

111. As was indicated in the previous section, the Commission has learned that the CNDH filed a constitutional challenge<sup>161</sup> against the National Detentions Registry Act, which remains pending resolution by the SCJN. Specifically, the CNDH is challenging the validity of transitory article 5 as it relates to article 19, which would appear to exempt the Armed Forces

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<sup>156</sup> SCJN, [Exclusion of illegal evidence obtained under torture, brought in a mixed criminal process. An indirect amparo appeal is not admissible against a resolution deciding on its appeal](#), August 14, 2020.

<sup>157</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 9.

<sup>158</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 9 – 11.

<sup>159</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 11.

<sup>160</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 9.

<sup>161</sup> CNDH, [Constitutional challenge 63/2019](#), June 26, 2019.

doing security tasks from the obligation to inform the police authorities in charge of updating the registry of the detentions they have made. In this regard, the Centro PRODH expressed concern at the provisions of article 34 of the National Detentions Registry Act, as it does not comply with the requirements of providing families and other interested parties access to information for detain persons who are accused of organized criminal offenses, placing them at particular risk of torture or abuse.<sup>162</sup>

112. In view of the foregoing, although it is true that the National Detentions Registry is being implemented gradually, the IACHR notes the constitutional challenge brought by the CNDH and the fact that the registry is not functioning at all. Accordingly, the IACHR concludes the recommendation remains in substantial partial compliance.

113. With regard to the recommendation to **ensure that the Istanbul Protocol is applied and to investigate cases in which judges have not ordered an investigation where there are reports of indications that torture took place**, the State reiterated what it had reported previously<sup>163</sup> regarding the SCJN's issuance of the Protocol for Justice Administration Officials in Cases Involving Acts amounting to Torture and Mistreatment, which requires application of protocols such as the Istanbul Protocol. For its part, the CNDH reported that the MNPT, in the framework of its recommendation authorities, seeks to foster the observance of the guidelines set forth in the Istanbul Protocol in producing any medical-psychological report.<sup>164</sup>

114. The Centro PRODH indicated that in the report to follow up on the recommendations of the United Nations Committee against Torture dated July 28, 2020, the Mexican State limited itself to indicating that training had been provided to its officials and that adequate guidelines were in place on medical-legal examinations, in keeping with the standards of the Istanbul Protocol; however, it did not provide enough information to show whether in reality the evaluations conducted followed international standards on the subject.<sup>165</sup>

115. In light of the information available, the IACHR concludes it does not have enough information to determine progress on compliance with this recommendation. Accordingly, the IACHR finds it continues to meet with partial compliance.

116. As regards the recommendation to **establish the mandatory use of cameras during interrogations and patrols**, the State did not submit information pertaining to 2020 and indicated that it reiterated the information provided earlier.<sup>166</sup> The IACHR finds that this

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<sup>162</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pgs. 8 – 9.

<sup>163</sup> In its fifth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico" the State remitted the "Protocol for Justice Administration Officials in Cases Involving Acts amounting to Torture and Mistreatment," issued by the SCJN, which requires application of protocols such as the Istanbul Protocol.

<sup>164</sup> As an example, the CNDH reported that it had forwarded Recommendation 25/2020 to the president of the Commission on Human Rights of the State of Hidalgo in seeking the reopening of the case file of a complaint and an investigation into possible acts of torture; CNDH, CNDH Contribution 2020, para. 56.

<sup>165</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pgs. 9-10

<sup>166</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 18.

information does not make it possible to analyze the degree of progress toward compliance with the recommendation, and therefore concludes that the State has not complied with it.

117. Regarding the recommendation on **the collection of uniform statistics and improving the system used to compile information**, the State reported that the CEAV was working on an instrument to offer Recommendations for a Registry of Torture Victims in Mexico, drafted by the EnfoqueDH program. The objective is to raise awareness and follow pertinent recommendations for keeping a proper record of victims. Also, the State is awaiting federal guidelines on the subject so as to implement them properly.<sup>167</sup> For its part, the IACHR noted in a previous section the suspension of the ENPOL periodic review,<sup>168</sup> which is crucial for assessing the human rights situation of persons deprived of liberty.

118. In these terms, as the State has not reported on progress in implementing the Registry of the Crime of Torture, which was provided for by legal mandate in 2017 and has yet to be implemented, in addition to the fact that a statistical instrument as important as the ENPOL has been suspended, the IACHR finds that its implementation is incomplete.

119. As regards the recommendation to **eliminate “arraigo” and quasi flagrante delicto (flagrancia equiparada) from the law**, the IACHR has noted previously that *flagrancia equiparada* was declared unconstitutional in 2015 by the SCJN, and thus compliance with that part of the recommendation is considered complete. Regarding *arraigo*, the State indicated that although *arraigo* remains in the text of the Constitution, it is properly restricted to the most serious cases, such as incidents involving organized crime which are crimes that are exclusively the competence of federal authorities. However, the CMDPDH indicated that last year, the Senate blocked a constitutional reform initiative to eliminate *arraigo*, and it was subsequently withdrawn. Furthermore, the CMDPDH expressed concern at the constitutional reform initiative proposed by the Federal Executive seeking to reduce the maximum length of *arraigo* from 80 to 40 days, but broadening its application to include other crimes.<sup>169</sup> In view of these regressive measures, the IACHR concludes that this recommendation has met with partial compliance.

#### D. Extrajudicial Executions

- In any act in which there is lethal use of force or loss of life at the hands of members of the security forces, undertake a comprehensive formal investigation in accordance with international standards, with investigations at the scene of the crime being carried out by experts who are not members of police or military bodies.
- Ensure that the Armed Forces register statistics regarding persons who are killed or wounded in their operations, and that the relevant investigations are initiated as appropriate.
- Establish a national registry regarding the unidentified remains unearthed in cemeteries throughout the country, which are the result of violent deaths. In addition, search for clandestine graves in states with the highest levels of violence.

<sup>167</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 18.

<sup>168</sup> IACHR, [Annual Report, Mexico](#), 2019, para. 118.

<sup>169</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report “Human Rights Situation in Mexico,” October 30, 2020, pg. 6.

- Create a national, autonomous institution of forensic services with adequate infrastructure, sufficient financial and human resources, and standardized protocols applicable at the national level.
- Undertake all processes of unearthing and identifying remains strictly abiding by a dignified treatment of the victims' families by all authorities of all levels of government involved in the process.
- Continue and expand the work of the Forensic Commission for the Identification of Remains found along the routes followed by migrants. Adopt all necessary measures to create a Transnational Mechanism of Access to Justice for Migrants and their Families, as well as the creation at the federal level of a Special Prosecutor's Office for Violent Crimes against Migrants.
- Implement a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region.

120. As regards the recommendation that, **for any act in which there is loss of life at the hands of members of the security forces, an investigation in accordance with international standards be carried out by experts who are not members of police or military bodies**, the State pointed to the National Use of Force Act enacted in 2019, which stipulates an obligation to provide a detailed report to the commanding officer when force is used in performance of duties.<sup>170</sup> The State did not submit comments on 2020.

121. Regarding this recommendation, the IACHR noted in its 2019 report the deficiencies in the obligation to produce reports on the use of force, mainly in the discretion given security agencies with regard to the type of information that would be public with respect to the detailed reports on the use of force, as well as the impartiality and independence of the system established by the law on use of force.<sup>171</sup> The IACHR reiterates the observations on this subject submitted by the Centro PRODH and already included in this report, mainly on the lack of independence of the mechanism for evaluating operations in which lethal force is used; the regime for establishing responsibility (as the law only points to the applicable civil, administrative, and criminal provisions); and ambiguity with regard to how it applies to the Armed Forces conducting citizen security operations.<sup>172</sup>

122. For its part, the CMDPDH reported that following an analysis of the information publicized by the Armed Forces and of publicly available information, there were inconsistencies in the operations that included the use of force, especially in situations where press releases from the Armed Forces attempt to criminalize civilian persons who died during the use of lethal force.<sup>173</sup>

123. Given the lack of up-to-date information from the State, and the questions that have been raised about the regulation on operations involving the use of force, especially in the

<sup>170</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 20 – 21.

<sup>171</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), paras. 29, 32 – 37.

<sup>172</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pg. 4.

<sup>173</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 7.

case of the Armed Forces, the IACHR considers that this recommendation is still pending implementation.

124. On the recommendation to ensure that the armed forces **register statistics regarding persons who are killed or wounded in their operations, and initiate the relevant investigations**, the State reported that the Mexican Navy, via the Joint Chiefs of the Navy, has a national database—validated by the National Center on Planning, Analysis, and Crime-fighting Information (CENAPI), under the FGR. It also indicated that the database contains figures on alleged criminals detained in flagrante delicto, deceased, and wounded in public security operations, and that the SEMAR provides and offers support to prosecution authorities in the investigation of the incidents.<sup>174</sup>

125. For its part, the CMDPDH indicated that since the SEDENA stopped reporting this information in 2014, the armed forces in the National Guard have begun reporting the clashes that have taken place and the people who have lost their lives. Nevertheless, the CMDPDH expressed concern at the ease with which a person deprived of liberty can arbitrarily lose their life in Mexico, pointing to two main contexts in which extrajudicial executions take place: the justification of the use of lethal force as legitimate defense by a State agent; and the detention of persons who die in State custody or in the framework of so-called "joint operations."<sup>175</sup>

126. According to the information provided by the CMDPDH, the lethality rate for operations in which force is used is high. Between 2007 and August 2020, 4,898 civilian "aggressors" and 286 soldiers have died. According to the CMDPDH, the official figures indicate that from its establishment through August 2020, the National Guard has participated in 67 armed clashes, in which 10 "presumed criminals" lost their lives. However, they indicate that this count is inconsistent with the one made by the aforementioned organization, which, using public information, has been able to count as many as 123 clashes in which 176 persons and 10 National Guard members died.<sup>176</sup>

127. Regarding this recommendation, the IACHR reiterates its observations with respect to the problems associated with preparing reports on operations in which lethal force is used, as required by the National Use of Force Act. Along with this, the Commission finds that the State has provided information on the part of the recommendations related to the registry, but did not provide information on opening investigations into extrajudicial executions, or on any index on opening investigations and prosecuting cases that would have enabled evaluation of how the State was complying with this recommendation. Therefore, the IACHR finds that the recommendation remains in substantial partial compliance.

128. Regarding the recommendation to establish a **national registry on the locations of unidentified remains and the search for secret gravesites**, the State reiterated its observations that the National Registry of Disappeared<sup>177</sup> and Unidentified Persons already

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<sup>174</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 21.

<sup>175</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 7-8

<sup>176</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 8.

<sup>177</sup> The report submitted by the State labels this registry as the National Registry of "Dead" and Disappeared Persons. The Commission understands this to be an error, and that the instrument to which it refers, based on its acronym RNPEDNO, is the *Registro Nacional de Personas "Desaparecidas" y No Identificadas* (the National Registry of "Disappeared" and Unidentified Persons).

described in this report, although it is relevant to reiterate that during 2020, the State reported the identification of 4,092 secret gravesites. Based on the information already analyzed in the section on recommendations regarding disappearances, the IACHR reiterates its recognition of the progress made with the registry and in the dissemination of the RNPEDNO. As regards this recommendation, the IACHR observes that the virtual tool does not allow searches for unidentified human remains where the cause of death is violence or for gravesites, which is a substantive element of this recommendation. Therefore, the IACHR does not have information that would enable it to evaluate the progress made in the recommendation.

129. Without prejudice to this, the IACHR observes that Mexican law does provide for the creation of a national gravesite registry. Furthermore, as reported in the corresponding section, the CNB has been publishing updated information on secret gravesites and the recovery of human remains at them. Despite this progress, the gravesite registry is still not operational as required by the Forced Disappearance Act. Therefore, the Commission considers this recommendation to be pending compliance.

130. Regarding the recommendations to **create a national, autonomous institution of forensic services and exhume and identify remains strictly abiding by a dignified treatment of the victims' families**, the State reiterated the observations surrounding the recommendations on disappearance of and search for persons, as already reviewed in this report. Additionally, the State indicated that the forensic personnel continue to provide support to victims in the activities involved in searching for and exhuming remains in the field carried out by federal entities, in collaboration with different authorities and with the CNBP, in the form of explaining the procedures and protocols involved in these types of activities and answering questions. The State reported the following activities carried out by the CEAV related to compliance with the recommendation: 20 search and/or exhumation activities in the field in the states of Tamaulipas, Guerrero, Veracruz, San Luis Potosí and Morelos; 1 forensic training workshop for a victims group; 5 casefile reviews for collaboration in the actions of the Federal Legal Counsel; and 2 incidences of attending and participating in CNB forums on strategies for searching for disappeared persons.<sup>178</sup>

131. Regarding this matter, the IACHR refers to its observations regarding the progress toward launching the MEIF. That said, according to its mandate, the MEIF is not an autonomous forensic institution, as called for in the two recommendations under analysis. Although in its 2019 report, the State announced the creation of five autonomous regional forensic institutes in the states of Coahuila (also covering Chihuahua, Durango, and San Luis Potosí), Nuevo León (also covering Tamaulipas), Sonora (also including Baja California, Baja California Sur, and Sinaloa), Veracruz (also covering Puebla, Oaxaca, and Chiapas), and Mexico City (also covering Morelos and Guerrero), it did not provide any additional information on it in this report.<sup>179</sup> The Commission has been able to determine that the regional center in Coahuila (covering the states of Coahuila, Nuevo León, Tamaulipas, and Durango) has been inaugurated, although a forensic anthropology lab remains under construction. Likewise, the IACHR received information indicating that the construction of the forensic identification center in San Luis Potosí was moving along and expected to be inaugurated on December 31 of this year.

132. Although the IACHR reiterates its commitment to providing technical support in establishing public policies on the forensic identification of persons, as it has been doing by

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<sup>178</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 22.

<sup>179</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 128.

participating in the MEIF support group and holding public hearings on the subject, the information reported does not indicate further progress toward complying with the establishment of an autonomous entity to engage in forensic work, other than the establishment of the Coahuila regional center.<sup>180</sup> Therefore, the IACHR considers that the recommendation remains pending compliance.

133. As regards the recommendations to **continue and expand the work of the Forensic Commission for the Identification of Remains in cases found along the routes followed by migrants and to adopt all necessary measures to create a Transnational Mechanism of Access to Justice for Migrants and their Families**, the State reiterated the information submitted in previous years.<sup>181</sup> According to the information provided by the State in 2019, the agreement to create the Forensic Commission remains in effect.<sup>182</sup> However, given the lack of updated information on the Forensic Commission and the Transnational Mechanism, the IACHR concludes that compliance with this recommendation remains partial.

Regarding the recommendation to **implement a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region**, the State indicated in its observations to the draft of this report that in September 2020 the follow-up meetings to the Mechanism's Guidelines were resumed, which had been suspended since March 2020 due to the contingency derived from COVID-19.<sup>183</sup> In addition, the State reported that the FGR's Crime Investigation Unit for Migrant Persons renders reports by videoconference to victims and relatives abroad on the progress of the investigations.<sup>184</sup> Although the IACHR notes that progress has been made toward defining and activating the search functions through the Mechanism of Exterior Support for Persons Disappeared on Mexican Territory, as called for in the PHB, there is no indication of progress toward compliance with this recommendation during the reporting period. Therefore, the recommendation remains in substantial partial compliance.

## E. Access to Justice

- Strengthen the prosecutors' offices throughout the country in terms of technical and independent training, with the objective of guaranteeing investigations with due diligence.
- Establish a coherent plan regarding cooperation between prosecution authorities at the federal and state levels in the investigation of gross human rights violations, with an integral vision, specific protocols, and the adoption of technical and professional—but not political—criteria for the decision to transfer specific investigations to the federal level.
- Adopt specific protection measures for victims, their families, their representatives, witnesses, experts and defenders who participate in the investigation or search for justice, when they are at risk. Guarantee access to files

<sup>180</sup> 175th Period of Sessions, Port-au-Prince, Haiti. [Hearing 24, Mexico: Special Mechanism on Forensic Identification](#).

<sup>181</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 22.

<sup>182</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), paras. 131-133.

<sup>183</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 8 y 12.

<sup>184</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 12.

to families and their legal representatives. Impose appropriate sanctions in cases of reprisals against any of these persons.

- Adopt specific protection measures for justice operators according to their particular needs and in consultation with them.
- Ensure the implementation of the General Law of Victims and the functioning of the Executive Commission of Attention to Victims at the federal and state level. In consultation with civil society organizations and with victims, analyze and address concretely the barriers that impede its effective implementation, and eliminate them.
- Assume the historic responsibility of accountability for gross human rights violations. Investigate, clarify and punish the acts committed during the time period known as the Dirty War.
- Strengthen the Mechanism of protection for human rights defenders and journalists, guaranteeing its financial sustainability in the long-term and vesting it with greater administrative autonomy, and urging the states to collaborate with it. In turn, the recommendations for the Mechanism are to evaluate and adopt differentiated protection measures taking into account gender, indigenous leaders, environmental defenders; measure the effectiveness of implemented measures; foster the institutional articulation and cooperation with the PGR; and increase the transparency of all actions to increase the trust of the beneficiaries in the mechanism. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the Mechanism.
- Reform the Code of Military Justice to provide that whenever a member of the armed forces commits acts that may constitute a human rights violation, such acts shall be judged by civil tribunals, independently of whether the victim is a civilian or a member of the armed forces.
- Monitor the entry into force of the new criminal justice system as well as the effectiveness of the trainings regarding it. Include public defenders in the trainings.
- Evaluate the effective implementation of the new criminal justice system, as well as the areas that will require more specific monitoring, with adequate training and all necessary resources. Include permanent training for justice operators and public defenders regarding the monitoring of compliance with international treaties (*control de convencionalidad*).

134. With respect to the recommendations to **strengthen the prosecutors' offices throughout the country** and **establish a cooperation plan between prosecution authorities at the federal and state levels**, the State indicated that in the context of the COVID-19 pandemic, virtual training has been conducted for State officials who work in administration of justice, including from the SEDENA, the SEMAR, the National Guard, the Decentralized Administrative Agency for Prevention and Social Readaptation (OADPRS), the prosecutors' offices, and the secretariats for public security of the states at the three levels of government. Likewise, the State highlighted the measures taken on access to justice for women, such as the establishment of a Board of Directors for the Women's Justice Centers, the 32 judicial authorities in the states set up by the National Commission on the Prevention and Eradication of Violence against Women (CONAVIM), and the decision of the judicial authorities to keep the duty courts open in all judicial districts to allow the processing of urgent matters for the protection of lives free of violence and access to justice for girls and women. At the same time, the State reported that the CONAPRED increased remote training for public servants and the general public on issues of discrimination using the online platform "Conéctate," and that along these lines, 911 personnel were also trained

on subjects including: basic orientation, connecting and attending to victims remotely, active listening, emergency intervention, psychological first aid, domestic violence, and sexual diversity.<sup>185</sup>

135. The IACHR views positively the training efforts made toward providing technical training to justice officials, as well as the awareness-raising on access to justice for women. The Commission has no information detailing specific independent technical training to ensure proper investigations. Based on the information submitted, the IACHR finds that the recommendation remains in substantial partial compliance. Additionally, with regard to the recommendation to establish a coherent plan for the cooperation of state and federal authorities in the investigation of grave human rights violations, the State did not provide information and has therefore not complied with this recommendation.

136. Regarding the recommendation to **adopt specific protection measures for those who participate in the investigation or search for justice, when they are at risk, to guarantee access to files, and to impose sanctions in the event of reprisals**, the State pointed to the broad protection provided by the Mechanism for the Protection of Journalists and Human Rights Defenders to indirect victims and to persons at risk due to their human rights defense work or closeness to victims. The State also indicated that the national executive coordination office of this mechanism had implemented a strategy for the pandemic under which the service to beneficiaries and follow-up on implementation of the measures of protection would not be interrupted. The State also indicated that it continues to implement the measures of protection ordered by the Inter-American System for the beneficiaries of precautionary measures (60 measures) and provisional measures (3 measures), with an average of 125 persons, in order to protect the rights to life and integrity.<sup>186</sup>

137. In this regard, the Commission views positively the protection provided to the aforementioned persons in the framework of the Mechanism for the Protection of Human Rights Defenders and Journalists and the precautionary protection systems of the inter-American system. That said, the IACHR's recommendation under analysis is comprehensive and also includes all those persons who are involved generally in the process of seeking and imparting justice, not just in the framework of the aforementioned mechanism. Likewise, the recommendation also includes two additional components—one related to access to case files by persons seeking justice and the other the imposition of sanctions for retaliation—regarding which the State provided no information that would allow analysis of the level of compliance. Therefore, the IACHR finds that this recommendation remains pending compliance.

138. As regards the **recommendation to adopt specific protection measures for justice operators according to their particular needs and in consultation with them**, the State reported that, based on application of the General Agreement of the Plenary of the Federal Judicial Council on the Assignment, Implementation, and Removal of Security Measures for Public Servants in the Judicial Branch, in 2020, it issued 192 risk assessments to public servants of the Judicial Branch of the Federation and assigned 171 security measures, of which 158 refer to protection measures and 13 to assistance measures.<sup>187</sup>

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<sup>185</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 24.

<sup>186</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 25.

<sup>187</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 12.

139. In this regard, the CMDPDH referred to the unfortunate murder of federal judge Uriel Villegas and his wife, Verónica Barajas. The judge handled cases involving organized crime, and it therefore pointed to a need for specialized courts to handle high-impact and high risk matters by offering protection to those involved in the process. For the IACHR the protection of judicial officers should be taken on as an effective policy of prevention and protection that should include prompt, exhaustive, and diligent investigations of the threats, harassment, assaults, and other acts of intimidation or interference in their work.<sup>188</sup>

140. With regard to the murder of Judge Villegas and Ms. Barajas, the Commission reminds the State of its obligations to guarantee the work of justice officials. Without taking away from this, the Commission observes that during the reporting period, measures of protection have been adopted for justice officials. In view of the foregoing, the IACHR considers that the recommendation remains met with partial compliance.

141. Regarding the recommendation on **implementation of the General Law of Victims and the functioning of the Executive Commission of Attention to Victims**, the State reported on the creation, establishment, and strengthening of 24 State Victim Support Commissions (CEEAVs) as of September 2020 in the states of Chiapas, Chihuahua, Ciudad de México, Coahuila de Zaragoza, Colima, Durango, Guerrero, Jalisco, Estado de México, Michoacán, Morelos, Nayarit, Nuevo León, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán, and Zacatecas. The State also indicated that in Campeche, the Institute on Access to Justice of the State of Campeche (INDAJUCAM) is in charge of victim support. The State also indicated that two virtual meetings were held in the consultative assembly of the CEAV pursuant to the provisions of the General Law.<sup>189</sup>

142. In its observations on the draft of this report, the State reported that the CEAV has prepared two manuals, addressed to its personnel, called the “Handbook of Guarantees of Non-Repetition in Torture” and the “Handbook of Collective Reparations”.<sup>190</sup>

143. Regarding this, the IACHR reiterates its concern over CEAV funding and ensuring it has the resources to do its work, in the context of the elimination of the modality of expenditure through trusts without it being clear how the CEAV will be funded.<sup>191</sup> On this point, the Centro PRODH indicated that according to the National Victims Registry (RENAVI), there were more than 37,000 victims registered during 2019-2020. Also, 285 resolutions have been issued on access to assistance, 109 of which are collective resolutions for food, medical care, lodging, school scholarships, medical expenses, funeral expenses, publication and notice expenditures, security measures, psychological rehabilitation, expert witnesses, and transportation, for a total of 8,643 victims.<sup>192</sup> Along with this, according to public information from September 2020, the Federation Budget Bill for 2021 would reduce CEAV resources by 12% compared to the 2015 budget, when the institution was created.<sup>193</sup>

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<sup>188</sup> IACHR, [Guarantees for the Independence of Justice Operators \(2013\)](#), Para. 146 and following.

<sup>189</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 25 - 26.

<sup>190</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 12.

<sup>191</sup> IACHR, <https://twitter.com/cidh/status/1319774612763242496>, October 23, 2020.

<sup>192</sup> Centro PRODH, follow-up information to the report “Human Rights Situation in Mexico,” 2015. Information sent on October 2, 2019, pg. 11.

<sup>193</sup> *El Economista*, [Recorte, para entender a víctimas](#), September 9, 2020.

144. Along with this, the CEAV issued a public communication indicating that the April 23, 2020, austerity decree would have disproportionate and harmful impacts on its functions. It announced it would have to paralyze support for victims, dismiss the staff, and suspend legal aid, among other harms.<sup>194</sup> However, the Office of the Treasury Secretary announced that the CEAV's funding would be guaranteed because the decree would protect human rights-related financing.<sup>195</sup> Despite this, the head of the CEAV submitted her resignation, and the families of victims held public demonstrations saying they would not be taken into account in the process for replacing the head of the entity, as stipulated in the General Victims Act.<sup>196</sup> The IACHR observes that the State has launched a process to select the individual to lead the Executive Commission.<sup>197</sup>

145. In this regard, the Commission observes that there has been progress on installing the CEEAVs for implementing the National System for Attention to Victims, provided for in the General Victims Act of 2013. That said, the IACHR also notes that 2020 has been a period of instability in terms of the CEAV's leadership, characterized by an ongoing emergency with regard to its budgetary viability. In this regard, the IACHR notes there is a perception that the institution has been weakened in terms of being able to provide support for the victims of human rights violations, many of which are the beneficiaries of the precautionary measures granted by the Commission. Based on the information analyzed, although the State is in the process of selecting a person to head the CEAV, because uncertainty with regard to the budget for doing its work persists, something that is directly related to the content of the recommendation, the Commission concludes that compliance with the recommendation remains partial, with serious obstacles that must be resolved quickly to avoid the possibility of regression.

146. As regards the recommendation concerning **accountability for gross human rights violations and the investigation and punishment of the acts committed during the period known as the Dirty War**, the State limited itself to reiterating the information communicated previously with regard to the adoption of a Plan for Providing Support and Reparations to Victims of past Political Violence in February 2019 by the CEAV.<sup>198</sup> For its part, the CMDPDH stated that accountability for crimes of the past cannot be comprised of isolated actions tending toward judicial erasure and the absence of justice for human rights violations. Furthermore, it expressed concern that the crimes of the past had not been adequately investigated, processed, or prosecuted.<sup>199</sup>

147. In its observations on the draft of this report, the State indicated that the Directorate of Strategies for the Attention of Human Rights of SEGOB designed a methodology and logistical proposal for consulting the victims of the "Dirty War" on mechanisms of collective reparations.<sup>200</sup>

148. In light of the information available, the IACHR takes the view that not enough progress has been made to determine compliance with this recommendation, and nor is it aware

<sup>194</sup> CEAV, [Austerity decree will paralyze the CEAV](#), June 2, 2020.

<sup>195</sup> *El Sol de México*, [Hacienda garantiza fondos para víctimas](#), June 4, 2020.

<sup>196</sup> *Proceso*, [Ignoran a familiares de desaparecidos para participar en relevo de la CEAV](#), June 23, 2020.

<sup>197</sup> SEGOB, [Public consultation to select candidates to lead the CEAV](#).

<sup>198</sup> IACHR, [Annual Report, Mexico](#), 2019, para. 146.

<sup>199</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 6.

<sup>200</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 12.

of the implementation status of the reparations plan mentioned. Therefore, the Inter-American Commission concludes that it continues to meet with partial compliance.

149. With respect to the recommendation to **strengthen the mechanism of protection for human rights defenders and journalists by guaranteeing its long-term economic sustainability and autonomy, as well as adopt measures of differentiated assessment and protection for beneficiaries**, the Mexican State reported that it had encouraged international cooperation for strengthening the Mechanism of Protection for Human Rights Defenders and Journalists (hereinafter the “Mechanism” or the “Mechanism of Protection”) with its equivalent bodies in Colombia, Guatemala, and Honduras, as well as with the United States Agency for International Development, the European Union, and the British Embassy.<sup>201</sup>

150. Additionally, the State recalled that the OACNDUH-MX performed a diagnostic of the functioning of the mechanism, the conclusions of which have enabled it to make some modifications. Among the main steps forward, Mexico highlighted the signing of agreements with state governments to channel matters to the state protection units, local mechanisms, and other institutions. Additionally, a work route was established to strengthen the Office on National Executive Coordination, based on: (i) the construction of a public policy on prevention focusing on addressing situations of risk and aggression against human rights defenders and journalists; and (ii) standardizing the processes for responding immediately to requests for inclusion and intervention, along with the preparation of risk analyses with differentiated approaches and gender perspectives.

151. The State also indicated that the mechanism’s Case Reception and Rapid Response Unit has worked to meet the legal deadlines set in the law on inclusion of an intervention in special cases and has attempted to shorten the time it takes to handle regular cases. Additionally, emergency response was added for days off and after hours, and it indicated that once the health emergency had concluded, the plan is to have more staff on hand at the mechanism’s facilities at all times.

152. Mexico added that, it has worked with PROVOCES and Protection International on a new risk methodology that incorporates integrated protection plans with differentiated approaches and a gender perspective. In the framework of these actions, training was provided on gender, masculinity, interview techniques, and victim support to sensitize, raise awareness, and strengthen staff capacity. Internal working sessions were also held to standardize risk analysis criteria. In August 2020, the new methodology was implemented across the cases to be presented to the cabinet.

153. Although the information reported is viewed positively, of particular concern to the Commission is the recent approval by the Congress of the Union of an order to amend a series of laws to end 109 public trusts,<sup>202</sup> including the trust for the Protection of Human Rights Defenders and Journalists, which supports measures of protection for more than 1,300 human rights defenders and journalists.<sup>203</sup> In this regard, civil society organizations have called the State’s attention to these reforms because the public trusts are the means of guaranteeing access

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<sup>201</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 26.

<sup>202</sup> Official Gazette of the Federation, [Decree reforming and repealing a series of provisions of the Protection of Human Rights Defenders and Journalists Act \(...\)](#), November 6, 2020.

<sup>203</sup> SERAPAZ, Bulletin: Indigenous rights; forced disappearances; human rights budget; six years after the disappearance of the 43 students, October 12, 2020.

to services, programs, and benefits based on rights without being affected by the passage of time, political will,<sup>204</sup> or a slowing of access to resources in the short term and during transitions between fiscal years due to administrative procedures.<sup>205</sup> The Commission also expressed concern in this regard and called on the State to specify the guarantees necessary to ensure independent, continuous, and effective operation of the mechanism's services.<sup>206</sup>

154. The Commission recalls that ensuring an adequate level of personnel trained to receive requests for protection, perform risk analyses, adopt and implement measures of protection, and carry out monitoring to ensure that implementation of the mechanism is adequate is an integral part of the State's political commitment to its program to protect human rights defenders and journalists. Accordingly, it is the IACHR's understanding that the State should provide the budgetary and logical resources necessary to ensure that the measures of protection can remain in effect while the risk persists, for which reason it is crucial for Mexico to specify the guarantees necessary to ensure the services offered by the Mechanism for the Protection of Human Rights Defenders and Journalists are independent, uninterrupted, and effective.

155. In view of the foregoing, the Commission expresses concern regarding the budgetary autonomy and financing modality of the mechanism. For these reasons, and due to the lack of progress, the IACHR concludes this recommendation continues to meet with partial compliance.

156. As regards the recommendation on **reform of the Military Justice Code**, the State reiterated the information on legislative changes to restrict military jurisdiction and ensure human rights violations are prosecuted before civilian courts.<sup>207</sup> Along with this, civil society organizations praised the fact that on August 7, 2020, in response to petition for *amparo* 14/2018, the First Chamber of the SCJN issued a ruling not binding to other courts<sup>208</sup> establishing that the nature of homicide prevents strict connection to military discipline, and therefore this crime is excluded from courts martial, including if the criminal offense is verified to have been committed in the course of military activities within military facilities, and with the active and passive subjects both being soldiers at the time of the facts.<sup>209</sup>

157. Without prejudice to this, the IACHR notes that constitutional challenge 46/2016 on the legality of reforms to the Military Code of Justice and the publication of the Military Code of Criminal Procedures remains pending resolution by the SCJN. In the opinion of the CMDPDH, the Congress of the Union lacks authority to issue a special criminal procedures law for the Armed Forces, and the aforementioned reforms expand military competence to cover

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<sup>204</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 9.

<sup>205</sup> SERAPAZ, Bulletin: Police violence during mobilizations; COVID-19 in indigenous communities; disappearances; protection for human rights defenders, June 24, 2020.

<sup>206</sup> IACHR, <https://twitter.com/cidh/status/1319774612763242496>, October 23, 2020.

<sup>207</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 30. IACHR, [Annual Report, Mexico](#), 2019, para. 150.

<sup>208</sup> SCJN, [Homicide. Excluded from the military courts established in article 13 of the Political Constitution of the United Mexican States](#), August 7, 2020.

<sup>209</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report "Human Rights Situation in Mexico," October 30, 2020, pg. 9.

civilian jurisdiction under the pretext of conducting investigations related to military legal rights.<sup>210</sup>

158. The Commission recalls starting with the 2017 Annual Report,<sup>211</sup> it has noted that this amendment of the Code remains pending, as the current legislation that does not fully meet inter-American standards remains in place, as has been noted by the Inter-American Court in supervising compliance with some judgments against Mexico.<sup>212</sup> Mindful of the foregoing, the Commission reiterates the need for the State to carry out that recommendation, which is still pending implementation, so that it is recognized that the military criminal jurisdiction does not apply to human rights violations, whether the victim is a civilian or member of the military.

159. Regarding the recommendations to **monitor the entry into force of the new criminal justice system and evaluate its effective implementation**, the State indicated that on January 10, 2020, the National Public Security Council decided to shut down the Executive Secretariat of the National Public Security System, shifting its functions as an operational link of the Executive Branch to the Justice System Support Unit of the Secretary of Interior Affairs.<sup>213</sup> As regards the effectiveness of training, Mexico reported that the personnel of the Federal Institute on Public Defense participated in 15 academic programs offered by the Institute of the Federal Judiciary, as well as seven training programs associated with the New Criminal Justice System (hereinafter the “NSJP”). Parallel to this, the Judicial School offered programs including a Master’s in the Accusatory Criminal Process, a certificate in Criminal Execution, and a certificate in Training and Preparation for the NSJP.<sup>214</sup>

160. Regarding effective evaluation of the implementation of the NSJP, the Mexican State indicated that in a general order published in the Official Gazette of the Federation on March 26, 2020, the Council of the Federal Judiciary made it mandatory to publish all federal criminal judgments, along with the implementation of a search tool for specialized judgments in the Adversarial Criminal Justice System. The State indicated that this system empowers citizens to review the public versions of judgments and thus exercise oversight of the work of the Judicial Branch of the Federation. Along with this, following a diagnostic performed by the presidents of the SCJN, an order of the General Council of the Federal Judiciary published on November 27, 2019 in the Official Gazette of the Federation reinstated judges working as administrators of the Federal Criminal Justice Centers to the jurisdictional function in order to fully take advantage of their training and experience and handle the significant review, trial, and execution workload.<sup>215</sup>

161. Lastly, the State underscored that work was being done on a program to draft, Judicial Guides on Conducting Hearings in coordination with the international office for the development of justice protection systems of the United States Embassy. The objective is to both

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<sup>210</sup> CMDPDH, Follow-up on Compliance with the Recommendations of the Report “Human Rights Situation in Mexico,” October 30, 2020, pg. 9.

<sup>211</sup> IACHR, [Annual Report, Mexico](#), 2017, para. 129.

<sup>212</sup> Inter-American Court, [Monitoring compliance with judgment, Cases Radilla Pacheco, Fernández Ortega et al., Rosendo Cantú et al. Mexico](#), April 17, 2015, para. 20; Inter-American Court [Monitoring compliance with judgment, Case of Cabrera García and Montiel Flores v. Mexico](#), June 24, 2020, para. 1.

<sup>213</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 30.

<sup>214</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 31.

<sup>215</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 31-32.

quantitatively and qualitatively improve the hearings in the accusatory criminal justice proceedings.<sup>216</sup>

162. For their part, civil society organizations expressed concern at statements of the Attorney General of the Republic to the effect that protection of the human rights of defendants led to impunity.<sup>217</sup> In particular, the Centro PRODH pointed to a legislative counter-reform bill leaked unofficially from the FGR which draw the attention of national and international nongovernmental organizations,<sup>218</sup> and even though no reform had been submitted, some reform initiatives in this regard were brought before the Senate<sup>219</sup>. On this matter, the IACHR observes that on October 7, 2020, a bill on the FGR and other laws was presented, which would have as a consequence the elimination of the participation of the FGR in multiple coordination and deliberation bodies on rights human rights, some limitations to the procedural rights of victims and their families, and restrictions on the functional autonomy of prosecutors, with a particular impact on the situation of migrants and the search for missing persons<sup>220</sup>. In this regard, the Commission called on the State to guarantee that any legislative amendment should be debated with broad citizen participation, applying the human rights approach and in a manner consistent with its international commitments on the matter<sup>221</sup>.

163. In addition to this, the Centro de Derechos de la Mujer de Chiapas ("CDMCH") expressed concern at a number of deficiencies of the New Criminal Justice System in the area of gender. Specifically, following the reform, many of the investigative functions were moved to the police in the prosecutors' offices, who continue to lack training on gender perspective and human rights. Also, the CDMCH underscored the ongoing criminalization and revictimization experienced by women at the hands of justice officials, particularly surrounding crimes of domestic violence and other crimes of physical, sexual, and psychological violence in which they only keep medical records rather than opening investigations.<sup>222</sup> Along with this, indigenous women face a lack of interpreters in prosecutors' offices, courts, and expert services, along with inadequate legal counsel.<sup>223</sup>

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<sup>216</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 32.

<sup>217</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pg. 7.

<sup>218</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pg. 7.

<sup>219</sup> Senate of the Republic, [Proyecto de proyecto de decreto por el que se expide la Ley de la Fiscalía General de la República y se abroga la Ley Orgánica de la Fiscalía General de la República](#), October 7, 2020.

<sup>220</sup> IACHR, [Press Realease – La CIDH llama a México a asegurar que cualquier modificación a la Ley Orgánica de la Fiscalía General de la República se debata con amplia participación ciudadana y se adecue a los compromisos internacionales en derechos humanos](#), Washington D.C., February 22, 2021 (only in spanish); Índice Político, [Presenta Ricardo Monreal expansión a ley de FGR](#), October 7, 2020; Office of the Secretary for Interior Affairs, [Necesario abrir debate público sobre reforma integral en materia de justicia: Alejandro Encinas Rodríguez](#), December 9, 2020; Animal Político, [Omisiones, retrasos y riesgo de retroceso a dos años de la ley que puso en marcha la FGR](#), December 14, 2020.

<sup>221</sup> IACHR, [Press Realease – La CIDH llama a México a asegurar que cualquier modificación a la Ley Orgánica de la Fiscalía General de la República se debata con amplia participación ciudadana y se adecue a los compromisos internacionales en derechos humanos](#), Washington D.C., February 22, 2021 (only in spanish);

<sup>222</sup> Centro de Derechos de la Mujer de Chiapas, Follow-up on Compliance with the Recommendations of the Report on the Situation of Human Rights in Mexico 2015, October 2020, pg. 7.

<sup>223</sup> Centro de Derechos de la Mujer de Chiapas, Follow-up on Compliance with the Recommendations of the Report on the Situation of Human Rights in Mexico 2015, October 2020, pg. 7.

164. In view of this information, the IACHR calls on the Mexican State to implement mechanisms for evaluating and following up on implementation of the New Criminal Justice System that permeate the different levels of government beyond the federal level, with special emphasis on training for public servants on human rights, the gender perspective, and response to different vulnerable groups. For these reasons, the IACHR concludes that compliance with this recommendation is partial.

## F. Groups in Particularly Vulnerable Situations

### 1. LGBT Persons

- Adopt necessary measures to investigate, punish and make reparation for acts of violence against LGBT persons, according to international standards regarding due diligence. Investigations of cases of violence against LGBT persons must be free of stereotypical notions of LGBT persons and should include a determination of whether the acts were because of the sexual orientation or gender identity of the victims.
- Adopt necessary measures in terms of prevention of violence, including legislative and public policies aimed at eradicating social discrimination towards LGBT persons, which causes and reinforces the violence based on prejudice.

165. Regarding the recommendation to **investigate, punish, and provide reparations for acts of violence against LGBT persons**,<sup>224</sup> the State's observations were oriented toward providing information on measures adopted for the LGBTI population in the context of the COVID-19 pandemic through CONAPRED. In this regard, the State indicated generally that it had provided guidance to young people facing hostility at home due to their sexual orientations and gender expression and identities. It likewise indicated that it had provided training to emergency personnel (#911) on sexual and gender diversity and encouraged the provision of prompt care without discrimination for LGBTI persons.<sup>225</sup>

166. The State also indicated that CONAPRED had conducted two online consultations with more than 300 civil society organizations on the difficulties they face, emergent services, and any potential action or concern related to discrimination. From January to September 2020, CONAPRED documented 28 case files of complaints classified as alleged acts of discrimination related to LGBTI persons, of which 22 were attributed to private parties and 6 to State agents.

167. With regard to this recommendation, Fundación Arcoíris pointed to a lack of information indicating whether investigations looked into whether violence was committed based on sexual orientation, gender identity, and/or gender expression. Likewise, according to the organization's Hate Crimes Observatory, only 13 states<sup>226</sup> have explicitly codified the murders

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<sup>224</sup> Although the 2015 report used the acronym "LGBT" to refer to the group of lesbian, gay, bisexual, and transgender persons, the IACHR notes that in later documents, the IACHR refers to the group as "LGBTI," with the "I" standing for intersex persons. Considering that the State also uses the acronym "LGBTI," this is the term that will be used in this report.

<sup>225</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 32.

<sup>226</sup> Mexico City, Baja California Sur, Colima, Coahuila, Guerrero, Michoacán, Nayarit, Puebla, Querétaro, Jalisco, San Luis Potosí, Veracruz, and Aguascalientes.

of LGBTI persons in their criminal codes as hate crimes.<sup>227</sup> According to Fundación Arcoíris, for every hate crime reported there are at least three that remain invisible. Between January and June 2020, the Observatory documented 25 hate crimes in 10 states.<sup>228</sup> The foundation has documented a total of 209 hate crimes since 2014. According to its research, in 41% of the cases, it is unknown whether anyone was arrested; and of the other 59%, no one has been arrested for a crime in almost 70% of cases.<sup>229</sup>

168. The Commission learned of death that took place in violent circumstances,<sup>230</sup> homicides,<sup>231</sup> disappearances,<sup>232</sup> and attacks<sup>233</sup> on the integrity of LGBTI persons during 2020. The IACHR took note of public information on the violent killing of a 34-year-old homosexual man who was an activist on the rights of LGBTI persons. According to the Office of the Public Prosecutor of Morelos, his body showed signs of abuse and a message of hate was left with the body. The prosecutor stated that an investigation had been opened into the incident as a hate crime.<sup>234</sup>

169. Although the IACHR views it as important that the State has taken several measures to protect the rights of LGBTI persons through programmatic instruments, manuals, and international instruments, the content of the recommendation under analysis includes a component associated with due diligence in the investigation of acts of violence against LGBTI persons. In this regard, the information provided does not allow for evaluation of compliance with the recommendation, especially considering that the information received by civil society organizations and situations documented by the IACHR during its monitoring work show no indication of a trend towards due diligence in the investigation of violent crimes against the LGBTI population. In view of this information, the IACHR concludes that the recommendation continues to meet with partial compliance.

170. With respect to the recommendation urging the State **to adopt violence prevention measures aimed at eradicating social discrimination towards LGBT persons**, the State pointed to the publication of "Resources against discrimination and violence based on sexual orientation, gender identity, or gender expression in the context of COVID-19," as described in the previous section. The State reported that, in the framework of the National Day on the Struggle against Homophobia, Lesbophobia, Biphobia, and Transphobia, the CONAPRED highlighted the context of discrimination based on sexual orientation, gender identity, and gender expression that persists in Mexico and reiterated the call to disassociate the origin of the COVID-19 from homosexuality; reported on the guidance provided to young LGBTI persons; underscored the particular difficulties facing LGBTI persons and organizations during the state of emergency;

<sup>227</sup> Fundación Arcoíris, Report on the Human Rights Situation in Mexico for the IACHR, October 24, 2020, pgs. 4-5. Fundación Arcoíris, [National Observatory on Hate Crimes against LGBT Persons](#), June 2020.

<sup>228</sup> Baja California (6), Chihuahua (37), Coahuila (14), Mexico City (13), Guerrero (22), Jalisco (10), Michoacán (28), Nuevo León (12), Puebla (18), and Veracruz (49).

<sup>229</sup> Fundación Arcoíris, [National Observatory on Hate Crimes against LGBT Persons](#), June 2020. 19 and 31.

<sup>230</sup> IACHR, <https://twitter.com/CIDH/status/1274165649019936768>, June 19, 2020.

<sup>231</sup> *Agencia Presentes*, [En dos meses asesinaron a tres mujeres trans en Michoacán](#), March 13, 2020; *Agencia Presentes*, [Jóvenes en México alzan la voz y reclaman por 5 crímenes LGBT en dos semanas](#), August 27, de 2020.

<sup>232</sup> *Agencia Presentes*, [Denuncian ante la ONU la desaparición de dos mujeres trans en Jalisco](#), October 9, 2020.

<sup>233</sup> *El Heraldo México*, [Policías" queman a compañera en Chiapas por confesar que es lesbiana](#), March 31, 2020.

<sup>234</sup> Office of the Public Prosecutor of Morelos, [Official release on the discovery of a body in the Municipality of Cuernavaca](#), August 26, 2020.

and reiterated the Council's openness to receiving complaints of acts of discrimination against LGBTI persons in the context of the pandemic. Likewise, in the framework of the emergency, the State reported on the adoption of the "Bioethics Guide on Allocating Limited Critical Medical Resources during Emergency Situations," which states explicitly that neither sexual orientation nor gender identity can be reasons for discrimination when allocating medical care resources.<sup>235</sup>

171. For its part, the CNDH reported to the Commission that the Center on Constitutional Studies of the SCJN published in July 2020 a case law review on the rights to sexual diversity (Review 2)<sup>236</sup>. The CNDH also highlighted that the CEAV had adopted its institutional program 2020-2024, which included the LGBTI population as a target group of policies on reparations for human rights violations. It noted that in March 2020, the CONAPRED had issued the "Guidelines for Preventing Discrimination by Ministries of Religion,"<sup>237</sup> addressed to the General Secretariat of the Mexican Episcopate, suggesting Catholic leaders to commit on addressing discrimination. It also published the document "Resources for the Struggle against Discrimination and Violence Based on Sexual Orientation, Gender Identity, or Gender Expression in the Context of COVID-19,"<sup>238</sup> to ensure that LGBTI persons are able to access health services without discrimination.<sup>239</sup>

172. The CNDH also indicated that Mexico had ratified and deposited its international instrument to join the Inter-American Convention against All Forms of Discrimination and Intolerance, which explicitly recognizes sex, sexual orientation, gender identity, and gender expression as motives for discrimination.<sup>240</sup>

173. Likewise, according to the most current information provided by Fundación Arcoiris, since the adoption of the Federal Law on the Prevention and Elimination of Discrimination in 2003, 25 states have added an antidiscrimination clause to their local constitutions, while only 19 of them have codified discrimination as a criminal offense.<sup>241</sup> Likewise, according to national studies conducted by Fundación Arcoiris and the CEAV on discrimination against LGBTI persons, in 2018, 30.4% of the LGBTI persons surveyed said they had been discriminated against in health services;<sup>242</sup> 52%, in educational spaces; almost 50% said they did not receive the same treatment as heterosexual persons in the workplace;<sup>243</sup> 17% said they had been arbitrarily detained for being LGBTI;<sup>244</sup> and 39.7% reported aggressions

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<sup>235</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 33.

<sup>236</sup> SCJN, [Caselaw Monographs, No. 2. The rights to sexual diversity](#), July 2020.

<sup>237</sup> *Quadratin México*, [Conapred emite lineamientos por discriminación de religiosos a LGBT: PRD](#), March 23, 2020.

<sup>238</sup> CONAPRED, [Resources against discrimination and violence based on sexual orientation, gender identity, or gender expression in the context of COVID-19](#), May 20, 2020.

<sup>239</sup> CNDH, Submission from the CNDH 2020, pgs. 15-17.

<sup>240</sup> CNDH, Submission from the CNDH 2020, pgs. 15-17.

<sup>241</sup> Fundación Arcoiris, Report on the Human Rights Situation in Mexico for the IACHR, October 24, 2020, pg. 5.

<sup>242</sup> Fundación Arcoiris, [National diagnostic on discrimination against LGBTI persons in Mexico, right to health](#), November 2018.

<sup>243</sup> Fundación Arcoiris, [National diagnostic on discrimination against LGBTI persons in Mexico, right to education](#), November 2018.

<sup>244</sup> Fundación Arcoiris, [National diagnostic on discrimination against LGBTI persons in Mexico, right to work](#), November 2018.

committed by State agents.<sup>245</sup> Fundación Arcoíris indicated that following the elimination of the National Program on Equality and Nondiscrimination 2014-2018, it was not clear which entity was in charge of the national Registry on crimes based on sexual orientation, gender identity, and ethnic-national origin.<sup>246</sup>

174. As regards the recognition of the right to gender identity, the IACHR noted that only 12 federal entities have adopted legislation to guarantee this right: Mexico City, Chihuahua, Coahuila, Colima, Hidalgo, Michoacán, Nayarit, Oaxaca, San Luis Potosí, Sonora, and Tlaxcala, although these laws do not cover trans children.<sup>247</sup> Additionally, as regards laws prohibiting conversion therapy (attempts to correct the sexual orientation and gender identity) the Commission learned that they were prohibited in Mexico City and codified as a criminal offense there as well.<sup>248</sup>

175. In 2020, the states of Puebla<sup>249</sup> and Tlaxcala<sup>250</sup> amended their civil legislation to recognize equal marriage, joining a list of 20 federal entities that allow marriage regardless of sex. However, 12 federal entities still had not approved it.<sup>251</sup> The IACHR has noted that the State of Mexico still has discriminatory legal requirements that prohibit the marriage of bisexual persons or persons with "incurable impotence" that could, for example, affect intersex persons.<sup>252</sup>

176. In light of the above, the IACHR concludes that compliance with this recommendation has been partial. In this regard, the IACHR reiterates its appeal to the State to continue its work to prevent and investigate violence committed against LGBTI persons by adopting affirmative measures that fight the structural causes of violence based on prejudices against these persons. Likewise, although the Commission recognizes the progress made in adopting legislation to protect the rights of the LGBTI population with the passage of new laws on gender identity, equal marriage, and the prohibition of conversion therapy, these steps forward are partial and on a state-by-state basis, and are not national in scope. Lastly, the IACHR underscores the work of the CONAPRED in fighting discrimination against LGBTI<sup>253</sup> persons and urges the State to strengthen its institutions so it can continue leading the work of eradicating discrimination in Mexico.

## 2. Women

- Implement and strengthen measures that incorporate a gender perspective to comply with the duty to act with due diligence to prevent, punish and eradicate

<sup>245</sup> Fundación Arcoíris, [National diagnostic on discrimination against LGBTI persons in Mexico, right to security and access to justice](#), November 2018.

<sup>246</sup> Fundación Arcoíris, Report on the Human Rights Situation in Mexico for the IACHR, October 24, 2020, pgs. 5.

<sup>247</sup> Fundación Arcoíris, Report on the Human Rights Situation in Mexico for the IACHR, October 24, 2020, pg. 7.

<sup>248</sup> Congress of Mexico City, [The Congress of Mexico City approves amendments of the Penal Code to codify "conversion therapy" as a criminal offense](#), July 24, 2020.

<sup>249</sup> *El Financiero*, [Congreso de Puebla aprueba el matrimonio igualitario](#), November 3, 2020.

<sup>250</sup> *Milenio*, [Aprueban matrimonio igualitario en Tlaxcala](#), December 8, 2020.

<sup>251</sup> Durango, Estado de México, Guanajuato, Guerrero, Querétaro, Sinaloa, Sonora, Tabasco, Tamaulipas, Veracruz, Yucatán, and Zacatecas.

<sup>252</sup> *Homosensual*, [Bisexuales e impotentes no pueden casarse en Edomex](#), October 8, 2020.

<sup>253</sup> IACHR, <https://twitter.com/CIDH/status/1274108183083192320>, June 19, 2020.

violence and discrimination against women, including specific efforts to comply with the obligation to prevent, investigate, punish and repair human rights violations against women; this includes training and monitoring of the authorities in charge of stages beginning with the investigation, including health services in the context of justice.

- Adopt necessary measures to prevent, punish and eradicate acts of sexual violence and other forms of violence, torture and cruel, inhuman or degrading treatment by security forces against women, especially those who are deprived of liberty.
- Implement uniform protocols approved by justice administration authorities for crimes related to violence against women, as well as a proper supervision of their implementation.
- Adopt public policies aimed at restructuring stereotypes regarding the role of women in society and promote the eradication of socio-cultural patterns of discrimination that impede their access to justice, including training programs and integral policies for the prevention of violence against women.
- Design and implement culturally adequate policies, with the participation of indigenous women, and apply a comprehensive and holistic focus that has as its objective prevention, investigation, punishment and reparation of acts of violence and discrimination committed against them.

177. **As regards implementing and strengthening measures to comply with the obligations to act with due diligence to prevent, punish, and eradicate violence and discrimination against women**, the State reported that the National Commission for Preventing and Eradicating Violence Against Women (hereinafter “CONAVIM”) launched two processes to select Women’s Justice Centers (hereinafter the “CJMs”) for 2020 accreditation, as well as to renew the 2018 certification of the CJMs in the Institutional Integrity System. In this regard, the State indicated that these processes are a mechanism for monitoring the operations, quality, and efficiency of the services the CJMs offered to women and girls who are victims of violence. They also aid in coordination with State authorities on prevention and support programs. According to information provided by the State, so far, 20 CJMs have been certified, and 17 more have renewed their certifications.<sup>254</sup> For their part, civil society organizations reported during a public hearing before the Commission on structural problems with the CJMs caused by a lacking legal structure and absence of financing, as well as a lack of services accessible to women who live in rural areas, women who use drugs, and women with disabilities.<sup>255</sup>

178. Along with this, the State reported that it currently has 21 active Gender Violence against Women Alerts (hereinafter “AVGMs”) in 18 states: 19 for femicide and 2 more for comparable crimes, for which Interagency and Multidisciplinary Groups (hereinafter the “GIMs”) have been set up to monitor the situation. The State said that 40 working meetings of the GIMs had been held in which, in collaboration with organized civil society, the actions taken by state and municipal governments were analyzed, leading to the release of seven technical reports.<sup>256</sup> In his additional observations, the State indicated that in 2020 it held 54 work meetings of the Inter-institutional and Multidisciplinary Groups (GIM) for the analysis, with civil

<sup>254</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 34.

<sup>255</sup> IACHR, [Public Hearing – Human Rights Institutions in Mexico with a Gender Perspective](#), 178th Period of Sessions, December 4, 2020.

<sup>256</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 34.

society, of the actions taken by state and municipal governments in relation to alerts, issuing six technical opinions.<sup>257</sup>

179. For its part, the CNDH reported on its active participation in the AVGM follow-up groups, noting that the mechanism has made it possible to bring together the efforts of all three levels of government and civil society. Despite this, the CNDH expressed concern at the resistance of 10 state governments to declaring AVGMs, flouting the General Law on Women's Access to a Life Free of Violence.<sup>258</sup> Parallel to this, the CNDH emphasized the need to review and analyze the functioning of the AVGMs in view of the challenges that have arisen in recent years, especially the worsening of femicidal violence that has led to an increase in the average number of women murdered per day, from 7 in 2017 to 10.6 in 2020.<sup>259</sup> In this regard, the CNDH highlighted the efforts made by the Mexican State to harmonize the federal and local criminal offenses of femicide,<sup>260</sup> although it also indicated that the creation of a trustworthy registry on the crime of femicide remains a challenge and a pending task for the State.<sup>261</sup>

180. As regards femicidal violence, the IACHR notes with concern that, according to the information provided by the Observatorio Ciudadano Nacional del Femicidio, between January 1 and November 25, 2020, 2,874 women and girls were murdered in Mexico, with only 26% of the cases (724) investigated as femicides.<sup>262</sup> Parallel to this, the Commission observes that between January and October 2020, 13,867 incidents of sexual violence have been reported in Mexico.<sup>263</sup> The Commission reiterates the importance of ensuring that investigations into gender-based violence are conducted with a gender perspective and an intersectional approach. It also reminds the State of its obligation to establish the conditions necessary to enhance effective access to justice for women and girls, as well as reduce high rates of impunity.

181. Additionally, the State also reported that, between the months of October 2019 and September 2020, the Gender Unit of the CONAVIM conducted numerous training activities on gender, the human rights of women, awareness-raising for the prevention of sexual harassment, violence prevention, workplace violence prevention, the intersectionalization of the gender perspective, and inclusive and nonsexist language, all to the benefit of 3,935 public servants (2,321 women, 1,562 men, and 52 people who did not indicate sex).<sup>264</sup>

182. Additionally, the Commission learned of a decree reducing the budget of all federal government entities and institutions by 75%. In this regard, under Article 41 of the American Convention on Human Rights, the Commission asked the Mexican State for more information on the reduction of the federal budget for equality between women and men and the specific impacts it would have on the rights of indigenous and Afro-descendant women in Mexico. In response, the State indicated that budget adjustments had to be made in response to the

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<sup>257</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 13.

<sup>258</sup> CNDH, Submission from the CNDH 2020, para. 82.

<sup>259</sup> CNDH, Submission from the CNDH 2020, para. 80 – 81.

<sup>260</sup> CNDH, Submission from the CNDH 2020, para. 71 – 72.

<sup>261</sup> CNDH, Submission from the CNDH 2020, para. 74.

<sup>262</sup> Observatorio Ciudadano Nacional del Femicidio, [Press Release – Mexico succumbs to femicidal violence: OCNF](#), November 25, 2020.

<sup>263</sup> Observatorio Ciudadano Nacional del Femicidio, [Press Release – Mexico succumbs to femicidal violence: OCNF](#), November 25, 2020.

<sup>264</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 34 – 35.

COVID-19 health emergency.<sup>265</sup> However, the State noted that three types of actions were included in fiscal year 2020 promoting equality and guaranteeing the protection and promotion of the rights of women and girls: (i) actions to promote equality between men and women; (ii) actions to promote the eradication of gender-based violence; and (iii) actions to promote the eradication of all forms of gender discrimination.<sup>266</sup>

183. As regards the increase in violence against women and girls due to confinement during the health emergency, the State recognized that isolation had inhibited the filing of complaints for violence due to cohabitation with aggressors. However, the State identified a significant increase in phone calls reporting incidents of violence in Yucatán, Zacatecas, Tamaulipas, and Sonora. The State also noted that the calls for help showed patterns of physical violence triggered by a combination of violence and the consumption of alcohol with frustration over finances, work, and uncertainty.<sup>267</sup>

184. As regards the measures adopted by the State to address gender-based violence, the Commission was informed of: (i) the establishment of an emergency hotline by the State women's institutes for acts of gender-based violence; (ii) the development of a guide to responding to situations of domestic violence against women and girls, with recommendations for identifying special situations of risk to their physical integrity; (iii) the preparation of a directory listing the Women's Justice Centers; and (iv) the request to the 32 state judiciaries that they take the measures necessary to keep duty courts running to protect the right of girls and women to access to justice and to live free of violence.<sup>268</sup> As regards this latter measure, the civil society organizations had documented that 84.4% of judicial authorities had suspended their work without providing for duty courts for staff for handling legal remedies intended to prevent or halt violence, such as criminal measures of protection, precautionary measures on domestic matters, criminal or domestic orders of protection, and family harmony centers.<sup>269</sup>

185. The State also highlighted the Program to Support Women's Agencies in Federal Entities, which improved telephone support through coordination of the IMEF hotlines with #911, as well as providing psychological and legal support telephonically. It also pointed to the Specialized Refugee Support Program for Women Victims of Gender-Based Violence and Their Children, which has 61 shelters and 34 care centers in 28 states.<sup>270</sup>

186. In addition to the foregoing, the IACHR has learned of numerous complaints regarding restrictions on the right to social protest in the context of feminist rallies in Mexico. Civil society organizations reported that, throughout 2020, in at least ten feminist rallies they were registered encapsulations during the mobilizations; criminalization, threats and intimidation against women activists and protesters; excessive use of force and arbitrary

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<sup>265</sup> Request for information on reduction of the budget of expenditures on equality between men and women of the Federal Budget and the specific effects it would have on the rights of indigenous and Afro-descendant women, pg. 1. [Hereinafter: "Response of the Mexican State regarding the reduction of the budget for gender equality"]

<sup>266</sup> Response of the Mexican State regarding the reduction of the budget for gender equality, pg. 1.

<sup>267</sup> Response of the Mexican State regarding the reduction of the budget for gender equality, pg. 3.

<sup>268</sup> Response of the Mexican State regarding the reduction of the budget for gender equality, pg. 3-4.

<sup>269</sup> IACHR, [Public Hearing – Human Rights Institutions in Mexico with a Gender Perspective](#), 178th Period of Sessions, December 4, 2020.

<sup>270</sup> Response of the Mexican State regarding the reduction of the budget for gender equality, pg. 6-7.

detentions; sexual violence; and hate speech on social media.<sup>271</sup>In this regard, the Commission was informed that on July 10, 2020, in Guanajuato, security agents dissolved without protocol a protest by mothers of disappeared persons in which several people were injured and at least four of them were hospitalized. In addition, four women were arrested and prosecuted for the crime of attacks on public roads and injuries, although they were later released.<sup>272</sup> On the other hand, civil society organizations reported that on August 22, 2020, in León, Guanajuato, elements of the municipal police violently repressed a protest called to demand justice because of a case of sexual violence. Women protesters, including girls, were beaten, threatened, teased with gender stereotypes, and even complaints of sexual torture were registered<sup>273</sup>.

187. Likewise, on June 6, 2020, the IACHR expressed its concern over the allegations of mistreatment of adolescent women committed by state security agents in the framework of a protest in Guadalajara, Jalisco, over the murder of Giovanni López.<sup>274</sup> On the other hand, on September 23, 2020, the IACHR condemned the excessive use of force by security agents in the eviction and detention of protesters for the seizure of the facilities of the *Comisión Estatal de Derechos Humanos del Estado de México* motivated by the increase and impunity regarding gender violence. In this regard, the Commission called on the State to carry out a diligent investigation into the use of physical violence and gender-based violence in the eviction operation, as well as the complaints of mistreatment committed against detained persons, especially against children and adolescents, and reminded the State of its obligation to guarantee social protest and the rights to freedom of expression and peaceful assembly that make visible the demands of groups such as women who suffer discrimination and who have traditionally been silenced.<sup>275</sup> On the other hand, the Commission also rejected the disproportionate use of force in repression by security agents during a peaceful demonstration against the increase and impunity of gender violence that occurred in Cancún, Quintana Roo, on November 9, 2020. The IACHR reminded the State of the prohibition of the use of indiscriminate shooting and principle of maximum restriction of firearms in contexts of social protest, and urged the State to investigate promptly, diligently and exhaustively, with a gender perspective, complaints of excessive use of the force.<sup>276</sup> The IACHR learned of subsequent complaints of sexual violence, threats, and other attacks against detained women.<sup>277</sup>

188. In view of the foregoing, the IACHR recognizes the efforts made by the State, although it notes with concern the increase in violence against women and girls, especially in contexts of social protest. The Commission calls on the State to intensify its actions, including concrete efforts to comply with the obligations of prevention, investigation, punishment and reparation of violations of the human rights of women, as well as to generate public policies in order to prevent risk factors and, at the same time, strengthen institutions so that they can

<sup>271</sup> Centro de derechos humanos Miguel Agustín Pro Juárez y otros, *Uso excesivo de la fuerza y otras restricciones a la protesta social feminista en México durante 2020*, December 23, 2020, pg. 2 – 3.

<sup>272</sup> Centro de derechos humanos Miguel Agustín Pro Juárez y otros, *Uso excesivo de la fuerza y otras restricciones a la protesta social feminista en México durante 2020*, December 23, 2020, pg. 4 – 5.

<sup>273</sup> Centro de derechos humanos Miguel Agustín Pro Juárez y otros, *Uso excesivo de la fuerza y otras restricciones a la protesta social feminista en México durante 2020*, December 23, 2020, pg. 5.

<sup>274</sup> IACHR, <https://twitter.com/cidh/status/1269458561794543616?s=12>, June 6, 2020.

<sup>275</sup> IACHR, [La CIDH condena actos de violencia en el desalojo y detención de manifestantes en el local de la Comisión de Derechos Humanos del estado de México.](#), September 23, 2020.

<sup>276</sup> IACHR, <https://twitter.com/CIDH/status/1326532719501864965>, November 11, 2020.

<sup>277</sup> Animal Político, *Mujeres detenidas durante protesta en Cancún denuncian agresiones sexuales de los policías*, November 11, 2020; Centro de derechos humanos Miguel Agustín Pro Juárez y otros, *Uso excesivo de la fuerza y otras restricciones a la protesta social feminista en México durante 2020*, December 23, 2020, pg. 7.

provide an effective response to cases of violence and discrimination against women.<sup>278</sup> In particular, the IACHR reminds the State of its obligations to respect and provide adequate care to victims of gender-based violence and their families, as well as its duty to guarantee social protest and the exercise of the rights to freedom of expression and the peaceful assembly. The Commission calls on the State to generate, based on the foregoing, the Commission observes that the recommendation remains in partial compliance.

189. Regarding the recommendation to **adopt necessary measures to prevent, punish and eradicate acts of sexual violence and other forms of violence, torture and cruel, inhuman or degrading treatment by security forces against women, especially those who are deprived of liberty**, the State reported that, in the framework of the 41st session of the National System on Preventing, Responding to, Punishing, and Eradicating Violence against Women, the establishment of a working group for following up on cases of sexual torture of women in Mexico was submitted for approval. The agreement aims to designate CONAVIM as the unit responsible, which will enable it to enhance and manage the resources of the working group and sign cooperation agreements with agencies that are not part of the system and whose intervention may be necessary to fulfill its objectives. The State underscored the close relationship between this proposal and the judgment of the Inter-American Court in the case of *Women Victims of Sexual Torture in Atenco v. Mexico*.<sup>279</sup>

190. For its part, the Centro PRODH reported that a lack of resources allocated to the Mechanism for Follow-Up on Cases of Sexual Torture Committed against Women has led to judgments in only three cases of sexual torture in its five years of operation. The Centro PRODH expressed concern at the possibility that the Office of the Attorney General of the State of Mexico may be working to block the State from unifying criminal investigation.<sup>280</sup>

191. Although the IACHR views the proposal to create a working group as valuable, the information submitted does not allow for evaluation of compliance with the recommendation. The Commission recalls that the content of the recommendation includes adopting legislative, judicial, administrative, and other measures to prevent, punish, and eradicate sexual violence, with special emphasis on women deprived of liberty. In view of the information available, the IACHR concludes that compliance with this recommendation is still pending.

192. The Commission also received information from the State regarding its **recommendation to implement uniform protocols approved by the administration of justice authorities for crimes related to violence against women, as well as ensure proper supervision of their implementation.**

193. Regarding this, the State reminded the Commission of the process to update the SCJN's "Protocol for Prosecuting with a Gender Perspective," launched in 2019. In this regard, it reiterated that the update was based on a consultative process that included the participation of members of civil society, academia, and justice officials, revealing the impact and use of the protocol in the day-to-day work of users, identifying areas of opportunity for the tool, and

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<sup>278</sup> IACHR, [Estándares y recomendaciones. Violencia de género y discriminación contra mujeres, niñas y adolescentes](#), párr. 68 – 81.

<sup>279</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 35.

<sup>280</sup> Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019, pgs. 12-13.

recognizing the needs that persist. Along these lines, the State indicated that the protocol is being drafted and is expected to be published by the end of 2020.<sup>281</sup>

194. For its part, the CNDH indicated that at the federal level, the protocol on prosecutorial, police, and expert witness investigation with a gender approach for the crime of femicide is in place, although it noted that its availability varies by state.<sup>282</sup> In this regard, the CDMCH pointed to a number of structural problems that impede its proper implementation: (i) the lack of multidisciplinary teams to address violence against women and investigate femicides; (ii) inadequate training on gender-based crimes, along with the constant rotation of staff within institutions, complicating specialization and case follow-up; (iii) lack of the forensic medical personnel or teams needed to process the evidence necessary for investigations; and (iv) a lack of administrative or criminal repercussions for officials to discriminate and exercise institutional violence against women and their families seeking justice.<sup>283</sup>

195. At the same time, the State informed the Commission of the establishment of technical roundtables on access to justice for women and girls in cases of violent death. They included the participation of the Attorney General's offices from states, in coordination with the women's support offices, to build spaces for interagency networking to help authorities address issues in the investigation of the violent deaths of women and girls and to encourage the inclusion of a gender perspective in police, prosecutorial, and judicial actions. During the first quarter of 2020, there were 11 roundtables set up—in Chiapas, Chihuahua, Ciudad de México, Coahuila, Estado de México, Morelos, Tabasco, Veracruz, Yucatán, Oaxaca, and Hidalgo—and they addressed issues including: (i) orders and measures of protection; (ii) investigation and litigation with a gender perspective; and (iii) children orphaned by femicide and harm reparation.<sup>284</sup>

196. The State also reported that in order to assess the situation surrounding the recognition of indirect victims of the crime of femicide, the 32 state prosecutors' offices were asked for differentiated information on children and adolescents orphaned by femicide (CAOF) identified during January through December 2019. Following this exercise, the State was able to identify 796 CAOF, along with the need for proper tools for supporting and providing differentiated and specialized services to CAOF, including immediate aid, support, care, and comprehensive harm reparations. The Mexican State reported that as a result of this, a Comprehensive Care Protocol for CAOF had been prepared for State justice authorities at all three levels of government and to the social policy and human rights protection authorities directly responsible for providing care to CAOF.<sup>285</sup>

197. The Commission notes positively this information and calls on the State to continue its efforts to ensure quick adoption and implementation of the protocols and to enhance the mechanisms for monitoring and supervising their implementation so as to inform the IACHR of its progress. It also urges the State to guarantee the economic, human, and technical resources necessary for proper application, especially for correcting the structural obstacles described by

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<sup>281</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 35-36.

<sup>282</sup> CNDH, Submission from the CNDH 2020, para. 73.

<sup>283</sup> Centro de Derechos de la Mujer de Chiapas, Follow-up on Compliance with the Recommendations of the Report on the Situation of Human Rights in Mexico 2015, October 2020, pg. 12.

<sup>284</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 36.

<sup>285</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 36-37.

civil society. In considering that support for effective adoption and implementation of the protocols remains necessary for full compliance with this recommendation, the IACHR observes that compliance remains partial.

198. Concerning the **recommendation to adopt public policies aimed at restructuring stereotypes regarding the role of women in society and promote the eradication of socio-cultural patterns of discrimination that impede their access to justice**, the State reported that as of September 10, 2020, in the framework of the Mexican Regulation on Labor Equality and Nondiscrimination,<sup>286</sup> 409 workplaces had been certified on pro-equality workplace practices and nondiscrimination, with an impact on 812,411 workers.<sup>287</sup>

199. The Commission was also informed of measures taken by the State in the framework of the COVID-19 health emergency. First, the State highlighted the implementation of the “Men living in harmony: During this emergency, caring makes the difference” campaign [*Hombres en sana convivencia: en esta contingencia, cuidar hace la diferencia*] to prevent an increase in domestic violence due to confinement. Second, it underscored the delivery by CONAPRED of a virtual seminar to raise awareness on the systematic inequality facing women in the workplace and at home, along with the publication of a document entitled “Pregnancy, maternity, and domestic labor: 9 myths and realities.”<sup>288</sup>

200. Lastly, the State provided information on an online course entitled “Caring is fatherhood: Men for coresponsibility and good treatment of families,” coordinated by CONAPRED, INMUJERES, SIPINNA, and UN Women. It consisted of six virtual sessions dealing with issues of men and care, health, and institutional changes to encourage men to do care work at home in the multiple types of families found in Mexico.<sup>289</sup>

201. In its observations on the draft of this report, the State reported that the INPI is developing the program “Attention to indigenous and Afro-Mexican women for the exercise of their rights” that seeks to promote the development of actions for the awareness and exercise of the rights of said population and, from the community spheres, to contribute to the substantive equality of men and women.<sup>290</sup>

202. Although it views the information reported positively, the Commission is concerned that the normalization and tolerance of violence against women and reiterates its observations on the increase in violence against women described previously in this report. The IACHR recalls that the adoption of public policies to change stereotypes on the role of women cannot be approached as isolated actions but must be combined in an integrated strategy that reaches all persons and takes a differentiated approach to diversity based on the target audience and the multiplicity of problems facing women in different regions of the country.<sup>291</sup> Based on the

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<sup>286</sup> Mexican Regulation NMX-R-025-SCFI-2015 on Labor Equality and Nondiscrimination.

<sup>287</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 37.

<sup>288</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 37 – 38.

<sup>289</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 37 – 38.

<sup>290</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 13.

<sup>291</sup> IACHR, [Standards and Recommendations regarding Violence and Discrimination against Women and Girls](#), para. 53 – 55.

information available, the IACHR observes that compliance with this recommendation is still pending.

203. As for the **recommendation to design and implement culturally adequate policies for preventing investigating, punishing, and making reparation for acts of discrimination against indigenous women**, the State reported that in the framework of the health emergency, CONAPRED continued with what it was doing to assist women victims of violence and their children, as well as with its intervention in grave or urgent cases. Regarding this, the Commission was informed that between March 26 and July 31, 2020, 18 cases<sup>292</sup> related to gender-based violence against women and children were handled,<sup>293</sup> and in six of them, precautionary measures were issued.

204. In the framework of the request for information submitted by the IACHR, the State reported that as a result of the COVID-19 health emergency, the National Institute on Indigenous Peoples requested and obtained authorization from the Department of the Treasury and Public Debt to amend its budget to enable it to handle basic activities, including support for the Indigenous and Afro-Mexican Women's Homes (hereinafter the "CAMIS"). In this regard, the State reported that more than 16.5 million Mexican pesos were allocated to 35 CAMIS so they could continue their work to prevent and address violence against indigenous and Afro-Mexican women and protect their sexual and reproductive rights. Along these lines, the State added that as of November 2020, it had a list of 47 promoters.<sup>294</sup> In addition, the IACHR learned of the inauguration of the first House for the development of Afro-Mexican Women in Santa María Cortijo, Oaxaca, which has a shelter for victims, as well as medical, psychological and legal care clinics<sup>295</sup>.

205. For its part, during a public hearing before the Commission, the representative of the Red de las Casas de la Mujer Indígena y Afromexicana (hereinafter "Red CAMIS") expressed concern at the moves by the State that have placed the operation and sustainability at the CAMIS in grave danger, thereby affecting the protection of the rights of indigenous and Afro-Mexican women. In this regard, it noted that the CAMIS have faced serious funding problems during 2020, leading to a reduction in services and the permanent closure of one of them. Parallel to this, the Red CAMIS reported that the resources for providing care to indigenous women have been reduced by the equivalent of US\$17.5 million in the 2021 budget.<sup>296</sup>

206. Along with this, the CDMCH expressed concern at the obstacles and violence facing indigenous women in terms of their access to justice through the Indigenous Judges for Peace and Reconciliation, as well as before the Office of the Indigenous Justice Public Prosecutor. Specifically, the main issues that the CDMCH identified as problematic were the coercion of victims to forgive perpetrators; the complicity of public servants with perpetrators; reconciliation between perpetrators and victims in domestic violence issues; and the refusal by

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<sup>292</sup> The State reported that, of the 18 cases handled: six were for psychological violence; 2 for physical and psychological violence; 2 for economic violence; 3 for sexual violence; and another 3 for other types of violence.

<sup>293</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 39.

<sup>294</sup> Response of the Mexican State regarding the reduction of the budget for gender equality, pg. 2.

<sup>295</sup> Office of the Secretary for Interior Affairs, [El INPI reconoce la lucha de las mujeres afromexicanas por el respeto a sus derechos fundamentales](#), March 6, 2020.

<sup>296</sup> IACHR, [Public Hearing – Human Rights Institutions in Mexico with a Gender Perspective](#), 178th Period of Sessions, December 4, 2020.

the Indigenous Judges for Peace and Reconciliation to intervene in cases of violence on the argument that it lacked jurisdiction.<sup>297</sup>

207. In its observations on the draft of this report, the State indicated that the FGR's Specialized Unit for Attention to Indigenous Affairs held, between August and December 2020, 24 virtual courses on the topic "How to identify gender-based violence in indigenous communities", which benefited 455 indigenous women and 167 indigenous men.<sup>298</sup>

208. Based on the information available, the Commission notes the lack of a structured and coordinated strategy for designing and implementing culturally appropriate policies for preventing, investigating, punishing, and making reparation for discriminatory acts against indigenous women, along with the reduction in the 2020 and 2021 budget for providing care to indigenous and Afro-Mexican women. In this context, the IACHR reiterates its recommendation to the State and urges it to channel all necessary efforts to adequately address the needs of indigenous women and Afro-Mexican women; to adopt the measures necessary for ensuring access to justice for all of them; to adopt policies that integrate a differentiated approach and gender perspective in carrying out its duty of due diligence; to generate properly disaggregated statistical data; and to report to the Commission on all of these points. Based on the foregoing, the IACHR observes that the recommendation has not yet met with compliance.

### 3. Children and Adolescents

- Develop operational protocols for the police regarding interventions involving children and adolescents, aimed at ensuring the protection of their rights.
- Implement and strengthen measures to fulfill the duty to act with due diligence to prevent, punish and eradicate violence against children and adolescents, including efforts to fulfill the obligations to prevent, investigate, punish and repair human rights violations and consider the corresponding aggravating factors related to the age of the victim.

209. As regards the recommendation to **develop operational protocols for the police regarding interventions involving children and adolescents**, the State reported that currently, the National System for the Comprehensive Protection of Children and Adolescents (hereinafter "SIPINNA") is working on developing a unified operational protocol on the detention of adolescents in violation of the law, as well as the incorporation of the issue of human rights of children and adolescents in the 2021 annual training program for operational and administrative staff of the National Guard.<sup>299</sup> The State also reported that an interagency working group, with the participation of the SNDIF, was working on drafting a protocol for interagency coordination for the protection of children and adolescents from all forms of violence, which includes the actions of first responders, the police among them. The State specified that the course "Training for 911 personnel and instructors on protection from violence against children and adolescents" was held, in which 1,210 people participated.<sup>300</sup>

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<sup>297</sup> Centro de Derechos de la Mujer de Chiapas, Follow-up on Compliance with the Recommendations of the Report on the Situation of Human Rights in Mexico 2015, October 2020, pg. 9.

<sup>298</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 13.

<sup>299</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 52.

<sup>300</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 14.

210. In addition to the foregoing, the State indicated that the SNDIF created the Directory of State Liaisons to achieve prompt, effective and timely attention to the requests generated by the 911 operational personnel and that it updated the Directory of Municipal Systems to provide with recent and accurate data on telephone numbers, emails, and hours of attention to reports of violence against children, information that was also shared with 911.<sup>301</sup>

211. In its observations on the draft of this report, the State indicated that it also adopted the “Comprehensive care protocol for children and adolescents who are victims of crime and in vulnerable conditions”. He also reported that the SNDIF, in collaboration with the Banking and Industrial Police of Mexico City, made contributions to the project of “Action Protocols for Public Servants in relation to adolescents in the Specialized Attention Center for Adolescents.”<sup>302</sup>

212. Despite these efforts, the IACHR has been informed of cases of violence committed against children and adolescents by police officers, such as the case in Guanajuato in which adolescent women were physically and sexually assaulted,<sup>303</sup> and in Oaxaca, where adolescents were physically assaulted by the police and one of them died.<sup>304</sup>

213. Additionally, the State reported that, in July 2020, a roundtable was held on the metrics of the National Strategy on Early Childhood Care, in which 86 public officials from the Committee and from the Development and Monitoring Working Group of the Commission on Early Childhood participated. Likewise, the State indicated that the SIPINNA delivered the 2019-2024 Work Plan to the National Statistics and Geography Institute (hereinafter “INEGI”), which calls for continuing to address the needs for information on the situation of children and adolescents in Mexico.<sup>305</sup>

214. The State reported that the support provided to victims who were minors is always accompanied by professionals who guarantee respect for the human rights of children and ensure that applicable laws are followed.<sup>306</sup> In this regard, the State indicated that the specialized shelter of the Office of the Special Attorney General for Crimes of Violence against Women and Human Trafficking (hereinafter “FEVIMTRA”) offers general social work, psychology, medical, nursing services, as well as a psycho-educational space for children with specialized psychologists that provide a personalized therapeutic space and a route for pediatric, psychiatric, rehabilitation, occupational therapy, and linguistic services. Thus, between October 1, 2019, and September 30, 2020, 16 children (10 girls and six boys) passed through that space, with an average stay of three months.<sup>307</sup>

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<sup>301</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 14.

<sup>302</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 13.

<sup>303</sup> *Pie de página*, “[Policías en Guanajuato torturan y agreden sexualmente a adolescentes](#)”, August 23, 2020.

<sup>304</sup> *Página 3*, “[Policías atacan a 4 menores de edad; uno fue ejecutado y le truncan sueño de ser futbolista, otro está grave](#)”, June 10, 2020.

<sup>305</sup> The State highlighted that among the objectives set forth in the 2019-2024 Work Program were to design and implement a workshop with state governments in coordination with the INEG on establishing the methodology of the Level 3 indicators, for which the states would be in charge of collecting the information; Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 53.

<sup>306</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 53.

<sup>307</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 53.

215. The State additionally reported that FEVIMTRA's Office on Institutional Partnerships provides specialized care to children who are victims of crimes of extreme gender-based violence and human trafficking using a differentiated approach, a gender perspective, and respecting the best interest of the child.<sup>308</sup> According to the State, the model for this care is the SCJN's "Operational Protocol for Justice Officials in Cases Involving Children and Adolescents."<sup>309</sup> In this respect, the State communicated that between October 2019 and September 2020, the FEVIMTRA provided emergency care to 115 children and adolescents (96 girls and 19 boys). The IACHR notes with concern the disparity between the number of girls and boys who request and received such care, suggesting as it does that girls face greater vulnerability and have a greater need for protection. It urges the State to investigate the reasons for this disparity with an aim to taking preventative measures.

216. Based on the foregoing, and taking into consideration the measures taken by the State, the Commission considers that this recommendation has met with partial compliance. The IACHR reiterates the importance of adopting the different protocols, including protocols on adolescents in conflict with the law, and emphasizes that providing support for effective implementation of the Protocol in order to fully implement this recommendation remains necessary.

217. Regarding the recommendation to **Implement and strengthen measures to fulfill the duty to act with due diligence to prevent, punish and eradicate violence against children and adolescents**, the State reported that as of June 2020, a number of talks have been held by federal and state authorities on the implementation of a Route for the Comprehensive Protection of the Rights of Migrant Children and Adolescents.<sup>310</sup> The implementation of this tool is coordinated by the federal, state, and municipal SIPINNAs through participation in regional and state talks.<sup>311</sup> The IACHR notes that the specific objectives of these talks were to: (i) review the pertinence of the actions described in the Protection Route in view of the context and characteristics of the flow of migrants in the State; (ii) identify and agree, for each action described in the Protection Route, which authority (federal, state, or municipal) is responsible for implementation and evaluation; and (iii) propose subsequent actions for the proper implementation of the Protection Route in the context of local challenges and obstacles.<sup>312</sup> The IACHR welcomes these efforts and progress at the state level, as well as the work of the SIPINNA, which has also been recognized by UNICEF.<sup>313</sup>

218. The State also indicated that a module had been added to the route of protection that includes specific actions to take when supporting and protecting children and adolescents in

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<sup>308</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 53 – 54.

<sup>309</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 54.

<sup>310</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 55.

<sup>311</sup> The State reported that the federal entities that have participated in these talks are Baja California, Campeche, Chiapas, Chihuahua, Coahuila, Jalisco, Nuevo León, Oaxaca, Quintana Roo, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Zacatecas, and Yucatán.

<sup>312</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 55.

<sup>313</sup> UNICEF México [@UNICEFMexico]. June 22, 2020. A más de 4 años de su creación, el Sistema Nacional de Protección de Niñas, Niños y Adolescentes @SIPINNA\_MX ha sido un actor clave en la protección de los derechos de la niñez y adolescencia en México [Tweet]. Twitter. <https://twitter.com/UNICEFMexico/status/1275243865365262338?s=20>.

a situation of human mobility.<sup>314</sup> The action plan seeks to combat violence against children and adolescents in all settings and territories; guarantee their safety through actions to prevent crime and violations of their human rights; restore their rights when they have been violated and address gender-based violence against them<sup>315</sup>, and it will include the participation of children and adolescents; cooperation between agencies of the federal government and civil society organizations; the implementation of actions at the state level; and the production of quantitative and qualitative information on violence against children and adolescents.<sup>316</sup> The Plan will be coordinated with the work of the Specialized Technical Committee on Information on the Comprehensive Protection of the Rights of Children and Adolescents (CTEIPIDNNA)<sup>317</sup>.

219. In this regard, the IACHR views positively the adoption of the draft decree amending a number of articles of the Migration Act and the Refugees, Complementary Protection, and Political Asylum Act, underscoring the provisions banning detention of children and adolescents in situations of human mobility with status as migrants. The legal reform has opened up a path to alternatives to detention—such as placing them with foster families or shelters—for migrants and those requesting asylum as well as the determination of the best interest of the child, the extension of the view to protect to all children in situations of mobility, and granting legal migratory status to all children and adolescents in situations of mobility to prevent their expedited deportation and ensure they are able to exercise their basic rights.<sup>318</sup> The IACHR welcomes the adoption of this decree and will follow its implementation in practice closely.

220. Additionally, the IACHR underscores that the recommendation under analysis calls for actions that go beyond the protection of migrant children and adolescents, and its content focuses on protection from all forms of violence. In this regard, the IACHR has received information indicating that between January and October 2020, at least 330 children and adolescents have been murdered in Mexico.<sup>319</sup> According to a variety of analyses by defenders of the rights of children, only 3% of investigations in which children or adolescents are victims reach a resolution with those responsible punished.<sup>320</sup> Likewise, according to the information provided by the Red por los Derechos de la Infancia en México, between January and July 2020, there were 123,927 reports of domestic violence,<sup>321</sup> along with 1034 murders of children and adolescents.<sup>322</sup> During the same period, there were a total of 70 cases documented of femicides of girls and

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<sup>314</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 55.

<sup>315</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 15.

<sup>316</sup> Available at: <https://www.gob.mx/cms/uploads/attachment/file/483214/AGENDA5agosto-19.pdf>.

<sup>317</sup> El Plan de Acción: <https://www.gob.mx/cms/uploads/attachment/file/483214/AGENDA5agosto-19.pdf>. Observations and comments of the Mexican State of January 29, 2021, pg. 15.

<sup>318</sup> UN México, [“Agencias de la ONU celebran aprobación de reformas a favor de la niñez y adolescencia migrante, solicitante de asilo y refugiada”](#), September 30, 2020.

<sup>319</sup> *Excélsior*, [“Alertan por crímenes en contra de niños; análisis de causa en común”](#), November 16, 2020.

<sup>320</sup> *Telemundo*, [“Violencia en México alcanza a niños y adolescentes: asesinan a tres”](#), November 5, 2020.

<sup>321</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pg. 7.

<sup>322</sup> REDIM, [“The Mexican State has become complicit with organized crime: Every day, seven children and adolescents are murdered with total impunity: REDIM”](#), July 10, 2020.

adolescents between the ages of 0 and 17,<sup>323</sup> along with 1,970 disappearances.<sup>324</sup> Information was also received on the murder and mutilation of two indigenous children, aged 12 and 14, in Mexico City.<sup>325</sup>

221. Additionally, the IACHR reiterates that it is important for State authorities to act with due diligence in the context of disappearances of children and adolescents. In this regard, the IACHR has received information indicating that on October 1, 2020, 13,114 children and adolescents were officially disappeared or missing in Mexico.<sup>326</sup> Civil society organizations indicate that the high rate of disappearance is a result of the existence of gaps in the law and lack of coordination between institutions, the federal government, and states, among other factors. For example, they indicate that in some cases, the Amber Alert is not activated or families are asked to wait 72 hours, a time period that is crucial when trying to locate a disappeared child.<sup>327</sup> The information available also highlights the importance of activating these protocols immediately to speed the search without having to wait hours and to avoid the sluggishness of the bureaucracy.<sup>328</sup> It therefore indicates a need to standardize the procedure to activate the Amber Alert.

222. The information available indicates that the Alba Protocol is inconsistent, and in part of the country, it operates as an initial review administrative process for activating the Amber Alert.<sup>329</sup> The IACHR notes that the three mechanisms for searching for disappeared children and adolescents (Amber Alert, Alba Protocol, and the Search Commissions established in each state) are not coordinated with each other. According to the information received, some prosecutors' offices do not always share information with the Search Commissions, while the commissions have no legal mandate to activate the Amber Alert, nor do they have access to the information gathered through the investigations conducted by prosecutors.<sup>330</sup> However, the IACHR reiterates its observations regarding the pronouncements of the CNB on preparing a draft of the Standardized Protocol on the Search for Disappeared Children and Adolescents, which is about to be released for public consultation with the relatives of disappeared persons and members of civil society.

223. In its observations on the draft of this report, the State clarified that the Alba Protocol and the Mexico AMBER Alert Program are independent instruments given that the Alba Protocol is activated in cases of disappeared women and girls, while the Mexico AMBER Alert Program is aimed at cases of missing children and adolescents, being an immediate response. The

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<sup>323</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pg. 9.

<sup>324</sup> *El Economista*, “[De enero a julio de 2020 se ha reportado la desaparición de 1,970 menores de edad: Redim](#)”, July 23, 2020.

<sup>325</sup> REDIM, [Request for intervention of the IACHR. Case of disappearance, murder, and mutilation of two indigenous children in Mexico City](#). November 9, 2020.

<sup>326</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pg. 3.

<sup>327</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pgs. 2-4.

<sup>328</sup> *Todo Chicoloapan*, “[Demandan agilizar los protocolos para encontrar a niñas, niños y adolescentes desaparecidos](#)”, August 5, 2020.

<sup>329</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pg. 5.

<sup>330</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020, pg. 6.

State indicated that, although both mechanisms sometimes converge, the Alba Protocol does not operate as an administrative process for prior study for the activation of the AMBER Mexico Alert Program.<sup>331</sup>

224. Additionally, the State also reported that, under the leadership of the SNDIF, it carried out diffusion campaigns on the rights of children and adolescents<sup>332</sup>; and it signed 11 inter-institutional agreements with Civil Associations, 5 with the Public Sector, 11 with the DIF State Systems, 4 with the municipalities and 3 with the mayors of Mexico City.<sup>333</sup>

225. Regarding training, the State reported in its observations to the draft of this report on the permanent training program for the personnel of the Federal Attorney for the Protection of Children and Adolescents<sup>334</sup>, as well as the holding of virtual forums<sup>335</sup> and the deployment of permanent training plans promoted by the SNDIF in matters of human rights and gender perspective (in force by 2021) with the SSPC, the Federal Protection Service, the National Anti-kidnapping Coordination, the Penitentiary Body and the National Guard.<sup>336</sup>

226. As regards the search procedure institutions, the State indicated that the Office of the Special Attorney General for Crimes of Violence against Women and Human Trafficking (FEVIMTRA) handles children and adolescents based on the principle of comprehensive protection of the rights of the child and the pro persona principle. According to the State, FEVIMTRA has trained personnel, material resources, and appropriate facilities for attending to children and adolescents in comfortable and safe spaces that protect their identities.

227. As regards alert and search procedures, the IACHR followed the case<sup>337</sup> of the child named Dylan Esaú Gómez Pérez, who was reported disappeared in the state of Chiapas on June 30, 2020. According to the information available, the Alba-Keneth alert was issued 10 days later, on July 10.<sup>338</sup> During the investigation, the authorities arrested a couple suspected of the disappearance, and they were accused of leading a child exploitation network.<sup>339</sup> More than 45 days after the kidnapping, Dylan was rescued and returned to his mother. He had been kidnapped

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<sup>331</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 15.

<sup>332</sup> The State informed on the following diffusion campaigns: "*Protege mis derechos*", in order to comply with the recommendations number 14 of the CNDH; "*Trabajo Infantil*", through which postcards were spread regarding children labor; and "*La libertad no se trata*", on the framework of the world day against Human trafficking.

<sup>333</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 16.

<sup>334</sup> Training topics given: human trafficking, sexual exploitation, child labor, sexual abuse, violence prevention, promotion of dignified treatment, and protection and restitution of the rights of children and adolescents.

<sup>335</sup> The State reported on the following forums: virtual "Children and Adolescents drivers of Transformation, preventing and eradicating violence against Children and Adolescents together", "Protecting your Rights, drivers of Transformation, Children and Adolescents, Preventing Violence, with the National Guard".

<sup>336</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 16.

<sup>337</sup> The IACHR received a request for precautionary measures relate to Dylan's disappearance.

<sup>338</sup> Alerta Alba-Keneth [@alba\_keneth]. (10 de julio de 2020). #AlertaAlbaKenth Dylan Esau Gomez Perez, de 02 años de edad. Despareció el 08 de Julio de 2020, en San Cristóbal de las Casas, Chiapas, México. [Tweet]. Twitter. [https://twitter.com/alba\\_keneth/status/1281761529881387009?s=20](https://twitter.com/alba_keneth/status/1281761529881387009?s=20).

<sup>339</sup> *Animal Político*, "[Dylan ya está en casa: fue secuestrado por una mujer que alegó no poder tener hijos](#)", August 14, 2020.

by different woman, who had nothing to do with the couple that was initially arrested during the investigation.<sup>340</sup>

228. The IACHR takes note of the conclusion of the search for Dylan, but notes with concern the irregularities in the process of alerting to and investigating his kidnapping, as highlighted by civil society organizations, and underscores the importance of standardizing these processes.<sup>341</sup> Likewise, the IACHR recalls the importance of eliminating formalism and procedural obstacles to streamline search processes, and that State institutions must act quickly to prevent, punish, and eradicate violence against children and adolescents, as well as take measures prevent delays taking measures to prevent unjustified delays in these processes.<sup>342</sup>

229. Additionally, according to the organization Save the Children, in the framework of the COVID-19 health emergency, the IACHR received information indicating that so far this year, more than 10,000 children and adolescents have gone to the hospital as the victims of injuries caused within their own family environment.<sup>343</sup> The IACHR expresses its concern that, according to the information received, an average of three out of four children and adolescents experience violence at home.<sup>344</sup>

230. With regard to the health emergency, the State reported that the National System for the Comprehensive Development of the Family (DIF) and the National Office on the Benito Juárez Family Wellbeing Grants Program (CNBBBJ) will provide economic support to children and adolescents who have been orphaned by the COVID-19 pandemic.<sup>345</sup> Both institutions made their decision official by signing a cooperation agreement that laid the groundwork and the mechanisms for putting together a list of potential beneficiaries.<sup>346</sup>

231. Therefore, the IACHR concludes that the recommendation regarding due diligence in prevention and protection of children and adolescents from violence continues to meet with partial compliance, highlighting the measures adopted by the State. The Commission reiterates the need to implement and strengthen measures to comply with the State's obligations to prevent, punish, investigate expeditiously, and eradicate violence against children and adolescents, as well as to make reparation for human rights violations.

#### 4. Indigenous Peoples

- Adopt measures to ensure that a culturally adequate perspective, which takes into account the collective nature of indigenous peoples and communities, is considered when they or their members are victims of human rights violations.

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<sup>340</sup> *Animal Político*, [“Dylan ya está en casa: fue secuestrado por una mujer que alegó no poder tener hijos”](#), August 14, 2020.

<sup>341</sup> REDIM, Follow-up on Compliance with the Recommendations – Report on Human Rights Situation in Mexico, Mexico City, October 22, 2020.

<sup>342</sup> IACHR, [Annual Report, Chapter V. “Follow-up of Recommendations Issued by the IACHR in its Country or Thematic Reports”](#), 2019, para. 213.

<sup>343</sup> *La Jornada*, [“Más de 10 mil menores a hospitales este año por violencia familiar”](#), November 1, 2020.

<sup>344</sup> *Crónica*, [“Tres de cada cuatro niñas, niños y adolescentes son violentados en su hogar”](#), June 16, 2020.

<sup>345</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 55.

<sup>346</sup> *Infobae*, [“Los huérfanos que dejó el COVID-19 en México: el gobierno dará becas a niños, niñas y adolescentes”](#), November 4, 2020.

- Guarantee the availability of translators throughout the country and at all levels of government so that indigenous peoples and their members may have access to justice when they so require it.
- Adopt necessary measures to carry out free, prior and informed consultations on projects that affect their lands

232. With regard to the recommendation to **adopt culturally adequate measures in the event of human rights violations**, the State reported that the CEAV's Institutional Program 2020-2024 promotes victim care strategies with a differentiated and intercultural approach. It likewise underscored that the Protocol for Indigenous Response with a gender and intercultural approach, published in 2019, was disseminated to 517 public servants.<sup>347</sup> As the IACHR indicated in its 2019 annual report, the protocol develops procedural and operational aspects, as well as conceptual and technical ones, on the treatment that indigenous victims of human rights violations should be accorded.<sup>348</sup>

233. The State also reported on the participation of the CEAV's Unit on Gender, Ethics, and Inclusion in a panel discussion entitled "The reality of women in Mexico as regards their diversity," hosted by INMUJERES. The aim of the panel discussion was to promote criteria for a legislative agenda that would promote the rights of women in view of the intersectional forms of discrimination they face.<sup>349</sup>

234. Like the previous year, the IACHR finds that the measures reported are focused on promoting the rights of indigenous peoples. However, although measures to raise awareness are important in terms of prevention, the Commission notes the importance of having information on measures to investigate, punish, and provide reparations for the human rights violations committed against this population. The core content of this recommendation finds expression in specific, systematic, and interconnected measures that can be measured. The IACHR reiterates that in the specific case of the indigenous peoples, culturally appropriate measures would include prevention of and protection from threats to the territorial rights of indigenous peoples.

235. In this regard, the IACHR notes with concern the ongoing situation of violence and displacement in the south of Mexico due to territorial political conflicts among indigenous communities that require the State's attention to ensure access to justice and reparations from an intercultural approach. Thus, the IACHR learned of incidents of violence due to a border conflict between indigenous communities in the municipalities of Chenalhó and Aldama—in Chiapas—going back decades that has led to injury, death, and displacement. In October<sup>350</sup> and November<sup>351</sup> 2020, the IACHR issued statements on attacks on Tzozil indigenous peoples in Aldama perpetrated by groups classified by civil society organizations as paramilitaries.<sup>352</sup> The

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<sup>347</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 43.

<sup>348</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 225.

<sup>349</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 43.

<sup>350</sup> IACHR, <https://twitter.com/CIDH/status/1315804161049612290>, October 12, 2020.

<sup>351</sup> IACHR, <https://twitter.com/CIDH/status/1329152721308495873?s=20>, November 18, 2020.

<sup>352</sup> Centro de Derechos Humanos Fray Bartolomé de las Casas, [Armed attacks against Aldama communities continue](#), September 4, 2020.

IACHR observes that these recent incidents took place despite the CNDH's recommendation<sup>353</sup> that the government of Chiapas address and provide reparations to the victims of violence in the context of the conflict—including children and adolescents—as well as resolve the conflict and disarm all parties. The IACHR notes that a peace agreement was signed in November in the framework of the intercommunal conflict.<sup>354</sup>

236. The IACHR also observes with concern the incidents of violence in the context of a serious conflict lasting several decades between organizations of the Triqui people in Oaxaca, who are in a dispute over leadership and political control of the region. Over the space of a week in November 2020, two members of the Movimiento de Unificación y Lucha Triqui—Ismael Cruz García and Gabino Ávila Martínez—were murdered, allegedly by members of other organizations.<sup>355</sup> In 2012, the IACHR granted precautionary measures to protect the lives and physical integrity of 76 members of the Triqui indigenous community in Calle del Río San Pedro, San Juan Cópala, Putla de Guerrero, Oaxaca, due to the situation of displacement, threats, harassment, and violence they were facing at the hands of armed actors.<sup>356</sup> Although these precautionary measures were lifted by the Commission on June 29, 2020,<sup>357</sup> when new incidents of violence took place related contextually to the Triqui community's situation, the IACHR urged federal and state authorities to foster dialogue in the framework of the existing peace agreement while respecting the cultural context of the communities involved, as well as guarantee justice and reparations for the cases of violence, murders, and displacement that took place during this conflict.

237. The IACHR has also learned of the social conflict between the assembly of the village of San Mateo del Mar, Oaxaca—the traditional institution of community leadership—and the municipal president, who did not recognize the assembly's authority. This situation led to grave acts of violence in which 15 people lost their lives, attributed to the sociopolitical social conflict. However, the deaths have also been described as a massacre in response to territorial defense from megaprojects like the Inter-Oceanic Corridor and wind farms in the area.<sup>358</sup> In view of the foregoing, the IACHR maintains that this recommendation continues to meet with partial compliance.

238. With respect to the recommendation to **guarantee the availability of interpreters**, the State reported that the Federal Institute of Public Defense (IFDP) currently has capacity to serve members of indigenous peoples in 142 different indigenous languages. It also indicated that between October 2019 and October 2020, the National Institute of Indigenous Peoples (hereinafter "the INPI") provided support in around 974 instances with interpreters in indigenous languages in various criminal, civil, and agricultural proceedings. Additionally, it reported on the translation of the "Guide to attending to indigenous and Afro-Mexican peoples in

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<sup>353</sup> CNDH, [Recommendation 71/2019](#) (September 23, 2019).

<sup>354</sup> Alejandro Encinas, [Historic day for Aldama and Chenalhó, communities that deserve to live in peace and face the future with better conditions](#), November 27, 2020.

<sup>355</sup> *El Universal*, [Asesinan a integrante del MULT en la Mixteca, es el Segundo en 5 días](#), November 23, 2020.

<sup>356</sup> IACHR, PM 60/12, [Members of the Triqui Indigenous Community in the San Pedro River Valley, San Juan Cópala, Putla de Guerrero, Oaxaca, Mexico](#).

<sup>357</sup> IACHR, PM 60/12, – Members of the Triqui Indigenous Community in the San Pedro River Valley, San Juan Cópala, Putla de Guerrero, Oaxaca, Mexico. Resolution to lift precautionary measures, June 29, 2020.

<sup>358</sup> *El Universal*, [Adjudican masacre de San Mateo del Mar a defensa del territorio ante megaproyectos](#), June 30, 2020.

response to COVID-19” into a variety of indigenous languages.<sup>359</sup> In its observations on the draft of this report, the State reported that as of December 2020 the National Register of Interpreters and Translators in Indigenous Languages (PANITLI), consolidated by the National Institute of Indigenous Languages (INALI), registered 2,072 certified interpreters and translators and in the areas of justice, health and social programs, speakers of 37 of the 68 languages, corresponding to 131 linguistic variants, of 364 included in the Catalog of National Indigenous Languages.<sup>360</sup> As indicated, in 2020, INALI responded to 95 requests made by various instances in charge of delivering justice, related to interpreters and translators in 29 national indigenous languages.<sup>361</sup>

239. The IACHR takes note of the increase of the number of indigenous languages in which the IFDP can provide legal support, from 39 languages in 2018 to 97 in 2019 to 142 in 2020. In its observations in the 2019 Report, the IACHR took note of the information indicating that more than 8,000 indigenous persons are deprived of liberty due to a lack of translators, and that because they were not informed of their right to an interpreter, their right to due process was violated.<sup>362</sup> In view of the foregoing analysis the IACHR recognizes the increase in the number of translators and interpreters from 2019 to 2020, which makes it possible to indicate that the recommendation has met with substantial partial compliance.

240. On the recommendation to **adopt the measures needed for carrying out free, prior, and informed consultations**, the State reported that it had implemented at least 21 indigenous consultation processes in 2020. Among the priority projects for the federal government that were subjected to consultation with indigenous peoples were: the expansion and equipping of the mixed civilian/military airport on Military Airbase No. 1 of Santa Lucía, the Tehuantepec Isthmus Development Project, and the Mayan Train Development Project. Regarding this last project, it adds that the Department of Interior Affairs, the National Tourism Promotion Fund, and the INPI issued a Protocol on the Free, Prior, and Informed Consultation Process for Mayan, Tseltales, Ch’oles, and Tsotsiles Peoples and Other Communities in the States of Chiapas, Tabasco, Campeche, Yucatán, and Quintana Roo regarding the Development of the Mayan Train.<sup>363</sup>

241. Likewise, it reported that 54 Regional Consultation Forms were held along with one National Forum in 2019. They included the participation of representatives of the country’s indigenous and Afro-Mexican peoples and communities where they could make proposals and raise issues regarding the Constitutional and Legal Reform on the Rights of Indigenous and Afro-Mexican Persons planned for implementation by the INPI in 2020 and that remains in progress.<sup>364</sup>

242. Regarding the Tehuantepec Isthmus Development Program, the IACHR was informed by human rights organizations that concerns persist regarding the consultations held in March 2019 surrounding this project and the various transportation, infrastructure, and other projects in the states of Oaxaca and Veracruz. Specifically, the Commission notes the information

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<sup>359</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 44-45.

<sup>360</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 18.

<sup>361</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 18.

<sup>362</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 236.

<sup>363</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 43-44.

<sup>364</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 44-45.

provided indicating the short time during which they were conducted; the lack of objective, complete, and culturally accessible information on social, environmental, and cultural impacts; the lack of a deliberative period for internal discussion within the communities affected; and lack of respect for the principle of free, prior, and informed consent.<sup>365</sup>

243. Additionally, concerns persist with regard to the Regional Land Management Project known as the “Mayan Train”—which includes the building of approximately 1,525 km of railways, 18 stations, and other elements associated with its operation<sup>366</sup>—and its compatibility with Inter-American standards on the consultation processes that the State conducted in November and December 2019 through Regional Consultative Assemblies. The information received by the IACHR includes an important component on the lack of participation from all the entities representing indigenous peoples with the potential to be affected, as according to the information received, only certain sectors of indigenous and cooperative communities were invited, and complete, translated, and culturally adequate information on the impacts of the project was not provided, among other factors. Likewise, the IACHR has been informed of a smear campaign against people who oppose the project or the civil society organizations supporting them.<sup>367</sup>

244. In this regard, the State informed the IACHR that 95% of the train’s route would be developed on the “rights of way” of operating highways, existing powerlines, and an updated railway that is currently operating. According to the information received, the right-of-way is part of public property, and it will therefore not be necessary to impact additional plans for most of the project. Regarding aspects related to the consultation, the State indicated that it took up the challenge of designing its methodology with the aim of dialoguing with the various communities consulted for making an initial decision on whether or not to accept the project; likewise, specific consultations were conducted with communities likely to see impacts to their territories, environment, or forms of organizing or culture once the general outlines of the project were accepted. The State indicated that the consultation process is ongoing, and that dialogue continues in the Regional Assemblies for monitoring agreements reached with the Follow-up Commissions of each of the 15 regions into which the consultation territory was divided.<sup>368</sup>

245. The State indicated that in the absence of state or federal lists of indigenous peoples in Mexico, the INPI itself determined which communities affected by the Mayan Train would need to be consulted based on the presence of indigenous households found through a census conducted by the INEGI. Thus, the survey group was determined to be locations with more than 150 residents, with 40% or more speaking indigenous languages, as established by the INPI

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<sup>365</sup> Communication from the Due Process of Law Foundation, OXFAM, SERAPAZ, *et al.*, to the IACHR, June 12, 2020, pgs. 20-21.

<sup>366</sup> FONATUR, Presentation on the Mayan Train, May 28, 2019, available at: <https://bit.ly/2YUxJzr>.

<sup>367</sup> Consejo Regional Indígena Popular De X’Pujil (CRIPX), Diálogo Y Movimiento (DIMO) Indignación, Consejo Civil Mexicano Para La Silvicultura Sostenible, Centro Mexicano De Derecho Ambiental (CEMDA), Due Process of Law Foundation (DPLF), Report on meeting of November 30, 2020, with the IACHR on human rights violations surrounding implementation of the “Mayan Train” megaproject, December 12, 2020.

<sup>368</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 8-11.

for the purposes of implementing its programs. It also included all locations with an indigenous presence, for a total of 1,441 communities surveyed.<sup>369</sup>

246. With regard to the methodology of the consultation, the State indicated that it consisted of establishing Regional Assemblies with community representatives, which enabled the building of consensus among the communities involved in the five states. Specific consultation processes were then conducted in communities susceptible to being significantly impacted by the different phases of the project.<sup>370</sup> It indicated that both the protocol<sup>371</sup> designed for the consultation and the announcement<sup>372</sup> of the consultation were translated into Peninsular Mayan, Ch'ol, Tsotsil, and Tselal, and that the distribution of the announcement and the pamphlet with information on the project were conducted over the radio and by direct visits from INPI personnel who spoke the indigenous language or where accompanied by INPI-accredited translators who visited all the indigenous communities in the five states.<sup>373</sup>

247. The State indicated that the consultation process was not static and made it possible to conduct follow-up with regard to the impacts that may arise during project execution. Thus, it indicated that in March 2020, it held a meeting with the Regional Consultative Assemblies, concluding that, based on the land surveys, the project was not viable via the Valladolid-Cobá-Tulum route. Therefore, in the session on March 8, 2020, it was announced that the route would be changed to Valladolid-Cancún-Tulum.<sup>374</sup>

248. The Commission observes that in June 2020, the Executive officially gave the green light to the start of operations of the Mayan Train works. Regarding this, a group of civil society organizations and thought leaders issued a public release criticizing the green light in view of the existence of *amparos* from federal judges ordering partial suspensions of the project and of precautionary measures from the CNDH, and they therefore described the presidential act

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<sup>369</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 16 -28.

<sup>370</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 16 -28.

<sup>371</sup> Protocol on the Free, Prior, and Informed Consultation Process for Mayan, Tseltales, Ch'oles, and Tsotsiles Peoples and Other Communities in the States of Chiapas, Tabasco, Campeche, Yucatán, and Quintana Roo regarding the Development of the Mayan Train Project.

<sup>372</sup> Protocol on the Free, Prior, and Informed Consultation Process for Mayan, Tseltales, Ch'Oles, and Tsotsiles Peoples and Other Communities in the States of Chiapas, Tabasco, Campeche, Yucatán, and Quintana Roo regarding the Development of the Mayan Train Project, para. 35-36.

<sup>373</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 46-49.

<sup>374</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 55-57.

as a break with the constitutional order. Likewise, they reiterated that consultations had not been carried out for the project and its environmental viability was in question.<sup>375</sup>

249. The IACHR observes that the Mayan Train project has been challenged before a number of courts with requests for precautionary measures and *amparo* suits seeking constitutional protection, several of which were filed this year. The human rights organization litigants reported to the IACHR that they have faced systematic obstacles to effective access to justice, including: delays in judicial proceedings, declarations of incompetency by courts, and restrictions on filing cases described as "urgent" (for which the courts arbitrarily decide what is and is not urgent), a decision that was handed down as an extraordinary action for addressing the health emergency caused by the coronavirus but which they indicate was reached with total indifference to indigenous communities, as it was impossible to judicially secure respect for their rights in view of the harm caused by the execution of the Mayan Train.<sup>376</sup>

250. In particular, the IACHR has learned that in response to a lawsuit filed on behalf of the Mayan and Ch'ol peoples against the consultation process in December 2019, the project was permanently suspended only in the Calakmul, Campeche area.<sup>377</sup> Given the context of the COVID-19 pandemic, indigenous communities have turned to the *amparo* remedy to block the start of the works and activities related to the project because they pose a risk of contagion, although with mixed and limited results. On May 8, 2020, the Second District Court of *Amparo* and Federal Criminal Trials of Chiapas granted a temporary suspension to the project in response to a lawsuit filed by the Ch'ol peoples of Palenque, Ocosingo, and Salto de Agua, Chiapas.<sup>378</sup> However, the Collegiate Administrative Tribunal overturned the suspension in the Palenque-Escárcega section on finding that the risk to communities was not clear. It also found that the companies in charge of execution were following prevention measures, and that the project was a public and social interest project. Likewise, the federal district courts in Campeche and Yucatán did not admit lawsuits filed by urban communities in Campeche challenging the preparatory activities related to their possible removal and relocation. They also did not admit lawsuits from Yucatán indigenous communities seeking suspension of the works related to the project on the argument that the cases were not urgent in the context of the pandemic.<sup>379</sup>

251. Regarding the Mayan Train and the continuation of its construction during the COVID-19 epidemic, the State indicated that FONATUR, with support from UNOPS, drafted the documents "Measures to prevent contagion and spread of the coronavirus," along with "General Guidelines for a Protocol on Hygiene, Security, and Containment of the Coronavirus in the Forward Mayan Train Works" to properly implement the health measures in forward parts of the Mayan Train works, in the context of the epidemic caused by COVID-19.<sup>380</sup>

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<sup>375</sup> CEMDA, [press release on the Mayan Train in view of the presidential visit to promote it](#), June 2, 2020.

<sup>376</sup> Consejo Regional Indígena Popular De X'Pujil (CRIPX), Diálogo Y Movimiento (DIMO) Indignación, Consejo Civil Mexicano Para La Silvicultura Sostenible, Centro Mexicano De Derecho Ambiental (CEMDA), Due Process of Law Foundation (DPLF), Report on meeting of November 30, 2020, with the IACHR on human rights violations surrounding implementation of the "Mayan Train" megaproject, December 12, 2020.

<sup>377</sup> *La Jornada*, [La Suprema Corte dará la razón a pueblos indígenas](#), May 26, 2020; *Pie de Página*, [Jueza ratifica suspensión de Tren Maya en Calakmul](#), March 4, 2020.

<sup>378</sup> *La Jornada*, [La Suprema Corte dará la razón a pueblos indígenas](#), May 26, 2020; and document delivered to the IACHR by the Due Process of Law Foundation, OXFAM, SERAPAZ, et al. (June 12, 2020), pgs. 36.

<sup>379</sup> CCMS, [Federal judiciary blocks defense of urban and indigenous communities from the Mayan Train](#), April 28, 2020; and document delivered to the IACHR by the Due Process of Law Foundation, OXFAM, SERAPAZ, et al. (June 12, 2020), pgs. 36.

<sup>380</sup> IACHR, Report of the State of Mexico at the request of the Inter-American Commission on Human Rights pursuant to Article 41 of the American Convention on Human Rights on compliance with international standards on the protection of the

252. The IACHR reiterates its recommendations to the State with regard to the rights of indigenous peoples during the pandemic, particularly on the need to refrain from conducting extractive activities or other megaprojects on indigenous territories due to the risks of contagion they represent for indigenous peoples and the impossibility of conducting real consultations that respect international standards due to the need to implement social distancing measures.<sup>381</sup>

253. As regards the right to consultation, the IACHR observes that there were several pronouncements on the right to consultation during 2020. First, the IACHR took note of the *amparo* sought by the Zapoteca indigenous people of San Sebastián Tutla, Oaxaca, with regard to Congress's failure to issue a law regulating the right to prior consultation of indigenous and Afro-Mexican peoples.<sup>382</sup>

254. The Commission was also informed by FUNDAR and the state's Tiyal Tlali Council<sup>383</sup> of the *amparo* request filed by the Tecoltemi people of Ixtacamaxtitlán, Puebla, against two mining concessions asserting a violation of the rights to consultation and consent, land, and territory. Additionally, the litigant organizations also argue that several articles of the mining law are unconstitutional because they violate several of the rights recognized in treaties and in the Constitution. According to the information available, the *amparo* was granted by a trial court in 2019, which declared the concessions illegal and ordered the mining concessions annulled and the concession request reevaluated. It found the existence of a "legal omission" with regard to the right to consultation, but it did not rule with regard to the pleading of unconstitutionality. The *amparo* is awaiting a review by the corresponding Collegiate Tribunal. A judgment was expected in 2020, and still remains pending.

255. The Commission observes that the right to free, prior, and informed consultation is being subjected to an important institutional debate within Mexico. Although the Constitutional reform to recognize the human rights of indigenous and Afro-Mexican peoples has not moved forward, the Commission views positively that this initiative is being undertaken and urges the State to keep it within its agenda. As regards the judicial rulings on the right to consultation, the IACHR notes with concern that it was informed in a virtual hearing on the status of human rights institutions in Mexico in the framework of its 178th Period of Sessions that there is a tendency to prioritize megaprojects to the detriment of strengthening human rights. The IACHR views it as pertinent to note it is important for regulations on consultations to themselves be consulted with indigenous peoples through their representative institutions, and that the proposals offered by the indigenous peoples themselves be duly taken into account when implementing this right.<sup>384</sup>

256. In view of the considerations set forth above, the IACHR finds that this recommendation remains pending compliance.

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rights of indigenous peoples and communities with regard to the indigenous consultation process on the Mayan Train project and the continuation of its construction during the COVID-19 epidemic, June 26, 2020, paras. 64 and following.

<sup>381</sup> IACHR, [IACHR Warns of the Specific Vulnerability of Indigenous Peoples to the COVID-19 Pandemic, Calls on States to Adopt Targeted, Culturally Appropriate Measures that Respect These Peoples' Land](#), May 6, 2020.

<sup>382</sup> *La Jornada*, [La Suprema Corte dará la razón a pueblos indígenas](#), May 26, 2020.

<sup>383</sup> Meeting held with FUNDAR and the Tiyat Tlali Council on June 10, 2020.

<sup>384</sup> IACHR, Resolution No. 1/2020 on Pandemic and Human Rights in the Americas, April 10, 2020, para. 57; IACHR, Press Release 103/20, [IACHR Warns of the Specific Vulnerability of Indigenous Peoples to the COVID-19 Pandemic, Calls on States to Adopt Targeted, Culturally Appropriate Measures that Respect These Peoples' Land](#), May 6, 2020.

## 5. Persons Deprived of Liberty

- Correct the excessive use of pretrial detention, and apply it exceptionally, using other precautionary measures that do not deprive of liberty. In this context, guarantee that detained persons are immediately presented before a judge, so that detention without judicial order may be restricted in cases of alleged flagrante delicto and quasi flagrante delicto.
- Adopt all necessary measures to guarantee a strategy of reincorporation into society. In this sense, guarantee that financial resources are directed at humanizing and implementing measures that allow persons deprived of liberty to be reincorporated into society. In particular, regarding persons with disabilities, identify a strategy for social reincorporation through programs that include community service.
- Make publicly available the information regarding the standards of the American Correctional Association (“ACA”) to certify prisons and penitentiaries.
- Implement normative and other measures to guarantee detention conditions that are adequate for the particular needs of groups in particularly vulnerable situations. In relation to women deprived of liberty, the State should guarantee that the adoption of corresponding measures takes into account a gender focus. Regarding persons with disability who are deprived of liberty, the Mexican State should guarantee the elimination of barriers in the surroundings that complicate the exercise of their rights, through reasonable accommodations.
- Adopt measures to address pretrial detention and the high levels of overcrowding. The measures may include, among others, an increase in the number of criminal judges, and the establishment of periodic review of case files to be able to identify cases with excessive duration of pretrial detention.
- Ensure that the National Criminal Sentencing Law includes international standards that guarantee the rights of persons deprived of liberty, both those who are being prosecuted and those who have been sentenced, with an emphasis on criminal due process and reincorporation into society.

257. Regarding the recommendation to **correct the excessive use of pretrial detention**, the State reported some progress by the SCJN in terms of case law to limit its use. First, in the case law on conflicting lines of precedent deriving from final judgment 330/2019 of January 22, 2020, the First Chamber of the SCJN ruled that in order to issue an arrest warrant without a summons first, the need to arrest a person is not satisfied simply by the facts of the case likely constituting a crime meriting pretrial detention without a court order. Rather, a series of circumstances are required that lead a judge to determine that the only way an accused individual can be processed is with an arrest warrant. Therefore, the Office of the Public Prosecutor bears the burden of justifying the need to arrest a person. Second, in regard to the conflicting lines of precedent deriving from final judgment 551/2019 of June 10, 2020, the First Chamber of the SCJN limited the use of pretrial detention without a court order with regard to crimes involving hydrocarbons, oil, and petrochemicals, as well as firearms and explosives, until article 167 of the National Criminal Procedural Code is amended to follow the text of the Constitution, as stipulated by the second transitory article of the decree declaring amendment of article 19 of the Political Constitution of the United Mexican States with regard to pretrial detention without a court order.<sup>385</sup>

<sup>385</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 45 – 47.

258. Although the IACHR views positively the information reported, it also notes that the second paragraph of article 19 of the Mexican Constitution continues to establish the automatic application of pretrial detention for multiple crimes, ignoring the repeated calls of the Commission<sup>386</sup> and other national<sup>387</sup> and international<sup>388</sup> bodies with regard to the April 2019 reform which expanded the list of crimes allowing pretrial detention without a court order.<sup>389</sup> Furthermore, according to information provided by the Centro PRODH, in the framework of the aforementioned reform, several pieces of secondary legislation were amended to include new crimes for which pretrial detention without a court order was allowed for to increase punishments: For example, the General Electoral Crimes Act, the General Health Act, the Law to Prevent and Punish Crimes Committed with Regard to Hydrocarbons, the Federal Anti-Organized Crime Act, the General Communications Pathways Act, and more.<sup>390</sup>

259. Regarding this, the IACHR recalls that basing application of mandatory pretrial detention on the type of offense involved constitutes a violation of the right to personal liberty set forth in Article 7(3) of the American Convention and makes pre-trial detention tantamount to an advance punishment,<sup>391</sup> representing illegitimate interference of the lawmakers in the powers of appraisal for which only the judiciary has competence.<sup>392</sup> For pre-trial detention to be compatible with applicable international standards, its use must take into consideration the right to presumption of innocence, bear in mind that it is exceptional, and be governed by the principles of legality, necessity, and proportionality. In this regard, the Commission reiterates that the deprivation of liberty of the person accused should be only procedural in nature, and, therefore, it can only be based on the need to reasonably avoid the danger of flight or keep the investigations from being thwarted.<sup>393</sup>

260. In this context, the Commission reaffirms the call made by the Mexican State for the respective legislative organs to ensure that the legal system is in line with inter-American standards on the matter and that the principle of the presumption of innocence is respected, as it constitutes a most elemental judicial guarantee in criminal matters and is expressly recognized

<sup>386</sup> IACHR, [Press Release 3/19 – IACHR Calls on the Mexican State to Refrain from Taking Legislative Measures That Run Counter to International Standards on Pretrial Detention](#), Washington, D.C., January 9, 2019. Also see IACHR, [Annual Report 2019](#), Chapter V, “Mexico,” para. 250 – 254.

<sup>387</sup> Through multiple press releases and [official letters](#) addressed to the competent authorities, the National Human Rights Commission (CNDH) urged the Mexican State to not expand the list of crimes for which pretrial detention without a court order was allowed. CNDH, [“Press Release DGC/041/19,”](#) February 6, 2019; CNDH, [“Press Release DGC/056/19,”](#) February 19, 2019; CNDH, [“Official Letter of the Presidents of the CNDH to the Chair of the General Committee of the Senate of the Republic,”](#) December 5, 2018.

<sup>388</sup> United Nations High Commissioner on Human Rights; UN-HR Mexico, [“La ONU-DH lamenta extensión de delitos a los que se aplica la prisión preventiva oficiosa,”](#) February 20, 2019.

<sup>389</sup> Official Gazette of the Federation, [“Decree declaring reform of Article 19 of the Political Constitution of the United Mexican States, regarding pretrial detention without a court order,”](#) April 12, 2019.

<sup>390</sup> Centro PRODH, Follow-up information to the report “Human Rights Situation in Mexico,” 2015, pgs. 13 – 14.

<sup>391</sup> IACHR, [“Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas,”](#) OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 91; IACHR, [“Report on the Use of Pretrial Detention in the Americas,”](#) OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 151; IACHR, Merits Report 86/09, Case 12,553. Merits. Jorge, José and Dante Peirano Basso. *Uruguay*. August 6, 2009, para. 141.

<sup>392</sup> IACHR, [“Situation of human rights in Honduras,”](#) OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015, para. 558; IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II. Doc.46/13, December 30, 2013, para. 137.

<sup>393</sup> IACHR, [Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, para. 231. Recommendation A, “General Measures Related to Matters of State Policy,” para. 1

by various international human rights instruments.<sup>394</sup> For this reason, the Commission urges the State to eliminate the prohibition on release for the crimes provided for in the second paragraph of article 19 of the Constitution.<sup>395</sup> In view of the above, and considering that the State effectively increased the number of crimes for which pretrial detention without a court order is applied, the IACHR concludes that the State has not complied with this recommendation.

261. Regarding the recommendation to **adopt all necessary measures to guarantee a strategy of reincorporation into society**, what the State reported was included in the recommendation to adopt measures to address pretrial detention and the high levels of overcrowding.

262. Nevertheless, the IACHR observes that on July 2, 2020, the Sector Program on Citizen Security and Protection 2020-2024 was published in the Official Gazette of the Federation. Its objective is to set boundaries and specific targets on citizen security, as derived from the National Development Plan and the National Public Security Strategy. As regards objectives for social reintegration, the aforementioned program establishes the following priority strategies: (i) apply a comprehensive social reintegration model with a gender approach and that is both differentiated and intercultural; (ii) consolidate conditions for governability and institutional governance to increase control of federal penitentiaries; (iii) professionalize prison staff to ensure they guarantee the human rights of the persons deprived of liberty as they perform their duties; and (iv) enhance coordination between levels of government and agencies on penitentiary matters to accomplish the social reintegration of persons deprived of liberty.<sup>396</sup>

263. Likewise, the IACHR takes note of the launch of the Post-prison Social Reintegration Program by the Office of the Secretary on Internal Affairs. Its objective is to contribute to improving reintegration into society after people serve their prison sentences.<sup>397</sup>

264. The IACHR views positively the programmatic progress that the State has made toward improving the reintegration of persons deprived of liberty, and it calls on the State to implement and follow up on the measures in this regard and to report on the progress achieved. In view of the foregoing, the IACHR concludes that the recommendation has met with partial compliance.

265. With respect to the recommendation concerning **making public the information on ACA standards for accrediting prisons**, the State limited itself to reiterating

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<sup>394</sup> Specifically, the presumption of innocence is set forth in the Universal Declaration of Human Rights (Art. 11.1), the International Covenant on Civil and Political Rights (Art. 14.2), the American Declaration (Art. XXVI) and the American Convention (Art. 8.2). In this regard, also see IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 16; IACHR. Report 50/00, case 11.298, Merits, Reinaldo Figueredo Planchart, Venezuela, April 13, 2000, para. 118.

<sup>395</sup> IACHR, [Press Release 3/19 – IACHR Calls on the Mexican State to Refrain from Taking Legislative Measures That Run Counter to International Standards on Pretrial Detention](#). Washington, D.C., January 9, 2019.

<sup>396</sup> Official Gazette of the Federation, [Sector Program on Citizen Security and Protection 2020-2024](#), July 2, 2020.

<sup>397</sup> The program includes five specific projects: (i) "social reintegration institutes," which focuses on assessing states' social reintegration structures; (ii) "therapeutic justice," carried out in coordination with the Inter-American Drug Abuse Control Commission and targeting people who commit crimes related to problems arising from the consumption of psychoactive substances; (iii) children who live in penitentiaries, in coordination with the organization Reinserta, in order to protect children who live with their mothers in prison; (iv) "pre-releases," which seek to mitigate the spread of COVID-19; and (v) "digital classrooms," to support the employment of persons deprived of liberty as they undergo the social reintegration process; Office of the Secretary of Internal Affairs, [Internal Affairs releases Post-prison Social Reintegration Work Program through its Justice System Support Unit](#), July 9, 2020.

information provided previously<sup>398</sup> on the agreement reached in the framework of the Fifteenth Plenary Assembly of the National Conference of the Penitentiary System in 2017 to accredit prisons and train personnel to secure ACA certification. The IACHR also notes that the State has previously reported that the ACA standards are protected by intellectual property rights.<sup>399</sup>

266. The content of the IACHR's recommendation requires the release of the certification criteria, something that the State has not yet done. Therefore, the IACHR concludes this recommendation remains pending compliance.

267. As regards the recommendation to **implement measures to guarantee adequate conditions of detention, particularly for especially vulnerable groups, prison policies with a gender perspective, and eliminating barriers for persons with disabilities**, the State reiterated the information it had provided previously.<sup>400</sup>

268. Without prejudice to this, the IACHR observes that, according to public information from the State, as of September 2020, Mexico's penitentiary system was housing a population of 11,680 women deprived of liberty, and even though the system has 294 prisons, only 21 of them are reserved exclusively for women.<sup>401</sup> In this regard, the CNDH concluded in a national penitentiary oversight assessment in 2019 that the large part of mixed prisons that house both men and women deprived of liberty lack areas for attending to the needs of women and of their children who live with them. In fact, the mixed centers received an overall rating that was 1.16 points lower than the rating received by prisons housing women exclusively, and it was noted that the 100 mixed prisons house 52.80% of the population of women inmates, while the 21 women's prisons house 47.20% of the women inmates.<sup>402</sup>

269. Along with this, the CNDH indicated that the Mexican State continues to face difficulties regarding women deprived of liberty, particularly as it relates to the physical space used for pretrial detention and reserved exclusively for women serving sentences in each federal entity. Along these lines, the CNDH issued recommendations 4/2020, 10/2020, and 11/2020 on deficiencies that violate the human rights of women deprived of liberty in penitentiaries in the states of Baja California, Tabasco, and Quintana Roo, respectively. The IACHR observes that these recommendations join another 11 recommendations issued during 2019 to the governments of Baja California Sur, Campeche, Colima, Durango, Guerrero, Michoacán, Puebla, Sinaloa, San Luis Potosí, Tamaulipas, and Veracruz<sup>403</sup>.

270. As regards the measures adopted to eliminate the barriers faced by persons with disabilities deprived of liberty, the State did not report any information.

271. The IACHR notes the challenges facing the Mexican penitentiary system in terms of the deprivation of liberty of women, as well as a lack of progress on measures implemented to guarantee differentiated conditions of detention for groups facing special situations of vulnerability. The Commission reiterates to the Mexican State that, as the guarantor of the

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<sup>398</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 49.

<sup>399</sup> Also see IACHR, [Annual Report 2019](#), Chapter V, "Mexico," para. 258.

<sup>400</sup> IACHR, [Annual Report 2019](#), Chapter V, "Mexico," para. 250 – 254.

<sup>401</sup> Office of the Secretary for Interior Affairs, [Monthly National Penitentiary Statistical Workbook](#), September 2020.

<sup>402</sup> CNDH, [National Penitentiary Oversight Assessment 2019](#), pg. 534-542.

<sup>403</sup> CNDH, Submission from the CNDH 2020, para. 114.

fundamental rights of persons deprived of liberty, it has a legal duty to adopt concrete and urgent measures to ensure that they can exercise those rights. In particular, the Mexican State should implement prison policies with a gender perspective that address the specific needs of women deprived of liberty. Therefore, the IACHR considers that the recommendation remains pending compliance.

272. Regarding the recommendation to **adopt measures to address pretrial detention and the high levels of overcrowding**, the State reported that in order to address the workload facing Federal Criminal Justice Centers in the execution stage and make the Federal criminal adversarial system operate more efficiently, the Plenary of the Federal Council of the Judiciary approved the appointment of seven sentence execution judges in Mexicali, Ciudad Juárez, Almoloya de Juárez, Chihuahua, Morelia, San Bartolo Coyotepec, and Culiacán. It therefore currently has 31 sentence execution judges.<sup>404</sup>

273. Additionally, the State reported on the release for humanitarian reasons of 78 persons by the Judiciary of Mexico City; 59 persons by the Office of the Secretary of Security and the Judiciary of the State of Mexico; and 150 persons through a legal mechanism of the Superior Court of Guerrero and its government.<sup>405</sup>

274. The IACHR was also informed that in April 2020, the Chamber of Senators passed the Amnesty Act to pardon people convicted of committing minor federal crimes with the purpose of reducing the number of inmates held during the COVID-19 pandemic. In this regard, the IACHR issued a public statement urging the quick establishment of the Amnesty Commission.<sup>406</sup> Later, on June 18, 2020, the State adopted the order to create the Amnesty Commission, with a deadline of 72 hours to set it up. It was to have five members, including representatives of the National Women's Institute and the National Institute of Indigenous Peoples.<sup>407</sup> The IACHR welcomed the establishment of this commission as a measure to collaborate in the prevention of COVID-19.<sup>408</sup> However, the Commission has also learned that 762 persons deprived of liberty have requested access to this benefit with no response, now more than seven months since the law took effect.<sup>409</sup>

275. Although the Commission views positively the actions taken to increase the number of criminal sentence execution judges, as well as the measures to grant early release in some federal entities, the publication of the Amnesty Act, and the establishment of the Amnesty Commission with a representative composition to guarantee a crosscutting and intersectional approach, it also notes that implementation has not yet been effective. The IACHR also reiterates its observations included on the recommendation to correct the excessive use of pretrial detention related to the constitutional reform on pretrial detention without a court order adopted in 2019, and reaffirms that automatic pretrial detention can have an impact in terms of the overcrowding of penitentiaries that runs contrary to the recommendation issued by the

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<sup>404</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 49.

<sup>405</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 48.

<sup>406</sup> IACHR, <https://twitter.com/CIDH/status/1273381366147792897>, June 17, 2020.

<sup>407</sup> DOF, [Order to create the Amnesty Commission](#), June 18, 2020.

<sup>408</sup> IACHR, <https://twitter.com/CIDH/status/1275922320847224841>, June 24, 2020.

<sup>409</sup> *Animal Político*, [A siete meses de la Ley de Amnistía: hay 762 peticiones presentadas, pero ninguna concedida](#), December 1, 2020; *Milenio*, [Organizaciones acusan rezagos en aplicación de la Ley de Amnistía](#), October 10, 2020.

Commission. Therefore, the IACHR considers that the recommendation remains pending compliance.

276. Finally, as regards the recommendation aimed at ensuring that the **National Criminal Sentencing Law incorporates international standards that guarantee the rights of persons deprived of liberty, with emphasis on criminal due process and reincorporation into society**, the IACHR reiterates that already in 2018 it found that this recommendation had met with full compliance. Additionally, the Mexican State reported that in November 2019, the Unit for the Consolidation of the New Criminal Justice System held an "Exchange of experiences on the challenges and areas of opportunity on execution of the New Criminal Justice System." The exercise was broken into two working groups with the participation of 69 judges and 10 public defenders. During this activity, the following issues were addressed: (i) the status and measures of transition to a unified sentence execution jurisdiction; (ii) criteria for combining, processing, and closing sentence execution files; (iii) sentence execution transfers and videoconferencing; (iv) indicators for measuring the sentence execution workload; and (v) parameters for assigning specialized judges and the staffing needed for sentence execution duties.

## 6. Migrants and Internal Forced Displacement

- Comply with the series of recommendations formulated in the Report Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico.
- Create a national survey to "characterize" internal forced displacement in Mexico and, consequently, adopt a national policy and measures to provide a response to this problem in accordance with international standards on the subject, particularly the United Nations Guiding Principles on Internal Displacement.
- Adopt specific legislation at the federal and state level to address internal displacement, in accordance with the UN Guiding Principles on Internal Displacement.
- Ensure at the federal level, that there is an institution in charge of the protection of persons who are victims of forced displacement.

277. Regarding the recommendation to **comply with the series of recommendations formulated in the Report Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico**, the State reported a series of actions to the IACHR related to complying with the recommendations made in the aforementioned report. The recommendations adopted by the IACHR at that time are categorized as follows: recommendations on addressing violence and discrimination against persons in the context of human mobility; recommendations on guaranteeing due process and migratory detention; and recommendations on guaranteeing equal protection and nondiscrimination in the context of access to economic, social, cultural, and environmental rights, as well as to naturalization in the country.

278. Regarding the recommendation on adopting the measures necessary to ensure that search, verification, and migration control actions are not taken and interrogations, detentions, and roundups are not conducted based *de facto* exclusively on the physical appearance of a person, their skin color, their facial characteristics, their membership in a racial or ethnic group, or any other classification that is said to make them particularly suspicious,<sup>410</sup>

<sup>410</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.

the State indicated that the heads and/or leaders of the representation offices of the National Migration Institute (INM) were informed that they must act in adherence to the Migration Act and its regulations.<sup>411</sup>

279. With regard to establishing and expanding by law existing alternatives to migrant detention,<sup>412</sup> the State reported that under the "Program on Alternatives to Housing in Migration Stations," the INM sent asylum applicants associated with the UNHCR to be housed until the Mexican Refugee Assistance Commission (COMAR) could definitively decide on their cases, pursuant to the provisions of the Refugees, Complementary Protection, and Political Asylum Act. During that time period, applicants are granted residency by the INM with a provisional visitor document, which allows them to perform remunerated labor for a maximum of 45 working days. It also highlighted that as of September 2020, the program had benefited a total of 18,453 persons.<sup>413</sup>

280. Regarding the recommendation to guarantee that the detention conditions at migrant stations and temporary stations meet minimum human rights standards,<sup>414</sup> the State indicated that supervisory visits are conducted to verify they are operating in compliance with migration law and providing the foreign nationals housed there with good quality, efficient services that treat them with dignity.<sup>415</sup>

281. With regard to guaranteeing access to primary medical care in migration stations and temporary stations,<sup>416</sup> the State indicated that the foreign nationals housed in the INM's migration stations and/or temporary stations receive medical and psychological care free of charge, either from the Institute itself or from other local, state, or federal health institutions.<sup>417</sup>

282. With regard to guaranteeing the access of civil society organizations to migration stations, temporary stations, and any other location that may be holding undocumented migrants, asylum applicants, refugees, stateless individuals, and other persons needing international protection to provide humanitarian assistance, legal aid, and monitoring of the conditions of the individual detained there and the conditions within those locations,<sup>418</sup> the

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<sup>411</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 50.

<sup>412</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.4.

<sup>413</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 51.

<sup>414</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.17.

<sup>415</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 55.

<sup>416</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.18.

<sup>417</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 55.

<sup>418</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.20.

State said it guarantees access to civil society organization so they can provide support to foreign persons in custody.<sup>419</sup>

283. As regards the adoption of legislative measures to guarantee that children and adolescents—whether accompanied or not—are not placed in migration detention,<sup>420</sup> the State indicated that the INM had trained the staff at its 32 representation offices on a protocol for initial evaluation to identify signs of need for international protection for unaccompanied or separated migrant children and adolescents. According to the information provided to the IACHR, the training was provided to the officials who conduct first contact interviews with unaccompanied or separated migrant children and adolescents to help them detect and document signs of need for international protection. It added that the interview was used to channel unaccompanied or separated migrant children and adolescents to the COMAR.<sup>421</sup>

284. Regarding the recommendation to continue implementing permanent education and training programs and courses for public officials on the human rights of migrant persons, asylum applicants, refugees, persons requiring complementary protection, stateless individuals, and the victims of human trafficking, the State said it had conducted the following activities:<sup>422</sup> i) 11 training workshops for instructors on "Detecting and investigating the crime of illegal trafficking of migrants and crimes against migrant persons;" ii) 29 courses on "Legality and human rights;" iii) three courses on "Human trafficking;" and iv) 11 events on the course "Refugees and other forms of international protection," offered by COMAR and the INM. Additionally, it noted the design for the course "The ABCs of human rights regarding migration," the purpose of which is to help public servants recognize in their day-to-day actions the basic concepts of the human rights of persons in the context of mobility. The course was to have been launched in July 2020.<sup>423</sup>

285. Additionally, as regards procedural guarantees and judicial protection, the IACHR recommended guaranteeing that decisions on migrant detention are made pursuant to Mexican states' obligations under the Convention, the Constitution, and the law; that they not be made arbitrarily; and that they be subject to regular judicial review.<sup>424</sup> In its report, the State indicated that current law guarantees that anyone being held in any migration station can designate or revoke a legal representative or person of trust at any time and communicate telephonically with their consular representative.<sup>425</sup>

286. With regard to informing persons held in migration detention of their right to request consular assistance, and ensuring means are available for communicating with

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<sup>419</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 55 and 56.

<sup>420</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.6.

<sup>421</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 55.

<sup>422</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.1.

<sup>423</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 53.

<sup>424</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.9.

<sup>425</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 53.

consulates if required,<sup>426</sup> the State indicated that an official letter had been issued to ensure communication was possible with their consular representatives or the persons they wish, including relatives, friends, compatriots, legal representatives, or persons of trust.<sup>427</sup>

287. Lastly, regarding the recommendation to guarantee that migrants are only deported on the decision of a competent authority in the framework of a procedure established beforehand by law and in which the migrant has had an opportunity to defend themselves pursuant to inter-American standards of due process,<sup>428</sup> the State indicated that deportation is a measure ordered by the INM based on the conditions provided for by the Migration Act after the administrative migratory procedure has been exhausted.<sup>429</sup>

288. In this regard, the Commission has monitored the human rights violations experienced by migrants and other persons in the context of human mobility in Mexico.<sup>430</sup> Through this monitoring, it has identified several aspects related to compliance with the recommendations made that require the State's attention.

289. In previous reports, the IACHR has noted the increase in the number of persons requesting refugee status in Mexico.<sup>431</sup> The latest figures from the UNHCR indicate that during 2019, there were a total of 70,400 new requests for asylum registered,<sup>432</sup> of which 69,470 remained pending resolution.<sup>433</sup> For its part, the most recent COMAR data indicate that as of the end of 2019, there had been a total of 70,609 requests for recognition of refugee status. Regarding 2020, the most recent data indicate that as of October 31, a total of 32,272 persons had requested recognition of refugee status, a decline of 48.53% compared to the requests submitted during the same period in 2019.<sup>434</sup> This could be related to the mobility restrictions imposed as a means of containing and mitigating the COVID-19 pandemic. Thus, of the total number of persons requesting recognition of refugee status during 2020, a total of 9,064 had been recognized as refugees, while 123 had been granted supplementary protection.<sup>435</sup>

290. Along these lines, the report of the Human Rights Observation Mission at Mexico's Southern Border (MODH) establishes that although there was a decrease in the flow of persons reaching Mexico's border and seeking to stay in the country or continue on their way to the United States, migration continued, as the structural causes pushing people to leave their countries of origin—such as inequality, poverty, exclusion, and violence—worsened with the

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<sup>426</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.10.

<sup>427</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 52.

<sup>428</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 577.15.

Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 54.

<sup>430</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013. IACHR, [Situation of human rights in Mexico](#), OEA/Ser.L/V/II. Doc. 44/15 December 31, 2015.

<sup>431</sup> IACHR, [Annual Report: Chapter V, Mexico](#), 2019, para. 277. IACHR, [Annual Report: Chapter V, Mexico](#), 2018, para. 216. IACHR, [Annual Report: Chapter V, Mexico](#), 2017, para. 197.

<sup>432</sup> UNHCR, [Global Trends on Forced Displacement 2019](#), pg. 39.

<sup>433</sup> UNHCR, [Global Trends on Forced Displacement 2019](#), pg. 74.

<sup>434</sup> COMAR, Mexico, [Statistics October 2020](#), November 2, 2020.

<sup>435</sup> COMAR, Mexico, [Statistics October 2020](#), November 2, 2020.

pandemic. It added that as of July 2020, the number of people arriving at Mexico's southern border was steadily increasing.<sup>436</sup>

291. With regard to the procedure to recognize refugee status, the IACHR has monitored the increase in requests for recognition of refugee status in Mexico, along with reports of the difficulties these persons face surrounding these procedures.<sup>437</sup> Thus, the IACHR learned of recommendation 24/2020 issued by the National Human Rights Commission (CNDH), recommending that COMAR guarantee the protection of the human rights of the victims identified, and that in the case of children and adolescents, their best interest be respected.<sup>438</sup> It also granted precautionary measures to 78 persons who had requested recognition of refugee status such that the INM and COMAR provide procedures for granting migratory status, as well as that requests for recognition be resolved before the deadlines established by law.<sup>439</sup>

292. For its part, the UNHCR urged Mexico to use streamlined procedures for recognizing refugee status for certain profiles of cases with high rates of recognition.<sup>440</sup> Along the same lines, based on the information provided, the IACHR welcomed the initiative of the State of Mexico to suspend the obligation that persons with an open procedure on recognition of refugee status sign in once a week, guaranteeing response to urgent requests.<sup>441</sup>

293. Regarding migration detention, the IACHR has noted that, in practice, the State continues implementing a migration policy aimed at migrants in irregular circumstances who are in transit through Mexico that is not in keeping with the relevant international standards.<sup>442</sup> Along these lines, the Commission learned of tension and violence at migration stations and other facilities where migrants and those requesting asylum are held during administrative procedures, often in situations similar to detention,<sup>443</sup> with no time limit. The increase in tension and violence is related to fear of infection from the illness caused by the novel coronavirus.<sup>444</sup>

294. This information was also included by civil society organizations in the report on the effects of the COVID-19 pandemic on migrants and refugees, which indicated that as of the date of the report, 59 migration centers would be used as care centers for migrants.<sup>445</sup> Regarding conditions within the migration stations, reports from civil society organizations indicate that these spaces do not meet minimum hygiene conditions, and that they are unsafe and tend to

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<sup>436</sup> MODH, Mexico, [Report on findings of the human rights observation mission to Mexico's southern border](#), pg. 35.

<sup>437</sup> IACHR, [Annual Report: Chapter V, Mexico](#), 2019, para. 277. IACHR, [Annual Report: Chapter V, Mexico](#), 2018, para. 217. IACHR, [Annual Report: Chapter V, Mexico](#), 2017, para. 199 and 200.

<sup>438</sup> CNDH, Mexico, [Press release DGC/230/2020](#), July 21, 2020. CNDH Mexico, [Recommendation 24/2020](#), July 16, 2020.

<sup>439</sup> CNDH, Mexico, [Press release DGC/007/2020](#), January 10, 2020.

<sup>440</sup> UNHCR, [Global Trends on Forced Displacement 2019](#), pg. 45.

<sup>441</sup> IACHR, Press Release 077/20 - [The IACHR urges States to protect the human rights of migrants, refugees and displaced persons in the face of the COVID-19 pandemic](#), Washington, D.C., April 17, 2020.

<sup>442</sup> IACHR, [Annual Report: Chapter V, Mexico](#), 2019, para. 284.

<sup>443</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II Doc. 48/13, December 30, 2013, para. 411.

<sup>444</sup> IACHR, Press Release 077/20 - [The IACHR urges States to protect the human rights of migrants, refugees and displaced persons in the face of the COVID-19 pandemic](#), Washington, D.C., April 17, 2020.

<sup>445</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 47.

spread the virus among the population due to uninhabitable conditions that do not allow social distancing, adequate hygiene, or other preventative and medical care practices.<sup>446</sup>

295. The IACHR also notes based on the information collected by civil society organizations that there were a number of protests documented during 2020 related to detention conditions, overcrowding, lack of hygiene, and fear of infection from the coronavirus.<sup>447</sup> They include: i) March 23 in the 21st Century Migration Station in Tapachula, Chiapas. The persons within the station asked to be released or returned to their countries due to the incompatibility of their circumstances with health recommendations;<sup>448</sup> ii) March 29 in the Villahermosa Migration Station in Tabasco, over fear of contracting the coronavirus;<sup>449</sup> iii) March 31 in the migration Station in Tenosique, Tabasco, where a man of Guatemalan nationality died who, along with his family, had submitted a request to the COMAR for refugee status;<sup>450</sup> iv) April 2 in the INM facilities in Hermosillo, Sonora, over conditions of overcrowding and lack of hygiene;<sup>451</sup> and v) April 6 in the Temporary Shelter in Piedras Negras, Coahuila, over the center's conditions.<sup>452</sup>

296. For its part, the INM emphasized that it regularly inspects migration stations to guarantee the human rights of those persons being held in them.<sup>453</sup>

297. With regard to the former, the CNDH asked for the implementation of precautionary measures to: i) protect 101 persons in the context of mobility being held in the "Expo Guadalupe" facilities in the municipality of Guadalupe, Nuevo León;<sup>454</sup> ii) protect the

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<sup>446</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 52. MODH, Mexico, [Report on findings of the human rights observation mission to Mexico's southern border](#), pg. 35.

<sup>447</sup> CMDPDH, [Organizations file actions before the United Nations and the IACHR in response to violations of human rights of migrants detained in Mexico](#), Mexico, May 28, 2020.

<sup>448</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 54. EFE, [Las estaciones migratorias de México afrontan un nuevo reto con el COVID-19](#), March 25, 2020. *La Jornada*, [Migrantes se amotinan en Estación Siglo XXI](#), March 23, 2020.

<sup>449</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 56. XEVA, [Se amotinan indocumentados en estación migratoria del INM en Villahermosa](#), March 29, 2020. *Novedades de Tabasco*, [Intento de motín en estación migratoria Villahermosa](#), March 29, 2020.

<sup>450</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 56. EFE, [Un muerto y cuatro heridos en motín en estación migratoria del sur de México](#), April 1, 2020. *Prensa Libre*, [Guatemalteco muere en cárcel migratoria en México por motín ante el temor del coronavirus](#), April 1, 2020. *Animal Política*, [Un solicitante de asilo muere tras protestas en el interior de la estación migratoria de Tenosique](#), April 1, 2020.

<sup>451</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 58. *La Jornada*, [Migrantes se amotinan en INM en Sonora ante temor de contagio](#), April 2, 2020. *Proyecto Puente*, [Trasladarán a 300 migrantes desde Hermosillo a Honduras tras motín en INM](#), April 2, 2020. *Informador.MX*, [Más de 300 centroamericanos se amotinan en el INM de Sonora](#), April 2, 2020.

<sup>452</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 60. *Televisa.News*, [Incendio en centro migratorio de Piedras Negras deja seis lesionados](#), April 4, 2020. *Diario Contra República*, [Deportados de EU provocan albergue en Coahuila para escapar](#), April 3, 2020. *Milenio*, [Deportan a migrantes tras motín en albergue de Piedras Negras](#), April 5, 2020.

<sup>453</sup> INM, Mexico, [Bulletin No. 406/2020](#), October 22, 2020. INM, Mexico, [Bulletin No. 396/2020](#), October 17, 2020. INM, Mexico, [Bulletin No. 392/2020](#), October 14, 2020.

<sup>454</sup> CNDH, Mexico, [Press release DGC/051/2020](#), February 22, 2020.

physical integrity, psychological integrity, health, and lives of migrants held in INM migration stations, temporary stations, and shelters;<sup>455</sup> iii) protect the integrity and security of persons in the context of migration housed in the migration station in Tenosique, Tabasco.<sup>456</sup> Regarding the incident in question, the CNDH announced that the National Mechanism on the Prevention of Torture had asked to the INM to adopt a series of precautionary measures to prevent conduct that could constitute cruel, inhuman, or degrading treatment or even torture, to the detriment of persons in a situation of migration;<sup>457</sup> iv) guarantee medical care for migrants, prevent infections as much as possible, continue constant monitoring and supervision, and also provide them with the information, products, and materials necessary to prevent the illness and provide a dignified shelter;<sup>458</sup> and v) resolve the issue of overpopulation in the Palenque, Chiapas, migration station and provide health services, hygiene, and dignified lodging to prevent the spread of COVID-19 as much as possible. It also asked that, in the case of accompanied or unaccompanied children and adolescents, measures be implemented that meet their needs, including the exploration of alternatives to detention;<sup>459</sup> and vi) prevent and, where applicable, mitigate COVID-19 infections between persons in the context of international mobility in the “Siglo XXI” migration station and the “El Hueyate” temporary station, located in Chiapas.<sup>460</sup>

298. Additionally, the CNDH issued to recommendations to the INM to address: i) violations of the human rights to the protection of health, life, and information regarding health, to the detriment of an immigrant of Salvadoran nationality who had died as a consequence of COVID-19;<sup>461</sup> and ii) inadequacies of housing conditions and overcrowding of persons in the context of international migration in the facilities of the INM in Monterrey, Nuevo León, in the “Expo Guadalupe” temporary station and the Zozaya migration station in the municipality of Guadalupe.<sup>462</sup>

299. In line with this, according to publicly available information, between January and August 2020, a total of 7,442 children and adolescents passing through Mexico were detained, of which 37% were girls and 63% were boys.<sup>463</sup> In this regard, the UN OHCHR-MX praised the publication of reforms of multiple articles of the Migration Act and the Refugees, Complementary Protection, and Political Asylum Act.<sup>464</sup> The main changes include: i) eliminating detention for children and adolescents in a situation of mobility in migration stations and shelters, whether or not they are accompanied, and providing care alternatives; ii) determination of the best interest of the child as a central element of the process to guarantee rights; iii) extension of protection to

<sup>455</sup> CNDH, Mexico, [Press release DGC/081/2020](#), March 17, 2020.

<sup>456</sup> CNDH, Mexico, [Press release DGC/116/2020](#), April 2, 2020.

<sup>457</sup> CNDH, Mexico, [Press release DGC/118/2020](#), April 2, 2020.

<sup>458</sup> CNDH, Mexico, [Press release DGC/243/2020](#), August 6, 2020.

<sup>459</sup> CNDH, Mexico, [Press release DGC/300/2020](#), September 20, 2020.

<sup>460</sup> CNDH, Mexico, [Press release DGC/336/2020](#), October 23, 2020.

<sup>461</sup> CNDH, Mexico, [Press release DGC/293/2020](#), September 11, 2020.

<sup>462</sup> CNDH, Mexico, [Press release DGC/295/2020](#), September 12, 2020. CNDH Mexico, [Recommendation 36/2020](#), August 31, 2020.

<sup>463</sup> *La Jornada*, [Organizaciones alertan sobre detenciones de menores migrantes en México](#), October 12, 2020. *Nodal*, [Organizaciones alertan sobre detenciones de menores migrantes en México](#), October 13, 2020. *El Comentario*, [Organizaciones alertan sobre detenciones de menores migrantes en México](#), October 12, 2020.

<sup>464</sup> *La Jornada*, [Celebra la ONU reformas de ley que benefician a niños migrantes](#), November 11, 2020. Official Gazette of the Nation, Mexico, [Decree amending multiple articles of the Migration Act and the Refugees, Complementary Protection, and Political Asylum Act.](#), November 11, 2020.

all children in situations of mobility, not only unaccompanied children; and iv) documentation of all children and adolescents in situations of mobility to prevent their expedited deportation and ensure they are able to exercise their basic rights.<sup>465</sup>

300. In this regard, the IACHR takes note of the passage of amendments to the Refugees, Complementary Protection, and Political Asylum Act. The Commission recognizes the provisions on the protection of migrant children and adolescents regardless of their migration status in the country, and application of the principle of the best interest of the child and family unity. It also highlights the provision prohibiting returning, expelling, deporting, rejecting at the border, or not allowing entrance to migrant children and adolescents without assessing whether their lives, liberty, or security are in danger. As regards the amendment of article 99 of the Migration Act, the Commission notes with concern that it establishes as a matter of public order that adult migrants must be presented at migration stations or locations used for such purposes until their migration status in Mexico is determined. The law indicates that the presentation of foreign persons is a measure ordered by the INM whereby it is agreed to temporarily house a foreign adult person with undocumented migration status until their migration status is legalized or their deportation is processed.<sup>466</sup>

301. With regard to this, according to the most recent information from the INM, a total of 50,241 foreign persons were presented before migration authorities as of August 2020. This included 34,584 men, 8,215 women, and 7,442 children and adolescents, of which 241 children and adolescents were unaccompanied.<sup>467</sup> Likewise, a total of 36,589 foreign persons had been returned by Mexican authorities. Of them, 10,233 were of Guatemala nationality, 12,633 of Honduran nationality, 1,901 of Salvadoran nationality, and 265 of Nicaragua nationality.<sup>468</sup>

302. In this regard, the IACHR has found that regardless of what migration detention is called, any measure that prevents a migrant from freely exercising their freedom of movement constitutes a detention, and must therefore respect the guarantees deriving from the right to personal liberty.<sup>469</sup> Additionally, the IACHR has indicated that based on the principle of exceptionality in the exercise of the State's punitive authority, the use of deprivation of liberty should be limited to situations that affect fundamental legal rights.<sup>470</sup> Because it is an exceptional measure, authorities shall only use detention after having determined that the measure complies with the requirements of necessity, reasonability, and proportionality. This means that migratory detention will only be necessary in an individual case if its use is reasonable and proportionate to the objectives it seeks to attain.<sup>471</sup> Therefore, the Commission urges the State to adjust its

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<sup>465</sup> UNICEF, [Agencias de la ONU celebran aprobación de reformas a favor de la niñez y adolescencia migrante, solicitante de asilo y refugiada](#), September 30, 2020.

<sup>466</sup> Official Gazette of the Nation, Mexico, [Decree amending multiple articles of the Migration Act and the Refugees, Complementary Protection, and Political Asylum Act.](#), November 11, 2020.

<sup>467</sup> INM, Mexico, [Statistical bulletins III Foreigners presented and returned](#), 2020, workbooks 3.1.1 and 3.1.3.

<sup>468</sup> INM, Mexico, [Statistical bulletins III Foreigners presented and returned](#), 2020, workbook 3.2.1.

<sup>469</sup> IACHR, [Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System](#), OEA/Ser.L/V/II. Doc. 46/15, December 31, 2015, para. 386.

<sup>470</sup> IACHR, [Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System](#), OEA/Ser.L/V/II. Doc. 46/15, December 31, 2015, para. 383.

<sup>471</sup> IACHR, [Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System](#), OEA/Ser.L/V/II. Doc. 46/15, December 31, 2015, para. 398.

migration laws, policies, and practices to eliminate the detention of undocumented migrants in Mexico. Likewise, it underscores that until it does so, the State must guarantee detentions follow the principles of necessity, reasonability, and proportionality.

303. Additionally, the IACHR learned of the resolution of the First Administrative District Court<sup>472</sup> and the Second Administrative District Court, both in Mexico City, ordering, among other things, the immediate release of older adults or persons belonging to groups at risk of catching a disease and falling seriously ill and/or dying as a result and that other mechanisms be used to monitor them while in Mexican territory.<sup>473</sup> Likewise, a resolution of the First Collegiate Tribunal of the Fifteenth Circuit ordered resolution of the migratory status of persons being held in migration stations and, where applicable, their release to prevent overcrowding.<sup>474</sup> Likewise, a resolution of the Fifth District Federal Amparo Court of Baja California ordered the implementation of urgent actions to protect the health and safety of persons held in migration centers or facilities, regardless of their status, in view of national and international standards on migrant persons.<sup>475</sup>

304. Along these lines, the IACHR reminds the State that, according to the specific recommendations made in its resolution 1/2020, it should avoid using strategies like detaining migrants and other measures that increase the risk of infection and spread of COVID-19.<sup>476</sup>

305. For its part, the INM stated that starting on March 21, 2020, it began a process of releasing migrants held at its migration stations and shelters. It also said it had no record of any cases of COVID-19 in the migrant population being held at migration stations or temporary shelters.<sup>477</sup> On this point, civil society organizations underscored that migrant persons were released for humanitarian reasons, allowing them to remain in the country for 60 days or, for the cases of those who submitted it, with a request for refugee status. However, they indicated that there was no policy on providing support or follow-up on the situation of these persons.<sup>478</sup>

306. Regarding the violence committed against migrants passing through Mexico, the REDLAC indicated that they were the direct victims of illegal activities of criminal organizations. It added that State agents—especially municipal and state police, the federal police, and the INM—had been identified as responsible in at least 25% of the attacks on migrants. The private security agents on the cargo train that migrant persons board in southern states to ride to northern states also extort them, demanding money from them as they wait to board the train, when they are boarding, and even when they are already aboard, threatening them with calling the authorities, beating them, throwing them onto the rails, or halting their journeys in places

<sup>472</sup> *Animal Político*, [Juez ordena al INM la liberación de migrantes detenidos en estaciones migratorias](#), April 18, 2020. *Latinus*, [Juez ordena liberación de migrantes vulnerables a Covid-19 en México](#), April 17, 2020. *La Jornada*, [Activistas celebran liberación de migrantes detenidos por INM](#), April 19, 2020.

<sup>473</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 88.

<sup>474</sup> Fundación para la Justicia y el Estado Democrático de Derecho, [Report on the effects of the COVID-19 pandemic on migrants and refugees. Human rights violations documented by human rights organizations and shelters in Mexico](#), Mexico, 2020, pg. 93.

<sup>475</sup> Periodistas Unidos, [Regarding the amparo brought in Tijuana, Baja California on the COVID-19 health emergency and respect for the human rights of migrants](#), April 17, 2020.

<sup>476</sup> IACHR, [Resolution 1/2020, Pandemic and human rights in the Americas](#), April 10, 2020, para. 58.

<sup>477</sup> INM, Mexico, [Communication No. 085/2020](#), August 6, 2020.

<sup>478</sup> MODH, Mexico, [Report on findings of the human rights observation mission to Mexico's southern border](#), pg. 45.

where migration agents or criminal groups are known to operate.<sup>479</sup> Regarding this, the CNDH sent a recommendation to the Office of the Secretary for Citizen Security and Protection and the INM commissioner over the attacks committed by personnel from both institutions against members of the migrant caravan that entered Mexico in January 2020.<sup>480</sup>

307. Likewise, the report of the MODH indicated that the closure of the borders in Central America and the United States force people to head for informal border crossing points, known as blind passes, posing greater risks to their safety. Along with this, the border closures have been used by human trafficking networks to control routes of return to countries of origin and do business by charging those forced to return to Central America.<sup>481</sup>

308. Additionally, during the 177th Ordinary Period of Sessions of the IACHR, civil society organizations reported that a total of 66,000 people had been subjected to the MPP.<sup>482</sup> In this context, the organizations that requested the hearing indicated that both persons requesting asylum and migrants—including at least 16,000 children and adolescents and almost 500 children under one year old—had been forced to return to Mexico. They also stated that as of May 13, 2020, at least 1,114 cases had been reported of murder, rape, torture, kidnapping, and other incidents of violence perpetrated against those requesting asylum and migrants forced to return to Mexico.<sup>483</sup> The organizations reported to the IACHR the use of the migration control records of the integrated migration operation system (SIOM) including the “migration alerts.”<sup>484</sup> According to the information provided to the IACHR, the migration control lists were used to prevent people from entering Mexican territory. This situation even impacted people needing international protection, who were rejected and returned to their countries of origin.<sup>485</sup>

309. For its part, the State indicated that one of the measures used to verify if someone meets the registration requirements of the SIOM’s immigration control are immigration control lists. Specifically, it noted that the lists are databases generated by the competent authorities in the framework of their duties on persons’ entries, exits, and stay in Mexico, pursuant to the provisions of articles 43 and 20 of the Migration Act, the regulations of the Migration Act, and order INM/157/2015. It underscored that the objective of the migration control lists is rapid risk identification, and they are therefore not used to criminalize migrants or human rights defenders. Neither are they used to indiscriminately deny entry or reject applicants, as admission decisions always require justification, in accordance with the provisions

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<sup>479</sup> REDLAC, [Bulletin N8 – A trigger for internal displacement and forced migration in the northern part of Central America and Mexico](#), April 2020, p. 15.

<sup>480</sup> CNDH, Mexico, [Press release DGC/343/2020](#), October 29, 2020. CNDH Mexico, [Recommendation 50/2020](#), October 27, 2020.

<sup>481</sup> MODH, Mexico, [Report on findings of the human rights observation mission to Mexico's southern border](#), pg. 37.

<sup>482</sup> Migration agreement and the unilateral decision of the United States to implements a Migrant Protection Protocol (MPP). IACHR, [Regional hearing: “Migrants and refugees. Unaccompanied children and adolescents,”](#) 177th Ordinary Period of Sessions, October 9, 2020. Information provided by the Immigration Clinic of the University of San Francisco. HRW, [US: ‘Remain in Mexico’ Program Harming Children](#), February 13, 2020.

<sup>483</sup> Human Rights First, [Forced returns to Mexico: at least 1,114 publicly reported cases of murder, rape, torture, kidnapping & other violent assaults](#), May 13, 2020.

<sup>484</sup> IACHR, [Annual Report: Chapter V, Mexico](#), 2019, para. 302.

<sup>485</sup> IACHR, [Public Hearing: “Threats, protection, and security of migrant populations in Mexico,”](#) 177th Period of Sessions, October 2, 2020. Information provided by the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH).

of the Migration Act and applicable regulations.<sup>486</sup> It added that the mere existence of a migration alert is not sufficient grounds to launch a procedure to cancel, halt, or revoke international protection.

310. Regarding this point, the Commission has found that there is a broad range of circumstances and/or categories of information in Mexico that can be classified as confidential for reasons of national security and that is often not defined by law. Consequently, the government has broad discretion to place information that is in the public interest within these categories, thus preventing its disclosure.<sup>487</sup> In this regard, the IACHR reminds the State that although Article 13(2) of the American Convention allows for restrictions on the freedom to seek, receive, and disseminate information of all kinds for “the protection of national security,” it also requires strict compliance with the requirements that any limitation of the exercise of the right to access to information be set forth explicitly in a clear and precise law; pursue a legitimate aim under international law—in this case, national security; and be strictly necessary, suitable, and proportionate.<sup>488</sup>

311. The Commission takes note of the actions reported by the State to move forward in complying with the recommendations formulated in the Report on the Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico. However, the IACHR observes that challenges persist that require the implementation of concrete measures to guarantee the rights of all migrant persons and other persons in a context of human mobility. Therefore, based on the information set forth in this section, the Commission concludes that the State has partially complied with this recommendation.

312. Regarding the recommendation to **adopt specific legislation at the federal and state level to address internal displacement, in accordance with the UN Guiding Principles on Internal Displacement**, the State indicated in its report to the IACHR that it reiterates the information sent previously.<sup>489</sup>

313. In this regard, the latest figures published by the Internal Displacement Monitoring Centre (IDMC) indicate that in 2019, Mexico saw a total of 23,100 new displacements, of which 16,000 were related to disasters and 7,100 to conflict and violence.<sup>490</sup> Additionally, the IDMC indicates that violence and disasters have increased in Mexico, continuing to cause the displacement of persons during the first half of 2020. Accordingly, a total of 9,000 new displacements from disasters were reported, along with 4,600 displacements related to conflict and violence in the period.<sup>491</sup>

314. In this regard, it is not possible based on the information available publicly to determine the State’s progress toward creating a national survey to “characterize” internal forced displacement in Mexico and, consequently, adopting a national policy to provide an integrated

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<sup>486</sup> IACHR, [Public Hearing: “Threats, protection, and security of migrant populations in Mexico,”](#) 177th Period of Sessions, October 2, 2020. Information provided by the State.

<sup>487</sup> RELE, [Right to information and national security](#), OEA/Ser.L/V/II CIDH/RELE/INF.24/20 July 2020, para. 21.

<sup>488</sup> RELE, [Right to information and national security](#), OEA/Ser.L/V/II CIDH/RELE/INF.24/20 July 2020, para. 12.

<sup>489</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 56.

<sup>490</sup> IDMC, [Country profiles Mexico](#), 2019.

<sup>491</sup> IDMC, [Internal displacement 2020: Mid-year update](#), pg. 36.

response to the phenomenon of internal displacement. Therefore, the IACHR concludes that compliance with this recommendation is still pending.

315. Regarding the recommendations to **adopt specific legislation at the federal and state level to address internal displacement, in accordance with the UN Guiding Principles on Internal Displacement and ensure at the federal level, that there is an institution in charge of the protection of persons who are victims of forced displacement**, the IACHR will analyze them together.<sup>492</sup> Regarding the first recommendation, the State indicated in its report to the IACHR that it reiterates the information sent previously.<sup>493</sup> With regard to the recommendation to ensure at the federal level that there is an institution in charge of the protection of persons who are victims of forced displacement, the State indicated that on September 29, 2020, the Chamber of Deputies of the Congress of the Union passed the draft decree of the "General Law to Prevent, Address, and Provide Comprehensive Reparations for Internal Forced Displacement." The bill has been sent to the Chamber of Senators to continue with the legislative process. It also indicated that on July 9, the Congress of Sinaloa passed the "Law to Prevent and Address Internal Forced Displacement in Sinaloa." The law was published in the Official Gazette of the State on August 21.<sup>494</sup>

316. In this regard, the Commission takes note of the passage of the General Law to Prevent, Address, and Provide Comprehensive Reparations for Internal Forced Displacement by the Chamber of Deputies.<sup>495</sup> According to publicly available information, the law aims to recognize and guarantee the rights of displaced persons in Mexico. At the same time, it would divide jurisdiction between the federal government, states, municipalities, and autonomous bodies. It would also order the creation of the National Registry of Displaced Persons, as well as a national program to prevent, address, and provide comprehensive reparations for internal forced displacement, which would be set up by the Secretary of Internal Affairs. Additionally, it would order the establishment of a fund to provide comprehensive support in cases of displacement.<sup>496</sup>

317. In its observations on the draft of this report, the State indicated that it has promoted the initiative for the Protocol of Attention to Persons in Situation of Forced Internal Displacement, which concerns the National System of Attention to Victims, which is accompanied by a primer in the one that expresses the main international standards regarding the return, integration and relocation of displaced persons.<sup>497</sup>

318. Based on the information set forth in this section, the Commission concludes that the recommendations to adopt specific legislation and to ensure that at the federal level, there is an institution in charge of the protection of persons who are victims of forced displacement remain pending compliance.

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<sup>492</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 87.

<sup>493</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 56.

<sup>494</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 56.

<sup>495</sup> *El Economista*, [Aprueban diputados ley sobre desplazamiento forzado en México](#), September 29, 2020.

<sup>496</sup> *W Radio*, [Aprueban Ley para Prevenir, Atender y Reparar el Desplazamiento Forzado](#), September 29, 2020.

<sup>497</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 18.

## 7. Human Rights Defenders

- Strengthen the bodies in charge of protection of human rights defenders and journalists, so that their life and integrity can properly be guaranteed. At the same time, incorporate gender and multicultural perspectives in the design and adoption of protection measures for defenders and journalists.

319. Regarding the recommendation to **strengthen the authorities in charge of protecting human rights defenders and journalists to adequately guarantee their lives and integrity**, the State reported on the execution of two audits by the High Auditor of the Federation of the trust that handles the resources of the Mechanism; the external evaluation of the mechanism by the OHCHR; the modification of the structure of the Government Council to conduct a joint evaluation of all beneficiaries; the replacement of private bodyguards for beneficiaries with trained bodyguards from the Federal Police; the strengthening of mechanisms of cooperation between local and federal agencies; and the encouragement of more international cooperation with the equivalent mechanisms.<sup>498</sup>

320. For its part, the CNDH reported that between September 2019 and June 2020, the Mexican State worked hand-in-hand with nongovernmental organizations to launch a series of actions around the Mechanism of Protection. They include the institutional restructuring of the mechanism; the redesign of risk analysis to implement comprehensive support measures and ensure a gender perspective; and the implementation of enhanced control measures to improve the procedures for responding to requests to be included and issuing evaluations of the measures granted.<sup>499</sup> In this regard, the civil society organizations agreed with the information presented by the CNDH and added that the reform initiative was awaiting committee approval and would then be sent to the plenary of the Chamber of Deputies and the Chamber of Senators.<sup>500</sup>

321. Although the information reported is viewed positively, the Commission reiterates its observations included in this report on the elimination of the trust for the Protection of Human Rights Defenders and Journalists, and the endangering of the mechanism's financial autonomy.<sup>501</sup> This is even more serious considering that, compared to the previous year, violence against human rights defenders and journalists has intensified in Mexico. Regarding this, the IACHR learned that between January and August 2020, the Mechanism identified at least 276 attacks on human rights defenders and journalists,<sup>502</sup> and prior to October 30, 2020, 18 human rights defenders and 7 journalists had been murdered in the country.<sup>503</sup>

322. Therefore, the Commission reiterates its concern at the budget autonomy and financing modality of the Mechanism and reminds the State of its obligation to adopt measures to prevent violations of the right to life and integrity of human rights defenders facing situations of

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<sup>498</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 56-57.

<sup>499</sup> CNDH, Submission from the CNDH 2020, para. 130 – 133.

<sup>500</sup> SERAPAZ, SERAPAZ Bulletin: COVID-19 impact; forced disappearances; defense of territory and corporate obligations; protection of activists, April 30, 2020.

<sup>501</sup> For more information, see the section on Access to Justice.

<sup>502</sup> *Animal Político*, [Periodistas y personas defensoras de derechos humanos, frente al desdén de la protección federal](#), October 6, 2020.

<sup>503</sup> *Desinformémonos*, [En 2020, 18 defensores y 7 periodistas han sido asesinados en México](#), November 3, 2020.

risk. For these reasons, the IACHR concludes this recommendation continues to meet with partial compliance.

## 8. Freedom of Expression<sup>504</sup>

- Recognize, at the highest levels of the State, the legitimacy and value of the work of journalists, and condemn attacks committed in reprisal for the exercise of freedom of expression.
- Define a single methodology to generate and publish detailed and disaggregated statistics regarding violence against journalists and investigations of attacks, as well as the protection measures adopted. Define a State authority in charge of capturing information and publishing statistics, and inform the various actors regarding the challenges that arise in the application of said methodology.
- Remove all obstacles so that, in practice, the Specialized Prosecutor's Office for Attention to Crimes against Freedom of Expression (FEADLE) may absorb investigation of crimes against journalists and against freedom of expression. This way, make more effective the exercise of federal jurisdiction over crimes within its competence and guarantee that the most serious violations of freedom of expression are always investigated by that Office.
- Maintain the FEADLE's character as a specialized prosecutor's office and vest it with sufficient financial and human resources so that it may achieve its objectives.
- Adopt special protocols for the investigation of murders pursuant to which the hypothesis of a relation to the journalistic profession is exhausted completely.
- Improve the existing relation between the federal and state jurisdictions with the objective of avoiding competence conflicts that impede or delay investigations.
- Allow victims, their families and, when applicable, assisting third parties to participate in the criminal processes with full guarantees, both for the search of the truth and for clarifying the facts, as well as at the time of demanding reparations.

323. The IACHR Office of the Special Rapporteur for Freedom of Expression (hereinafter the Office of the Special Rapporteur) has documented with concern the attacks on journalists in the country during 2020. This year, eight murders of communicators presumably related to the exercise of their work were documented. Two of these journalists were covered by the Mechanism for Protecting Human Rights Defenders and Journalists.<sup>505</sup>

324. Regarding the recommendation to **recognize, from the highest levels of the State, the legitimacy and value of journalism work and condemn the attacks committed in retaliation to the exercise of freedom of expression**, the Mexican State reported that, in the framework of the International Day to End Impunity for Crimes Against Journalists, the Mechanism extended its broadest recognition of persons and organizations dedicated to the work of journalism and the defense and promotion of freedom of expression in Mexico, and urged the authorities at all three levels of government to refrain from committing aggressions or any other act with the intention of limiting or infringing upon the work of these professionals, and to

<sup>504</sup> The IACHR assigned this section of the report to the Office of the Special Rapporteur for Freedom of Expression.

<sup>505</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [Office of the Special Rapporteur Expresses Extreme Concern about Violence against Journalists in Mexico and Calls on the State to Strengthen Protection Mechanisms and Measures to Combat Impunity](#), November 11, 2020.

undertake initiatives from within their different spheres of action to strengthen the rule of law and consolidate a culture of respect for and guarantee of human rights.<sup>506</sup>

325. However, the IACHR has documented that in addition to the murders mentioned in the previous paragraph, other types of attacks persist, including threats, physical and psychological violence, intimidation, and harassment, intensified by stigmatizing statements made by government authorities against members of the press, a practice that promotes massive online harassment, as has been reported by different organizations and media outlets. Of great concern to the Office of the Special Rapporteur are the declarations and statements made by senior State officials, especially the president of the Republic, and particularly in daily press conferences or other situations. For example, on August 28, during a morning press conference, the spokesperson for the president, Jesús Ramírez Cuevas, accused a media outlet and eight civil society organizations<sup>507</sup> of receiving financing from foreign foundations to criticize and opposed the Mayan Train project.<sup>508</sup> The organizations published a press release rejecting this smear campaign.<sup>509</sup> The president insisted on September 1 and 3 with further statements on foreign financing.<sup>510</sup> On April 22, he singled out the newspapers *El Universal* and *Reforma* for publishing only bad news about his administration. Also, with a lecturing tone, he made negative comments about the newspaper *Milenio* and the journalists Carlos Marín, Pascal Beltrán del Río (*Excélsior*), and Ciro Gómez Leyva (*Radio Fórmula*).<sup>511</sup> In August, the former CEO of *Petróleos Mexicanos* (Pemex), Emilio Loyola Austin, during his statement before the Attorney General's Office, pointed out to the journalist Lourdes Mendoza about behaviors that do not have a judicial judgement. The columnist denied the claim through her social networks, which she described as "absolutely false," and called on Emilio Loyola Austin to provide evidence of his statements. "My columns speak for me, for my daughter, my work and my dignity. I am going to defend myself to the last consequences (...)", asserted the journalist.<sup>512</sup> Subsequently, both the president and various public officials and representatives of Congress made stigmatizing remarks against the journalist aimed at discrediting her work, in which she has criticized the authorities. "I don't know if the bad faith [of Lourdes Mendoza] is natural or it is well paid"<sup>513</sup>, "your so-called work is increasingly irresponsible and pathetic,"<sup>514</sup> "it turns out that those of the old regime gave bags of five thousand

<sup>506</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 57.

<sup>507</sup> The organizations and media outlet singled out were: Consejo Regional Indígena y Popular de Xpujil (CRIPX), Diálogo y Movimiento (DIMO), Indignación, Promoción y Defensa de los Derechos Humanos, Consejo Civil Mexicano para la Silvicultura Sostenible (CCMSS), Centro Mexicano de Derecho Ambiental (CEMDA), Mexicanos Contra la Corrupción y la Impunidad (MCCI), México Evalúa, Due Process of Law Foundation (DPLF), and the media outlet *Animal Político*.

<sup>508</sup> *Animal Político*, [Gobierno de AMLO acusa a Animal Político y a OSC de recibir recursos para atacar al Tren Maya](#), August 28, 2020; Archive of the Office of the Special Rapporteur, Urgent communication on recent attacks on civil society organizations in Mexico, e-mail sent to the Special Rapporteur on September 11, 2020; Archive of the Office of the Special Rapporteur, The Mexican State stigmatizes and criminalizes the work of human rights defenders and journalists, e-mail sent to the Office of the Special Rapporteur, September 17, 2020.

<sup>509</sup> Espacio OSC, [The Mexican government must refrain from stigmatizing the work of human rights defenders and journalists](#), no date.

<sup>510</sup> Archive of the Office of the Special Rapporteur, Urgent communication on recent attacks on civil society organizations in Mexico, e-mail sent to the Special Rapporteur on September 11, 2020.

<sup>511</sup> *Animal Político*, [Nunca la prensa le había pegado tanto a un gobierno: AMLO dice que no hay periodismo independiente](#), April 22, 2020.

<sup>512</sup> Lourdes Mendoza's Twitter Account (@lumendoz). [August 19, 2020](#).

<sup>513</sup> Fernandez Noroña's Twitter Account (@fernandeznorona). [June 16, 2020](#).

<sup>514</sup> Fernandez Noroña's Twitter Account (@fernandeznorona). [July 17, 2020](#). Material available in the archive of the Special Rapporteur for Freedom of Expression.

dollars to Lourdes Mendoza, alias Lady Channel, to write columns applauding structural reforms. Now it is understood!"<sup>515</sup> were some of the comments of political representatives on social networks. Stigmatization from the highest authorities of the State has added to a very violent environment against them, mainly on social networks. On September 8, the president released figures on how much money the magazines *Nexos* and *Letras Libres* and publisher Editorial Clío received in government advertising from previous administrations. The president said that because they no longer receive this advertising, the intellectuals who run the magazines "are angry." The president did not explain that these were legal agreements,<sup>516</sup> and his statement was made in such a way that any citizen may question the legality of the advertising agreements on display. Several days later, he criticized *Reforma* again, calling it "bathroom graffiti" (*pasquín inmundo*). Not only do these negative statements against the media outlet by the head of state conflict with the duty to guarantee the freedom to express criticism, they were made close to dates on which the media had published reports on alleged cases of corruption in the State of Tabasco benefiting the president's family.<sup>517</sup> Also, on the morning of September 25, the president reviewed 148 articles to determine who covered him positively, neutrally, or negatively.<sup>518</sup> On October 15, during his morning press conference, President López Obrador spent at least 10 minutes going over a list of media he considered "critical" of his administration. These lists of suspicious media outlets negatively affect the conditions needed for a diverse and plural public debate. According to the information available, the president compared print articles published during the first two years of previous administrations (Felipe Calderón y Enrique Peña Nieto) and of his own. Based on this comparison, he said that he is "the president most attacked by the media since [Francisco] Madero." He also showed a list of articles published by 60 columnists about his administration.<sup>519</sup> On October 22, the organization's Article 19, Reporters without Borders (Regional Office for Mexico and Central America), and the Committee to Protect Journalists (CPJ) signed an open letter addressed to President López Obrador asking him to "abide by his commitment to not stigmatize journalism work." In the letter, the organizations underscored the high rates of insecurity that journalists face in the country when doing their work and said they had documented "cases of media outlets and journalists who, because of stigmatizing statements, received death threats, harassment, and intimidation. We would also point to cases in which multiple journalists who have asked questions during the administration's morning press conferences have been immediately attacked on social media and even threatened."<sup>520</sup>

326. Given the lack of up-to-date information and taking into consideration the foregoing examples, the IACHR considers that the recommendation has still met with partial compliance given the lack of any report of progress in its implementation. The Commission urges the State to eradicate all statements from government authorities attacking the work of journalists.

<sup>515</sup> Dorheny Cayetano's Twitter Account (@DorhenyCayetano). [August 19, 2020](#).

<sup>516</sup> *Proceso*. [López Obrador exhibe cuánto recibían Nexos y Letras Libres por publicidad](#), September 8, 2020; *Aristegui Noticias*. [Exhibe Presidencia gasto en publicidad oficial para Nexos, Letras Libres y Editorial Clío, durante 12 años](#), September 8, 2020; *Washington Post*. [AMLO alimenta un clima de intolerancia e intimidación contra la prensa](#), September 15, 2020

<sup>517</sup> Grupo Reforma, YouTube channel. [REFORMA es un pasquín inmundo.-AMLO](#), September 11, 2020; *Aristegui Noticias*. ['Pasquín Inmundo'. Recuento de una polémica](#), September 12, 2020; *Washington Post*. [AMLO alimenta un clima de intolerancia e intimidación e contra la prensa](#), September 15, 2020.

<sup>518</sup> *Bunker Político*. [Tras arremeter vs columnistas, AMLO dice que "hay libertad de expresión"](#), September 25, 2020.

<sup>519</sup> *Latinus*. [AMLO usa su conferencia para exponer a los medios y columnistas que lo han criticado](#), October 15, 2020.

<sup>520</sup> Reporters without Borders. [RSF, ARTICLE 19 y CPJ piden a AMLO cumplir con su compromiso de no estigmatizar el trabajo periodístico](#), October 22, 2020.

327. Regarding the recommendations to **define a single methodology to generate and publish detailed and disaggregated statistics regarding violence against journalists and investigations of attacks, as well as the protection measures adopted and define a State authority in charge of capturing information and publishing statistics, and inform the various actors regarding the challenges that arise in the application of said methodology**, the State reported that the Office of the Special Prosecutor on Crimes against Freedom of Expression (hereinafter “FEADLE”) has standardized the information on preliminary inquiries and investigations into allegations of crimes against freedom of expression. According to this report, its information is up to date through August 2020. The State also reported that FEADLE publishes indicators on crimes against freedom of expression with a gender perspective.<sup>521</sup>

328. The IACHR observes that FEADLE has one of the highest rates of making information public on the number of investigations, indictments, judgments, backlog, and other data relevant for society regarding the administration of justice. Without prejudice to the foregoing, the IACHR notes that the state and federal prosecutors’ offices do not follow the principle of proactive transparency—which would allow publicization of the investigations—and ignore their obligation to release statistics on investigations in which journalists are the victims or complainants. Accordingly, the figures corresponding to the investigation that the FEADLE has initiated reveal structural issues in fighting impunity for crimes committed against the freedom of expression, which is doubtless a factor in the worsening violence against the media in Mexico.

329. Based on the foregoing, the IACHR considers that this recommendation is partially complied with and invites the Mexican State to increase its efforts regarding the systematization of information and to keep the statistics updated. In this sense, the seriousness of the events recorded makes it imperative to advance a public policy that considers the particular characteristics of the phenomenon of violence against the press in Mexico, who are the most vulnerable journalists, who are the main aggressors, and which are the main areas where violence prevails, among other indicators.

330. With respect to the recommendations to i) **remove all obstacles so that, in practice, the Specialized Prosecutor’s Office for Attention to Crimes against Freedom of Expression (FEADLE) may absorb investigation of crimes against journalists and against freedom of expression; ii) maintain the FEADLE’s character as a specialized prosecutor’s office and vest it with sufficient financial and human resources so that it may achieve its objectives; iii) adopt special protocols for the investigation of murders pursuant to which the hypothesis of a relation to the journalistic profession is exhausted completely; iv) improve the existing relation between the federal and state jurisdictions with the objective of avoiding competence conflicts that impede or delay investigations; and v) allow victims, their families and, when applicable, assisting third parties to participate in the criminal processes with full guarantees, both for the search of the truth and for clarifying the facts, as well as at the time of demanding reparations**, the State reported that between 2013 and 2020, the FEADLE had exercised its authority to assert jurisdiction on 66 occasions.<sup>522</sup> The IACHR emphasizes that according to the information provided by the State, in one year, the FEADLE has asserted jurisdiction in six additional cases. According to the information provided for the 2019 report, between 2013 and 2019, the FEADLE asserted jurisdiction in 60 cases.<sup>523</sup> The FEADLE

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<sup>521</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 57.

<sup>522</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 58.

<sup>523</sup> IACHR, [Annual Report 2019. Chapter V, Mexico](#), para. 334.

recorded only a single murder of a journalist for the exercise of their work during 2020. As of August 31, 2020, 78 preliminary inquiries into crimes against journalists had been opened. Between 2016 and August 2020, 41 matters had been settled by alternative dispute resolution process and 6 convictions had been handed down.<sup>524</sup>

331. The Commission calls attention to the fact that even though the reports and studies on the structural situation of violence in Mexico indicate that it is worse due to impunity, most states still lack specialized agencies for investigating crimes against journalists and human rights defenders.

332. Impunity for murders and other attacks on journalists has been documented by government institutions and civil society organizations, and the data suggest at least 99.6% of these crimes still have not been solved. According to figures provided by Article 19, between 2000 and November 3, 2020, 135 journalists have been murdered in the country for their work. Impunity in these cases is 99.13%.<sup>525</sup> In the three years that the FEADLE has existed, it has secured 18 convictions for crimes against journalists, including the cases of Miroslava Breach and Javier Valdez.<sup>526</sup> The country dropped one place in the Committee to Protect Journalists' Global Impunity Index 2020. A number of organizations and experts have indicated that at the federal level, the tools that the State has at its disposal are not being used—for example, exercising its authority by having the FGR assert jurisdiction and investigate crimes against journalists.<sup>527</sup>

333. The Special Rapporteurship also received information on the arrest of another person for his alleged participation in assisting the intellectual author and material authors in the crime of Miroslava Breach. According to available information, the Office of the Attorney General of the Republic through the Office of the Special Prosecutor for Human Rights (FEMDH) arrested Hugo Amed "S" on December 17. According to data from FEADLE, the Unitary Circuit Court was able to establish that these people were in charge of searching for and delivering information to the organized crime group that ordered and executed the murder.<sup>528</sup> Some media have identified the person as Hugo Shultz Alcaraz, former mayor of the municipality of Chínipas, Chihuahua. Despite the conviction, the Office of the Special Rapporteur finds it worrying that other co-perpetrators as well as the intellectual authors of the crime have not been tried. The Special Rapporteurship welcomes these advances and urges the State to continue with the investigation of the reporter's crime in a complete, effective and impartial manner.

334. According to the information provided by the National Human Rights Committee, "the social impact of attacks on human rights defenders and journalists, particularly the homicides committed against them and the complexity of the environments in which such crimes take place, require State authorities to establish mechanisms of protection and develop specialized action protocols for all due and timely response to the issue facing these two at-risk groups." However, the CNDH indicated that the situation of structural violence is intensifying, worsened by the level of impunity and self-censorship, and "the majority of states do not have agencies specializing in the investigation of crimes against journalists and human rights

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<sup>524</sup> FGR. [Statistical Report](#), August 2020.

<sup>525</sup> Article 19. [Without fighting impunity, violence against the media will never stop](#), November 3, 2020.

<sup>526</sup> *La Jornada*. March 29, 2020. [Feadle: 18 sentencias condenatorias en tres años de labores](#).

<sup>527</sup> LatAm Journalism Review, [Three journalists killed in Mexico in less than two weeks; press advocates say impunity is to blame](#), November 11, 2020; [Article 19. Without fighting impunity, violence against the media will never stop](#), November 3, 2020.

<sup>528</sup> Fiscalía General de la República. [Comunicado FGR 421/20. FGR cumplimenta orden de aprehensión relacionada al homicidio de una periodista en Chihuahua](#), December 17, 2020.

defenders." Additionally, the CNDH underscored that "the bodies involved in the administration of justice neither consider nor evaluate the level of risk associated with their work, much less the context associated with it, aspects that are decisive for identifying the real causes, material perpetrators, and masterminds. The result is that investigations into crimes committed against journalists and human rights defenders are not effective, thus perpetuating the cycle of impunity and the repetition of such crimes."<sup>529</sup> The CNDH added that the entity has insisted that "there is nothing more permissive to the repetition of violence against the media than the absence of a decisive institutional reaction. It is therefore important that the highest authorities continue to emphatically repudiate this escalation of violence. By the same token, there is nothing more encouraging and reassuring for persons who commit acts of violence than impunity for crimes committed against journalists."<sup>530</sup>

335. For the IACHR, the FEADLE must have all the conditions to exercise its legal authority in its jurisdiction over cases of murder, kidnapping, and disappearance of journalists in the states with the highest rates of violence and impunity. In addition, the IACHR observes with concern that the implementation of the Protection Mechanism for journalists remains ineffective, and reports offer no indication of proper coordination between the administration and other institutions. The IACHR views positively the signing of cooperation agreements with the 32 states. However, as long as they are not binding and the federal government cannot demand compliance with them, the impact on proper implementation of the measures of protection remains a concern. In addition, the lack of participation of the security forces in the programs, the reactive intervention by the police, and the lack of risk analysis and measures of protection in keeping with the needs of the human rights defenders are some of the difficulties with the mechanism.

336. The IACHR observes that the FEADLE remains a public prosecutor's office, and that special investigative protocols have been put in place. It therefore concludes that this part of the recommendation has met with compliance, as noted in the 2019 Annual Report. Nonetheless, as regards the part of the recommendation on the operative status of the FEADLE, the IACHR finds that the efforts are insufficient and that the deployment of its operations has not had a substantial enough impact to conclude that further progress has been made toward complying with the recommendation.

337. In view of the foregoing, the IACHR concludes that compliance with the recommendations is partial.

**i. Access to information**

- Regarding the legal attributions that the Law of Access to Information assigns to the Presidency's Legal Advisor's Office, such attribution should be regulated according to international principles regarding access to public information and national security.
- Strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and process

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<sup>529</sup> Archive of the Office of the Special Rapporteur, communication sent by the National Human Rights Committee. October 2020. Update for 2020 to the National Human Rights Committee's (CNDH) contribution in the framework of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the Inter-American Commission on Human Rights (IACHR) in 2015.

<sup>530</sup> Archive of the Office of the Special Rapporteur. Communication sent by the National Human Rights Committee. October 2020. Update for 2020 to the National Human Rights Committee's (CNDH) contribution in the framework of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the Inter-American Commission on Human Rights (IACHR) in 2015.

cases on human rights violations attributed to the security forces.

- Adopt pertinent measures so that security agencies compile, systematize and publish periodically information regarding injuries to life and personal integrity as a consequence of the fight against organized crime. The information regarding such injuries should describe the place where they occurred, the date, information regarding the unit of the security force that was present when they occurred, information regarding its mandate and control. In addition, it should describe what were the causes of the injury and the inability to prevent them.

338. The Office of the Special Rapporteur has taken note in its prior reports of the adoption of the General Law on Transparency and Access to Public Information, which shows a commitment on the part of the Mexican State to transparency and the right of access to information. Nonetheless, the Office of the Special Rapporteur has expressed its concern over information received regarding obstacles to guaranteeing access to information related to human rights violations.

339. The IACHR notes with concern that during 2020, and in the context of the COVID-19 pandemic, journalists and citizens have encountered more obstacles to accessing public information, especially information on the handling of the health crisis. Due to the health emergency, on March 23, the National Institute on Transparency, Access to Information, and Protection of Personal Information (INAI) suspended the deadlines and terms whereby obligated subjects are required to respond to requests for information and appeals for review. The entity reported that, although work would continue, it was aware that other organizations had suspended in-person work, meaning they could not respond to requests at the same pace.<sup>531</sup> The deadline was extended to April 30 for public institutions who continue to operate and whose activities were considered essential. For the public institutions that halted work because their activities were not essential, the deadline was extended further, to May 30.<sup>532</sup>

340. Along the same lines, the Office of the Special Rapporteur received information from the Asociación Civil México Justo, the Centro Michoacano de Evaluación (CEMIDE), and the Observatorio Regional Zamora A.C. on the lack of response to several requests for information on the coronavirus pandemic in the country. According to documents sent to this Office, the CEMIDE made five requests for information from different government offices on the number of deaths in hospitals and causes of death between December 31, 2019, and April 8, 2020, at both the state and municipal levels. Likewise, the Observatorio Legal Zamora made four requests for information from the Congress of the State of Michoacán on the law passed by the Congress to address COVID-19, the special resources allocated to government entities to address the pandemic, the public procurement and contracting carried out, and the expenditures made through June 3, 2020, with the same objective. However, none of these requests were answered because they were “not considered essential in the context of the crisis.”<sup>533</sup>

341. The State stated in its observations to the draft of this report that it works with a comprehensive approach to generate certainty in society, strengthen the prevention, containment and combat measures of the virus and favor the dissemination of useful, reliable and

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<sup>531</sup> *La Jornada*, [Suspenderá Inai plazos para responder a solicitudes de información](#), march 20, 2020; *LIA.MX*, [INAI suspende términos y plazos por COVID-19](#), March 21, 2020.

<sup>532</sup> *El Universal*, [Inai determina reanudar plazos para atender solicitudes de información](#), May 1, 2020.

<sup>533</sup> Archive of the Office of the Special Rapporteur, email sent on June 17, 2020, to e-mail of the Office of the Special Rapporteur.

truthful information that allows to build an informed criterion in society about the current health, economic and social situation presented by the advance of the pandemic in Mexico and the world. Likewise, he indicated that he developed a microsite to disseminate relevant information about the pandemic that to date has analyzed almost 30 thousand requests for access related to the health contingency and the installation of a technical working table made up of the INAI and the Ministry of Health to disseminate citizen tools to control the pandemic. Regarding the suspension of deadlines for the resolution of requests by the INAI, the State indicated that it was resumed on September 18, 2020.<sup>534</sup>

342. The IACHR notes with concern the lack of information provided to indigenous communities, one of the communities most impacted by the pandemic. According to the information received, information in the country on the pandemic, its symptoms, its effects, and measures of protection have been disseminated by federal and state governments through televised media and social networks. It was not until the end of March that any information on the pandemic had been translated into any indigenous languages, "and its dissemination was limited mainly to text content over the Internet on government websites and social media, once again demonstrating a lack of cultural pertinence and slowness in dissemination."<sup>535</sup> In April, the Instituto Nacional de Lenguas Indígenas launched a micro site with the message "Stay home" translated into 64 indigenous languages,<sup>536</sup> along with other basic information on the pandemic.<sup>537</sup> Members of a Chiapas community used official information to produce audio segments for dissemination via loudspeaker. However, the translation has been difficult because the language is very technical. Civil society organizations in Oaxaca and Chiapas have had to file *amparo* suites to get local authorities to translate information on the pandemic. Although the requests for *amparo* protection were granted, as of May there was still no information on whether they had been complied with.<sup>538</sup>

343. In relation to the above information, the State indicated in its observations to the draft of this report that the INAI developed various actions aimed at informing indigenous communities of their rights of access to information and protection of personal data, such as radio campaigns on community radio stations in Chiapas and Oaxaca, spots on 22 INPI community radio stations, workshops in 23 indigenous languages and the generation of content related to the pandemic.<sup>539</sup> Additionally, INALI participated in the preparation of 1,027 materials on COVID-19 that were translated into 63 indigenous languages, corresponding to 78 linguistic variants that include 414 videos, 440 audios, 108 postcards and 65 infographics.<sup>540</sup> The State also indicated that through INALI it provided advice to the Chamber of the Radio and Television Industry (CIRT), for the issuance of a message with cultural and linguistic relevance, regarding "*Quédate en tu comunidad*" (Stay in your community). Likewise, 29 radio spots were produced with cultural and

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<sup>534</sup> Observations and comments of the Mexican State of January 29, 2021, pgs. 18-19.

<sup>535</sup> Artículo 19, [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#), July 9, 2020, pg. 26.

<sup>536</sup> Government of Mexico. Office of the Secretary of Culture. [Microsite Materials in indigenous languages for preventing COVID-19](#).

<sup>537</sup> Artículo 19, [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#), July 9, 2020, pg. 27.

<sup>538</sup> Artículo 19, [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#), July 9, 2020, pg. 28.

<sup>539</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 19.

<sup>540</sup> Observations and comments of the Mexican State of January 29, 2021, pgs. 19-20.

linguistic relevance, on prevention measures against the spread of COVID-19 in various indigenous languages.<sup>541</sup>

344. Regarding the recommendation to **regulate the authority conferred by the law on access to information to the Council of the Legal Advisor to the Office of the President to bring it in line with international principles on access to public information and national security**, the State reported that the authority of the Council of the Legal Advisor's authority to file a request for review before the Supreme Court of Justice if it concludes the orders issued by the National Institute on Transparency, Access to Information, and Protection of Personal Information (INAI) may endanger national security "constitutes an extraordinary or exceptional appeal measure, which is resolved definitively and with full jurisdiction by the plenary of the SCJN." As explained by the State, the regulations for the aforementioned authority were issued by the Legislative Branch and established in the General Guidelines on the Classification and Declassification of Information and the Preparation of Public Versions" issued by the National Council of the National System on Transparency, Access to Information, and Protection of Personal Information.<sup>542</sup> The State also reported that it recognized the principle of maximum disclosure as a guiding principle of the right to seek, receive, and disseminate information, and therefore, in line with the principles of the inter-American human rights system, information related to grave human rights violations or crimes against humanity cannot be kept classified, pursuant to national law and the international treaties to which the Mexican State is a party. According to the information from the State, the Office of Legal Counsel of the Federal Executive only files for review remedies in cases where it "considers it necessary to protect information necessary to guarantee the minimum foundation and structure required to ensure the stability, permanence, and integrity of the Mexican State."<sup>543</sup> In its observations on the draft of this report, the State reiterated the information.<sup>544</sup>

345. The IACHR notes with satisfaction that this is the first time in two years it has received information on this recommendation. However, the Commission draws attention to the provision of the Transparency Law that enables the Legal Counsel of the Presidency of the Republic to appeal any decision to declassify information made by the National Institute of Access to Information that it puts in risk national security interests. As already stated in the 2015 country report on Mexico, although this rule is applicable to any measure, it will have a particular impact with regard to information related to investigations of human rights violations. Based on this, the Commission assesses that the recommendation is still pending compliance.

346. As regards the recommendation to **strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and process cases on human rights violations attributed to the security forces**, the State reported that in September 2019, it publish the "General Agreement of the Plenary of the Council of the Federal Judiciary, establishing provisions on transparency and access to the council's public information." According to the State, the document sets forth provisions for processing requests in this regard, as well as for "access to judgments or resolutions in progress, that have not been issued, have not been finalized, or for which no public versions are available, and the publication of relevant judgments." It also provides for access to video recordings of

<sup>541</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 20.

<sup>542</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 59.

<sup>543</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 60.

<sup>544</sup> Observations and comments of the Mexican State of January 29, 2021, pg. 21.

circuit or plenary sessions of collegiate tribunals, as well as public hearings within the adversarial criminal system.<sup>545</sup> The State added that this provision is enhanced through reform of section II of article 73 of the General Transparency and Access to Public Information Act which orders all powers of the judiciary to make all the judgments issued available to the public and keep public versions updated.<sup>546</sup> The decree took effect on February 9, 2021.

*Article 73: In addition to the provisions of article 70 of this Law, the reporting parties of the Federal Judiciary and the Federal Entities must make available to the public and keep updated the following information: [...]*

*II. The public versions of all judgments issued;*<sup>547</sup>

347. The State also reported on the tool developed by the Unit on the Consolidation of the New Criminal Justice System (UCNSJP), "Search tool for specialized judgments in the Adversarial Criminal Justice System," which, in the judgment search section, allows for criteria like forced disappearance, femicide, and human trafficking. The State reported that this tool facilitates access to judgments related to grave human rights violations.<sup>548</sup>

348. The IACHR welcomes the progress reported by the State. Despite this, it considers that the context of serious human rights violations continues pending to be strengthened in terms of active and passive transparency obligations. In this sense, and since it is an obligation of progressive compliance, the IACHR considers that the recommendation is in partial compliance, and urges the State to continue strengthening the right of access to public information, especially on serious human rights violations.

349. Regarding the recommendation to **adopt pertinent measures so that security agencies compile, systematize and publish periodically information regarding injuries to life and personal integrity as a consequence of the fight against organized crime. The information regarding such injuries should describe the place where they occurred, the date, information regarding the unit of the security force that was present when they occurred, information regarding its mandate and control. In addition, it should describe the causes of the injury and the inability to prevent them**, the State reiterated the information on the Office of the Secretary of the Navy (SEMAR) to inform the competent authority on the detention of persons *in flagrante delicto*, if committing a crime, incidents where objects are seized or where people are injured or killed. It also reiterated that the purpose of the National Registry of Detentions is to prevent the violation of the human rights of detainees, including acts of torture; cruel, inhuman, and degrading treatment; and forced disappearance. The State reported that "Guidelines for the functioning, operation, and maintenance of the National Detentions Registry" establish that in the immediate logging of a detention or arrest of a person, reporting parties must, in addition to personal information (like name, age, sex, etc.), also provide details on the detention, the authority where the individual will be made available to relatives, and if the person has any injury. If the person refuses to talk, this should be indicated, but available information should be logged. The State also reported that the National Detentions Registry is being

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<sup>545</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 60.

<sup>546</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 60.

<sup>547</sup> Official Gazette of the Federation, [General Transparency and Access to Public Information Act](#), May 4, 2015.

<sup>548</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 60.

implemented gradually: for example, the Office of the Secretary on Citizen Security and Protection launched it on November 23, 2019, and information on records related to federal crimes was ready right away, while information on records related to local offenses and administrative matters were to be available by April 1, 2020.<sup>549</sup>

350. The IACHR concludes that the State has partially complied with this recommendation.

**ii. Mechanism for Protecting Human Rights Defenders and Journalists:**

- Require competent authorities to take into account international parameters regarding protection, especially the considerations outlined in the “Second Report on the Situation of Human Rights Defenders in the Americas” and the “Report on Violence against Journalists and Media Workers of the IACHR’s Special Rapporteurship for Freedom of Expression.”
- Provide all political support necessary for the adequate operation of the protection mechanism, which should include all the necessary financial resources so that it may develop its competencies efficiently in relation to protection, and so that it may be sustainable over time.
- Adopt all necessary measures to assign and train all necessary personnel for its adequate operation.
- Guarantee that risk assessments and the implementation of prevention and protection measures are done adequately and addressing the urgency of the situation. Therefore, assign protection and review schemes regarding the adequacy of the risk evaluation processes, guarantee an adequate participation, communication and consensus-building with the persons protected by the mechanism, as well as the beneficiaries of precautionary measures requested by the IACHR.
- Undertake an evaluation and adoption of differentiated protection measures for women, indigenous leaders, and environmental defenders.
- Urge the State to implement strategies so that the various institutions at the state and federal level work in a coordinated fashion to provide an integral response to all matters related to the protection of human rights defenders and journalists.
- The protection mechanism should implement a communication strategy regarding its competencies, the requirements to enter the program, among other necessary information, with the objective of making human rights defenders and journalists aware about the protection that the mechanism can offer. Similarly and in accordance with international standards, provide access to necessary information regarding the protection mechanism so that it may provide greater transparency regarding the work it is doing.
- Encourage the mechanism to adopt a process that allows it to issue protection measures directly and of its own initiative (*ex officio*) in those cases which, because of their gravity and urgency, require them immediately.
- Urge the State to double efforts to investigate acts that cause the entry and permanence of protected persons into the protection mechanism, with a view towards conducting thorough investigations as prevention policy of the State.
- Encourage the mechanism to adopt tools that allow it to evaluate the

<sup>549</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pgs. 60 – 61.

effectiveness of the implemented protection measures, as well as increase transparency of all its action to increase the trust of beneficiaries. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the Mechanism

351. The IACHR recognizes the important measures adopted by the State vis-à-vis the significant increase in human rights defenders and journalists who are beneficiaries of the Protection Mechanism, including beneficiaries of precautionary measures granted by this Commission and provisional measures granted by the Inter-American Court. Despite these efforts, the IACHR found that during 2020, the Federal Mechanism for the Protection of Human Rights Defenders and Journalists continued facing a series of obstacles to carrying out the recommendations issued by the Commission, noted above in the section “Human rights defenders.” As previously indicated in this report, the IACHR expressed its concern<sup>550</sup> at the elimination of 109 public trusts that the country used to fund a variety of agencies and programs, including the Fund for the Protection of Human Rights Defenders and Journalists and the Fund to Provide Support, Aid, and Comprehensive Reparations to Victims.<sup>551</sup> The Decree Ordering This Measure Was Published on November 6 in the Official Gazette of the Federation.<sup>552</sup> The information available indicates that the sectors affected have not been heard by the members of Congress,<sup>553</sup> and several civil society organizations and officials warned of the disappearance of the fund for protecting journalists and human rights defenders.<sup>554</sup> Trust 10232 for the protection of human rights defenders and journalists has the “purpose of providing financial resources exclusively for the implementation and operation of preventative measures, measures of protection, and urgent measures of protection as ordered by the Mechanism of Protection, along with other actions as provided for by law, to guarantee the life, integrity, liberty, and safety of persons in a situation of risk as a result of the defense or promotion of human rights and the exercise of freedom of expression and journalism.”<sup>555</sup> However, during a public hearing in the framework of the 178 Period of Sessions of the IACHR, the State emphasized that, aside from the legal reforms that led to the elimination of certain trusts, the resources of the Mechanism for the Protection of Human Rights Defenders and Journalists are guaranteed and have not been reduced. The State insisted that it would in no way stop attending to the mechanism’s beneficiaries, noting that the new legal provisions would facilitate oversight of public expenditure and accountability.<sup>556</sup>

<sup>550</sup> IACHR, <https://twitter.com/cidh/status/1319774612763242496>, October 23, 2020.

<sup>551</sup> Artículo 19 México, [The elimination of the trusts endangers the lives of human rights defenders, journalists, and victims](#), October 21, 2020; *Animal Político*, [Morena ‘sepulta’ los fideicomisos: impone mayoría en el Senado y se aprueba en lo general y particular su eliminación](#), October 21, 2020.

<sup>552</sup> Official Gazette of the Federation, [Decree reforming and repealing a series of provisions of the Protection of Human Rights Defenders and Journalists Act](#), November 6, 2020.

<sup>553</sup> Artículo 19 México, [The elimination of the trusts endangers the lives of human rights defenders, journalists, and victims](#), October 21, 2020.

<sup>554</sup> *Forbes México*, [Alertan sobre riesgo de desaparecer el fondo de protección a periodistas y activistas](#), October 2, 2020.

<sup>555</sup> Government of Mexico. Mechanism for Protecting Human Rights Defenders and Journalists. [Trust 10232. Protection of human rights defenders and journalists](#), September 3, 2018.

<sup>556</sup> IACHR, [Hearing 6: Human Rights Institutions in Mexico with a Gender Perspective](#), 178th Period of Sessions, December 4, 2020.

352. Regarding the recommendation to **require competent authorities to take into account international parameters regarding protection, especially the considerations outlined in the “Second Report on the Situation of Human Rights Defenders in the Americas” and the “Report on Violence against Journalists and Media Workers of the IACHR’s Special Rapporteurship for Freedom of Expression,”** the State reiterated the information sent previously.<sup>557</sup> The IACHR once again underscores the approval of the “Guidelines for Recognizing the Work of Human Rights Defenders and Journalists,” which picks up on some recommendations of the IACHR and its Office of the Special Rapporteur for Freedom of Expression. In addition, the Commission welcomes the recent presentation of the “Assessment of the Operation of the Mechanism” by the OHCHR-MX, in response to which the State asserts that the relevant changes will be made to improve and strengthen the structure of the Mechanism, as well as to protect the beneficiaries.

353. Based on the evaluation performed, the IACHR concludes that this recommendation has met with partial compliance. In this regard, the Commission urges the State to continue making progress on strengthening and implementing its policy for protection and prevention in keeping with the recommendations noted.

354. Regarding the recommendation to **provide all political support necessary for the adequate operation of the protection mechanism, which should include all the necessary financial resources so that it may develop its competencies efficiently in relation to protection, and so that it may be sustainable over time,** the State indicated that it has “committed at the highest level to promote the Mechanism’s activities.” It reported that it had delivered the “Assessment of the Mechanism’s Operation,” carried out by the Office of the Secretary for Internal Affairs and the Undersecretary for Human Rights, Population, and Migration.<sup>558</sup>

355. There is a close relationship between this recommendation and the recommendation to **recognize, at the highest levels of the State, the legitimacy and value of the work of journalists, and condemn attacks committed in reprisal for the exercise of freedom of expression.** It is the view of the IACHR and its Office of the Special Rapporteur for Freedom of Expression that adopting a discourse that favors pluralism and refrains from stigmatizing journalists contributes to preventing violence against the media and constitutes an effective means of providing political support to the protection system. The IACHR reiterates the findings of this report regarding the failure to finance the protection mechanism in the section on recommendations regarding human rights defenders. In view of the budget crisis facing the Prevention Mechanism and its implications for deploying effective protection, the IACHR reiterates that this recommendation is still considered as having met with partial compliance.

356. The IACHR reiterates the concern expressed in previous paragraphs for the future of the Protection Mechanism following the elimination of the trust. On November 6, the executive published the decree eliminating the 109 trusts in the Official Gazette. According to the decree, the entities will have 30 days from the day following publication to send to the Treasury of the Federation “all the public federal resources held in the public trusts, mandates, and related structures as provided for in the provisions abolishing, reforming, or eliminating them by virtue of this Decree, unless the Office of the Secretary of the Treasury and Public Debt should set a different date for collecting the resources.” According to the decree, as regards the Protection of

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<sup>557</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 62.

<sup>558</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 62.

Human Rights Defenders and Journalists Act, “the heading of Chapter X is amended, along with articles 48; 50; 54; and 63, last paragraph, and articles 2, paragraph 6; 8, part XVII; 49; 51; 53; and 54 of the Protection of Human Rights Defenders and Journalists Act are amended.” Article 48 establishes that “in order to comply with the objective of this Law, the Office of the Secretary for Internal Affairs must provide the resources necessary in the draft budget for each fiscal year for the protection of human rights defenders and journalists,” while Article 50 establishes that “the resources provided shall be used exclusively for implementing and operating preventative measures, measures of protection, and urgent measures of protection, along with the performance of the other acts called for in the law for implementing the Mechanism, such as independent evaluations.” According to the decree, the excess amount received by the Treasury was to be used on measures to combat the COVID-19 pandemic.<sup>559</sup>

357. The IACHR and the Office of the Special Rapporteur call attention to the measure adopted by the Congress and the Executive to reduce institutional capacity to protect journalists threatened for doing their work. In its Annual Report 2019,<sup>560</sup> the Office of the Special Rapporteur warned that the government response in terms of implementing improvements and providing resources to the Mechanism of Protection for Human Rights Defenders and Journalists was insufficient in view of the magnitude of the violence committed against these groups. Therefore, it was repeatedly recommended that the Mexican State continue to strengthen the Mechanism and ensure its decisions and measures were applied effectively. Along these lines, the Office of the Special Rapporteur has also recommended more resources be provided to the Office of the Special Prosecutor on Crimes against Freedom of Expression (FEADLE), and that it resolutely exercise its authority to assert jurisdiction in crimes against the media. This situation is especially concerning because of the high rate of incidents of violence against journalists in the country. Over the course of 10 days in October and November, the country saw three murders of journalists and the disappearance of a fourth. Likewise, as mentioned previously, the IACHR underscores the fact that in 2020, two journalists were murdered who were part of the Mechanism of Protection.<sup>561</sup>

358. Regarding the recommendation to **adopt all necessary measures to assign and train all necessary personnel for its adequate operation**, the State reported that the operational personnel of the Mechanism receive regular training. It also reported they receive training on gender, masculinity, interview techniques, victim support, and other issues, the purpose of which is to sensitize, raise awareness, and enhance analytical capacity for implementing the new methodology devised with the assistance of Provozes and Protection International to change the approach of the measures of protection, exchanging them for mechanisms to build integrated protection plans. According to the State, as of the delivery date of the information, pilots and internal sessions had been conducted to produce and standardize criteria for risk analysis and the information to be included on forms.<sup>562</sup>

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<sup>559</sup> Official Gazette of the Federation, [Decree reforming and repealing a series of provisions of the Protection of Human Rights Defenders and Journalists Act](#), November 6, 2020.

<sup>560</sup> IACHR, Annual Report 2019. Volume II: [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/SER.L/V/II. Doc. 5, February 24, 2020, para. 857-861

<sup>561</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, [Office of the Special Rapporteur Expresses Extreme Concern about Violence against Journalists in Mexico and Calls on the State to Strengthen Protection Mechanisms and Measures to Combat Impunity](#), November 11, 2020.

<sup>562</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report “Human Rights Situation in Mexico,” pg. 62.

359. Considering that the State did not submit additional information with respect to 2020, the IACHR concludes that this recommendation remains pending in the understanding that the new legal and protocol tools should be introduced in the competent institutions and geared to the public servants in charge of carrying out the corresponding procedures and protocols. The IACHR thus urges the State to take whatever steps are needed to ensure ongoing and regular training for all personnel responsible for implementing protection measures. It would be particularly useful to learn about not only the training conducted but about subsequent evaluations that provide complementary information on the scope and impact of regular training.

360. With respect to the recommendation to **guarantee that risk assessments and the implementation of prevention and protection measures are properly carried out and take urgency into account, and that risk assessment processes, the assignment of protection arrangements, and reviews of their suitability allow for adequate participation, communication and consensus-building with the persons protected by the mechanism, as well as the beneficiaries of precautionary measures requested by the IACHR**, the State reiterated information on the new risk analysis methodology the Mechanism has been using since August 2020. The State also reported that as of June 30, 2020, the Board of Governors of the Mechanism of Protection had issued 37 ordinary measures of protection and 210 extraordinary measures of protection, including panic buttons, physical assets, patrols, bodyguards, and support, among other measures.<sup>563</sup>

361. In this regard, the National Human Rights Committee, which is a permanent member of the Board of Governors of the Mechanism of Protection, indicated that as part of its efforts to follow up on attacks on journalists and human rights defenders, it requests precautionary measures based on three main elements: risk, urgency, and irreparability of harm. According to the CNDH, in analyzing the real danger, it looks at factors like age, gender, and membership in social or professional groups.<sup>564</sup>

362. Based on the information provided by the State, the IACHR considers that the recommendation is partially complied with, and invites the State to redouble its efforts in adopting measures that ensure the work of defenders and journalists.

363. With regard to the recommendation to **undertake an evaluation and adoption of differentiated protection measures for women, indigenous leaders, and environmental defenders**, it reiterated information to the effect that the Mechanism operates under a new risk analysis methodology that includes differentiated factors and a gender perspective.<sup>565</sup> According to the CNDH, the Mechanism published its 2019 Annual National Monitoring Report, following recommendations made by the National Committee itself. The CNDH underscores that the report disaggregates situations of gender-based violence, but still does not break out information on defense of the environment or human rights defense done by indigenous persons.<sup>566</sup>

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<sup>563</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pgs. 63 and 64.

<sup>564</sup> Archive of the Office of the Special Rapporteur. Communication sent by the National Human Rights Committee. October 2020. Update for 2020 to the National Human Rights Committee's (CNDH) contribution in the framework of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the Inter-American Commission on Human Rights (IACHR) in 2015. Pgs. 33 and 34.

<sup>565</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 64.

<sup>566</sup> Archive of the Office of the Special Rapporteur. Communication sent by the National Human Rights Committee. October 2020. Update for 2020 to the National Human Rights Committee's (CNDH) contribution in the framework of review of

364. The IACHR highlights the work done by the Mechanism to include different factors of risk analysis and the adoption of measures of protection. However, because the information available does not allow for determination of to what degree the situation of indigenous communities or environmental defenders is taken into account, it concludes that this recommendation has been complied with partially.

365. Regarding the Commission's recommendation urging the State **to implement strategies so that the various institutions at the state and federal level work in a coordinated fashion to provide an integral response to all matters related to the protection of human rights defenders and journalists**, the State indicated that it is working to provide space for interaction and dialogue with entities, as well as with federal government authorities, to ensure the discourse of prevention and protection is in place.<sup>567</sup>

366. In this respect, the Office of the Special Rapporteur for Freedom of Expression of the IACHR indicated that implementation of the Protection Mechanism for journalists ineffective, as coordination among all levels of government and among institutions is deficient. Although cooperation agreements have been signed with the 32 states, they are not binding, and the federal government cannot enforce implementation, which makes adequate implementation of the measures of protection impossible. In addition, the lack of participation of the security forces in the programs, the reactive and police intervention, the lack of analysis of risk and measures of protection in keeping with the needs of human rights defenders and journalists, and the privatization of security measures are just some of the difficulties of the mechanism.

367. The IACHR concludes the recommendation has met with partial compliance, in view of the fact that while federal and state strategies exist, their implementation still faces challenges that compromise the system's effectiveness.

368. Regarding the recommendations to **implement a communication strategy regarding its competencies, the requirements to enter the program, among other necessary information, with the objective of making human rights defenders and journalists aware about the protection that the mechanism can offer and provide access to necessary information regarding the protection mechanism so that it may provide greater transparency regarding the work it is doing**, the State reiterated the information it had submitted previously.<sup>568</sup> The IACHR notes that the previous information had to do with the operation of the website "<https://www.gob.mx/defensorasyperiodistas>." With respect to the content of the website, the State indicated previously that "there are several documents to report on the Mechanism's trust, recognition of the work of human rights defenders and journalists, and in particular about the work done." The IACHR notes that the platform has general information on the Mechanism of Protection, media articles about the actions taken, in addition to public contact information, including two phone numbers, an email, and the organization's address. Based on the foregoing, and considering that the State did not submit additional information on compliance and follow-up on this recommendation in 2019, the IACHR considers that it continues to meet with partial compliance.

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compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the Inter-American Commission on Human Rights (IACHR) in 2015, pg. 34.

<sup>567</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 64.

<sup>568</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 65.

369. Regarding the recommendation to **encourage the mechanism to adopt a process that allows it to issue protection measures directly and of its own initiative (ex officio) in those cases which, because of their gravity and urgency, require them immediately**, the IACHR received information from the State on how, from the protection area, a process should be provided for standardized support to enable first contact with the Mechanism or, once a petitioner or beneficiary has joined, place them at the center. According to information provided by the State, this process guarantees the person: i) immediate response to all requests for intervention; ii) quick incorporation; iii) preparation and drafting of a risk analysis with the new methodology with a differentiated approach and gender perspective; and iv) fast follow up on the measures of protection ordered by the Board of Governors, through tailored monitoring plans.<sup>569</sup>

370. While the Commission recognizes that the granting of measures of protection shows that the mechanism is working, the recommendation has to do with the *ex officio* procedure, with respect to which the State did not provide any information. Therefore, the IACHR concludes that this recommendation continues to meet with partial compliance.

371. As regards the recommendation to **double efforts to investigate acts that cause the entry and permanence of protected persons into the protection mechanism, with a view towards conducting thorough investigations as prevention policy of the State**, the IACHR was informed by the State that monitoring of the cases incorporated and identification of the prevalence of aggressions is making it possible to identify patterns of aggressions and communicate them to states and even municipalities to help guarantee non-repetition. According to its report, as of June 30, 2020, the Mechanism had identified 57 possible cases of attacks on human rights defenders and journalists. The State added that the aggressions against journalists who were beneficiaries of the Mechanism included 18 threats, 7 physical attacks, and 2 kidnappings.<sup>570</sup>

372. The IACHR takes note that these aggressions against beneficiaries do not include the two murdered journalists who were beneficiaries of the Mechanism.<sup>571</sup> In view of the considerations set forth above, the Commission finds that this recommendation remains pending compliance.

373. As for the recommendation to **encourage the mechanism to adopt tools that allow it to evaluate the effectiveness of the implemented protection measures, as well as increase transparency of all its action to increase the trust of beneficiaries, accompanied by a policy of prevention and participation by the Mechanism's target population**, the State noted completion of the "Assessment of the Mechanisms Operations," carried out by the OHCHR-MX, using a participatory approach with civil society organizations. The State reported that there are multiple actions indicating the operation of tools for supervising the effectiveness of the measures. It also reported that two audits had been carried out by the Office of the Superior

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<sup>569</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 65.

<sup>570</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 65-66.

<sup>571</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, [Office of the Special Rapporteur Expresses Extreme Concern about Violence against Journalists in Mexico and Calls on the State to Strengthen Protection Mechanisms and Measures to Combat Impunity](#), November 11, 2020.

Auditor of the Federation in which the Mechanism was urged to adopt these tools.<sup>572</sup> The CNDH reported on the actions taken by the Mechanism to implement measures contributing to improving procedures for handling requests for incorporation, as well as quickly and expeditiously issuing evaluations on immediate action and risk, and verifying that the measures granted are implemented in accordance with the deadlines and terms establish.<sup>573</sup>

374. Noting the lack of specific information, the IACHR considers that this recommendation remains pending compliance.

### **III. CONCLUSIONS**

1. The Commission reiterates to the Mexican State the recommendations contained in its 2015 Country Report. Although significant progress has been made toward complying with the recommendations that the IACHR underscores in this document, challenges persist in terms of strengthening human rights institutions, specifically as regards promoting gender equality and eradicating violence against women, as well as protecting human rights defenders and journalists and providing integrated protection and support to the victims of human rights violations, with an intersectional approach. In these terms, the IACHR underlines the importance of the incorporation of an intersectional criterion within the information submitted by the State regarding the recommendations on vulnerable groups, in order to make visible the situation of Afro-Mexicans who are also part of disadvantaged populations such as LGBTI; women; children and adolescents; persons deprived of liberty; migrants and human rights defenders under a cross-sectional analysis.

2. Still particularly worrying in 2020 were the large number of poorly-investigated disappearances and murders and the lack of security for the individuals or groups historically exposed to discrimination.

3. As the Commission pointed out in its Country Report, the challenge facing the Mexican State is to close the gap that still exists between its legal framework and recognition of human rights, and the reality faced by a large number of the country's residents when they seek prompt and effective justice, while redoubling efforts to prevent human rights violations.

4. Access to justice continues to be one of the major challenges facing the Mexican State. Efficient and effective justice is vital for combating impunity and is central to responding to any human rights violation.

5. The Commission reaffirms its commitment to work with the Mexican State in the quest for solutions to the problems and challenges identified in this report and to lend it support for complying with international human rights obligation.

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<sup>572</sup> Eighth Report of the Mexican State on Compliance with and Follow-up to the Recommendations Contained in the Report "Human Rights Situation in Mexico," pg. 67.

<sup>573</sup> Archive of the Office of the Special Rapporteur. Communication sent by the National Human Rights Committee. October 2020. Update for 2020 to the National Human Rights Committee's (CNDH) contribution in the framework of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the Inter-American Commission on Human Rights (IACHR) in 2015, pg. 35.