



**Report on the 154<sup>th</sup> Session  
of the IACHR**

Washington, D.C. - The Inter-American Commission on Human Rights (IACHR) held its 154<sup>th</sup> regular session on March 13-27, 2017. During this session, the IACHR elected its authorities, and its board of officers is now made up of Rose Marie Antoine as President, James Cavallaro as First Vice-President, and José de Jesús Orozco Henríquez as Second Vice-President. In accordance with the Commission's Rules of Procedure, the election was held on the first day of the session. The other Commissioners are: Tracy Robinson, Felipe González, Rosa María Ortiz, and Paulo Vannuchi. The Executive Secretary is Emilio Álvarez Icaza L.

During the session, the IACHR worked on analyzing petitions, cases, and precautionary measures, and on implementing plans to address its procedural backlog. The Commission also held numerous meetings with representatives of States, petitioners, and civil society organizations from around the region, as well as with the OAS Secretary General-elect, Luis Almagro. The Commission also received visits from representatives of the Arab League Human Rights Committee and of the United Nations, including Chaloka Beyani, Special Rapporteur on the Human Rights of Internally Displaced Persons, and John Knox, Independent Expert on Human Rights and the Environment. During the session, the IACHR also presented its report "The Right to Truth in the Americas."

The IACHR received information indicating that people in some countries has suffered reprisals and receiving threats for attending hearings and for accessing the inter-American human rights system. The Commission considers it absolutely unacceptable for a State to take any type of action motivated by the participation or activities of individuals or organizations that engage the bodies of the inter-American human rights system, in the exercise of their rights under the Convention. As Article 63 of the Rules of Procedure of the IACHR establishes, States "shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type to the Commission," and they "may not prosecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission."

Over the course of this session, the Commission held 55 public hearings, in which it received information on cases being heard on the merits, as well as on regional human rights issues and diverse situations in 22 countries. Delegations from 19 OAS Member States participated in the hearings, as did more than 200 civil society organizations and 17 academic institutions. The Commission also held 29 working meetings, of which 20 were related to friendly settlements. This report presents a summary of each hearing, in the chronological order in which they took place.

### **Criminal Justice and Race in the United States**

The Commission convened this hearing, at the request of the government of the United States, to receive information concerning racial discrimination in the country, especially as it relates to the criminal justice system. In the context of the 50<sup>th</sup> anniversary of the U.S. Civil Rights Act, the representatives of the State affirmed that the federal government remains deeply committed to the struggle against racism and racial discrimination in the country. The representatives of the State presented an update on the work of the Task Force on 21<sup>st</sup> Century Policing, established in 2014 in the wake of the deaths of Michael Brown, Eric Garner, and other African-Americans at the hands of the police. They also presented information on the role of the Office of Federal Contract Compliance Programs in protecting workers from discrimination based on race, color, and other factors. For their part, participating civil society organizations noted that the criminal justice system has a disproportionate impact on African-Americans and Latinos, which they alleged perpetuates a harmful legacy of racism in the country. They mentioned specific cases in which police departments in some U.S. cities arrest African-Americans and Latinos at a rate they said is disproportionately

high when compared with the percentage of these groups in the total population. Finally, they indicated that many police departments engage in discriminatory practices toward racial minorities, including the use of racial profiling. The IACHR expressed its concern on the issue and its interest in contributing to make progress in the elimination of racial discrimination and justice.

### **General Human Rights Situation in Puerto Rico, United States**

The Commission held a hearing during this session on the general human rights situation in Puerto Rico, 15 years after its last hearing on this issue. Civil society organizations pointed to a number of problems related to the rights of children; lesbian, gay, bisexual, trans, and intersex (LGBTI) persons; women; people of African descent; and migrants. The IACHR also received information concerning the serious situation of human trafficking and its possible connection to forced labor, child prostitution, and drug trafficking. The Commission was also told that even though there is a legal guarantee of access to information, in practice this access is being hampered by official agencies. Moreover, the participating organizations reported that even though Puerto Rico has abolished and prohibited the death penalty, this punishment continues to be imposed by the United States government for certain federal crimes, in trials held in English. For its part, the government of Puerto Rico indicated that significant progress has been made in the implementation of the rights of the American Declaration with regard to protecting children from maltreatment and combatting human trafficking. The government also highlighted the protections offered to women against domestic violence. However, the government recognized the need to prepare a plan for access to special education for children with disabilities in Puerto Rico and a plan to combat gender-based violence. The government of the United States, which was also present at the hearing, did not comment on the imposition of the death penalty on Puerto Rican people for federal crimes. The IACHR expressed concern over several issues, including the detention of migrants and the special vulnerability of low-income women migrants of African descent. It was also especially concerned about the fact that the United States, the only country in the region that currently carries out the death penalty, should impose this type of punishment on a population that has abolished and prohibited it in its domestic law, and it expressed concern over the fact that trials are being held in a language that may not be fully understood by the accused.

### **Case 12.834 - Leopoldo Zumaya and Francisco Berumen Lizalde, United States**

The petitioners presented information concerning Case 12.834, Leopoldo Zumaya and Francisco Berumen Lizalde, United States, which is in the merits stage. Specifically, they alleged that after the Supreme Court of the United States ruled in the case of Hoffman Plastic Compounds, the scope of state laws was restricted, along with protectionist policies and practices at the federal level, leading to discrimination and the denial of justice for undocumented immigrant workers. The organizations also argued that the alleged victims had the right to receive workers' compensation for work-related accidents, as well as other payments and disability benefits, but that they were deported before they could access them. They highlighted how challenging it is for immigrant workers, such as the alleged victims in the case in question, to pursue judicial remedies once they are deported. For its part, the State reiterated what it had maintained in its observations of June 26, 2014, to the effect that the case should not have been admitted by the IACHR since domestic remedies have not been exhausted and the claims are unwarranted. The State maintains that the Hoffman Plastic decision limited only one of the various legal remedies available to undocumented migrant workers, and that it has not been established that the alleged victims would not be able to return to the United States to continue pursuing their claims. The State also pointed to its efforts to protect the rights of all workers, regardless of their immigration status. The IACHR requested information

on the general situation of migrant workers so that the IACHR can take this into account in deciding on the merits of the case.

### **Human Rights Situation of Persons Deprived of Liberty at the Guantánamo Naval Base, United States**

The IACHR held its 11<sup>th</sup> hearing on the human rights of persons deprived of liberty at the Guantánamo Naval Base. This hearing was requested by two groups of military public defenders who appear before the Military Commissions created to try Guantánamo detainees. The petitioners informed the IACHR about the impact of the “Committee Study of the CIA’s Detention and Interrogation Program” on proceedings currently underway before the Military Commissions and on detention conditions at Guantánamo. The study reveals that the use of torture against the detainees has been systematic. According to the hearing participants, the experiences and memories of the torture victims are considered classified information, which precludes remedies and rehabilitation for victims of torture and the establishment of accountability for those who are responsible for the torturing. Moreover, the organizations reported, the system of Military Commissions was designed to ensure the silence of torture victims, so that the actions of the perpetrators remain secret and unpunished. The United States delegation reaffirmed the commitment of President Obama’s administration to close the detention center at Guantánamo, and pointed to some recent steps forward. It also said that the Military Commissions incorporate fundamental rights of due process, and that the Office of the Chief Prosecutor of Military Commissions is reviewing the recent Senate study to look for potential exculpatory evidence. The government representatives indicated, as well, that it would take at least 12 more months for all eligible detainees to have access to a hearing before the Periodic Review Board.

The IACHR underscores that the absolute prohibition of torture as a peremptory norm in international law (*jus cogens*) creates obligations *erga omnes* for the States. States have the obligation to ensure that victims of torture and mistreatment have prompt, cost-free access to rehabilitation services, which should be comprehensive and victim-centered. They also have the obligation to consider inadmissible any evidence obtained directly or indirectly by means of torture or other cruel, inhuman, or degrading treatment. According to the information presented by the government, under the current circumstances it would be materially impossible to close the detention center at Guantánamo in the short term, considering the estimated time it would take to review the situation of all detainees being held in indefinite detention. The IACHR reiterates its call to the government of the United States to close the detention center at the Guantánamo Bay Naval Base without further delay and to investigate, prosecute, and punish all acts of torture and cruel treatment committed against those detained there, as well as to provide comprehensive reparation to the victims.

### **Human Rights Situation of Child Victims of Trafficking and Sexual Exploitation in the United States**

The petitioning organizations presented information concerning the perilous situation being faced by child victims of trafficking for the purpose of sexual exploitation in the United States. According to the petitioners’ claims, the State prosecutes trafficking victims as offenders rather than victims of a crime. Thus, every year the State arrests around 1,000 children on charges of prostitution, even though the Trafficking Victims Protection Act requires that State authorities treat sexually exploited children and adolescents as victims of a severe form of trafficking in persons. In addition, victims of trafficking are being denied the protection they need, in contrast to the care provided to other children who are victims of child abuse or rape. The petitioners also reported that child trafficking

victims have been re-victimized and have faced barriers in access to education, employment, and housing after incarceration. The organizations indicated that the arrest of children and adolescents has had a disproportionate impact on African-American and Latina girls. For its part, the State highlighted its federal programs to combat child trafficking for the purpose of sexual exploitation, as well as the guidance and support the State has provided to other countries concerning this problem. The Commissioners called on the State to recognize children as holders of rights, and also expressed their concern regarding the situation of migrant children. The IACHR Rapporteur on the Rights of the Child underscored the importance of the State recognition of children as subjects of law, its ratification of the Convention on the Rights of the Child and its address to the causes of the problem of trafficking; likewise, she acknowledged the cooperation of the State with these issues in the region.

### **Construction of the Transoceanic Canal and its Impact on Human Rights in Nicaragua**

The petitioners presented information on the construction of the transoceanic canal in Nicaragua and its negative impact on the rights of the Nicaraguan people. Specifically, they drew attention to the violation of the right to humane treatment, to a life of dignity, to a good environment, to water, to property, to not be forcibly displaced from the land, and to culture, among other rights. The participants also stated that the law on which the canal project is based and the contract signed with the Chinese company for its construction were carried out without environmental impact studies being performed and without having carried out a process of prior, free, and informed consultation with the indigenous peoples who would be affected and with the population in general. The organizations also noted that the concession granted for the canal's construction violates the Constitution, national laws, and international treaties. The organizations expressed their concern regarding the State's efforts to suppress the exercise of the right to protest by those who want the project to be suspended, which have led to violations of demonstrators' physical integrity and the illegal detention of protest leaders. In addition, they requested that the IACHR conduct an onsite visit to Nicaragua in order to verify the effects the canal project represents for human rights in the country. For its part, the State reported that the Grand Canal project was of paramount national interest and that the State was taking into account human rights and environmental conservation. The State indicated that this project would boost the country's economy, reduce poverty and marginalization, and help preserve the environment. The State also indicated that public consultations had been carried out for the studies that were done; that in the last week of April 2015 it would be presenting the appropriate environmental impact studies; and that the framework for carrying out free and informed consultation of the populations affected was about to be approved. The IACHR expressed its concern regarding police actions taken against opponents of the project; the apparent lack of adequate consultation and prior environmental studies on the project's development in ancestral territories of indigenous communities; and the population's access to water. The Commission asked the State for more information regarding consultation of indigenous peoples and the general population and the existence of appropriate compensation measures, as well as regarding the social and environmental impact studies to which the State referred.

### **Situation of Labor Rights in Nicaragua**

The petitioning organizations presented information on the deterioration of and lack of compliance with Nicaraguans' constitutional rights and their labor, human, trade union, and social security rights. According to the information they presented, violations of labor rights in particular are reflected in reprisals, discrimination, and illegal dismissals and suspensions; illegal hiring; the arbitrary transfer of workers; the elimination of union organizations; and the dismissal of union

leaders for carrying out their labor union activities. The organizations further indicated that public employees are constantly being required to participate in partisan political activities of the government in exchange for stability. The participants noted the situation of some groups that are vulnerable to labor violations, including children and adolescents, persons with disabilities, older persons, and small-scale farmers and farm laborers. The civil society participants called on the State to improve its public policy in this area. For its part, the State reported on progress made in the country on labor and social security issues, as well as on constitutional and legal protections in labor law. The State representatives reported on the creation in recent years of 1,267 new trade-union organizations and 485 collective bargaining agreements as evidence of progress. The Commission reiterated its keen interest in visiting Nicaragua, and expressed its concern over the allegations of political pressure in the workplace.

### **Labor Association Rights in the Americas**

The participating organizations presented information at the hearing on the situation regarding the right to labor association in the Americas, with particular emphasis on the United States, the Dominican Republic, Ecuador, Colombia, and Honduras. According to the information presented, workers in the region are victims of serious, systematic violations of their right to free association and collective bargaining. The participating organizations believe these violations have produced a decline in union membership and lower coverage of collective bargaining agreements, and thus reductions in salary and social benefits, an increase in labor insecurity, and greater inequality. In this sense, the civil society organizations at the hearing called on the Commission to develop and promote the obligations of the Member States to respect labor rights, in accordance with international standards in this area. They also requested that the IACHR coordinate with the ILO to monitor and assess the protection of and respect for freedom of association and collective bargaining in the Americas. Finally, they asked the IACHR to prepare a report on trade union rights in the Americas. The Commission expressed its particular concern over reports of labor leaders being threatened or killed in the region, crimes which remain unpunished. For its part, the Commission stated that it was interested in receiving additional information on priorities in this area for the future work of the Office of the Special Rapporteur on Economic, Social, and Cultural Rights, which the Commission said will make labor rights a priority issue.

### **The Death Penalty in the Greater Caribbean**

The IACHR held its first hearing related to the death penalty in the Greater Caribbean. With the exception of the United States, the 13 countries in the Americas that still have the death penalty are found in this region. The petitioning organization, Greater Caribbean for Life, pointed out that this region includes, on the one hand, Venezuela and Costa Rica, countries which abolished the death penalty in the 19<sup>th</sup> century, and on the other, Trinidad and Tobago and Barbados, whose laws still contemplate the mandatory death penalty. Among other troubling aspects, the participating organizations reported that while the death penalty has not been carried out in this region since 2008, a number of States are still opposed to abolishing it (although there have been no executions since 2008). They reported that between 59 and 80 individuals are on death row in eight countries of the Greater Caribbean. They also pointed to the lack of free, effective legal defense for people who are prosecuted for crimes subject to the death penalty. One positive aspect they noted was that Suriname recently abolished the death penalty, on March 3, 2015, and Barbados has made a commitment to abolish capital punishment. It is worth noting that ten countries in the region have abolished the mandatory death penalty, in compliance with decisions of the inter-American human rights system. The IACHR reiterates the need to move forward with legislative reforms in the

countries of the Greater Caribbean, so as to abolish capital punishment throughout this region or, failing that, to impose a moratorium on its application.

### **Human Rights and Uruguay's New Criminal Legislation**

The parties presented information concerning the reform of Uruguay's Criminal Code. The petitioning organizations identified as a concern the lack of an appropriate forum to facilitate civil society's participation in the development of the new legislation. As a result, they said, the bill contains language that undermines women's human rights with regard to issues such as sexual violence and women's sexual and reproductive rights. They referred to provisions regarding sex crimes, which do not include acts beyond penetration, and the omission of the crime of femicide and certain forms of domestic violence, exclusions the petitioners believe represent a setback in women's rights. Moreover, the petitioners indicated that the new bill expands the protection of "prenatal life" and does not cover the violation of rights involved in forced sterilization and insemination. The petitioners asked the IACHR to issue recommendations for the State, laying out the international standards that should guide reforms of criminal law related to the prevention, investigation, punishment, and reparation of all forms of violence and discrimination against women. The Commissioners who were present expressed their concern over the alleged lack of an appropriate forum for civil society to participate in the reform process. The State reiterated its willingness to participate in an open, democratic process which includes civil society's participation in the reform of the Criminal Code.

### **Social Protest and Human Rights in the Americas**

Thirty civil society organizations from around the region presented information to the IACHR concerning a troubling tendency to criminalize and violently repress those who exercise the right to social protest in the Americas. The participants reported that in many countries of the region, security forces have employed abusive and disproportionate force to handle social protests, which has even led to deaths of demonstrators. Information was received concerning the authorization some governments have given the Army to act during protests, when this is not a force trained to engage in the public arena. Documentation was also provided on the specific type of repression directed against journalists who cover these events as well as citizens who record the events on digital devices. According to the participating organizations, the criminal prosecution of people who participate in demonstrations, as well as of social and community leaders, has been another phenomenon reported. The IACHR was concerned to receive information regarding the use of criminal charges—such as alteration of the public order, illicit association, obstruction of roads, usurpation, and contempt (*desacato*), among others—to discourage protests. Along these lines, the organizations reported that there are legal initiatives that seek to regulate, restrict, or improperly hide the right to protest or that endorse the violent suppression of protests. The organizations reported that these initiatives include unacceptable requirements such as prior authorization, the obligation not to loiter, or the use of technology to block communications and create circumstances in which loud noises are used to disperse demonstrators. In this hearing, the IACHR received the opinion of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christoph Heyns. The Commission expressed appreciation for the information provided and ensured that it will closely follow this situation in the hemisphere.

### **Freedom of Expression, Diversity, Pluralism, and Media Concentration in the Americas**

During the hearing, the IACHR received information regarding the phenomenon of media ownership concentration in the Americas. A group of civil society organizations provided

information on the creation of communication monopolies or oligopolies in the region and the negative effects this has on the diversity and plurality of voices. Latin America has a high degree of media concentration, according to these groups, which called for the IACHR to issue a thematic report that includes standards for States to use in addressing this situation and recommendations to ensure greater diversity and pluralism. Meanwhile, a press association that includes the hemisphere's major newspapers stressed that it is opposed to monopolies or oligopolies, but indicated that these should be regulated by general laws that apply to all markets and not by specific laws, since—in this group's opinion—such laws can be used by those in authority for their own benefit. In particular, this news association referred to State-run monopolies or oligopolies, and noted the accumulation of media outlets in several countries by renowned entrepreneurs, such as the Mexican businessman Ángel González. The Office of the Special Rapporteur expressed appreciation for the studies and information provided and the input it received for its continued work on these issues.

### **Situation of Trans Persons' Economic, Social, and Cultural Rights in the Americas**

The petitioning organizations talked about the connection between the lack of recognition of trans persons' gender identity, the violence they suffer, and the violation of their economic, social, and cultural rights. The IACHR takes note of the vicious cycle of violence, discrimination, and exercise of rights. As the petitioners indicated, trans women's lack of access to formal employment is due in large part to exclusion and discrimination in family, educational, and social arenas. As a result, they indicated, trans women have to resort to occupations that place them at greater risk of suffering violence and becoming criminalized, which in turn means that they have even fewer possibilities for working in the formal sector. The organizations also presented a study indicating that in 16 countries of Latin America, approximately 90 percent of trans women engage in sex work as their only means of subsistence. The IACHR called on States to adopt laws on gender identity that do not pathologize people, as well as differentiated and specific affirmative measures to ensure that trans persons have access, without discrimination and under safe conditions, to employment and social security, housing, education, and health care.

### **Situation of Freedom of Expression in Ecuador**

Several organizations—the Unión Nacional de Periodistas de Ecuador and the School of Law at Ecuador's Pontificia Universidad Católica, on the one hand, and the Fundación Andina para la Observación Social y Estudio de Medios (FUNDAMEDIOS) and Usuarios Digitales, on the other—requested that the IACHR hold hearings to address the state of freedom of expression in their country. The Commission joined both requests and convened the interested parties and the State of Ecuador to give their points of view. The organizations expressed disagreement with the communication law currently in effect (*Ley Orgánica de Comunicación*) because they believe it has been used arbitrarily and has generated a climate of prior censorship, as they put it. They said that the government has imposed fines on media outlets, which have weakened them and led journalists to censor themselves, and that a lack of guarantees has resulted in a shortage of resources devoted to investigative journalism. They also presented cases in which Internet users who were critical of the government had been stigmatized and harassed. The organizations requested that the IACHR visit Ecuador and write a report that includes standards on digital rights, and that it analyze the country's characterization of communication as a public service. The State of Ecuador did not attend the hearing to offer information and give its point of view.

## **Human Rights Situation of Leaders and Defenders of the Shuar People in Ecuador**

The participating organizations presented information concerning the Shuar people's opposition to the oil and mining projects the State of Ecuador has implemented in their territories without having carried out prior, free, and informed consultations. The organizations stated that these projects have led to the destruction of their lands and crops and to an escalation of violence. Further, they indicated that as a consequence of the Shuar people's efforts to resist, three of their members have been killed, and these deaths have not been properly investigated and remain unpunished. Finally, they reported that there are no State mechanisms in place to protect human rights defenders. For its part, the Inter-American Commission expressed its concern regarding the failure to respect the right to prior, free, and informed consultation; the criminalization of and attacks on indigenous leaders; and the infringements on the right to a good environment and the right to water. The Commission also urged the State to respond to these allegations of human rights violations, stressing the importance of working together with civil society organizations. The Commission regretted the State of Ecuador's failure to attend the hearing.

## **Forced Migration and Persecution of LGBT Defenders in Central America**

The petitioning organizations presented information concerning threats and various forms of persecution that result in the forced migration of lesbian, gay, bisexual, and trans (LGBT) persons from Honduras, Guatemala, El Salvador, and Nicaragua to countries such as Costa Rica. They indicated that LGBT persons are more vulnerable to extortion and violence on the part of organized crime and that they are victims of hate crimes and police abuse. Moreover, they stated that international frameworks on asylum and refuge do not take into account the specific circumstances of LGBT persons, and that the qualifications and level of evidence required are inaccessible, which results in their being unable to receive effective international protection. The participants maintained that many LGBT persons arrive to countries in perilous circumstances and as a result of their irregular migration status are forced to live in hiding. They also indicated that policies related to LGBT asylum seekers and refugees in destination countries are often inadequate and inaccessible. Finally, the participating organizations complained that a number of LGBT organizations in these countries had had their legal status revoked and had been shut down. The IACHR urges the States of Central America to adopt effective, differentiated, and specific measures to protect and guarantee the right to life and humane treatment of LGBT persons.

## **Case 12.797 – Linda Loaiza López Soto et al., Venezuela**

During the hearing, the parties presented information on the merits of this case. Linda Loaiza López offered her testimony, describing the incidents involved in the deprivation of her liberty and the serious acts of sexual, physical, and psychological violence she suffered at the hands of Luis Carrera Almoina. She also shared information with the IACHR concerning the many barriers she faced in accessing justice and explained why she feels that her case remains in impunity. The State, for its part, noted that the courts have issued two rulings in this matter and stressed that the judiciary is an independent power. The representatives claimed that the Venezuelan State had done everything it needed to do in this case to meet its obligation to protect human rights.

## **General Human Rights Situation in Venezuela**

During the hearing, the Commission received information from civil society concerning the alleged interference by the executive branch and the ruling political party in State institutions, which reportedly has had a direct impact on human rights protections in the country. The organizations

pointed to the situation of the judiciary with regard to the large number of judges who, according to official figures, are holding provisional appointments. In this regard, the participating organizations indicated that processes for appointing high-level government authorities lack sufficient guarantees to ensure pluralism, and informed the Commission about acts of political persecution. They also presented figures related to cases of extrajudicial executions and the serious situation of impunity in cases involving human rights violations. In addition, the IACHR received complaints concerning an increase in intimidation and harassment of human rights defenders, particularly those who access international forums, such as the Inter-American Commission's public hearings. For their part, the State representatives questioned the information provided concerning the situation of provisional judges, indicating that while the figure is 66 percent, the State has been making significant efforts to bring about a decrease. The representatives also said the establishment of a judicial disciplinary jurisdiction in 2010 represented a step forward, and noted that the Public Prosecutor's Office has been taking important steps to "combat the violation of fundamental rights." Finally, the Commission was concerned to receive information regarding the Ministry of Defense's Resolution 8610, which authorizes the use of lethal force and firearms to control demonstrations. As the State explained, the resolution governs the progressive use of force when it becomes necessary to control demonstrations that turn "violent."

### **Human Rights Situation of LGBT Persons in Venezuela**

With regard to the human rights situation of lesbian, gay, bisexual, and trans (LGBT) persons in Venezuela, the petitioning organizations indicated that high-level public officials had spoken out publicly in a discriminatory manner against LGBT persons. As the organizations reported, in Venezuela there is no recognition of diverse families; discrimination exists in the health arena; and investigations are not conducted into cases involving hate crimes against LGBT persons, even when these include attacks and illegal detentions by agents of the State. Along those lines, the petitioners pointed out that impunity is becoming much worse in cases involving trans sex workers. In terms of activities by rights defenders, they alleged having received threats because of their defense of trans persons' rights and said the State shuts down access to participation by organizations that criticize the situation concerning the rights of LGBT persons. For their part, the State representatives indicated that discrimination against LGBT persons is a cultural issue, and they referred to legal precedents and legislative measures to guarantee the rights of LGBT persons. In addition, they indicated that the Ombudsman's Office has adopted a number of measures related to the training of State agents, although they recognized that challenges remain for the full inclusion of LGBT persons. The IACHR urges the State to adopt a non-pathologizing gender identity law; investigate with due diligence crimes committed against LGBT persons; and take further measures, including public policies for the benefit of LGBT persons and those who defend their rights.

### **Situation of Economic, Social, and Cultural Rights in Venezuela**

In the hearing on the state of economic, social, and cultural rights in Venezuela, the petitioners indicated that while at one time a series of social policies (missions) were implemented, the fight against poverty began to lose ground starting in 2012. The participating organizations said that 2014 official poverty statistics have not been published, but that the deterioration of various indicators (higher inflation, crisis in basic services, and widespread shortages) supports the idea that poverty rates are on the rise. They also reported that the right to a pluralistic education has been restricted and that there have been various violations of the right to peaceful assembly, such as for example the case of Kliverth Roa, a student they noted was shot and killed during a public demonstration. In terms of the right to health, the organizations maintained that public health services—on which more than 60 percent of the population depends—do not meet minimum

standards (deterioration of buildings and shortages of materials and medications). The organizations participating in the hearing specifically appealed to the Commission for an end to harassment of human rights defenders and organizations, as well as of those advocating for the right to education and health who are documenting and denouncing the aforementioned violations in Venezuela. For its part, the State reported on the steps it had taken to meet the United Nations Millennium Development Goals and indicated that, along with other countries in Latin America, it has been an example of social development. In addition, the State representatives assured the Commission that in Venezuela there are no attacks on individuals and organizations that defend human rights. In terms of the poverty statistics presented, the State requested that these analyses be done scientifically and in adherence to the truth, though they said this does not mean that alerts should not be issued when violations are detected.

### **Peru's National Education Plan on Human Rights**

In this hearing, the State presented its National Education Plan on Fundamental Rights and Duties. According to the State representatives, the plan seeks to incorporate instruction in human rights, fundamental obligations, and international humanitarian law, as well as the principles and norms governing the rule of law, into every venue, level, and type of education. They also indicated that the National Plan has three main components: equality and nondiscrimination, exercise of full citizenship, and a culture of peace. For its part, the Commission congratulated the State for developing the plan and emphasized how important this will be for the promotion and protection of human rights in Peru. Meanwhile, the civil society organizations participating in the hearing noted that the plan was the result of a very serious effort in human rights education, and stressed that the concept of gender had been incorporated to address discrimination suffered by women. With a view to making the plan comprehensive, the Commission called on the State to ensure that education in nondiscrimination also addresses discrimination against LGBTI groups and people with disabilities. The Commission also called for human rights education to encompass the inter-American human rights system and compliance with its judgments and recommendations, and asked the State to ensure that human rights education is an essential factor for professional advancement in the judiciary and among law enforcement and security forces.

### **Situation of the Right to Freedom of Association and Assembly in Peru**

The petitioning organizations reported on the increase in social conflict and the State's repressive and restrictive response to social protest. In that regard, they indicated that 60 percent of social conflicts are associated with socio-environmental issues. Restrictions reportedly involve the abusive use of force by law enforcement through the use of lethal weapons and the participation of militarized police in controlling social protests; the lack of investigation into attacks on the lives of demonstrators; the use of the criminal legal system to criminalize and intimidate those who promote social protests; and the harassment and stigmatization of people who participate in demonstrations, who are characterized as terrorists or said to have ties to drug trafficking or be opposed to development. For its part, the State indicated that it has maintained a policy of dialogue with respect to social conflicts and the promotion of development opportunities. Specifically, it indicated that social tensions have been limited and that more than 100 social conflicts have been resolved. The State also indicated that rules on the use of force are under discussion and will be shared with civil society. The Commission offered its support in the process of drafting the legislation on the use of force and expressed its concern over the use in criminal law of the "preemptive complaint" and over the fact that there continue to be arrangements between private businesses and public police forces.

### **Situation of the Right to Access to Information in Haiti**

The participating organizations presented troubling information on existing obstacles to the exercise of the right of access to public information, particularly related to foreign investment projects, tourism developments, mining, and exploitation of natural resources. The IACHR also received information reflecting the lack of a legal framework that establishes and develops mechanisms to access public information and limits the State's wide discretion to classify information by means of confidentiality clauses. The participating organizations also reported that what little information is published by the State is done so in French, without including the Haitian Creole language, which limits the access of a large percentage of the population. The Commission was not able to obtain a response from the State because the government did not attend the hearing. The Office of the Special Rapporteur for Freedom of Expression, for its part, expressed the need to implement a specific law governing access to information, one that would guarantee the exercise of this right. The Commission regretted the State of Haiti's failure to attend the hearing.

### **Reports of Violence against Trans Persons and Impunity in Paraguay**

The participating organizations presented a study of 36 documented killings of trans persons since the end of the dictatorship, that is, between February 1989 and December 2013. The study showed that in none of these cases could it be verified that the person who was responsible had been punished. In particular, the petitioners indicated that there is no public policy or legislation prohibiting violence or discrimination against trans, lesbian, gay, or bisexual persons (LGBT persons). They criticized statements made by high-level public officials against LGBT persons, as well as the State's refusal to sign and ratify the Inter-American Convention against All Forms of Discrimination and Intolerance. The State referred to measures it had taken to prevent violence against trans persons, such as training programs for police officers and other measures involving access to justice. The State pledged to provide information concerning the investigation of the cases that were presented. It also indicated that after the visit by the Rapporteur for Persons Deprived of Liberty, in 2014, the trans persons being held at the Tacumbú National Prison had been transferred to a cell with a private bathroom. The IACHR urges the State of Paraguay to investigate with due diligence the killings and acts of violence perpetrated against trans and LGB persons; approve an anti-discrimination law that explicitly includes sexual orientation and gender identity; pass a law on gender identity; and implement public policies designed to eliminate violence and discrimination against trans and LGB persons.

### **Reports of Discriminatory Practices related to Maternity Leave in Chile's Public Sector**

The Commission received information concerning Law No. 20.545 of 2011, as well as arguments concerning its alleged discriminatory impact. The participating organizations indicated that the law grants the right to maternity leave for 12 to 18 weeks, with a capped allowance that starts immediately following the beginning of the postnatal, 12-week leave. The participants informed the Commission that the capped allowance is discriminatory for women who earn more than the cap, and therefore these women have to choose between earning their salary and taking care of their children. The organizations argued that this decision reinforces the division of labor between the sexes and discriminates against children. Along these lines, they referred to ILO Convention 183 and the IACHR thematic report "Access to Maternal Health Services from a Human Rights Perspective." The State, for its part, stressed the difference between public and private employment and reiterated that Law 20.545 offers a new benefit above and beyond what the international standards require. In addition, the State representatives explained that President Bachelet has made addressing this issue a priority for 2015. The Commissioners recognized the fact that the

State has offered women a new benefit, but expressed their concern that the law could send a negative message to women who have only recently gained access to higher-paid employment. The parties pledged to continue a dialogue to find a solution to this issue.

### **Extractive Industries and Human Rights of the Mapuche People in Chile**

The organizations participating in the hearing presented information concerning the situation created by extractive industry projects in the territory of the Mapuche indigenous people and expressed their concern over the operation of these projects without prior, free, and informed consultation. They pointed to the harmful human rights effects that the Mapuche people have experienced due to projects carried out by the forestry, hydroelectric, mining, and salmon industries, including effects on their production systems, contamination of ecosystems, and loss of their territories. The organizations indicated that the system the State uses to evaluate environmental impacts has very low environmental standards, is not independent, and does not include an adequate consultation process. They also highlighted a project by the Neltume hydroelectric company, which will have a direct effect on the community, especially on a ceremonial complex that includes a Mapuche cemetery. For its part, the State stressed the importance of the United Nations Guiding Principles on Business and Human Rights and the various steps it has taken in the hemisphere to promote its application. The State representatives referred to the preparation of the National Plan of Action on Human Rights and Business, through which a study will be conducted to identify changes to be implemented in this area in conjunction with the country's indigenous peoples. The IACHR welcomed the State's initiative, requested additional information about it, and reiterated its interest in participating in the process. The Commission also expressed its concern regarding the tension between laws governing these industries and the rights to consultation, to private property, and to water.

### **Corporations, Human Rights, and Prior Consultation in the Americas**

The participating organizations presented information to the Commission concerning the range of direct and indirect impacts that business has on human rights in the region. They identified the main advancements and obstacles related to the development of standards on corporations and human rights at the international level, particularly the United Nations Guiding Principles on Business and Human Rights. They pointed to problem issues related to the extraterritorial responsibility of States in which transnational corporations are based, and expressed concern regarding the problems they said characterize prior-consultation processes in the Americas. Specifically, the participants pointed to troubling situations involving corporations, indigenous peoples, and prior consultation in Guatemala, Peru, and Colombia. The organizations asked the Commission, through its petition and case system, to expand on States' protection obligation with regard to human rights violations in which corporations are involved, taking into account the obligation of the States in which the companies are based. In addition, they requested that the IACHR carry out its protection functions in order to ensure access to justice for victims of human rights violations committed by companies, raising the possibility of processing complaints involving the extraterritorial responsibility of corporations' home countries. The Commission asked the organizations to continue presenting information on this topic, since this is one of the areas the IACHR Unit on Economic, Social, and Cultural Rights is working on.

### **Situation regarding the Right to Work of Persons with Disabilities in Tucumán, Argentina**

The Supreme Court of Tucumán, Argentina, requested this hearing, in which it talked about the inclusive policies it has put in place to make the right to work effective for people with disabilities

in the province's judicial system. As the petitioners reported, these policies have been developed pursuant to the highest international standards and have primarily involved implementing a number of reasonable adjustments, such as physical and communication accessibility and testing accommodations. For its part, the IACHR referred to how important the issue of disability is in its work, and stressed that the new paradigm is to treat persons with disabilities as “subjects of rights and obligations,” not “objects of protection.” The Commission also welcomed the policies carried out by the Tucumán Supreme Court to ensure workplace inclusion, and emphasized that this hearing would shine a light on the right to work for persons with disabilities as a right that represents a clear paradigm shift on disability.

### **Citizen Security and Reports of Torture in Argentina**

During the hearing on citizen security and reports of torture in Argentina, representatives of the Public Defenders Offices of Buenos Aires and Santa Fe provinces discussed the existence of uniform, ongoing patterns and practices of torture and cruel, inhuman, and degrading treatment perpetrated by the police, and referred to representative cases by way of example. The participants emphasized the linkages between police corruption; drug trafficking and other illicit activities; the impunity surrounding cases of torture and cruel, inhuman, and degrading treatment; the absence of mechanisms to prevent torture; attacks on the independence of ombudsman’s offices as agents for the protection of human rights; the persistence of a populist iron-fist discourse by relevant political actors; and the cruelty shown by police forces toward certain vulnerable sectors. The State acknowledged that there had been an “opportunistic use” of the iron-fist discourse. It also pointed out various institutional practices and public policies designed to reduce instances of torture. For example, the State representatives mentioned the establishment of offices of prosecutors specialized in the investigation of cases involving judicial violence and the presentation of draft legislation to establish a Torture Prevention Mechanism in the province of Buenos Aires. In this regard, the IACHR emphasized the State of Argentina’s fundamental obligation to ensure that acts of torture do not remain unpunished. It stressed the importance of the records of torture complaints kept by the Public Defenders Offices and questioned the effectiveness of the public policies the State says it is has been taking in that regard. Finally, the Commission said that the alleged acts of torture of children and adolescents mentioned by the participants were “alarming.”

### **The Right to Truth, Justice, and Reparations for the Human Rights Violations of Military Dictatorships in Bolivia**

The petitioning organizations explained the situation concerning access to and establishment of truth, justice, and reparation for human rights violations committed during the 1960s, ‘70s, and ‘80s by various military regimes. In the participants’ opinion, no comprehensive policy on truth, justice, and reparation has yet been implemented. As to clarification of the truth, they indicated that there are multiple obstacles to access to military records, and they decried a lack of political will to approve the bill that was presented to the Congress in 2013 to set up a Truth Commission in the country. In terms of justice, they noted that very few individuals were convicted for the grave human rights violations that took place during the dictatorships. Finally, they reported that the country has never had a comprehensive reparations plan. The State, for its part, reported on steps that had been taken to find and identify the remains of the missing, and affirmed that more than one million people have been beneficiaries of reparations. The Commission, for its part, congratulated the State for the progress made and invited it to establish a Truth Commission and to work on the process of establishing and disseminating the truth about what happened during the dictatorships.

## **Human Rights and Extractive Industries in Latin America**

During the hearing, the participants expressed the Catholic Church's position with regard to the activities of extractive industries in the region, which they said had destroyed the environment and produced many violations of human rights, especially those of the most vulnerable individuals, groups, and communities such as indigenous peoples, peasants, and children. They reported that quality of life in the region is being sacrificed for extractive industries, and said that this produces an injustice across generations because of the effects on poverty rates. They also expressed concern over the criminalization of those who advocate for the rights of indigenous peoples and the environment, as well as the right of social protest. They stressed the responsibility of States—both where the extractive enterprises are operating and where they are based—to implement the environmental and social standards necessary to prevent the destruction of the environment and the social fabric. To illustrate the situation, the participants laid out cases in Colombia, Brazil, Ecuador, Honduras, and Mexico. They called on the States, the IACHR, the international community, national and transnational corporations, and civil society to work together to find a different development model, one based on human development. The Commission expressed its appreciation to the representatives of the Catholic Church for their presence and their commitment to such an important issue, and affirmed the need for cooperation to build the type of economic development that is respectful of human rights.

## **Access to Justice for People with Disabilities in Guatemala**

The petitioners said that people with disabilities face a series of obstacles to full access to justice, due to a lack of recognition of their legal capacity and the State's failure to make procedural adjustments. Specifically, they pointed out that under Guatemalan civil laws, when people with disabilities go into extended-stay facilities, such as the Federico Mora Psychiatric Hospital, their legal capacity is taken away without any administrative or judicial process, and they are unable to access justice. For its part, the Guatemalan State said that it bases its approach to people with disabilities on the Constitution and on relevant international treaties; in this regard, it referred to the implementation of various initiatives to ensure equality of opportunities for people with disabilities. For its part, the Commission expressed concern regarding Guatemalan laws that allow persons with disabilities to lose their legal capacity when they go into extended-stay institutions. The IACHR also discussed the importance of ensuring the legal capacity of persons with disabilities so that they can participate directly in their legal proceedings.

## **Reports of Trafficking of Women and Children in Guatemala**

According to the petitioners, Guatemala is a country of origin, transit, destination, and return of migrant persons. Due in large measure to the factors of inequality, poverty and extreme poverty, violence, and the current geopolitical context, Guatemala suffers a serious problem of human trafficking. The organizations said that the number of trafficking victims had increased by 44.4 percent in 2012-2013, according to figures from the Office of the Human Rights Prosecutor, and said that this increase had had a disproportionate impact on women and children. In terms of factors that make it difficult to prosecute this crime, the participants identified justice operators' lack of awareness about what the crime of human trafficking involves, as well as a shortage of specialized personnel, inadequate institutional capacity, and lack of follow-up by the State as victims are reintegrated into their communities or foreign victims are deported. They also pointed to the complete invisibility of the trafficking of boys and men and the level of complicity or corruption by some State officials. The State described a set of measures that are being implemented at the national and regional level to combat human trafficking and to create an

environment conducive to reporting these crimes without fear. The State representatives indicated that there are officials and institutions specialized in this issue, including a prosecutor's office, a police unit, and several shelters. The Commissioners requested more information on the impact of the specialized institutions on access to justice; the reasons this crime goes unpunished; and the State's efforts to de-institutionalize child victims of trafficking.

### **Human Rights and Judicial Independence in Guatemala**

In this hearing, the IACHR was concerned to receive information regarding the alleged interference in the judiciary by other branches of government and regarding various irregularities said to have occurred in the process to select and appoint judges to high-level courts. The organizations indicated that people who had reported corruption related to this process had become victims of reprisals by the judiciary body, including unwarranted dismissals, preventive supervision, and allegedly illegal transfers. For its part, the State said that selection and appointment procedures had been carried out in accordance with the law in effect. At the same time, it recognized the need to reform the regulatory framework and indicated that it is currently working on a legislative reform initiative on this subject. Further, with regard to transfers of judges, the State indicated that there are grounds for these transfers and that the Constitutional Court has the authority to renew judges' terms after five years have gone by. The Commission expressed its concern regarding the application of existing laws in selection and appointment procedures, as well as regarding the alleged reprisals suffered by judges who had reportedly expressed disagreement with those procedures. The Commission also underscored that it is important for transfers of justice operators to be carried out based on public, objective criteria and adopted through a previously and clearly established procedure, one that takes into account the interests and needs of the justice operators involved.

### **Reports of Extrajudicial Executions and Impunity in Colombia**

The petitioning organizations presented a report regarding 230 cases of documented extrajudicial executions in the last four years. They said that up to six types or methods of such executions have been identified, adding that it is of utmost concern that at least 37 percent of the victims were reportedly under the age of 17. They also referred to the impunity they said surrounds a large number of cases committed in earlier times, especially those involving the phenomenon of "false positives," and talked about shortcomings in the way these investigations are conducted. For example, they said, theories related to the context or structures conducive to such crimes are not being pursued, and high-ranking military authorities are rarely linked to judicial proceedings. For its part, the State indicated, first of all, that it has a zero tolerance policy toward serious human rights violations and toward impunity, and that it continues to carry out significant efforts to strengthen the justice administration system. The State also said that the cases of "false positives" are "execrable acts" that "must not happen again" and that the appropriate authorities continue to move forward in the investigation and punishment of those responsible. The State noted that multiple and different types of measures have been adopted to "counteract" this phenomenon, and that these have yielded significant results recognized by United Nations agencies. It also stated that it is the investigative judges and authorities—in ordinary jurisdiction—who in the framework of their authority must make any determination as to responsibility, and that the Office of the Prosecutor has been implementing methodologies that make it possible to discern possible patterns in common, among other things.

## **Reports of Setbacks in Legislation on Military Criminal Justice in Colombia**

The Commission received information concerning the meaning and scope of three bills making their way through the Colombian Congress, having to do with the military criminal jurisdiction. The organizations said they are concerned because they believe these government-led initiatives would expand the military jurisdiction to hear cases involving serious human rights violations and breaches of international humanitarian law. For its part, the State noted that the aim of these initiatives is to reform the military criminal justice system so as to strengthen it and establish clear rules for prosecution—and only in cases in which crimes related to military service have been committed. Specifically, the Commission received information concerning Draft Law No. 085 of 2013, which aims to restructure the military criminal justice system to implement an adversarial system; Draft Law No. 022 of 2014, which would reform Article 221 of the Constitution regarding the jurisdiction of the military criminal courts; and Draft Law No. 129 of 2014, which establishes rules for prosecuting members of law enforcement through the application of international humanitarian law. The Commission appreciates the State’s assurances that during the remaining legislative steps and debate on the issue it will take into account the various observations made, and that an examination by the Constitutional Court will enable the matter of compliance with international standards to be addressed. The IACHR reiterates, in this regard, that a potential expansion of the military criminal jurisdiction would mean a serious setback in the efforts Colombia has made in the area of truth, justice, and reparation to victims, in contravention of its international obligations, and would be an element that could only contribute to impunity.

## **Follow-Up to Implementation of the Justice and Peace Law (Law 975 of 2005) in Colombia**

The petitioning organizations presented information concerning the “high vulnerability and lack of protection” faced by victims of sexual violence as a result of their aggressors’ return to the places where incidents relevant to the Justice and Peace Law occurred. They claimed that only two of the nineteen judgments under the Justice and Peace Law contemplate the crime of sexual violence, which could have the effect of eliminating the memory of women’s suffering and vulnerability in the context of the armed conflict. With respect to guarantees of non-repetition, the organizations stressed that there is no comprehensive program to ensure that those who have been demobilized will not return to illegal activities once they regain their freedom after serving their sentences. The participants also expressed their deep concern regarding the risk faced by women human rights defenders. The State, for its part, pledged to strengthen the efforts of the State-run group that aims to ensure that women actively participate in the peace transition process. The Commission recognized the progress the State has made and the fact that it has acknowledged that challenges remain in the transition to peace. However, the Commission expressed its deep concern over the low rates of prosecution in cases involving sexual violence.

## **Human Rights and Resettlement Processes in Colombia**

The IACHR received information concerning the relocation of displaced people, prevention and risk-reduction programs, and displacements resulting from development projects and natural disasters. The participating organizations cited official figures showing there are 7.2 million victims of the armed conflict, of which 5.7 million are forced displacements. As a result, many of these people live in high-risk areas in Colombia’s major cities. They also reported that administrative irregularities still exist in the context of the resettlement process. They stated that priority should be placed on planning and management that is preventive, not reactive, given the displacements caused by climate change. The organizations also denounced the lack of regulation when it comes to displacement due to urban development projects and the broad discretion granted to local

agencies. For its part, the State reported that the legal framework makes a distinction between different types of resettlement, whether it is a result of forced displacement or dispossession of lands. Moreover, the State indicated that it has adopted a series of public policies to attend to the victims, and various projects have been designed for citizens' social inclusion in the resettlement process. The IACHR requested more information on the current number of people who have had their own or other lands returned to them, and the number of people who have actually been resettled.

### **Human Rights Situation of Persons Deprived of Liberty in El Salvador**

In a hearing on the human rights situation of persons deprived of liberty in El Salvador, the participating organizations presented a general overview of the main structural problems that have led to the current prison crisis being faced by the State. According to official information provided by the participants, the prison system in El Salvador has a capacity for 8,490 beds, in 22 adult prisons, while the prison population is reported to be 28,697, which represents an overall occupation rate of 338 percent. As a result of this saturation, judges who impose prison sentences order people to be held in police station lock-ups. On this point, the Human Rights Ombudsman's Office has observed that of the approximately 1,231 individuals in custody in police lock-ups in San Salvador, 93 percent are in pretrial detention or are even serving criminal sentences. The participants referred to other serious problems with the prison system, related to health services, food and drinking water, family visits, sanitation and hygiene, and productive activity. The State provided information on access to prison statistics and on some palliative measures that are being adopted to address the country's current prison crisis. The Inter-American Commission stressed the need to adopt comprehensive public policies on prisons, geared fundamentally toward reversing the causes of the overcrowding.

### **Impunity for Grave Human Rights Violations during the Armed Conflict in El Salvador**

The petitioning organizations indicated that impunity for grave human rights violations during the armed conflict has become "a deliberate pattern of conduct" by the State. They reported that the situation has worsened with the implementation of amnesty laws, and victims of the conflict have been kept from access to justice, truth, and reparation. They also stated that a lawsuit filed 10 months ago by civil society organizations, requesting that the Amnesty Law be revised, is pending before the Constitutional Chamber of the Supreme Court. The petitioners said that this action could represent an opportunity for the law to be overturned on constitutional grounds. The State expressed its commitment to the victims of the armed conflict and said that the current administration is carrying out efforts to ensure their rights to truth, justice, and reparation. However, the State also expressed regret concerning the serious limitations faced by the Attorney General's Office in carrying out investigations into these cases, since the Treasury Ministry has not allocated funds for that purpose. For its part, the Commission expressed its concern regarding the application of the Amnesty Law in cases involving grave human rights violations, as well as its interest in learning about the progress made in the investigations into the cases mentioned.

### **General Human Rights Situation in Cuba**

The petitioners stated that since December 2014, with the announcements that diplomatic relations would be normalized between the United States and Cuba, repression of the Cuban people has been on the rise. They also expressed concern over the risks faced by human rights defenders, such as the criminalization of their activities, acts of torture, threats, arbitrary deprivation of liberty, home searches, and evictions. The petitioners also referred to the reprisals reportedly suffered by Yris

Tamara Pérez Aguilera and her husband, Jorge Luis Pérez Antúnez, in Cuba after they testified before the IACHR during its 153<sup>rd</sup> regular session. For its part, the IACHR expressed its concern over the alleged reprisals suffered by two participants in public hearings before this Commission, and reiterated that States have an international obligation to ensure participants' safety. The IACHR also welcomed the progress made in the context of the negotiations between Cuba and the United States, but expressed its concern over the human rights situation in the State of Cuba and over the fact that the embargo has not come to an end.

### **Human Rights and the Equal Opportunity Act and Commission in Trinidad and Tobago**

The IACHR held a hearing on the Equal Opportunity Act, adopted in the year 2000, and the Equal Opportunity Commission established under that law in 2008 to promote and defend human rights in Trinidad and Tobago. The law prohibits the denial of employment, housing, and goods and services in the public and private sector based on sex, ethnic group, origin, marital status, or disability. According to the information received, the Equal Opportunity Commission on several occasions recommended that the State expand the prohibition of discrimination to other categories, such as age, sexual orientation, and HIV status. However, these recommendations, which were also made by various United Nations committees, reportedly have not been followed. The Commission also received information regarding the multiple, interrelated forms of violence and discrimination against trans women, women living with HIV, and girls in Trinidad and Tobago. The organizations participating in the hearing further indicated that people with HIV should be considered a separate group and not included in the disability category. The organizations reported that women living with HIV/AIDS face serious barriers to obtaining full access to health services, as well as severe stigma from their communities. They also indicated that one of the country's human rights challenges is the lack of a national human rights institution in line with the Paris Principles. The IACHR expresses its concern regarding the lack of compliance with the Equal Opportunity Commission's recommendations, and requests that the State include the categories of age, sexual orientation, gender identity, and HIV status as grounds on which to ban discrimination. The IACHR regrets that the State of Trinidad and Tobago did not participate in the hearing. The State responded in written to the issues raised in the hearing.

### **General Human Rights Situation in the State of Guerrero, Mexico**

The petitioners indicated that in October 2014, the State of Guerrero Truth Commission managed to issue its final report, despite the lack of needed resources and obstacles in access to information. That report pointed to the existence of a widespread and systematic context of serious human rights violations directed against political dissidents, activists, and students during the Dirty War. The petitioners also said that impunity related to these crimes has meant that to this day there remains a pattern of serious human rights violations, and human rights defenders are criminalized and defamed. Specifically, they pointed to a campaign to stigmatize the *Centro de Derechos Humanos de la Montaña "Tlachinollan,"* a human rights center whose members—some of them beneficiaries of provisional measures—had reportedly been linked by the Center for Research and National Security (CISEN) to armed groups and were considered "subversives." The State of Mexico welcomed the Truth Commission's investigative work and pledged to follow up on the recommendations contained in its final report. The Mexican State recognized that the recent events of Tlatlaya and Ayotzinapa put to the test the progress made on human rights, legislatively and in terms of strengthening institutions. For its part, the Inter-American Commission reiterated that it is important for the State to fulfill its international obligation to protect the work of human rights defenders. The Commission expressed interest in learning more about the follow-up plan to comply

with the recommendations in the Truth Commission's report, as well as the process of defining the crimes of forced disappearance and torture.

### **Reports of Acts of Forced Disappearance and Impunity in Mexico**

The petitioners stated that Mexico is going through a crisis of disappearances, which the UN Committee on Enforced Disappearances recently characterized as widespread. Consequently, according to the participating organizations, what happened in Ayotzinapa should serve as a turning point to address this serious problem. They also pointed to the absence of concrete data on disappearances, which reflects the lack of comprehensive record-keeping policies, as well as the lack of policies on prevention, identification of remains, investigation, punishment, and the protection of families. During the hearing, the Commission heard statements from three women whose family members disappeared in the states of Mexico, Chihuahua, and Nuevo León. From 2010 to 2014, according to official information, 90 graves were found in Chihuahua containing 225 bodies, and only 100 of them have been identified. During the same period in Guerrero, 207 graves with 299 bodies were uncovered, of which only 40 individuals have been identified. According to the petitioners, "Mexico is a human cemetery, and the tragedy continues." They stated that there have been only six final judgments for the crime of forced disappearance of persons, and that international recommendations on this issue have not been met. The State recognized the gravity of the situation and the fact that there are still many challenges to overcome, despite progress that has been made on human rights, particularly in the regulatory aspect and in the establishment of protocols. The State also pledged to continue to work with civil society to combat forced disappearance. It also reiterated its desire to continue cooperating with the IACHR and the international community. The IACHR talked about the anguish faced by family members and the need to find the missing persons, and required the State to provide information about the measures adopted related to elements of corruption that make forced disappearances possible, such as the case of the students from Ayotzinapa.

### **Energy Reform and Economic, Social, and Cultural Rights in Mexico**

The organizations participating in the hearing indicated that energy reform in Mexico has serious effects on human rights. They indicated that the reform aimed to eliminate the Mexican State's exclusive rights in various areas of the energy sector, facilitating and prioritizing the entry of companies into territories over and above the human rights of the people who live there. They also indicated that the whole process of introducing, discussing, and approving the reform violated the rights of access to information and to the free, prior, and informed consultation and consent of indigenous peoples, as well as the right to citizen participation. They also expressed their concern over the exploitation of unconventional hydrocarbons, such as through fracking, and the impacts this would have on the human rights to a healthy environment, water and sanitation, health, property, and decent housing. The petitioners also mentioned the consultation of the Zapotec indigenous community of Juchitán de Zaragoza, Oaxaca, a process which was carried out after the reform took effect and for which multiple violations of relevant standards have been identified. As a consequence, the petitioners asked the IACHR to conduct an onsite visit and to consider asking the Inter-American Court for an advisory opinion regarding the energy reform's compliance with ILO Convention 169. For its part, the State indicated that it was convinced that the energy reform would lay the groundwork for an improved quality of life for all Mexicans and would lead to tangible benefits for the communities. The State also mentioned that secondary legislation will enable Mexico to meet its environmental commitments and said that it will take the necessary steps to ensure that administrative regulations allow for appropriate consultations. The IACHR stressed the

need for a type of economic development that is respectful of human rights, and asked the parties for more information regarding the implementation of the right to consultation.

### **Reports of Sexual Torture of Women in Mexico**

The petitioning organizations presented a video with testimony from several victims of sexual torture in Mexico. They indicated that sexual torture of women is a manifestation of socio-cultural and historical patterns of discrimination against women and gender stereotypes. According to the participating organizations, members of law enforcement have perpetrated acts of sexual violence for the purpose of producing confessions and false evidence, and several of these cases have been presented to the IACHR. They also referred to obstacles in access to justice and to health services, such as the re-victimization of victims and their family members and the lack of a gender and intercultural perspective in investigations. For its part, the State reported that its 2013-2018 development program incorporates a gender perspective and places a priority on measures designed to protect the human rights of women with disabilities, women deprived of liberty, and girls. The State also described reforms to the justice system and indicated that it has established justice centers to comprehensively address access to justice. As the State reported, this will enable the establishment of a follow-up mechanism to attend to women who are released from jail. The Commission requested more information on the conceptualization of the crime of sexual torture; the integration of a gender and intercultural perspective into investigative protocols for these crimes; and the groups of women most affected by this problem based on age, sex, gender, race, and other factors.

### **Access to Justice for Migrant Persons in Mexico**

The petitioning organizations provided up-to-date information on the violence faced by migrant persons in transit through Mexico. The IACHR has called this situation a grave humanitarian tragedy. Five relatives of Central Americans and Mexicans who disappeared in Mexico offered testimony regarding the many efforts they have made to search for and identify their loved ones, and the responses they have received from the authorities. As the participating organizations indicated, migrants and their families face multiple challenges in terms of real access to justice in Mexico; therefore, they asked that work continue to be done on the creation of a transnational mechanism to provide access to justice for migrants. For its part, the State of Mexico underscored the importance of the Protocol of Conduct for Those Who Impart Justice in Cases that Affect Migrant Persons and Subjects of International Protection, which was approved by Mexico's Supreme Court in 2013. They also noted the signing of the Cooperation Agreement for Identification of Remains Found in San Fernando, Tamaulipas, and in Cadereyta, Nuevo León, carried out by a Forensic Commission. The State also reported that it has agreed to establish a Transnational Mechanism for Seeking and Accessing Justice, in response to the IACHR's recommendation to develop effective and regionally coordinated investigative mechanisms that enable aggrieved migrants and their family members to have effective access to justice. The IACHR stressed that it is important for the Mexican State to continue moving forward with the measures it has been implementing in conjunction with civil society organizations and relatives of migrants, and it reiterates its recommendation to create an online system to locate detained migrants, which would provide information on the whereabouts of many migrants whose families may believe they have disappeared.

### **Situation of Economic, Social, and Cultural Rights in Guyana**

In this hearing, the IACHR received information concerning the difficulties that women, indigenous persons, persons with hearing disabilities, and LGBT persons face to be able to enjoy and exercise

their economic, social, and cultural rights in Guyana. Along these lines, the petitioning organizations reported that the rates of maternal mortality and adolescent pregnancies are very high, and that there are barriers to accessing health and protection services. They also argued that a cultural genocide is taking place as a result of the extinction of the languages of traditional communities. The IACHR also received information indicating that individuals with hearing disabilities face serious difficulties in terms of access to education, due to the small number of specialized schools and the fact that the teachers do not know how to communicate with the students in sign language, as they are not required to learn it. With regard to LGBT persons, the organizations said that in addition to the criminalization of consensual, same-sex relations and non-standard gender identities and expressions, these individuals are also victims of employment discrimination both in the public and the private sector. For its part, the government acknowledged many of the problems mentioned by the civil society organizations. It stressed the progress that has been made and expressed its willingness to work together to move forward on these issues. For its part, the Commission said it was pleased that the State was willing to work with civil society and to face these problems.

### **Reports of Killings of Young People of African Descent in Brazil**

The petitioning organizations laid out a series of concerns regarding the alarming level of violence faced by adolescents, particularly by Afro-Brazilian males between 15 and 29 years of age who live in urban areas with the lowest level of development. According to official statistics, homicides are the leading cause of death among adolescents and youth in Brazil; in 2012, more than half of the 56,337 people who died by homicide were young people (30,072, equivalent to 53.37 percent), of which 77 percent were of African descent and 93.3 percent males. The participating organizations reported that in some states in Brazil the youth mortality rate due to homicide tripled from 2002 to 2012. They pointed out in particular that institutional racism and discrimination continue to permeate the security and justice systems, and noted their concern regarding human rights violations perpetrated by the security forces, especially the military police. Among the situations identified, the participants indicated that there are alleged extrajudicial executions, forced disappearances, excessive use of pretrial detention, a disproportionate number of detentions, and an overrepresentation of Afro-Brazilians in the prison population, in addition to obstacles to equal access to justice when their rights have been violated. The petitioners denounced the fact these adolescents are stigmatized and blamed by society for the climate of insecurity and violence, and decried the high level of impunity surrounding acts of violence against them, which leads to a recurrence of such acts. For its part, the State acknowledged that the current situation is serious and laid out some of the initiatives it is adopting to address it. The IACHR expressed its concern about the situation and requested the State to urgently redouble its efforts to prevent abuse by the security forces, and to ensure an appropriate investigation and punishment of cases of killings of young persons of African Descent, in addition to further strengthen public policies on equity and social inclusion.

### **The Right to Truth and the Report of Brazil's National Truth Commission**

Information was provided on the conclusions of the National Truth Commission (CNV) with regard to crimes against humanity committed in Brazil during the period that was investigated. The petitioners indicated that the work of the National Truth Commission helped to ensure the right to memory and truth in Brazil, but that it is necessary to continue its efforts and to create mechanisms to implement and follow up on its recommendations. In this regard, the participants said that the work of the CNV does not replace the State's obligation to investigate and punish these crimes, and indicated that the Amnesty Law continues to be a problem in terms of assigning blame to those who

committed and ordered the crimes. The State, for its part, noted that the creation and the work of the National Truth Commission were very important. It also indicated that it understood that the CNV's conclusions are merely a sampling of everything that has happened in the country, and that it is necessary to continue investigating and punishing the crimes. In this regard, the State indicated that State agencies are already pursuing cases against some of those allegedly responsible for the crimes. The IACHR commended the State for this important step, but reiterated the importance of continuing the work of the National Truth Commission so as to investigate all the crimes and punish those responsible. The IACHR called to mind that amnesty laws which forgive torturers are incompatible with international human rights law and that it is necessary to take steps to ensure that this does not hamper access to justice.

### **Human Rights Situation of Migrant Persons in The Bahamas**

The IACHR received information concerning the new immigration policy announced by The Bahamas on September, 2014 and on related enforcement actions. The petitioners described mass raids of well-established immigrant, and particularly Haitian, communities, leading to detentions and deportations of persons unable to prove their migratory situation on the spot, including persons born in The Bahamas. In immigration detention at the Carmichael Road Detention Centre, petitioners allege that detainees are kept in unsafe and unsanitary conditions, citing that a woman gave birth unassisted in the Detention Centre, and that children have been kept with un-related adults for days at a time. The State explained that the Belonger's Permit allows non-Bahamians to work and study, which they were previously unable to do. The State displayed photographs of newly constructed dormitories at the Carmichael Road facility. The petitioners requested that the Commission conduct an on-site visit to The Bahamas and that the State engages with civil society, revise its immigration policy, and stop arbitrary detentions. The State reiterated its invitation for the IACHR to conduct a visit. Commissioners Felipe González and Tracy Robinson, Rapporteur on Migrants and Rapporteur on The Bahamas, respectively, thanked the State for the invitation to visit, stating that it is under serious consideration. During the hearing, the defender Diego Alcalá said he was worried about a posting on Facebook made by the Manager of Press, Culture and Information of the Embassy of The Bahamas in the United States, saying that he would use every resource at his disposal to try to press criminal charges against the delegation that participated in the hearing, after other Bahaman authorities indicated to the defenders Fred Smith and Joseph Darville that they would file criminal charges of libel and sedition against them. The State denied this information and stated that it would defend the petitioners' right to free speech, just as it stands ready to defend The Bahamas from defamation and other crimes. The Commissioners expressed their concern about this information and urged the State to avoid the stigmatization of human rights defenders.

### **Children's Rights and the Media in the Americas**

This hearing was regional in nature, and it laid out current challenges for guaranteeing children's rights to freedom of expression and access to information. The petitioning organizations discussed the media's role in producing and providing high-quality, informative content, which should be adapted to different age groups, with respect for cultural diversity. They also analyzed the need to ensure that media outlets' headlines and advertising are compatible with children's rights and their protection from content that could be harmful or counterproductive to their development. They also made reference to the protection of the identity and privacy of children who are exposed to media coverage, for example children in conflict with the law. In addition, the petitioners presented some of the model regulations in place to ensure that the rights of children and adolescents are respected and guaranteed. On another matter, participants noted the importance of encouraging

children and adolescents to play a leading role in developing programming content, and talked about the media's educational role for very young children. The Office of the Special Rapporteur for Freedom of Expression and the Rapporteur on the Rights of the Child organized a working group with representatives of the States and civil society organizations to further discuss these and other related aspects. They underscored the importance of delving deeper into the issue and having the IACHR provide recommendations to the States.

### **The Right to Property and the Right to a Healthy Environment of Indigenous Peoples in Bocas del Toro, Panama**

The petitioning organizations indicated that the State has not complied with its commitment to create areas adjacent to the Ngöbe-Buglé Reserve, and therefore the indigenous inhabitants are living without any type of territorial recognition. They stated that their territories have been occupied at different times by national and foreign corporations and individuals, as a result of concessions granted to the hydroelectric industry, real estate development, and road construction, with no respect for indigenous communities' rights to the environment, to territory, and to consultation. In this regard, the participants denounced the acts of violence that have been perpetrated against indigenous peoples, including forced evictions, physical attacks, and the destruction of their homes by the authorities. They concluded by asking the State to prepare a report on the situation of the indigenous population of Bocas del Toro, in cooperation with civil society. They also requested that the IACHR conduct an onsite visit to the province to prepare a Merits Report on one of the cases presented. The State reiterated its commitment to respect for human rights and respect for a healthy environment. It also indicated that it has acted at all times with respect for the rights of indigenous peoples, and pledged to prepare the report requested by the participants. The Commission expressed concern over the lack of recognition of indigenous property in Bocas del Toro and requested more information on that point. It also took note of the State's willingness to resolve the Bocas del Toro situation.

### **Right of Access to Water of Rural Communities in Costa Rica**

During the hearing, the IACHR was informed about the environmental consequences of large-scale pineapple cultivation, such as the contamination of surface and underground water, changes in soil use, the appearance of plagues, displacement of families, and effects on people's health. The participants emphasized the situation of certain communities in Limón province, where contamination of water sources has been documented since 2003. The State has taken palliative steps to address the situation since 2007, by distributing water in cistern trucks. The participants also proposed that a moratorium be declared on the expansion of pineapple plantations until proper planning is in place. To that end, they asked that environmental impact studies be done and that guarantees be made that companies will abide by applicable environmental and labor laws. The State, for its part, reiterated its commitment to this issue and its willingness to work in conjunction with the affected communities. It also pointed to the adoption of concrete measures such as the uninterrupted distribution of water by means of cistern trucks; the creation of the "Single Plan Commission," in compliance with judgments No. 09040 and 09041 of the Constitutional Chamber; and the beginning of a comprehensive project designed to supply drinking water to the affected communities in Limón province. The IACHR reiterated the need for the State to adopt concrete measures to ensure that the affected communities are provided a steady supply of drinking water.

## Situation of Economic, Social, and Cultural Rights of People Living in Urban Shantytowns in the Americas

The petitioning organizations referred to UN Habitat's definition of what is considered a slum. In that regard, they reported that of the 180 million people in Latin America and the Caribbean who live in poverty, 125 million live in cities and 113.4 live in informal shantytowns. They said that people who live in shantytowns are under permanent threat of eviction due to the insecurity regarding ownership of their homes, and indicated that this mostly affects groups that have historically faced discrimination. A resident of the "Rodrigo Bueno" shantytown in the province of Buenos Aires, Argentina, exemplified the situation faced by people who live in poor urban settlements. He talked about the lack of access to a sewer system, drinking water, and electricity. He also indicated that, following an eviction order, the 1,200 families of Rodrigo Bueno have begun a legal battle for recognition of their rights to the area. In addition, the petitioning organizations pointed to the situation in Mexico and indicated that this problem is found throughout Latin America and the Caribbean. They also denounced the criminalization of human rights defenders who work on this issue and indicated that there are no adequate public policies in place to prevent problems or address the housing situation from a structural standpoint. They also asked the IACHR to conduct an assessment of the situation of economic, social, and cultural rights of the people who live in shantytowns, and to make recommendations to the States so that they can improve their inhabitants' living conditions and guarantee the observance of their human rights.

### Working Meetings Held

During the 154<sup>th</sup> session, the IACHR held the following working meetings:

- Case 12.905 – Osvaldo Isaías Migueles and Pablo Rafael Galván, Argentina
- Case 12.306 – Juan Carlos de la Torre, Argentina
- Case 12.053 – Mayan Communities of the Toledo District, Belize
- Case 11.426 – Marcela Alejandra Porco, Bolivia
- Petition 687/11 GBB and CBB, Chile
- Case 12.904 – Aymara Chusmiza Usmagama Community and its Members, Chile
- Case 12.433 – Sonia Arce, Chile
- Petition 946/12 – César Antonio Peralta Wetzel et al., Chile
- Precautionary Measure 265/02 – Embera Chamí Indigenous Community, Colombia
- Precautionary Measure 152/14 – Afro-Colombians from the "La Playita" Neighborhood of Buenaventura, Colombia
- Precautionary Measure 242/09 – Members of the Consultancy on Human Rights and Displacement (CODHES), Colombia
- Petition 1745/13 – Gustavo Petro Urrego, Colombia
- Petition 11.550 – Maurilia Coc et al., Guatemala
- Petition 9.586 – Godoy Aldana, Guatemala
- Precautionary Measure 457/13 – APUVIMEH, Honduras
- Precautionary Measure 18/10 – Indyra Mendoza Aguilar et al., Honduras
- Precautionary Measure 50/14 – Bajo Aguán, Honduras
- Case 11.565 – González Pérez Sisters, Mexico
- Case 11.411 – Santiz Lopez et al. (Ejido Morelia), Mexico
- Case 12.551 – Paloma Angélica Ecobar Ledezma et al., México
- Case 12.130 – Miguel Orlando Muñoz Guzmán, Mexico
- Precautionary Measure 252/14 – Journalists and Directors of "Contralinea" Magazine, Mexico

- Precautionary Measure 185/13 – Sofía Lorena Mendoza, Mexico
- Case 11.381 – Milton García Fajardo et al., Nicaragua
- Precautionary Measure 277/08 – Vilma Núñez de Escorcia and Members of CENIDH, Nicaragua
- Case 12.359 – Cristina Aguayo, Paraguay
- Precautionary Measure 452/11 – Indigenous Leaders of Cajamarca, Perú
- Petition 452/TE – Cases of the Press Release of Feb. 22, 2001, Peru
- Precautionary Measure 279/12 – Luisa Fransua et al., Dominican Republic

## **Reports Approved on Petitions and Cases**

### Admissibility Reports:

- 374-05 – Trade Union Workers of the National Federation of Coffee Growers of Colombia, Colombia
- 4596-02 – Fidel Camilo Valbuena Silva et al., Ecuador
- 1139-04 – Massacre of the Village of Los Josefinos, Guatemala
- 929-04; 1082-07; 1187-07 – José Antonio Arrona Salazar and Family; Luz Claudia Irozaqui Félix; Joel Gutiérrez Ezquivel, Mexico
- 320-03 – Judges Not Ratified by the CNM

### Merits Report with a Decision to Publish:

- 12.833 – Felix Rocha Diaz, United States

In addition, the IACHR approved seven reports that are confidential; six are Merits Reports and one is a final Merits Report.

## **Financial Contributions**

The IACHR is especially grateful for the significant financial contributions made since the 153<sup>rd</sup> session and so far in 2015 by countries within and outside the region, as well as by international organizations and agencies, foundations, and other entities. These donations make it possible for the IACHR to carry out a large part of its activities related to the mandates from the political bodies of the OAS.

In particular, the IACHR welcomes the recent contributions made by the governments of the following OAS member countries: Canada, United States, Mexico, and Paraguay. It would also like to thank the permanent observer countries that support the Commission's activities: Spain, France, and Norway. The Commission also welcomes and appreciates the contributions it has received from Avina and the International Work Group for Indigenous Affairs (IWGIA). These donations contribute concretely to strengthening the inter-American human rights system in the Americas.