
CHAPTER V

FOLLOW-UP ON RECOMMENDATIONS MADE BY THE IACHR IN ITS COUNTRY AND THEMATIC REPORTS

FOLLOW-UP OF RECOMMENDATIONS MADE BY THE IACHR IN ITS REPORT ON THE HUMAN RIGHTS SITUATION IN MEXICO*

I. INTRODUCTION

1. The purpose of this chapter is to follow up on the recommendations issued in the report “The Human Rights Situation in Mexico”—approved by the Inter-American Commission on Human Rights (“the Commission,” “the Inter-American Commission,” or “the IACHR”) on December 31, 2015—pursuant to paragraph 9 of Article 59 of its Rules of Procedure. Under the terms of that provision, by means of Chapter V of its Annual Report the Commission shall follow up on measures adopted to comply with the recommendations issued in its country reports or thematic reports.

2. At the invitation of the United Mexican States (“Mexico,” “Mexican State,” or “State”), the IACHR carried out an onsite visit to the country from September 28 to October 3, 2015. The IACHR prepared the report The Human Rights Situation in Mexico with a series of recommendations to the Mexican State, drawing on findings and information obtained before, during, and after the onsite visit, investigations undertaken *ex officio*, information provided by the State, input from different mechanisms through which the IACHR has monitored the situation in the country, news reports, and decisions and recommendations from specialized international organizations, among other sources, in accordance with the provisions of Article 59, paragraph 5, of its Rules of Procedure. On November 24, 2015, the IACHR sent a copy of the report to the Mexican State, requesting that it submit its observations within three weeks. On December 15, 2015, the State submitted its observations.

3. In its country report, the Commission indicated that Mexico has been undergoing a grave crisis of violence and insecurity for several years. The IACHR identified serious situations of violence that rose to alarming levels during the government of former President Felipe Calderón and the 2006 launch of the so-called “war on drugs,” and included the subsequent loss of more than 100,000 human lives, more than 27,000 disappearances recognized by the State, more than 2,000 investigations into cases of torture,¹ and a context that has caused the internal displacement of thousands of people in the country. According to the report, as a response to the increase in violence, authorities opted to increase the role of the armed forces in law enforcement duties; this includes a policy of confronting organized crime and the deployment of joint operations between the armed forces and state and municipal security agencies. This situation sparked greater violence, as well as gross violations of human rights, cases in which the IACHR observed a lack of accountability by international standards.

4. The change in government in December 2012 brought no substantial changes with regard to security policies and levels of violence. In this context, the IACHR in its report expressed particular concern

* Pursuant to Article 17.2 of the IACHR Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the discussion, investigation, deliberation, or approval of this report.

¹ The State informed the Commission in its 2015 country report that, according to official figures, the Office of the Attorney General of the Republic had more than 2,400 investigations of torture underway, corresponding to complaints filed at the federal level from 2010 to 2015.

about reports of disappearances, such as the forced disappearance of 43 students of the “Raúl Isidro Burgos” Rural Teacher’s College in Guerrero state, on September 26 and 27, 2014; extrajudicial executions and torture; and the situation of insecurity for women, children, migrants, human rights defenders, and journalists, who are victims of murder, disappearance, kidnapping, torture, threats, and harassment. The IACHR also emphasized that Mexico is considered one of the most dangerous countries in the world for journalists, excluding countries that are at war.

5. During the visit, the Commission confirmed on the ground the critically high levels of impunity and inadequate and insufficient attention to victims and their family members. The failure to provide access to justice has created a situation of structural impunity whose effect is to perpetuate and, in some cases, foster the repetition of gross human rights violations. The threats, harassment, murders, and disappearances of individuals who seek truth and justice has led to a sense of intimidation in Mexican society, which the IACHR noted in countless testimonies of people who do not report these violations to the authorities for fear of reprisals, leading to a serious problem of underreporting in official figures. Barriers in access to justice, and inaction in many cases with resulting impunity, have weakened the rule of law and constitute urgent challenges.

6. The Commission welcomed the measures the State had taken to address the situation presented in its report. Specifically, it acknowledged the significant constitutional and legislative reforms introduced in Mexico beginning in 2011, including the constitutional reform and recently approved protocols to investigate cases of torture and forced disappearance, as well as other initiatives noted in the report. Notwithstanding the progress, the implementation of the State’s response continued to run up against deficiencies, shortcomings, and obstacles. The IACHR confirmed a deep gulf between the legislative and judicial framework and the daily reality millions of people face in terms of access to justice, crime prevention, and other government initiatives. The IACHR indicated that the Mexican State’s real challenge is to break the cycle of prevailing impunity in order to achieve effective prevention, investigation, prosecution, and punishment of the perpetrators of human rights violations.

7. In a communication dated March 1, 2016, and a reminder on August 4, 2016, the IACHR asked the Mexican State to present information on compliance with the recommendations contained in its country report on Mexico by the specified deadline of September 1, 2016. The State’s response was received on November 10, 2016.² In addition, in a press release on August 15, 2016, the IACHR invited civil society organizations to present information they considered relevant concerning compliance with the recommendations in their area of expertise, for the IACHR’s analysis of compliance with the recommendations contained in its 2015 country report on Mexico.

8. On December 16, 2016, in keeping with its Rules of Procedure, the IACHR forwarded the State a copy of the preliminary draft of this document, which is a part of Chapter V of its Annual 2016 Report, and asked it to return its comments. On January 16 and 19, 2017, the IACHR received the State’s comments, which, as relevant, were incorporated into this final version, which was approved by the Commission on March 14, 2017.

9. In its comments on the draft version of this report, the State again noted that it recognizes the human rights challenges it is facing, and reiterated its commitment toward responding to each and every one of them. The State said that the attention it was paying to the recommendations was a sign of Mexico’s commitment with the inter-American human rights system and a recognition of the work of the mechanisms that work to promote and protect human rights, the IACHR in particular. The State said it will continue to

² The document was delivered personally to Commissioner Enrique Gil Botero, Rapporteur for Mexico, on November 10, 2016, in Mexico City. The document was also sent to the IACHR by means of Note No. OEA-02902 dated November 17, 2016.

work to implement the recommendations while prioritizing dialogue and cooperation with the IACHR.³ In the State's words:

We emphasize the State's commitment with the Commission and its work. This can be seen in its broad participation and the extensive information it has sent during procedures under Article 41 of the American Convention on Human Rights; in the thematic public hearings it attends, at times with high-level delegations; in its submission of information to the thematic rapporteurships; and in its commitment toward dealing with petitions and cases and complying with friendly settlement agreements, merits reports, precautionary measures, and requests for information for precautionary measures, in accordance with the applicable provisions set forth in the Rules of Procedure of the Inter-American Commission on Human Rights.⁴

10. This follow-up report is divided into seven sections that focus on the consideration of the steps taken by the State to comply with the Commission's recommendations and pending challenges. It follows the structure the IACHR used to present its recommendations in the country report. Each section refers to the recommendations the IACHR made in the respective chapters and analyzes the main aspects of progress and challenges identified by the IACHR in light of the information presented by the State and civil society organizations, as well as information the Commission has collected through monitoring the general human rights situation in the country. The Commission has drawn on information it has received from the State during public hearings, investigations pursued at its own initiative, and input from its petition and case mechanism, precautionary measures, and requests for information issued in accordance with Article 41 of the American Convention on Human Rights, as well as information available from other public sources and the decisions and recommendations of specialized international agencies, among other sources. Finally, the IACHR presents its conclusions and recommendations.

11. The IACHR takes note of the State's recognition, in a public hearing in April 2016, of the human rights challenges it is facing. The State indicated that these challenges are enormous, and reiterated its overall commitment, willingness, and capacity to address them effectively. In the words of the State:

In agreement with the Commission's recent report, the Mexican State recognizes that it still faces significant challenges to make the full enjoyment of human rights a reality in our country, particularly on issues such as the complete eradication of torture, forced disappearances, and extrajudicial executions, cases involving mistreatment of migrants, and abuses of the human rights of journalists and human rights defenders. Certainly, the Mexican State forcefully and publicly rejects and condemns all violations of human rights. Consequently, we reiterate here our steadfast willingness to address these violations and our unbending commitment to improve the effective protection of human rights in the country.⁵

As we have stated before, we agree with many of the recommendations in the latest report of the IACHR on the human rights situation in Mexico; many of these, fortunately, are already part of the federal government's policies and programs.⁶

12. Likewise, in its November 2016 response to the 2015 Country Report, the State indicated the following: "We recognize the challenges the country still faces on this issue and thus we continue to work on

³ Communication from the Mexican State. [Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights](#), January 16, 2017.

⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁵ IACHR, Public Hearing, [General Situation of Human Rights in Mexico](#), 157th session, April 7, 2016.

⁶ IACHR, Public Hearing, [General Situation of Human Rights in Mexico](#), 157th session, April 7, 2016; IACHR, [The Human Rights Situation in Mexico](#), December 31, 2015.

actions to address them, actions that will result in the implementation of the rest of this Commission's recommendations."⁷

13. In addition, at the public hearing on the Human Rights Situation and Forced Disappearance in Mexico held on December 5, 2016, the State acknowledged that "Mexico has a problem with the disappearance of persons, whether it is committed by private citizens, authorities of the State, or by private citizens with the authorities' assistance or acquiescence."⁸ The State said that forced disappearances were Mexico's main human rights challenge, because the disappearance of persons "is a crime with an enormous impact on the social fabric and represents one of the most grievous violations of human rights and fundamental freedoms."⁹ This crime causes deep pain for people, and for families who are caught between hope and despair regarding their future." The government stressed that no reason whatsoever could justify the disappearance of a person.¹⁰

14. The IACHR takes note of these acknowledgements and reiterates the importance that Mexico fully comply with the recommendations made in the report. It also reiterates its willingness to work with Mexico, within the scope of the Commission's mandate and functions, to secure the effective enjoyment of human rights for everyone.

II. FOLLOW-UP OF RECOMMENDATIONS

A. Citizen Security

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

⁷ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

⁸ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁹ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

¹⁰ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

15. In its report *The Human Rights Situation in Mexico*, the IACHR stated that as part of the “war on drugs” that began in 2006, Mexican authorities opted to increase the involvement of the armed forces—particularly SEDENA and SEMAR—in public security duties, including a policy of confronting organized crime and the deployment of joint operations between the armed forces and state and municipal security agencies, which sparked greater violence as well as gross human rights violations and impunity.¹¹ The IACHR also noted that, despite a change in government in December 2012 and a shift in official discourse that put aside the concept of “war” in public pronouncements, in practice there apparently have been no substantial changes with regard to security policies and the violence that these trigger.¹²

16. In a public hearing held in April 2016 on the “General Situation of Human Rights in Mexico,” the State indicated that the armed forces have always had a presence throughout the national territory.¹³ For his part, at the close of the 40th Session of the National Council of Public Safety, the President of the Republic referred to the participation of federal forces wherever they are needed to support local police in an auxiliary, temporary way.¹⁴

17. According to the Fourth Government Report, between September 1, 2015, and July 31, 2016, the armed forces carried out 324,783 patrol and surveillance operations across the national territory, airspace, and seas (SEDENA 265,114; SEMAR 59,669), an increase of 26.5% in the number of operations and 10% in the number of troops involved over the same previous period.¹⁵

18. The IACHR regrets that it has not been informed about plans for the gradual withdrawal of the armed forces and for the recovery of citizen security tasks by civilian police forces. Along the same lines, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, in his 2016 follow-up report to his mission to Mexico, regretted the lack of progress regarding his recommendation that all necessary steps be taken to ensure that public security was upheld by civilian rather than military security forces.¹⁶

19. The State indicated to the Commission that given the security challenges it faces, “the Armed Forces constitute an essential element to safeguard the rule of law, with this activity even contemplated as an essential and inherent part of their existence and sphere of duty.” At the same time, the State indicated that it is in the process of strengthening the police forces, which is why the role of the armed forces is that of assisting the civilian authorities.¹⁷ The State affirmed that this involvement will always be of a supplementary nature and at the well-founded request of the civilian authorities combatting organized crime, and only for as long as necessary.¹⁸ It also indicated that this involvement strictly adheres to various legal provisions and Supreme Court opinions.¹⁹ The State stressed that the presence of the armed forces in the national territory is

¹¹ IACHR, [The Human Rights Situation in Mexico](#), December 31, 2015.

¹² IACHR, [The Human Rights Situation in Mexico](#), December 31, 2015.

¹³ IACHR, Public Hearing, [General Situation of Human Rights in Mexico](#), 157th session, April 7, 2016.

¹⁴ Office of the President of the Republic, [“The one thing Mexicans agree on is that we want to live in a country of peace and calm, freedom and rights, laws and institutions”](#): EPN, August 30, 2016.

¹⁵ Office of the President of the Republic, [4to Informe de Gobierno 2015-2016](#) [Fourth Government Report 2015-2016].

¹⁶ United Nations. [Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico](#), A/HRC/32/39/Add.2, May 6, 2016, para. 13.

¹⁷ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹⁸ See also: Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁹ The State made reference to several provisions of the Constitution, the General Law of the National System for Public Safety, the Organic Law of the Federal Public Administration, the Organic Law of the Mexican Army and Air Force, and the Organic Law of the Navy of Mexico. It also referred to the Supreme Court’s issuance of various case-law criteria that have maintained that the involvement of the armed forces in public security tasks is constitutional and must come at the express request of the authorities, with grounds and reasons provided. Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

not widespread but comes in response to specific needs in certain areas.²⁰ In its comments on the draft version of this report, the State said that the armed forces were participating in public security tasks on an extraordinary and temporary basis in response to the violence created by criminal organizations and with the ultimate goal of safeguarding the rule of law and its democratic institutions. The State also said that the participation of the federal forces in matters of local competence was at the request of the state and local authorities and in full coordination with them.²¹

20. The State also spoke of the challenges faced by the armed forces in that situation, including improving the legal framework for dealing with the operational reality, strengthening procedures for exchanges of information and cooperation with authorities at the three levels of government in internal security matters, and reorienting the naval and military education systems toward national defense, internal security, and missions of a social nature.²²

21. Statistics from the Executive Secretariat of the National System for Public Safety show that there were 39,809 homicides between January and December 2016, of which 22,932 were intentional and 16,877 negligent, as well as 1,383 cases of kidnapping and 5,374 cases of extortion.²³ The figures show a gradual increase in homicides since January 2016, with 2,862 homicides in January and increasing to 3,696 in December 2016. The figures show that intentional homicides reported through October 2016 surpassed the intentional homicides reported for all of 2015 and 2014.²⁴ According to the Mexico Peace Index 2016, one of every five homicides is not reported publicly by the authorities in 11 states. Veracruz, Zacatecas, and Puebla are the states where there was the least transparency.²⁵ According to the analysis, the quality of the data obtained falls short because of the hidden number of cases that go unreported and the lack of veracity of the official data.

22. Meanwhile, an investigation done by the weekly magazine Zeta indicates that during the current administration, through July 2016, there had been 78,109 intentional homicides in the country.²⁶ According to information from the investigation, the figure could be higher due to factors such as the uncertainty in the number of missing persons, intentional homicides characterized as suicides in several states, situations in which homicides among armed groups go unreported, and cases that start out as injuries before the person dies.²⁷ The study also reports that homicides have increased throughout the country. As an

²⁰ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

²¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²² Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²³ SEGOB, [Informe de víctimas de homicidio, secuestro y extorsión 2016](#) [2016 Report on Victims of Homicide, Kidnapping, and Extortion], published on January 20, 2017, based on data through December 31, 2016.

²⁴ Official figures for 2015 report 36,289 homicides: 18,673 intentional and 17,616 negligent. In 2014 the official figures recorded 17,324 intentional and 18,631 negligent homicides, for a total of 35,955. Ministry of the Interior, [Informe de víctimas de homicidio, secuestro y extorsión 2016](#) [2016 Report on Victims of Homicide, Kidnapping, and Extortion]. See also the [2015 and 2014 reports](#).

²⁵ Animal Político, [Las cifras negras y la corrupción ayudan a los estados a ocultar el 20% de sus homicidios](#) ["Unreported Numbers and Corruption Help the States Hide 20% of their Homicides"], April 12, 2016. See also [Mexico Peace Index](#).

²⁶ According to the magazine, these data are the result of the number of victims reported by the National Institute of Statistics and Geography (INEGI), official statistics from the states, inquiries made to state-level attorney general's or prosecutor's offices, and some references by the Executive Secretariat of the Ministry of the Interior's National System for Public Safety. Zeta's investigation found that the states with the highest numbers of intentional homicides from January through July 2016 are: the state of Mexico (1,326), Guerrero (1,267), Chihuahua (771), Jalisco (723), and Sinaloa (698). The states with the highest rates of intentional homicides per 100,000 inhabitants are: Colima (45.94 per 100,000), Guerrero (35.31), Sinaloa (20.1), Baja California (17.17), and Morelos (16.98). Zeta, [78 mil 109 ejecutados de Peña](#) ["Peña's 78,109 Executed"], September 4, 2016.

²⁷ Zeta, [78 mil 109 ejecutados de Peña](#) ["Peña's 78,109 Executed"], September 4, 2016; Aristegui Noticias, [Con EPN, 78 mil 109 ejecutados #4toinforme](#) ["With EPN, 78,109 Executed"], Zeta, September 4, 2016; Sin Embargo, [78,109 ejecutados en 45 meses del sexenio. Edomex, el número 1 en homicidios: Zeta](#) ["78,109 Executed in 45 Months of the Six-Year Term. State of Mexico No. 1 in Homicides: Zeta"], September 4, 2016.

example, it looks at Colima and Zacatecas, which in 2010 had very low homicide numbers and were not among the main states, and now Colima has a higher homicide rate than Guerrero.²⁸

23. At the close of the 40th Session of the National Council of Public Safety, the President of the Republic reported that security will be reinforced in 50 municipalities—2% of municipalities in Mexico—which he said account for 42% of intentional homicides in the country.²⁹ He also referred to five measures to respond to society's demand for security: 1) implement the 911 emergency number, which will begin operating gradually; 2) reinforce joint actions with state authorities; 3) implement a new measure to address the increase in intentional homicide in 50 municipalities that account for 42% of these crimes; 4) urgently implement a constitutional amendment on public security; and 5) develop a National Procedural Police Model and a plan for monitoring precautionary measures in the states, as well as a strategy to comply with the mandates of the National Law on the Comprehensive Criminal Justice System for Adolescents.

24. During the hearing in April 2016 on the “General Situation of Human Rights in Mexico,” the State indicated that in January 2016 an agreement had been reached to create a single state-level police force, an initiative that will be proposed to the Senate in order to give it constitutional status. Also, in May 2016, 118 municipalities in the state of Mexico signed the Single Command Agreement with the state government, while 7 refused to sign. That state's security strategy includes: centralizing municipal police systems under the command of the State Commission; reducing crime rates using operational intelligence; implementing information and communication technologies through standardized systems; strengthening the institutional capacity of the police; and stamping out corruption.

25. Regarding measures for strengthening the ability of the police to carry out public security tasks, in its comments on the draft version of this report, the State reported that in April 2016 the Agreement Creating the Technical Committee for the Evaluation and Monitoring of Human Rights in the National Security Commission (CNS) was signed, the aim of which is to set a strategic vision in the policies, programs, and actions carried out under the authority of the National Security Commissioner and the CNS's administrative units and decentralized administrative agencies. It also reported that training on human rights and the new adversarial criminal justice system had been given to 36,284 employees of the CNS and its decentralized administrative agencies. Regarding the prevention of torture, it said that between January and November 2016, 2,400 Federal Police officers had been trained by means of on-site and on-line courses. In addition, it noted that Agreement A/080/2012 establishes guidelines to be observed by agents of the Federal Ministerial Police in the legitimate use of force and legal detentions.³⁰

26. On another matter, the IACHR is not aware of any progress made in the approval of a General Law on the Use of Force, in accordance with the recommendations in its Country Report.³¹ In his May 2016 follow-up report to his mission to Mexico, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions regretted the lack of implementation of his recommendation along the same lines, as well as the ensuing episodes of excessive use of force and extrajudicial killings by the army and the police, which were documented by the IACHR in its Country Report.³² The United Nations High Commissioner for

²⁸ Zeta, [78 mil 109 ejecutados de Peña](#) [“Peña's 78,109 Executed”], September 4, 2016.

²⁹ Office of the President of the Republic, [“The one thing Mexicans agree on is that we want to live in a country of peace and calm, freedom and rights, laws and institutions”](#): EPN, August 30, 2016.

³⁰ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³¹ The IACHR learned that in the state of Mexico, on March 17, 2016, the legislature approved the Law Governing the Use of Force, at the proposal of the Governor. According to several civil society organizations, the law contains various provisions that run contrary to international human rights standards. Three lawsuits have been filed challenging the constitutionality of the law and are pending resolution, according to information provided to the IACHR. [Decree No. 75](#). The legal actions were reportedly filed by the Mexico State Human Rights Commission, the National Human Rights Commission, and by members of the Congress of the State of Mexico who had apparently also approved the law. According to publicly available information, this action was brought at the request of the Governor himself, who apparently asked the legislature to bring the legal action.

³² United Nations. [Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico](#), A/HRC/32/39/Add.2, May 6, 2016, para. 19.

Human Rights, in his recommendations on Mexico following up on his official visit to the country in October 2015, recommended that the State “adopt a national law on the use of force by public servants, in accordance with international standards, and ensure its effective implementation.”³³

27. In its comments on the draft report, the Mexican State said that while there was no single regulatory instrument governing the use of force, efforts had been made to create guidelines that seek to ensure respect for human rights. As an example it cited the “Common Manual for Use of Force by the Three Armed Forces,” which is intended to guide the actions of armed forces personnel in discharging their duties. It also reported that the Secretariat of National Defense (SEDENA) had amended its regulations and operating mechanisms as regards human rights through the “Code of Conduct of SEDENA Public Servants” and the “Human Rights Booklet of the Army and Air Force.” Similarly, it indicated that SEDENA and SEMAR provide systematic training on human rights and gender equality.³⁴

28. One example of excessive use of force by the State in 2016 had to do with the events that took place in Nochixtlán, Oaxaca, on June 19, 2016.³⁵ Clashes between federal and Oaxaca state security forces and members and sympathizers of the National Coordinator of Education Workers (CNTE) left eight people dead, seven of them from gunshot wounds, and scores injured.³⁶ The IACHR notes that in a first official version in response to these events, the authorities stated that the police, both federal and state, were not armed.³⁷ The authorities later acknowledged that the police had in fact been armed.³⁸

29. In a press release on June 22, 2016, the IACHR strongly condemned the serious acts of violence and called on the Mexican State to meet its obligation to conduct a meaningful investigation into the

³³ United Nations. Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, following up on his official visit to the country in October 2015.

³⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁵ A joint police operation with state and federal forces was carried out on the highway connecting Oaxaca with the state of Mexico, in the town of Nochixtlán, to remove a blockade that had been set up by members of the National Coordinator of Education Workers (CNTE) to protest educational reforms proposed by the federal government. Teachers who belong to Section 22 of the union of education workers, with the support of parents, had set up an encampment in the city of Oaxaca as well as highway blockades since May 15. The operation reportedly triggered a violent confrontation between security forces and demonstrators. That same day, acts of vandalism and looting had been reported in the state. IACHR. June 22, 2016. [Press Release 083/16. IACHR Condemns Violence in Oaxaca, Mexico](#); Ministry of the Interior. June 19, 2016. [Comunicado conjunto del Gobierno de la República y Gobierno del Estado de Oaxaca](#) [Joint Communiqué of the Government of the Republic and Government of the State of Oaxaca]; CNDH. June 19, 2016. [Comunicado de Prensa CGCP/174/16. Lamenta la CNDH la pérdida de vidas y lesionados durante los hechos registrados este día en distintas localidades del estado de Oaxaca](#) [“Press Release CGCP/174/16. CNDH Regrets Loss of Lives and Injuries during Today’s Events in Different Parts of the State of Oaxaca”]; CNDH. June 22, 2016. [Comunicado de Prensa CGCP/177/16. Pronunciamiento de la comisión nacional de los derechos humanos en relación con los lamentables hechos violentos ocurridos el día 19 de junio, en Nochixtlán, Oaxaca](#) [“Statement of the National Human Rights Commission concerning the Regrettable Acts of Violence on June 19 in Nochixtlán, Oaxaca”]; CNDH. June 28, 2016. [Comunicado de Prensa CGCP/183/16. deplora CNDH los actos de vejación contra policías federales en Oaxaca y llama a los manifestantes a respetarla dignidad de las personas](#) [“CNDH Deplores Actions to Humiliate Federal Police Officers in Oaxaca and Calls on Demonstrators to Respect People’s Dignity”]; El País. June 21, 2016. [Ocho muertos en violentos enfrentamientos entre policías y maestros en Oaxaca](#) [“Eight Dead in Violent Confrontations between Police and Teachers in Oaxaca”]; Expansión. June 19, 2016. [El conflicto magisterial en Oaxaca provoca enfrentamientos y saqueos](#) [“Teacher Conflict in Oaxaca provokes Confrontations and Looting”]; Excelsior. June 20, 2016. [Enfrentamientos en Oaxaca: seis muertos: chocan federales y miembros de la CNTE](#) [“Confrontations in Oaxaca: Six Dead, Federal Police and Members of the CNTE Clash”].

³⁶ IACHR, Press Release 083/16. [IACHR Condemns Violence in Oaxaca, Mexico](#), June 22, 2016. According to official figures, eight people died in the confrontations, seven from gunshot wounds and one while handling an incendiary device; meanwhile, 41 federal police, 14 state police, and 53 civilians were injured.

³⁷ El Informador, [Policía Federal no está armada en Nochixtlán: CNS](#) [“Federal Police Not Armed in Nochixtlán: CNS”], June 19, 2016; El Universal, [Policía Federal no está armada: CNS sobre Nochixtlán](#) [“Federal Police Not Armed: CNS on Nochixtlán”], June 19, 2016.

³⁸ Telesur, [Autoridades mexicanas reconocieron que la policía estaba armada y el gobernador de Oaxaca confirma sólo seis muertos y 51 heridos](#) [“Mexican Authorities Recognize that the Police Were Armed and Governor of Oaxaca Confirms only Six Dead and 51 Injured”], June 20, 2016; Animal Político, [Hubo policías estatales armados en Nochixtlán desde el inicio del operativo: informe Gendarmaría](#) [“There Were Armed State Police in Nochixtlán from the Start of the Operation: Gendarmerie Report”], August 1, 2016; [Policías sí usaron armas en Nochixtlán, admite Enrique Galindo \(PF\)](#) [“Police Did Use Weapons in Nochixtlán, Admits Enrique Galindo (PF)”], June 19, 2016; CMDPDH, Input for the follow-up report to the report on Mexico, September 2016.

events and to punish in accordance to law those responsible for the deaths and other acts of violence. The IACHR also urged the State to take the necessary steps to ensure the rights of persons under its jurisdiction by adopting effective and reasonable mechanisms to prevent the violation of rights. The IACHR also called on the State to promote a process of dialogue within the context of the educational reforms in order to reach a solution consistent with a democratic society and full observance of human rights.³⁹

30. The State, for its part, informed the Commission that the Internal Affairs Unit of the Federal Police and the Office of the Inspector General of the National Commissioner's Office have been investigating the events.⁴⁰ In its comments on the draft version of this report, the State reported that on July 6, 2016, the PGR took control over the investigation begun by the Office of the Oaxaca State Attorney General.⁴¹ The State noted that the National Human Rights Commission (CNDH) has an ongoing presence at the scene of these events and has also been independently examining what happened. The Office of the United Nations High Commissioner and the State Human Rights Ombudsman's Office have also been following the situation.⁴²

31. The State indicated as well that the National Security Commission "has reiterated its commitment to respect and enforce the law and ensure that the actions of the Federal Police fully adhere to the established protocols and the observance of the human rights of the public." It also expressed its willingness to cooperate in the investigation being conducted by the PGR. In its comments on the draft version of this report, the State said that a series of meetings had been held between state authorities, representatives of the Nochixtlán community, and relatives of the persons affected, at which agreements had been reached and measures adopted to deal with and repair the harm inflicted in terms of justice and health.⁴³ According to a press release from the Executive Commission for Attention to Victims, 81 families that had been pronounced victims of these events were reimbursed for medical and funeral expenses.⁴⁴

32. The CNDH issued precautionary measures for those who were injured, so that they would be provided proper medical care.⁴⁵ On June 29, the Standing Committee of the Mexican Congress unanimously

³⁹ IACHR, Press Release 083/16. [IACHR Condemns Violence in Oaxaca, Mexico](#), June 22, 2016.

⁴⁰ Communication from the Mexican State, Occurrences in the Town of Asunción Nochixtlán, Oaxaca, June 19, 2016. In its comments on the draft version of this report, the State said that President Enrique Peña Nieto had ordered the adoption of the actions necessary to resolve the conflict with the dissident teachers. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴¹ The State reported that the PGR has opened 35 investigations for the crimes of bodily harm, illegal denial of freedom, qualified larceny, attacks on general communications channels, resistance by private citizens, violations of the Federal Law on Firearms and Explosives, and any other offenses that may be detected. It had also assumed control over 54 case files opened by the Office of the Oaxaca State Attorney General. It reported that to date, 700 interviews of Oaxaca public servants had been conducted and 261 expert opinions had been issued. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴² According to information provided by civil society organizations, 137 people received medical attention at different health facilities in Nochixtlán, 33 of whom were minors. Most of the injuries were reportedly caused by firearms, burns, blows, and poisoning. In Huitzo and Telixlahuaca, 81 people were reported to have sustained injuries from rubber bullets, blows, fractures, poisoning, and burns, among other causes. The organizations also reported that people who were detained were victims of torture, and many were not taken before a judge; they also reported abusive use of force by police officers. Comité de Defensa Integral de Derechos Humanos Gobixha. *Informe Final sobre los hechos del 19 de junio en Oaxaca* ["Final Report on the Events of June 19 in Oaxaca"].

⁴³ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴⁴ CEAV, Press Release, *CEAV paga gastos a víctimas de Nochixtlán*, ["CEAV Pays Expenses for Victims of Nochixtlán"], August 21, 2016.

⁴⁵ On June 21, the Office of the Oaxaca Human Rights Ombudsman issued precautionary measures for seven individuals who were reported missing following the June 19 confrontations. The beneficiaries of the precautionary measures are reported to be Ángel Santiago Hernández, Juan Velasco Méndez, Daniel Medina, María Carrillo, Gustavo Moreno Bravo, Inocente Pinacho, and Alejandro "NN." See IACHR. June 22, 2016. [Press Release 083/16. IACHR Condemns Violence in Oaxaca, Mexico](#); Ministry of the Interior. June 19, 2016. [Comunicado conjunto del Gobierno de la República y Gobierno del Estado de Oaxaca](#) [Joint Comunicado of the Government of the Republic and Government of the State of Oaxaca"]; CNDH. June 19, 2016. [Comunicado de Prensa CGCP/174/16. Lamenta la CNDH la pérdida de vidas y lesionados durante los hechos registrados este día en distintas localidades del estado de Oaxaca](#) ["Press Release CGCP/174/16. CNDH Regrets Loss of Lives and Injuries during Today's Events in Different Parts of the State of Oaxaca"]; CNDH. June 22, 2016. [Comunicado de Prensa CGCP/177/16. Pronunciamiento de la comisión nacional de los derechos humanos en relación con los lamentables hechos violentos](#)

passed an agreement creating the Follow-Up Commission to the June 19, 2016, Events of Nochixtlán, Oaxaca, to keep track of the investigation into these events. On August 31, the final report of activities was published, and in the report the Follow-Up Commission concluded, among other things, that when authorities were planning the operation, they did not consider the fact that it was going to be conducted on a Sunday, when there are more people in the area where the events occurred, and that there were many houses near the blockade and therefore the risk that children would be affected was very high. The report also pointed to deficiencies in coordination of the duties to be taken on by authorities and police from the two different territorial jurisdictions that participated in the operation. The Follow-Up Commission indicated that it is important for the relevant authorities to establish whether there was abusive use of force on the part of police officers, and in this regard it was able to confirm that firearms were used by law enforcement as well as by demonstrators.⁴⁶

33. In addition, the IACHR and its Office of the Special Rapporteur received information indicating that members of the community radio station La Tlaxiaqueña had been criminally charged with allegedly inciting violence during the events of June 19. The radio station had opened its microphones that day to its listeners, and from early on people had called in to talk about the acts of violence that were taking place in Nochixtlán and to ask for help for the injured. In response to the accusations made over the radio, many people from nearby communities went to the site not only to help the injured but to support the demonstrators who were at the blockade. Members of the community radio station later learned that the commercial radio broadcaster La Poderosa had lodged a complaint against them.⁴⁷

34. In this regard, the IACHR observes that when the CNDH report on Tanhuato was published, one of the recommendations made by the National Human Rights Commission was to update the 2012 General Guidelines for Regulating the Use of Law Enforcement by Police Institutions of the Ministry of Public Security's Decentralized Agencies and, where necessary, adjust the guidelines to international standards.⁴⁸

35. The IACHR in its report called for the adoption and implementation of accountability measures by an agency that is independent of all security forces in situations where there has been a loss of life during public security operations or activities. Along these same lines, the UN High Commissioner for Human Rights, in his recommendations on Mexico, maintained that it is important to “complement the efforts already made by the Government to promote a citizen security approach to public security with further measures to ensure that public security policies and operational instructions comply with international human rights standards and guarantee that effective accountability measures for violations committed by members of the armed forces are in place.”⁴⁹

[ocurridos el día 19 de junio, en Nochixtlán, Oaxaca](#) [“Statement of the National Human Rights Commission concerning the Regrettable Acts of Violence on June 19 in Nochixtlán, Oaxaca”]; CNDH. June 19, 2016. [Comunicado de Prensa CGCP/173/16. Emite CNDH medidas cautelares por los hechos de violencia ocurridos hoy en Oaxaca y refuerza su presencia con más visitantes adjuntos y peritos: observa la evolución de los hechos en Tabasco, Chiapas, Guerrero y Michoacán](#) [“CNDH Issues Precautionary Measures due to the Acts of Violence that Occurred Today in Oaxaca and Reinforces its Presence with More Observers and Experts”]; CNDH. June 21, 2016. [Comunicado de Prensa CGCP/176/16. Informe de acciones de la CNDH en Nochixtlán, Oaxaca](#) [“Report on CNDH Actions in Nochixtlán, Oaxaca”]; Office of the Oaxaca Human Rights Ombudsman. June 21, 2016. [Boletín 433. Pide Defensoría proteger a 7 personas desaparecidas en el desalojo](#) [“Ombudsman’s Office Asks for Protection for 7 Persons Missing in the Eviction”].

⁴⁶ United Mexican States. Federal Legislature. Standing Committee. [Informe Comisión de Seguimiento a los hechos ocurridos en Nochixtlán, Oaxaca el 19 de junio de 2016](#) [“Follow-Up Commission Report on the Events of June 19, 2016, in Nochixtlán, Oaxaca”]. Undated; United Mexican States. Senate of the Republic. August 31, 2016. [Comisión de Seguimiento al caso Nochixtlán entrega informe de trabajo a Comisión Permanente](#) [“Follow-Up Commission to the Nochixtlán Case Presents Report on its Work to the Standing Committee”].

⁴⁷ Proceso. July 13, 2016. [Denuncian a integrantes de radio comunitaria en Oaxaca “por incitar a la violencia”](#) [Members of Community Radio Station in Oaxaca Reported “for Inciting Violence”].

⁴⁸ Recommendation 12 to the National Security Commissioner.

⁴⁹ United Nations. Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein, following up on his official visit to the country in October 2015, October 20, 2016.

36. On that point, the State has maintained that in those cases in which public security forces have allegedly committed human rights violations, criminal action is brought in civilian courts, which are in charge of investigating the incidents and, where applicable, punishing those found to be criminally responsible.⁵⁰

37. With regard to measures so that federal and state officials refrain from giving public statements about the legality of the actions of law enforcement until they have the results of the investigation, the IACHR observes that in 2016 in some cases high-level officials continued to accuse human rights organizations of fabricating false versions of events.⁵¹ Along these lines, the CNDH observed in its fourteenth recommendation to the National Security Commissioner that in the case of Tlanahuato, “public servants should refrain from making public statements about the legality of the actions of security forces in cases that could constitute an improper use of force, before the results of an investigation are available, while fully respecting the right to information.”⁵²

38. As for the creation of systems for information, compilation, and analysis of data regarding the violence that affects different groups, the IACHR received information regarding data on women. In this specific case, there is still a serious problem when it comes to keeping a record of the women and girls who have gone missing, as well as investigating, prosecuting, and preventing disappearances of women.

39. Regarding progress with information systems and the gathering and analysis of data on violence affecting women and girls, the State said that with the amendments to Article 47 of the General Law on the Access of Women to a Life Without Violence (LGAMVLV), there is now a public register of crimes committed against women and gender-aware protocols for immediate searches for disappeared women and girls and for investigating the crimes of discrimination, sexual offenses, femicide, trafficking in human lives, and crimes against freedom. In addition, within the Specialized Technical Committee for Information with a Gender Perspective of the National Statistical and Geographical Information System (SNIEG), a decision was taken to design an integrated system of statistics on violence against women, which will be ready this year and will provide an overarching structure for at least 28 statistical projects. It also reported that in response to the need for comprehensive, standardized information systems, work was underway with the federal and state judiciaries to define harmonized processes for compiling registers and gathering information, so that much more complete data could be gathered on victims and assailants. The Superior Court of Justice of Mexico City has the complete computer system and has shared it with all the other states. Furthermore, to strengthen the statistical and computer systems of the 32 courts of justice, the State reported on the creation of the Judicial Statistics Network under the auspices of the National Courts Commission (CONATRI). The State also reported that the Federal Legal Advice Service has a database on the attention given to victims of crimes and human rights violations, which include cases of trafficking in women. According to the State, despite the efforts undertaken to create information systems on violence against women and girls, it

⁵⁰ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

⁵¹ For example, in an interview with the newspaper El Universal, Brigadier General of Military Justice Gonzalo Corona González, Director General of Justice at the National Defense Ministry (SEDENA), stated, “We are aware that within the scope of operations that are carried out in support of the public security authorities, some types of conduct have been committed that could be considered to constitute crimes, and others have been publicized in a biased way by civil society organizations that have individual or group interests, with the aim of undermining society’s trust...” El Universal, [“Hay quienes buscan enfrentar el Ejército con la sociedad”: Gonzalo Corona](#) [“There are those who want the Army to be in opposition to society”: Gonzalo Corona], July 4, 2016. In addition, in an interview with La Jornada, he said, “I personally believe that [the CNDH] should make a statement indicating that it was legally determined as historical and legal truth that military personnel do not bear responsibility for these events” [in reference to Tlatlaya]. La Jornada, [“Verdad histórica y legal, que no hubo responsabilidad castrense en Tlatlaya”](#) [“Historical and Legal Truth: No Military Responsibility in Tlatlaya”], July 4, 2016.

⁵² National Human Rights Commission (CNDH). Recommendation No. 4VG “On the investigation into gross human rights violations due to the excessive use of force, which led to the arbitrary execution of 24 civilians and the deprivation of life of one civilian; the torture of two individuals in custody; the cruel, inhuman, and degrading treatment of one person in custody; and the manipulation of the crime scene, attributed to the federal police, on the occasion of the events of May 22, 2015, at ‘Rancho del Sol’ in the town of Tlanahuato, Michoacán.” Recommendation 14. August 18, 2016, p. 693. See also Recommendation 4 in the IACHR’s country report on Mexico.

recognizes the tasks still pending in the area and related to the standardization of records and it reiterates its commitment to addressing them in an effective fashion.⁵³

40. In terms of collecting information on sexual violence, in 2016 the Sexual Violence Committee of the Executive Commission for Attention to Victims, a State agency, underscored in a study on how sexual violence is addressed in Mexico that the information available “shows broad differences in the mechanisms, procedures, and systems used for keeping records.”⁵⁴ There are also disparities in the type of information collected, as not all data-collection forms ask for victims’ sex; in some cases, they do not ask about age, blood relationship, or level of schooling.

41. According to the Executive Commission, the information-gathering system is not uniform and does not include the basic variables needed to analyze the incidence of a crime such as sexual violence. In addition, the information provided by the institutions responsible for administering justice (the courts) includes inconsistencies and incomplete information or does not specify “the type of crime or the alleged assailant.”⁵⁵

42. The IACHR does take note of the publication, by the State-run Mexico City Women’s Institute (INMUJERES), of an agreement establishing a database called “Live Safely” (*Acuerdo por el que se crea el sistema de datos personales Vive Segura*), the purpose of which is to have “oversight and monitoring of the reports of acts of violence experienced by women in public spaces.”⁵⁶ Nevertheless, this mechanism has geographical limitations and was designed for specific purposes related to improving public safety for women in Mexico City.

43. The IACHR takes note of the progress made in the construction of an information system on the comprehensive protection of the rights of children and adolescents.⁵⁷ According to information provided by the children’s rights organization Red de Derechos de la Infancia (REDIM), a specialized technical committee⁵⁸ and working groups have been set up to provide follow-up on specific issues. The IACHR hopes that priority is given to the participation of civil society in disseminating and using this information.

44. The State informed the Commission that the Office of the Attorney General’s Institutional System of Statistical Information (SIIE) compiles information on complaints, disaggregated by sex, age, and nationality. This system is undergoing a renovation to update information fields to give visibility to LGBTI groups, among others.⁵⁹ The State also indicated that the PGR’s Crime Unit for Migrants designed and is in the

⁵³ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁵⁴ Thus, institutions in charge of criminal investigations such as the Special Prosecutor’s Office for Crimes of Violence against Women and Human Trafficking (FEVIMTRA) in states such as Aguascalientes, Baja California Sur, Durango, Mexico, Guerrero, Hidalgo, Nayarit, Oaxaca, and Zacatecas did not provide information requested for doing the assessment. Executive Commission for Attention to Victims – Committee on Sexual Violence. *Diagnóstico cuantitativo sobre la Atención de la Violencia Sexual en México. Informe Final* [“Quantitative Assessment of How Sexual Violence Is Addressed in Mexico. Final Report”], March 2016.

⁵⁵ Executive Commission for Attention to Victims – Committee on Sexual Violence. *Diagnóstico cuantitativo sobre la Atención de la Violencia Sexual en México. Informe Final* [“Quantitative Assessment of How Sexual Violence Is Addressed in Mexico. Final Report”], March 2016.

⁵⁶ According to publicly available information, the registry makes it possible to georeference incidents of crime and safety risks for women as they move about Mexico City, through the collection of information that facilitates decision-making in urban planning. These tools also enable the collection of extensive and reliable data for agencies involved in developing situational security measures. National Institute of Women – INMUJERES. [Crea INMUJERES sistema de datos personales “Vive Segura”](#) [“INMUJERES Creates “Live Safely” Personal Database”], July 7, 2016.

⁵⁷ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

⁵⁸ Red por los Derechos de la Infancia en México (REDIM). *Aportes al seguimiento del Informe sobre la Situación de Derechos Humanos en México, 2016* [“Contributions to the Follow-Up of the Report on the Human Rights Situation in Mexico, 2016”], September 15, 2016, p. 3.

⁵⁹ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

process of developing an internal database to systematize information on migrants and those subject to international protection in Mexican territory, as well as on at-risk migrants who are being searched for in the country.⁶⁰ In its comments on the draft version of this report, the State reported that the Migration Policy Unit was working on the design of a Migratory Information and Statistics Network (RIEM) in order to centralize and disseminate information on the various federal and state programs for attending to migrants, on the regulatory and programmatic framework currently in force, on monitoring and evaluation mechanisms, on migration research and statistics generated by academic institutions, civil society, international organizations, and federal and local government agencies, and on information campaigns and events related to the everyday life of migrants.⁶¹

45. With regard to the approach to the drug issue, the State indicated that the executive branch presented a bill to Congress in April 2016 to amend, add to, or repeal various provisions of the General Law on Health, and to amend the third paragraph of Article 195 of the Federal Penal Code. The State said that the bill, if approved in its entirety, would be a step forward in establishing better medical care and complying with the right to health, which includes having access to all therapeutic resources that stem from scientific developments, including those based on cannabis.⁶²

46. Given the facts laid out above, the IACHR reiterates its recommendations in this section to the State. In particular, the Commission hopes that the State will implement a plan for the gradual withdrawal of the armed forces from public security tasks while strengthening the capacity of the police to carry out citizen security tasks, in accordance with international human rights standards. The Commission also hopes that a General Law on the Use of Force is adopted; accountability measures are established and implemented by an agency that is independent of all security forces, in relation to their operations and public security tasks; and progress continues to be made on systems for information, compilation, and analysis of data regarding the violence that affects the different groups addressed in the country report.

B. Disappearances and Forced Disappearances

- Adopt a General Law regarding Disappearances and Forced Disappearances, and adopt all necessary measures to ensure that both at the federal and state level, the laws and practices comply with international standards on the subject.
- Establish mechanisms of immediate search for disappeared persons in the entire national territory.
- Improve the National Registry of Disappeared Persons to become a sole registry of disappearance so that it can also register a person as a victim of forced disappearance. A database should contain personal information of the disappeared persons, all necessary information, primarily genetic information and cellular samples, of relatives of disappeared persons with their consent, and genetic information and cellular samples from any unidentified person who is deprived of life. Such personal information shall be protected on the Registry's platform in accordance to international standards regarding access to information.
- Strengthen existing mechanisms in terms of early alerts and urgent search in cases of disappearances of women and children, to ensure their effective application at the federal, state, and municipal levels. In addition, strengthen the National Registry of Data of Missing or Disappeared Persons, so that it may provide precise and reliable information about women and children who are disappeared and forcibly disappeared.
- Follow the recommendations of the Interdisciplinary Group of Independent Experts (GIEI) in accordance with the attributes established by its mandate, specifically the reiterated request to

⁶⁰ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

⁶¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁶² Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

interview the members of the Army and visit Battalion No. 27, and continue the investigation of the Ayotzinapa case. Consider utilizing similar mechanisms for other cases of gross human rights violations.

47. In its 2015 report, *The Human Rights Situation in Mexico*, the IACHR indicated that it had heard testimony from relatives of disappeared persons in various states and the Federal District. The victims of disappearance include men, women, children, indigenous people, peasant farmers, students, migrants, human rights defenders, even state officials. The common thread in the testimony heard was the incessant search for loved ones “until they are found,” and an alarming impunity.

48. The IACHR applauds the State’s recognition that “Mexico has a problem with the disappearance of persons, whether it is committed by private citizens, authorities of the State, or by private citizens with the authorities’ assistance or acquiescence.”⁶³ At the Human Rights Situation and Forced Disappearance in Mexico public hearing held in Panama City on December 5, 2016, the State said that forced disappearances were Mexico’s main human rights challenge, because the disappearance of persons “is a crime with an enormous impact on the social fabric and represents one of the most grievous violations of human rights and fundamental freedoms.”⁶⁴

49. Figures from the National Registry of Data of Missing or Disappeared Persons (RNPED) of the Executive Secretary of the National System for Public Safety, reviewed through November 15, 2016, show 28,396 missing or disappeared persons, 27,428 under state and local jurisdiction (through July) and 968 under federal jurisdiction (through September).⁶⁵

50. In its report, the IACHR mentioned the existence of several draft bills on forced disappearance at the federal level. The State indicated that the draft “General Law on Forced Disappearance” was sent by President Enrique Peña Nieto to Congress on December 10, 2015, and recognized that pushing for the bill’s passage and ensuring its full implementation was a pending challenge.⁶⁶ As of the drafting of this follow-up report, one year after the bill was presented to Congress, the bill has not yet come up for debate in Congress. At the public hearing on the Human Rights Situation and Forced Disappearance in Mexico held in Panama City on December 5, 2016, the Mexican State agreed to work in coordination with organizations representing the disappeared and with their families to conclude this legislative process.⁶⁷ The IACHR takes note of this commitment and urges the State to enact this law as promptly as possible and to ensure that it is in line with international human rights standards. In connection with this, the IACHR’s country report examined some issues that must be taken into account.⁶⁸

51. With regard to the National Search System of Persons, the State reported that the draft General Law on Forced Disappearance contemplates the creation of a National System to Search for Disappeared Persons.⁶⁹ The IACHR addresses progress and challenges pertaining to the search for unmarked graves further below in this report. This system will be created by the National Registry of Missing and Disappeared Persons and the National Forensic Registry to facilitate the location and identification of persons

⁶³ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁶⁴ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁶⁵ SEGOB, [Secretariado del Sistema Nacional de Seguridad Pública](#) [Secretariat, National System for Public Safety].

⁶⁶ IACHR, [The Human Rights Situation in Mexico](#), December 31, 2015. This information was reiterated by the State in its response to the request for information on the status of implementation of the recommendations contained in the 2015 country report.

⁶⁷ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁶⁸ IACHR, [The Human Rights Situation in Mexico](#), December 31, 2015, paras. 99-142.

⁶⁹ The State also reported that the PGR Deputy Attorney General’s Office for Human Rights, Crime Prevention, and Community Services set up a website called “Have you seen...?” (*“Has visto a...?”*), to help find missing persons by posting their photos and creating profiles. The State indicated that since 2015 the site had served 592 relatives of missing persons. Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

and, when applicable, of bodies and remains.⁷⁰ The system will comprise authorities from the three levels of government, with the participation of relatives, victims, and civil society organizations, and it will ensure the immediate mobilization of the public security and law enforcement agencies when a disappearance is reported.⁷¹ The IACHR will address the progress made and challenges still remaining in connection with searching for burial sites later in this report.

52. The State noted that through the National Registry of Data of Missing or Disappeared Persons, family members could follow the progress of their complaints. The registry will contain up-to-date information from hospitals, detention centers, and federal and local forensic services.⁷² The State also spoke of the National Forensic Registry, which will use the latest scientific and technological advances to facilitate the location and identification of disappeared persons.⁷³

53. At the public hearing on the Human Rights Situation and Forced Disappearance in Mexico held in Panama City on December 5, 2016, civil society organizations expressed their concern regarding the pending institutional reforms, the passage of the General Law on Forced Disappearance, the need for an autonomous Special Prosecutor for Disappeared Persons, and the risks facing the relatives of the disappeared in the context of search teams. The organizations that requested the hearing reported that relatives of the disappeared had undertaken searches for their missing loved ones, both individually and collectively, out of despair, frustration, and uncertainty regarding their relatives' whereabouts and because of the prevailing impunity and the absence of effective mechanisms for obtaining justice. They stated that such searches do not substitute the obligation of the Mexican authorities to apply due diligence in searching for disappeared persons and investigating all cases. They also reported that they face a series of obstacles in their efforts to locate their loved ones, including victimization, harassment, and threats. Accordingly, they requested the coordination of protection systems for at-risk relatives of disappeared persons and, in particular, on a preventive basis within the national search teams.

54. In addition they asked the State to enter into agreements with specialized forensic agencies so that, as part of a national plan for exhumations and identification of persons, efforts to process the country's clandestine and mass graves could be streamlined. They also underscored the importance of a dialogue with civil society organizations and victims' relatives regarding the creation of an autonomous forensic institute and regarding the role of the new Prosecutor General's office (FGR). In addition, they asked the IACHR to closely monitor the situation in the Ayotzinapa case through its follow-up mechanism.⁷⁴

55. With respect to the disappearance of women, the IACHR expresses its concern regarding the lack of progress in the investigations, as well as the wide gap between the laws on the books and the public policies adopted on the ground. According to information provided to the IACHR, cases of disappearances and forced disappearances of women and girls in different parts of the country continue. Currently, according to the 2015 report of the National Registry of Data of Missing or Disappeared Persons (RNPED), presented in August 2016 to the National Council of Public Safety, RNPED data show that as of December 31, 2015, of the 26,898 cases of disappeared or missing persons, 7,184 correspond to women—in other words, 26.7%. In the federal jurisdiction, meanwhile, there were 989 cases reported of disappeared or missing persons, 16.7% of them women.⁷⁵ The largest percentage of disappeared persons falls in the 15- to 18-year-old age group; however, the registry does not disaggregate data on missing girls and adolescents, and a record of that information is needed. In its comments on the draft version of this report, the State reiterated the importance

⁷⁰ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁷¹ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁷² IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁷³ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁷⁴ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁷⁵ Ministry of Government. [Informe Anual 2015 del Registro Nacional de Datos de Personas Extraviadas o Desaparecidas presentado al Congreso](#) ["2015 Annual Report of the National Registry of Data of Missing or Disappeared Persons Presented to Congress"], pp. 27, 28, and 32.

of the mechanisms that help improve investigations into disappearances of women, such as the Amber Alert Program. In that context, the State indicated that 119 migratory alerts on behalf of minors had been issued. In addition, according to information furnished by the State, 713 Amber Alerts were activated and 382 persons were located between May 1, 2012, and October 31, 2016. The State also reported that the Office of the Chihuahua State Attorney General had provided evidence indicating that, up to December 31, 2015, in the northern, center, southern, and western zones, 1,112 activations took place, covering a total of 1,143 individuals, of whom 1,120 had been located.⁷⁶

56. In addition, Mexico said that it has general guidelines for standardized investigations into crimes related to disappearances of women, crimes of rape against women, and the crime of homicide against women for reasons of gender.⁷⁷

57. According to the RNPED Report, in 2015 the process of consolidating, purging, and updating the registries continued, both in the state and local and the federal jurisdictions.⁷⁸ However, the situation of forced disappearance of women and girls, among other victims of forced disappearance, is still not adequately reflected. Meanwhile, the registry still does not have figures documenting how many of the cases recorded are forced disappearances, and therefore the official figures are unreliable and constitute a first obstacle in the search for the disappeared. As mentioned earlier, the RNPED makes not only the situation of girls invisible, but also that of migrants and boys and adolescents.⁷⁹ In this regard, the IACHR reiterates its recommendation to adopt measures to improve the registry and make it more functional, in terms of disaggregating and standardizing the information it contains, especially as it pertains to missing women and girls. In its comments on the draft version of this report, the State said that it will continue to work to improve this registry in terms of the breakdown and standardization of the information it contains. It also noted that the system was permanently updated and was available to the public and that, additionally, it contained data broken down by age and sex, as applicable.⁸⁰

58. In 2016, despite the change from Special Unit for the Search for Disappeared Persons (UEBPD) to Office of the Special Prosecutor (FEBPD), the IACHR has been informed that this office lacks resources and sufficient and specialized staff.⁸¹ In addition, the FEBPD has had serious difficulties in setting up its Context Analysis Unit, as well as little recognition by and coordination with other areas of the PGR.⁸² At the public hearing on the Human Rights Situation and Forced Disappearance in Mexico held in Panama City on December 5, 2016, the State said that the PGR's office of the Specialized Prosecutor for Searching for

⁷⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁷⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁷⁸ Ministry of Government. [Informe Anual 2015 del Registro Nacional de Datos de Personas Extraviadas o Desaparecidas presentado al Congreso](#) ["2015 Annual Report of the National Registry of Data of Missing or Disappeared Persons Presented to Congress"], pp. 27, 28, and 32.

⁷⁹ Press Release, [Organizaciones de la Sociedad Civil presentan informe alternativo al Comité contra la Desaparición Forzada](#) ["Civil Society Organizations Present Alternative Report to Committee on Enforced Disappearances"], July 5, 2016.

⁸⁰ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁸¹ While the UEBPD was assigned a budget of Mex\$40,209,005 in 2014, the resources allocated to this unit's budget for 2015 were reduced to \$14,676,268; for 2016, the budget assigned to the FEBPD was \$28,114,011, a 34% decrease from the 2014 budget. Press Release, [Organizaciones de la Sociedad Civil presentan informe alternativo al Comité contra la Desaparición Forzada](#) ["Civil Society Organizations Present Alternative Report to Committee on Enforced Disappearances"], July 5, 2016. SERAPAZ Servicios y Asesoría para la Paz. [Movimiento por Nuestros Desaparecidos en México denuncia falta de recursos y capacidades institucionales de la Fiscalía Especializada para la Búsqueda de Personas Desaparecidas](#) ["Movimiento por Nuestros Desaparecidos en México Denounces Lack of Resources and Institutional Capacity of the Office of the Special Prosecutor for the Search for Disappeared Persons"], Mexico City, May 16, 2016.

⁸² [Movimiento por Nuestros Desaparecidos en México denuncia falta de recursos y capacidades institucionales de la Fiscalía Especializada para la Búsqueda de Personas Desaparecidas](#) ["Movimiento por Nuestros Desaparecidos en México Denounces Lack of Resources and Institutional Capacity of the Office of the Special Prosecutor for the Search for Disappeared Persons"].

Disappeared Persons was a response to the families' demands. Working sessions are regularly held with different groups at the national level in order to produce search strategies that have been discussed with the relatives of the disappeared. It also reported that in coordination with the International Committee of the Red Cross, it was pursuing efforts to adopt best international practices for searching for and locating missing persons. The State reported that the PGR has pursued ante mortem and post mortem questionnaires with various states, which will enable them to obtain information for determining lines of investigation. In addition, work is concluding on the final adjustments to an operations manual for providing victims with psychosocial attention.⁸³

59. With respect to the Uniform Protocol for the Search for Disappeared Persons, civil society organizations have indicated that in practice there are no coordination offices, nor are there enough ministerial staff at the federal or state level, and that there are still practices to stigmatize and criminalize victims or ask them for money to discourage reporting and shirk the responsibility to initiate a search.⁸⁴

60. In terms of searching for disappeared women, girls, and female adolescents, several states have put forward relevant initiatives. In April 2016,⁸⁵ the state of Jalisco adopted the implementation of the ALBA Protocol for cases of disappearance or possible acts of violence against girls, women, and adolescents. In addition, over the course of this year, the states of Sonora⁸⁶ and Baja California⁸⁷ have adopted special protocols in cases involving disappearance of children, adolescents, and women. However, the Commission observes the lack of a coordinated strategy at the federal, state, and local level for mechanisms to search for missing women and girls. The Commission recognizes the importance of the ALBA Protocol and welcomes these initiatives as tools to draw more attention to disappearances of women and girls. However, this Commission emphasizes that it is the effective and timely implementation of these mechanisms that makes the difference. The ALBA Protocol is related to compliance with the judgment of the Inter-American Court in the Campo Algodonero case. In its comments on the draft version of this report, the State said it was committed to implementing a comprehensive strategy for searching for disappeared girls.⁸⁸ The State indicated that between 2012 and 2016, the LGAMVLV was amended on four occasions, including a reduction from 24 hours to 8 hours in the delay for issuing protection orders. The State also reported that the Interior Secretariat (SEGOB) had launched the "Dar Contigo" program for disappeared women and girls. According to the State, a total of 1,727 case files were registered between 2013 and 2016, and in 32% of those cases the persons were located. It also noted that the Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking (FEVIMTRA) has an efficiency rating of 100% in its attention services, and a rating of 79.7% in the location of disappeared children and women.⁸⁹

61. In the public hearing held in April 2016 on "Missing Children and Adolescents in Mexico," the organizations that requested the hearing noted that the grave human rights crisis in Mexico has a serious and

⁸³ IACHR, Public Hearing, Human Rights Situation and Forced Disappearance in Mexico, 159th session, December 5, 2016.

⁸⁴ Press Release, [Organizaciones de la Sociedad Civil presentan informe alternativo al Comité contra la Desaparición Forzada](#) ["Civil Society Organizations Present Alternative Report to Committee on Enforced Disappearances"], July 5, 2016.

⁸⁵ Proceso. [Activa Jalisco Protocolo Alba para frenar desaparición de mujeres](#) ["Jalisco Activates Alba Protocol to Stop Disappearances of Women"], April 2016.

⁸⁶ Sonora State Government. [Protocolo Especializado en la Investigación de delitos contra la Libertad y Seguridad Sexual de las personas y Protocolo Especializado en casos de Desaparición de Niños, Adolescentes y Mujeres](#) ["Special Protocol for Investigating Crimes against Sexual Freedom and Safety of Persons and Special Protocol for Cases of Disappearance of Children, Adolescents, and Women"], May 2016.

⁸⁷ Constitutional Government of Baja California State. [Protocolo Especializado en la Investigación de Casos de Desaparición de Niñas, Adolescentes y Mujeres](#) ["Special Protocol for Investigating Cases of Disappearance of Girls, Adolescents, and Women"], November 20, 2015.

⁸⁸For further information, see: Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁸⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

disproportionate effect on certain groups in a vulnerable situation, including children and adolescents. They indicated that there is a widespread context of disappearances in which approximately 30% of the cases on file through 2015 involved children and adolescents, with a significant increase in cases of female adolescents from 2012 to the present. However, the official figures do not reflect the scope of the problem, given the failure to report and the problems in the case registration system. The participants stressed that the State's response has been insufficient and inadequate, as there are no effective, secure, and nimble mechanisms in place to report, investigate, and search for missing persons, as well as to clarify who is responsible. In part, they said, this is because these mechanisms operate at the local level and fail to recognize that the disappearance of children and adolescents is sometimes linked to organized crime and/or federal crimes. They also pointed to cases of collusion between State authorities and criminal organizations engaged in the trafficking of children and adolescents for sexual exploitation. The civil society organizations proposed that recognition of the particular situation of children and adolescents be included in the draft General Law on Disappearance and that specific provisions be introduced, including the creation of a Single Action Protocol for missing children and adolescents, one that considers the activation of alerts and immediate searches in the first hours after a disappearance.

62. For its part, the State welcomed the information provided by civil society and the recommendations made by international organizations on this subject. The authorities reported that significant legislative progress has been made, including the approval in 2014 of the General Law on the Rights of Children and Adolescents and the ongoing establishment of the national system for comprehensive protection at the state, federal, and municipal level. The State also reported improvements in search protocols and missing-persons records, and talked about the creation of a National Register of Social Assistance Centers, both public and private, and a record of the children and adolescents who are in them, in order to prevent disappearances in these centers. The State also expressed its commitment to introduce specific measures pertaining to children and adolescents in the General Law on Disappearance; create an interdisciplinary working group to examine advances with regard to missing children; and produce public information on the results in this area, which will be sent to the IACHR for its information. It extended an invitation to the Rapporteur on the Rights of the Child to visit the country to learn about these efforts firsthand.

Ayotzinapa, Interdisciplinary Group of Independent Experts (GIEI), and Follow-Up Mechanism

63. On October 3, 2014, the IACHR requested that the State adopt precautionary measures in favor of the students from the "Raúl Isidro Burgos" rural school in Mexico. In accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that that the State of Mexico: a) Adopt the necessary measures to determine the status and whereabouts of the 43 students identified, in order to protect their rights to life and personal integrity; b) Adopt the necessary measures to protect the life and personal integrity of the injured students identified in the proceeding, who had reportedly been admitted to a hospital; c) Consult with the beneficiaries and their representatives on the measures to be adopted; and d) Report on the steps taken to investigate the facts that led to the adoption of the precautionary measure.

64. Under an agreement signed in November 2014 by the IACHR, the State, and representatives of the beneficiaries of the precautionary measures, the Inter-Disciplinary Group of Independent Experts (GIEI) was created to provide technical follow-up assistance on this case and help draw up plans to search for the missing students alive; undertake a technical analysis of the lines of investigation to determine criminal liabilities; perform a technical analysis of the Plan for Integral Attention to the Victims; and issue recommendations designed to strengthen the State's institutional capacity to search for and locate disappeared persons and investigate cases of forced disappearance, among other related issues.

65. On September 6, 2015, the Interdisciplinary Group of Independent Experts issued its first report, titled "Ayotzinapa Report: Research and initial conclusions of the disappearances and homicides of the *normalistas* from Ayotzinapa." In a press release in April 2016, the IACHR regretted that the Mexican State had expressed its position not to extend the mandate of the Interdisciplinary Group and to end the

agreement, even though the objectives—primarily locating the missing students—had not yet been met.⁹⁰ The IACHR stated that given the nature of the technical assistance agreement, in which the State's consent is indispensable, conditions were not in place to continue the mandate of the Interdisciplinary Group. On June 30, 2016, at the end of its mandate, the GIEI presented its second report, "II Ayotzinapa Report: Progress and New Conclusions about the Investigation, Search, and Attention to the Victims," with recommendations to the State on the investigation and searching into the missing students.

66. For its part, in a press release dated April 26, 2016, a group of United Nations human rights experts indicated that the final report of the IACHR Interdisciplinary Group of Independent Experts identified serious gaps in the official investigations carried out and showed that much remains to be done to guarantee justice and provide reparations to the victims. The human rights experts expressed their regret that "in the second stage of their mandate the [Interdisciplinary Group of Independent Experts] did not have the full support of the government and was subject to campaigns aimed to discredit its work and the results of its investigations."⁹¹

67. The IACHR recognizes the importance of the GIEI's work and its reports and recommendations. In relation to the current precautionary measure in force, on July 29, 2016, the IACHR issued Resolution 42/16 by which it decided, in agreement with the representatives and the State, to implement a special mechanism to provide follow-up to the precautionary measures granted (PM 409/14) and, in that framework, to the recommendations made by the Inter-Disciplinary Group of Independent Experts in its two reports that grew out of the precautionary measure, until the objectives and recommendations established both in the precautionary measure and in the GIEI's reports have been met.⁹² In a press release on September 9, 2016, the IACHR announced the launching of the implementation phase of the special mechanism to follow up on the precautionary measure. The follow-up mechanism is made up of the Rapporteur for Mexico, Commissioner Gil Botero, as coordinator—he will also act as spokesman—and technical staff of the IACHR Executive Secretariat. Other Commissioners may also participate in the mechanism. Pursuant to Resolution 42/16, the follow-up mechanism will have full access to the necessary information in the case files and other sources of information.

68. The Special Follow-Up Mechanism carried out its first visit to Mexico on November 9-12 to present its work plan. The work plan has four basic objectives: progress in the investigation, the search for the disappeared, comprehensive attention to the victims and their family members, and structural measures of non-repetition. The work plan details the tentative schedule of visits to take place within a 12-month period, in coordination with the State, as well as the follow-up to be done through public hearings and working meetings.⁹³ In its comments on the draft version of this report, the State said that this first visit by the Follow-up Mechanism was a sign of its commitment toward strengthened cooperation with the IACHR and with the rapporteur for the country, Commissioner Enrique Gil Botero. It was also, it said, an indication of the Government's commitment toward the relatives of the disappeared in casting further light on the incident.⁹⁴ The State reiterated its commitment to clear up the facts, continue with the investigations, punish the guilty, and protect the victims' rights. According to the State, "as indicated at the time, the investigation remains open until the last person involved is prosecuted."⁹⁵

⁹⁰ IACHR, Press Release No. 049/16, [IACHR Wraps Up its 157th Session](#), April 15, 2016.

⁹¹ United Nations, [Mexico: "Much remains to be done to deliver truth and justice in the Ayotzinapa case" – UN Experts](#), April 26, 2016.

⁹² IACHR, Press Release No. 049/16, [IACHR Wraps Up its 157th Session](#), April 15, 2016.

⁹³ IACHR, [IACHR Presents its Work Plan for the Follow-Up Mechanism to the Ayotzinapa Case](#), November 10, 2016.

⁹⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁹⁵ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

69. During the visit, a working meeting to deal with Precautionary Measure 409/14 was held. The IACHR took note of the conditions set by the families for continuing the dialogue panel with the State: (1) notification of the resolution of the PGR's internal oversight investigation into alleged irregularities in the investigation of the forced disappearances and other related matters; (2) expanding the search areas using LIDAR technology; and (3) new summonses for officers from other police forces involved (municipal, state, and federal). The Commission urges the State to address these requests promptly in order to reopen this important forum for dialogue between the parties.

70. In the context of the investigations in the Ayotzinapa case and more than two years after the students disappeared only Alexander Mora has reportedly been identified through bone remains, and the whereabouts of the 43 students remains unknown. The IACHR observes that the Internal Affairs Office of the PGR's Inspector General's Office (Visitaduría General) initiated an investigation with the information provided by the GIEI in its second report of activities, related to photographs and film showing the Director in Chief of the PGR Criminal Investigation Agency, Tomás Zerón, on October 28, 2014, accompanied by other public officials and Agustín García Reyes—a detainee—in the area around the San Juan River. The GIEI indicated that from the videos it could be determined, among other things, that the site was being inspected that day, with the detainee and technical experts present, and that there was contact with potential evidence. A Summary of said document (*Acuerdo de Conclusión*) was made public by the Diario Aristegui Noticias and picked up by various media outlets.

71. The investigation concluded that there were a series of irregularities committed by the Director in Chief of the PGR Criminal Investigation Agency and other public officials. For example, it was claimed that Tomás Zerón had conducted investigations in the vicinity of the San Juan River in Cocula without the presence or authorization of the Public Prosecution Service, given that there was no court order allowing a visit to that location in the company of a suspect.⁹⁶ In addition a series of irregularities were detected in connection with the investigation, including the failure to formally record actions taken by prosecutors and the failure to incorporate them into the case file, changes to dates and times on the medical certificate of one of the accused, the arbitrary holding of suspects, alleged irregularities in the suspects' right of defense, and others.⁹⁷ The document also recommended that proceedings be initiated under the Federal Law of Administrative Responsibility of Public Service and that some officials be removed from their posts, among other recommendations.⁹⁸ As a result of the allegations against him, according to press reports, since May 2016 the CNDH has been investigating Tomás Zerón's conduct in the Criminal Investigation Agency. According to information published in the press, the PGR's Inspector General who conducted that investigation resigned from his position in August 2016.

72. The IACHR urges the PGR's Internal Inspector to investigate the alleged irregularities that have been reported, either in that publication or by the victims' families and other sources, in order to safeguard the integrity of the investigation. The IACHR further notes that on September 14, 2016, Tomás Zerón resigned as the head of the Criminal Investigation Agency. That same day, the Ministry of the Interior issued a press release announcing that the President of the Republic had appointed Tomás Zerón to serve as the Technical Secretary of the National Public Security Council "in recognition of his actions and in response

⁹⁶ See Aristegui Noticias, [Tomás Zerón "afectó el derecho a la verdad:" documento de la PGR sobre Ayotzinapa](#) [Tomás Zerón 'Violated the Right to the Truth': PGR document on Ayotzinapa], September 22, 2016; Proceso, [Zerón sí incurrió en irregularidades en caso Ayotzinapa, indica expediente de PGR](#) [Zerón did commit irregularities in the Ayotzinapa case, says PGR case file], September 22, 2016.

⁹⁷ See Aristegui Noticias, [Tomás Zerón "afectó el derecho a la verdad:" documento de la PGR sobre Ayotzinapa](#) [Tomás Zerón 'Violated the Right to the Truth': PGR document on Ayotzinapa], September 22, 2016; Proceso, [Zerón sí incurrió en irregularidades en caso Ayotzinapa, indica expediente de PGR](#) [Zerón did commit irregularities in the Ayotzinapa case, says PGR case file], September 22, 2016.

⁹⁸ See Aristegui Noticias, [Tomás Zerón "afectó el derecho a la verdad:" documento de la PGR sobre Ayotzinapa](#) ["Tomás Zerón 'Violated the Right to the Truth': PGR Document on Ayotzinapa"], September 22, 2016.

to the experience and capacity he has demonstrated in his previous positions” but without referring to these grave allegations.⁹⁹

73. At the same time, both the IACHR and the GIEI have maintained the importance of properly investigating the evidence of involvement by several security forces in the incident. In this regard, the IACHR notes the recent publication of *La verdadera noche de Iguala* [“The real night of Iguala”] by the journalist Anabel Hernández, which deals with the alleged involvement of Army personnel in the events that transpired in Iguala on September 26 and 27, 2014, and with the alleged existence of a PGR document in which the Inspector General orders the investigation of troops from the 27th Infantry Battalion. The document refers to alleged omissions committed by members of the security forces and calls for the expansion of the investigation in order to probe allegations of “concealment, abuses of authority, or any other undue circumstance in the exercise of functions.”¹⁰⁰

74. The IACHR notes that to date, the whereabouts or fate of the beneficiaries of Precautionary Measure 409/14 remain unknown. In spite of the reports issued by the GIEI and the corresponding recommendations, the actions adopted by the state authorities have not yet yielded concrete results or positive progress that would allow their location to be established. In particular, the Commission notes that the GIEI’s reports suggest that the measures related to the investigation of a possible fifth bus and its implications for the incident are not being taken into account; that the pending witness statements—including interviews with the members of the 27th Battalion of the Army—have not been taken; that there are allegations of obstacles in the investigations into the reported instances of torture and into those matters related to the purported obstruction of justice; that there are serious challenges in the conducting of scientific and expert tests; among other related issues.¹⁰¹

75. In consideration of the information available to date, the lack of information on the whereabouts or fate of the beneficiaries of the precautionary measures, the exceptional circumstances of the case at hand, and the surrounding context, the IACHR believes that this matter continues to meet the requirements set in Article 25 of its Rules of Procedure. The IACHR believes it is important to reiterate the precautionary measures and to ask the State to redouble its efforts to implement all the measures necessary to determine the whereabouts or fate of the beneficiaries of the precautionary measures, pursuant to the terms of the resolution of October 3, 2014.¹⁰²

76. The IACHR reiterates the recommendations it issued in its Country Report. It especially urges the State to adopt a General Law on Disappearance and Forced Disappearance as soon as possible, one that complies with international standards on the subject. It also urges the State to establish mechanisms of immediate search for disappeared persons, improve the National Registry of Disappeared Persons, and strengthen mechanisms for early alerts and urgent search in cases involving disappearances of women and children. With regard to the GIEI’s recommendations, the IACHR will continue to monitor compliance with them, in accordance with the attributes established by its mandate and in compliance with the precautionary measure in effect.

⁹⁹ See: El Universal, [CNDH investiga actuación de Tomás Zerón](#) [CNDH investigates actions of Tomás Zerón], September 22, 2016; Aristegui Noticias, [CNDH solicita expediente de Tomás Zerón a PGR](#) [CNDH asks PGR for Tomás Zerón’s file], September 24, 2016; El País, [Dimite Tomás Zerón, el investigador del “caso Ayotzinapa”](#) [Tomás Zerón, investigator in the Ayotzinapa case, resigns], September 15, 2016; La Jornada, [Renuncia Tomás Zerón a la Agencia de Investigación Criminal de la PGR](#) [Tomás Zerón resigns from the PGR’s Criminal Investigation Agency], September 14, 2016; El Economista, [Tomás Zerón de Lucio renuncia a la AIC](#) [Tomás Zerón de Lucio resigns from the AIC], September 14, 2016; BBC Mundo, [México: renuncia Tomás Zerón, el cuestionado jefe de la investigación del caso de 43 estudiantes desaparecidos de Ayotzinapa](#) [Tomás Zerón, beleaguered head of the investigation into the 43 student disappearances in Ayotzinapa, resigns], September 15, 2016; Ministry of the Interior, [Tomás Zerón Lucio, Secretario Técnico del Consejo de Seguridad Nacional](#) [Tomás Zerón Lucio, Technical Secretary of the National Security Council], September 14, 2016.

¹⁰⁰ Aristegui Noticias, [EPN ordenó ocultar investigaciones contra Zerón y el Ejército por caso Ayotzinapa: #LaVerdaderaNochedeIguala](#) [Peña Nieto ordered cover-up of investigations into Zerón and the Army in Ayotzinapa case], November 25, 2016.

¹⁰¹ IACHR, Resolution 42/16, Follow-up Resolution on Precautionary Measure No. 409-14, July 29, 2016.

¹⁰² IACHR, Resolution 42/16, Follow-up Resolution on Precautionary Measure No. 409-14, July 29, 2016.

C. Torture

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

77. In its report *The Human Rights Situation in Mexico*, the IACHR agreed with other international organizations in stating that torture is widespread in Mexico and frequently occurs when someone is detained—usually arbitrarily—and prior to the detained individual being brought before a judge.

78. The IACHR notes that this year saw the publication, on several social networks, of a video depicting acts of torture on a woman committed by two members of the military and a federal police officer. The incident occurred in Ajuchitlán del Progreso, Guerrero, on February 4, 2015. In a press release dated April 14, 2016, the Ministry of National Defense stated that it was aware of the incident, which had taken place on December 10, 2015.¹⁰³ In January 2016 the agent of the Military Prosecution Service prepared a preliminary inquiry and referred it to the PGR for it to determine, within the constraints of its competence, “the responsibilities regarding the impact on the civilian.”¹⁰⁴ In addition, that same month, the office of the Attorney General for Military Justice detained the “suspected perpetrators of the crime of disobedience,” who were reportedly in a military prison.¹⁰⁵ According to press reports, following the purported acts of torture,

¹⁰³ Ministry of National Defense, [En relación al video que circula en redes sociales en donde se observa a dos militares en agravio de una civil](#) [Regarding the video seen on social networks showing two soldiers assaulting a civilian], April 14, 2016. In its comments on the draft version of this report, the State said that the National Security Commissioner offered a public apology for the incident and stated that his agency will assume the responsibilities necessary to ensure that incidents of this kind do not occur again. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁰⁴ Ministry of National Defense, [En relación al video que circula en redes sociales en donde se observa a dos militares en agravio de una civil](#) [Regarding the video seen on social networks showing two soldiers assaulting a civilian], April 14, 2016.

¹⁰⁵ Ministry of National Defense, [En relación al video que circula en redes sociales en donde se observa a dos militares en agravio de una civil](#) [Regarding the video seen on social networks showing two soldiers assaulting a civilian], April 14, 2016.

the alleged victim was incarcerated in a federal penitentiary, where she remains to date.¹⁰⁶ In its comments on the draft version of this report, the State said that the suspected perpetrators had been arrested by the Office of the Attorney General for Military Justice for the crime of disobedience. It also reported that they were under investigation for the crime of torture by the PGR's Specialized Unit for Investigating the Crime of Torture.¹⁰⁷

79. The IACHR notes the public apologies issued in April of this year by the head of SEDENA, General Salvador Cienfuegos Zepeda, in a message to Mexican troops at Military Camp No. 1, as a consequence of the facts revealed in the video.¹⁰⁸ That contrasts with statements made this year by State authorities which suggest that in some cases complaints of human rights violations are lodged against military personnel to obtain releases or to harm the credibility of the armed forces.¹⁰⁹ In turn, in its comments on the draft version of this report, the State said that on April 18, 2016, the National Security Commissioner offered a public apology for the incident and stated that the necessary responsibilities will be assumed to ensure that incidents of this kind do not occur again.¹¹⁰

80. On April 29, 2016, the Mexican Senate approved a draft General Law to Prevent, Investigate, and Punish Torture and other cruel, inhuman, and degrading treatment and sent it on to the Chamber of Deputies. According to some civil society organizations, the approved text complies in general terms with international standards in this area. Among other things, it eliminates statutes of limitations for this crime, creates special prosecutor's offices, and institutes a national registry to track these cases and give them visibility. Specifically, it provides that a) the law establishes two different types of crime, with different penalties: torture, punishable by 10 to 20 years in prison; and b) cruel, inhuman, and degrading treatment, with three months to three years in prison—a situation some civil society organizations believe may not fulfill the object and purpose of the law.

81. The biggest concern lies in the ambiguity of the wording of the article that establishes some exceptions to the inadmissibility of evidence obtained through torture, a situation that weakens the language on the fundamental issue of the rule of exclusion. The text establishes that evidence is admissible if its "discovery was inevitable, if it would have been obtained from an independent source, or if there were extenuating circumstances" justifying the torture. This provision would run contrary to the constitutional text

¹⁰⁶ Excelsior, [Identifican a la mujer torturada en Guerrero](#) [Woman tortured in Guerrero identified], April 16, 2016; El Universal, [Video abre puerta de cárcel a torturada en Guerrero](#) [Video opens prison doors for woman tortured in Guerrero], April 16, 2016; La Jornada, [Abogados de la mujer torturada solicitan su inmediata libertad](#) [Attorneys for tortured woman request her immediate release], April 18, 2016.

¹⁰⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁰⁸ General Cienfuegos addressed a message to almost 30,000 members of the military of all ranks, in which he stated that "on behalf of all us who make up this great national institution, I offer sincere apologies to society as a whole for this unacceptable incident." He added that he "urged the military as a whole to disavow actions of this kind, which offend us as people, as citizens, and as soldiers." See video at the following link: <https://www.youtube.com/watch?v=osYSXa5u9mU>; Ministry of National Defense, [Mensaje del Secretario de la Defensa Nacional. General Salvador Cienfuegos Zepeda](#) [Message from Gen. Salvador Cienfuegos Zepeda, Minister of National Defense], April 16, 2016.

¹⁰⁹ For example, in an interview with a national media outlet, the SEDENA Director General of Military Justice stated that there are lawyers and organizations that lodge complaints against military personnel for alleged human rights violations to "debase" criminal proceedings and obtain releases. La Jornada, [Sedena se disculpa por tortura a mujer en Guerrero](#) ["Sedena Apologizes for Torture of Woman in Guerrero"], 16 de abril de 2016; Excelsior, [Sedena ofrece disculpas por caso de tortura a mujer](#) ["Sedena Offers Apologies for Case Involving Torture of Woman"], 17 de abril de 2016; SPDnoticias, [Torturan militares y federales a una mujer](#) ["Members of the Military and Federal Police Torture a Woman"], 14 de abril de 2016; Milenio, [Ejército pide perdón por caso de tortura a mujer en Guerrero](#) ["Army Apologizes for Case Involving Torture of Woman in Guerrero"], 16 de abril de 2016.; See video at the following link: <https://www.youtube.com/watch?v=osYSXa5u9mU>. For his part, the Brigadier General of Military Justice, Director General of Justice of SEDENA, indicated, "We are aware that within the scope of operations that are carried out in support of the public security authorities, some types of conduct have been committed that could be considered to constitute crimes, and others have been publicized in a biased way by civil society organizations that have individual or group interests, with the aim of undermining society's trust...." Milenio, [Defensores "vician" los juicios: Sedena](#) ["Defenders 'Debase' Trials: SEDENA"], 19 de abril de 2016.

¹¹⁰ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

itself, which establishes that all evidence obtained by violating fundamental rights shall be null and void, and is not consistent with the American Convention and the Inter-American Convention against Torture.¹¹¹ In a context in which both the IACHR and international and national human rights organizations have maintained that torture has been used to obtain confessions, these types of exceptions are cause for concern. The IACHR trusts that, with the respective revisions, the Congress will approve the General Law as soon as possible, ensuring that the law excludes evidence and confessions obtained through torture.

82. In this context, the IACHR places great weight on the remarks made to the Chamber of Deputies by the Office in Mexico of the United Nations High Commissioner for Human Rights regarding the General Law to Prevent, Investigate, and Punish Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment.¹¹² In that document, the Office in Mexico of the United Nations High Commissioner for Human Rights offered a series of comments on the law in question; in particular, as regards the amendments made to the committee report, which it believed to be regressive and in violation of international human rights standards. These included limiting the authorities' obligation to report torture only in cases when it is witnessed or reported, instead of when there is evidence or grounded reason, and limitations on the recording of reports of alleged torture so that only those associated with a judicial proceeding are registered. In addition, among other matters, the Office of the United Nations High Commissioner spoke of the need to strengthen the exception to the exclusion rule, as already discussed by the Commission in this report, and the need to regulate the responsibility of superiors in cases involving torture above and beyond the provisions of national criminal law. In this regard, the IACHR agrees with the importance of ensuring that the legislative framework adopted is consistent with the applicable international standards.

83. On another matter, the IACHR was informed that a Single National Registry of detained persons still does not exist. In this regard, the United Nations High Commissioner also recently recommended to the State that it complement existing efforts to register persons deprived of their liberty with the adoption of a national law establishing a solid, unified database registering all types of detentions and persons deprived of liberty, to prevent arbitrary arrests, torture, and disappearances.¹¹³ The State informed the Commission that it is reaffirming its intention to continue making improvements to the registries of detained persons. It also stressed that it had made its Detainee Locator System (SIREDA) available to the public.¹¹⁴ This system is a real-time public registry of individuals who are in the custody of an agent of the Federal Public Prosecutor's Office, and aims to prevent arbitrary or forced detentions. The State also indicated that the system shows, on a georeferenced map, the place where the person is being held, along with the address, telephone number, the authority that made the arrest, and the authority holding the person in custody.¹¹⁵

84. In terms of the obligation to investigate torture within the criminal process, several civil society organizations expressed concern over an isolated opinion published by the First Chamber of the Supreme Court of Mexico, establishing that it would be inappropriate to reinstate criminal proceedings to investigate acts of torture reported by the defense, unless there is a confession or "self-incrimination" on the part of the accused.¹¹⁶ According to the organizations, this decision means that "if the accused person's statement obtained through torture is not characterized as a confession; if someone is tortured to incriminate someone else; or if the torture produces any other evidence other than self-incrimination, convictions based

¹¹¹ Article 20(A) of the Political Constitution of the United Mexican States.

¹¹² United Nations, UNHCHR/REP012/2017, General Law on Torture, 23 January 2017.

¹¹³ United Nations. Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, following up on his official visit to the country in October 2015.

¹¹⁴ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹¹⁵ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹¹⁶ Press Release: [Retroceso de la SCJN: criterio de la Primera Sala podría validar condenas basadas en tortura](#) ["Supreme Court Setback: Opinion of the First Chamber Could Uphold Convictions based on Torture"], August 23, 2016; Supreme Court, [Amparo directo en revisión 6564/2015 \(tesis 1a. CCV/2016 \(10a.\)\)](#) ["Direct Amparo under Review 6564/2015"], August 19, 2016, Record No. 2012318.

on such unlawful evidence could stand.”¹¹⁷ According to what the organizations stated, this opinion contradicts the absolute prohibition on admitting evidence obtained through torture, established in the Constitution, in the National Code of Criminal Procedures, and under international human rights law.

85. With regard to applying the Istanbul Protocol to document possible consequences of torture, in its Report on the Human Rights Situation in Mexico the IACHR indicated that the application of this protocol has reportedly been inadequate, incomplete, late, and performed by untrained personnel. Civil society organizations told the Commission that the protocols were continuing to be applied by official experts, which gets into a conflict of interest as the experts belong to the same institutions bringing criminal charges against individuals reporting torture and, therefore, in this type of situation the probability of recognizing consequences of torture is very low. A June 2016 report by Amnesty International documented how examinations carried out by the PGR “are often performed far too late, long after the alleged torture took place, and were flawed in a number of ways.”¹¹⁸ According to that report, the PGR informed Amnesty International in October 2015 that it had undertaken 185 forensic examinations in 2014, but that 1,600 applications for new examinations were pending.¹¹⁹ A 2016 report by the Open Society Initiative maintains that prosecutors in Mexico “cite negative Istanbul Protocols (which are narrowly interpreted and often incorrectly performed) as reasons not to pursue other lines of inquiry...defying the express language of the Protocol itself.” According to that report, “Real change would require an end to investigative over-reliance on a narrow interpretation of the medical procedures outlined in the Istanbul Protocol, to the near exclusion of other important sources of evidence,” and would require accepting the findings of independent experts as valid for the investigation.¹²⁰

86. As for eliminating *arraigo* (a form of preventive detention without formal charges), the IACHR has not received any information in that regard. The State affirmed that this measure is used only in exceptional cases and that its use has decreased¹²¹. It indicated that in 2015, only 83 individuals were subject to this measure.¹²² In its comments on the draft version of this report, the State said that in January 2017, not a single person was being held in *arraigo* under federal jurisdiction.¹²³ With respect to *quasi flagrante delicto* (certain cases in which a suspect may be arrested without a warrant immediately after committing a crime), civil society organizations indicated to the Commission that with the entry into force of the new National Code of Criminal Procedure,¹²⁴ the circumstances under which this concept could be applied were restricted. While this would seem to represent a positive step toward the elimination of “*flagrancia equiparada*,” a

¹¹⁷ Press Release: [Retroceso de la SCJN: criterio de la Primera Sala podría validar condenas basadas en tortura](#) [“Supreme Court Setback: Opinion of the First Chamber Could Uphold Convictions based on Torture”], August 23, 2016

¹¹⁸ Amnesty International, *Surviving Death: Police and Military Torture of Women in Mexico*, AMR/41/4237/2016, June 2016, p. 45.

¹¹⁹ Amnesty International, *Surviving Death: Police and Military Torture of Women in Mexico*, AMR/41/4237/2016, June 2016, p. 45.

¹²⁰ Open Society Initiative, [Undeniable Atrocities: Confronting Crimes against Humanity in Mexico](#), 2016, p. 119.

¹²¹ In its comments on the draft version of this report, the State again noted that “*arraigo* applies solely in cases of organized crime offenses, with the restrictions of place and time indicated by the judicial authority but in no instance exceeding 40 days, provided that it is necessary for the success of an investigation or for the protection of persons or legal interests, or when there is a grounded risk of the accused escaping from justice.” Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹²² Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹²³ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹²⁴ Chamber of Deputies of the Hon. Congress of the Union. National Code of Criminal Procedure. Official Gazette of the Federation, latest amendments published June 17, 2016.

related concept (“*flagrancia por señalamiento*”), established in Article 146 of the National Code of Criminal Procedure,¹²⁵ has not been eliminated.

87. Based on all the above, the IACHR calls on the State to comply with its recommendations. Specifically, it encourages the State to keep working toward the adoption of a General Law against Torture and other cruel, inhuman, and degrading treatment, one that is in line with international standards on the subject. The Commission also urges the State to create a Single National Registry of detained persons and to ensure that the Istanbul Protocol is applied at the national level by competent and independent authorities in an expedited manner and under risk of sanctions for failure to do so.

D. Extrajudicial Executions

- In any act in which there is lethal use of force or loss of life at the hands of members of the security forces, undertake a comprehensive formal investigation in accordance with international standards and ensure that the investigations, starting with the processing of the crime scene, are done by experts who do not belong to police or military agencies.
- Ensure that the Armed Forces register statistics regarding persons who are killed or wounded in their operations, and that the relevant investigations are initiated as appropriate.
- Establish a national registry regarding the unidentified remains unearthed in cemeteries throughout the country, which are the result of violent deaths. In addition, search for clandestine graves in states with the highest levels of violence.
- Create a national, autonomous institution of forensic services with adequate infrastructure, sufficient financial and human resources, and standardized protocols applicable at the national level.
- Undertake all processes of unearthing and identifying remains strictly abiding by a dignified treatment of the victims’ families by all authorities of all levels of government involved in the process.
- Continue and expand the work of the Forensic Commission for the Identification of Remains in cases found along the routes followed by migrants. Adopt all necessary measures to create a Transnational Mechanism of Access to Justice for Migrants and their Families, as well as the creation at the federal level of a Special Prosecutor’s Office for Violent Crimes against Migrants.
- Implement a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region.

88. In its report The Human Rights Situation in Mexico, the IACHR indicated that in recent years there have been serious cases of alleged extrajudicial execution and excessive use of force by State agents, widely reported in the media. These include, among others, the murder in June 2014 of 22 people in Tlatlaya, in the state of Mexico, some of whom were allegedly victims of extrajudicial executions by army soldiers; the death of civilians presumably at the hands of Federal Police in Apatzingán, Michoacán, in January 2015; and the alleged confrontation at the boundary line between Tanhuato and Ecuandureo, Michoacán, in June 2015,

¹²⁵ “Article 146. Circumstances of *in flagrante delicto* – A person may be arrested without a judicial order in the act of committing a crime. This is understood to mean when:

- I. The person is arrested at the moment of committing a crime, or
- II. Immediately following the commission of a crime, based on the fact that:
 - a) The person is surprised in the act of committing the crime and is physically pursued without interruption, or
 - b) The person is identified by the victim or offended party, an eyewitness, or anyone who may have taken part in the crime, and has in his or her possession instruments, objects, products of the crime, or information or indications that provide grounds to presume that the person was involved in the crime.

For the purposes of paragraph II, subparagraph b) of this provision, someone is considered to have been arrested *in flagrante delicto* (“*flagrancia por señalamiento*”) as long as the search for the person has not been interrupted since immediately following the commission of the crime.

in which 42 civilians and one Federal Police officer lost their lives. The Commission determined that in these three cases, the first version provided by authorities—without any investigation having been done—was that the deaths of civilians were the result of confrontations between public security forces and civilians.

89. With the passing of time and following investigation, testimonies and circumstantial evidence point to the alleged participation of federal authorities and members of the armed forces, manipulation of the crime scene in order to present the situation as if it had been a confrontation, and irregularities in the investigations. Next, the IACHR will examine the status of the investigations in some of the cases it addressed in its country report.

Tlatlaya

90. According to press reports, the Sixth Unitary Court of the Second Circuit ordered the release of the last three of the eight military personnel allegedly involved in the death of 22 people in a warehouse in the municipality of Tlatlaya, which happened in 2014 and was documented in the IACHR country report.¹²⁶ In addition, according to publicly available information, the Mexico State Attorney General's Office paid monetary reparations to two of the three victims of torture connected with the Tlatlaya case.¹²⁷

91. The IACHR observes that in a press release dated May 20, 2016, the spokesperson for the UN High Commissioner for Human Rights expressed concern that the case remains mired in impunity and victims continue to be denied their rights to justice and the truth. The press release was issued in response to the dismissal of charges against four of the accused in October 2015 and the release of three others this year on grounds of insufficient evidence.¹²⁸

Tanhuato

92. A CNDH report on the events that took place in Tanhuato, in Michoacán state, reveal that there were infringements of the right to life due to excessive use of lethal force, which led 22 victims to be arbitrarily executed and 18 to be deprived of life based on excessive use of force by public servants working for the Federal Police. Also, two individuals were subjected to acts of torture; one to cruel, inhuman, and degrading treatment; one was run over; another burned; and 15 were shot in the back.¹²⁹

93. The report also specifies that federal agents moved seven bodies from their original positions, planted weapons on 16 bodies, and swapped magazines for others that use higher caliber bullets. The head of the CNDH, Luis Raúl González Pérez, reported that based on “scientific and technical evidence,” acts that involve gross human rights violations could be attributed to public servants.¹³⁰ The report recommended that the National Security Commissioner investigate, identify, and punish those responsible for these acts, take steps to identify those who moved the bodies and deliberately planted weapons, and order

¹²⁶ In its comments on the draft version of this report, the State explained that the resolution of the Sixth Unitary Court of the Second Circuit was adopted impartially and independently by a Mexican civilian court and that the decision was adopted in accordance with the principles of due process and in line with international standards. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹²⁷ La Jornada, [Ordenan liberar a tres militares del caso Tlatlaya](#) [“Three Military Personnel in the Tlatlaya Case Ordered Released”], May 14, 2016; El Sol de México, [Ordena tribunal liberar a tres militares implicado en caso Tlatlaya](#) [“Court Orders Release of Three Military Personnel Implicated in Tlatlaya Case”], May 14, 2016; Noticias MVS, [Tribunal unitario libera a militares en la ejecución de Tlatlaya, Edomex](#) [“Court Frees Military Personnel in the Execution at Tlatlaya, State of Mexico”], May 14, 2016.

¹²⁸ United Nations, [Press Briefing Notes on Mexico and Iran](#), Spokesperson for the UN High Commissioner for Human Rights, Ravina Shamdasani, May 20, 2016.

¹²⁹ National Human Rights Commission (CNDH). Recommendation No. 4VG, August 18, 2016.

¹³⁰ National Human Rights Commission (CNDH). Recommendation No. 4VG, August 18, 2016.

measures of reparation, rehabilitation, satisfaction, and compensation for the harm caused, among other measures.¹³¹

94. The National Security Commissioner, in a press conference, responded to the report on the events of May 22, 2015, in Tanhuato, Michoacán. He indicated that he would abide by the recommendation but rejected the CNDH's conclusion with respect to the occurrence of 22 extrajudicial executions: "We do not believe that the hypothesis of arbitrary executions is borne out."¹³² The Commissioner indicated that he would comply with the recommendations except for what pertains to reparation of damages, as he will wait for the PGR to conclude its investigations.¹³³ In its comments on the draft version of this report, the State emphasized that the National Security Commissioner had also promised his support in the investigation and that if irregularities in the use of force were found, they would be punished. It also reported that to date, 96 statements had been taken from indicted public servants, together with 95 statements from public servants with the Michoacán PGJE, experts in various fields, and civil protection and federal police officers; 63 expert opinions had been issued; 9 inspections had been carried out; 60 reports had been issued by public and private institutions; 5 investigation reports had been adopted; 6 statements had been taken from civilian witnesses; and 14 requests for expert opinions had been made. In addition, a constitutional relief case had been processed and a fire expert report had been published.¹³⁴

Apatzingán

95. On November 24, 2015, the National Human Rights Commission published its Recommendation No. 3VG/2015, on the investigation into gross violations of human rights due to the excessive use of force attributed to the Federal Police, in response to the events of January 6, 2015, in Apatzingán, Michoacán.¹³⁵ The CNDH concluded that based on the general context of the events and the evidence available, it verified that there was "excessive use of force that led to the deprivation of life of six individuals, as well as the extrajudicial execution of one individual by Federal Police personnel." It also verified that the crime scene was not preserved and that the Federal Police delayed seeking medical help for the injured.¹³⁶

96. In addition, the CNDH recommended that the National Security Commission investigate the individuals who were arrested, investigate and identify those responsible for killing six people, adopt the necessary measures to provide reparation for the damages caused to the relatives of those who died and those who were injured, and include the victims who died in the national registry of victims so that their family members can have access to the Fund for Aid, Assistance, and Comprehensive Reparation.¹³⁷ In its comments on the draft version of this report, the State reported that the investigations remain ongoing and that the

¹³¹ National Human Rights Commission (CNDH). Recommendation No. 4VG, August 18, 2016, pp. 688-693.

¹³² La Jornada, [Acatará la CNS recomendación sobre el caso](#) ["CNS Will Abide by Recommendation in the Case"], August 18, 2016; Aristegui Noticias, [CNS aceptará recomendación de CNDH pero descarta ejecuciones extrajudiciales](#) ["CNS Will Accept CNDH Recommendation but Dismisses Extrajudicial Executions"], August 18, 2016; SDP Noticias, [CNS acata recomendaciones, pero niega ejecución extrajudicial en Tanhuato](#) ["CNS Abides by Recommendations but Denies Extrajudicial Execution in Tanhuato"], August 18, 2016.

¹³³ La Jornada, [Acatará la CNS recomendación sobre el caso](#) ["CNS Will Abide by Recommendation in the Case"], August 18, 2016; Aristegui Noticias, [CNS aceptará recomendación de CNDH pero descarta ejecuciones extrajudiciales](#) ["CNS Will Accept CNDH Recommendation but Dismisses Extrajudicial Executions"], August 18, 2016; SDP Noticias, [CNS acata recomendaciones, pero niega ejecución extrajudicial en Tanhuato](#) ["CNS Abides by Recommendations but Denies Extrajudicial Execution in Tanhuato"], August 18, 2016.

¹³⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹³⁵ National Human Rights Commission (CNDH). Recommendation No. 3VG, November 24, 2015.

¹³⁶ National Human Rights Commission (CNDH). Recommendation No. 3VG, November 24, 2015.

¹³⁷ National Human Rights Commission (CNDH). Recommendation No. 3VG, November 24, 2015, Recommendations 402-411.

recommendation issued by the CNDH was accepted by the Federal Police in order to assist with the investigation and provide the victims with redress.¹³⁸

97. In 2016, the IACHR takes special note of the case of five young people between 16 and 27 years of age who were initially reported to have disappeared at the hands of members of the state police on January 11, 2016, in Tierra Blanca, in the state of Veracruz, after having been detained when they were returning from a weekend in the port of Veracruz¹³⁹. According to official statements, the victims were “picked up” by state police because they were “suspicious” and were traveling in a vehicle with unfamiliar plates.¹⁴⁰ According to a statement given by one of the state police officers who were arrested, the victims were executed and made to disappear on the El Limón ranch.¹⁴¹ In June 2016, the Deputy Secretary for Human Rights of the Ministry of the Interior stated publicly that the search ended when it was proved that the victims’ bodies had been incinerated and ground up.¹⁴² He also indicated that the investigation would remain open and that so far 21 individuals have been arrested, eight of them police officers.¹⁴³ According to publicly available information, only one victim’s remains were identified, after authorities found more than 3,000 bone fragments at the El Limón ranch, in the municipality of Tlalixcoyan, in southern Veracruz state. One of the state police officers arrested told authorities that all the victims were tortured and killed in collusion with alleged members of the Jalisco “New Generation” Cartel.¹⁴⁴

98. In its comments on the draft version of this report, the State provided information on the five individuals who were forcibly disappeared by officers of the Veracruz State Secretariat of Public Security. The State reported that during the investigations, biological evidence was collected that agreed with the genetic profiles of Bernardo Benítez Arroniz and José Alfredo González Díaz, and so they were ruled to have died. To date, 19 persons—including police officers and civilians belonging to organized crime groups—have been indicted for the crime of forced disappearance. The State also noted that it was pursuing investigations against senior officers. It also reported that the families have had full access to the prosecution proceedings, have been kept apprised about the investigations, and have been placed under a protective measure.¹⁴⁵

¹³⁸ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹³⁹ The disappeared persons were Bernardo Benítez Arroniz, José Alfredo González, José Benítez de la O, Mario Arturo Orozco Sánchez, and Susana Tapia Garibo. [Communication from the Mexican State](#), Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017. [Annex](#).

¹⁴⁰ La Jornada, [Desaparecidos en Tierra Blanca fueron “asesinados y triturados”](#) [“The Disappeared in Tierra Blanca were “Killed and Ground Up”], March 2, 2016.

¹⁴¹ La Jornada, [Desaparecidos en Tierra Blanca fueron “asesinados y triturados”](#) [“The Disappeared in Tierra Blanca were “Killed and Ground Up”], March 2, 2016. Excelsior, [Policía confiesa asesinato de jóvenes de Tierra Blanca](#) [“Police Officer Confesses to Killing Tierra Blanca Youth”], March 2, 2016; El País, [Un policía desvela cómo murieron los cinco de Tierra Blanca en México](#) [“A Police Officer Reveals How the Five from Tierra Blanca, Mexico, Died”], March 2, 2016; El Universal, [Dictan formal prisión a octavo policía por caso Tierra Blanca](#) [“Eighth Police Officer Sentenced to Prison in the Tierra Blanca Case”], March 3, 2016.

¹⁴² Milenio, [Concluye búsqueda de jóvenes desaparecidos en Tierra Blanca](#) [“Search Ends for Youths who Disappeared in Tierra Blanca”], June 15, 2016; El Financiero, [Concluye búsqueda de los jóvenes desaparecidos en Tierra Blanca: Campa Cifrián](#) [“Search Ends for Youths who Disappeared in Tierra Blanca: Campa Cifrián”], June 16, 2016; Animal Político, [Termina la búsqueda de 5 jóvenes desaparecidos en Tierra Blanca: el caso sigue abierto: Campa](#) [“Search Ends for 5 Youths who Disappeared in Tierra Blanca: Case Remains Open: Campa”], June 15, 2016.

¹⁴³ Milenio, [Concluye búsqueda de jóvenes desaparecidos en Tierra Blanca](#) [“Search Ends for Youths who Disappeared in Tierra Blanca”], June 15, 2016; El Universal, [Dictan formal prisión a octavo policía por caso Tierra Blanca](#) [“Eighth Police Officer Sentenced to Prison in the Tierra Blanca Case”], March 3, 2016; ; El Financiero, [Concluye búsqueda de los jóvenes desaparecidos en Tierra Blanca: Campa Cifrián](#) [“Search Ends for Youths who Disappeared in Tierra Blanca: Campa Cifrián”], June 16, 2016.

¹⁴⁴ Animal Político, [Policía detenido confiesa tortura y homicidio de los 5 jóvenes de Tierra Blanca, según autoridades](#) [“Arrested Police Officer Confesses to Torture and Homicide of the 5 Tierra Blanca Youths, Authorities Say”], February 29, 2016; Excelsior, [Caen otros dos por desaparición de jóvenes en Tierra Blanca](#) [“Two More Fall due to the Disappearance of Youths in Tierra Blanca”], May 26, 2016.

¹⁴⁵ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017. [Annex](#).

99. In his 2016 report on extrajudicial, summary or arbitrary executions, following up on his mission to Mexico, the UN Special Rapporteur indicated that despite the progress in addressing some of the recommendations in the report, Mexico continues to face various challenges in relation to the protection of the right to life. In the Rapporteur's words:

...Violence at the hands of State and non-State actors continues to affect lives, particularly of vulnerable persons. Protective measures for groups at risk remain insufficient and ineffective. Despite a series of legal and institutional reforms, the lack of accountability for violations of the right to life remains a serious challenge, fostering the public perception of impunity and feeding into the cycle of violence. Adequate reparations to victims are still pending. Additional measures are still required to fully implement the Special Rapporteur's previous recommendations in order to better ensure the protection of the right to life.¹⁴⁶

100. The IACHR also reiterates its concern over the fact that the armed forces do not keep records of the number of people who die or are injured in their operations. In its comments on the draft version of this report, the State said that since 2012, in keeping with the opinion of the plenary of the Supreme Court and the amendment of the Code of Military Justice, the military justice system was no longer competent to hear human rights cases involving civilian victims; consequently, it said, neither was it competent to record data on persons killed and injured during operations. It further noted that in cases in which the security forces public might have committed human rights violations, the criminal proceedings were nevertheless pursued before the civilian courts.¹⁴⁷ The IACHR believes that such information is essential to measure the use of force in confrontations and thus be able to implement corrective actions if necessary. The IACHR urges the State to comply with this recommendation.

101. With regard to the creation of a national, autonomous forensic services unit, the State informed the Commission that various initiatives have been presented in the Senate to propose the creation of a National Institute of Forensic Services intended to have federal and local jurisdiction. These initiatives have been forwarded to the applicable commission for study.¹⁴⁸ The IACHR reiterates that it is important for the Mexican State to consider the creation of a National Forensic Institute, one that is shielded from all interference, political or otherwise, and governed strictly by technical and scientific criteria.¹⁴⁹ In its 2015 report on human rights, the IACHR indicated that the State had reported that the PGR's draft of the General Law against Torture provides for the creation of the National Institute of Forensic Sciences and Services, which would have legal status, its own assets, and technical and management independence, and would not report to the PGR.¹⁵⁰ The IACHR again reiterates that if it materializes, the creation of this institute would be a fundamental step toward having an effective forensic service that could be decisive in fighting impunity in Mexico.¹⁵¹ For his part, the UN High Commission for Human Rights also recommended the creation of an autonomous and independent national forensic institution with sufficient resources, which serves all bodies that administer justice, including the courts, law enforcement authorities, and legal representatives.¹⁵²

102. On another matter, in its Country Report the IACHR discussed the discovery of unmarked mass graves and mass graves in cemeteries with dozens of bodies, in different parts of Mexico; in many cases,

¹⁴⁶ United Nations. [Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico](#), A/HRC/32/39/Add.2, May 6, 2016, paras. 63-64.

¹⁴⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁴⁸ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹⁴⁹ IACHR country report, [The Human Rights Situation in Mexico](#), December 31, 2015.

¹⁵⁰ IACHR country report, [The Human Rights Situation in Mexico](#), December 31, 2015.

¹⁵¹ IACHR country report, [The Human Rights Situation in Mexico](#), December 31, 2015.

¹⁵² United Nations. Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, following up on his official visit to the country in October 2015.

these are found by family members, who have had to undertake the search for their loved ones given the State's failure to act. These discoveries have also laid bare many shortcomings and gaps in handling and identifying the bodies and in assisting and protecting the victims' relatives. The State informed the Commission that the draft General Law on Forced Disappearance contemplates the creation of a National Forensic Registry as well as a National Registry of Clandestine Graves.¹⁵³

103. In 2016, the IACHR learned from press reports of various discoveries of mass graves in Mexico. The Commission is especially struck by the exhumation this year of 117 bodies—including those of two children—found in supposedly clandestine graves in Tetelcingo, in Morelos state. Under the powers established in Article 41 of the American Convention on Human Rights, on June 27, 2016, the Commission requested information from the Mexican State about these events.¹⁵⁴

104. Oliver Wenceslao Navarrete Hernández disappeared in May 2014, and his body was found in one of the graves in Tetelcingo even though he had been fully identified by his family nine months before. His relatives' complaints about alleged irregularities at those graves were the reason that triggered the exhumations and the investigations.¹⁵⁵

105. In its response, the State indicated that on May 23, 2016, the property was dug up, following due process, and 117 bodies were found.¹⁵⁶ The State reported that the PGR, the Federal Scientific Police, the Autonomous University of the State of Morelos, and the Morelos Attorney General's Office obtained genetic samples to establish the identity of the bodies; these are reportedly being processed. The Morelos Attorney General's Office also opened investigations, charging a public official and broadening the case to include other suspects likely to face charges for crimes related to failure to respect the dead and violation of laws concerning the burial and exhumation of corpses.¹⁵⁷ The State also indicated that the Executive Commission for Attention to Victims (CEAV) has attended to indirect victims who went to the exhumation proceedings, providing them with legal and psychological support. The CEAV also accompanied victims in the investigations and when they had DNA samples taken.¹⁵⁸

106. According to investigations conducted by the Scientific Committee on Human Identification at the Autonomous University of the State of Morelos (UAEM), authorities committed a number of

¹⁵³ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

¹⁵⁴ Mexican State. Art. 41. Discovery of Bodies in Tetelcingo, Morelos. Observations of the Mexican State in response to the June 30, 2016, request for information, August 15, 2016.

¹⁵⁵ The IACHR notes that the Morelos State Human Rights Commission (CDHMorelos) investigated those incidents and, in December 2015, issued 8 recommendations addressed to the Governor of the state and to the Attorney General. As reported by the Mexican State, the CDHMorelos found violations of the right to legality and legal security, undue exercise of public function, and the irregular preparation of an investigation file, committed by public servants of the office of the Attorney General of the State of Morelos. The State reported that those recommendations were accepted and are being complied with. Mexican State. Art. 41. Discovery of Bodies in Tetelcingo, Morelos. Observations of the Mexican State in response to the June 30, 2016, request for information, August 15, 2016; Morelos State Human Rights Commission. Bulletin 32-16 CS. CDHMorelos mantendrá presencia en trabajos de exhumación de Tetelcingo Visitadores orientarán a la ciudadanía que lo requiera [Morelos Human Rights Commission Will Maintain a Presence at the Exhumations in Tetelcingo. Representatives Will Provide Guidance to Citizens as Needed].

¹⁵⁶ Mexican State. Art. 41. Discovery of Bodies in Tetelcingo, Morelos. Observations of the Mexican State in response to the June 30, 2016, request for information, August 15, 2016.

¹⁵⁷ Mexican State. Art. 41. Discovery of Bodies in Tetelcingo, Morelos. Observations of the Mexican State in response to the June 30, 2016, request for information, August 15, 2016.

¹⁵⁸ Mexican State. Art. 41. Discovery of Bodies in Tetelcingo, Morelos. Observations of the Mexican State in response to the June 30, 2016, request for information, August 15, 2016. In its comments on the draft version of this report, the State said that samples had been taken from possible family members to conduct data comparisons. In addition, during 2016, 110 legal advice sessions were given, psychological attention was given to 104 people, and 66 blood samples were taken from persons seeking disappeared relatives in order to obtain genetic profiles and conduct comparisons. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

irregularities related to the internments.¹⁵⁹ Of the 117 bodies, 34 did not have or were not linked to an investigative case file. Some bodies had not been autopsied; some showed signs of inhuman and degrading treatment, including mutilation; others had gunshot wounds; in some cases, clothing and personal belongings were found with the bodies. There were also bodies identified by their full names, with no information indicating what steps the Prosecutor's Office had taken to locate next of kin.¹⁶⁰ Moreover, of the 117 bodies that were exhumed, 93% reportedly had not been identified.¹⁶¹ The investigations found that in the case of the identified bodies, no attempt was made before interment to locate the next of kin; many of the bodies were placed in inappropriate positions (vertically), with a potential for loss of bone evidence; and appropriate materials were not used for labeling the bodies, among other problems.¹⁶²

107. The CNDH issued a recommendation regarding this case. In its recommendation, it indicated that the right to the truth had been violated to the detriment of the victims who were buried as unidentified individuals, and that because of an inadequate pursuit of justice, proper steps were not taken to investigate or possibly identify the victims and their next of kin for official identification purposes, turn over the bodies, and shed light on the events in which they had lost their lives.¹⁶³ The CNDH also indicated that the piece of land in Tetelcingo that had been used as a cemetery—and where on March 28, 2014, the State Attorney General's Office had unearthed a number of supposedly unidentified bodies—did not have the proper permits to be legally established and operate as a cemetery.¹⁶⁴ The CNDH also confirmed that there had not been compliance with any of the requirements that must be provided in writing for the property to meet the conditions necessary to provide proper service to meet the population's needs.¹⁶⁵ In its comments on the draft version of this report, the State said that several state and federal investigations were currently underway into irregularities during the exhumations and inhumations carried out in 2014. It also said that

¹⁵⁹ UAEM, [Revela informe el horror de las fosas clandestinas de Tetelcingo. Boletín 1329](#) ["Report Reveals Horror of Clandestine Graves of Tetelcingo"], August 23, 2016; Milenio, [Con fosas en Tetelcingo se encubrieron delitos: informe](#) ["Tetelcingo Graves Covered Up Crimes: Report"], August 23, 2016. See also El Universal, [Cadáveres en Tetelcingo. de personas desaparecidas: informe](#) ["Corpses in Tetelcingo Belong to Disappeared Persons: Report"], August 23, 2016; Aristegui Noticias, [En Tetelcingo, inhumaciones similares a las del crimen organizado: informe](#) ["In Tetelcingo, Burials Similar to Those of Organized Crime: Report"], August 23, 2016.

¹⁶⁰ University of Morelos, Resiliencia magazine, *Fosas Clandestinas de Tetelcingo, Interpretaciones Preliminares* ["Clandestine Graves of Tetelcingo: Preliminary Interpretations"], No. 3, July-September 2016, *Tetelcingo: Crímenes de lesa humanidad* ["Tetelcingo: Crimes against Humanity"], Jacobo Dayán, p. 29.

¹⁶¹ University of Morelos, Resiliencia magazine, *Fosas Clandestinas de Tetelcingo, Interpretaciones Preliminares* ["Clandestine Graves of Tetelcingo: Preliminary Interpretations"], No. 3, July-September 2016, *Violencia e ilegalidad en las Fosas de Tetelcingo: Interpretación desde la antropología* ["Violence and Illegality in the Graves of Tetelcingo: An Anthropological Interpretation"], Carolina Robledo, Liliana Escorcía, May-Ek Querales, and Glendi García, p. 23.

¹⁶² University of Morelos, Resiliencia magazine, *Fosas Clandestinas de Tetelcingo, Interpretaciones Preliminares* ["Clandestine Graves of Tetelcingo: Preliminary Interpretations"], No. 3, July-September 2016, *Violencia e ilegalidad en las Fosas de Tetelcingo: Interpretación desde la antropología* ["Violence and Illegality in the Graves of Tetelcingo: An Anthropological Interpretation"], Carolina Robledo, Liliana Escorcía, May-Ek Querales, and Glendi García, p. 23.

¹⁶³ National Human Rights Commission (CNDH). [Recomendación No. 48/2016 Sobre el caso de la violación al Derecho de Acceso a la Justicia en la modalidad de inadecuada procuración de justicia y la violación al derecho a la verdad, relacionado con la irregular inhumación de 119 cadáveres en la comunidad de Tetelcingo, municipio de Cuautla, Morelos](#) ["Recommendation No. 48/2016 regarding the case of violation of the right to access to justice in the form of inadequate pursuit of justice and violation of the right to the truth, related to the irregular burial of 119 bodies in the community of Tetelcingo, municipality of Cuautla, Morelos"], September 30, 2016, para. 304, p. 116.

¹⁶⁴ National Human Rights Commission (CNDH). [Recomendación No. 48/2016 Sobre el caso de la violación al Derecho de Acceso a la Justicia en la modalidad de inadecuada procuración de justicia y la violación al derecho a la verdad, relacionado con la irregular inhumación de 119 cadáveres en la comunidad de Tetelcingo, municipio de Cuautla, Morelos](#) ["Recommendation No. 48/2016 regarding the case of violation of the right to access to justice in the form of inadequate pursuit of justice and violation of the right to the truth, related to the irregular burial of 119 bodies in the community of Tetelcingo, municipality of Cuautla, Morelos"], September 30, 2016, para. 331, p. 127.

¹⁶⁵ National Human Rights Commission (CNDH). [Recomendación No. 48/2016 Sobre el caso de la violación al Derecho de Acceso a la Justicia en la modalidad de inadecuada procuración de justicia y la violación al derecho a la verdad, relacionado con la irregular inhumación de 119 cadáveres en la comunidad de Tetelcingo, municipio de Cuautla, Morelos](#) ["Recommendation No. 48/2016 regarding the case of violation of the right to access to justice in the form of inadequate pursuit of justice and violation of the right to the truth, related to the irregular burial of 119 bodies in the community of Tetelcingo, municipality of Cuautla, Morelos"], September 30, 2016, para. 332, p. 127.

psychological and legal support had been given to the victims' families.¹⁶⁶ The IACHR will monitor the investigations that are conducted into the abovementioned irregularities.

108. In addition, according to media reports, in Veracruz state women who belong to the “Solecito” collective—a group of 50 mothers of disappeared persons—found 75 unmarked mass graves in a field in Colinas de Santa Fe, in the port city of Veracruz. Citing information processed by the Federal Scientific Police, the reports indicated that 8 of the 75 graves held 28 “intact bodies,” some of which showed signs of torture.¹⁶⁷ In addition, in two weeks of work the National Search Brigade found 15 clandestine graves with hundreds of unidentified human remains in San Rafael Calería, a town in Córdoba, and in Amatlán de los Reyes. These discoveries were reportedly made based on anonymous information.¹⁶⁸

109. The media outlet Animal Político reported, based on an official information request, that in the last four years, the Federal Police has confirmed the discovery of six unmarked mass graves with 51 human remains in the state of Veracruz, contrasted to the citizen groups that found 90 graves with hundreds of human remains between April and August.¹⁶⁹ The newspaper reported that, when it requested information from the PGR under government transparency rules, the PGR reported only two graves in six years in the state of Veracruz.¹⁷⁰

110. Meanwhile, in the state of Mexico, the National Search Brigade of Families of the Missing reportedly discovered an unmarked grave with human bodies in the municipality of Huehuetoca. This grave was apparently discovered accidentally by railroad workers, and municipal police had reportedly moved the bodies to another location.¹⁷¹ According to authorities in Mexico state, personnel from the municipality were cleaning out a shaft when they found 12 plastic bags with bone remains and clothing, in a clandestine dumping site located 30 meters underground.¹⁷²

111. As to the identification of remains, one investigation conducted by the media outlet Animal Político, based on information it obtained from the State through a request filed under freedom-of-information rules, established that the PGR has DNA from 9,394 unidentified bodies or remains, compared

¹⁶⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁶⁷ Animal Político, [Un grupo de mujeres activistas encuentra 75 fosas clandestinas en Veracruz](#) [“Group of Women Activists Finds 75 Clandestine Graves in Veracruz”], September 5, 2016; La Jornada, [Localizan 75 fosas clandestinas en Veracruz](#) [“75 Clandestine Graves Found in Veracruz”], September 3, 2016; Proceso, [Suman 75 las fosas clandestinas halladas en Veracruz](#) [“Clandestine Graves Found in Veracruz Total 75”], September 3, 2016.

¹⁶⁸ Animal Político, [Veracruz: en 4 años la Policía halla 6 fosas clandestinas; en 5 meses, ciudadanos hallan 90](#) [“Veracruz: In 4 Years the Police Find 6 Clandestine Graves; in 5 Months, Citizens Find 90”], Noticias MVS, [Brigada de búsqueda de desaparecidos halla 15 fosas clandestinas y documenta 40 casos en Veracruz](#) [“Brigade to Search for the Disappeared Finds 15 Clandestine Graves and Documents 40 Cases in Veracruz”], April 22, 2016.

¹⁶⁹ Animal Político, [Veracruz: en 4 años la Policía halla 6 fosas clandestinas; en 5 meses, ciudadanos hallan 90](#) [“Veracruz: In 4 Years the Police Find 6 Clandestine Graves; in 5 Months, Citizens Find 90”], September 6, 2016; Federal Police Official Letter No. PF/OCG/DGE/1490/2016, issued April 8, 2016, in response to the request for information at Page No. 0413100024316, asking for the number of clandestine graves that were identified, found, and reported, and/or which the Federal Police knows of, in the state of Veracruz from 2011 until the present. Broken down by date, town, and number of bodies found in each grave. The Police Official Letter shows two such discoveries in 2012, in Lerdo de Rejada and Tihuatlán; one in 2014, in Cosamaloapan de Carpio; two in 2015, in Ozuluama de Mascareñas; and one in 2016, in Coatzacoalcos. The information reported corresponds to the period from January 1, 2012, to March 5, 2016.

¹⁷⁰ Animal Político, [Veracruz: en 4 años la Policía halla 6 fosas clandestinas; en 5 meses, ciudadanos hallan 90](#) [“Veracruz: In 4 Years the Police Find 6 Clandestine Graves; in 5 Months, Citizens Find 90”], September 6, 2016.

¹⁷¹ Sin Embargo, [Otra fosa con cadáveres, ahora en Huehuetoca, Edomex, el Gobierno iba a ocultarla, acusan](#) [“Another Grave with Bodies, This Time in Huehuetoca, State of Mexico: Government Was Going to Hush It Up, Accusers Say”], August 17, 2016; Milenio, [Localizan fosa en Huehuetoca con restos humanos](#) [“Grave Found in Huehuetoca with Human Remains”], August 17, 2016.

¹⁷² La Jornada, [Reconoce gobierno del Edomex, fosa clandestina en Huehuetoca](#) [“State of Mexico Government Acknowledges Clandestine Grave in Huehuetoca”], August 18, 2016.

with 764 cases identified between 2009 and 2016 through DNA tests done on the victims and next of kin.¹⁷³ Animal Político reported that “for every victim the PGR experts have identified, there are 12 who remain unknown even when their DNA is available.”¹⁷⁴ Moreover, the Criminal Investigation Agency is reported to have a team of 1,495 experts, of whom only 44 specialize in genetic forensics. In others word, there is reportedly one specialist for every 212 genetic profiles of unidentified bodies.¹⁷⁵

112. With regard to the work done by the Forensic Commission for the Identification of Remains found along routes followed by migrants, in its country report the IACHR noted that the Mexican State has made progress in identifying missing migrants and unidentified remains based on the Forensic Commission’s work. As of February 2016, the Forensic Commission had identified the remains of 23 migrants from El Salvador, Honduras, Guatemala, and Mexico. Moreover, the families received a timely explanation of the identification procedure and a copy of the forensic report, in line with pre-established protocols.¹⁷⁶ In its comments on the draft version of this report, the State said that 88 bodies had been identified and that identification work continued on the remaining 32 bodies.¹⁷⁷

113. According to an alternative report¹⁷⁸ submitted in February 2016 by civil society organizations to the UN Committee on Enforced Disappearances, in follow-up to its 2015 recommendations, the Forensic Commission faces obstacles in carrying out its work. The document states that “the Commission does not have complete copies of the case files on the 2010 massacre in San Fernando and on the events that occurred in Cadereyta, even though it has asked for them multiple times.”¹⁷⁹ Irregularities have also arisen in terms of access to the case file on clandestine graves in San Fernando; this was finally obtained in July 2015. Nor has the Forensic Commission’s mandate been extended to look into other cases of missing migrants.

114. In 2016, the IACHR did not learn about any public information regarding progress in the Forensic Commission’s investigation into the Tamaulipas and Nuevo León cases. Meanwhile, the organizations indicated that there are still structural deficiencies related to finding and exhuming the remains of migrants, and in other cases related to identifying and returning remains to the next of kin. In this regard, the IACHR reiterates the recommendation it made to the Mexican State to continue and expand the Forensic Commission’s work in the rest of the cases in which remains are found along the routes followed by migrants in Mexico, especially taking into account the transnational scope of crimes and human rights violations committed against migrant persons¹⁸⁰.

¹⁷³ Animal Político, [La PGR tiene 9 mil 394 perfiles genéticos de desaparecidos sin identificar](#) [“The PGR Has 9,394 Unidentified Genetic Profiles of Missing Persons”], October 18, 2016.

¹⁷⁴ Animal Político, [La PGR tiene 9 mil 394 perfiles genéticos de desaparecidos sin identificar](#) [“The PGR Has 9,394 Unidentified Genetic Profiles of Missing Persons”], October 18, 2016.

¹⁷⁵ Animal Político, [La PGR tiene 9 mil 394 perfiles genéticos de desaparecidos sin identificar](#) [“The PGR Has 9,394 Unidentified Genetic Profiles of Missing Persons”], October 18, 2016.

¹⁷⁶ Protocol for Notification of Identification of Human Remains found in San Fernando, Tamaulipas, and Cadereyta, Nuevo León. Available [here](#).

¹⁷⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁷⁸ Fundación para la Justicia y el Estado Democrático de Derecho. Alternative report of civil society organizations to the responses submitted by the Mexican State on priority recommendations of the UN Committee on Enforced Disappearances, July 12, 2016.

¹⁷⁹ Fundación para la Justicia y el Estado Democrático de Derecho. Alternative report of civil society organizations to the responses submitted by the Mexican State on priority recommendations of the UN Committee on Enforced Disappearances, July 12, 2016.

¹⁸⁰ In its comments on the draft version of this report, the State said that the CEAV participated through the Federal Legal Advice Service by providing psychological support, doctors, social work, legal advice, and transportation. It also assists with notifying the families of disappeared persons and with the return of victims’ remains. Thus, notifications were served in the states of Guanajuato, Jalisco, Michoacán, and Tamaulipas, as well as internationally in El Salvador, Guatemala, Nicaragua, Honduras, Brazil, and Colombia. It also provided legal assistance in formalities with the Public Prosecution Service. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

115. With respect to the creation of a Special Prosecutor’s Office on Crime of Violence against Migrants at the federal level, the Commission welcomes¹⁸¹ the creation of the Crimes Investigation Unit for Migrants (UIDPM) on December 18, 2015, by means of Agreement A/117/15.¹⁸² In its last report on Mexico, the IACHR noted the PGR’s efforts in creating a Foreign Support Mechanism for Search and Investigation, which consists of a series of actions and measures to guarantee access to justice for migrants or their families who are in another country and to search for missing migrants. Finally, in February 2016 the IACHR, in a press release,¹⁸³ drew attention to this Foreign Support Mechanism, assigned to the UIDPM.¹⁸⁴

116. Although the adoption of both mechanisms represents a significant step forward in the protection of the rights of migrants and their families, information the Commission has received indicates that the implementation of these mechanisms is far from effective,¹⁸⁵ especially because the authorities have failed to incorporate the observations of civil society so that the mechanisms can function properly.¹⁸⁶ As of September 2016, the Crimes Investigation Unit had opened only 123 preliminary inquiries, while only six investigative case files have been opened under the new criminal justice system.¹⁸⁷

117. In its comments on the draft version of this report, the State referred to the creation, on June 28, 2016, of the Working Group on the Social Prevention of Violence and Protection of Migrants in Mexico, which is attached to the SEGOB’s Consultative Council on Migration Policy. The Working Group comprises various federal agencies and institutions responsible for migration issues, together with representatives of academia and civil society, and it has the chief aim of identifying and implementing strategies to provide attention and protection in the nation’s territory for migrants who are vulnerable to violence, crime, or threats from organized criminals. According to the State, the Group will pay particular attention to children and adolescents, women, and senior citizens.¹⁸⁸

118. Regarding the implementation of a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans who disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region—such as

¹⁸¹ IACHR, Press Release 009/16, [IACHR Welcomes the Creation of Institutions for the Protection of the Rights of Migrants in Mexico](#), February 8, 2016.

¹⁸² The primary function of the UIDPM is to “facilitate access to justice for migrant persons and their families, search for missing migrants, investigate and prosecute crimes committed by or against migrants, and direct, coordinate, and oversee the implementation of appropriate and effective actions to repair the harm to victims.” See PGR. *Cuarto Informe de labores 2015-2016*, September 1, 2016.

¹⁸³ IACHR, Press Release 009/16, [IACHR Welcomes the Creation of Institutions for the Protection of the Rights of Migrants in Mexico](#), February 8, 2016.

¹⁸⁴ Under the agreement, the Foreign Support Mechanism’s responsibilities include, among others, (i) taking complaints of acts constituting a crime that have been committed in Mexican territory, as well as evidence related to the investigations; (ii) receiving requests to search for migrants who have gone missing in Mexican territory and reporting in writing on the results of the search; and (iii) working with the relevant authorities to arrange for a defense attorney or legal adviser to assist them from Mexico. The mechanism operates through the PGR’s offices of attachés in Mexican embassies. [ACUERDO A/117/15 por el que se crea la Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación y se establecen sus facultades y organización](#) [Agreement A/117/15 creating the Crimes Investigation Unit for Migrants and the Mechanism for Mexican Foreign Support in Search and Investigation and establishing their powers and organizational structure], December 18, 2015.

¹⁸⁵ Washington Office on Latin America, [A Trail of Impunity: Thousands of Migrants in Transit Face Abuses amid Mexico’s Crackdown](#), September 2016, p. 2.

¹⁸⁶ According to information the Commission has received, the unit lacks the resources and personnel to investigate the cases it receives. As of September 2016, it had only five agents from the Public Prosecutor’s Office and two police officers. In terms of the budget allocated, according to the Colectivo Plan Nacional de Desarrollo-Migración, the draft federal budget of expenditures for 2017 did not include resources for the Crimes Investigation Unit for Migrants and the Mechanism for Mexican Foreign Support in Search and Investigation. See [Asignación Presupuestaria para la Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda de la PGR](#) [“Budget Allocation for the Crimes Investigation Unit for Migrants and the Mechanism for Mexican Foreign Support of the PGR”].

¹⁸⁷ PGR. *Cuarto Informe de labores 2015-2016* [Fourth Work Report 2015-2016], September 1, 2016.

¹⁸⁸ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

those of El Salvador, Guatemala, and Honduras, as well as any others that might be created—the IACHR notes that the Foreign Support Mechanism’s role includes the adoption of strategies to facilitate the comparison of genetic information of migrants’ unidentified remains with other countries’ forensic databases.¹⁸⁹

119. The document spelling out the guidelines for the Foreign Support Mechanism delegates that task to the head of the UIDPM and establishes accessible formats for the exchange of information.¹⁹⁰ However, so far the Mexican State has not moved forward with a mechanism for institutional, long-term coordination with forensic databases that already exist in several Central American countries; therefore, the exchange of forensic information will depend on each case within the Foreign Support Mechanism. For its part, the State informed the Commission that the Working Group for the Protection of Society from Violence and Protection of Migrants in Mexico, under the Ministry of the Interior’s Consultative Council on Migration Policy, was established on June 28, 2016.¹⁹¹

120. For all the considerations laid out above, the IACHR reiterates to the State its recommendations included in this section. The IACHR urges the State to establish a national registry related to the location of unidentified remains and the search for clandestine graves under the terms indicated in its recommendations. The State should also ensure that all procedures to exhume and identify remains are subject to standards in this area, with special care to treating family members with dignity. The Commission again reiterates the need for the armed forces to keep records of the number of people killed and injured in its operations, and investigate with due diligence any act in which people have lost their lives at the hands of members of the security forces. The Commission also encourages the State to continue and expand the work of the Forensic Commission and that of a special mechanism to facilitate the exchange of forensic information about unidentified remains of Mexicans and Central Americas missing in Mexico with the forensic databases of missing migrants that have been developed in the region.

E. Access to Justice

- Strengthen the prosecutors’ offices throughout the country in terms of technical and independent training, with the objective of guaranteeing investigations with due diligence.
- Establish a coherent plan regarding cooperation between prosecution authorities at the federal and state levels in the investigation of gross human rights violations, with an integral vision, specific protocols, and the adoption of technical and professional—but not political—criteria for the decision to transfer specific investigations to the federal level.
- Adopt specific protection measures for victims, their families, their representatives, witnesses, experts and defenders who participate in the investigation or search for justice, when they are at risk. Guarantee access to files to families and their legal representatives. Impose appropriate sanctions in cases of reprisals against any of these persons.
- Adopt specific protection measures for justice operators according to their particular needs and in consultation with them.
- Ensure the implementation of the General Law of Victims and the functioning of the Executive Commission for Attention to Victims at the federal and state level. In consultation with civil society organizations and with victims, analyze and address concretely the barriers that impede its effective implementation, and eliminate them.

¹⁸⁹ [ACUERDO A/117/15 por el que se crea la Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación y se establecen sus facultades y organización](#) [Agreement A/117/15 creating the Crimes Investigation Unit for Migrants and the Mechanism for Mexican Foreign Support in Search and Investigation and establishing their powers and organizational structure], December 18, 2015.

¹⁹⁰ [ACUERDO A/117/15 por el que se crea la Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación y se establecen sus facultades y organización](#) [Agreement A/117/15 creating the Crimes Investigation Unit for Migrants and the Mechanism for Mexican Foreign Support in Search and Investigation and establishing their powers and organizational structure], December 18, 2015.

¹⁹¹ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

- Assume the historic responsibility of accountability for gross human rights violations. Investigate, clarify and punish the acts committed during the time period known as the Dirty War.
- Strengthen the Mechanism of protection for human rights defenders and journalists, guaranteeing its financial sustainability in the long-term and vesting it with greater administrative autonomy, and urging the states to collaborate with it. In turn, the recommendations for the Mechanism are to evaluate and adopt differentiated protection measures taking into account gender, indigenous leaders, environmental defenders; measure the effectiveness of implemented measures; foster the institutional articulation and cooperation with the PGR; and increase the transparency of all actions to increase the trust of the beneficiaries in the mechanism. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the Mechanism.
- Reform the Code of Military Justice to provide that whenever a member of the armed forces commits acts that may constitute a human rights violation, such acts shall be judged by civil tribunals, independently of whether the victim is a civilian or a member of the armed forces.
- Monitor the entry into force of the new criminal justice system as well as the effectiveness of the trainings regarding it. Include public defenders in the trainings.
- Evaluate the effective implementation of the new criminal justice system, as well as the areas that will require more specific monitoring, with adequate training and all necessary resources. Include permanent training for justice operators and public defenders regarding the conventionality control.

121. In its country report on Mexico, the IACHR expressed concern over the high levels of impunity, reported to be as high as 98%. In 2016, the Commission has not received any information from the State on this matter. The Commission takes note of and echoes the recommendation made by the UN High Commissioner for Human Rights, following up on his official visit to Mexico in October 2015; he recommended that the State “establish an Advisory Council of renowned experts in the field of human rights and the fight against impunity to advise the Mexican State on strategies and reforms to foster the capacities to investigate and prosecute and to reverse the impunity rates prevailing in the country.” The High Commissioner stated that “the Council should elaborate and publicly present a national assessment on impunity and recommend a roadmap to address the issue, gauge its effective implementation and present public periodic reports.”¹⁹² In response to the recommendations of the UN High Commissioner for Human Rights, the State indicated that the “recommendation could be met through the creation of a national human rights organism, which includes an advisory group of experts on the subject.”¹⁹³

122. The IACHR recognizes that the new criminal justice system went into effect throughout the country on June 18, 2016. The President of the Republic headlined the event to mark the entry into force of the new system, which he called “the most significant legal transformation of the last 100 years.” In its comments on the draft version of this report, the State said that the new criminal justice system was already operational across the country for dealing with both federal and common crimes.¹⁹⁴

123. On that point, a report by the Washington Office on Latin America (WOLA) said that while the new system was operating to some extent in the entire country for state-level crimes, only four states met all the criteria to consider the system fully operational—Coahuila, Nuevo León, Yucatán, and Chihuahua.¹⁹⁵ A study by the think tank Centro de Investigación para el Desarrollo A.C. (CIDAC) notes that it will take an

¹⁹² United Nations. Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein, following up on his official visit to the country in October 2015.

¹⁹³ Response of the Mexican State to the recommendations made by the High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein, following his visit to the country on 5 to 7 October 2015.

¹⁹⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

¹⁹⁵ WOLA, [Mission Unaccomplished: Mexico’s New Criminal Justice System Is Still a Work in Progress](#), July 2016.

average of 11 years to reach the optimum level for the criminal justice system to be operating effectively and properly.¹⁹⁶

124. In light of the new criminal justice system's entry into force, six civil society organizations issued a press release in which they laid out some of their concerns. According to the press release, the experiences of the agencies that are the most advanced in implementing the adversarial criminal justice system point to some of the issues, in terms of people and crimes, that must still be resolved to obtain effective justice. The organizations said that "practices that violate human rights, such as torture and cruel, inhuman, and degrading treatment, continue in the new criminal justice system, seriously questioning the possibility that justice institutions can change and the possibility of ensuring that the rights of the parties at trial are observed." They also indicated that in order to achieve good performance indicators, the system's operators are creating "new practices that favor formal criteria over standards for the protection of rights in determining the possibility of using alternative conflict resolution mechanisms or summary proceedings."¹⁹⁷

125. The IACHR indicated in its Country Report that one of the challenges in the implementation of the new justice system is that it be uniform throughout the country. The State, for its part, has indicated that another important challenge is the inertia derived from the professional training of justice operators under the old inquisitorial criminal justice system. Another fundamental challenge in the new justice system is to ensure that investigations are carried out in a technical, independent, and professional manner and that there is proper coordination among the state and federal prosecutors' offices, where appropriate.¹⁹⁸ The State reported that with the entry into force of the adversarial justice system in June 2016, implementing agencies such as the Technical Secretariat of the Coordinating Council for Implementation of the Criminal Justice System will have to do follow-up and evaluation of the effectiveness of the adversarial justice system.¹⁹⁹ In addition, on September 9, 2016, it was established, among other issues, that as of October 15, 2016, the Executive Secretariat of the National System for Public Safety would act as operational liaison with the executive branch and members of the tripartite entity coordinating the consolidation of the criminal justice system.²⁰⁰

126. The IACHR likewise reiterates that a system of independent public defenders trained in the new system and with sufficient resources will also be essential to ensure that the new justice system functions according to its objectives. The IACHR will monitor the implementation of the criminal justice system as well as its efficacy.

¹⁹⁶ CIDAC, *Evaluación de la implementación y operación a ocho años de la reforma constitucional en materia de justicia penal. Hallazgos 2015* ["Evaluation of the Implementation and Operation of the Constitutional Criminal Justice Reform, Eight Years Later. 2015 Findings"], March 2016.

¹⁹⁷ Asistencia Legal por los Derechos Humanos (ASILEGAL), Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C., Fundar, Centro de Análisis e Investigación A.C., Instituto de Justicia Procesal Penal-Presunción de Inocencia, Instituto Mexicano de Derechos Humanos y Democracia A.C., Observatorio Ciudadano del Sistema de Justicia: Press Release, [Posicionamiento de la sociedad civil sobre la Reforma del sistema de justicia penal](#) ["Civil Society's Position on the Reform of the Criminal Justice System"], June 18, 2016.

¹⁹⁸ Instituto Mexicano de Derechos Humanos y Democracia, *Procuración de justicia: estatus de implementación del sistema penal acusatorio y sus retos* ["Prosecution of Justice: Status of Implementation of the Adversarial Criminal Justice System and its Challenges"], September 15, 2015 (IACHR archives).

¹⁹⁹ Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

²⁰⁰ The State also reported that in June 2016, the following were published in the Official Gazette of the Federation: National Criminal Enforcement Act; Amendments to the Federal Law against Organized Crime; Decree by which various provisions of the National Code of Criminal Procedure, the Federal Criminal Code, and the General Law of the National System for Public Safety, among others, are amended, added to, or repealed. The State also reported that it is essential to begin monitoring the performance of each of the statutes that were amended, as well as to publicize the changes among the various operators of the system, through training. It also indicated that an evaluation must be done of the effectiveness of the various national protocols, their use, and the criteria that various actors have adopted based on them, among other aspects. Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

127. Meanwhile, the Commission observes that in April 2016 the full Senate unanimously approved the National Criminal Sentencing Law. The Chamber of Deputies approved the measure in June 2016 and sent it to the executive branch for enactment. In addition, the 2014 reforms included the creation of the Office of the Prosecutor General of the Republic (*Fiscalía General de la República*) to substitute the PGR. In that regard, a number of civil society organizations and networks of human rights organizations publicly called on the executive and legislative branches to hold off debating proposed rules implementing the law currently before the Senate, and instead to convene a national dialogue and roundtable discussions to collaboratively design the new Prosecutor General's Office.²⁰¹

128. In terms of the pending reform to the Code of Military Justice to provide that whenever a member of the armed forces commits acts that may constitute a human rights violation, such acts shall be judged by civil jurisdiction courts, regardless of whether the victim is a civilian or a member of the armed forces, the State reported that any grievance against a member of the military may be reviewed or challenged in regular courts through an *amparo* action.²⁰² The IACHR takes note that in a hearing to monitor compliance in the Case of Cabrera García and Montiel Flores v. Mexico, held on September 2, 2016, the Mexican State indicated to the Court that national courts are the ideal venue for determining under what circumstances an act committed by military personnel against others should be tried in the military jurisdiction or the civil jurisdiction. It therefore asked that the Mexican constitutional interpretation through the national courts be allowed to determine what cases should be tried in what jurisdiction, and consequently that the Court should consider the requirement to adapt Article 57 of the Code of Military Justice to have been met.²⁰³ This contradicts the decision of the IACHR and the Inter-American Court on this matter.²⁰⁴

129. In this regard, the IACHR notes that, in response to the observations for Mexico made by the Office of the United Nations High Commissioner for Human Rights, the State responded that "it is not feasible to consider additional changes."²⁰⁵ The State indicated that based on the 2011 constitutional reform in the area of human rights any human rights offense committed against a member of the military may be reviewed or repealed by filing writs for protection of constitutional guarantees with the courts in the ordinary jurisdiction.²⁰⁶

130. In addition, according to publicly known information, a decree was published on May 16 amending, adding to, and repealing various provisions of the Code of Military Justice and issuing the Military Code of Criminal Procedure.²⁰⁷ In response to that decree, on June 15, 2016 the National Human Rights Commission (CNDH), at the request of civil society organizations, filed an unconstitutionality motion with the Supreme Court of Justice challenging various articles of the Code of Military Justice and the Code of

²⁰¹ Press Release, [Por una Fiscalía General de la República que Sirva](#) ["A Call for a Prosecutor General's Office that Works"], October 18, 2016.

²⁰² Government of Mexico, Response to the request for information on the status of implementation of the recommendations contained in the 2015 country report, presented on November 10, 2016. Note No. OEA-02902, November 17, 2016.

²⁰³ Inter-American Court of Human Rights, Monitoring Compliance with Judgment, September 2, 2016.

²⁰⁴ In the follow-up report, the Inter-American Court maintained that "even when Article 57.II.a) of the Code of Military Justice excludes from its jurisdiction the investigation and prosecution of alleged human rights violations presumably committed against civilians, its wording still does not meet the standards because it allows military courts to maintain jurisdiction to investigate and prosecute human rights violations when the accused is a member of the military and the victim is also a member of the military, as well as with regard to crimes in which the accused is a member of the military and the passive subject of the crime or the person who has a protected legal right does not belong to the military. Both assumptions hamper the determination of 'the exact connection between a crime that falls under the ordinary jurisdiction and military service objectively assessed.'" Inter-American Court, Monitoring Compliance with Judgment, Cases of Radilla Pacheco, Fernández Ortega et al., and Rosendo Cantú and Other v. Mexico, April 17, 2015, para. 20.

²⁰⁵ Mexican Government, Report to the Office of the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, on the revised recommendations resulting from his visit to Mexico in October 2015.

²⁰⁶ Mexican Government, Report to the Office of the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, on the revised recommendations resulting from his visit to Mexico in October 2015.

²⁰⁷ SEGOB, Official Journal of the Federation, [Decreto por el que se reforman, adicional and derogan diversas disposiciones del Código de Justicia Militar and se expide el Código Militar de Procedimientos Penales](#), May 16, 2016.

Criminal Procedure.²⁰⁸ In the view of the CNDH, various provisions would not comply with constitutional and international standards in this area.²⁰⁹

131. With respect to the General Law on Victims, according to the Mexican Commission for the Defense and Protection of Human Rights (CMDPDH), more than three years after that law was adopted, the State has not assumed responsibility for the thousands of victims of human rights crimes and violations. It identified the following among the principal deficiencies found: a) problems encountered by the victims of crimes and human rights violations when seeking inclusion in the National Registry of Victims (RENAVI), as in when that inclusion depends on the submission of a criminal complaint or the issuance of a recommendation by a human rights commission; b) lack of training and awareness among public officials, leading to re-victimization; c) ineffective, slow, and discretionary procedures, a situation that hampers recognition of the victim and reimbursement of immediate expenses.²¹⁰

132. It also expressed concern regarding limitations in the current design of the Executive Commission for Attention to Victims (CEAV) that complicate the ability to reach agreements within a collegiate body, as well as the lack of accountability mechanisms and the lack of penalties for public officials who fail to act with due diligence in providing immediate attention.²¹¹ It also referred to deficient administrative procedures; the lack of comprehensive reparations measures; limited or non-existent coordination among the institutions that make up the National System for Attention to Victims (SNAV) and between state and federal agencies providing attention to victims; the lack of professionalization and awareness among the officials of that institution; the lack of a differential approach for attending to migrant, women, child, and adolescent victims or victims belonging indigenous peoples or communities; as well as under-spending of the Fund for Aid, Assistance, and Comprehensive Reparation.²¹²

133. In its comments on the draft version of this report, the State told the Commission that during 2016, the CEAV received 11,466 requests for inclusion in the National Register of Victims (RENAVI). Of that total, 7,608 applications were registered because they were under federal jurisdiction and met the requirements set in the General Law on Victims. It also reported that on May 11, 2016, the updated version of the Single Declaration Form (FUD) was published in the Official Journal of the Federation (DOF).²¹³ It further noted that in compliance with the terms of the *Guidelines for the Conveyance of Information to the National Register of Victims*, on January 13, 2016, the DOF published the recommendations on the minimum security standards applicable to victims' records held by the agencies of the National System for Attention to Victims (SNAV) which establish the level of protection warranted by the nature of victims' data. In addition, the State

²⁰⁸ CNDH, Unconstitutionality motion filed by the National Human Rights Commission 46/2016. The motion challenged Articles 38, 49 bis section XII, 81 Bis, section VII and 83 section XIII, XIV, XIX, XXIII, XLIII, XLV and XLIX, of the Code of Military Justice; Article 1, 10, 43, 73, 87, 101 section I subparagraph b and section II subparagraph b, 103, 105, 123, 128 section VIII, 129 section VII, and XI, 136, sections VI and VII, 145, section II, subparagraph b), 151, 153, section XI, 162, 171, 212, 215, 238, 245, 247, sections III and V, 248, 262, 264, 267, 278, 282, 283, 286, 291, 295, 296, 299, 352, 357, 361, 363, 364, and 367 of the Military Code of Criminal Procedure.

²⁰⁹ CMDPDH, Inputs for the report following up the report on Mexico, September 2016. The CNDH considered it relevant "to inform the Supreme Court of Justice of the Nation, as the ultimate and highest interpreter of the Constitution, of those inconsistencies, so that it could rule on the validity of the articles being challenged or regarding its confirming interpretation, in that such a ruling by the Supreme Court will provide legal certainty, for both those in the Mexican armed forces and for the civilian population, regarding the scope that the military jurisdiction should have." CNDH, Press Release CGCP/167/16, CNDH Files unconstitutionality motion challenging various provisions of the Code of Military Justice and the Military Code of Criminal Procedure, June 16, 2016.

²¹⁰ CMDPDH, Inputs for the report following up the report on Mexico, September 2016.

²¹¹ Certain deficiencies were also pointed out in terms of procedures for reimbursing per diems, relocation, funeral expenses, repatriation of bodies, lodging and food arrangements, emergency medical and psychological care, protective measures, as well as legal counsel, which are covered in the law but would be restricted by the law's regulatory provisions. CMDPDH, Inputs for the report following up the report on Mexico, September 2016.

²¹² CMDPDH, Inputs for the report following up the report on Mexico, September 2016.

²¹³ According to the State, the complementary data sheet can reveal particular characteristics and conditions that indicate the victims' greater vulnerability by reason of age, gender, sexual preference or orientation, gender identity or expression, membership of an indigenous people or community, disability, or other factors. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

noted that victims of crime and human rights violations are entitled to a Legal Advisor who will pursue legal actions for requesting and monitoring the protective measures, help, assistance, and attention necessary to ensure the victims' physical and mental integrity.²¹⁴

134. According to publicly known information, more than 100 victims' organizations and groups submitted an initiative to the Senate on reform of the General Law on Victims.²¹⁵ In addition, through a press release, various civil society organizations, organizations of victim's relatives, and experts called upon the members of the Governance, Justice, and Legislative Committees of the Senate of the Republic to ensure that reform of that law would expressly recognize the victims of forced displacement in Mexico.²¹⁶ The IACHR takes note of the press release issued by various civil society organizations expressing concern regarding the reforms to the General Law on Victims endorsed by the Governance, Justice, Human Rights, and Legislative Committees on October 25, 2016. In particular, they maintained that: 1) the President of the Republic would be responsible for appointing the head of this commission, which will lead to the selection of someone without legitimacy or recognition among victims' groups and civil organizations; 2) the reform provides that the CEAV will be operated by the Governance Secretariat because it will be headed by a Board presided over by the Secretariat and comprised mostly of authorities, without sufficient representation from victims and experts in this area; 3) the victims of forced internal displacement are not fully recognized in the reform; 4) the possibility of having an open, democratic, and participatory process in the construction of the internal rules of operation was dismissed; 5) the Fund for Attention to Victims will no longer receive fixed funds assigned by Federal Budget Expenditures Decree that guarantee the allocation of an amount equal to approximately one billion pesos each year; rather the Finance Secretariat will allocate funds "whenever" there is less than a specific percentage.²¹⁷

135. In its comments on the draft version of this report, the State told the IACHR that on January 3, 2017, the amendments to the General Law on Victims adopted by Congress in December 2016 were published in the DOF. Among the main issues addressed in the amendments, the State spoke of "Effectiveness, efficiency and timeliness in access to resources from the Fund for Help, Assistance, and Comprehensive Redress." The State presented information on the main aspects of the amendments:²¹⁸

- a. "Effectiveness, efficiency and timeliness in access to resources from the Fund for Help, Assistance, and Comprehensive Redress. The concept of "help resources" covers spending on immediate help, assistance, attention, and redress from the Fund for Help, Assistance, and Comprehensive Redress or from state funds, as applicable. The General Law on Victims allows measures to be provided by both public and private institutions, and for the assistance to be delivered ahead of time.
- b. Internal displacement. The right of internally displaced persons to receive comprehensive attention is explicitly included.
- c. Comprehensive attention for victims regardless of jurisdiction. The CEAV may provide immediate help regardless of the jurisdiction covering the victim and it may even cover subsidiary compensation for victims as part of its redress of damages.
- d. Assumption of control. It provides that the CEAV can help, attend to, assist, and cover subsidiary compensation for victims under common jurisdiction, when the magnitude of their victimization so warrants.

²¹⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²¹⁵ La Jornada, [Plantean al Senado reforma a ley de víctimas](#), April 13, 2016; El Sol de México, [Presenta Javier Sicilia iniciativa de reforma de Ley General de Víctimas](#), April 14, 2016.

²¹⁶ Press release, [Reforma a Ley General de Víctimas debe reconocer a víctimas de desplazamiento interno forzado en México: víctimas, OSC and expertas](#), September 29, 2016.

²¹⁷ Press release, [Reforma a Ley de Víctimas: acuerdo político que desampara a las víctimas](#), October 26, 2016.

²¹⁸ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017, pp. 28-29.

- e. The coverage of victim attention and assistance is expanded. Victims have access to a greater number of measures paid for by the Fund, such as: (i) travel, including transportation, accommodation, and food, (ii) expert studies and the services of independent experts, and (iii) funeral expenses, regardless of the cause of death.
- f. Comprehensive redress. The measures that make up redress are covered with resources from the Fund. In addition, the conditions for granting subsidiary compensation are expanded, as is the obligation of convicts to repay resources to the Fund.
- g. Victim status. Other authorities are also empowered to grant victim status: (i) public human rights protection agencies, (ii) international human rights protection organizations, (iii) the authority responsible for the human rights violation, and (iv) the Public Prosecution Service.
- h. Restructuring of the CEAV. This is a single-person institution headed by an Executive Commissioner who receives advice and support from a Consultative Assembly. It also has a Board of Governors and an Interdisciplinary Evaluation Committee. Most significant is the strengthening of the position of the Legal Advisor and the elimination of the Steering Committee.”

136. The State also indicated that the General Law on Victims provides for the active participation of the three levels of government, academia, civil society organizations, and victims’ groups. As of December 31, 2016, the Fund for Help, Assistance, and Comprehensive Redress contained a total of 1,593,229,146.00.00 pesos. The State also reported on the implementation of the General Law on Victims and the functioning of the Executive Commission for Victim Attention at the federal and state levels. It indicated that there were currently 17 State Commissions for Victim Attention in the following states: Campeche, Coahuila, Colima, Durango, state of Mexico, Jalisco, Guerrero, Nuevo León, Michoacán, Morelos, Quintana Roo, San Luis Potosí, Tabasco, Tlaxcala, Veracruz, Yucatán, and Zacatecas. As regards the harmonization of laws, it noted that 29 states have local legislation covering the issue. At present, only three states still need to harmonize their laws: Baja California, Mexico City, and Guanajuato. It also reported that on February 29, 2016, the National Governors’ Conference (CONAGO) signed a Framework Agreement for coordination and collaboration on victim attention, exchanges of information, design and implementation of public policies, and training.²¹⁹

137. Under the 5th transitory article of the Decree amending the General Law on Victims, “within 30 days following the entry into force of this decree, following public consultations with victims’ groups, experts, and specialized civil society organizations, the President of the Republic shall send the Senate of the Republic his nominee for appointment as Executive Commissioner, who shall remain in the position for three years.”²²⁰ It further provides that the federal executive is to amend the regulations within 180 working days following the Decree’s entry into force. The IACHR will monitor the implementation of the Law and the functional effectiveness of the Executive Commission for Victim Attention.

138. In addition, the IACHR has not received information this year regarding progress made in the investigation of cases perpetrated during the Dirty War.²²¹ According to the State, of the total of 570 preliminary investigations received from the now defunct Office of the Special Prosecutor for Acts Probably Resulting from Federal Crimes Committed Directly or Indirectly by Public Servants against Persons Linked to Social and Political Movements of the Past (FEMOSPP), 236 preliminary investigations are currently still in progress.²²² The State reported that in the Fifth Regular Session of July 5, 2016 of the Technical Committee of

²¹⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²²⁰ General Law on Victims, latest amendment, DOF, January 3, 2017.

²²¹ IACHR, *Situation of human rights in Mexico*, December 31, 2015, paras. 160-167.

²²² Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

the Human Rights Obligations Compliance Trust, four additional cases were authorized, in which only one beneficiary is pending payment as of the month of November.²²³

139. Based on all the foregoing, the IACHR reiterates to the Mexican State its recommendations regarding access to justice. The IACHR stresses the importance of monitoring the implementation of the new criminal justice system and taking corrective actions as appropriate. In the context of the discussions regarding the *Fiscalía General de la República* (Office of the Prosecutor), the IACHR calls on the authorities to attend to the claims from civil society organizations and persons who are expert on the topic in relation to its functioning and design.

140. The State must also provide information to the victims and their families and ensure their access to the files. The IACHR also recommends evaluating the effectiveness of the training sessions conducted. The IACHR urges the State to amend the Code of Military Justice in accordance with the terms indicated both by the Inter-American Court and the Commission and to assume responsibility for providing an accounting regarding serious human right violations committed in the past. Finally the IACHR reiterates de importance of ensuring the implementation of the General Law on Victims and the functioning of the CEAV in consultation with civil society organizations and victims.

A. Persons in particularly vulnerable situations

Regarding LGBT persons, the IACHR urges the Mexican State to:

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

141. In its Country Report, the IACHR noted that according to an organization of transgender persons based in Europe, Mexico would occupy the second place in the world, behind Brazil, as the country with the largest number of murders on account of gender identity or gender expression.²²⁴ On this issue, the State in its response to the 2015 Report indicated that at the federal level the Attorney General's Office has clarified that it lacks specific statistics broken down with reference to the LGBTTTTI population, since the bulk of incidents of violence against this sector of the population fall under criminal definitions within the competence of the local jurisdiction.²²⁵ The IACHR also indicated its concern regarding arbitrary detentions, torture, and cruel, inhuman and degrading treatment perpetrated by agents of the State, particularly against transgender women, and the impunity for such actions.

142. In its comments on the draft version of this report, the State said that one of the lines of action for combating homophobia in the 2014-2018 National Program for Equality and Nondiscrimination includes working for the creation of a national register of crimes motivated by reasons of sexual orientation,

²²³ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²²⁴ IACHR, *Situation of human rights in Mexico*, December 31, 2015, para. 264. See also, Milenio, [En México, la orientación sexual es "motivo de muerte"](#), May 20, 2016; Etcétera, [México: el segundo país más homofóbico del mundo](#), May 17, 2016; SIPSE.COM, [México, segundo lugar mundial en crímenes por homofobia](#), May 21, 2016.

²²⁵ IACHR, *Situation of human rights in Mexico*, December 31, 2015, para. 264.

gender identity or ethnic/national origin, as well as gathering statistical information on offenses committed by security forces for reasons of homophobia or racism.²²⁶

143. Commemorating the International Day against Homophobia, Transphobia, and Biphobia on May 17, 2016, the President of the Republic, Enrique Peña Nieto, led a discussion with governmental entities and civil society organizations.²²⁷ Actions were announced at the meeting that would be carried out by the Government of the Republic to ratify the “commitment to non-discrimination and to building a truly inclusive Mexico, in which everyone can fully exercise their rights.”²²⁸ The IACHR salutes the measures taken by the State to disseminate human rights, such as disseminating booklets on sexual orientation and gender identity, as well as training for officials of the National Institute for Migration on various topics related to sexual diversity, and actions carried out by the State at the international level to co-sponsor the resolution creating the International Expert on violence and discrimination based on sexual identity and gender identity.²²⁹

144. At the meeting led by the President, various representatives from Mexico’s LGBT civil society expressed their concern regarding acts of violence against LGBT persons. They also reported that the true dimension of the problem is unknown because there are no official statistics due to under-recording of acts of violence against LGBT persons.²³⁰

145. They indicated that this violence is characterized by high levels of viciousness and cruelty. They also stated that each month at least six LGBT persons are murdered for reasons linked to their sexual orientation and/or gender identity.²³¹ They emphasized that low reporting rates in this regard do not indicate the absence of the problem but rather reflect the distrust generated by the institutions responsible for the administration of justice due to the prevailing institutional homophobia.²³² In addition, the organizations stressed that prejudices against persons with divergent sexual orientations and gender identities also permeate criminal investigations and the administration of justice. Thus, people’s sexual orientation, gender identity, and gender expression are often used to justify crimes committed against them. It is alleged that the obstacles faced by LGBT persons seeking access to justice include the fact that judges and prosecutors generally have the same prejudices against LGBT persons as are expressed in the acts of violence.²³³ In its comments on the draft version of this report, the State indicated that the Supreme Court of Justice had

²²⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²²⁷ Mexican Government. Response to the request for information on the status of attention to recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²²⁸ Government of the Republic, [Diversas intervenciones durante la celebración del Día Nacional de la Lucha Contra la Homofobia](#), May 17, 2016. Video available: [Día internacional de la Lucha contra la Homofobia](#)

²²⁹ Government of the United Mexican States, [Fourth Government Report](#), August 31, 2016. The State also reported that in the Human Rights Council, Mexico is part of the Core Group of countries that promoted the resolution on non-discrimination and non-violence based on sexual orientation and gender orientation, submitted during the 32nd regular session of the Human Rights Council held between June 13 and July 1, 2016 in Geneva, Switzerland. Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016. In addition, as part of its participation at the Global LGBTI Human Rights Conference on Nonviolence, Nondiscrimination, and Social Inclusion, held in Uruguay on July 13 to 15, 2016, the State reported that Mexico had joined the Equal Rights Coalition by signing its Founding Principles. See: Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²³⁰ Government of the Republic, [Diversas intervenciones durante la celebración del Día Nacional de la Lucha Contra la Homofobia](#), May 17, 2016. Video available: [Día internacional de la Lucha contra la Homofobia](#)

²³¹ Government of the Republic, [Diversas intervenciones durante la celebración del Día Nacional de la Lucha Contra la Homofobia](#), May 17, 2016. Video available: [Día internacional de la Lucha contra la Homofobia](#).

²³² Government of the Republic, [Diversas intervenciones durante la celebración del Día Nacional de la Lucha Contra la Homofobia](#), May 17, 2016. Video available: [Día internacional de la Lucha contra la Homofobia](#)

²³³ Government of the Republic, [Diversas intervenciones durante la celebración del Día Nacional de la Lucha Contra la Homofobia](#), May 17, 2016. Video available: [Día internacional de la Lucha contra la Homofobia](#)

prepared a Protocol for Action for officials imparting justice in cases involving sexual orientation or gender identity.²³⁴

146. Monitoring of the communications media in 29 of the country's institutions, carried out by a civil society organization, revealed that based on cases reported in the media, 1,310 lesbian, gay, bisexual, or transsexual persons were murdered between 1995 and 2016, most of them at home or on the street.²³⁵ Another organization reported that between January and September 2016, 36 transsexual women were murdered in Mexico.²³⁶ Regarding the number of complaints presented, in its comments on the draft of this report the State said that the National Anti-Discrimination Council (CONAPRED) recorded 331 cases determined to involve possible acts of discrimination on the grounds of sexual diversity between 2015 and 2016, including 158 complaints made against public officials. The State reported that of the total cases, 122 were still being processed while the remainder had been concluded.²³⁷

147. In addition to the above, the IACHR expresses its concern regarding information received indicating that after the President of the Republic announced the possibility of enshrining equal marriage rights in the Constitution, the situation of violence and harassment against LGBT had increased, generating national upheaval and increasing in Mexican society the expressions of hate, intolerance, stigmatization, and discrimination.²³⁸ This situation has generated concern and rejection on the part of various national and international agencies.²³⁹ According to information in the media, the Human Rights Committee of the Chamber of Deputies and subsequently the Constitutional Matters Committee rejected that initiative.²⁴⁰ In its comments on the draft version of this report, the State reported that in October 2016, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) found Mexico to be a country with a regulatory framework that protects and guarantees the rights of LGBTI people.²⁴¹

Regarding the rights of women, the IACHR recommends that the Mexican state:

- Implement and strengthen measures that incorporate the gender perspective to comply with the duty to act with due diligence to prevent, punish and eradicate violence and discrimination against women, including specific efforts to comply with the obligation to prevent, investigate, punish and repair human rights violations against women; this includes training and monitoring of the authorities in charge of stages beginning with the investigation and including health services in the context of justice.

²³⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²³⁵ Letra S, Sida, Cultura and Vida Cotidiana, A.C., Infographic sent to the IACHR on October 21, 2016.

²³⁶ Information provided by the Centro de Apoyo a las Identidades Trans A. C, received by the Executive Secretariat of the IACHR on September 19, 2016.

²³⁷ The State also reported that on October 26, 2015, the CONAPRED signed a cooperation agreement with the Office of the Puebla State Attorney General for awareness-raising and training on discrimination, sexual and gender diversity, and sexual characteristics. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²³⁸ BBC World, [La marcha "sin precedentes" en México contra la legalización del matrimonio gay](#), September 11, 2016. See also, The Economist, [Marchan a favor de los matrimonios gay en la CDMX](#), September 24, 2016.

²³⁹ Council to Prevent and Eliminate Discrimination (COPRED) of Mexico City, [Mensaje del COPRED sobre las expresiones en contra de los derechos LGBTTTI](#), August 23, 2016. See also, Office of the United Nations High Commissioner in Mexico, [Llamado en favor de la tolerancia, el respeto a la diversidad and la garantía de los derechos humanos de todas las personas](#), September 29, 2016.

²⁴⁰ La Jornada, [Comisión de DH desecha iniciativa de EPN sobre matrimonio igualitario](#), November 8, 2016; La Jornada, [Desecha comisión legislativa iniciativa sobre matrimonio gay](#), November 9, 2016; Animal Político, [Diputados del PAN, PRI and Verde rechazan la iniciativa de Peña Nieto sobre matrimonio igualitario](#), November 9, 2016.

²⁴¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

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

148. In the 2015 Country Report, the IACHR emphasized the serious situation of violence against women in Mexico. In particular, the IACHR stressed that women continue to be victims of certain crimes at rates higher than men. In this respect, the Commission recommended the adoption of comprehensive measures within an appropriate legal framework for protection and the effective application thereof, as well as prevention policies and practices to allow the State to respond effectively to complaints. In its comments on the draft version of this report, the State said that in Mexico, the General Law on the Access of Women to a Life Without Violence was the legal framework for dealing with violence against women at the three levels of government. At the state level, it said that 32 of the nation's constituent entities had state laws on the access of women to a life without violence.²⁴²

149. On prevention issues, the IACHR has followed up the declaration of an Alert of Gender Violence against Women (AVGM) provided in Article 22 of the General Law on Women's Access to a Life Free of Violence of 2007.²⁴³ During 2016, and despite requests made by civil society organizations in various states,²⁴⁴ to date new alerts have only been issued for some municipalities in the states of Michoacán²⁴⁵ and Jalisco²⁴⁶ (based on state legislation). In turn, some international organizations and civil society organizations have questioned the effectiveness of the General Alert declaration, emphasizing the lack of clear guidelines for the division of responsibilities, activities, and goals. In its comments on the draft version of this report, the State reported that in November 2016, three new gender alerts were issued in the states of Chiapas, Nuevo León, and Veracruz.²⁴⁷

²⁴² Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁴³ The AVGM is activated when the levels of violence against women are serious enough to disturb the peace and impede women's full exercise of their human rights within a specific territory.

²⁴⁴ The requests currently being processed are: **Nuevo León**. The request was submitted on January 13, 2012 by Arthemisa por la Equidad. **Chiapas**. The request was submitted on November 25, 2013 by the Women's Rights Center of Chiapas. **Michoacán**. The request was submitted on December 19, 2014 by the Humans without Violence organization. **Colima**. The request was submitted on December 22, 2014 by the Griselda Álvarez Women's Support Center, the Human Rights Commission of the State of Colima and the Ius Género Foundation. **Baja California**. The request was submitted on January 27, 2015 by the Pro Human Rights Ibero-American Network. **Sonora**. The request was presented on May 25, 2015 by Manitas por la Equidad and No Violencia, A.C., and Alternativa Cultural por la Equidad de Género, A.C. **Veracruz**. The request was presented on September 9, 2015 by Equifonía Colectivo por la Ciudadanía, Autonomía y Libertad de las Mujeres A.C. **Querétaro**. The request was submitted on October 29, 2015 by Salud y Género Querétaro, A.C., and Desarrollo Comunitario para la Transformación Social A.C. **San Luis Potosí**. The request was submitted on November 23, 2015 by the State Human Rights Commission of San Luis Potosí. **Quintana Roo**. The request was submitted on December 4, 2015 by the State Women's Council of Quintana Roo and the Justice, Human Rights, and Gender organization. Requests were submitted in 2016 from Tlaxcala, in August; Puebla, on March 9; Guerrero, on June 23, 2016. **Nayarit** on June 20, 2016; Tabasco on March 14, 2016; Sinaloa, on March 9, 2016.

²⁴⁵ Government of the State of Michoacán. [Declaratoria Alerta de Género](#), June 27, 2016.

²⁴⁶ Government of the State of Jalisco. Violence against Women Alert. February 8, 2016.

²⁴⁷ The State indicated that in Chiapas, it was declared in November in seven municipalities: Comitán de Domínguez, Chiapa de Corzo, San Cristóbal de las Casas, Tapachula, Tonalá, Tuxtla Gutiérrez, and Villaflores; in Nuevo León, it was declared in November in five municipalities: Apodaca, Cadereyta Jiménez, Guadalupe, Juárez, and Monterrey; in Veracruz it was declared in November in 11 municipalities: Boca del Río, Coatzacoalcos, Córdoba, Las Choapas, Martínez de la Torre, Minatitlán, Orizaba, Poza Rica de Hidalgo,

150. The State reported that the XXXV Regular Session of the National Conference on the Pursuit of Justice (CNPJ) was held in July 2016, at which the PGR presented “Ministerial Guidelines on Quality Care for Violence against Women,” the objective of which is to standardize services for women in situations of violence using quality standards consistent with national regulations and international instruments.²⁴⁸ It also indicated that as of June 15, 2016, a total of 373 training activities have been conducted, including courses, seminars, forums, meetings, certificate programs, and workshops, for a total of 30,538 people (16,665 women and 13,873 men).²⁴⁹

151. Regarding investigation and access to justice in cases of violence against women, the Special Prosecutor’s Office for Crimes against Women and Trafficking in Persons was created in March 2015. It developed investigative protocols for the crimes of femicide and sexual violence that provide guides for action and define guidelines using a gender perspective²⁵⁰. The investigative protocol with a gender perspective for sexual violence²⁵¹ establishes the basic guidelines for the investigation of sexual violence.²⁵² The State also emphasized the Protocol for Judging with a Gender Perspective and the action Protocol for those who administer justice in cases involving sexual orientation or gender identity, both of which were issued by the Supreme Court of Justice.²⁵³

152. Although adoption of the protocols is a noteworthy initiative, the protocols are not mandatory for justice operators. In addition, although the Inter-American Court required the State of Mexico in the “Campo Algodonero” case to continue to standardize all its protocols, manuals, judicial investigation criteria, expert services, and the delivery of justice, used to investigate all crimes concerning the disappearance, sexual abuse, and murder of women, in keeping with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary, and Summary Executions, and international standards on searching for disappeared people, based on a gender perspective,²⁵⁴ only seven states have developed investigative protocols in their laws: Colima, Distrito Federal, Jalisco, Morelos, Oaxaca, Sinaloa and Veracruz.²⁵⁵ As for the legal classification of the crime of femicide, although the Federal Penal Code defined the crime in 2011, the states are the authorities responsible for prosecuting most of these crimes. By 2016, most states had included the crime of femicide in their legislation. However, in each state the regulations defined the crime according to its own criteria.²⁵⁶

Tuxpan, Veracruz, and Xalapa. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁴⁸ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²⁴⁹ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²⁵⁰ In its comments on the draft version of this report, the State reported that the Law to Prevent and Punish Trafficking in Persons was in force in the country. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁵¹ Attorney General’s Office. [Protocolo de investigación Ministerial, Pericial and Policial con Perspectiva de Género par la Violencia Sexual](#), August 11, 2016.

²⁵² The protocol reinforces the victims’ right to report crimes privately and to receive protection (particularly for children and adolescents). The investigative protocol with a gender perspective for the crime of femicide establishes the basic guidelines that justice operators must follow in the case of a woman’s violent death. The protocol outlines the evidence the investigators should collect, including the personal history of the victim, the social context, and psychological profiles of the victim and the suspect.

²⁵³ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²⁵⁴ See Inter-American Court of Human Rights, Case of González et al. (“Cotton Field”) v. Mexico, Preliminary Objections, Merits, Reparations, and Costs, November 16, 2009.

²⁵⁵ Red Nacional por los Derechos para Todas and Todos. [Ante la Adversidad and la Indignación Construcción Colectiva. Agenda Política 2015-2016](#).

²⁵⁶ National Women’s Institute, INMUJERES. [Sistemas de Información de los ministerios públicos con perspectiva de género](#). Workbook # 39, May 2013, p. 50.

153. The IACHR also highlights the efforts made by the Attorney General's Office, particularly by the Special Prosecutor's Office on Violence against Women and Trafficking in Persons (*Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata* - FEVIMTRA), to provide training to public officials in various agencies on handling allegations of violence against women and trafficking crimes.²⁵⁷ The State also indicated that from August 2012 to May 2016 the PGR carried out 1,457 activities affecting 50,403 public officials. In addition, the PGR Code of Conduct was created on May 11, 2016; it includes the obligation to promote, disseminate, respect, and guarantee the human rights of all, to promote equality and non-discrimination based on gender in line with the principles of the New Criminal Justice System.²⁵⁸ In its comments on the draft version of this report, the State reported on the creation and strengthening of citizen and interinstitutional networks through the National Commission for the Prevention and Eradication of Violence against Women (CONAVIM). In addition, it has the "01800 háblalo" hotline, which provides free and confidential legal guidance and psychological attention to women facing situations of violence, who can then be directed to more than 6,000 public and private institutions across the nation's 32 states. Mexico reported that in 2016, the hotline answered a total of 14,738 consultations, broken down into 14,370 telephone calls, 288 online chats, and 80 e-mails.²⁵⁹

154. The IACHR has historically followed up complaints of sexual torture.²⁶⁰ In October 2016, the Commission submitted to the Inter-American Court of Human Rights (I/A Court H.R.) the case of Mariana Selvas Gómez et al. v. Mexico, in which the Commission established that the detention of 11 women on May 3 and 4, 2006 was illegal and arbitrary and that agents of the state committed serious acts of physical and psychological violence, including various forms of sexual violence and rape that the IACHR classified as forms of physical, psychological, and sexual torture. In its comments on the draft version of this report, the State informed the IACHR that both the federal government and the state of Mexico acknowledge their responsibility for the incident. It also noted that more than 30 individuals had been arrested and that 48 criminal proceedings were underway. It also said that the IACHR's recommendations were being addressed through the implementation of measures to make amends and prevent the recurrence of similar incidents.²⁶¹ As numerous civil society organizations have indicated,²⁶² the information gathered in investigative reports suggests that the use of sexual violence is customary practice during the arrest and interrogation of women who are detained.²⁶³ Of the 100 cases examined by Amnesty International in its report on "Mexico: Surviving Death: Police and Military Torture of Women in Mexico," all the women described in detail some type of violence, from sexual assault to psychological abuse to sexual violence. In addition, of the women interviewed, 72 said they had been subjected to sexual violence, ranging from groping of their breasts or buttocks to rape.²⁶⁴ Also of concern to the IACHR are deficiencies in the investigation of injuries to detainees and the failure to punish those responsible.

155. During the hearing on the prison situation and the privatization of prisons,²⁶⁵ the IACHR received information on acts of torture and sexual violence committed against women prisoners during

²⁵⁷ Attorney General's Office. Fourth Work Report 2015-2016. September 1, 2016, p. 112.

²⁵⁸ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²⁵⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁶⁰ I/A Court H.R. *Case of Inés Fernández Ortega v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C, No. 215. I/A Court H.R. *Case of Valentina Rosendo Cantú v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 31, 2010. Series C, No. 216. Report No. 53/01, Case 11.565, Ana, Beatriz and Celia González Pérez (Mexico), April 4, 2001.

²⁶¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁶² Campaña "[Rompiendo el silencio: Todas juntas contra la tortura sexual](#)".

²⁶³ Amnesty International, Report: Mexico: Surviving Death: Police and Military Torture of Women in Mexico. June 2016, p. 26.

²⁶⁴ Amnesty International, Report: Mexico: Surviving Death: Police and Military Torture of Women in Mexico. June 2016.

²⁶⁵ IACHR, Hearing "[Mexico, Privatization of the Prison System](#)". 157th session. April 7, 2016.

transfer to various prison centers at the CEFERESO women's penitentiary in Morelos.²⁶⁶ In its comments on the draft version of this report, the State spoke of the adoption of the Protocol to Safeguard Vulnerable People Deprived of Liberty on November 29, 2016, in keeping with the National Criminal Enforcement Law. That protocol establishes that personnel at Federal Social Readaptation Centers must take the steps necessary to ensure that vulnerable detainees are provided measures to ensure their physical and mental integrity, in recognition of their ethnic origin, gender, age, different capabilities, social conditions, health, religion, opinions, preferences, marital status, or any other factor, in order to overcome all forms of discrimination and to promote development with equity and respect for differences.²⁶⁷

156. In the 2015 Country Report on Mexico, the IACHR indicated that as a result of the hearing on complaints of sexual torture and gender-based torture against women in Mexico²⁶⁸ conducted during the 154th Regular Session, the State reported on the creation of the Mechanism to Follow up Cases of Sexual Torture against Women. In this regard, the information provided by civil society organizations for the preparation of this report indicated that the mechanism has failed to follow up the documentation of the cases received, and as a result no joint opinion has been issued with recommendations on each of the cases reviewed during the year the mechanism has been in operation.²⁶⁹

157. Similarly, in its most recent report on sexual torture against women deprived of liberty, Amnesty International indicated that "during the months since its establishment, the mechanism has been slow in making progress on the just three cases that it currently has on file."²⁷⁰ In addition, although this body is designed to propose public policies intended to prevent and combat torture, "to date it has not carried out any actions in line with this goal."²⁷¹ In its comments on the draft version of this report regarding progress with the three cases registered by the Mechanism, the State said that using the methodology established, the Mechanism had analyzed the case of Yecenia Armenta and produced a Conclusions document, together with an Addendum for following up on the lines of action established therein, which were approved in December 2016 by all the institutions and organizations that make up the Mechanism. The State said that the Conclusions document will be sent to the authorities of the state of Sinaloa involved in the case and, using it as a base, it plans to hold meetings with each one of them to draw up a joint work plan for the due investigation, punishment, and redress of the acts of torture committed against Yecenia Armenta. The State also reported that it was preparing the Conclusions document in the case of Verónica Razo, which it expected the member institutions and organizations to approve shortly. It also said that various formalities requested by the Mechanism's civil society members had been carried out, such as scheduling a visit to Verónica Razo at CEFERESO No. 16, where she is being held, together with medical examinations to determine the state of her physical and mental health.²⁷²

158. The IACHR also reiterates the importance of the creation of the Specialized Unit on the Investigation of Torture in October 2015, as well as the approval of the Uniform Protocol for the Investment

²⁶⁶ According to the information provided by civil society organizations "1,339 female inmates were transferred to the women's CEFERESO in Morelos. They represent 53% of the installed capacity of this facility. During the transfer, the inmates' right to dignified treatment and not to be victims of violence was violated, they were beaten, subjected to sexual violence, and electrical shocks. The death of one of the women as a result of mistreatment and the lack of medical treatment was recently reported."

²⁶⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁶⁸ IACHR, Public hearing. Reports of sexual torture against women in Mexico, 154th regular session, March 20, 2015.

²⁶⁹ Mexican Commission for the Defense and Protection of Human Rights. Inputs for the report on follow-up of the report on Mexico. September 15, 2016. Centro de Derechos Humanos Miguel Agustín Pro Juárez AC. Report on follow-up to Country Report "Situation of Human Rights in Mexico," August 31, 2016. Amnesty International, Report: Report: Mexico: Surviving Death: Police and Military Torture of Women in Mexico. June 2016.

²⁷⁰ See: Amnesty International, Report: Mexico: Surviving Death: Police and Military Torture of Women in Mexico. June 2016.

²⁷¹ See: Amnesty International, Report: Mexico: Surviving Death: Police and Military Torture of Women in Mexico. June 2016.

²⁷² Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

of Crimes of Torture.²⁷³ Along the same lines, in October 2015, the PGR updated its regulations on forensic examinations in order to allow greater awareness and to ensure that women are examined only by women or by a professional of their choice.²⁷⁴ Although these legislative advances are fundamental, the IACHR reiterates the importance of applying a gender perspective in investigative procedures. To date, the Unit has reported the receipt of 4,526 files on preliminary investigations²⁷⁵ in cases of torture; however, it is not known whether these data have been broken down by gender or age.

Regarding children and adolescents, the IACHR urges the Mexican State to:

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

159. In the 2015 Country Report on Mexico, the IACHR reiterated that the State should adopt measures to prevent violations of rights suffered more frequently by children. The IACHR emphasized victimization by organized crime resulting in murders, disappearances, sexual abuse, and forced recruitment and capture of children and adolescents by criminal gangs. In this regard, the IACHR recommended the appropriate implementation of the Comprehensive Protection System set up by the Mexican Government in December 2015. On this subject, during the hearing on the forced disappearance of children and adolescents in Mexico, the State reported that “15 state protection systems and 15 municipal protection systems have been installed, involving more than 3,000 public institutions.” In addition, the State provided information on progress made on the Intergovernmental Agreement on Unaccompanied Migrant Children. The IACHR also salutes progress made in the implementation of comprehensive protection systems at the national level, which formally concluded on June 29, 2016 with the installation of 32 State Comprehensive Protection Systems.²⁷⁶

160. In the referenced hearing, the participating organizations indicated that 30% of the victims of disappearances are children and adolescents between the ages of 0 and 17. Despite this alarming figure, both the State and civil society organizations indicated that there are still deficiencies in the Registry of Missing and Disappeared Persons in terms of the breakdown of data by age and gender. In this regard, both parties indicated the importance of including a specific chapter on disappeared children in the draft law on the disappeared that is now in Congress. In the PGR’s most recent Annual Report,²⁷⁷ the Special Prosecutor’s Office on Violence against Women and Trafficking in Persons (FEVIMTRA) indicated that during the period between September 1, 2015 and June 30, 2016 it had received “27 reports on missing children, adolescents and women and 43 persons had been found.”²⁷⁸ FEVIMTRA has also coordinated triggering of the Amber Alert, which during the same period triggered 115 alerts and pre-alerts, whereby 72 children and adolescents were found within 72 hours of the alert’s being activated.²⁷⁹ Although the Commission appreciates these institutional efforts, the low number of reports and persons found is evidence of the limited efficiency and

²⁷³ Attorney General’s Office, [Protocolo Homologado para la Investigación del Delito de Tortura](#), August 2015.

²⁷⁴ Official Journal of the Federation, October 5, 2015 (Agreement A/085/15). Available at: http://dof.gob.mx/nota_detalle.php?codigo=5410519&fecha=05/10/2015.

²⁷⁵ Attorney General’s Office. Fourth Work Report 2015-2016. September 1, 2016, p. 88.

²⁷⁶ Red por los Derechos de la Infancia en México –REDIM-. [REDIM llama al Estado Mexicano a dar nuevos pasos para superar la mirada asistencialista con niñas, niños y adolescentes](#). 2016.

²⁷⁷ Attorney General’s Office. Fourth Work Report 2015-2016. September 1, 2016.

²⁷⁸ Attorney General’s Office. Fourth Work Report 2015-2016. September 1, 2016, p. 110.

²⁷⁹ Attorney General’s Office. Fourth Work Report 2015-2016. September 1, 2016, p. 112.

ignorance of the mechanism for seeking disappeared children and adolescents. In this regard, the IACHR reiterates that a special search protocol needs to be adopted and the information systems on disappeared children need to be strengthened.²⁸⁰

161. In its comments on the draft version of this report, the State spoke of the Protocol of Action to Ensure Respect for the Principles and the Protection of the Rights of Children and Adolescents in Administrative Migration Proceedings, published in the Official Journal of the Federation on August 10, 2016, and developed by the National Migration Institute (INM), the Office of the Federal Attorney for the Protection of Children and Adolescents, and the National System for the Integral Development of the Family (DIF). It also reported that, in 2016, it drew up an Initial Evaluation Protocol to identify the international protection needs of unaccompanied or separated children and adolescents, in order to effectively identify indications of protection needs through first-contact interviews, taking into consideration factors of child and adolescent development and the effects of having experienced episodes of violence or other traumatic situations.²⁸¹

162. Finally, the IACHR reiterates its concern regarding shortcomings in the investigation and punishment of the recruitment of children and adolescents by criminal groups, in that the recruitment of children and adolescents for organized crime has still not been classified as a crime.²⁸²

Regarding indigenous peoples and serious human rights violations:

- Adopt measures to ensure that a culturally adequate perspective, which takes into account the collective nature of indigenous peoples and communities, is considered when they or their members are victims of human rights violations.
- Guarantee the availability of translators throughout the country and at all levels of government so that indigenous peoples and their members may have access to justice when they so require it.
- Adopt the necessary measures to carry out free, prior and informed consultations on projects that affect their lands.

163. In its 2015 Report on the Situation of Human Rights in Mexico, the IACHR indicated that human rights violations against indigenous peoples in Mexico are persistent. In this regard, the IACHR placed particular emphasis on violence in the context of mega-projects on ancestral lands and territories without prior due process and the criminalization of human rights defenders. On this subject, the Commission recommended the adoption of measures to guarantee the rights of indigenous persons and peoples in the context of activities affecting their lands, or when they need access to justice.

164. With respect to measures to guarantee a culturally adequate perspective in the administration of justice, through the National Criminal Enforcement Law, the Mexican State adopted the requirement to request the competent authorities to provide a translator or interpreter in the respective language and culture so that victims and the accused may exercise their rights.²⁸³ In this context, the State reported that with the entry into effect of the New Criminal Justice System 158 indigenous attorneys have

²⁸⁰ Regarding the protocols, the State indicated that on February 11, 2016 the PGR published the Protocol on the Treatment of Unaccompanied Migrant Children and Adolescents, establishing the actions to be deployed by public prosecutors in coordinating with the Federal Police. Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

²⁸¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁸² Red por los Derechos de la Infancia en México –REDIM-. *Aportes al seguimiento del Informe sobre la Situación de Derechos Humanos en México*, 2016. September 15, 2016.

²⁸³ The State also indicated that one of the main challenges is the certification of a higher number of federal public defenders for indigenous peoples involved in conflict with the law. It indicated that as of now there are 24 certified attorneys and more than 9,000 indigenous persons in prison. Additionally, there are only 575 interpreters and translators registered with the PANITLI, while in Mexico there are 68 native languages with 364 linguistic variants, according to the Catalog of National Indigenous Languages. Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

been trained on the subject.²⁸⁴ The IACHR also appreciates that the New Code of Criminal Procedures contains a special procedure for indigenous peoples and communities in Title X, establishing special mechanisms in the case of crimes affecting the legal and personal rights of indigenous peoples or communities.²⁸⁵

165. Despite the differential perspective in policies on access to justice, in its most recent visit to Mexico from August 29 to September 7, the United Nations Working Group on Business and Human Rights, reported²⁸⁶ that its findings indicate that a general characteristic of many cases that lead to conflict situations based on violations of the right to prior consultation occur in communities affected by business activities.

166. The report prepared by the Working Group indicates that projects in the mining, energy, construction, and tourism sectors that primarily affect indigenous communities there is a persistent failure on the part of companies to adequately perform due diligence, and when human rights violations occur there are no mechanisms providing access to justice and reparations for the victims.²⁸⁷ The projects of most concern due to the lack of prior consultation include the construction of the wind farm in Oaxaca and the Xochicuautla highway project, about which the IACHR is informed through petitions and requests for precautionary measures.

167. As regards prior consultation, in its comments on the draft version of this report, the State indicated that the National Commission for the Development of Indigenous Peoples (CDI) provides technical and methodological assistance for the implementation of consultations in its capacity as the technical body for the development of specific protocols. It reported that, to date, 36 protocols have been developed. Of these, 16 have concluded with agreements, the granting of consent, and the establishment of monitoring committees to oversee compliance with the agreements reached by the parties; four are at the preparation phase; seven are in process; eight have been suspended for different reasons; and one is a new project. In addition, it reported that the Supreme Court has prepared a Protocol for Action for justice operators involved in cases related to development and infrastructure projects.²⁸⁸ The State also indicated that the constitutional amendment on energy-related matters provides for the right of prior consultation of indigenous communities and peoples. The Hydrocarbons Law and the Law on the Electricity Industry of 2014 establishes the legal obligation of conducting prior consultation processes for hydrocarbon and electricity industry projects that could affect the rights and interests of indigenous communities. According to the State, the regulations of these two laws include specific provisions governing prior consultation procedures in accordance with international standards.²⁸⁹

²⁸⁴ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016. In its comments on the draft version of this report, the State said that the PGR has permanently incorporated, into its institutional agenda, professionalization activities and training courses on the human rights of indigenous peoples and communities, which were chiefly intended for agents of the Federal Public Prosecution Service and the Federal Ministerial Police, experts, and administrative personnel. The State reported that on June 1, 2015, the Cooperation Agreement for Access to and Use of the National Register of Indigenous Language Interpreters and Translators was signed. To date, it said, 119 public servants from the PGR have received training and 280 accounts and passwords have been set up for using the register. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁸⁵ [Código Nacional de Procedimiento Penales](#), Mexico, published on March 5, 2014, in effect for the entire country as of June 18, 2016, Title X.

²⁸⁶ United Nations Working Group on Business and Human Rights. [Declaración del Grupo de Trabajo de Naciones Unidas sobre empresas and derechos humanos sobre su visita a México](#) Mexico City, September 7, 2016, p. 7.

²⁸⁷ The final report on the visit to Mexico will be presented in mid 2017. United Nations Working Group on Business and Human Rights. [Declaración del Grupo de Trabajo de Naciones Unidas sobre empresas and derechos humanos sobre su visita a Mexico](#). Mexico City, September 7, 2016.

²⁸⁸ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

²⁸⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

168. In the public hearing on the “Human Rights Situation of Indigenous Peoples in Yucatán, Mexico,” that took place on December 5th in Panama, the IACHR heard from different members of indigenous communities from the Yucatán Peninsula who provided information on the alleged environmental damage caused by palm oil production activities, as well as the effects of absorption pits and the planting of genetically modified soybeans, among other problems related to the large-scale development of rural areas in the region.²⁹⁰ The participants expressed their concern regarding the destruction of biodiversity and the lack of access to and participation in development programs, for the practice of sustainable agriculture. The State, for its part, provided information on the steps it has reportedly taken to carry out a prior, free, and informed consultation with various communities on the Yucatán Peninsula. It also expressed the government’s willingness to engage in dialogue with the petitioners to find a way to incorporate their concerns and their participation in agricultural activities. The State recognized that the consultation on the planting of soybeans was not done before the fact, as the activities to plant and cultivate the crops began in the year 2000. However, the State indicated that is currently carrying out processes of consultation in keeping with inter-American human rights standards.²⁹¹

Regarding persons deprived of liberty:

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

²⁹⁰ IACHR, Public Hearing, Human Rights Situation of Indigenous Peoples in Yucatán, Mexico, December 5th 2016, 150 Period of Sessions.

²⁹¹ For further information, see: [Annex to Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights](#), January 16, 2017.

169. With regard to measures targeting the excessive application of pretrial detention, the IACHR notes that the National Code of Criminal Procedure (CNPP),²⁹² effective as of June 2016, establishes provisions to rationalize its use.²⁹³

170. In this regard, the CNPP establishes that pretrial detention may not exceed one year, a change providing a more protective standard than in the Constitution, Articles 18 and 20 of which establish a maximum duration of two years.²⁹⁴ On pretrial services through risk assessment and the supervision of precautionary measures imposed, this Commission notes that the CNPP provides for their regulation.²⁹⁵ On this subject, the IACHR recalls specifically that the so-called pretrial services for evaluation and supervision or offices for alternative and substitute measures represent good practice, so that authorities involved in making decisions regarding pretrial detention have adequate evidentiary information regarding the procedural risks and legal assumptions that will be evaluated.²⁹⁶

171. Specifically, Mexico's National Code of Criminal Procedure provides a broad list of crimes that merit unofficial pretrial detention, such as intentional homicide, genocide, rape, treason, espionage, terrorism, sabotage, corruption of minors under the age of 18 or the incapacitated, trafficking of minors, and crimes against health.²⁹⁷ In this regard, the IACHR recalls that the law will in no case be able to provide that some type of crime is excluded from the scheme established for cessation of pretrial detention or that specific crimes will receive different treatment compared to others in terms of release during prosecution, unless on the grounds of objective and legitimate discrimination criteria, and not merely on the basis of standards such as "social alarm," "social repercussions," "danger," or some other standard.²⁹⁸ The IACHR also notes that Mexico's National Code of Criminal Procedure formally defines recidivism as grounds for the mandatory imposition of pretrial detention.²⁹⁹ In this respect, this Commission reiterates its view that the criterion of recidivism may be considered as an additional factor in analyzing the applicability of such measures in a specific case, but in no case should it be used as the guiding principle for the imposition of pretrial detention.³⁰⁰

172. In addition, the IACHR notes that although Article 166 of the CNPP provides for the determination of house arrest for pregnant women, nursing mothers, the elderly, or those with "serious or terminal illness," that provision also provides an exception for those who in the judgment of the judicial authority "show conduct establishing a presumption of social risk."³⁰¹ In this regard, this Commission has indicated as the fundamental standard for the imposition of alternative measures that they should be applied whenever the risk of flight or disruption of the investigation can reasonably be avoided.³⁰² In this sense,

²⁹² [Código Nacional de Procedimiento Penales](#), Mexico, published March 5, 2014, in effect throughout the country as from June 18, 2016, Article 165.

²⁹³ United Nations, Mexico: [ONU acoge con beneplácito la nueva National Criminal Enforcement Law](#). August 1, 2016.

²⁹⁴ Political Constitution of the United Mexican States.

²⁹⁵ National Code of Criminal Procedure, Mexico, published March 5, 2014, in effect throughout the country as from June 18, 2016, Article 177. Available at: http://www.diputados.gob.mx/LeyesBiblio/declara/cnpp/CNPP_orig_05mar14.pdf.

²⁹⁶ IACHR, Report on the Use of Pretrial Detention in the Americas, OE A/Ser.L/V/II., Doc. 46/13, December 30, para. 178.

²⁹⁷ National Code of Criminal Procedure, Mexico, published March 5, 2014, in effect throughout the country as from June 18, 2016, Article 167. Available at: http://www.diputados.gob.mx/LeyesBiblio/declara/cnpp/CNPP_orig_05mar14.pdf.

²⁹⁸ IACHR, Report on the Merits 86/09, Case 12.553. Merits. Jorge, Jose and Dante Peirano Basso. Uruguay. August 6, 2009, para. 141. Available at <https://www.IACHR.oas.org/annualrep/2009sp/Uruguay12553.sp.htm>.

²⁹⁹ National Code of Criminal Procedure, Mexico, Article 167.

³⁰⁰ IACHR, [Informe sobre el Uso de la Prisión Preventiva en las Américas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, para. 157.

³⁰¹ National Code of Criminal Procedure (CNPP), Mexico, Article 166 paragraph three. IACHR, Consultation with experts "Measures to Decrease Pretrial Detention in the Americas," Washington DC, May 20, 2016. Information provided by Corina Giacomello, Instituto Nacional de Ciencias Penales, and Equis: Justicia para las Mujeres, A.C.

³⁰² IACHR, [Informe sobre el Uso de la Prisión Preventiva en las Américas](#), OAS/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 225.

according to inter-American standards, there is no justification for not applying this type of measure based on the “social risk” of the defendant’s conduct.

173. The IACHR observes that the New National Criminal Enforcement Law (LNEP), effective as of June 2016, defines, *inter alia*, the rules on the conditions for detention during the pretrial period and introduced measures to reduce high levels of overcrowding. In addition, the LNEP assigns important powers to the criminal enforcement judge, with the potential to ensure dignified and safe internment conditions.³⁰³ Based on judicial control, it will be possible to reduce sentences based on objective requirements, which will avoid discretion and provide legal certainty. In addition, the new regulations introduce criteria for replacing imprisonment with alternative measures.³⁰⁴ Personality studies are eliminated as a condition for access to early release. In March 2016 such studies were classified by the Supreme Court of Justice of the Nation as unconstitutional because they impinge on the individual’s privacy and run counter to the paradigm of criminal law.

174. In its 2014 Report on the Situation of Human Rights in Mexico, the information available to the Commission indicated that state detention centers, in addition to overcrowding, also suffer from serious and precarious prison conditions. In particular, civil society organizations reported on the existence of highly corrupt regimes and uncontrolled self-government within detention centers in terms of security and access to basic services, violence among inmates, lack of medical care, the lack of real opportunities for social reintegration, the absence of differentiated treatment, incidents of mistreatment, and other issues. In addition, according to the information received, disciplinary penalties imposed on inmates are disproportionate and lead to deplorable detention conditions contrary to basic standards ensuring human rights for persons deprived of liberty.

175. The IACHR expresses its concern regarding expansion of the model of privately managed prisons as well as the allocation of public funds to support a model that is contrary to international standards. To be noted is the information provided by civil society organizations in the hearing on the privatization of Mexico’s prison system,³⁰⁵ indicating that there is an excessive policy of discipline within prison centers and limited movement of inmates as they remained confined for most of the day.

176. With regard to overall prison conditions in municipal and district jails, the Commission calls attention to General Recommendation 28³⁰⁶ issued by the National Human Rights Commission (CNDH) referencing the irregular situation of persons held in municipal or district jails that were not designed for serving a prison term but rather for the administrative detention of those who violate government or police regulations. These centers do not have adequate facilities to ensure security and cover the basic needs of the inmate population in accordance with minimum standards, which ultimately results in denying those detained in these centers the right to social reintegration.³⁰⁷

177. The IACHR also notes that during 2016 violent events occurred that led dozens of persons deprived of liberty in Mexican jails to lose their lives or be injured. In this context, the Commission condemned the violent events that occurred on February 11 and June 1, 2016 at the Topo Chico prison in the

³⁰³ National Criminal Sentencing Law, Articles 24 and 25.

³⁰⁴ National Criminal Sentencing Law, Article 144.

³⁰⁵ IACHR, Hearing “[México, Privatización del Sistema Penitenciario](#)”, April 7, 2016, 157th period of sessions.

³⁰⁶ The National Human Rights Commission (CNDH) issued General Recommendation 28 on Irregular Detention in the Country’s Municipal and District Jails, indicating various anomalies in the operation of these centers. It felt that holding defendants or those who have been sentenced in those institutions is in violation of human rights because these spaces have been designed for violators of government or police regulations to complete an administrative detention, but not for serving a prison term, [Recomendación General No 28 sobre la reclusión irregular en las cárceles municipales and distritales de la República mexicana](#) September 13, 2016.

³⁰⁷ National Human Rights Commission, [Recomendación General No 28 sobre la reclusión irregular en las cárceles municipales and distritales de la República mexicana](#) September 13, 2016, p. 7

city of Monterrey, state of Nuevo León.³⁰⁸ Dozens of people were killed or wounded in those events. As a result of the violent events that occurred in February 2016, the Commission was informed that about 80% of the 233 inmates transferred were placed in penitentiaries managed by private companies. On these matters, the IACHR expressed its concern regarding what constitutes a pattern of state failure to adopt effective security measures to guarantee the rights to life and humane treatment of persons deprived of liberty. In particular, in the 2015 Report, the IACHR emphasized the serious situation in state penal centers in northern Mexico where the strong presence of organized crime has led to complex situations in which the inmates themselves wield absolute control over security, without supervision by the respective authorities. In the events that occurred during the first half of 2016, according to public information, the violence resulted from a critical situation of overcrowding³⁰⁹.

178. Despite the many problems facing Mexico's prison system, the Commission takes notes of the advances made in the strategy for social reintegration, which were incorporated in the National Criminal Enforcement Law, providing for measures to replace the sentencing of those deprived of liberty, such as community work.³¹⁰

179. Such measures will be determined and supervised by the criminal enforcement judge. Similarly, the law provides for the preparation of an activities plan for inmates to include the organization of times and places in which each detainee can engage in activities related to work, education, culture, healthcare, sports, personal interests, and restorative justice, according to the regime and organization of each center.³¹¹ The new law facilitates access to basic, secondary, and higher education,³¹² work-related training³¹³ and paid and unpaid work activities.

180. As explained in the section on mechanisms for preventing and investigating sexual violence against women in the context of the penitentiary system and more specifically sexual torture, there are still many challenges to be faced in fully guaranteeing the rights of women deprived of liberty in practice.

181. In addition, in the 2015 Report on the Situation of Human Rights in Mexico, the Commission was informed of the lack of public policies for addressing on a differentiated and specific basis the needs of women deprived of freedom in terms of medical care, particularly pregnant and nursing mothers. In this regard, the Commission salutes the recent advances incorporated in the LNEP, which includes a chapter defining the rights of women deprived of liberty in which reference is made to medical questions, infrastructure issues, and issues related to children detained with their mothers or who visit their mothers in prison³¹⁴. The law also established, *inter alia*, a mother's right to gynecological-obstetrical medical care and

³⁰⁸ IACHR, Press Release 016/16 [IACHR condena la muerte de 49 personas privadas de libertad en cárcel de Nuevo León, México](#). February 18, 2016. IACHR, Press Release 086/16, [IACHR condena violencia en cárcel de Nuevo León, México](#). June 23, 2016.

³⁰⁹ In its comments on the draft version of this report, the State said that at the 19 federal penitentiaries that were operational, there was space to house 28,036 inmates. There was currently a total of 23,119 registered inmates, representing 82% of the installed capacity. It further reported that the Federal Prison System had 24 CEFERESOs in operation with an installed capacity of 35,958 places, of which 2,528 were for women and 33,430 were for men. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³¹⁰ National Criminal Enforcement Law. Article 144. In its comments on the draft version of this report, the State noted that at the 13th National Prison System Conference, agreement 06/XIII/CNSP/SO/06/07/16 was presented for comments or, if applicable, for the approval of a Comprehensive Model for Social Reincorporation. It noted that a catalogue of reincorporation programs was available, including activities in all the technical areas within the prison facilities and post-prison services, which would be used to create individual plans of activities. These will subsequently be presented to the Technical Committee and, finally, sent to the corresponding enforcement judge. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³¹¹ National Criminal Enforcement Law. Article 3 Number XX.

³¹² National Criminal Enforcement Law. Article 84.

³¹³ National Criminal Enforcement Law. Article 87.

³¹⁴ In its comments on the draft version of this report, the State reported that in November 2016, the Chamber of Deputies adopted a ruling amending the Social Assistance Law to guarantee the rights of female inmates' children born and living in any

pediatric care during pregnancy, childbirth, and the postpartum period, the right to have her children stay with her in the center until they are three years old, and her right to live with them.³¹⁵ In its comments on the draft version of this report, the State indicated that Federal Social Readaptation Center No. 16, the Morelos Women's CPS, has a special area for children, with a playground, multipurpose rooms, and washrooms equipped for minors. It also said that women deprived of their freedom who have children and live with them dedicate their time exclusively to their care, in separate areas from the other women.³¹⁶ In addition, it reported that the National Federal Prison System Conference held in November 2016 adopted the following protocols: "Admission of children living in prisons with their mothers," "Accommodation of children in prison facilities," and "Visits and interviews at prison facilities with their mothers."³¹⁷

182. In addition, the Commission welcomes the law's determination that women should serve their sentences in penitentiaries separate from those intended for men. However, the provision is unclear when referring to prosecuted women as it establishes a general rule according to which persons who are prosecuted and sentenced should be imprisoned in different centers but does not specify whether they are women's or men's prisons.³¹⁸ In addition, the Commission takes note of a provision prohibiting the forced transfer of "pregnant women or women deprived of liberty whose children live with them in the penitentiary. If the woman deprived of liberty requests a transfer, the best interests of the child shall be served."³¹⁹ According to civil society organizations, the Criminal Enforcement Law (LNEP) generally complies with the international standards of the Bangkok Rules and the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.³²⁰

183. However, the Commission notes with concern the regulations' excessive concentration on the rights of women deprived of liberty and the absence of the gender approach in that law with respect to access to right to health in general,³²¹ such as a right to a medical checkup upon entry, health care, and preventive care³²². In addition, regarding the rights of mothers deprived of liberty, the IACHR calls attention to the distinction made among children, with respect to whom the CNDH filed an unconstitutionality motion³²³ in that only children born during imprisonment may remain at the center. For the CNDH this

preventive detention center and/or social reincorporation facility. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³¹⁵ National Criminal Enforcement Law, Mexico, published in the DOF on June 16, 2016, Article 6, available at: http://www.senado.gob.mx/comisiones/justicia/docs/Audiencias_LNEP/anteproyecto_281114.pdf

³¹⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³¹⁷ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁸² National Criminal Enforcement Law. Article 5.

³¹⁹ National Criminal Enforcement Law. Article 53.

³²⁰ Equis, Justicia para las Mujeres, Report on the Situation of Human Rights in Mexico, follow-up to the recommendations of the IACHR in its 2015 report. Mexico City, September 15, 2016.

³²¹ Equis, Justicia para las Mujeres, Report on the Situation of Human Rights in Mexico, follow-up to the recommendations of the IACHR in its 2015 report. Mexico City, September 15, 2016.

³²² In its comments on the draft version of this report, the State again indicated that medical attention was a priority in the day-to-day work of its Federal Social Readaptation Centers, together with providing the care needed and the medicines prescribed by physicians. The State cited the adoption of the protocol "Provision of health services by external health practitioners" by the National Federal Prison System Conference on November 29, 2016. This protocol sets rules for external health practitioners to provide health services, thereby upholding the right to health established in the Constitution and in international treaties and safeguarding the physical integrity and life of persons deprived of their liberty. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017

³²³ National Human Rights Commission, [Demanda de Acción de Inconstitucionalidad promovida por la CNDH](#) July 18, 2016.

constitutes differential and unjustified treatment that finds no objective or reasonable support, all the more so in the case of highly vulnerable minors.³²⁴

184. The LNEP includes a provision allowing the participation of civil society organizations, the objective of which is to protect the rights of persons deprived of liberty “to file administrative requests with the prison authority challenging facts, acts, or omission with respect to prison conditions.”³²⁵ Said mechanism was proposed by civil society organizations during the hearing on the rights of persons deprived of freedom and privatization held during the 157th session.

185. The Commission has expressed its concern regarding the information on the regimes of privatized centers and the search for international certification, which would be proposed and executed based on the maximum security structure of a U.S. prison model. This would lead to the application of regimes incompatible with human rights such as excessive restrictions on visits by family members and the public defenders of those deprived of liberty; limited access to open air, and recreational activities; excessive physical checks including visitors’ intimate body parts. In addition, the IACHR has expressed its concern regarding the lack of availability of information on contracts between the State and private companies in that information on contracting has been made subject to secrecy, as indicated in the 2015 report.³²⁶

186. During the 157th session, the IACHR held the hearing on privatization of the prison system in Mexico.³²⁷ In that hearing, civil society organizations reported that the state response to the prison crisis in Mexico has been to adopt privatized schemes for the governance and accreditation of prison centers. However, they indicated that such models lack a human rights approach and promote the lack of transparency, particularly in terms of limited public information on services delivery contracts and the conditions and guidelines of the public-private partnership scheme³²⁸ for the operation of prison centers.³²⁹ In addition, according to civil society organizations, the prison accreditation process has serious flaws.³³⁰ The Mexican State indicated that ACA accreditation has created incentives for safeguarding human rights. In its comments on the draft version of this report, the State indicated that this association has provided advice and accreditation to ensure that the physical facilities and operations of the participating centers are within the operational and functional parameters set by Mexican regulations and in compliance with international standards as regards security, protection, order, inmate care, programs, justice, and administration.³³¹

187. In this regard, the IACHR considers it a matter of concern that the national supervisory diagnosis of the National Human Rights Commission indicates that the principal human rights violations occur in centers certified by the ACA. According to this report, there is insufficient custodial capacity, deficiency in health care, food, prevention, handling of violent incidents, indecent treatment, self-government, and corruption.³³² In addition, the IACHR received information from civil society organizations indicating that the federal government published a [press release](#) reporting that the ACA recently “granted accreditation to

³²⁴ National Human Rights Commission, [Demanda de Acción de Inconstitucionalidad promovida por la CNDH](#) July 18, 2016.

³²⁵ National Criminal Enforcement Law. Articles 107 and 108.

³²⁶ IACHR, *Situation of human rights in Mexico*, December 31, 2015.

³²⁷ IACHR, Hearing “[Mexico, Privatization of the Prison System](#)”. April 7, 2016, 157th session.

³²⁸ La Ley de Asociaciones Público-Privadas adoptada en 2012 Disponible en: <http://www.diputados.gob.mx/LeyesBiblio/ref/lapp.htm>.

³²⁹ IACHR, Hearing “[México, Privatización del Sistema Penitenciario](#)”. April 7, 2016, 157th session.

³³⁰ IACHR, Hearing “[México, Privatización del Sistema Penitenciario](#)”, April 7, 2016, 157th session.

³³¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³³² See National Human Rights Commission, [Diagnóstico nacional de situación penitenciaria, ceresos, ceferesos and prisiones militares](#), 2015.

seven Federal Centers of Social Readaptation because they met 100% of the international standards.”³³³ However, that press release does not contain links or references so that citizens can find the standards applied by the ACA or the concrete data on which it based the accreditation.³³⁴ In its comments on the draft version of this report, the State said that information on compliance with individual standards was not released because that would undermine prison security and because the International Central Standards are the registered property of the ACA.³³⁵

188. In this regard, in communication dated October 26th 2015, and later communication dated March 17, 2016 – following up on the visit of the Rapporteurship of Persons Deprived of Liberty in September 2015 – la IACHR requested the Commissioner of the Prevention and Social Administrative Organ [*Órgano Administrativo Desconcentrado de Prevención y Readaptación Social*], information on the standards that guide the work of the detention centers in Mexico in order to be certified by ACA. However, until the date of approval of the present report, the IACHR had not received the requested information.

189. As of now various prison centers have received accreditation from the ACA and another nine state centers are in the process of being accredited. In this regard, the IACHR notes with concern that neither the Penitentiary Institute nor the Ministry of Defense have made the ACA standards public. In its comments on the draft version of this report, the State indicated that to date, 13 Federal Social Readaptation Centers had received ACA certification, among them the National Prison Administration Academy. By January 2017, it was planned for the 17 CEFERESOs to be totally accredited by the Association.³³⁶

Regarding migrants:

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

190. Within the context of protecting the rights of migrants and their employment rights as recommended in the *Report on the Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*, the IACHR salutes Mexico’s signing of a migrant labor agreement with El Salvador, Guatemala and Honduras this past October 14, 2016.³³⁷ That agreement establishes a memorandum of understanding on the subject of labor cooperation, to develop a joint plan to support migrant workers, as reported by the Secretariat of Labor and Social Welfare. This program provides for the possibility that

³³³ Centro de Derechos Humanos Miguel Agustín Pro Juárez AC. Report following up the Country Report on the “Situation of Human Rights in Mexico.” August 31, 2016.

³³⁴ Centro de Derechos Humanos Miguel Agustín Pro Juárez AC. Report following up the Country Report on the “Situation of Human Rights in Mexico.” August 31, 2016.

³³⁵ El Estado mexicano informó que la versión para los centros penitenciarios de Estados Unidos de Norteamérica puede consultarse en la página web de la organización http://www.aca.org/aca_prod_imis/aca_member. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³³⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³³⁷ Government Secretariat. Memorandum of Understanding in the Area of Labor Cooperation with El Salvador, Guatemala and Honduras. Available at: <http://www.gob.mx/stps/galerias/memorandum-de-entendimiento-en-materia-de-cooperacion-laboral-con-el-salvador-guatemala-y-honduras?idiom=es>.

workers from the three Central American countries will be able to work in Mexico for a period of no more than 180 days in the agricultural and services sectors during periods defined by greater demand. According to the information received, in order to prevent abuses in the hiring process and possible human rights violations, the four countries agreed that the employment relationship will be established through the National Employment Service.³³⁸

191. However, with respect to the general recommendation on strengthening protection for migrant workers and their families, the IACHR notes that the situation of agricultural workers and day laborers who work on large plantations continues to be one of the most significant challenges in the area of migration policy. According to the report on the visit of the Working Group on Business in Mexico,³³⁹ official statistics confirm that out of a total of 2.42 million day laborers and agricultural workers, more than 800,000 (34%) receive no compensation, while another 750,000 (31%) earn only the minimum salary or even less. Most agricultural day laborers are migrant workers who migrate from southern states northward following the harvests. According to the Working Group, the CNDH has documented various cases of abusive conditions affecting migrant day laborers who often travel with their children.³⁴⁰ In its comments on the draft version of this report, the State said that in 2015, the Secretariat of Labor and Social Welfare (STPS) and the National Institute for the Development Rural Sector Capacities (INCA Rural) signed a series of Cooperative Bases for recognizing the job skills of agricultural day laborers. Between September 1, 2015, and June 30, 2016, the job skills of 8,592 agricultural day laborers in 11 of the nation's states were certified. Of that total, 2,638 were women and 5,954 were men.³⁴¹ Mexico also reported that in April 2016, President Enrique Peña Nieto sent Congress an initiative to amend the Constitution and the Federal Labor Law, with the proposed changes addressing the modernization of labor justice to strengthen the autonomy and efficiency of the labor justice administration.³⁴²

192. With respect to the general human rights situation of migrants, during the hearing on the general human rights situation in Mexico, civil society organizations expressed their concern regarding implementation of the Comprehensive Southern Border Program with reference to the migration framework.³⁴³ According to the petitioners, because the Comprehensive Southern Border Program emphasizes an approach to migration focused on national security and the control of migration flows instead of a approach for the protection of the rights of migrants,³⁴⁴ militarization of the southern border has led to inappropriate responses to the migration crisis as the military are not empowered to verify migration issues according to differentiated criteria, particularly with respect to the use of migrant detention, which has a disproportionate effect on children, adolescents, women, and asylum-seekers.³⁴⁵ Similarly, according to Amnesty International, implementation of the Southern Border Program has led to an increase in deportations and detentions of migrants entering Mexico to the point that the number of Central American migrants deported from Mexico exceeded the number deported from the United States.³⁴⁶

³³⁸ La Jornada, [México firma acuerdo migratorio laboral](#), October 14, 2016.

³³⁹ United Nations Working Group on Business and Human Rights, [Declaración del Grupo de Trabajo de Naciones Unidas sobre empresas and derechos humanos sobre su visita a México](#), Mexico City, September 7, 2016, p. 7.

³⁴⁰ United Nations, [Declaración del Grupo de trabajo de Naciones Unidas sobre empresas and derechos humanos a: final de su visita a México](#), September 7, 2016.

³⁴¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁴² Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁴³ IACHR, Hearing [Situación General de Derechos Humanos en México](#), April 7, 2016, 157th session.

³⁴⁴ IACHR, [Situation of human rights in Mexico](#), December 31, 2015, para. 279.

³⁴⁵ IACHR, Hearing [Situación General de Derechos Humanos en México](#), April 7, 2016, 157th session.

³⁴⁶ Amnesty International, [Informe Anual 2015 de México](#), December 2015.

193. The Commission notes that, according to information received from civil society organizations, migration control operations have increased although the Mexican authorities have not substantially improved their ability to identify the migrants' need for protection or to investigate crimes against migrants in transit through the country.³⁴⁷

194. In its comments on the draft version of this report, the State said that 22 Beta Migrant Protection Groups were currently operational, comprising 154 members from the three levels of government (114 federal, 11 state, and 29 municipal).³⁴⁸ It also reported that the National Migration Institute had granted 87 entry authorizations to representatives of civil society for them to conduct oversight visits at migration stations and temporary shelters. The State reported that in 2016, the CNDH referred 546 complaints for alleged human rights violations by public servants attached to the National Migration Institute; of these, it concluded 300 cases and found violations in one.³⁴⁹

195. During the 2015 visit, the IACHR found *in situ* that the situation of insecurity and violence affecting the country has a severe and disproportionate impact on internally displaced persons. As the IACHR noted in its report on "Human rights of migrants and others in the context of human mobility in Mexico" in 2013, violence linked to organized crime has also meant that thousands of people have been forced to move internally in Mexico in recent years.³⁵⁰ As of the approval date of the 2015 Country Report on Mexico, internal displacement had not been comprehensively documented and analyzed by the State, which was the major obstacle to a comprehensive response. In this respect, the IACHR reiterates its concern regarding the lack of official information on internal displacement.

196. In the public hearing on the "Human Rights Situation of People Affected by Internal Displacement in Mexico," that took place in Panama on December 7th 2016, the participating organizations reported that there is still an alarming level of displacement in Mexico, due to continuing acts of serious violence and natural disasters, among other causes.³⁵¹ They reported that in 2016, there had been 25 large-scale episodes of displacement with an impact on more than 10,000 people, mainly in the states of Guerrero and Sinaloa. They claimed that public authorities are not adopting the measures necessary to prevent and address this problem; that the Victims Act, as written, did not include a focus on helping those affected by displacement; and that thousands of displaced people, primarily women and children, are forced to stay in shelters that are not equipped to provide comprehensive services. For its part, the State reported that the issue of displacement is very important and that a series of comprehensive strategies have been pursued, with a focus on human rights, to prevent the causes and consequences of displacement. The State said that a series of actions related to infrastructure, health, housing rehabilitation, security, and other matters are being implemented, and that the possibility of amending the Victims Act to address the situation of displaced people in Mexico is being studied. The Commission expressed its concern regarding the multidimensional impact on

³⁴⁷ Washington Office for Latin America, FUNDAR and Casa Migrante El Saltillo. A Trail of Impunity, Thousands of Migrants in Transit Face Abuses amid Mexico's Crackdown. September 2016, p. 8.

³⁴⁸ According to the State, the Beta Migrant Protection Groups are charged with providing migrants with humanitarian assistance, first aid, migration assistance, guidance, and information about their rights, regardless of their nationality or immigration status, and they also have Child Protection Officers to provide specific attention to unaccompanied children and adolescents. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁴⁹ Similarly, it reported that between 2013 and 2016, a total of 3,992 public servants received training in the "Legality and Human Rights" course, which comprises a joint effort with the UNHCR High Commissioner, the CNDH, and the INM. It also reported that courses had been organized to provide training for personnel from the INM and the Offices of the Attorneys for the Protection of Children across the country, and that a pilot project on the Protocol was implemented at the Federal District Migration Station. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁵⁰ See, IACHR, *Human rights of migrants and other persons in the context of human mobility in Mexico*. OEA/Ser.L/V/II. Doc. 48/13. December 30, 2013, para. 71.

³⁵¹ IACHR, Public Hearing, Human Rights Situation of People Affected by Internal Displacement in Mexico, 159 Period of Sessions, Panama.

the human rights of people who are affected by a situation of displacement, and urged the State to strengthen its public policies designed to take a comprehensive approach to the situation.

197. The State informed the Commission that the phenomenon of internal displacement reflects events that are neither systematic nor widespread violations of human rights, and that when this type of movement of people has been detected, the authorities acting within their powers address the specific situation of the victim population or violations of their human rights.³⁵² The State also indicated that analysis of each of the factors in forced internal displacement as well as the nature of movements caused by violence indicates that “the phenomenon of internal displacement in Mexico does not reflect any of the aspects of internal forced displacement, and the State thus feels that the appropriate treatment should be through the victim of the crime and human rights violations.”³⁵³

198. For its part, the National Human Rights Commission (CNDH) published a Special Report on Internal Forced Displacement on May 11, 2016, a report welcomed by the IACHR. This is the first report issued by a Mexican state body addressing these problems and offering an approach to the vulnerable situation of this population segment. The CNDH identifies as the principal causes of displacement the widespread violence resulting from the security strategy and the climate of corruption and impunity that leads to numerous human rights violations. The report emphasizes that there are approximately 35,433 victims of forced displacement and Tamaulipas is the state reporting the highest percentage of victims, accounting for 60% of the total.³⁵⁴

199. According to the information provided by the CNDH, there is currently no census of the displaced population that would provide information broken down according to the cause of displacement, the place of origin and destination, and the age and sex of displaced persons. In addition, the IACHR emphasizes that according to the information provided, the displacement figure could be much higher than that recorded in the CNDH report. The organization Mexican Commission for the Promotion and Defense of Human Rights, affirms that according to the monitoring carried out, in Mexico there are at least 287,358 displaced persons within the country.³⁵⁵

200. In this report, the CNDH emphasized the lack of a diagnosis and limited official information. Moreover, there is no institutional structure with powers covering the treatment of displaced persons who are in an unprotected situation and face the possibility of being re-victimized.³⁵⁶ The State reported that there are two state level entities that have issued laws on the subject of forced internal displacement, without specifying which states these are. The State also indicated that there is no information on the mechanisms used in any specific case.³⁵⁷

201. The most important recommendation made to the Mexican government by the CNDH is official recognition that the problem of internal forced displacement exists and the adoption of measures to

³⁵² Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

³⁵³ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

³⁵⁴ The CNDH also indicates that displacement has been produced by violence, human rights violations, natural disasters, development projects, and self-defense groups and as a consequence of the practice of journalism. Manifestations of crime such as extortion, threats, destruction of homes, murder, and abduction are among the most frequent causes of displacement. National Human Rights Commission. [Informe Especial Sobre Desplazamiento Forzado Interno en México](#), May 2016.

³⁵⁵ CMDPDH, Inputs for report on follow-up to the report on Mexico. Between 2011 and now there have been 154 episodes of mass displacement (more than ten families) in 15 states: Baja California (3%), Chiapas (7.7%), Chihuahua (5%), Coahuila (1%), Durango (5%), México (2%), Guerrero (21.5%), Michoacán (14%), Morelos (1%), Nuevo León (4.3), Oaxaca (4.7%), Sonora (.5%) Tamaulipas (12%), Sinaloa (16%), and Veracruz (1.3%) basically due to organized crime.

³⁵⁶ National Human Rights Commission. [Informe Especial Sobre Desplazamiento Forzado Interno en México](#), May 2016, p. 146.

³⁵⁷ Mexican Government, Response to the request for information on the status of attention to the recommendations contained in the 2015 Country Report presented on November 10, 2016. Note OAS-02902 of November 17, 2016.

address the problem from a humanitarian perspective. Similar to the response submitted to this Commission, the information submitted by the Government Secretariat for preparation of the referenced report concludes that, in accordance with international standards, none of the factors necessary to configure a situation of forced displacement have been established and thus “although human mobility due to violence does exist, it is not widespread in nature.”³⁵⁸

202. The IACHR reiterates its recommendation on developing a national and official diagnosis of the scope of internal displacement in Mexico to provide the analytical data needed to design public policy on the displaced population as well as to implement protocols consistent with international standards in this area, particularly the Guiding Principles on Internal Displacement.

Regarding human rights defenders:

- Strengthen the agencies in charge of protection of human rights defenders and journalists, so that their life and integrity can properly be guaranteed. At the same time, the State is urged to incorporate gender and multicultural perspectives in the design and adoption of protection measures for defenders and journalists.

203. In the hearing on the Situation of Human Rights in Mexico, held on April 7, 2016 during the 157th session, the representatives of the State reported on their efforts to improve the National Mechanism created to protect human rights defenders. In this regard, they advanced an operational process in conjunction with Freedom House to analyze lags in the analysis of cases, incorporate gender perspectives, and conduct a collective analysis of risks. As a result, guidelines were developed to strengthen the area of prevention, preliminary investigations, and inquiries.³⁵⁹ The IACHR develops advances and challenges regarding the Mechanism for Defenders and Journalists later in its report.

204. The IACHR also received information during 2016 regarding a media campaign against various human rights defenders and organizations accused of fraud and corruption, of defending alleged criminals, and of promoting impunity by making false allegations of torture.³⁶⁰ At the hearing referred to in the previous paragraph, the IACHR urged the State to take decisive measures to respond to the sharp public attacks in Mexico on the work of the Interdisciplinary Group of Independent Experts (GIEI) and even the injury done to then Executive Secretary of the Commission due to the criminal complaint filed against him in the country in relation to the work of the GIEI.³⁶¹ In this regard, three United Nations human rights experts urged the Mexican government to “express its complete support for the work of human rights defenders and organizations in civil society, and to actively counter the current stigmatization campaign that seeks to undermine their work as promoters of fundamental freedoms in the country.” According to the press release: “The experts’ appeal occurs within the context of a wave of criticism in various Mexican media outlets against human rights defenders, non-governmental organizations, and members of international human rights organizations that is impairing the climate for the protection and promotion of human rights in the country.”³⁶² In the press release, the United Nations experts also addressed the fact that various national and

³⁵⁸ National Human Rights Commission. [Informe Especial Sobre Desplazamiento Forzado Interno en México](#), May 2016, p. 85.

³⁵⁹ Under-Secretariat of Human Rights, Unit for the Defense of Human Rights. [Informe de actividades. Ejercicio 2015. Mechanism for the Protection of the Human Rights of Defenders and Journalists](#), p. 55.

³⁶⁰ United Nations, [Expertos de la ONU piden a México contrarrestar la campaña de desprestigio and respaldar a los defensores de derechos humanos](#), April 6, 2016.

³⁶¹ IACHR, Public Hearing, Situation of Human Rights in Mexico, April 7, 2016. In its comments on the draft version of this report, the State said that the complaint against the then Executive Secretary of the Inter-American Commission on Human Rights (IACHR), Emilio Álvarez Icaza, was submitted to the PGR by a private citizen, and that the State was not involved in its presentation. It also noted that it was found not to meet the admissibility requirements and so the PGR resolved not to take any criminal action, and that the decision was conveyed to the Secretariat of the Interior, in its capacity as the representative of the federal government, on April 4, 2016. Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

³⁶² United Nations, [Expertos de la ONU piden a México contrarrestar la campaña de desprestigio and respaldar a los defensores de derechos humanos](#), April 6, 2016.

international organizations and experts involved in the investigation of the forced disappearance of the students of Ayotzinapa, including the GIEI of the Inter-American Commission on Human Rights, have been subjected to campaigns to discredit their work and the results of their investigations. In addition, a high-level United Nations human rights advisory body urged Mexico to protect Mariclaire Acosta against a series of attacks and threats she has endured in the country.³⁶³

205. In a press release issued by the three United Nations human rights experts, the United Nations Special Rapporteur on the situation of human rights defenders indicated that “the Mexican authorities should publicly recognize that defending human rights and the victims of violations of human rights is not only legitimate, but fundamental to strengthen the rule of law, accountability, and democracy within the country.”³⁶⁴

206. The human rights protection bodies of the Inter-American system have repeatedly noted that human rights defenders, from different sectors of civil society and, in some cases, state institutions, provide fundamental support for the existence and strengthening of democratic societies. Accordingly, respect for human rights in a democratic country depends to a large extent on the effective and adequate guarantees that human rights defenders enjoy in order to freely exercise their activities.³⁶⁵

207. The Mexican State must publicly recognize that promoting and defending human rights is a legitimate activity and that, in exercising such actions, human rights defenders are not opposing the institutions of the State but, on the contrary, are promoting the strengthening of the rule of law and the expansion of the rights and guarantees of all. All local level government authorities and officials must be aware of the principles related to the activities of human rights defenders and their protection, as well as the guidelines applicable to the observance thereof.

208. In its comments on the draft version of this report, the State indicated that “Mexico is deeply committed to the adoption of measures to allow defenders and journalists to carry out their work and, in particular, to deal with the cases presented in which protection must be afforded.” The State cited various examples in which it has recognized the work of defenders and journalists: the address by President Enrique Peña Nieto during the [Presentation Ceremony of the 2016 National Human Rights Prize](#), the address by the Secretary of the Interior at the inauguration of the 55th special session of the Inter-American Court, and the remarks made by the Undersecretary for Multilateral Affairs and Human Rights at the [43rd regular session of the Board of Governors of the Mechanism for the Protection of Human Rights Defenders and Journalists](#).³⁶⁶

Regarding freedom of expression, the Commission recommends that the Mexican State:

- Recognize, at the highest levels of the State, the legitimacy and the value of journalistic work, and condemn attacks as reprisals for the exercise of the freedom of expression.
- Define a single methodology to generate and publish detailed and disaggregated statistics regarding violence against journalists and investigations of attacks, as well as the protection measures adopted. Define a State authority in charge of capturing information and publishing

³⁶³ Mariclaire Acosta was appointed in 2013 as one of five eminent world experts on human rights of the Board of Trustees of the Voluntary Fund of the United Nations for Technical Cooperation in the Field of Human Rights and the Voluntary Fund for Financial and Technical Assistance for Monitoring of the Universal Periodic Review. United Nations, [Expertos de la ONU urgen al Gobierno de México para que asegure la protección de defensores de derechos humanos en vista de la campaña de descrédito que enfrenta una reconocida activista](#), May 30, 2016.

³⁶⁴ United Nations, [Expertos de la ONU piden a México contrarrestar la campaña de desprestigio and respaldar a los defensores de derechos humanos](#), April 6, 2016.

³⁶⁵ IACHR, Report on the situation of human rights defenders in the Americas, paras. 20-41. Available at: <http://www.IACHR.org/countryrep/defensores/defensorescap1-4.htm>

³⁶⁶ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

statistics, and inform the various actors regarding the challenges that arise in the application of said methodology.

- Remove all obstacles so that, in practice, the Specialized Prosecutor's Office for Attention to Crimes against Freedom of Expression (FEADLE) may absorb investigation of crimes against journalists and against freedom of expression. In this way, make more effective the exercise of federal jurisdiction over crimes within its competence and guarantee that the most serious violations of freedom of expression are always investigated by that Office.
- Maintain the FEADLE's character as a specialized prosecutor's office and vest it with sufficient financial and human resources so that it may achieve its objectives.
- Adopt special protocols for the investigation of murders pursuant to which the hypothesis of a relation to the journalistic profession is exhausted completely.
- Improve the existing relationship between the federal and state jurisdictions with the objective of avoiding competence conflicts that impede or delay investigations.
- Allow victims, their families and, when applicable, assisting third parties to participate in the criminal processes with full guarantees, both for the search of the truth and for clarifying the facts, as well as at the time of demanding reparations.

209. In its report on the *Situation of Human Rights in Mexico* the IACHR expressed its concern over the increase in different types of attacks and killing of journalists and communicators in Mexico. As of October 2016, the Office of the Special Rapporteur documented nine murders of journalists, a figure exceeding that recorded in 2015 when six journalists were killed.

210. Killing journalists and media workers is the most radical type of censorship. Nonetheless, the Rapporteurship has also been able to document and has received complaints demonstrating the persistence of other types of attacks against those exercising their right to freedom of expression in Mexico, such as disappearances, threats, physical assaults, attacks on media facilities, and other attacks.

211. As the IACHR indicated in the report on the *Situation of Human Rights in Mexico* the high rates of impunity for crimes against journalists are of great concern for the IACHR and its Special Rapporteurship. Both the Commission and the Inter-American Court have referred to the chilling effects that crimes against journalists have on other media professionals and on citizens who seek to report abuses of power or illegal activity of any kind.³⁶⁷ This chilling effect can only be avoided by "decisive action by the State to punish those responsible, as required by its obligation under international and domestic law."³⁶⁸

Killings

212. On January 31, the journalist Marcos Hernández Bautista was killed in San Andrés Huaxpaltepec, state of Oaxaca. Hernández was a correspondent for the daily newspaper *Noticias Voz e Imagen de Oaxaca* and collaborated with some other communications media. He also served as a public official in his local government and was active in the National Regeneration Movement party. According to the editorial director of the paper, the journalist had expressed fear regarding possible reprisals in response to the publication of articles dealing with "political interests and the interests of bosses in the region." However, the State informed the Special Rapporteurship that the Mechanism for the Protection of Human Rights Defenders

³⁶⁷ I/A Court of H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objective, Merits, Reparations and Costs. Judgment of September 3, 2012. Serie C No. 248, para. 148; IACHR, Report No. 136/10. Case 12.658. Luis Gonzalo "Richard" Vélez Restrepo and Family (Colombia). October 23, 2010, para. 136; IACHR, Report No. 50/99. Caso =e11.739. Héctor Félix Miranda (Mexico), April 13, 1999, para. 52; IACHR, Report No. 130/99, Case No. 11.740, Víctor Manuel Oropeza (Mexico), November 19, 1999, para. 58. See also también, IACHR, *2010 Annual Report*, Report of the Special Rapporteurship for Freedom of Expression. Chapter II: Special Report on Freedom of Expression in Mexico, 2010. OEA/Ser.L/V/II. Doc. 5. March 7, 2011, para. 716.

³⁶⁸ IACHR, Report No. 136/10. Case 12.658. *Luis Gonzalo "Richard" Vélez Restrepo and Family* (Colombia), October 23, 2010, para. 136; IACHR, Report No. 50/99, Case 11.739, *Héctor Félix Miranda (Mexico)*, April 13, 1999, para. 52; IACHR, Report No. 130/99. *Case No. 11.740, Víctor Manuel Oropeza (Mexico)*, November 19, 1999.

and Journalists had not recorded threats, assaults, or harassment against him or a request to guarantee his safety.”³⁶⁹

213. On February 25, Jorge Armando Santiago Martínez, First Commander of the Second Shift of the Municipal Police of Santiago Jamiltepec was taken into custody as being responsible for the murder of the journalist Marcos Hernández Bautista. The Prosecutor’s Office of the state of Oaxaca stated that there is probably another person responsible for whom there is an arrest warrant.³⁷⁰

214. On February 9, the journalist Anabel Flores Salazar was found lifeless on the highway of the state of Puebla. She had been taken from her home on February 8 in the community of Orizaba, Veracruz by armed men who came looking for her in three trucks and, when they found her in one of the rooms, forced her into one of the vehicles and fled.³⁷¹ Flores Salazar worked as a political reporter for the local paper *El Sol de Orizaba*.³⁷²

215. After learning of her disappearance, the State of Veracruz Commission for the Attention of Journalists announced in a press release that it had initiated a protective measures procedure to find the journalist and provided protection to her family, after it learned of the kidnapping.³⁷³ After learning of the journalist’s death, the Prosecutor’s Office of Veracruz insinuated that the events had occurred as the result of a romantic relationship the journalist had with a member of a criminal organization.³⁷⁴ That version was rejected by journalists, civil society organizations and members of the Veracruz parliament, who also demanded an exhaustive investigation and an adequate response from state authorities, particularly the investigative agency, in order to shed light on the facts and exhaust the hypothesis of the relationship with her work as a journalist.³⁷⁵

216. A few days after her murder, the governor of the state of Veracruz, Javier Duarte, announced via twitter that a member of the criminal gang *Los Zetas* was the mastermind of the journalist’s murder. He also stated that Flores had made complaints against organized crime on social networks, using a

³⁶⁹ Special Rapporteurship for Freedom of Expression, January 27, 2016. [Comunicado de prensa R4/16. La Relatoría Especial condena un nuevo asesinato de un periodista en México](#); Freedom House. January 23, 2016. [Debe investigarse el asesinato del periodista Marcos Hernández Bautista](#); Committee for the Protection of Journalists (CPJ). January 26, 2016. [Periodista crítico asesinado en Oaxaca](#); Reporters without Borders. January 29, 2016. [Asesinados los periodistas Reinel Martínez Cerqueda and Marcos Hernández Bautista](#).

³⁷⁰ *Proceso* magazine. February 25, 2016. [Un policía, presunto asesino del periodista Marcos Hernández](#) [Suspected killer of Marcos Hernández is a police officer]; Knight Center. February 26, 2016. [Comandante de la policía detenido por asesinato de periodista en México](#) [Senior police officer arrested for murder of journalist in Mexico]; *Excélsior*. February 25, 2016. [Detienen a presunto asesino de periodista oaxaqueño](#) [Alleged killer of Oaxacan journalist arrested].

³⁷¹ CPJ. February 8, 2016. [Periodista de la fuente policíaca secuestrada en Veracruz](#); Article 19. February 8, 2016. [Es responsabilidad de las autoridades federales and locales localizar con vida a la periodista Anabel Flores](#); Animal Político. February 8, 2016. [Hombres armados secuestran a la reportera Anabel Flores Salazar, en Veracruz](#).

³⁷² Special Rapporteurship for Freedom of Expression. [Comunicado de prensa R11/16. La Relatoría Especial condena el asesinato de una periodista en México](#); United Nations. Office of the High Commissioner for Human Rights, Mexico. February 11, 2016. [ONU-DH and ONU-Mujeres condenan el asesinato de la periodista veracruzana Anabel Flores](#); CPJ. February 9, 2014. [Hallan en Puebla cuerpo de periodista veracruzana desaparecida Anabel Flores Salazar](#); Freedom House. February 11, 2016. [Mexico: Count of Murdered Journalists in Veracruz Now Sixteen](#); RSF. February 10, 2016. [Asesinada la periodista Anabel Flores Salazar](#); Sin embargo. February 9, 2016. [Anabel Flores Salazar, 32 años, madre de dos bebés and periodista de Veracruz, fue asesinada](#).

³⁷³ Comisión Estatal para Atención y Protección de los Periodistas. 8 de febrero de 2016. [Press Release 055. Anabel Flores Salazar](#); Comisión Estatal para Atención y Protección de los Periodistas. 9 de febrero de 2016. [Press Release 006. La CEAPP condena el homicidio de Anabel Flores Salazar](#)

³⁷⁴ E-Consulta Veracruz. February 8, 2016. [Fiscalía vincula a reportera de Orizaba con la delincuencia](#); Vanguardia. February 8, 2016. [Fiscalía de Veracruz criminaliza a Anabel Flores Salazar, reportera desaparecida](#).

³⁷⁵ Senate of the Republic, February 11, 2016. Bulletin No. 1047. [Senadores piden que caso de la periodista Anabel Flores sea atraído por la PGR](#); Animal Político. February 10, 2016. ["Criminalizar a periodistas asesinados es cobarde": reporteros de Veracruz](#); Office in Mexico of UN Women and United Nations Office of the High Commissioner for Human Rights, (ONU-DH) Mexico. February 11, 2016. [ONU-DH and ONU-Mujeres condenan el asesinato de la periodista veracruzana Anabel Flores](#); National Center for Social Communication (Cencos). February 11, 2016. [Pronunciamiento ante el feminicidio de la periodista Anabel Flores](#).

pseudonym.³⁷⁶ On May 4, the Prosecutor indicated at a press conference that another person implicated in the crime had been captured and also indicated that the death of Flores was related to her work because one of her reports had bothered the *Los Zetas* criminal organization to which the accused belonged.³⁷⁷ The State informed the Office of the Special Rapporteur on September 9 that the First Prosecutors Unit of the Integrated Unit for Obtaining Justice of the City of Orizaba, Veracruz (*Fiscalía Primera de la Unidad Integral de Procuración de Justicia de la Ciudad de Orizaba, Veracruz*), had opened an investigative file that is being processed, and that the Directorate of Preliminary Investigations of the FEADLE (*Dirección de Averiguaciones Previas de la FEADLE*) had begun the Minutes of Verification (*Acta Circunstanciada*) which are also in process³⁷⁸.

217. The journalist Moisés Dagdug Lutzow was murdered on February 20 in the state of Tabasco. Persons unknown entered his house, stabbed him, and then left in his vehicle, which was found hours later on the highway in the city of Villahermosa. According to the available information, Dagdug Lutzow was recognized as the owner of the communication company *Grupo VX* and for presenting a radio program on channel XEVX, *La grande de Tabasco*. The journalist commented on various occasions that he had been the victim of anonymous verbal threats, allegedly because of his critical position against the Tabasco state government, headed by Arturo Núñez Jiménez.³⁷⁹ On May 2, the Prosecutor of Tabasco revealed progress made in the investigation and indicated that a joint operation with the Federal Police had arrested the alleged murderer of Dagdug Lutzow.³⁸⁰ The State informed the Office of the Special Rapporteur on September 9 that the Attorney General's Office had begun an investigation of the case that is currently underway³⁸¹.

218. The journalist Francisco Pacheco Beltrán was murdered on April 25 in Taxco, state of Guerrero, Mexico. According to the available information, Pacheco worked for *El Sol de Acapulco*, *El Faro de Taxco* and the radio station *Capital Máxima de Chilpancingo*. He also had his own news portal, *Pacheco Digital*, where he covered events occurring in his state, one of the most violent in the country.³⁸² Journalists from Guerrero marched to demand justice in his case.³⁸³

³⁷⁶ Twitter account of Javier Duarte @Javier_Duarte. "A Josele Marquéz (a) El Chichi se le relaciona entre muchos crímenes la autoría intelectual del asesinato de la periodista Anabel Flores". [13 de febrero de 2016](#); Twitter account of Javier Duarte @Javier_Duarte. "Anabel Flores bajo el seudónimo de Mariana Contreras publicó lo siguiente luego de la detención del Chichi." [13 de febrero de 2016](#); Twitter account of Javier Duarte @Javier_Duarte. Una vez que detuvimos a Josele Márquez (a) El Chichi, la Fuerza Civil de #Veracruz resguarda las instalaciones del periódico "El Buen Tono". [13 de febrero de 2016](#); El Economista. February 13, 2016. [Arrestan a presunto asesino de periodista Anabel Flores](#); El Financiero. February 13, 2016. [Arrestan a presunto asesino de la reportera Anabel Flores](#).

³⁷⁷ State Prosecutor's Office. May 4, 2016. [Esclarece FGE homicidio de periodista Anabel Flores](#); un detenido. May 4, 2016; Tiempo. May 5, 2016. [Esclarece FGE muerte de reportera Anabel Flores](#); Excélsior. May 5, 2016. [Cae presunto asesino de la periodista Anabel Flores: está ligado al narco](#).

³⁷⁸ Estados Unidos Mexicanos. Informe del Estado mexicano en respuesta a la Solicitud de Información conforme al artículo 41 de la Convención Americana sobre Derechos Humanos transmitida el 12 de agosto de 2016. 9 de septiembre de 2016. Available at: Archivos de la Relatoría Especial.

³⁷⁹ Relatoría Especial para la Libertad de Expresión. 25 de febrero de 2016. [Comunicado de prensa R22/16. La Relatoría Especial condena el asesinato de un periodista en México, el tercero en ese país en los dos primeros meses de 2016](#); Committee to Protect Journalists (CPJ). February 22, 2016. [Dueño de medios, amenazado por sus reportajes, fue asesinado en México \[Media owner threatened for his reporting killed in Mexico\]](#); Reporters Without Borders (RSF). February 24, 2016. [Moisés Dagdug Lutzow, cuarto periodista mexicano asesinado en 2016 \[Moisés Dagdug Lutzow: Fourth Mexican journalist killed in 2016\]](#); Freedom House. 22 de febrero de 2016. [Debe investigarse el asesinato del periodista Moisés Dagdug Lutzow](#); Fiscalía General del Estado de Tabasco. 20 de febrero de 2016. [Information Bulletin No. 1131. Comuniqué](#); Aristegui Noticias. 20 de febrero de 2016. [Tabasco: asesinan al empresario, político y periodista Moisés Dagdug Lutzow](#); Proceso. 26 de febrero de 2016. [Descartan robo en crimen del empresario Moisés Dagdug Lutzow](#).

³⁸⁰ Office of the General Prosecutor of Tabasco. May 2, 2016. [Information Bulletin No. 1161. Investigación de la FGE ubica a presunto homicida del empresario Moisés Dagdug; ya se encuentra detenido \[FGE investigation locates suspected killer of businessman Moisés Dagdug; now under arrest\]](#); Knightcenter. May 2, 2016. [Capturan a presunto asesino del periodista and empresario de medios mexicano Moisés Dagdug](#); Proceso. April 30, 2016. [Detienen a presunto asesino del empresario de Tabasco Moisés Dagdug](#).

³⁸¹ Estados Unidos Mexicanos. Informe del Estado mexicano en respuesta a la Solicitud de Información conforme al artículo 41 de la Convención Americana sobre Derechos Humanos transmitida el 12 de agosto de 2016. 9 de septiembre de 2016. Disponible para consulta en Archivos de la Relatoría Especial for Freedom of Expression.I.

³⁸² Office of the Special Rapporteur for Freedom of Expression. April 29, 2016. [Comunicado de prensa R57/16. La Relatoría Especial condena un nuevo asesinato de un periodista en México](#); National Human Rights Commission (CNDH). [Expresa CNDH su](#)

219. On May 4, the head of FEADLE announced that his office would exercise its jurisdiction to handle the case and at the same time announced the opening of the preliminary investigation into the murder of Pacheco. In addition, FEADLE and the Executive Commission for Attention to Victims (CEAV) offered support to the journalist's family and the protection, attention, and aid measures recognized by law.³⁸⁴ The State informed the Office of the Special Rapporteur on September 9 that the FEADLE had begun a preliminary inquiry into the events and that this is currently underway. It also indicated that the victim's family members were incorporated into the Mechanism for Protection³⁸⁵.

220. The journalist Manuel Torres González was murdered on May 14 in Poza Rica, state of Veracruz. Torres had been a correspondent for *TV Azteca* and a reporter for *Diario Noreste*. He had recently launched his own website called *Noticias MT* and according to the available information on occasion he collaborated with the town council of Poza Rica.³⁸⁶ Through a press release, the General Prosecutor's Office of the state of Veracruz indicated that the facts would be investigated, without making any mention of the journalistic work of Torres.³⁸⁷ The Veracruz State Commission for the Attention and Protection of Journalists condemned the murder and urged the authorities to conduct a diligent investigation to shed light on the murder.³⁸⁸

221. On June 19, the journalist Elidio Ramos Zárate was murdered in Juchitán de Zaragoza, Oaxaca. According to the available information, Ramos had covered the disturbances between teachers and police agents in Oaxaca; he was murdered on the street when he was approached by persons unknown who shot him. Ramos Zárate worked for *El Sur*, *Diario Independiente* and covered the police source.³⁸⁹

222. On June 20, journalist Zamira Esther Bautista was killed in the city of Victoria in Tamaulipas State. Bautista worked as an independent reporter and had worked as a social reporter for the newspapers *El*

[indignación por el asesinato del periodista Francisco Pacheco Beltrán ocurrido en Taxco, Guerrero](#); CPJ. April 25, 2016. [Reportero mexicano asesinado a balazos en el estado de Guerrero](#); Article 19. April 25, 2016. [Francisco Pacheco, cuarto periodista asesinado en 2016](#); El País. April 25, 2016. [Asesinado a tiros un periodista a la puerta de su casa en México](#); El Universal. April 25, 2016. [Asesinan a periodista Francisco Pacheco en Taxco](#); Sin embargo mx. April 25, 2016. [El periodista Francisco Pacheco es asesinado afuera de su casa en Taxco, Guerrero](#).

³⁸³ Televisa Hermosillo. April 27, 2016. [Marchan periodistas de Guerrero por asesinato de reportero](#) [Guerrero journalists march for murdered reporter].

³⁸⁴ Animal Político. May 3, 2016. [PGR abre una averiguación previa por el homicidio del periodista Francisco Pacheco](#); TelevisaNews. May 4, 2016. [PGR atrae investigación del asesinato del periodista Francisco Pacheco](#).

³⁸⁵ Estados Unidos Mexicanos. Informe del Estado mexicano en respuesta a la Solicitud de Información conforme al artículo 41 de la Convención Americana sobre Derechos Humanos transmitida el 12 de agosto de 2016. 9 de septiembre de 2016. Disponible para consulta en Archivos de la Relatoría Especial.

³⁸⁶ IACHR. Special Rapporteurship for Freedom of Expression, May 20, 2016. [Comunicado de prensa R68/16. La Relatoría Especial condena un nuevo asesinato de un periodista en México](#); Reporters Without Borders (RSF). May 16, 2016. [Manuel Santiago Torres González, sexto periodista mexicano asesinado en 2016](#) [Manuel Santiago Torres González: Sixth Mexican journalist killed in 2016]; Committee to Protect Journalists (CPJ). May 17, 2016. [Asesinan a periodista mexicano en Veracruz](#) [Mexican journalist killed in Veracruz]; Article 19. May 16, 2016. [Quinto periodista asesinado en 2016: autoridades desestiman labor informativa en su homicidio](#); Animal Político. May 14, 2016. [El comunicador Manuel Torres González es asesinado en Veracruz](#).

³⁸⁷ *El del Sur*. May 16, 2016. [Investiga Fiscalía hechos en los que perdió la vida colaborador del Ayuntamiento de Poza Rica](#) [Prosecutors investigate incident in which Poza Rica City Hall worker was killed]; *Sin Embargo*. May 14, 2016. [Ex corresponsal de Tv Azteca es asesinado en Veracruz; Fiscalía asegura que no es periodista](#) [Former correspondent of TV Azteca is killed in Veracruz; Not a journalist." claim prosecutors];

³⁸⁸ State Commission for the Attention and Protection of Journalists. May 14, 2016. [Condena CEAPP homicidio de Manuel Torres González](#).

³⁸⁹ IACHR. Special Rapporteurship for Freedom of Expression. June 21, 2016. [Comunicado de Prensa R80/16. La Relatoría Especial condena el asesinato de un periodista en México, el sexto en ese país en 2016](#); CPJ. June 21, 2016. [Asesinan a periodista mexicano que cubría protestas](#); SIP. 20 de junio de 2016. [México: La SIP condena asesinato de periodista](#); CNDH. June 19, 2016. [Lamenta la CNDH la pérdida de vidas and lesionados durante los hechos registrados este día en distintas localidades del estado de Oaxaca](#); United Nations. Office of the United Nations High Commissioner in Mexico. June 21, 2016. [La ONU-DH México hace un llamado a realizar una investigación exhaustiva de los hechos violentos ocurridos en Oaxaca and a privilegiar el diálogo](#); Centro Knight. June 20, 2016. [Periodista mexicano asesinado durante cobertura de protesta de profesores en Oaxaca](#).

Mercurio and *La Verdad*. According to available information, those responsible for the homicide left a card linking them to an illegal group that operates in Victoria. Civil society organizations rejected this act of violence against journalists³⁹⁰.

223. On June 26, Tuun Ñuu Savi community radio announcer Salvador Olmos García was killed in the municipality of Huajapan de León in the State of Oaxaca. According to the available information, Municipal Police officers had arrested, tortured and beaten him, supposedly for having taken a critical position about the mayor of Huajapan de León on his program *Pitaya Negra*³⁹¹. A communiqué issued by the Huajapan de León municipal government acknowledged that the media worker died after being run over by a police officer and, according to the communiqué, the person responsible had been brought before the authorities.³⁹²

224. The journalist Pedro Tamayo Rosas was murdered on July 20 in Tierra Blanca, state of Veracruz. The murder occurred in front of his home, when unknown persons arrived in a truck and shot him. According to the available information, Tamayo worked with the local papers *El Piñero de la Cuenca* and *Al Calor Político* in the state of Veracruz for which he covered police matters and had reported on kidnapping, corpses found in hidden graves, and executions. In January the media reported him as disappeared but days later the police found him in the town of Acatlán de Pérez Figueroa, state of Oaxaca. After that, the State Commission for the Attention and Protection of Journalists, a public entity of the state of Veracruz, had ordered extraordinary protective measures.³⁹³

225. The state reported that after the murder an investigation had been initiated by the Comprehensive Subunit for the Pursuit of Justice of Tierra Blanca, Veracruz, as well as the Prosecutor in Charge of the Office of the Agency Specializing in Electoral Crimes and Attention to Complaints against Journalists and/or Communicators in the City of Tierra Blanca. FEADLE opened an investigative file.³⁹⁴ The Veracruz State Commission for the Attention and Protection of Journalists condemned the murder and reported that it was in constant communication with the journalist's family to provide them with assistance and support.³⁹⁵ In addition, exercising its investigative powers, the CNDH initiated an investigation *ex officio*

³⁹⁰ Journalism in the Americas. 21 de junio de 2016. [Journalist killed in Tamaulipas, Mexico is second journalist killed in that country in less than 24 hours](#); Vanguardia. 20 de junio de 2016. [Asesinan a reportera en Tamaulipas](#); Clase de Periodismo. 20 de junio de 2016. [México: Reportera Zamira Esther Bautista fue asesinada en Tamaulipas](#); Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura (UNESCO). 21 de junio de 2016. [Director-General condemns murder of Mexican journalist Zamira Esther Bautista](#); Sociedad Interamericana de Prensa. 21 de junio de 2016. [México: Indignación de la SIP por otro asesinato de periodista](#)

³⁹¹ Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura (UNESCO). 8 de julio de 2016. [La Directora General condena el asesinato del periodista Salvador Olmos García Cardona en México](#); Resumen. 27 de junio de 2016. [México. Asesinan a periodista de radio comunitaria en Oaxaca](#); Sin Embargo. 7 de agosto de 2016. [A Salvador lo mataron policías por criticar al Edil de Huajuapán: familia del periodista](#); Partido Obrero. 1 de julio de 2016. [México: asesinan a periodista que denunció la masacre de Oaxaca](#)

³⁹² Government of Huajuapán de León/Facebook. June 26, 2016. [El Ayuntamiento de Huajuapán coadyuvará en investigación de la muerte del joven Salvador Olmos para que se haga justicia y llama a evitar la violencia](#) [Huajuapán City Hall will assist investigation into the death of Salvador Olmos to ensure justice, and calls for rejection of violence].

³⁹³ IACHR. Special Rapporteurship for Freedom of Expression. July 25, 2016. [Comunicado de Prensa R100/16. La Relatoría Especial condena un nuevo asesinato de un periodista en México](#); CPJ. July 22, 2016. [Asesinan a disparos a periodista de Veracruz que gozaba de protección policial](#); Freedom House. July 21, 2016. [Debe investigarse el asesinato del periodista Pedro Tamayo Rosas](#); Article 19. July 21, 2016. [Asesinato de Pedro Tamayo confirma ineficacia de mecanismos de protección gubernamentales](#); El País. July 22, 2016. [Asesinado a balazos en México un periodista que estaba bajo protección](#); Sin embargo. July 21, 2016. [Pedro Tamayo, el periodista que huyó de Veracruz por amenazas de policías, es asesinado a tiros](#); Animal Político. July 21, 2016. [Matan al periodista Pedro Tamayo en Tierra Blanca, Veracruz: van 17 con Duarte](#).

³⁹⁴ United Mexican States. Report of the Mexican State in response to the request for information in accordance with Article 41 of the American Convention on Human Rights sent on August 12, 2016. Mexico, Federal District, September 9, 2016. Available at: Archive of the Special Rapporteurship for Freedom of Expression.

³⁹⁵ State Commission for the Protection of Journalists, July 21, 2016. [Press Release CGCP/206/16. Condena CEAPP homicidio del comunicador Pedro Tamayo Rosas.](#)

and called on the authorities to investigate the crime and provide the necessary protection to the journalist's family.³⁹⁶

226. The journalist Aurelio Cabrera Campos was murdered while driving his vehicle on the night of September 14 near the town of Huauchinango, in the state of Puebla. The authorities were alerted through a telephone call and although medical services found him still alive when they reached him, the journalist died hours later at the hospital to which he was taken. According to the available information, Cabrera had worked for the newspaper *Voz de la Sierra* and had recently created his own outlet, a weekly called *El Gráfico de la Sierra*, where he was the director. The journalist was known for covering the police source and public safety in the north of the state of Puebla, an area bordering on the state of Veracruz. The Office of the General Prosecutor of the State of Puebla and FEADLE worked together to promote investigations to exhaust the lines of investigation, including the issue of the exercise of freedom of expression.³⁹⁷

227. On September 13, the journalist Agustín Pavía Pavía was murdered in front of his home in the town of Huajuapán de León, in the state of Oaxaca. He was hosting a community radio program called *Tu Un Nuu Savi*. According to the available information, Pavía used the radio to criticize the state government and had also covered issues related to environmental protection and movements against mining. Pavía had been the founder of the Morena party in the municipality of Huajuapán.³⁹⁸

228. On December 10, Adrián Rodríguez was murdered in Chihuahua, Chihuahua. The journalist was in his automobile in front of his home when unknown individuals approached and shot him. According to the available information, the journalist worked at *Antena Radio* and covered matters associated with the state government; in the past, he had carried out investigations into topics associated with public safety for written media such as *El Heraldo* de Chihuahua. Family members indicated that the journalist had received death threats. He was recently carrying out an investigation into people who are arbitrarily imprisoned³⁹⁹. The governor of Chihuahua through a press release expressed regret over the killing of the journalist and stated that it will not remain in impunity; accordingly, it issued instructions for the State Prosecution Service to investigate the crime and identify the perpetrators.⁴⁰⁰

229. For the Inter-American Commission it is fundamental for the State of Mexico to fully, effectively, and impartially investigate the murders of journalists, shedding light on the motives and making a judicial determination on whether a murder is related to the exercise of journalism and freedom of expression. The authorities should not dismiss the exercise of journalism as a motive for murder and/or attacks before the investigation is completed. In that regard, the IACHR reiterates the recommendation made

³⁹⁶ CNDH. July 21, 2016. [Determina CNDH atraer el caso Pedro Tamayo and pide a las autoridades investigar la relación entre el homicidio and la labor periodística de la víctima.](#)

³⁹⁷ IACHR. Special Rapporteurship for Freedom of Expression. September 21, 2016. [Comunicado de prensa R134/16. La Relatoría Especial condena asesinato de dos periodistas en México](#); SIP. September 16, 2016. [México: SIP condena asesinato en México](#); Article 19. September 17, 2016. [Director de medio es asesinado en Puebla; segundo periodista muerto en una semana](#); National Human Rights Commission (CNDH). September 15, 2016. Press Release DGC/231/16. [Condena CNDH el homicidio del periodista Aurelio Campos, director del semanario "El Gráfico", en Huauchinango, Puebla, and solicita medidas cautelares para su familia](#); Aristegui Noticias. September 16, 2016. [CNDH and Fiscalía de Puebla investigan asesinato del periodista Aurelio Campos](#); Animal Político. September 15, 2016. [Asesinan a un periodista en Puebla; era director del semanario El Gráfico de la Sierra.](#)

³⁹⁸ IACHR. Special Rapporteurship for Freedom of Expression. September 21, 2016. [Comunicado de prensa R134/16. La Relatoría Especial condena asesinato de dos periodistas en México](#); Article 19. September 16, 2016. [Asesinan a segundo locutor de estación de radio comunitaria en Oaxaca](#); Informativo. September 15, 2016. [Marchan para exigir justicia por asesinato de activista político de Morena](#); La Jornada. September 15, 2016. [Asesinan frente a su casa a fundador de Morena en la Mixteca de Oaxaca](#); Knight Center for journalism. September 16, 2016. [Asesinan a dos periodistas mexicanos en Puebla and Oaxaca.](#)

³⁹⁹ Article 19. 11 de diciembre de 2016. [Asesinan a periodista en Chihuahua: 2016 es el año más letal para la prensa](#); Sin embargo. 10 de diciembre de 2016. [El reportero Adrián Rodríguez es ejecutado en Chihuahua; periodistas exigen esclarecer el caso](#); La Opción de Chihuahua. 11 de diciembre de 2016. [Tuvo amenazas previas Adrián Rodríguez por trabajos periodísticos](#); El Heraldo de Chihuahua. 10 de diciembre de 2016. [Asesinan al reportero Adrián Rodríguez afuera de su casa](#); Excelsior. 10 de diciembre de 2016. [Asesinan a periodista de Chihuahua afuera de su casa.](#)

⁴⁰⁰ Gobierno de Chihuahua. 12 de diciembre de 2016. [Asesinato de periodista Adrián Rodríguez no quedará impune: Gobierno del Estado.](#)

to “adopt special protocols for the investigation of crimes against journalists whereby the hypothesis that the motive for the crime was the profession is of necessity privileged and exhausted.”⁴⁰¹

230. The omission of logical lines of investigation or the lack of diligence in the gathering of evidence may have serious repercussions on the course of the proceedings for indictment or at trial.⁴⁰² Any deficiency in the logical avenues of investigation affects, above all, the identification of the masterminds.⁴⁰³

Attacks, threats, and intimidation against journalists and communications media.

231. On January 6, the journalist and director of *Rotativo Digital* in Tacámbaro, Michoacán, Martínez Castañeda, was hospitalized due to injuries allegedly inflicted by the son of a local entrepreneur. According to the available information, the son of a gas station owner attacked the journalist as he walked by with his grandson in the public square of Tacámbaro. The attack was related to articles published by the journalist on irregular practices committed by the gas station owner’s family to avoid competition in the gas station business. Martínez Castañeda had already received threats from another member of that family in late 2015.⁴⁰⁴

232. According to the information available in the media, the attacker was apprehended and brought before the judge who decided to bring criminal action for aggravated injuries. Both the communicator and his family have been offered protection measures.⁴⁰⁵

233. In January, various media outlets reported threats as well as proceedings filed against the journalist Víctor Badillo, CNN correspondent in Monterrey. Badillo was conducting an investigation on corruption in the Nuevo León Health Secretariat (SSNL) involving the businessman Cano Sánchez in his capacity as an SSNL provider. On December 30, 2015, the journalist’s family received threats on their mobile phones; the available information indicates that the journalist is currently the beneficiary of the federal protection mechanism.⁴⁰⁶

234. On February 3, the journalist Paula Carrizosa, in charge of the cultural section of the *Jornada de Oriente*, was threatened by Francisco Trejo, director of the Communications Unit of Puebla Comunicaciones (public television, radio, and digital technology organization of the state of Puebla). She had been invited by Trejo on behalf of the state Governor to an event at the Museo Internacional Barroco (MIB), in the city of Puebla. The journalist was taking notes at the event when the official told her in a challenging and threatening way to remember that she couldn’t publish anything because it was an informal event. Various organizations complained and demanded the imposition of sanctions. According to the information available,

⁴⁰¹ IACHR. [Situación de los derechos humanos en México](#). OEA/Ser.L/V/II. Doc. 44/15. December 31, para. 394.

⁴⁰² IACHR, Special Rapporteurship for Freedom of Expression, [Estudio Especial sobre la Situación de las Investigaciones sobre el Asesinato de Periodistas por motivos que pudieran estar relacionados con la Actividad Periodística \(Período 1995-2005\)](#), OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, para. 116.

⁴⁰³ IACHR, Special Rapporteurship for Freedom of Expression, [Estudio Especial sobre la Situación de las Investigaciones sobre el Asesinato de Periodistas por motivos que pudieran estar relacionados con la Actividad Periodística \(Período 1995-2005\)](#), OEA/Ser.L/V/II.131. Doc. 35. March 8, 2008, paras. 125-126; IACHR, Special Rapporteur for Freedom of Expression, [Impunidad, Autocensura and Conflicto Armado Interno: Análisis de la Situación de la Libertad de Expresión en Colombia](#), OEA/Ser.L/V/II Doc.51. August 31, 2005, paras. 65-66.

⁴⁰⁴ Article 19. January 8, 2016. [Empresario gasolinero golpea a periodista que denunció corrupción con el gobierno municipal](#); Comisión Nacional de Derechos Humanos (CNDH). January 7, 2016, [Press Release CGCO/006/16. Demanda la CNDH el esclarecimiento de la artera agresión contra el periodista Jorge Martínez Castañeda, en Michoacán](#); 90 Grados. January 26, 2016. [Temen impunidad en caso de periodista agredido en Tacámbaro, Michoacán](#).

⁴⁰⁵ El Universal. January 7, 2016. [PGJE indaga agresión a periodista en Michoacán](#); SDP Noticias. February 3, 2016. [Procesan a agresor de periodista de Tacámbaro](#).

⁴⁰⁶ Article 19. January 19, 2016. [Periodista es hostigado por denunciar contrabando de equipo médico](#); El Universal. January 2, 2016. [Denuncia acoso: PGJE cita por difamación](#); La Jornada. January 11, 2016. [Amenazas and demanda contra periodista que indaga contrabando de medicinas](#); Proceso. March 21, 2016. [Empresario acosa a reportero que descubrió su red de contrabando con la SS](#).

the *Jornada del Oriente* had an editorial position critical of the government of Rafael Moreno Valle, governor of Puebla.⁴⁰⁷

235. The journalist Ezequiel Flores Contreras, a correspondent for *Proceso* in the state of Guerrero, was threatened by former representative Roger Arellano Sotelo on February 10. According to the available information, the journalist was participating in a demonstration in the Congress of Guerrero in Chilpancingo, demanding justice for the murder of the journalist Anabel Flores, when the former representative approached in his vehicle and made a death threat against the journalist.⁴⁰⁸ The organization *Artículo 19* denounced the threats made through Twitter against the journalists Álvaro Delgado, from *Proceso*, and Aranzazú Ayala, from *Lado B*, who were also demanding justice in the case of the journalist Anabel Flores through that social network.⁴⁰⁹

236. On April 6, the journalists Salvador Adame and Frida Pardo, director and owner of *6 TV Tu Canal*, were detained for hours while they were covering a demonstration in the municipality of Múgica, Michoacán. Seventeen women who were participating in the protest were detained along with the journalists. The journalists were documenting a protest at the Múgica town hall due to a change in the headquarters of the social project *Ciudad Mujer* that had been awarded to the city in 2014 and recently relocated to the municipality of Huetamo. When the demonstration was broken up, the journalists recorded the arrival of a convoy including the municipal president, Salvador Ruiz Ruiz, the State Under-Secretary of Public Security, Carlos Gómez Arrieta, and special forces from the Single Police Command. After breaking up the demonstration and arresting the women participating in the protest, the police detained Frida Pardo even though she identified herself as a journalist. They later arrested Salvador Adame and all the detainees were taken in police cars towards Morelos. The journalists were released an hour later and the demonstrators were released on the following day.⁴¹⁰

237. On May 5, the daily *La Vanguardia* of Saltillo, capital of the state of Coahuila, made public a record of attacks occurring since January 2016, alerting the journalist community and the authorities. The attacks mentioned included the creation of social network pages to insult and defame the media and journalists and a cyber-attack on the newspaper's server. On May 3, a vehicle remained parked in front of the *La Vanguardia* facilities and on May 4 the same vehicle followed the journalist Roxana Romero all the way to her home where it approached and repeatedly passed by the home, causing her to be absent from work temporarily. Roxana Romero, along with *La Vanguardia*, had previously been sued by Humberto Moreira Valdés, former governor of Coahuila and former national leader of the PRI, who alleged moral damage due to an article published after his release from prison this past January 23 in Madrid, Spain.⁴¹¹

238. On May 6, forces from the elite security group "Fuerza Coahuila," which reports to the state government secretariat, broke into the home of the director of *Vanguardia* in Saltillo, state of Coahuila, enforcing an eviction order decreed by the Judicial Branch of Mexico City for alleged debts. The media and civil society organizations characterized the display and use of force as out of proportion to the objectives sought. The government of Coahuila maintained in a statement that the police had acted fully in compliance

⁴⁰⁷ Comunicación e Información de la Mujer (CIMAC). February 5, 2016. [Vocero de Puebla amenaza a reportera Paula Carrizosa](#); Article 19. February 5, 2016. [Reportera de Puebla es intimidada por funcionario estatal](#); *La Jornada de Oriente*. February 4, 2016. [Amenazas contra reportera de La Jornada de Oriente por difundir información del MIB](#).

⁴⁰⁸ *Proceso*. February 10, 2016. [Exdiputado perredista amenaza de muerte a corresponsal de Proceso en Guerrero](#); Article 19. [Es responsabilidad del Mecanismo garantizar integridad física del periodista Ezequiel Flores](#); SDNoticias. February 10, 2016. [Exdiputado del PRD irrumpe en protesta por Anabel Flores and amenaza a periodista](#); *El Universal*. February 11, 2016. [Denuncian en el Senado amenazas contra periodista](#).

⁴⁰⁹ Article 19. February 11, 2016. [Periodistas agredidos en redes sociales por protestar sobre el asesinato de reportera](#).

⁴¹⁰ Committee to Protect Journalists (CPJ). April 12, 2016. [Police detain Mexican journalists covering protest](#); Article 19. April 9, 2016. [Periodistas son golpeados and detenidos arbitrariamente por policías de Michoacán durante una protesta](#).

⁴¹¹ Committee to Protect Journalists (CPJ). May 12, 2015. [Periódico mexicano es objeto de acoso](#); Article 19. May 6, 2016. [Gobierno de Coahuila obligado a garantizar labor informativa de Vanguardia](#); *Vanguardia*. May 5, 2016. [Espionaje, intimidación and ataque a VANGUARDIA](#).

with the law.⁴¹² The CNDH submitted a request for precautionary measures to the Coahila State General Government Secretary.⁴¹³

239. On June 8, the journalist Estrella Pedroza, a reporter for *Regional del Sur* and correspondent for the website *La Silla Rota*, was attacked by police forces in Morelos, state of Cuernavaca. According to the information available, she was using her cell phone to record an alleged act of abuse of power by the police when one of them approached her to question what she was doing. Although she identified herself as a journalist, the police told her not to record anything about what was happening, after which they threw the reporter's cell phone in the street; when she tried to pick it up the police officer hit her in the face. The journalist filed a complaint with the Secretariat of Citizen Security and the Human Rights Commission of Morelos began an investigation in the case. Subsequently, the Security Secretariat denied the facts reported by the journalist. The Congress urged the prosecutor's office of Morelos to investigate the agents involved.⁴¹⁴

240. The Special Rapporteur also learned of cases in which journalists were the victims of theft of journalistic material; according to the available information, unknown persons entered the homes of the photojournalists Germán Canseco (*Revista Proceso*)⁴¹⁵ and Jonathan Rosas Ramírez (*Imagen del Golfo* and *Unión de Medellín*, state of Veracruz)⁴¹⁶ and took only their work equipment and devices on which they stored journalistic information. Threats were also received by the columnist for the *El Universal* newspaper, Héctor Muleón,⁴¹⁷ in Mexico City, as well a journalist for the *Diario Noroeste* in the state of Sinaloa.⁴¹⁸ The journalist Ana Espinosa Rosete (*Crónica Hoy*)⁴¹⁹ was attacked by police agents while she was covering demonstrations in Mexico City.

⁴¹² CPJ. May 12, 2015. [Periódico mexicano es objeto de acoso](#); Article 19. May 6, 2016. [Gobierno de Coahuila obligado a garantizar labor informativa de Vanguardia](#); Vanguardia. May 7, 2016. [Despliegue de 'fuerza' contra el director de VANGUARDIA](#); Proceso. May 6, 2016. [Policía de Coahuila irrumpe con violencia en finca del director del diario Vanguardia](#); El Comercio. May 13, 2016. [Condenan violento operativo contra director de diario mexicano](#).

⁴¹³ National Human Rights Commission (CNDH). May 6, 2016. Press Release CGCP/126/16. [Solicita CNDH medidas cautelares al gobierno de Coahuila ante actos intimidatorios contra personal del diario vanguardia and ataques cibernéticos a sus equipos](#).

⁴¹⁴ Informador.mx. June 8, 2016. [Denuncian agresión a reportera en Morelos](#) [Attack on reporter in Morelos reported]; *El Universal*, June 9, 2016. [Niega Seguridad Pública de Morelos agresiones a periodista](#) [Morelos Public Security denies attacks on journalist]; Senate of the Republic. June 23, 2016. [La agresión contra los periodistas, cada vez más evidente en Morelos: senadora Martha Tagle](#) [Attacks on journalists increasingly evident in Morelos: Senator Martha Tagle]; Centro de Reportes Informativos sobre Guatemala (Cerigua). June 24, 2016. [México: Comisión Permanente del Congreso de la Unión pide investigar agresión a reportera](#) [Mexico: Permanent Commission of Congress calls for investigation of attack on journalist].

⁴¹⁵ Article 19. June 24, 2016. [Allanan and roban domicilio de fotoperiodista de Proceso en la Ciudad de México](#); Proceso. June 24, 2016. [Roban en domicilio de fotoreportero de Proceso: se llevan computadoras and equipo](#); Periodistas en riesgo. June 24, 2016. [Roban equipo a fotoperiodista de Proceso](#); SDPnoticias.com. June 24, 2016. [Asaltan de madrugada casa de fotoreportero de Proceso](#); El Sur. June 26, 2016. [Protestan periodistas frente a la PGR por robo al fotoreportero Germán Canseco, de la revista Proceso](#).

⁴¹⁶ Aristegui noticias. July 29, 2016. [Veracruz: despojan a fotoperiodista de equipo, computadora and archivo](#); Notiver. July 30, 2016. [Saquean vivienda de fotógrafo!](#); AGN Veracruz. July 29, 2016. [Roban casa de fotoreportero en Veracruz Jonathan Rosas Ramírez](#); Article 19. July 29, 2016. [Allanan and roban domicilio de fotoperiodista en Veracruz](#).

⁴¹⁷ Freedom House. June 28, 2016. [Preocupación por las amenazas contra el periodista Héctor De Mauleón](#); PEN International. Sin Fecha. [México: Héctor de Mauleón, periodista and escritor, amenazado por investigación](#); El Universal. June 22, 2016. [Amenazan a Héctor de Muleón tras operativo en la Condesa](#); Sinemabrgo. June 22, 2016. [La Asamblea de Barrios amenaza a Héctor de Mauleón por denunciar predio en el que se halló un túnel](#); Sopitas.com. September 22, 2016. [Otro más: amenazan a Héctor de Mauleón por denunciar crimen en la Condesa](#); El Universal. September 22, 2016. [Amenazan de nuevo a De Mauleón tras denunciar crimen en la Condesa](#); Sinemabrgo. September 22, 2016. [El periodista Héctor de Mauleón recibe amenazas tras denunciar violencia en la colonia Condesa](#).

⁴¹⁸ La Jornada. July 5, 2016. [Amenazan desconocidos a reportero del diario Noroeste: exigen retirar información](#); Zocalo. July 5, 2016. [Amenaza a reportero del diario Noroeste, de Sinaloa](#); El imparcial. July 5, 2016. [Amenazan a periodista que subió video de balacera en un concierto](#).

⁴¹⁹ Crónica.com. July 7, 2016. [Reportera agredida por policías presenta denuncia ante PGJDF](#); Sin embargo. July 5, 2016. [Granaderos de la CdMx agreden a reportera durante manifestación en apoyo a la CNTE](#); Vanguardia. July 5, 2016. [Granaderos de la CDMX agreden a reportera durante manifestación de la CNTE](#); Etcétera. July 5, 2016. [Reportera de La Crónica de Hoy denuncia agresión por parte de granaderos de la CDMX](#).

241. In August, the journalist Noe Zavaleta, director of the newspaper *Crónica de Xalapa* and correspondent for *Proceso* in Veracruz, had to leave the state of Veracruz after receiving threats on social networks. The threats occurred because of the publication of the book “El infierno de Javier Duarte,” in which the journalist denounced acts of corruption by the governor of the state of Veracruz, Javier Duarte, and contracts for high sums of money signed between Governor Duarte and the newspaper *El Buen tono*. In addition to the threats, there was a campaign against the journalist on the social networks, pointing to him as a part of the Los Zetas cartel. According to the information available, the journalist reported the threats and returned to Veracruz after a few months. Since that episode, the journalist has had protection measures from the Federal Protection Mechanism. The state reported to the Special Rapporteurship that the Office of the General Prosecutor of Veracruz is responsible for the investigation.⁴²⁰

242. In August, the organizations Freedom House and Artículo 19 denounced acts of harassment and threats against the journalist Jaime Nava in the capital of the state of San Luis de Potosí. Nava is a journalist for *La Jornada de San Luis* and according to the available information he published an investigation against alleged acts of corruption through a pharmaceutical supplier in the city of San Luis de Potosí. According to the reporting organizations, Nava was not the only journalist harassed; another journalist, José Guadalupe González, was also the victim of harassment, threats, and institutional violence. These events occurred since April when the investigation was published.⁴²¹

243. The IACHR recalls the states’ obligation to adopt a public discourse that helps to prevent violence against journalists, including recognizing journalistic work, publicly condemning murders and any physical violence against journalists, refraining from making any statement that could raise the risks for journalists, adopting training and education programs, and formulating and implementing guidelines on conduct or directives for public officials, particularly the police or security forces, regarding respect for the communications media, including those specifically related to gender issues.

244. In addition, the state must ensure that effective and concrete protection measures are adopted on an urgent basis to guarantee the safety of those who are subject to special risk based on the exercise of their right to freedom of expression, whether the threats come from agents of the state or from individuals. The measures must guarantee that journalists are continuously able to practice their profession and exercise their right to freedom of expression. Similarly, the State must adopt the measures necessary so that those who work in the media and who must move or go into exile because they are in an at-risk situation are able to return to their homes under conditions of security. When it is impossible for these persons to return, States must adopt measures so they can remain in the place of their choice under decent conditions, with security measures, and the economic support necessary to continue their work and preserve their family life.

245. In accordance with international human rights standards, the State of Mexico is not only obliged to guarantee that its agents do not commit acts of violence against journalists, but also to reasonably prevent attacks from individuals when they know or should know about the risk. Principle 9 of the IACHR Declaration of Principles of Freedom of Expression states that “The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the State to

⁴²⁰ RSF. August 11, 2016. [México: acosan and amenazan a un periodista que escribió un libro sobre el gobernador de Veracruz](#); Aristegui Noticias. August 12, 2016. [Tras amenazas, el periodista Noé Zavaleta huye de Veracruz](#); Centro Knight. August 16, 2016. [Tras amenazas and acoso, periodista mexicano abandona el estado de Veracruz](#); Sin embargo. August 7, 2016. [El periodista Noé Zavaleta, corresponsal de Proceso, es amenazado en Veracruz por su primer libro](#); Liberal. August 12, 2016. [Noé Zavaleta se exiliará de Veracruz](#); Aristegui Noticias. October 4, 2016. [Vuelve a Veracruz el periodista Noé Zavaleta](#); Liberal. October 4, 2016. [Reportero de Proceso regresa con guardaespaldas a trabajar](#); United Mexican States, Report of the Mexican State in response to the request for information in accordance with Article 41 of the American Convention on Human Rights sent on August 12, 2016. Mexico, Federal District, September 9, 2016. Available at: Archive of the Special Rapporteur for Freedom of Expression.

⁴²¹ Freedom House. August 10, 2016. [Preocupación por hostigamiento and amenazas contra periodistas de San Luis Potosí](#); Artículo 19. August 6, 2016. [Agriden a periodistas en San Luis Potosí por investigar actos de corrupción](#).

prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

Impunity

246. In its report on the *Situation of Human Rights in Mexico* the IACHR recognized the efforts made by the State of Mexico to adapt its regulatory framework and its institutions to respond to the challenge of impunity. Nevertheless, the reforms are ineffective when in practice there is no response to the public clamor for justice for the victims and society as a whole, and in fact impunity continues to rise within the context of constant serious crimes and attacks on the press. When those who assault journalists go unpunished, the wrong message is sent and journalists and communicators are left unprotected.

247. The Commission has recognized the efforts made by the Mexican State to address the situation of impunity. These efforts have been expressed in legislative reforms and the creation of investigative units, such as the Specialized Prosecutor’s Office for Attention to Crimes against Freedom of Expression (FEADLE). In May 2013, the National Congress passed legal reforms to regulate the Federal Public Prosecutor’s power to assert jurisdiction⁴²² and the competence of the federal justice system to prosecute and adjudicate crimes against journalists, persons or facilities that “affect, limit or undermine the right to information or freedom of expression or of the press.”⁴²³ Said reform had as its objective to overcome the legal barrier that FEADLE had to assume jurisdiction and be more effective in solving cases that may be related to the exercise of journalism. However, in its recommendations the IACHR indicated the need to eliminate the practical obstacles preventing FEADLE from asserting jurisdiction over cases involving crimes committed against journalists and freedom of expression.

248. According to the information provided by the State between January and September 2016 FEADLE asserted its jurisdictional powers only in the murder of the journalist Francisco Pacheco Beltrán. With respect to other murders recorded in 2016, FEADLE has opened investigative files that are now being processed.⁴²⁴ In its comments on the draft version of this report, the State indicated that during 2016 the FEADLE had assumed control over four cases of attacks on journalists, compared to 14 cases in 2015 and 21 cases in 2014.⁴²⁵

249. In a case that illustrates the obstacles that arise in the activities of FEADLE itself, which repeatedly refuses to assert its jurisdiction, the IACHR and its Special Rapporteurship salute the decision of the Seventh Collegiate Court in Criminal Matters of Mexico to order FEADLE to assert its jurisdiction in the investigation of the murder of the journalist Moisés Sánchez Cerezo, in Medellín in the state of Veracruz in 2015, over which FEADLE had repeatedly refused to assume jurisdiction. That decision confirmed the decision of the Fifth District Court of Appeals in Criminal Matters of Mexico City, which had granted the appeal filed by the journalist’s family to require FEADLE to assert its jurisdiction in the case, although the decision had been challenged by FEADLE itself.⁴²⁶ It is a matter of concern for the IACHR and its Special Rapporteurship that FEADLE does not itself fully and efficiently exert its constitutional and legal powers to assert jurisdiction in crimes against journalists associated with the practice of their profession, and that an intervening judicial order is needed to make this happen.

⁴²² United Mexican States. Decree amending and adding various provisions to the Federal Code of Criminal Procedure, the Judicial Branch’s Administrative Law, the Office of the Attorney General’s Administrative Law, and the Federal Penal Code. May 3, 2013.

⁴²³ United Mexican States. Decree amending and adding various provisions to the Federal Code of Criminal Procedure, the Judicial Branch’s Administrative Law, the Office of the Attorney General’s Administrative Law, and the Federal Penal Code, May 3, 2013.

⁴²⁴ United Mexican States. Report of the State of Mexico in response to the request for information in accordance with Article 41 of the American Convention on Human Rights sent on August 12, 2016. Mexico, Federal District, September 9, 2016. Available for consultation at: Archive of the Special Rapporteurship.

⁴²⁵ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴²⁶ United Mexican States. Judicial Branch. Appeal for review 67/2016. Seventh Collegiate Court in Criminal Matters of the First Circuit, September 22, 2016.

250. In addition, during the on-site visit conducted by the IACHR in 2015, the State reported that it was in the process of reviewing, publishing and authorizing (i) the acting Protocol regarding the first lines of investigation in cases related to journalism; (ii) the Protocol for the accompanying of journalists; (iii) the Manual for the Prevention of Crimes Committed against Freedom of Expression; (iv) the Basic Guide for the investigation of murders committed against journalists; (v) the Practical Manual for Ministerial Investigations; and (vi) the Protocol for High-Profile Crimes.⁴²⁷ The State informed the IACHR and its Rapporteurship in September 2016 that FEADLE was working on the Protocol for the accompanying of journalists, which is linked to a ministerial investigation protocol in the adversarial criminal system and would be revised by the General Regulations Directorate.⁴²⁸

251. Regarding this matter, in its comments on the draft version of this report, the State told the IACHR that a series of academic events had been organized to raise the awareness of the federal judiciary “about the importance of freedom of expression and freedom of the press as democratic values in the free societies they are called on to judge.”⁴²⁹

252. The Special Rapporteurship recalls that one of the contributing factors to impunity with respect to crimes against journalists is failure to exhaust the lines of investigation linked with the victim’s practice of journalism, in that it presents an obstacle to criminal prosecution and facilitates impunity of the masterminds.⁴³⁰ The State’s focus on efforts to convict the perpetrators sends the victims a message of an apparent pursuit of justice.

253. Based on the foregoing, the IACHR and its Special Rapporteurship reiterate the recommendation that the State retain FEADLE’s character as a specialized prosecutor’s office and vest it with sufficient financial resources to carry out its task. FEADLE, in turn, should assume responsibility for eliminating the obstacles that prevent it in practice from asserting jurisdiction in all cases of crimes committed against journalists and against freedom of expression. In this respect, it should adopt the necessary measures to avoid jurisdictional conflicts between the federal and state level that would impede or delay investigations. In addition, special investigative protocols should be adopted pursuant to which the hypothesis that a murder or attack is related to the journalistic professional is completely and sufficiently exhausted. Victims, their families, and when applicable, assisting third parties should be guaranteed the ability to participate in criminal proceedings with full guarantees, both in the search for the truth and clarification of the facts and when reparations are sought. Regarding participation by victims, in its comments on the draft version of this report the State noted that “the new National Code of Criminal Proceedings has victims’ rights as one of its axes. Thus, the FEADLE and all the country’s prosecution authorities with responsibilities for different jurisdictions are required to respect and ensure participation by direct and indirect victims and their representatives.”⁴³¹

⁴²⁷ IACHR. “[Country Report on the Situation of Human Rights in Mexico](#)”, December 31, 2016. para. 424.

⁴²⁸ United Mexican States. Report of the Mexican State in response to the request for information in accordance with Article 41 of the American Convention on Human Rights submitted on August 12, 2016. Mexico, Federal District, September 9, 2016. Available for consultation at: Archive of the Special Rapporteurship.

⁴²⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴³⁰ IACHR. Report of the Special Rapporteurship for Freedom of Expression. Violence against journalists and media workers: inter-American standards and national practices on prevention, protection, and pursuit of justice, 2013, para. 169.

⁴³¹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

B. Access to information:

- Regarding the powers that the Law of Access to Information assigns to the Presidency's Legal Advisor's Office, such powers should be regulated according to international principles regarding access to public information and national security.
- Strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and process cases of human rights violations attributed to the security forces.
- Adopt pertinent measures so that security agencies compile, systematize, and publish periodically information regarding injuries to life and personal integrity as a consequence of the fight against organized crime. The information regarding such injuries should describe the place where they occurred, the date, information regarding the unit of the security force that was present when they occurred, information regarding its mandate and control. In addition, it should describe what the causes of the injury were and the inability to prevent them.

254. In its report on the *Situation of Human Rights in Mexico* the IACHR welcomes the adoption of the General Law of Transparency and Access to Public Information, which reflects a commitment by the Mexican State to transparency and the right of access to information. However, it expressed its concern due to information received regarding obstacles to ensuring access to information related to human rights violations. In particular, the IACHR and its Special Rapporteurship indicated their concern regarding the power at the highest level of the Office of the Legal Counsel of the Presidency to appeal any decision made by the National Institute for Access to Information to declassify information, if doing so poses risks for national security interests.⁴³² In addition, during its on-site visit the IACHR took note of a gradual regression in terms of active transparency and public information regarding the deaths of civilians and members of the armed forces in security operations, particularly when there is involvement by the armed forces.⁴³³ In 2016, the IACHR and its Special Rapporteurship learned of various statements from the National Institute for Access to Information and Protection of Data (INAI), in which the authorities responsible for national security were ordered to provide information on events related to serious human rights violations.

255. The IACHR applauds the joint initiative of the INAI and civil society organizations to carry out the "Memory and Truth" project. According to the information furnished by the State, the project involves an online platform to present information on cases of alleged human rights violations and the probable commission of crimes against humanity. The purpose of the initiative is to "promote guarantees of nonrepetition and the right to the truth, and to provide access to information for victims, investigating agencies, jurisdictional and human rights bodies, courts, and all other interested parties." The information available for consultation deals with the cases of Acteal, Aguas Blancas, Apatzingán, Atenco, Ayotzinapa 2011, Ayotzinapa 2014, Cadereyta, Cotton Field, El Halconazo, San Fernando 2010, San Fernando 2011, the Dirty War, Tlatelolco, and Tlatlaya. In order to create a useful store of public knowledge, after locating the information it was classified, systematized, and analyzed according to the type and theme of the alleged violation.⁴³⁴

256. On June 22, the INAI decided an appeal for review filed in response to the refusal by the National Defense Ministry (SEDENA) to hand over written and audiovisual documents that were gathered by the military on the night of September 26, 2014 in the city of Iguala when 43 students disappeared from the Rural Normal School of Ayotzinapa. The petition was filed by an individual. The SEDENA responded that the information did not exist but pursuant to the principle of maximum publicity it was making available a compact disk with four photographs the military took that night. In view of that response, the petitioner filed

⁴³² Congress of the United Mexican States. General Law on Transparency and Access to Governmental Public Information, July 2014, Article 157.

⁴³³ IACHR. [Situación de los derechos humanos en México](#). OEA/Ser.L/V/II. Doc. 44/15. December 31, 2015, paras. 499 to 505.

⁴³⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017; Memory and Truth project. Undated. [About the Project](#).

an appeal for review with the INAI arguing that the version reported by a military officer indicating the existence of photos and videos taken that night was public knowledge.

257. The INAI felt that the response given by SEDENA was unclear since it stated that the information did not exist but at the same time it made available documents like those that had been requested. It also felt that the response did not provide certainty regarding the exhaustive nature of the search for the information requested. In that regard, it drew up a compilation of public documents on the case, as well as the report of the Interdisciplinary Group of Independent Experts (GIEI) relating the existence of videos and photographs taken by the military. The INAI recalls in its ruling that the case of the disappearance of the 43 students was declared to be in the public interest because it involved serious human rights violations on the basis of which the same authority had already ordered the PGR to create a public version of the file being kept in the investigation of the case. The Institute instructed the SEDENA to conduct an exhaustive search in accordance with the provisions of the law to find the written and audiovisual documents collected on the night of September 26, 2014 and indicated that “the authorities have explained the legal arguments justifying this decision; however, they can strengthen them through transparency. The best way to demonstrate that the Mexican Army is not associated with serious human rights violations in the Ayotzinapa case is to address requests for information promptly and ensure at all times that it is acting in accordance with the provisions of legislation in this area. Mexicans have the right to know and assess whether the Army discharged its duties.”⁴³⁵

258. On July 13, the INAI ruled on the appeal for review filed against the response provided by the Federal Police in denying access to the file on the internal investigation regarding the death of civilians in Apayzingán, Michoacán on January 6, 2015. In its response, the Federal Police stated that the information requested was classified for a period of ten years due to the existence of a deliberative proceeding pending resolution.

259. The INAI determined that none of the grounds for secrecy provided by the law were proven, that the information did not compromise national security, and is not part of an adversarial proceeding but rather that the information gathered in that investigation established the start of a penalty proceeding before the Federal Police Development Council. In this respect, the reporting member clarified that the information requested makes reference to possible administrative failures on the part of Federal Police agents and not human rights violations, although this may be the origin of the investigation conducted on internal matters. The INAI urged the police authority to hand over the public version of the file, omitting the names of those agents who acted as witnesses in the investigation so as not to affect the course of that investigation.⁴³⁶

260. On March 2, the decision of the Supreme Court of Justice was reported in an appeal for constitutional protection filed by two relatives of victims in the massacre of migrants in San Fernando in 2011. The petition was filed against the PGR, which had refused to allow them access to the file in the investigation. The Supreme Court ordered the PGR to allow access to the file and to make copies of the file for the victims.⁴³⁷

⁴³⁵ National Institute for Transparency, Access to Information and Protection of Personal Data. Ruling on appeal for review RDA 2128/16. Rapporteur, Joel Salas Suárez. June 22, 2016. Available for consultation at: <http://consultas.ifai.org.mx/Sesionessp/Consultasp?next=51>; National Institute for Transparency, Access to Information and Protection of Personal Data. June 26, 2016. *SEDENA debe buscar and dar a conocer fotografías and videos tomados por militares la noche que desaparecieron los 43 normalistas de Ayotzinapa: INAI.*

⁴³⁶ National Institute for Transparency, Access to Information and Protection of Personal Data. Ruling on appeal for review RDA 2265/16. Rapporteur Patricia Kurczyn Villalobos. July 13, 2016. Available for consultation at: <http://consultas.ifai.org.mx/Sesionessp/Consultasp?next=51>; National Institute for Transparency, Access to Information and Protection of Personal Data. August 1, 2016. *PF debe dar a conocer versión pública de investigación de su departamento de asuntos internos, sobre la muerte de civiles en Apayzingán, en enero de 2015*; El Financiero. August 1, 2016. *INAI ordena a PF informar sobre muerte de civiles en Apayzingán.*

⁴³⁷ Sin embargo, March 2, 2016. *La SCJN ordena que se abra el expediente San Fernando a las familias de los migrantes de CA*; Fundación para la Justicia and el Estado Democrático de Derecho. March 2, 2016. *Conoce SCJN caso sobre migrantes víctimas de masacre*

261. On June 27, the Fifth Collegiate Court on Administrative Matters of the Federal District ruled that the information from the investigation initiated by the Office of the Attorney General for Military Justice for military crimes allegedly committed in the city of Tlatlaya, state of Mexico was classified. The request for information had been made to SEDENA in 2015 by *Aristegui Noticias* and Artículo 19 and subsequently referred to agencies of the INAI. In June 2015, the INAI had determined that the information had been classified as secret for a period of two years or until a decision was issued in the case. The petitioners filed an appeal for constitutional protection against the decision of the INAI and in November 2015 the First Judge in Administrative Matters granted the appeal for release of the information in question, among other reasons because he felt that because the information involved serious human rights violations it could not be classified. The INAI filed the appeal for review against the decision and the SEDENA and the PGR, interested third parties in the proceeding, also appealed. Subsequently, the INAI indicated in a press release that the Institute was abandoning the appeal for review against the decision, notwithstanding the continued processing of the appeal based on the fact that the PGR and SEDENA also appealed.⁴³⁸

262. The IACHR recalls that Inter-American Court of Human Rights “has also established that in cases of violations of human rights, the State authorities cannot resort to mechanisms such as official secrets or confidentiality of the information, or reasons of public interest or national security, to refuse to supply the information required by the judicial or administrative authorities in charge of the ongoing investigation or pending procedures. Moreover, when it comes to the investigation of punishable facts, the decision to qualify the information as secret and to refuse to hand it over can never depend exclusively on a state body whose members are accused of committing the unlawful act. In the same sense, the final decision on the existence of the requested documentation cannot be left to its discretion.”⁴³⁹

263. The IACHR reiterates its recommendation to the State of Mexico that it strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and process cases of human rights violations attributed to the security forces. It should also adopt pertinent measures so that security agencies compile, systematize and publish periodically information regarding injuries to life and personal integrity as a consequence of the fight against organized crime. In this sense, as the oversight agency, the INAI must ensure pursuant to its constitutional and legal mandate that the authorities comply with obligations regarding transparency and access to information.

Regarding the Mechanism to Protect Human Rights Defenders and Journalists, the Commission makes the following recommendations to the Mexican State:

- Require competent authorities to take into account international parameters regarding protection, especially the considerations outlined in the “Second Report on the Situation of Human Rights Defenders in the Americas” and the “Report on Violence against Journalists and Media Workers of the IACHR’s Special Rapporteur for Freedom of Expression.”
- Provide all political support necessary for the adequate operation of the protection mechanism, which should include all the necessary financial resources so that it may develop its competencies efficiently in relation to protection, and so that it may be sustainable over time.
- Adopt all necessary measures to assign and train all necessary personnel for its adequate operation.

en San Fernando; W Radio. March 2, 2016. [SCJN ordena abrir averiguación previa sobre masacre de San Fernando](#); Excelsior. March 2, 2016. [SCJN ordena abrir expediente por masacre en San Fernando](#).

⁴³⁸ National Institute for Transparency, Access to Information and Protection of Personal Data. January 13, 2016. [INAI determina desistirse de recurso interpuesto en un amparo relativo al caso Tlatlaya](#); Lexnal Diario. January 15, 2016. [INAI se desiste de interponer recurso de revisión en caso Tlatlaya](#); El Economista. January 13, 2016. [INAI retira recurso de reserva de documentos sobre caso Tlatlaya](#); La Jornada. January 15, 2016. [En Tlatlaya sí se violaron los derechos humanos: juez](#); Regeneración. June 27, 2016. [Cierran impunemente caso Tlatlaya](#); Aristegui Noticias. June 27, 2016. [Tlatlaya: cierran en definitiva acceso a expediente](#); Article 19. June 27, 2016. [Tribunal ordena mantener oculto expediente militar de Tlatlaya](#).

⁴³⁹ I/A Court H.R. *Caso Gomes Lund and otros (“Guerrilha do Araguaia”) Vs. Brasil*. Judgment of November 24, 2010 (Preliminary Objections, Merits, Reparations and Costs), para. 202.

- Guarantee that risk assessments and the implementation of prevention and protection measures are done adequately and address the urgency of the situation. Therefore, assign protection and review schemes regarding the adequacy of the risk evaluation processes, guarantee an adequate participation, communication and consensus-building, with the persons protected by the mechanism, as well as the beneficiaries of precautionary measures requested by the IACHR.
- Undertake an evaluation and adoption of differentiated protection measures for women, indigenous leaders, and environmental defenders.
- Urge the State to implement strategies so that the various institutions at the state and federal level work in coordinated fashion to provide an integral response to all matters related to the protection of human rights defenders and journalists.
- Encourage the protection mechanism to implement a communication strategy regarding its competencies, the requirements to enter the program, among other necessary information, with the objective of making human rights defenders and journalists aware about the protection that the mechanism can offer. Similarly and in accordance with international standards, provide access to necessary information regarding the protection mechanism so that it may provide greater transparency regarding the work it is doing.
- Encourage the mechanism to adopt a process that allows it to issue protection measures directly and of its own initiative in those cases which, because of their gravity and urgency, require them immediately.
- Urge the State to double efforts to investigate acts that cause the entry and permanence of protected persons into the protection mechanism, with a view towards establishing investigations as a prevention measure as State policy.
- Encourage the mechanism to adopt tools that allow it to evaluate the effectiveness of the implemented protection measures, as well as increase transparency of all its actions to increase the trust of beneficiaries. The foregoing shall be accompanied by a policy of prevention and participation by the target population.

264. In its country report, in the chapter on the Protection Mechanism, the IACHR emphasized the efforts made by the State to protect persons at risk, in the context of serious violent acts occurring as a consequence of the defense or promotion of human rights, and in exercising freedom of expression and practicing journalism in Mexico in recent years. In particular, the Commission saw as especially important the creation of the “Mechanism for the Protection of Human Rights Defenders and Journalists” (hereinafter “the Mechanism” or the “Protection Mechanism”) in 2012, the issuance of specific regulatory frameworks, the disbursement of funds for operating the protection program, implementation of procedures for those who come to the Mechanism to request protection measures and a considerable number of protected persons, among other actions implemented with the objective of creating bonds of confidence regarding the effectiveness of the Mechanism.⁴⁴⁰ In this respect and in view of the information received through the various monitoring mechanisms of the IACHR, including precautionary measures, the Commission formulated a series of recommendations for the State in this specific area.

265. In following up those recommendations, the Inter-American Commission appreciates the efforts made by the State and its commitment to protecting an increasing number of beneficiaries of the Protection Mechanism, including beneficiaries of precautionary measures requested by the IACHR and provisional measures of the Inter-American Court. According to official State data, as of September 2016, 90 requests for protection were received and 79 persons have been incorporated. Since its creation in 2012, the Mechanism has provided protection measures for a total of 612 beneficiaries. There are currently 501 beneficiaries with protection measures in effect; of these 321 are human rights defenders and 180 are journalists.⁴⁴¹ Organizations that work with human rights defenders and journalists have indicated that measures are being implemented to reduce the delay in dealing with pending cases. The authorities have

⁴⁴⁰ IACHR, “Country Report, Situation of Human Rights in Mexico,” December 31, 2016, paras. 431 et seq.

⁴⁴¹ Mechanism for the Protection of Human Rights Defenders and Journalists, “Informe Estadístico-Agosto 2016,” August 2016.

shown more openness to participating with civil society in evaluating the performance of the Mechanism and discussing how to address its limitations.⁴⁴²

266. The IACHR considers as an important step the decision made by the Governing Board of the Protection Mechanism to issue an early warning on August 1, 2016 intended to prevent assaults against human rights defenders and journalists in the state of Chihuahua. This same mechanism was used in 2015 for the state of Veracruz. According to various organizations, this decision “constitutes a significant advance, in that it expressly recognizes the gravity of the at-risk situation faced by those engaged in the work of defending human rights or the practice of journalism in Chihuahua, one of the states with the largest number of attacks on human rights defenders and the largest numbers of murdered journalists.”⁴⁴³ The decision was adopted after a request was made by a group of 25 human rights defense organizations in Chihuahua. In this respect, the IACHR appreciates the effort made by the Protection Mechanism to develop the diagnosis of the situation of human rights defenders and journalists in Chihuahua published in July 2016, which exposes some of the causes for the attacks on human rights defenders and journalists as well as the principal types of attacks to which they are exposed, and also reiterates the recommendations that the CNDH and the State Human Rights Commission of Chihuahua had made to different government agencies involved in preventing and protecting against attacks on target populations.⁴⁴⁴ The Commission hopes that all the authorities involved, both federal and state, fully perform the commitments assumed and also hopes that journalists, human rights defenders, and civil society are able to effectively participate, with full guarantees, in the development and monitoring of the Early Alert System.

267. The State informed the Special Rapporteurship for Freedom of Expression regarding the implementation of the “Inter-Institutional Collaboration Agreement to Implement the Program of Public Policies in Favor of Journalists who Practice Freedom of Expression in the State of Veracruz” signed in November 2015 between the Governing Board of the Federal Mechanism for the Protection of Human Rights Defenders and Journalists and the Government of the State of Veracruz, which was adopted as an early alert mechanism in response to a request made by a group of journalists due to the serious security situation journalists face in that state. According to the information provided by the State, the agreement has made possible training for institutional personnel in human rights and freedom of expression and ongoing cooperation between the federal mechanism and the state authorities in Veracruz. Maps and statistics have also been developed to identify at-risk areas and populations, and there has been follow-up on investigations opened based on attacks committed against journalists.⁴⁴⁵

268. During the on-site visit of the IACHR, the Protection Mechanism announced an evaluation of the effectiveness of the panic button as a protection measure. In this regard, the State reported that between December 2015 and March 2016 a process to evaluate that measure was conducted by the Prevention, Monitoring, and Analysis Unit (UPSA). The study found that 55% percent of the beneficiaries indicated they had used the Help Button on at least one occasion, 70% percent of the calls made were for an emergency. As a result of that evaluation a series of recommendation were made, notably including training for the beneficiaries of this measure by the Mechanism as well as by the private company that handles the devices.⁴⁴⁶

⁴⁴² WOLA/PBI, “[The Mechanism for Protection of Human Rights Defenders and Journalists in Mexico](#),” May 2016, pp. 2 et seq.

⁴⁴³ FIDH, Observatory (OMCT-FIDH) and the Center for Women’s Human Rights (CEDEHM), “[MÉXICO: Por primera vez se emite una alerta temprana para prevenir agresiones a defensores/as de derechos humanos and periodistas](#),” September 15, 2016.

⁴⁴⁴ United Mexican States. Ministry of the Interior. Under-Secretariat of Human Rights, Mechanism for the Protection of Human Rights Defenders and Journalists. [Diagnóstico sobre la situación de las personas defensoras de derechos humanos and periodistas en el estado de Chihuahua](#). July 2016.

⁴⁴⁵ United Mexican States. Report of the Mexican State in response to the request for information in accordance with Article 41 of the American Convention on Human Rights submitted on August 12, 2016. Mexico, Federal District, September 9, 2016. Available for consultation at: Archive of the Special Rapporteurship.

⁴⁴⁶ United Mexican States. Report of the Mexican State in response to the request for information in accordance with Article 41 of the American Convention on Human Rights submitted on August 12, 2016. Mexico, Federal District, September 9, 2016. Available for consultation at: Archive of the Special Rapporteurship.

269. Without prejudice to the foregoing, the Inter-American Commission has continued to receive information on significant delays in risk assessment procedures and implementation of material protection measures due to a lack of human and financial resources,⁴⁴⁷ circumstances that are exacerbated in some states in the country's interior.⁴⁴⁸ In this regard, as the IACHR has reiterated through the two reports on the Situation of Human Rights Defenders in the Americas, the States have the duty to provide the budgetary and logistical resources necessary to guarantee the effectiveness of protection programs. In this regard, in its comments on the draft version of this report, the State said that "coordinated work has taken place with the PGR on reviewing the Mechanism's guidelines, criteria, methods, and procedures as approved by the Board of Governors. This has led to an increase in the number of cases reviewed and adopted, from four cases per session in 2012 to an average of 38 cases per session in 2016; as a result, the backlog has been brought down. In 98% of the cases the protection plans were adopted unanimously."⁴⁴⁹

270. One of the main issues with a cross-cutting effect on all institutional policy regarding protection is the persistent lack of coordination among the various institutions at the state and federal level.⁴⁵⁰ Under this scenario, members of civil society have indicated that the number of persons who seek protection from the Mechanism is not equal to the magnitude and intensity of the at-risk situation faced daily by a large number of human rights defenders and journalists in Mexico.⁴⁵¹ These circumstances are likely related to the level of mistrust that currently persists regarding the effectiveness of the Mechanism, which was identified by the IACHR in its 2015 country report.⁴⁵² In this regard, in its comments on this report, the State informed the IACHR that the Protection Mechanism's National Executive Coordinating Office entered into cooperation agreements with 31 of the nation's 32 states. In those agreements, the federal and state authorities agreed to: (i) investigate and punish attacks suffered by human rights defenders and journalists on account of their activities, (ii) develop and implement preventive measures in order to avoid potential attacks, and (iii) pursue the legal amendments and additions needed to improve the situation of human rights defenders and journalists.⁴⁵³

271. The State indicated that the Fund for the Protection of Human Rights Defenders and Journalists, which has been operating through a trust since 2012, had spent a total of 68,928,868.71 pesos (4,162 million U.S. dollars) on the implementation and operation of protective measures. The total available in the Fund as of May 31, 2016, was 290,166,747.01 pesos (14,120,010 U.S. dollars).⁴⁵⁴

272. Within the IACHR's precautionary measures mechanism, while the Commission has noted the willingness of the competent authorities to deal with decisions granting precautionary measures and to hold consensus-building meetings on protective measures, information has been received on serious difficulties with the protective measures implemented by the competent authorities, including those that are a part of the Protection Mechanism. In particular, throughout 2016, information has continued to be received on: i) the failure to implement protection measures from a collective perspective, with a differentiated and

⁴⁴⁷ According to the report "The Protection Mechanism for Human Rights Defenders and Journalists in Mexico," issued in May 2016 by WOLA/PBI, "only 37 employees work in this Mechanism."

⁴⁴⁸ ARTICULO 19, "Segundo Informe Trimestral de 2016: Un periodista asesinado cada 26 días," August 4, 2016; and WOLA/PBI, "[El Mecanismo de Protección para personas Defensoras de Derechos Humanos and Periodistas en México](#)," May 2016, p. 11.

⁴⁴⁹ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴⁵⁰ ARTICULO 19, "Seguimiento a las recomendaciones realizadas por la Comisión Interamericana de Derechos Humanos en su informe sobre la situación de Derechos Humanos en México," September 15, 2016, p. 5.

⁴⁵¹ Centro Mexicano de Derecho Ambiental (CEMDA), Follow-up on recommendations made by the Inter-American Commission on Human Rights in its report on the situation of human rights in Mexico." September 15, 2016, p. 2.

⁴⁵² IACHR, "[Country Report: Situation of Human Rights in Mexico](#)," December 31, 2016, paras. 445 et seq.

⁴⁵³ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴⁵⁴ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

culturally appropriate approach;⁴⁵⁵ ii) unjustified delays in the implementation of material protective measures;⁴⁵⁶ iii) challenges in the implementation of protective measures intended to address specific risks, including with respect to the situation of journalists;⁴⁵⁷ iv) precarious allocation of funds to implement material protective measures, including the lack of fuel so that security agents can make their rounds, limitations on the number of security personnel assigned to beneficiaries, defective panic buttons and satellite phones;⁴⁵⁸ among other situations that affect the security situation of various beneficiaries of precautionary measures and the National Protection Mechanism.⁴⁵⁹ On the persistence of such failures, the Inter-American Commission considers it important for every protection measure that is implemented to be adequate, and thus suitable for protecting the beneficiary against the situation of risk, and effective, in that it must produce the expected results.⁴⁶⁰ Therefore, the States must design policies that allow them to monitor the effectiveness of the measures and constantly follow up their implementation, as it relates to the risks the beneficiaries may face.⁴⁶¹

273. In the case of human rights defenders and journalists who have been displaced because of their work and who have requested protection from where they have relocated, members of civil society have indicated that risks have been assessed and protection measures implemented in the new location rather than in the area from which they were displaced. “This makes it difficult for them to return and continue with human rights work and does not reduce the real risk level they face.”⁴⁶² On this subject, the Commission urges the State to redouble its efforts to strengthen the Protection Mechanism, taking into account the specific risks faced by the beneficiaries of the program, so that they can continue their work as human rights defenders and journalists.

274. Moreover, members of civil society have continued to express their concern regarding the lack of a strategy on prevention and on the punishment of those responsible for the attacks that continue to be faced by human rights defenders and journalists,⁴⁶³ which perpetuate cycles of violence and limit the performance of their work. In the words of a Mexican civil society organization, “one of the main weaknesses of the institutions [...] is their limited work in the area of prevention, as they carry out merely reactive work.”⁴⁶⁴ Along these lines, with respect to the investigation of the factors that cause the entry and permanence of persons supported by the Protection Mechanism, as well as persons benefiting from precautionary measures, the IACHR notes with concern that it has not received information on short-, medium- and long-term measures that the competent authorities are implementing to establish investigation

⁴⁵⁵ IACHR, “In the matter of the members of the Otomí-Mexica indigenous community of San Francisco Xochicuautla with respect to Mexico,” of May 11, 2016; and “In the matter of Lauro Baumea et al. with respect to Mexico (Pueblo Yaqui),” resolution extending the scope of the precautionary measures of March 22, 2016.

⁴⁵⁶ IACHR, “Matter of Edgar Ismael Solorio Solis et al. with respect to Mexico,” resolution expanding the scope of the measure of January 13, 2016.

⁴⁵⁷ IACHR, “Matter of Norma Madero Jiménez et al. with respect to Mexico,” of April 7, 2016.

⁴⁵⁸ Report presented by CEJIL on September 8, 2016, within the framework of the precautionary measures (MC 185-16) granted in favor of Sofia Lorena Mendoza and others with respect to Mexico. Report submitted by the CEDEM on July 28, 2016, within the framework of the precautionary measures (MC 208-10) in favor of Estela Angela Mondragón and others with respect to Mexico; Report presented by CEJIL on September 9, 2016, within the framework of precautionary measures (MC 77-15) in favor of the human rights defenders E and K with respect to Mexico; among other reports received during 2016.

⁴⁵⁹ WOLA/PBI, “The Protection Mechanism for Human Rights Defenders and Journalists in Mexico,” May 2016, p. 7.

⁴⁶⁰ IACHR, Second report on the situation of human rights defenders in the Americas, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 133.

⁴⁶¹ IACHR, Second report on the situation of human rights defenders in the Americas, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 337.

⁴⁶² WOLA/PBI, “The Protection Mechanism for Human Rights Defenders and Journalists in Mexico,” May 2016, p. 11.

⁴⁶³ ARTICULO 19, “Segundo Informe Trimestral de 2016: Un periodista asesinado cada 26 días”, August 4, 2016, p. 7; and WOLA/PBI, “The Protection Mechanism for Human Rights Defenders and Journalists in Mexico,” May 2016, p. 3.

⁴⁶⁴ ARTICULO 19, “Seguimiento a las recomendaciones realizadas por la Comisión Interamericana de Derechos Humanos en su informe sobre la situación de Derechos Humanos en México,” September 15, 2016, p. 5.

as a prevention measure as the policy of the State. In its comments on this report, the State acknowledged the importance of strengthening its capacity to create long-term public policies so that the justice authorities are responsible for preventing and effectively investigating crimes committed against persons covered by the Mechanism's protection.⁴⁶⁵ The Commission feels that the failure to investigate the facts that lead to at-risk situations generates a context of impunity that constantly reproduces the repetition of violent acts that affect the work of human rights defenders and journalists. Thus, as indicated emphatically in the 2015 country report,⁴⁶⁶ the Inter-American Commission recalls that "the most efficient medium to protect [...] is to efficiently investigate acts of violence and punish those responsible." Therefore, it again repeats its call on the State to conduct exhaustive independent investigations on attacks suffered by all persons linked to protection programs, including those who are beneficiaries of IACHR precautionary measures.

275. The IACHR encourages the efforts of the mechanism intended to develop statistics regarding attacks on journalists and human rights defenders, broken down by gender, state, and perpetrator. In this regard, the IACHR and its Special Rapporteurship for freedom of expression learned that as of September 2016⁴⁶⁷ the prevention, monitoring, and analysis unit of the Federal Mechanism had statistics regarding requests for protection under the mechanism, beneficiary individuals or groups, types of attacks, precautionary measures, protective measures, legal actions, files completed, meetings of the governing board, and requests for public information. This information has been developed thanks to the construction of a database and a georeferencing map that make it possible to systematize the information collected by the Prevention Unit through national monitoring of attacks against journalists and the communications media.

CONCLUSIONS

276. Despite the significant advances in constitutional and legislative terms in recent years, as well as the adoption of important public policies in Mexico, which were designed in accordance with international human rights law, challenges persist in terms of violence and insecurity, fueled by the fear generated by organized crime groups that act on their own and at times in collusion with authorities, as well as by the resulting impunity.

277. For 2016, the high number of disappearances, murders that are not properly investigated, as well as reports of torture continue to be of concern, as is the situation of insecurity of persons or groups that are more exposed because of historical discrimination or because of their activities, such as women, children, migrants, indigenous peoples, human rights defenders, and journalists, who are victims of murders, disappearances, kidnapping, torture, threats, and harassment.

278. As noted by the IACHR in its country report, the task for the Mexican State is to close the existing gap between its normative framework and recognition of human rights and the reality facing a large number of inhabitants who seek access to prompt and effective justice.

279. In its comments on the draft version of this report, the State acknowledged the work, mechanisms, and tools of the agencies of the inter-American system that contribute to and have a direct positive impact on the promotion and protection of human rights and on the consolidation of democracy in the region. Similarly, the State reiterated its commitment toward following up on and addressing the Commission's recommendations and ensuring the existence of policies, actions, and programs to deal with each of the challenges faced. The State said that in doing so, constant and constructive dialogue with the IACHR is and will continue to be fundamental.⁴⁶⁸

⁴⁶⁵ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

⁴⁶⁶ IACHR, "Country report: Situation of Human Rights in Mexico," December 31, 2016, paras. 452 et seq.

⁴⁶⁷ Mechanism for the Protection of Human Rights Defenders and Journalists, "Informe Estadístico-Agosto 2016," August 2016.

⁴⁶⁸ Communication from the Mexican State. Response of the Mexican State to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

280. The Commission reaffirms its commitment to collaborate with the Mexican State in the search for solutions to the problems and challenges identified and to provide support for the State's performance of its international obligations in the area of human rights.