

## CHAPTER V

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

### SECOND FOLLOW-UP REPORT TO RECOMMENDATIONS MADE BY THE IACHR IN ITS REPORT ON THE SITUATION OF HUMAN RIGHTS 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 section 9 of Article 59 of its Rules of Procedure. Under the terms of that provision, through Chapter V of its Annual Report, the Commission shall follow up on measures taken in order to comply with the recommendations issued in the country report. The Commission addresses the main current human rights problems of the United Mexican States (“Mexico”, “Mexican State” or “State”). These are related to citizen insecurity and militarization, torture, the access to justice and impunity, the situation of freedom of expression, as well as the situation of violence and insecurity that affect particular groups.

2. At the behest of Mexico, the IACHR conducted an on-site visit to the country from September 28 to October 3, 2015. The IACHR authored the report *The Human Rights Situation in Mexico* and therein listed several recommendations to the Mexican State, drawing on findings and information gleaned before, during and after the country visit. The report is also based on its own *ex officio* investigations, information provided by the State, input from the different mechanisms through which the IACHR has monitored the situation in the country, as well as news reports, decisions and recommendations of specialized international bodies, among other sources, as provided for under Article 59, paragraph 5 of its Rules of Procedure.

3. In its country report, the Commission noted 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 administration 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 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 increased violence, authorities opted to expand 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 measure sparked greater violence, as well as gross violations of human rights, cases in which the IACHR found a lack of accountability in keeping with international standards.

4. The change in government in December 2012, did not lead to any substantial changes in security policies and rates of violence. In light of this context, the IACHR voiced in its report particular concern over allegations 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; the situation of insecurity of 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, aside from countries at war.

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\* 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.

5. During the visit, the Commission was able to obtain on-the-ground confirmation of critically high rates of impunity as well as inadequate and insufficient assistance and care for victims and their family members. The failure to provide access to justice has created a situation of structural impunity, the effect of which is to perpetrate and, in some instances, foster the repetition of gross human rights violations. The threats, harassment, murders, and disappearances of individuals, who seek truth and justice, have had a chilling effect on Mexican society. This feeling of intimidation was noticed by the IACHR in countless testimonies of people, who do not report these violations to authorities out of fear of reprisals and thus contribute to the problem of underreporting in official statistics. Barriers in access to justice, and the failure to bring any legal action in many cases with the resulting impunity, have weakened the rule of law and pose pressing challenges.

6. The Commission welcomed the measures the State had taken to address the situation described 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 for the investigation of torture and forced disappearance, as well as other initiatives noted in the report. Notwithstanding the progress, implementation of the State's response continued to be marred by shortcomings, inadequacies and obstacles. The IACHR bore witness to the deep gulf between the legislative and judicial framework and the reality faced every day by millions of people in terms of access to justice, crime prevention, and other government initiatives. The IACHR noted that the Mexican State's premier 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. The first follow-up report to the recommendations issued in the 2016 Country Report was approved by the Commission on March 14, 2017. This report included the relevant observations made by the Mexican State and civil society organizations. In its observations, the State specifically wrote the following: "we recognize the challenges the country still faces on this issue and thus we continue to work on actions to address them, [and these] actions will result in the implementation of the rest of the Commission's recommendations."<sup>1</sup>

8. In a communication dated July 19, 2017, the IACHR asked the Mexican State to submit information on compliance with the recommendations set forth in the 2017 Country Report and set a deadline of 30 days for it to do so. The State's response was received on August 23, 2017.<sup>2</sup> On October 31, 2017, the IACHR transmitted to the State a copy of the preliminary draft of this document, which forms part of Chapter V of its 2017 Annual Report, pursuant to its Rules of Procedure, and asked it to submit its observations. On December 7, the IACHR received the State's observations, pertinent parts of which were included in this final versión approved by the Commission on December 31, 2017.<sup>3</sup> The Commission welcomes and appreciates the information it received.

9. In its observations on the draft of this report, the State pointed out that "even though there are recommendations that have not been implemented as specifically required by the Commission, that in no way represents a legal and/or institutional lacuna with respect to the promotion and protection of human rights in the country, particularly since, as shown in the body of this report, for every challenge it faces the State does something concrete to address it, be it temporarily or in some other manner that does not necessarily match that posited by the Commission."<sup>4</sup>

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<sup>1</sup> Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016. Note OEA-02902 of November 17, 2016. IACHR, Public Hearing, Situation of Human Rights and Forced Disappearance in Mexico, 159<sup>th</sup> Session, December 5, 2016.

<sup>2</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." [Note OEA-02064, August 22, 2017.](#)

<sup>3</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, [Note OEA-03018, November 30, 2017.](#)

<sup>4</sup> *Idem.*

10. In its observations on the draft of this report, the State “recognizes the work of the mechanisms and tools of the organs of the inter-American system that contribute to, and have a direct positive impact on, the promotion and protection of human rights and the consolidation of democracy in the region. For that reason, it reiterates its commitment to follow up on and fully address the recommendations made by the Inter-American Commission on Human Rights, by guaranteeing the pursuit of effective policies, actions, and programs. For that, cooperation and ongoing, constructive dialogue with the IACHR is and will continue to be fundamental.”<sup>5</sup>

11. In its report on compliance with the 2017 recommendations, the Mexican State wrote that:<sup>6</sup>

It recognizes that it still faces significant challenges to realize the full enjoyment of human rights in our country, in particular in the area of prosecution and administration of justice. The total eradication of torture, forced disappearances and extrajudicial executions, cases of mistreatment of migrants, and abuses of the human rights of journalists and human rights defenders, women and girls, is a priority task of the State.

12. It further reiterated “the unwavering will to address these violations and the non-derogable commitment to strengthen actions to effectively protect human rights in the country.”<sup>7</sup>

In this regard, the Government of Mexico shall continue to work to fully address the recommendations issued by the IACHR, while at the same time continue to strengthen dialogue and engagement with it, not only for the aforementioned follow-up, but also [because it is] aware of the important role of the Commission in the promotion and protection of human rights in the hemisphere.<sup>8</sup>

13. The IACHR takes note of the recognition voiced by the Mexican State prior to the publication of the 2015 Country Report, welcomes the expression of willingness regarding the serious situations of human rights observed by the IACHR and reiterates the importance of Mexico fully complying with the recommendations issued in the report.<sup>9</sup> It also reiterates its willingness to collaborate with Mexico within the framework of its mandate and duties, to ensure the effective enjoyment of human rights for everyone.

14. The instant follow-up report is divided into sections, which 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. Each section deals with the recommendations issued by the IACHR in the respective chapters and examines the main areas of progress and challenge identified by the IACHR in light of the information submitted by the State and civil society organizations, as well as information the Commission has collected through monitoring the general human rights situation of the country. For this purpose, the Commission has drawn on information it received from the State during public hearings, investigations it pursued on 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 to it from other public sources and decisions and recommendations of specialized international agencies, among other sources. At the end of this report, the IACHR provides its conclusions and recommendations.

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<sup>5</sup> *Idem.*

<sup>6</sup> Communication of the Mexican State on follow up to the recommendations of the Report “Situation of Human Rights in Mexico.” [Note OEA-02064, August 22, 2017.](#)

<sup>7</sup> *Idem.*

<sup>8</sup> *Idem.*

<sup>9</sup> Mexican Government. Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016. Note OEA-02902 of November 17, 2016. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

## II. FOLLOW-UP ON RECOMMENDATIONS

### A. Citizen Security

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

15. In its report on Human Rights in Mexico, the IACHR stated that as part of the “war on drugs” that began in 2006, Mexican authorities opted to increase the role of the armed forces—particularly the Secretariat of National Defense (SEDENA) and the Secretariat of the Navy (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 leading to gross human rights violations and impunity.<sup>10</sup> 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 have been no substantial changes with regard to security policies and the violence that these policies trigger.<sup>11</sup>

16. The State indicated to the Commission that because of 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.<sup>12</sup> The State stressed that the presence of the Armed Forces in national territory is not widespread but is instead a response to specific needs in certain areas.<sup>13</sup>

17. Given such a scenario, in its 2017 report on compliance with the recommendations, the State noted to the IACHR that several legislative proposals are before the Congress of the Union in order to issue a Law of Homeland Security in Mexico. On December 15, 2017, the Senate approved the Homeland Security

<sup>10</sup> IACHR, *Situation of Human Rights in Mexico*, December 31, 2015.

<sup>11</sup> *Idem*.

<sup>12</sup> Mexican Government. Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016. Note OEA-02902 of November 17, 2016.

<sup>13</sup> *Idem*.

Law and was passed to the Chamber of Deputies with some modifications.<sup>14</sup> On December 21, 2017, the Law was enacted by the President of the Republic.<sup>15</sup> During a press conference, the President expressed that he would not declare homeland security protection according to the terms of the Law until the Supreme Court pronounces about its constitutionality.<sup>16</sup>

18. According to the State, the creation of a law of this nature would define the framework, criteria and time limits for the presence of the Mexican Armed Forces, when threats to security exceed the capacity of local civilian authorities and these forces are called on to act.<sup>17</sup> On this score, several civil society organizations forcefully object to the Homeland Security Law initiative before the Congress. In their view, the Law amounts to a rushed measure giving permanent status to the current security scheme.<sup>18</sup> They also emphasize the unconstitutional nature of these initiatives and the empirical data proving the rise in violence since 2006.<sup>19</sup> Additionally, most of the organizations concur that any homeland security law must be aimed at gradually removing the Armed Forces from public security duties, regulating the use of force, putting in place a system of accountability and strengthening the civilian police forces, which they claim are not included in the current proposals as they currently stand.<sup>20</sup> According to some civil society organizations, “these legislative initiatives attempt to make the illegal legal: to establish a permanent policy of militarization of public security in Mexico, despite the notable rise in human rights violations documented over the past decade.”<sup>21</sup>

19. The Representative of the Office of the United Nations High Commissioner for Human Rights in Mexico, Jan Jarab, also expressed his concern to the Senate over this proposed legislation which is still being debated in the Chamber of Deputies<sup>22</sup>. He underscored the Armed Forces’ lack of adequate training to carry out these tasks, which are the province of civilian institutions, in addition to the meager results achieved by this measure, increased violence reported over the past decade and weakening of institutions, which this measure has brought in its wake. He further emphasized the risk of “petrifying an improper role of the Armed Forces” in the event that a Homeland Security Law of this sort is enacted. The Representative

<sup>14</sup> Animal Político, [Sin importar rechazo, Senado aprueba Ley de Seguridad Interior, regresa con cambios a Diputados](#), 15 December 2017; Excelsior, [Aprueban en lo general la Ley de Seguridad Interior](#), 15 December 2017; El Financiero, [Senado aprueba Ley de Seguridad Interior](#), 15 December 2017.

<sup>15</sup> Homeland Security Law, Official Journal of the Federation, 21 December 2017.

<sup>16</sup> El Universal, [Promulgan Ley de Seguridad Interior](#), 21 December 2017, Excelsior, [Publican decreto que expide la Ley de Seguridad Interior](#), 21 December 2017; and Animal Político, [EPN promulga la Ley de Seguridad Interior: SCJN decidirá su constitucionalidad, dice](#), 21 December 2017.

<sup>17</sup> Communication of the Mexican State on follow up to the recommendations of the Report “Situation of Human Rights in Mexico.” Note OEA-02064, August 22, 2017.

<sup>18</sup> El Universal, [Ley de Seguridad Interior es amenaza para DH: ONGs](#), [‘Homeland Security Law is threat to HR: NGOs’] December 15, 2016; Aristegui Noticias, [Ley de Seguridad interior amenaza derechos humanos y Estado de derecho: ONG](#), [‘Homeland Security Law threatens human rights and rule of law’] January 10, 2017; Proceso, [ONG alertan que Ley de Seguridad Interior sería “amenaza al Estado de Derecho”](#), [‘NGO warns that Homeland Security Law would be a “threat to the rule of law”’], January 10, 2017.

<sup>19</sup> Galindo C., Gómez, M., Zepeda, R and Castellanos, R. (2017). “Seguridad interior: elementos para el debate” [‘Homeland security: facts for debate’]. Strategic topics, No. 39. Belisario Domínguez Institute. Senate of the Republic. Mexico.

<sup>20</sup> Animal Político. [#SeguridadSinGuerra: víctimas y ONG exigen al congreso votar contra Ley de Seguridad Interior](#). [‘#SecurityWithoutWar: victims and NGO demand Congress vote against Homeland Security Law’], March 15, 2017. Available at: <http://www.animalpolitico.com/2017/03/seguridad-ley-seguridad-interior/>

<sup>21</sup> Request for thematic hearing “Draft legislation which runs counter to models of citizen security and human rights in Mexico,” submitted by several Mexican civil society organizations, March 29, 2017.

<sup>22</sup> Milenio. [Dictamen de Ley de Seguridad Interior estará listo en septiembre](#). 27 July 2017; Aristegui Noticias. [Ley de Seguridad Interior, la de mayor prioridad para el PRI: Gamboa](#). 28 May 2017.



issued an appeal for broad discussion about the security model to be adopted and urged senators and deputies to continue to follow particular guidelines in drafting this Law.<sup>23</sup>

20. Subsequently, in a letter addressed to the Senate of the Republic, the representative of the Office of the United Nations High Commissioner for Human Rights in Mexico expressed concern at the contents of the bill passed by the Chamber of Deputies and forwarded to the Senate, particularly in respect of 14 points, including, inter alia: conceptual ambiguities; an improper role of the Armed Forces; subordination of civilian authority to military command; inadequate protection of and guarantees for human rights; curtailment of social protest; lack of transparency, and failure to abide by the Constitution and international Conventions.<sup>24</sup> For his part, the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, pointed in a press release to items of concern in the bill in question, such as the provision that, under certain circumstances, civilian authorities could be placed under armed forces' command, and ambiguity, with the attendant risk that such provisions could be applied extensively and arbitrarily.<sup>25</sup>

21. In a press release, the IACHR voiced its concern with Mexico's draft Homeland Security Law approved by the Chamber of Deputies, due to precepts in the text of the draft that are at variance with human rights standards. According to the information at the Commission's disposal, this bill would entail the normalization, regulation, and permanent role of the Armed Forces in public security functions. In its press release, the Commission reiterated that the obligations entered into by States required public policies for safeguarding security and combating crime that prioritize an efficient and properly functioning institutional structure tasked with guaranteeing for the population the effective exercise of human rights in respect of the prevention and control of violence and crime, including organized crime. The IACHR pointed out that the Mexican State must reaffirm its commitment to human rights by attending to the recommendations and invocations of civil society organizations, the National Commission for Human Rights (CNDH), and international organizations, including those put forward by the IACHR in its Country Report. For that reason, the State needs to eschew the militarization of public security, adopt the measures needed to strengthen the police, and guarantee an autonomous and independent justice system.<sup>26</sup>

22. This initiative is of grave concern if considering that the Armed Forces do not register statistics on civilian deaths and wounded in its operations since 2014. This issue has been of concern for the IACHR since its 2015 Country Report.

23. The decision adopted by the Senate of the Republic to forward the Homeland Security Law to the Chamber of Deputies with a few modifications was described by the Office of the United Nations High Commissioner for Human Rights as "lamentable."

24. In its observations on the draft version of this report, the Mexican State argued that a law of this kind served to define such matters as the framework, criteria, and time frame for actions by the Mexican Armed Forces in situations in which threats to security exceed the capacity of local authorities to handle them. According to the State, having a Homeland Security Law would lend a degree of legal certainty to interventions by the Mexican Armed Forces, in addition to appropriately establishing the tasks incumbent upon each authority and limiting the likelihood of any of them going too far and encroaching on another authority's sphere of competence.<sup>27</sup>

<sup>23</sup> Words of Jan Jarab, Representative of the OUNHCHR-Mexico. Senate Hearing: Homeland Security Law. January 26, 2017. See <https://www.youtube.com/watch?v=QtZtAXjFnOg> Min. 1.45.00 – 2.00.00

<sup>24</sup> Carta OACNUDH/REP203/2017 sobre la Ley de Seguridad Interior.

<sup>25</sup> Naciones Unidas, [Zeid pide a México que no aprueba el proyecto de ley de seguridad interior](#), 5 de diciembre de 2017.

<sup>26</sup> IACHR, [IACHR expresses concern regarding draft law on internal security in Mexico](#), December 4, 2014. [[http://www.oas.org/en/iachr/media\\_center/PReleases/2017/200.asp](http://www.oas.org/en/iachr/media_center/PReleases/2017/200.asp)]

<sup>27</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

25. On the score, the IACHR has noted that militarization of the duties of public security in Mexico has resulted in an increase in violence and human rights violations, as well as higher rates of impunity.<sup>28</sup> In fact, history shows that intervention of military forces in internal security, broadly speaking, is accompanied by violations of human rights in violent circumstances. Therefore, practice teaches us that it is advisable to avoid the intervention of the armed forces in matters of internal security.<sup>29</sup> The Commission reiterates that it is essential to draw a clear and precise distinction between internal security as a function for the police, and national defense as a function of the armed forces, since they are two substantively different institutions, insofar as the purposes for which they were created and their training and preparation are concerned.<sup>30</sup> The first one works with society to prevent and investigate crimes, and the second one preserves national security against external threats.

26. The Commission observes an increase in the homicide rates. The statistics offered by the Executive Secretariat of the National System for Public Safety stand at a total of 38,501 homicides from January to October 2017, of which 23,968 were premeditated and 14,533, involuntary manslaughter: as well as 1,145 cases of kidnapping and 4,909 cases of extortion.<sup>31</sup> According to official figures, the period of January to December of 2016 reached 40,015 homicides.<sup>32</sup> In October, one of the most violent months of the past two decades, there were 2,764 homicides.

27. Official figures of INEGI show a homicide rate of 19.59 for every 100,000 inhabitants in 2016.<sup>33</sup> Additionally, according to the weekly magazine *Semanario Zeta*, the nationwide homicide rate from January to August 2017 is 13.13, with Colima posting the highest rate (63.92) and Yucatan, the lowest (1.47).<sup>34</sup> This weekly magazine also reported total premeditated homicides during the term of President Enrique Peña Nieto thus far has reached 104,602 (December 2012 to July 2017).

28. The IACHR also takes note of the measures reported by the State to coordinate its different security agencies in order to strengthen the capacities of their ranks in the area of human rights.

29. At the 42<sup>nd</sup> Session of the National Security Council, the President of the Mexican Republic expressed the need to coordinate between the different levels of the State and his commitment to public security. Accordingly, he stressed that a Single Police Command must be adopted, which would consist in a centralized police system that comprises municipal and state police officers<sup>35</sup>. The President considers that the proposal of a combined command could “generate uncertainty, lack of clarity and administrative procedures, which detracts from security tasks.”<sup>36</sup> At this meeting, several key agreements were reached, such as approval of the Optimal Police Function model for strengthening state preventive police forces; creation of a platform to enable standardizing and interconnecting data bases on gender violence; approval of the Model for Evaluation and Follow-up on consolidation of the Criminal Justice System; approval of the Coordination Protocol for Risk Assessment in protection mechanisms for journalists and human rights defenders; drafting of work plans by state governments establishing actions and timetables for compliance

<sup>28</sup> IACHR. Situation of Human Rights in Mexico. OEA/Ser.L/V/II. Doc 44/15, December 31, 2015. par. 88.

<sup>29</sup> IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, par. 101.

<sup>30</sup> *Idem*.

<sup>31</sup> SEGOB, [Informe de víctimas de homicidio, secuestro y extorsión 2017](#), [Report on victims of homicide, kidnapping and extortion 2017], Information as of August 31, 2017.

<sup>32</sup> *Idem*.

<sup>33</sup> INEGI, Figures for 2016.

<sup>34</sup> Aristegui Noticias, [Lo que no dice el #V Informe: 104 mil 602 ejecutados con Peña Nieto: Semanario Zeta](#), [‘What Report #5 does not say: 104,602 executed under Peña Nieto: Semanario Zeta’], September 3, 2017.

<sup>35</sup> Derecho en Acción. [¿Qué es realmente el modelo de mando policial único?](#) 11 January 2016.

<sup>36</sup> Government of Mexico. [Palabras Presidente de los Estados Unidos Mexicanos, Enrique Peña Nieto, durante la 42ª Sesión del Consejo Nacional de Seguridad Pública](#), [‘Remarks of President of the United Mexican States, Enrique Peña Nieto, during the 42<sup>nd</sup> Session of the National Security Council’], August 30, 2017.

with the mandates of the General Law to Prevent, Investigate and Punish Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; among other ones.<sup>37</sup>

30. As for measures to strengthen the ability of the police to carry out public security tasks, in addition to the measures noted in earlier reports,<sup>38</sup> the State reported that on October 31, 2016, the Commissioner General of the Federal Police created the Human Rights Unit, which is now in charge of addressing, managing and following up on requests made by the different national and international human rights protection agencies. It also indicated that the Substantive Equality Unit of the Office of the Commissioner General of the Federal Police has been conducting sensitivity training and strengthening activities on the topics of equality, gender violence and non-discrimination. It noted that since its creation, from October 2016 to July 2017, a total of 225 activities have been carried out and were attended by 10,369 members and citizens.<sup>39</sup>

31. The State also reported that training on the topics of human rights and the National Criminal Sentence Execution Law was given from January to July 2017 to a total of 8,840 public officials of the Decentralized Administrative Agency for Prevention and Social Readaptation.<sup>40</sup> Likewise, the State indicated that public officials from other institutions, who perform duties relating to the administration of justice, also receive training, noting in particular staff of SEDENA, SEMAR, the Federal Police Force, Administrative Agency for Prevention and Social Readaptation, Office of the State Attorneys General and Assistant Attorneys General and of the Secretariats of Public Security of the States.<sup>41</sup>

32. As to the regulation of the use of force, the IACHR has not received information regarding any progress toward approval of a General Law on the Use of Force in keeping with the recommendations issued in its Country Report, as well as the recommendations of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments<sup>42</sup> and the United Nations High Commissioner for Human Rights.<sup>43</sup>

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<sup>37</sup> *Idem*.

<sup>38</sup> Communication from the Mexican State. Mexican State's response to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

<sup>39</sup> Communication from the Mexican State. Mexican State's Report on follow-up to recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

<sup>40</sup> The State also indicated that the General Directorate for the Promotion of a Human Rights Culture, Complaints and Inspection, attached to the Office of the Assistant Prosecutor for Human Rights, Crime Prevention and Community Services of the Office of the Attorney General (PGR), is in charge of promoting a culture of human rights protection by means of ongoing and standing training courses on the subject matter, mostly for staff dealing with matters of substance in the preliminary investigation phase of cases (Federal Prosecuting Attorneys, Federal Investigators of Prosecutor's Offices and expert witnesses) and administrative staff, at both central offices as well in state offices. Communication of the Mexican State. Mexican State's Report on follow-up to recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

<sup>41</sup> Communication from the Mexican State. Mexican State's Report on follow-up to recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

<sup>42</sup> United Nations. [Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, México](#). [Follow-Up Report of the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishments, Mexico], A/HRC/34/54/Add.4, February 17, 2017, par. 19.

<sup>43</sup> The IACHR learned that in the state of Mexico on March 17, 2016, the legislature approved the Law Governing the Use of Force, which was introduced by the Governor of the state. According to several civil society organizations, the law contained various provisions that run counter 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. <http://legislacion.edomex.gob.mx/sites/legislacion.edomex.gob.mx/files/files/pdf/gct/2016/mar188.pdf>; 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. Also see, United Nations. Recommendations to Mexico issued by United Nations High Commissioner for Human Rights, Sr. Zeid Ra'ad al Hussein, as a result of his official country visit in October 2015.



33. In prior reports, the Mexican State has claimed that while there is no single legal instrument governing the use of force, efforts had been made to create guidelines to seek to ensure respect for human rights. As an example, it cited the “Common Manual for Use of Force by the Three [Branches of] Armed Forces.”<sup>44</sup> In its observations on the draft version of this report, the State pointed out that, through various institutions, it had implemented a series of public policies that include agreements, guidelines, and training courses, aimed at regulating the use of force at every level: actions that were described in detail in previous reports. It also stated that they testified to the effort it had gone to to comply with the recommendation.<sup>45</sup>

34. The State further pointed out that on October 18, 2017, the Federal Police (FP) Protocol on the Use of Force was published in the Official Gazette of the Federation (DOF). It aims “to establish the parameters and minimum conditions needed to differentiate between and determine the use of techniques, tactics, weapons, equipment, and levels of force, in accordance with the circumstances, in order to either step up or diminish the degree of their application.” Another purpose served by the Protocol was to “provide citizens with legal certainty and transparency regarding the use of force by members of the Federal Police in the performance of their duties.”<sup>46</sup>

35. The State added that, as part of the curriculum of the 2017-I Initial Training Course for Officers of the Ministerial Federal Police, there were classes taught at the Ministerial, Police, and Experts’ Training Institute on “police operation techniques” that addressed such topics as the use of force and self-defense and the principles governing the rational use of it: strict necessity, legality, timeliness, proportionality, and rationality. As part of that training course, the idea is to develop basic techniques for intervention and securing control and familiarity with the legitimate, rational, progressive, and differentiated application of force by the police (dissuasion, physical containment, the use of non-lethal force, and the use of lethal force). In October 2017, 210 Ministerial Federal Police (PFM) officers took and passed that course.<sup>47</sup>

36. Regarding deprivation of liberty, during the IACHR public hearing on pretrial detention in October 2017, the Mexican State highlighted the measures adopted to implement the new criminal justice system that would respond to the exceptionality that characterize the use of pretrial detention. Among those measures, the IACHR emphasizes the following: 1) reform that limits the terms of pretrial detention to 2 years; b) supervision and monitoring of alternative measures to pretrial detention; c) application of mediation and conciliation procedures; d) creation of centers of restorative justice; and e) establishment of hearings on the basis for pretrial detention.<sup>48</sup>

37. With respect to the use of force by the Police, in its first report on follow-up to the recommendations, the IACHR noted that one of the recommendations issued by the CNDH, in the context of Tanhuato, - the Tanhuato case, an alleged confrontation in which 42 civilians and a Federal Police died - was to update the General Guidelines Regulating the Use of Force by Police Institutions of the Ministry of Public Security’s Decentralized Agencies and, where necessary, bring the guidelines in line with international standards on the subject matter.<sup>49</sup> The Commission has not received any update on compliance with this recommendation issued by the CNDH.

<sup>44</sup> This manual is intended to guide the actions of the armed forces personnel in discharging their duties. The State has explained that the Secretariat of National Defense (SEDENA) has amended its regulations and operation procedures as regards human rights through the “Code of Conduct for Public Servants of SEDENA” and the “Human Rights Booklet of the Army and Air Force.” Communication of the Mexican State. Mexican State’s response to the draft of Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

<sup>45</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>46</sup> *Idem*.

<sup>47</sup> *Idem*.

<sup>48</sup> IACHR, [Audiencia “Situación de la Prisión Preventiva en México” \(Situation of Pretrial Detention in Mexico\), 24 October 2017, 165<sup>o</sup> Period of Sessions.](#)

<sup>49</sup> Twelfth Recommendation to the National Security Commissioner.

38. The State, in response, reported in that in July 2017, along with the organization Ciudadanos en Apoyo a los Derechos Humanos (CADHAC) and Enfoque DH, the “Comprehensive Model for the Regulation of the Use of Force by Police was formally introduced in order to provide the municipal level with a basis to define the legitimate use of force. According to the State, the goal of the Model is to regulate the conduct of municipal police agents so they are able to react in a proportional way to the threat or risks of persons or legal interests that they are mandated to protect.<sup>50</sup> According to information provided by CADHAC, this jointly written model also includes the training of 1,300 police officers from Monterrey and 896 from Guadalupe.<sup>51</sup>

39. Both the IACHR and the United Nations High Commissioner have emphasized the need for Mexico to supplement its efforts to promote citizen security by adopting and implementing measures to create a body that is independent from all security forces, that perform public security operations and tasks where there is deprivation of life, in order to ensure accountability.<sup>52</sup> The IACHR has not received any specific information on this item. In its observations on the draft version of this report, the State indicated that public security functions were based on the provisions of Article 21 of the Constitution, regulated by the General Law of the National Public Security System, which contains the mechanisms needed to ensure accountability for actions carried out by State agents in the performance of public security tasks.<sup>53</sup>

40. With regard to measures for federal and state officials to refrain from making public statements about the legality of the actions of law enforcement until they have the results of the investigation, the State reiterated that pronouncements issued by Mexican authorities are in line with established standards and provisions of the law, at all times denoting respect for the fundamental rights of every person.<sup>54</sup> It also claimed that the presumption of innocence is a right granted by the Political Constitution of the United Mexican States and several international treaties.<sup>55</sup>

41. As for the creation of information systems and data collection and analysis regarding violence affecting different groups, the State reported that within the framework of the Specialized Technical Committee on Information with a Gender Perspective (CTEIPG), the Integrated System of Statistics on Violence against Women (SIESVIM) was created, for the purpose of making available to society a broad range of statistics, flowing from the country’s major sources of information and, in this way, render an accounting of violence perpetrated against women.<sup>56</sup>

42. It also noted that in April 2017 the “Standardized Conceptual Framework of Statistics from a Gender and Human Rights Perspective of Criminal Matters in the State Adversarial Criminal Proceeding System” was introduced in the courts of justice of the country. As of March 2017, 17 courts have adopted this

<sup>50</sup> Communication from the Mexican State. Mexican State’s Report on follow-up to recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>51</sup> CADHAC, Report of CADHAC on progress in compliance with the recommendations issued by the IACHR in 2015, August 15, 2017.

<sup>52</sup> IACHR, [Situación de Derechos Humanos en México](#), [Situation of Human Rights in Mexico] 2015. United Nations, [Recomendaciones para México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, Sr. Zeid Ra’ad Al Hussein, resultado de su visita oficial al país en octubre de 2015](#), [Recommendations to Mexico by the United Nations High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein, as a result of his official country visit in October 2015], October 20, 2016.

<sup>53</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>54</sup> Communication from the Mexican State. Mexican State’s Report on follow-up to recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>55</sup> *Idem*.

<sup>56</sup> The State reported that the System involves 239 indicators, each of which fall under one of four thematic modules for reference: 1) Socio-cultural, demographic and economic context; 2) Situation of violence against women; 3) Damages and consequences of violence in the lives of women; 4) Institutional resources for the prevention, punishment and eradication of violence against women and care and assistance. Currently, the SIESVIM is in the final phase of fine-tuning, after the trial and public comment period carried out by the CTEIPG.

framework. The first version of the “Proposed Statistical Classification of State-level Crimes with a Gender and Human Rights Perspective in Mexico” was also drafted.<sup>57</sup>

43. The State additionally reported that the National Commission for the Development of Indigenous Peoples (CDI) is engaged in adapting the indigenous population identification methodology in order to be able to process the information from the 2016 National Survey on the Dynamics of Relationships in the Home (ENDIREH) and, thereby, obtain information on violence against indigenous women nationwide.<sup>58</sup>

44. As regards children and adolescents, on April 27, 2016, the Technical Committee Specializing in Information on the Comprehensive Protection of the Rights of Children and Adolescents was instituted. In its first follow-up report, the IACHR took note of the progress made in the process of constructing an information system on the comprehensive protection of the rights of children and adolescents. The IACHR reiterated that it hopes that priority is given to the participation of civil society in disseminating and using this information. In its observations on the draft version of this report, the State pointed out that outcomes and information obtained through the Executive Committee of the National Subsystem for Demographic and Social Data of the National Institute of Statistics and Geography (INEGI), together with the information being uploaded to the National Information System at the website <https://www.infosipinna.org/>, are known to all 75 organizations in the Network. That means that all said information is in the public domain and can be consulted and shared.<sup>59</sup> The State further pointed out that, in connection with the installation and first regular meeting (on September 7 and 8, 2017) of the Specialized Commission for analyzing the observance, protection, and promotion of rights of the System for Comprehensive Protection of Children and Adolescents (SIPINNA), there was a presentation of the National Information System, comprising 32 academic and civil society experts appointed by each of the Protection Systems in each federative entity.<sup>60</sup>

45. The State also noted that the Office of the Federal Attorney General for the Protection of Children and Adolescents is currently working on the construction of a Statistical Register, as it is mandated to do by law, which will be included in the National Information-gathering System, once it is completed.<sup>61</sup>

46. In addition, the Executive Commission for Victim Service (CEAV) has a National Victims Register (RENAVI), which features a nationwide victims list, where the personal information of the victims of the crime and human rights violation of the federal jurisdiction and, as an exception, of the local jurisdiction, are recorded. The Substantive Equality Unit of the National Security Commission (CNS), since its creation (October 7, 2016) until the present date, has also been gathering information on gender violence alerts, with a total of 42 cases brought before the authorities.<sup>62</sup>

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<sup>57</sup> This classification system is a companion tool to the “Standardized Conceptual Framework of Statistics from a Gender and Human Rights Perspective of Criminal Matters in the State Adversarial Criminal Proceeding System,” designed to aid in comparing and integrating judicial statistics between jurisdictions. Communication from the Mexican State. Mexican State’s Report on follow-up to recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>58</sup> Communication from the Mexican State. Mexican State’s Report on follow-up to recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>59</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>60</sup> *Idem.*

<sup>61</sup> Communication from the Mexican State. Mexican State’s report on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>62</sup> *Idem.*

47. The State reiterated to the Commission that the PGR has implemented the Institutional System of Statistical Information (SIIE), which compiles information on complaints, disaggregates it by sex, age, and nationality. This system is currently undergoing renovations to update the fields of capture in order to make groups such as LGBTI persons, visible.<sup>63</sup> It also noted that the PGR's Crime Unit for Migrants has designed and is implementing an internal database to systematize information on migrants and those entitled to international protection on Mexican territory, as well as at-risk migrants, who are being searched for in the country.<sup>64</sup>

48. With respect to addressing the issue of drugs, the State reiterated that the executive branch introduced a draft decree bill before the 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 Criminal Code.<sup>65</sup> The Commission has not received updated information on progress with this bill.<sup>66</sup>

49. Based on the foregoing considerations, the IACHR reiterates its recommendations in this section to the State. In particular, the Commission hopes the State will implement a plan for the gradual withdrawal of the armed forces from public security tasks while building the capacity of the police to carry out citizen security tasks, in keeping 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 terms of 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,

<sup>63</sup> Mexican Government, Response to request for information on the status of implementation of the recommendations in the 2015 Country Report, submitted on November 10, 2016. Nota OEA-02902 of November 17, 2016.

<sup>64</sup> *Idem*.

<sup>65</sup> Communication from the Mexican State. Mexican State's report on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017. Mexican Government, Response to request for information on the status of implementation of the recommendations in the 2015 Country Report, submitted on November 10, 2016. Nota OEA-02902 of November 17, 2016.

<sup>66</sup> The State, likewise, reported that the Office of the Specialized Assistant Attorney General for the Investigation of Organized Crime is conducting training courses on the subject matter. It also noted that, as part of the efforts to follow up on the decision to *incorporate a gender perspective in policies and programs related to drugs* adopted by UNGASS 2016, in January 2017, the inter-institutional discussion forum (Mesa) was organized: Justice reforms on drug crimes committed by women, which was spearheaded by the National Women's Institute (Inmujeres), EQUIS Justicia para las Mujeres A.C. and the Secretariat of Foreign Relations (SRE), for the purpose of discussing the context of women deprived of liberty and engaging in dialogue for public policy proposals. Communication from the Mexican State. Mexican State's report on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

- 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 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.

50. In its 2015 report, *Situation of Human Rights in Mexico*, the IACHR wrote 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, and even state officials. The common thread in the testimony they gave was the incessant search for loved ones “until they are found,” and an alarming degree of impunity.

51. 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.”<sup>67</sup> Figures from the National Registry of Data of Missing or Disappeared Persons (RNPED) of the Executive Secretary of the National System for Public Safety, revised as of October 2017, show 34,660 persons either missing or disappeared, 33,513 under state and local jurisdiction and 1,147 under federal jurisdiction.<sup>68</sup>

52. In its *Special Report on Disappeared Persons and Unmarked Graves*, the National Human Rights Commission (CNDH) expressed difficulties in identifying and processing the different sets of data on disappeared persons. This is, for the most part, because the terms of ‘disappeared, missing, unlocated and absent’ are misused by the agencies of administration of justice in the states of the country and the concepts are poorly defined.<sup>69</sup> This is why the CNDH noted that it has different figures for disappeared persons, which it used to form a database of 32,236 cases of disappeared persons in the country as of December 2016. It still needs to be determined how many of these persons have been located since their case was registered.<sup>70</sup> These difficulties were put forward as evidence of the need for an exhaustive register of disappeared persons and to systematize the management of this data nationwide.<sup>71</sup> The CNDH also indicated that due to “structural inconsistencies, including a deficient administration of justice”, most of the cases are still not supported with any proof or evidence to suggest why these persons are currently reported as disappeared.<sup>72</sup> On this score, a study conducted by civil society organizations showed a lack of clarity in the total numbers of disappeared persons, because officials provided “contradictory or incomplete information and the inability to define the universe of disappeared persons significantly hampers any search efforts that may be undertaken, prevents victims from obtaining measures of adequate reparation and justice from being done in the end.”<sup>73</sup>

<sup>67</sup> IACHR, Public Hearing, *Situation of Human Rights and Forced Disappearance in Mexico*, 159<sup>th</sup> Session, December 5, 2016.

<sup>68</sup> SEGOB, [Secretariado del Sistema Nacional de Seguridad Pública](#). [‘Secretariat of the National Public Safety System’]

<sup>69</sup> CNDH, [Informe Especial sobre Desaparición de Personas y Fosas Clandestinas en México](#). [‘Special Report on Disappearance of persons and Unmarked Graves in Mexico’]

<sup>70</sup> *Idem*.

<sup>71</sup> *Idem*.

<sup>72</sup> *Idem*.

<sup>73</sup> Centro de Derechos de las Mujeres A.C., Centro de Justicia para la Paz y el Desarrollo A.C., Centro Diocesano para los Derechos Humanos Fray Juan de Larios, A.C., Ciudadanos en Apoyo a los Derechos Humanos, A.C., Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., Fuerzas Unidas por Nuestros Desaparecidos en Nuevo León, Fundación para la Justicia y el Estado Democrático de Derecho, A.C., Red por los Derechos de la Infancia en México, Trial Internacional, General complaint addressed to the Working Group on forced or involuntary disappearances with regard to child and adolescent victims of disappearance in Mexico, August 2017.



53. The CNDH also ascertained several different irregularities in prosecutorial investigations into disappearances of persons. The CNDH introduced 102 proposals to comprehensively address the problem of the disappearance of persons in Mexico.<sup>74</sup>

54. The General Law on the Forced Disappearance of Persons and Disappearance Committed by Private Individuals and on the National Search for Missing Persons System was published on November 17, 2017. In a press release, the Commission welcomes the fact that the Law meets international human rights standards in this matter and establishes the creation of a national mechanism to search for missing persons, the inapplicability of the statute of limitations to crimes involving forced disappearance, the declaration of absence due to disappearance, and tools for paying special heed to victims and members of their families, as well as other measures. The IACHR underscored the open and participatory nature of the discussions that led to the formulation of this law, as well as the important contributions made by victims' associations, civil society organizations, universities, the National Human Rights Commission, and the Office of the High Commissioner for Human Rights.<sup>75</sup>

55. The State highlighted the main features of the Law: as per international conventions, forced disappearance crimes and disappearances committed by private individuals would be ongoing and not subject to any statute of limitations; the punishment for those committing these crimes would be imprisonment for between 40 and 60 years, plus a fine equivalent to between 10,000 and 20,000 days worth of the minimum wage; instructions to establish Local Search Commissions in federal entities; the establishment of a Forensic Register, with the databases of the forensic registries of the Federation and of the entities, connected in real time; punishments for forced disappearances committed by private individuals, without the intervention of State authorities, of between 25 and 50 years in prison; a chapter devoted exclusively to general provisions governing persons under 18 years of age; establishment of the National Search for Missing Persons System, with cross-cutting functions that will serve to coordinate actions by public security and justice system units to find missing persons, triggering a prompt start to searches for persons either lost or who cannot be located.<sup>76</sup>

56. Additionally, the IACHR reiterates its concern over the disappearance of women in Mexico and reminds the State to take the necessary measures to close the wide gap between laws and public policies and the facts on the ground.<sup>77</sup> Cases of disappearance and forced disappearance of women, adolescents and girls continue to take place in different areas of the country to a troubling degree.<sup>78</sup> Currently, based on information in the National Register of Data of Missing and Disappeared Persons (RNPED), as of July 31, 2017, out of the 32,277 cases of disappeared or missing persons in the country since 2014, 8,477 are women, which works out to 26.3%.<sup>79</sup> With respect to the available figures of disappeared persons for 2017, 1,044 of the

<sup>74</sup> These proposals are in the following areas: comprehensive legislation on the disappearance of persons; disappeared person search, location and investigation; locating and documenting unmarked gravesites; access to justice; protection measures; reparation for damages and victim and family care and assistance; prevention of crime and human rights violations; identification of human remains; acceptance of the legal authority of the United Nations Committee against Forced Disappearance; compliance with the 64 recommendations and proposals set forth in the instant report. In addition to the proposals referenced above, the Special Report puts forward other recommendations: to issue as soon as possible the General Law to Prevent and Punish Crimes related to the Disappearance of Persons; carry out the necessary actions to issue the Regulation to the Law of the National Register of Data on Missing or Disappeared Persons; to systematize this data in order to obtain a register that serves as an effective tool to locate disappeared persons; among other things.

<sup>75</sup> IACHR, *IACHR Welcomes Entry into Force of General Law on Disappearance of Persons in Mexico*, December 1, 2017.

<sup>76</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>77</sup> IACHR, *Informe Anual 2016*, [2016 Annual Report], April 2017, Chapter V, pg. 947.

<sup>78</sup> IACHR, Press Release No. 067/17, *CIDH repudia asesinato de defensora de derechos humanos en Tamaulipas (México)*, [IACHR Repudiates Killing of Human Rights Defender in Tamaulipas (Mexico)], May 24, 2017.

<sup>79</sup> National Registry of Data on Missing or Disappeared Persons, *Estadísticas Fuero Común*, [Statistics from state and local jurisdictions], Posting of Statistics to Public as of August 31, 2017. The figures provide the total reported number of cases of persons tied to preliminary investigations, investigation files or prosecutorial investigation reports of state and local jurisdiction, who have still not been located as of the cut off date of July 31, 2017, broken down by sex.

total number of 2,443 cases of disappeared or missing persons reported as of July 31, 2017 are women. Out of these women, 59.9% of the cases are under 18 year of age.<sup>80</sup> These figures reflect the serious risk faced by women, especially adolescent women, of disappearance and forced disappearance. In its observations on the draft version of this report, the State reported that between 2016 and August 2017, 20 courses were taught on “Human Rights and Gender Equity” along with 12 courses on “Human Rights and Forced Disappearance of Persons,” which included subject matter relating to the eradication of gender-based violence, as well as forced disappearance, and totaled 380 class/hours. Participating in those courses were 2,235 public servants assigned to the PGR, along with public servants from SEDENA, SEMAR and the PF.<sup>81</sup>

57. In its report, the State reiterated the efforts it has made to improve investigations into disappearances of women, especially young and adolescent girls, through the AMBER Alert Program.<sup>82</sup> According to information provided by the State, from May 2012 to July 31, 2017, the National Coordination of the PGR’s AMBER Alert Program issued 870 Alerts and Pre-Alerts, and successfully located 579 children and adolescents.<sup>83</sup> In addition, the Commission takes note of the State’s efforts to strengthen the AMBER Alert Program by identifying best practices and conducting program enhancement activities.<sup>84</sup> Notwithstanding, the Commission notes the need to strengthen search mechanisms for all disappeared women, including adult women, especially by implementing General Guidelines for the standardization of investigation of crimes related to the disappearance of women, the crime of rape of women and the crime of gender-based homicide of women.<sup>85</sup>

58. As for disappearances of children, the Commission notes that in August 2017, several organizations specialized in children’s rights filed a complaint with the United Nations Working Group on Forced and Involuntary Disappearances with regard to obstacles faced by child and adolescent victims of

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<sup>80</sup> National Register of Data of Missing or Disappeared Persons, Statistics from state and local jurisdictions. Posting of Statistics to Public as of August 31, 2017.

<sup>81</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>82</sup> On May 2, 2012, the Government of the Republic implements and puts into operation the [Programa Nacional Alerta AMBER México](#), National Amber Alert Program Mexico, in order to aid in searching and promptly locating children and adolescents at imminent risk of suffering serious harm to their safety or any other circumstance where the commission of any crime is presumed to have taken place on national territory.

<sup>83</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>84</sup> According to information provided by the State, several activities have been carried out to improve the AMBER Alert Program, such as: holding regional forums by zones of the country to hear concerns and suggestions for strengthening the program; certification activities for AMBER Alert Program Mexico liaisons, in order to provide program operators with the necessary tools to implement it in their states; meeting with the liaisons of the National Committee of the AMBER Alert Program Mexico, in order to revisit the preparatory work to sign the Convention on Collaboration; participation at training workshops such as “SBI Cross Border Abduction Training” in the city of Brownsville, Texas, US, in order to establish closer ties between border officials for cases of missing children and adolescents in which there is evidence of border crossings. Communication from the Mexican State. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017. In its observations on the draft version of this report, the State also referred to the following protocols: Protocol for ministerial, police, and expert investigations with a gender perspective into sexual violence, published in the Official Gazette (DOF) on March 3, 2015; Protocol for ministerial, police, and expert investigations with a gender perspective into the crime of femicide, published in the DOF on March 3, 2015; Standardized protocol for searching for disappeared persons and investigation of the crime of forced disappearance, published in the DOF on September 23, 2015. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>85</sup> On November 16, 2009, the Inter-American Court of Human Rights issued a judgment in the case of González et al (“Cotton Field” Case) against Mexico. In section 4 of the judgment, regarding “Measures of satisfaction and guarantees of non-repetition,” the Court established that, as one of these guarantees, the State must standardize protocols, investigation criteria of prosecutor’s offices, expert forensic investigation services and of administration of justice, in order to combat disappearances and homicides of women and different types of violence against women. IA Court of HR, Case of González et al (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations and Costs, November 16, 2009.

disappearance in Mexico, as well as the impact that the disappearance of an adult family member has on minor children.<sup>86</sup> According to the Network for the Rights of Children in Mexico (REDIM), 6,079 disappeared children and adolescents were reported in the National Register of Data of Missing and Disappeared Persons (RNPED) from 2006 to July 2017, which represents 18.2% of all disappearances.<sup>87</sup> Additionally, 72.3% of all disappearances of children and adolescents are alleged to have occurred during some year of the current administration, with 2016 being the worst year, as during that year almost one fourth of all disappearances took place. As of July 2017, 812 cases of disappearances of children and adolescents had been reported. The state of Mexico, where one out of every 4 disappearances occurs, is the state of federal union where the highest number of disappearances are documented in the country.<sup>88</sup>

59. According to civil society organizations, cases of disappearances are significantly underreported and this can be attributed to a variety of reasons, such as threats or harassment faced particularly by migrants.<sup>89</sup> The organizations mentioned the two early warning and urgent search programs for cases of disappearances of children and adolescents (namely, AMBER Alert and Protocolo Alba), which they claimed they are rarely used and that the procedure to activate them is too complicated and/or bureaucratic.<sup>90</sup>

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

60. On October 3, 2014, the IACHR requested that the State adopt precautionary measures on behalf of the 43 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 the Mexican State: a) Adopt the necessary measures to determine the status and whereabouts of the 43 students identified in the case, in order to protect their right to life and personal integrity; b) Adopt the necessary measures to protect the lives and personal integrity of the injured students identified in the instant 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 events that led to the adoption of the precautionary measure.

61. 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 and find them alive; perform a technical analysis of the Plan for Integral Assistance 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. During the period of time the GIEI provided technical assistance, the group issued two reports: one in September 2015 and a final report in June 2016, when its mandate expired. Both reports make recommendations to the State regarding the way forward in the investigation and the whereabouts of the normal school students.<sup>91</sup> The IACHR reiterates its recognition of the importance of the work of the GIEI, its reports and recommendations.

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<sup>86</sup> REDIM, [Organizaciones presentan denuncia general al Grupo de Trabajo sobre desapariciones forzadas o involuntarias relativas a la condición de niñas, niños y adolescentes víctimas de las desapariciones en México.](#) [‘Organizations file general complaint with the Working Group on forced and involuntary disappearances with regard to the condition of child and adolescent victims of disappearances in Mexico’]

<sup>87</sup> REDIM, Information submitted to the IACHR, September 2017.

<sup>88</sup> *Idem.*

<sup>89</sup> REDIM, [Organizaciones presentan denuncia general al Grupo de Trabajo sobre desapariciones forzadas o involuntarias relativas a la condición de niñas, niños y adolescentes víctimas de las desapariciones en México.](#) [‘Organizations file general complaint with the Working Group on forced and involuntary disappearances with regard to the condition of child and adolescent victims of disappearances in Mexico’].

<sup>90</sup> *Idem.*

<sup>91</sup> In a press release dated April 26, 2016, a group of United Nations human rights experts noted that serious flaws in the official investigations that were conducted were evident in the final report of the GIEI and it showed that there was still a lot left to do in

62. In relation to the precautionary measure in force, on July 29, 2016, the IACHR issued Resolution 42/16 whereby it decided, in agreement with the representatives and the State, to implement a special mechanism to provide follow-up to the precautionary measures it had granted (MC/409-14) and to the recommendations made by the GIEI in its two reports.<sup>92</sup> In a press release of September 9, 2016, the IACHR announced the launching of the implementation phase of the special mechanism to follow up on the precautionary measure.

63. The follow-up mechanism is made up of the Rapporteur for Mexico, Commissioner Esmeralda Arosemena de Troitiño, as coordinator, Commissioner Luis Vargas, and technical staff from the IACHR Executive Secretariat. Pursuant to the Resolution, [Resolución 42/16](#), the follow-up mechanism will have full access to the necessary information in the case files and other sources of information. The work plan of the mechanism consists of four basic objectives: progress in the investigation, progress in the search for the disappeared, comprehensive assistance and care to the victims and their family members, and structural measures of non-repetition.<sup>93</sup> As of the date of approval of the instant report, the Mechanism has conducted 3 official visits and three technical visits.<sup>94</sup>

64. The State reiterated its commitment to the IACHR to get to the bottom of the facts, continue with the investigations, punish those responsible 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."<sup>95</sup> In 2017, the State assured that all lines of investigation are open.<sup>96</sup> As of the date of approval of the instant report, 128 people are being prosecuted.

65. In the context of the Ayotzinapa case investigations and three years after the students disappeared, only Alexander Mora has reportedly been identified by means of bone remains. The whereabouts of the 43 students are still unknown. The IACHR notes that the Office of Internal Affairs of the PGR's Inspector General's Office (*Visitaduría General*) launched an investigation based on the information provided by the GIEI in its second activities report, 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.<sup>97</sup>

66. The investigation concluded that there were several 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 Prosecutor Service, given that there was no court order allowing a

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order to successfully ensure justice and provide reparation to the victims. The human rights experts found it unfortunate that in the second stage of its mandate, the GIEI had not had full cooperation from the government and had been the target of campaigns discrediting its work and the results of its investigations. United Nations, [México: Aún falta mucho para garantizar la verdad y la justicia en el caso Ayotzinapa](#) ["Mexico: Much remains to be done to deliver truth and justice in the Ayotzinapa case"]– UN Experts, April 26, 2016.

<sup>92</sup> IACHR, Press Release No. 049/16, [CIDH concluye el 157 Periodo de Sesiones](#), ["IACHR Wraps Up its 157<sup>th</sup> Session"], April 15, 2016.

<sup>93</sup> IACHR, [CIDH presenta plan de trabajo del Mecanismo de Seguimiento del asunto Ayotzinapa](#), ["IACHR Presents its Work Plan for the Follow-Up Mechanism to the Ayotzinapa Case"], November 10, 2016.

<sup>94</sup> The Country Rapporteur or another IACHR member participates in official visits, while only Executive Secretariat staff takes part in technical visits. The first official visit was conducted from November 9 to 12, 2017; the official visit was conducted from April 19 to 22, 2017; the third official visit, from August 27 to 30, 2017, and the fourth official from November 27 to 28, 2017. The technical visits were made on the following dates: January 25-26, 2017, March 1-3, 2017 and May 31 to June 1, 2017.

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

<sup>96</sup> IACHR, Public Hearing, [Mecanismo Especial de Seguimiento de Ayotzinapa, México](#), ["Special Follow-Up Mechanism to Ayotzinapa, Mexico"], 163<sup>rd</sup> Session, Lima, Peru, July 2017.

<sup>97</sup> IACHR, Public Hearing, Special Follow-Up Mechanism to Ayotzinapa, Mexico, 161<sup>st</sup> Session, March 2017.

visit to that location in the company of a suspect.<sup>98</sup> In addition, several other irregularities were detected in connection with the investigation, including failure to formally record actions taken by prosecutors and 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, among other ones.<sup>99</sup> 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.<sup>100</sup> According to information published in the press, the PGR's Inspector General, who conducted that investigation, resigned from his position in August 2016.<sup>101</sup> On September 14, 2016, Tomás Zerón resigned as the head of the Criminal Investigation Agency.<sup>102</sup> 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<sup>103</sup>.

67. In this regard, the IACHR notes that a new [woman] Inspector General of the Office of the Attorney General was appointed, who issued a resolution regarding said investigation on December 9, 2016, which was delivered to the petitioners in January 2017. The resolution, in contrast with the draft resolution written by the previous [male] Inspector General of the PGR's Office of Internal Affairs that leaked out earlier in the media, drew different conclusions, ruling only that administrative offenses had been committed. In response to this decision, the State noted that the family members filed an *amparo* suit, which has yet to be ruled on.<sup>104</sup> In response, the Office of the United Nations High Commissioner issued a press release in March 2017 expressing concern over the conclusions of the internal investigation. According to the release:

“the UN-HR has documented serious human rights violations and patterns in the commission of these violations linked to the integration of the case. In this regard, the Office has evidence of the commission of acts of torture against a number of persons undergoing trial, arbitrary detentions, due process violations and the violation of the right to the truth, committed,

<sup>98</sup> 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 the GIEI investigation conclusion agreement (*Acuerdo de Conclusión*) dated August 18, 2016 was made public in the *Diario Aristegui Noticias* and republished in several media outlets. See *Aristegui Noticias*, [Tomás Zerón “afectó el derecho a la verdad:” documento de la PGR sobre Ayotzinapa](#), [“Tomas Zeron ‘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](#), [“Zeron did commit irregularities in the Ayotzinapa case, says PGR case file”], September 22, 2016.

<sup>99</sup> See *Aristegui Noticias*, [Tomás Zerón “afectó el derecho a la verdad:” documento de la PGR sobre Ayotzinapa](#), [“Tomas Zeron ‘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](#), [“Zeron did commit irregularities in the Ayotzinapa case, says PGR case file”], September 22, 2016; *NYtimes*, [Ayotzinapa, un informe interno sostiene que los funcionarios afectaron la investigación sobre los estudiantes desaparecidos](#), [“Ayotzinapa: an internal report claims officials tampered with investigation into disappeared students”], December 16, 2016.

<sup>100</sup> See *Aristegui Noticias*, [Tomás Zerón “afectó el derecho a la verdad:” documento de la PGR sobre Ayotzinapa](#), [“Tomas Zeron ‘Violated the right to the truth:’ PGR document on Ayotzinapa”], September 22, 2016; *SPDnoticias*, [Piden en PGR llamar a cuentas a Zerón por caso Iguala](#), [“Calls at the PGR for Zeron to render accounting in Iguala case”], September 20, 2016.

<sup>101</sup> IACHR, Public Hearing, Special Follow-Up Mechanism to Ayotzinapa, Mexico, 161<sup>st</sup> Session, March 2017.

<sup>102</sup> See: *El Universal*, [CNDH investiga actuación de Tomás Zerón](#), [“CNDH investigates actions of Tomas Zeron”], September 22, 2016; *Aristegui Noticias*, [CNDH solicita expediente de Tomás Zerón a PGR](#), [“CNDH requests case file of Tomas Zeron from PGR”], September 24, 2016; *El País*, [Dimite Tomás Zerón, el investigador del “caso Ayotzinapa”](#), [“Tomas Zeron, investigator of ‘Ayotzinapa Case’ resigns”], September 15, 2016; *La Jornada*, [Renuncia Tomás Zerón a la Agencia de Investigación Criminal de la PGR](#), [“Tomas Zeron resigns from the PGR Criminal Investigation Agency”], September 14, 2016; *El Economista*, [Tomás Zerón de Lucio renuncia a la AIC](#), [“Tomas Zeron de Lucio resigns from AIC”], September 14, 2016; *BBCMundo*, [México: renuncia Tomás Zerón, el cuestionado jefe de la investigación del caso de 43 estudiantes desaparecidos de Ayotzinapa](#), [“Mexico: Tomas Zeron, the questioned head of the investigation of the case of 43 disappeared students of Ayotzinapa, resigns”], September 15, 2016; Office of the Secretary of the Interior, [Tomás Zerón Lucio, Secretario Técnico del Consejo de Seguridad Nacional](#), [“Tomas Zeron, Technical Secretary of the National Security Council”], Bulletin No. 422/16, September 14, 2016.

<sup>103</sup> 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.

<sup>104</sup> IACHR, Public Hearing, Special Follow-Up Mechanism to the Ayotzinapa case, Mexico, 161<sup>st</sup> Session, March 2017.



among others, by PGR officials. These findings have been shared with the appropriate PGR authorities since last year and with the IACHR follow-up Mechanism to the Ayotzinapa case.”

68. In its observations on the draft version of this report, the State pointed out that on April 20, 2016 the Unit Specializing in Investigation of the Crime of Torture (UEIDT) had begun preliminary inquiries into the case, which lists 128 alleged victims of torture, cruelty (*malos tratos*), arbitrary arrests, and other offenses. They are alleged to have occurred during detention and transfers, and, in some cases, in the institution’s facilities, and are attributed to the Ministerial Federal Police, Federal Police, and SEMAR. The State reported that the Office of the United Nations was tracking 37 cases. In 22 of those cases, according to the State, the Specialized Medical and Psychological Expert Opinion for Cases of Possible Torture and Other Cruel, Inhuman, or Degrading Treatment was requested and the corresponding tests conducted by experts of the General Coordination Office for Expert Services of the PGR. In two cases, the test results were positive. It added that in the 15 remaining cases, the test had been applied to 14 of them and those results were still pending.<sup>105</sup> The State further reported that in the 11 investigations currently under way in the UEIDT, some 1,418 actions had been undertaken, ranging from the taking of statements, ministerial inspections, reviews of bodily integrity opinions, requests for information, the start and accumulation of preliminary findings and reviews of criminal proceedings.

69. During the second official visit of the Mechanism, the IACHR voiced its concern “about the slow pace in coming to conclusions, both in the search activities and in the effective clarification of the various lines of investigation indicated by the Inter-Disciplinary Group. The Commission notes that no new charges have been filed since December 2015.” In particular, the IACHR reiterates that the GIEI concluded in its first report that the minimum of fire required for the cremation of 43 bodies scientifically could not have taken place at that site, based on the evidence found there. The Mechanism reiterated that the dissemination of this hypothesis, which has already been ruled out by the GIEI, places a hurdle between the victims and their relatives and jeopardizes the search for truth and justice in this case.<sup>106</sup>

70. The Commission values the administrative steps taken to contract the LIDAR technology to be used in the search for the students, the progress made in the investigation of telephone communications, and the establishment of a timeline for taking the statements of those arrested in the case and of other individuals. It also values the progress made in the investigations into possible involvement of police officers from Huitzuc.

71. During the visit, the IACHR identified the priority aspects to be addressed in order to swiftly make acceptable progress in the search for truth and justice and to resume direct dialogue between the family members of the 43 students and State authorities. In terms of the investigation, the Commission reiterated the importance of properly examining evidence of involvement of members of the State security forces in these events and deeply exploring the participation of authorities at different levels of government. With respect to the investigation into telephone communications, it also noted the importance for the State to at least determine the identity of “*el caminante*” and “*el Patrón*”—mentioned by several people involved in these events—and to expand the investigation into the army’s role in the events. The IACHR also urged the State to move forward in the investigation of two federal police officers identified as allegedly being responsible for covering up the events, based on suggestions of the Inter-Disciplinary Group as well as the National Human Rights Commission (CNDH). The Mechanism also emphasized the need to urgently expand the line of investigation into potential connection between events in this case and the movement of drugs to the United States.<sup>107</sup> The State submitted a proposed timeline from May to October 2017, which the Mechanism has been monitoring at its subsequent meetings.

<sup>105</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>106</sup> IACHR, [Mecanismo de seguimiento del asunto Ayotzinapa realiza segunda visita oficial a México](#), [‘Follow-Up Mechanism to Ayotzinapa Case Makes Second Visit to Mexico’], April 21, 2017.

<sup>107</sup> *Idem*.

72. During the third official visit, the IACHR appreciated the appointment of a team of more than 90 members dedicated exclusively to this investigation, and recognized the work of the PGR in connection with the telephone information of the Ayotzinapa students and the perpetrators of the acts committed. The IACHR emphasized it has been established with certainty that the students' phones and chips were used well after the night of September 26 and 27, 2014: a fact that, combined with other evidence, corroborates the need to rule out the initial version of the events claiming that all the phones had been incinerated in the Cocula municipal waste dump.<sup>108</sup>

73. The Commission also took note of the information provided regarding circumstantial evidence on the identity of persons of interest to the investigation and urged the State to take the necessary measures to actually carry out the arrest of the policemen in Huitzuco alleged to have been involved in the events, as well as to move forward with the investigation of the federal police officers identified as allegedly being responsible for covering up the crimes.<sup>109</sup> Also, during the meetings it was addressed the need to deepen the investigation of the municipal polices of Iguala, Cocula and Pilcaya.

74. With respect to the legal assistance requested from the United States government, the IACHR received information and reiterated the need to give priority to evidence and proceedings relating to the location of the fifth bus. Regarding search efforts, the IACHR appreciates the ongoing use of LIDAR remote sensing technology to obtain information on more quadrants around Iguala and thereby expand the scope of the search area. The IACHR reiterates its appeal to the State to create a database of graves in the state of Guerrero, which can be replicated in every federal entity.<sup>110</sup>

75. With regard to victim assistance services, the IACHR welcomes the specialized medical care provided to Edgar Vargas and Aldo Gutierrez, students who were seriously injured at the time of the events in question.<sup>111</sup> The IACHR also recognizes the agreement reached between the State and Aldo Gutiérrez Solano's relatives on commitments and assistance measures such as medical and other types of care for Aldo Gutiérrez Solano. This measure constitutes a first step toward enabling Aldo Gutiérrez to return home and will assist his recovery. The IACHR hopes that the move can be made soon in accordance with his specific medical requirements.<sup>112</sup> In its observations on the draft version of this report, the State reported that on August 10, 2017, the CEAV approved the administrative resolution authorizing the purchase of a plot of land. As regards construction of the building, approval of the construction plan was still needed, as were the medical protocols to be issued by the Secretariat of Health and the state Secretariat of Health. The State reported that the CEAV was working on the case in coordination with the authorities and representatives of the victim and next of kin.<sup>113</sup>

76. Following the fourth official visit, on November 27 and 28, 2017, the IACHR welcomed the use of LIDAR technology in the search for the students as well as the start of in situ searches in the areas indicated thanks to the use of that technology. It also acknowledged the efforts made to construct a database of graves in the state of Guerrero, which still needs to be consolidated. As regards investigation, the IACHR welcomed the fact that the files now contain clear indications that several disappearance routes were used and at least two different groups of students formed following their detention, which requires more in-depth pursuit of certain lines of investigation. The IACHR also acknowledged the telephony and ballistics-based

<sup>108</sup> IACHR, [Mecanismo de seguimiento del asunto Ayotzinapa realiza tercera visita oficial a México](#), [Follow-Up Mechanism to Ayotzinapa Case Makes Third Visit to Mexico], August 30, 2017.

<sup>109</sup> *Idem*.

<sup>110</sup> *Idem*.

<sup>111</sup> IACHR, [Mecanismo de seguimiento del asunto Ayotzinapa realiza segunda visita oficial a México](#), [Follow-Up Mechanism to Ayotzinapa Case Makes Second Visit to Mexico], April 21, 2017.

<sup>112</sup> IACHR, [Mecanismo de seguimiento del asunto Ayotzinapa realiza tercera visita oficial a México](#), [Follow-Up Mechanism to Ayotzinapa Case Makes Third Visit to Mexico], August 30, 2017.

<sup>113</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

research, which made it possible to conclude that another police body had been involved in the facts of the case. The IACHR urged the State to locate several actors whose arrest is vital for throwing light on what happened. It also underscored the importance of indicting police officers from different institutions involved in the facts of the case.<sup>114</sup>

77. In its communiqué, the IACHR pointed out that it still has to be explained how nine cell phones of the students activated after the facts went from their hands to others who later made use of them. As the IACHR already pointed out, these facts, together with other pieces of evidence, confirm the need to discard the initial version suggesting that all the phones had been incinerated in the Cocula garbage dump.<sup>115</sup>

78. With regard to care for victims, the IACHR welcomed the presentation of the Diagnostic Assessment of Psychosocial and Health Impacts, which sets guidelines for attending to victims and, in the case of those wounded or killed, for possible reparation. The Commission called upon the State to take concrete steps to ensure compliance with the stipulations in that Diagnostic Assessment, especially with respect to wounded survivors, family members of the youth who were executed and of the missing youth, always in coordination and by agreement with victims, next of kin, and representatives.<sup>116</sup>

79. During this fourth visit, the members of the Mechanism met with representatives of the State and family members of the disappeared students and their representatives after the the work plan drawn up in November 2016 was complied. The Mexican State voiced its commitment to support IACHR monitoring of the precautionary measures throughout 2018 through a voluntary financial commitment to be paid out in full in December 2017. In addition, during the first period of sessions of the IACHR in 2018, the parties will analyze and agree, where applicable, to schedule more visits and working meetings of the Special Follow-Up Mechanism. The State also committed to looking into the still pending issues identified by the IACHR and to receiving the delegation of the Mechanism for another official visit in February 2018 to evaluate outcomes with respect to the investigations, search, and care for victims. Furthermore, the PGR undertook to continue working and holding periodic follow-up meetings with the family members and their representatives.<sup>117</sup>

80. Taking into consideration the information available thus far, the lack of information on the whereabouts of the beneficiaries of the precautionary measures, the exceptional circumstances of the instant matter and the context in which it has unfolded, the IACHR finds that the instant matter still meets the requirements of Article 25 of the Rules of Procedure. Given the serious and urgent situation, three years after the disappearance of the 43 students, the Commission urges the Mexican State to determine their whereabouts. The IACHR again deems it important to remove the precautionary measures and ask the State to step up its efforts to implement all of the measures required to determine the whereabouts or destination of the beneficiaries of the precautionary measures, as provided in the Resolution of October 3, 2014.<sup>118</sup> At the date of approval of the present report, not a single person has been prosecuted in this case for the crime of forced disappearance.

81. Based on the foregoing considerations, the IACHR reiterates the recommendations issued in its Country Report. It especially urges the State to adopt a General Law on Disappearances and Forced Disappearances as soon as possible, in keeping with international standards on the subject matter. Additionally, it calls for establishing immediate search mechanisms, improving the Register of Disappeared Persons and strengthening early warning and urgent search mechanisms in cases of the disappearance of women and children. With respect to the recommendations of the GIEI, the IACHR will continue to monitor compliance, pursuant to the authority granted to it under its mandate and compliance with the precautionary measure currently in force.

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<sup>114</sup> CIDH, Special Follow-Up Mechanism to Ayotzinapa Case Makes Fourth Official Visit to Mexico, December 12 2017.

<sup>115</sup> *Idem*.

<sup>116</sup> *Idem*.

<sup>117</sup> *Idem*.

<sup>118</sup> IACHR, Resolution 42/16, Resolution to follow up on precautionary measure No. 409-14, July 29, 2016.

82. Finally, the IACHR expresses concern over the illegal spying allegations with respect to at least one member of the Interdisciplinary Group of Independent Experts (GIEI) and representatives of the 43 disappeared students in Ayotzinapa, when they were investigating and defending serious human rights violations respectively. On these allegations, and as will be developed in the Report, the IACHR Special Rapporteur for Freedom of Expression issued a press release in which it urged Mexico to conduct a thorough and independent investigation.<sup>119</sup>

### 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.

83. In its report on the Situation of Human Rights in Mexico, the IACHR concurs with other international agencies in stating that torture is widespread in Mexico, and that it often takes place between the time of arrest—which is usually arbitrary—and prior to the detainee being brought before a judge. In his 2017 Follow-up Report on Mexico, the United Nations Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment concluded: “torture and mistreatment continue to be widespread in Mexico.”<sup>120</sup>

84. The State reported to the Commission that the plenary of the Senate of the Republic approved on April 23, 2017, the General Law to Prevent, Investigate and Punish Torture and other Cruel,

<sup>119</sup> IACHR, Special Rapporteur for Freedom of Expression, Press Release R96/17, [Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation](#), 12 July 2017.

<sup>120</sup> United Nations. [Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, México](#). [Follow-Up Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishments.] A/HRC/34/54/Add.4, February 17, 2017, par. 19, par. 104.

Inhuman and Degrading Treatment or Punishment.<sup>121</sup> The State noted that on June 27, 2017, the General Law to Prevent, Investigate and Punish Crimes of Torture came into force throughout the national territory, thus supplanting existing federal and state laws on torture.<sup>122</sup> In a press release of July 18, 2017, the IACHR welcomed enactment of this Law. This important legislation brings to fruition the efforts of the Mexican State in its entirety to eliminate this practice, which violates human rights. The IACHR calls on State authorities to adopt all necessary measures to ensure the effective implementation of this law.<sup>123</sup> Additionally, the Commission highlights the important efforts of victims' associations, civil society organizations, universities and the National Human Rights Commission in helping to achieve passage of this historic law. The IACHR wrote that the entry into force of this law sends an emphatic message from the Mexican State against impunity, in compliance with its international human rights obligations.<sup>124</sup>

85. The IACHR finds that the final text of the Law is consistent with international standards in this area. The major provisions of the law include: the absolute prohibition of torture throughout national territory and the elimination of the statute of limitations on the crime; inclusion of the principle of criminal liability of the upper echelons of the hierarchy for gross human rights violations constituting crimes committed by their subordinates and that obedience does not constitute valid grounds for exclusion from liability for committing the crime; the creation of a nation registry of the crime of torture; creation of offices of specialized prosecutors; the right of victims to introduce a psychological expert witness report written by independent experts or, as the case may be, by public human rights protection agencies, when such reports are written in response to complaints before these agencies.<sup>125</sup> In particular, the IACHR appreciates that the Law provides for the exclusion of all evidence obtained through torture or other violations of basic human rights; including when evidence is obtained through legal means but originates from said acts, as noted in its First Follow-Up Report on Recommendations.<sup>126</sup>

86. On another matter, it was brought to the attention of the IACHR that a Single National Register of detained persons has still not been put into place. The different registers set up by the State are not unified. For example, it reported that in addition to making the Detainee Locator System (SIREDA) available to the public,<sup>127</sup> the Office of the Specialized Assistant Attorney General for the Investigation of Organized Crime (SEIDO) has put in place the Personal Identification System SISSEIDO (Comprehensive Services System of SEIDO), which consists of a portal which enables the user to search for a person who has been arrested and transferred to detention facilities.<sup>128</sup> However, according to the website of the Detainee

<sup>121</sup> Mexican government, Response to request for information on the status of compliance with the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>122</sup> *Idem*.

<sup>123</sup> IACHR, [CIDH saluda importantes avances en materia de tortura en México](#), ['IACHR Welcomes Important Progress against Torture in Mexico'], July 18, 2017.

<sup>124</sup> *Idem*.

<sup>125</sup> Mexican government, Response to request for information on the status of compliance with the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>126</sup> In its observations on the draft versión of this report, the State mentions actions carried out through the PGR to combat and eradicate torture: the review of the Standardized Protocol for Investigating the Crime of Torture, with a view to aligning its contents with the new criteria and principles set forth in the General Law; establishment of the Public Prosecutors' Office Specializing in Torture Offenses to replace the previous Unit Specializing in Investigating the Offense of Torture, established by Agreement A/101/15 and published in the DOF on October 27, 2015; preparation of the National Program for Preventing and Punishing Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; the preparation of new job profiles for the public servants joining the new Public Prosecutors' Office to ensure that they have experience of and are sufficiently well versed in investigating torture offenses from a human rights perspective. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>127</sup> Mexican government, Response to request for information on the status of compliance with the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016. Nota OEA-02902 November 17, 2016.

<sup>128</sup> The State noted that this system registers detainees by type of crime, in cases where probable cause was found and formal charges were filed within a federal preliminary investigation proceeding and the Specialized Unit is responsible for the bail status of the defendant. The system is reviewed and updated on an ongoing basis. Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.



Locator System, it does not give search results on arrests for organized crime-related offenses.<sup>129</sup> In its observations on the draft version of this report, the State mentions the Administrative Register of Detentions. According to the State, that Register is generated within the framework of Article 112 of the General National Security System Law, which establishes that all security or police agents at every level of government (federal, state, or municipal – first responders) record in a database details of the time, manner, and place of any detention, accompanied by the approved police report. The Register is the responsibility of the National Information Center that administers it, which reports to the Executive Secretariat of the National Public Security System of SEGOB.<sup>130</sup>

87. In terms of the obligation to investigate torture within criminal proceedings, in its first follow-up report, the IACHR documented that several civil society organizations expressed concern over an isolated opinion issued by the First Chamber of the Supreme Court of Justice, establishing that it is out of order to retry criminal cases to investigate acts of torture reported by the defense, unless there is a confession or “self-incrimination” by the accused.<sup>131</sup> 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 aside from self-incrimination, convictions based on such unlawful evidence could stand.<sup>132</sup> The organizations argue that this opinion is at odds with the absolute prohibition on admitting evidence obtained through torture, established in the Constitution and in the National Code of Criminal Procedure. Likewise, this opinion is inconsistent with international human rights principles and the new Law. In its observations on the draft version of this report, the State reported that, according to the Protection of Civil Rights Law (*Ley de Amparo*) and Organic Law of the Judiciary of the Federation, “isolated theses” of the Supreme Court of Justice of the Nation are not binding for other jurisdictional – federal, state, or, where applicable, municipal – operators, i.e., there is no obligation to apply them. Thus, such isolated theses are guidelines, not mandatory.<sup>133</sup>

88. With regard to the Istanbul Protocol to document possible aftereffects of torture and its consequences with the purpose of investigating, in its report on the Situation of Human Rights in Mexico, the IACHR indicated that application of this protocol has reportedly been inadequate, incomplete, untimely and carried out by untrained personnel.

89. In his 2017 Follow-Up Report, the United Nations Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment wrote that technical expert opinions are still being issued by personnel, who serve under the Offices of the Attorneys General and Public Prosecutors and that the lack of independent technical experts colors opinions, thus yielding a negative result as to the existence of torture; in addition to the fact that many of the public officials under indictment serve in positions at the same institution in charge of investigating and performing technical expert examinations, thus undermining their impartiality.<sup>134</sup> The United Nations Rapporteur cites the Ayotzinapa case as an example of this situation,

<sup>129</sup> PGR, [Sistema de Consulta de Detenidos](#) [‘Detainee Locator System’].

<sup>130</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>131</sup> Release: [Retroceso de la SCJN: criterio de la Primera Sala podría validar condenas basadas en tortura](#), [‘Supreme Court of Justice Steps Backwards: opinion of the First Chamber could validate torture-based convictions’], August 23, 2016; Supreme Court of Justice of the Nation, [Amparo directo en revisión 6564/2015](#) (Direct *amparo* on review), tesis 1a. CCV/2016 (10a.), August 19, 2016, Registro Nro. 2012318.

<sup>132</sup> Release: [Retroceso de la SCJN: criterio de la Primera Sala podría validar condenas basadas en tortura](#), [‘Supreme Court of Justice Steps Backwards: opinion of the First Chamber could validate torture-based convictions’], August 23, 2016.

<sup>133</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>134</sup> United Nations. [Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes. México](#), [‘Follow-Up Report of the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment’], A/HRC/34/54/Add.4, February 17, 2017, par. 48.

“where the same body in charge of performing the examinations (the Criminal Investigation Agency and its Technical Expert Services Coordination) is one of the bodies accused of committing acts of torture.”<sup>135</sup>

90. The United Nations Rapporteur also noted that while the Mexican State has asserted that victims are entitled to having torture investigations be conducted by an independent technical expert, the information it received seems to suggest that when autonomous agencies and independent technical experts perform examinations under the Istanbul Protocol, their reports are dismissed and the examinations are ordered to be performed again and yield a negative result.<sup>136</sup>

91. In its First Follow-Up Report on the Recommendations, the IACHR cited a report of Amnesty International of June 2016, which documented that the technical expert examination carried out by the PGR “are often performed far too late, long after the alleged torture took place, and [...] are flawed in a number of ways.”<sup>137</sup> The Commission also cited another report of Open Society Institute, which suggests a narrow interpretation and often, improper application of the Istanbul Protocol, in many instances, to the near exclusion of other important sources of evidence.<sup>138</sup> In his 2017 Follow-Up Report, the United Nations Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment noted that only 1 out of every 20 alleged victims of torture, who file complaints with the CNDH, are given an official forensic examination by the PGR. According to the report:<sup>139</sup>

It is sad to ascertain that in most cases, no specialized opinion is obtained in circumstances of possible torture and that there are at least 1,600 pending requests for examination procedures and only 185 examinations have been performed in 2014. The examinations are conducted months or years after the acts of torture, in a deficient way or in such a way that the technical expert ends up concluding that there are no signs of torture. This delay additionally undermines the case of the defendant, who at times opts to waive the right to a forensic examination in order to speed up his case before the courts.

92. As for eliminating *arraigo* (a form of preventive detention without formal charges that can be decided by the judicial authority in cases related to organized crime for a period of 40 days that can be extended to 80, “provided that it is necessary for the success of an investigation, the protection of individuals or legal interests, or when there is a justified risk that the defendant may elude the action of justice”),<sup>140</sup> the State affirmed at a prior time that this measure is used only in exceptional cases and its use has decreased.<sup>141</sup> It claimed that only two individuals were subjected to this measure from November 2016 to January 2017, which shows that the use thereof has decreased exponentially.<sup>142</sup> The IACHR commends the informed measures and considers essential for the State to continue its efforts to eliminate the *arraigo* practice. With respect to ‘*flagrancia equiparada*’ or *quasi flagrante delicto* (certain cases in which a suspect may be arrested

<sup>135</sup> *Idem*.

<sup>136</sup> *Ibidem*, par. 49.

<sup>137</sup> Amnesty International, *Surviving Death: Police and Military Torture of Women in Mexico*, AMR/ 41/4237/2016, June 2016, pg. 45.

<sup>138</sup> Open Society Initiative, *Atrocidades innegables: confrontando crímenes de lesa humanidad en México*, [‘Undeniable Atrocities: confronting crimes against humanity in Mexico’], 2016, pgs. 122-123.

<sup>139</sup> United Nations. [Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, México](#), [‘Follow-Up Report of the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment’], A/HRC/34/54/Add.4, February 17, 2017, par. 47.

<sup>140</sup> Article 16 of the Constitution.

<sup>141</sup> In its observations on the draft of the instant report, the State reiterated that “*arraigo* is appropriate only in cases of organized crime offenses, with the modalities of place and time that are set by the judicial authority, though it may not exceed 40 days, provided that it is necessary for the success of an investigation, the protection of individuals or legal interests, or when there is a justified risk that the defendant may elude the action of justice.” Communication from the Mexican State. Response of the Mexican State to draft Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

<sup>142</sup> Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

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,<sup>143</sup> 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 related concept, “*flagrancia por señalamiento*” (the practice of arresting someone based on an eye witness report after the commission of the alleged act without warrant) established in Article 146 of the National Code of Criminal Procedure, has not been eliminated.<sup>144</sup>

93. Based on all of the foregoing, the IACHR calls on the State to comply with the pending recommendations. In particular, it 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 sanction 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 Specialized 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.

<sup>143</sup> Chamber of Deputies of the H. Congress of the Union, National Code of Criminal Procedure, DOF [Official Gazette of the Federation], latest amendment published on June 17, 2016.

<sup>144</sup> “Article 146. Circumstances of *flagrante delicto*– A person may be arrested without a court order in the act of committing a crime. This is understood to mean when:

- I. The person is arrested at the time of committing a crime, or
- II. Immediately following the commission of a crime, based on the fact that:
  - a) The person is caught in the act of committing the crime and is physically pursued without interruption, or
  - b) The person 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 circumstantial evidence 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*”), when and only when the searching for the person or locating thereof has not been interrupted as of the time immediately following the commission of the crime.

94. In its report *The Human Rights Situation in Mexico*, the IACHR wrote 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 killing of civilians presumably at the hands of Federal Police in Apatzingán, Michoacán, in January 2015; and the alleged confrontation at the municipal limits between Tanhuato and Ecuandureo, Michoacán, in June 2015, where 42 civilians and one federal policeman office lost their lives. The Commission determined that in these three cases, the initial 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.

95. With the passing of time and the investigation, testimonies and circumstantial evidence suggest the alleged participation of federal authorities and members of the armed forces, tampering with the crime scene in order to make it seem as if there had been a confrontation, and irregularities in the investigations. As of 2017, the IACHR regrets it has not received any updated information on progress in the case investigations of Tanhuato and Apatzingán.

96. With regard to the incidents in Tlatlaya, where eight members of the military are implicated in the killing of 22 people at a warehouse in the municipality of Tlatlaya in 2014,<sup>145</sup> the IACHR notices a lack of progress with regard to the extrajudicial executions allegedly perpetrated by military personnel. In its observations on the draft version of this report, the State pointed out that in January 2017 four convictions were handed down against four ministerial agents of the Judicial Prosecutor's Office of the State of Mexico who took part in the incidents in Tlatlaya. The four were sentenced to three years and eight months in prison for the crime of torture.<sup>146</sup>

97. Civil society organizations have contended that the lack of due diligence in the case investigation on the part of the PGR mostly involves the failure to specify the number of executions, which took place; tampering with the scene of the crime and liability stemming from perpetration and cover up of the crimes; and the failure to investigate the order to “take down criminals during hours of darkness,” as well as the respective chain of command.<sup>147</sup>

98. In response to this situation, Clara Gómez González, mother of one of the victims and witness of the confrontation, jointly with Centro PRODH, filed an *amparo* suit in June 2017, arguing the lack of due diligence described in the previous paragraph. On July 31, 2017, the 14<sup>th</sup> District Court for Amparo Claims in Criminal Matters of the Mexico City ordered the PGR to carry out the appropriate investigation with due diligence.<sup>148</sup> According to the content of the ruling, the PGR's failure to act violated the victim's human rights and it ordered an exhaustive and expeditious investigation into the failure to investigate as a result of the order given down the chain of command to “take down in hours of darkness.”<sup>149</sup> The aforementioned Court ordered the PGR to specify the purpose of each step in the investigation, as well as the deadline to carry each one out, which may not exceed 30 days for the completion thereof. A passage of the content of the Ruling appears below:

<sup>145</sup> The State specified that the ruling of the Sixth Unitary Court of the Second Circuit was adopted impartially and independently by a Mexican civil court and that the decision was made in keeping with the principles of due process and in accordance with international standards. Communication from the Mexican State. Response of the Mexican State to draft Chapter V of the 2016 Annual Report of the Inter-American Commission on Human Rights, January 16, 2017.

<sup>146</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>147</sup> Release issued by several civil society organizations, [Tlatlaya, tres años de impunidad](#), [“Tlatlaya, three years of impunity”], June 29, 2017.

<sup>148</sup> Amparo judgment, suit 545/2017

<sup>149</sup> Centro Prodh, [Juez ordena a PGR investigar con debida diligencia caso Tlatlaya](#), [“Judge orders PGR to investigate Tlatlaya case with due diligence”], August 15, 2017.

Inasmuch as it has been proven that the prosecutorial authority has been remiss in carrying out the necessary steps to investigate the events that are the subject of the complaint filed and that gave rise to the preliminary inquiry (...), whereby the fundamental rights enshrined on behalf of the victim in Article 20, section B of the Constitution, in the text thereof prior to the amendments published on June 18, 2008 in the Official Gazette of the Federation, have been violated, in the case, [it is hereby ordered] to carry out the necessary investigative steps in order to clarify the facts, consequently it is also proven that there was a failure to investigate the order to take down in hours of darkness, directed to the base of operations to which the military members involved in the events belonged and in relation to the chain of command; in addition to which, there does not appear to have been any ruling as to whether there is any pending inquiry, which may be joined with the one that has been opened; therefore, it is appropriate to grant the petition for constitutional relief (amparo) and protection of the justice requested (...)

99. As noted by the representatives in the press release, the presiding judge also determined that in order to prevent fragmentation, the PGR must join all of the investigations under a single case file.<sup>150</sup> In response to the judgment, the PGR and Centro Prodh filed appeals for review of judgment. The appeal filed by Centro Prodh contended that: 1) the judge did not follow the right logical and legal reasoning in determining that the agent of the Federal Public Prosecutor's Office must decide, at his discretion, what investigative steps to take, because it is precisely his discretion that has led to the lack of progress; 2) the judge incorrectly interpreted section II paragraph C of Article 20 of the Constitution, because it limits the assistance provided by the victim of the crime to the Federal Prosecutor's Office, merely to the power of observation and 3) based on the arguments in items 1 and 2, the effects of the amparo should be to order the agent of the Prosecutor's Office to carry out specific investigative tasks, such as those proposed by Mrs. Clara Gómez González and her legal representative throughout the entire Preliminary Investigation.<sup>151</sup> This appeal is still pending disposition.

100. Additionally, in May 2017, a video was made public showing an alleged extrajudicial investigation of a civilian by members of the Mexican Army in Palmarito Tochapán, state of Puebla.<sup>152</sup> Official releases initially confirmed that there was a confrontation between military members and individuals who allegedly stole fuel, which left a death toll of five persons, one of whom was a member of the army.<sup>153</sup> Nonetheless, a few days earlier, the video was made public showing a soldier shooting a gun at a person, who is subdued on the ground.<sup>154</sup> In turn, the organization Amnesty International issued a release announcing that after independent verification of the aforementioned video, no evidence was found that it had been edited or manipulated. According to the data analyzed, the organization concluded that there was sufficient circumstantial evidence to determine that an extrajudicial execution had taken place.<sup>155</sup>

101. In a release dated May 10, 2017, the State reported that the PGR has been investigating the reported incidents through the Office of the Assistant Attorney General for Regional Oversight of Criminal Proceedings and Amparo since May 4, 2017.<sup>156</sup> SEDENA also issued a press release reporting that it had

<sup>150</sup> *Idem*.

<sup>151</sup> Information provided by Centro Prodh to the IACHR, September 11, 2017.

<sup>152</sup> El País, [Un video muestra una presunta ejecución de militares mexicano a un ladrón de combustible](#), [‘A video shows the alleged execution of fuel thief by Mexican military men’], May 12, 2017. El Universal, [Palmarito, una emboscada y ejecución](#), [‘Palmarito, an ambush and execution’], May 11, 2017.

<sup>153</sup> SEDENA, [Personal militar es agredido con disparos de arma de fuego en el estado de Puebla](#), [‘Military members are attacked with gunfire in state of Puebla’], May 3, 2017; SEDENA, [Recibe nueva agresión con armas de fuego personal militar en el estado de Puebla](#), [‘Military members assaulted again in state of Puebla’], May 4, 2017.

<sup>154</sup> Proceso, [Al confirma ejecución extrajudicial por parte de militares en Palmarito: pide investigación civil “urgente”](#), [‘AI confirms extrajudicial execution by military in Palmarito; call for “urgent” civilian investigation’], May 25, 2017.

<sup>155</sup> Amnesty International, Mexico: New evidence of execution by military highlights deficient security strategy, May 25, 2017.

<sup>156</sup> PGR, Release 805/17. [La Procuraduría General de la República investiga los hechos ocurridos en Palmarito Tochapán, Puebla](#), [‘Office of the Attorney General of the Republic investigates incidents reported in Palmarito Tochapán, Puebla’], May 10, 2017.



learned of the dissemination of the video on social networks and indicated that the incidents shown in the video must be elucidated by the Office of the Public Prosecutor.<sup>157</sup> According to public information, the CNDH also opened an investigation into the incidents.<sup>158</sup> The Commission urges the Mexican State to investigate these events with due diligence. The IACHR will closely monitor the respective criminal and administrative proceedings.

102. Additionally, the IACHR once again reiterates its concern that the Armed Forces do not record statistics of persons killed or wounded in its operations. In its observations on the draft 2016 report, the State indicated to the IACHR that as of 2012, based on the rulings of the Plenary of the SCJN, as well as the amendments to the Code of Military Justice, the Military Courts are not competent to hear cases in which there are violations of human rights of civilian victims and, consequently, it indicated it is not competent either to document the number of persons killed and wounded in operations. It further noted, notwithstanding, that in cases in which public security forces may have committed a human rights violation, criminal action is brought in civilian courts.<sup>159</sup> In 2016, 44.7% of complaints brought before the CNDH for violation of the right to life were against the Armed Forces and the Navy. From January to July 2017, 42.4% of the complaints filed with the CNDH for violations of the right to life were against the Armed Forces and the Navy.<sup>160</sup>

103. The IACHR reiterates that the appropriate and trustworthy information about casualties and injured in the context of its operations is absolutely essential to measure the use of force in confrontations and to conduct diagnostic assessments in order to be able to determine what corrective actions can be identified and implemented, as required. The IACHR urges the State to heed this recommendation.

104. As for the creation of an autonomous national forensic service unit, the IACHR reiterates that it should be a high priority for the Mexican State to take measures towards the creation of a National Forensic Institute, which is independent of political and other types of interference, and that is governed strictly under technical and scientific criteria.<sup>161</sup> This recommendation has also been endorsed by the United Nations High Commissioner for Human Rights, as well as United Nations Special Rapporteurs.<sup>162</sup>

105. Additionally, in its Country Report, the IACHR addressed the finding of unmarked gravesites and graves in cemeteries and pantheons with dozens of bodies buried in them in different areas of Mexico, in many instances, discovered by family members, who took over the search for their loved ones when the State failed to take action. Many failures and gaps in the management and identification of bodies and in assistance and protection of the victims' family members were also exposed. As for the establishment of a national registry related to the location of unidentified remains buried in pantheons throughout the country, the State indicated that the Law on Forced Disappearance provides for the creation of a National Forensic Register, as well as a National Register of Unmarked Graves.<sup>163</sup> In its observations on the draft version of this report, the

<sup>157</sup> SEDENA, [Video que supuestamente corresponde a la agresión que recibió el personal militar en Palmarito, Pue., el pasado 3 de mayo](#). [Video reportedly of assault of military members in Palmarito, Puebla, this past May 3'], May 10, 2017.

<sup>158</sup> Milenio, [PGR y SEDENA investigan presunta ejecución militar de un civil](#). [PGR and SEDENA investigate alleged execution of a civilian by military members'], May 11, 2017. CNDH, [La CNDH integra expediente de queja e investiga de manera exhaustiva y objetiva los hechos de violencia acontecidos en Palmarito Tochapán, Puebla](#). [CNDH opens case file into complaint and conducts exhaustive and objective investigation into acts of violence reported in Palmarito Tochapán, Puebla'], Release DGC/145/17, May 10, 2017.

<sup>159</sup> Communication of 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.

<sup>160</sup> CNDH, [Sistema Nacional de Alerta de violación a los Derechos Humanos](#) [National Human Rights Violation Alert System].

<sup>161</sup> IACHR, "[Informe de País: Situación de los derechos humanos en México](#)". [Country Report: Situation of Human Rights in Mexico], December 31, 2016. Paragraph 135.

<sup>162</sup> United Nations. Recommendations to Mexico from the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad al Hussein, Result of his official country visit in October 2015; United Nations. [Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, México](#). [Follow-Up Report of the Special Rapporteur on Torture and Cruel, Inhuman and Degrading Treatment or Punishment, Mexico'], A/HRC/34/54/Add.4, February 17, 2017.

<sup>163</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016.

State reported that the purpose of that Register was to ensure that exhumations are conducted as promptly as possible and using professional techniques for identifying the deceased and conducting appropriate investigations. It is also to guarantee, inter alia, the safekeeping and classification of the remains, and will serve to establish a map of pantheons where there are unidentified remains and of mass or clandestine graves that have been identified as well as exhumation performed in accordance with the Protocol of Minnesota. That will guarantee the right of families to find bodies under dignified conditions and with all available forensic information.<sup>164</sup> The State also noted that the genetic database of the PGR will be strengthened for proper identification.

106. In its Special Report on Disappearance of Persons and Unmarked Graves, the CNDH officially reported 855 unmarked gravesites on Mexican territory, from which 1,548 bodies were exhumed.<sup>165</sup> The CNDH noted in its report that, for the most part, the effort to search and locate unmarked mass graves is carried out by members of civil society, as a result of the failure of public security and administration of justice authorities to provide a response.<sup>166</sup>

107. The States where the highest number of unmarked graves were found are: Guerrero with 195, Nuevo León and Veracruz with 191, Zacatecas with 83, Coahuila with 51, Colima with 35, San Luis Potosí with 34, Durango with 18, Jalisco with 17 and Sonora with 12.<sup>167</sup> The administration of justice agencies of Coahuila, Colima, Nuevo León and Veracruz reported exhuming a total of 35,958 bone fragments and/or human remains;<sup>168</sup> while the authorities of Baja California, Chiapas, Guanajuato, Michoacán, Tabasco, Tlaxcala, Yucatán and Mexico City claimed to not have any information on these figures and the justice administration bodies of the governments of Chihuahua, Hidalgo, Morelos, Nayarit, Sinaloa and Tamaulipas did not reply to the requests for information from the CNDH.<sup>169</sup>

108. In addition, the CNDH conducted a newspaper search finding reports of 1,143 unmarked gravesites with 3,230 bodies and/or human remains.<sup>170</sup> As for these unmarked gravesites, based on the sampling of newspaper clippings carried out by the CNDH, a total of 1,143 gravesites were successfully located on Mexican territory, of which 3,230 bodies and/or human remains were reported to have been exhumed.<sup>171</sup>

109. Separately, the report of the Ibero-American University of Mexico City (UIA) and the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) titled “*Violencia y Terror, hallazgos sobre fosas clandestinas en México*” [‘Violence and Terror, findings on unmarked graves in Mexico’], indicates that a total of 1,075 unmarked gravesites have been located with 2,014 bodies in 19 states of Mexico. This report includes official figures of 12 federal states of the country, as well as reports of the human rights bodies and different journalistic stories.<sup>172</sup>

110. Both reports were released shortly after women belonging to the “Colectivo Solecito” – a group of 50 mothers of disappeared persons – found 75 unmarked mass graves in a field in Colinas de Santa

<sup>164</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>165</sup> CNDH, [Informe Especial sobre Desaparición de Personas y Fosas Clandestinas en México](#) [‘Special Report on Disappearance of Persons and Unmarked Graves in Mexico’]

<sup>166</sup> *Idem*.

<sup>167</sup> *Idem*.

<sup>168</sup> *Idem*.

<sup>169</sup> *Idem*.

<sup>170</sup> *Idem*.

<sup>171</sup> *Idem*.

<sup>172</sup> Ibero-American University Mexico City, Mexican Commission for the Defense and Promotion of Human Rights, [Violencia y Terror, Hallazgos sobre fosas clandestinas en México](#) [‘Violence, Terror, Findings on Unmarked Graves in Mexico’]/

Fe, in the port city of Veracruz. As was cited by the IACHR in its first Follow-up Report, according to the information processed by the Federal Scientific Police, 8 of the 75 gravesites held 28 “intact bodies,” some of which showed signs of torture.<sup>173</sup>

111. Different communications media highlighted as well the discovery of several unmarked graves on Mexican territory in 2017. From March to May 2017, at least 6 graves were found in the state of Michoacán.<sup>174</sup> In June 2017, 18 bodies were found in a grave in San José del Cabo, Baja California Sur. The Office of the Attorney General of the State reported that these bodies had been dead from 3 months to up to one year.<sup>175</sup> Likewise, in August 2017, an unmarked gravesite was found in the municipality of Valparaíso, Zacatecas. At first, at least 14 bodies were found, and the figure rose to 26 bodies over the following days.<sup>176</sup> This same month, six bodies were found in a grave in the state of Guerrero<sup>177</sup> and 150 bone remains were found in a grave in Tijuana.<sup>178</sup>

112. In this regard, the IACHR urges the Mexican State to adopt the necessary measures to establish a national register on locating unidentified remains, whether in pantheons anywhere else in the country, or in unmarked graves. It also calls on the State to take urgent measures to identify remains. For this purpose, it reiterates that the processes of exhumation and identification of remains must be conducted in strict keeping with the dignified treatment of the victims’ family members. Likewise, the IACHR reiterates the importance for Mexico to have an autonomous national forensic services institution with adequate infrastructure, sufficient human and financial resources, and standardized protocols in effect nationwide.

113. With respect to the work of the Forensic Commission for the Identification of Remains found along migration routes, the Commission received information that as of June 2017, 69 disappeared persons had been identified, of whom 36 are of Mexican origin, 16 Guatemalan, 13 Honduran, 2 Nicaraguan and 2 Salvadorian. Of these individuals, one was from the massacre of 72 migrants in Sand Fernando, Tamaulipas; 55 were from 47 unmarked graves, which were found from April to May 2011 along with 193 bodies; and 12, were from the discovery of 49 human torsos in Cadereyta, Nuevo León, which took place in 2012.<sup>179</sup> The Commission takes note of these steps forward and reiterates the recommendation made to the Mexican State to continue with and expand the work of the Forensic Commission in other cases that are located along migration routes in Mexico, and in particular, to take into account the transnational scope of the crimes and human rights violations perpetrated against migrants.<sup>180</sup> Additionally, the Commission urges the Mexican

<sup>173</sup> IACHR, [Informe Anual 2016](#), [2016 Annual Report], Chapter V – Mexico; Animal Político, [Un grupo de mujeres activistas encuentra 75 fosas clandestinas en Veracruz](#), [‘A group of women activists finds 75 unmarked graves in Veracruz’], September 5, 2016; La Jornada, [Localizan 75 fosas clandestinas en Veracruz](#), [‘75 unmarked graves are found in Veracruz’], September 3, 2016; Proceso, [Suman 75 las fosas clandestinas halladas en Veracruz](#), [‘A total of 75 unmarked graves found in Veracruz’] September 3, 2016.

<sup>174</sup> Animal Político, [Encuentran una fosa clandestina en Michoacán con tres cuerpos](#), [‘Unmarked gravesite found in Michoacán with three bodies in it’], March 16, 2017; El Universal, [Hallan cuerpos putrefactos en fosas en Morelia](#), [‘Decomposed bodies found in Morelia’], May 3, 2017.

<sup>175</sup> El Universal, [Suman 18 cuerpos en fosas de San José del Cabo](#), [‘Total of 18 bodies in graves of San Jose del Cabo’], June 9, 2017; Debate, [Cuerpos de fosas de Los Cabos tienen entre 3 meses y 1 año](#), [‘Bodies in graves of Los Cabos have been there from 3 months to one year’], June 11, 2017.

<sup>176</sup> El País, [Encontrados 14 cuerpos en una fosa clandestina en el norte de México](#), [‘14 bodies found in unmarked gravesite in northern Mexico’], August 6, 2017; Proceso, [Suman 26 cadáveres hallados en fosas de Valparaíso](#), [‘Total of 26 bodies found in graves in Valparaíso’], August 18, 2017.

<sup>177</sup> Animal Político, [Ubican seis cadáveres en una fosa en la zona Diamante de Acapulco](#), [‘Six bodies are located in a grave in the area of Diamante of Acapulco’], Guerrero, August 15, 2017.

<sup>178</sup> Debate, [Hallan fosa clandestina en Tijuana con 150 restos óseos](#), [‘Unmarked mass grave found in Tijuana with 150 bone remains’], August 16, 2017.

<sup>179</sup> Argentine Forensic Anthropology Team, Border Statistics Project: 2010 – June 2017.

<sup>180</sup> IACHR, [Situación de los derechos humanos en México](#), [‘Situation of Human Rights in Mexico’], OEA/Ser.L/V/II.Doc. 44/15, December 13, 2015, par. 26.

State to endow the Forensic Commission with the necessary technical and financial resources for it to adequately function.

114. For all of the considerations laid out above, the IACHR reiterates to the State the recommendations included in this section. The IACHR urges the State to establish a national registry on the location of unidentified remains and the search for unmarked graves as provided for in the recommendations. The State should also ensure that all procedures to exhume and identify remains are subject to standards in this area, taking special care to treat family members with dignity. In addition, the Commission emphasizes the importance of strengthening criminal investigations through technical and scientific means through the creation of an independent National Forensic Institute. It 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 Americans missing in Mexico through 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 s at the federal and state level. In consultation with civil society organizations and with victims, analyze and address concretely the barriers that impede its effective implementation, and eliminate them.
- Assume the historic responsibility of accountability for gross human rights violations. Investigate, clarify and punish the acts committed during the time period known as the Dirty War.
- Strengthen the Mechanism of protection for human rights defenders and journalists, guaranteeing its financial sustainability in the long-term and vesting it with greater administrative autonomy, and urging the states to collaborate with it. In turn, the recommendations for the Mechanism are to evaluate and adopt differentiated protection measures taking into account gender, indigenous leaders, environmental defenders; measure the effectiveness of implemented measures; foster the institutional articulation and cooperation with the PGR; and increase the transparency of all actions to increase the trust of the beneficiaries in the mechanism. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the Mechanism.
- Reform the Code of Military Justice to provide that whenever a member of the armed forces commits acts that may constitute a human rights violation, such acts shall be judged by civil tribunals, independently of whether the victim is a civilian or a member of the armed forces.
- Monitor the entry into force of the new criminal justice system as well as the effectiveness of the trainings regarding it. Include public defenders in the trainings.
- Evaluate the effective implementation of the new criminal justice system, as well as the areas that will require more specific monitoring, with adequate training and all necessary resources.

Include permanent training for justice operators and public defenders regarding the conventionality control.

115. In its country report on Mexico, the IACHR expressed concern over high levels of impunity reported to be as high as 98%. At a public hearing on justice and impunity in Mexico held in July 2017 in Lima, Peru, civil society organizations decried before the IACHR that the Mexican justice system is marred by alarming levels of corruption and impunity. The organizations reported that the impunity consists of the failure to investigate and punish egregious crimes such as torture, forced disappearance and arbitrary execution. In addition, they contended that investigations are often inefficient, immaterial or untimely and, consequently, material evidence is lost. Another problem raised by them is that a gender perspective or differentiated approach does not cut across investigations and, on top of that, there are no independent technical expert services available.<sup>181</sup>

116. Additionally, they denounced that the Mexican State does not investigate or punish anyone for past serious crimes it has committed. They noted that in order to address this issue, the judiciary must be autonomous and independent of political powers. The organizations requested the IACHR to join the signing of a cooperation agreement to strengthen an advisory council against impunity, which is supposed to be entered into between the Office of the United Nations High Commissioner for Human Rights and the Mexican State, in an arrangement that provides for the broadest possible participation of civil society.

117. In turn, the Mexican State recognized that it is facing a significant challenge to provide for the full enjoyment of human rights in the pursuit and administration of justice. The representatives of the State noted that Mexico has undertaken structural reforms to implement a legal model to meet the huge challenges of violence and criminal organizations and, for this purpose, it has had to take into account justice reform processes in countries such as Chile, Colombia, Costa Rica and Peru. As for gross human rights violations, the representatives of the State reported that a plan to strengthen protection for human rights defenders was agreed upon and includes mapping high-risk areas, creating state-level protection units to carry out strategic actions in coordination with the federal mechanism and drafting a national protocol for the protection of defenders.

118. At the conclusion of the hearing, the Commission viewed as a positive step the State's recognition of the challenges it faces in the area of justice. Additionally, in keeping with the recommendation of the United Nations High Commissioner to the Mexican State to create an advisory council of renowned experts in the field of human rights and fight against impunity to advise the Mexican State on strategies and reforms to increase capacity to investigate and prosecute in order to reverse the impunity rates prevailing in the country. The IACHR expressed its willingness to contribute to the implementation of this recommendation. According to the High Commissioner, "the Council could elaborate and publicly present a national assessment on impunity and recommend a roadmap to address the issue, gage its effective implementation and present public periodic reports."<sup>182</sup>

119. One year away from the entry into force of the new criminal justice system nationwide, the State announced that the new Criminal Justice System will be solidly in operation within a period of about 5 to 9 years, during which time it plans to continue to train the operators of the Criminal Justice System; prosecute and dispose of matters dating back to the combined or the old inquisitorial system; strengthen preparedness in forensic specialties of the areas of technical expert services in order to improve scientific approach-based investigation of crimes; follow up on the results of operations of the new system through performance indicators; design unique models that serve as the basis for the federal entities and the Federal government to promote the areas of the new marshals or judicial police service called the "Procedural Police" (*Policía Procesal*). Additionally, the operational goals in place at the time of the launch of the reform will be

<sup>181</sup> Public Hearing, [Justicia e Impunidad en México](#), [Justice and Impunity in Mexico], 163<sup>rd</sup> Session, Lima, Peru.

<sup>182</sup> United Nations. Recommendations to Mexico from the United Nations High Commissioner for Human Rights, Zeid Ra ad al Hussein, Result of his official country visit in October 2015.



redefined as time goes on, based on experience, in order to set new expectations for the operation of the Justice System.<sup>183</sup>

120. Among the main results of the implementation of the new adversarial criminal justice system, the State noted that hearings will take place in the presence of a judge and will be video-recorded in order to ensure the public nature and transparency thereof. The State reported that expeditiousness has been optimized in case proceedings. On average, a criminal case in the combined system took 170 to 185 days to be disposed of, now through Alternative Dispute Resolution Mechanisms (MASC), it takes an average of 30 days. It also reported that there has been an increase in the amounts collected for reparation of damages. The State noted that states such as Baja California, Chihuahua, Nuevo León, Guanajuato and Oaxaca perform the best according to the indicators in the Adversarial Criminal Justice System. It further claimed that fewer cases reach the stage of judgment, but those that do usually involve crimes of high social impact (the average punishment went from 420 days in jail to 679 days in jail). Crimes such as destruction of property, threats, negligent battery, theft and minor fraud are disposed of through alternative mechanisms or through suspension of proceedings pending successful completion of probation, so that trials are beginning to be reserved for dealing with crimes of high social impact.<sup>184</sup>

121. With respect to training, as of the present date, 26 courses, diploma programs, workshops and/or seminars have been given to Federal Public Defenders on the subject of the new criminal justice system in Mexico, to a total of 2369 attendees.<sup>185</sup> The IACHR 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.

122. The State also reported to the Commission that the General Directorate of Human Rights Culture Promotion, Complaints and Inspection, attached to the Office of the Assistant Attorney General for Human Rights, Prevention of Crime and Community Services of the PGR, is in charge of promoting a culture of human rights protection and capacity building for the investigation of crimes imputable to public officials, through ongoing and permanent training courses on the subject matter, primarily aimed at substance-related personnel of the Institution (agents of the Office of Federal Prosecutors, of the Federal prosecutorial police and technical experts) and administrative personnel, both at central offices as well as at state offices, in addition to public officials from other institutions, who perform related duties, such as SEDENA and SEMAR, the Federal Police, the Decentralized Body for Prevention and Social Readaptation, Offices of Attorney Generals and of Prosecutor Generals and Secretariats of Public Safety of the states and federal entities. Over the period of February to July 2017, 4 courses were taught on the subject of “*Human Rights, Lawful Detention and Legitimate Use of Force*,” with an attendance of 371 individuals and a total of 60 classroom hours of training.<sup>186</sup>

123. One year after the entry into force of the new criminal justice system, the IACHR received information about attempts at counter-reform to the system. There is a legislative bill before the Chamber of Deputies of the Congress called *Miscelanea Criminal* (“Miscellaneous Criminal Matters”). This proposed

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<sup>183</sup> Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>184</sup> Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>185</sup> Mexican Government, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>186</sup> Likewise, the Office of the Assistant Attorney General Specialized in the Investigation of Organized Crime has imparted, in coordination with the Directorate of Professional Training, several human rights courses. Additionally, the agents of the Federal Public Prosecutor’s Office assigned to the Office of the Prosecutor Specialized in the Investigation of Organized Crime comply with their obligations as public officials, that is, when they witness that there has been a human rights violation in an arrest, they open a case investigation file in order to determine whether or not there are facts involved that constitute a crime in which public officials have taken part, all in keeping with applicable laws on the subject. Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

legislation aims to make some changes that run counter to international human rights standards.<sup>187</sup> For example, it includes the proposal to expand the catalogue of offenses subject to *ex officio* pretrial detention to “the crime of carrying and stockpiling weapons of exclusive use of the Army, Air Force and Navy; the crime of trafficking in persons, as well as for the crime of theft of hydrocarbons, petroleum or petrochemicals, and of financing of terrorism, because of their high degree of dangerousness, social impact and repercussion as warranting the maximum precautionary measure.” On this subject, the IACHR has held that in no circumstance may the law provide that any type of crime be exempt from the rules established for not applying pretrial detention or that particular crimes are treated differently from others in terms of release during trial proceedings, without a basis in objective and legitimate criteria of discrimination, simply based on the single circumstance of meeting standards such as “social alarm,” “social repercussion,” “dangerousness” or any other one.<sup>188</sup> The IACHR has consistently stated that pretrial detention is an exceptional measure that requires an individualized evaluation of each case according to procedural purposes, either to ensure the defendant’s appearance or to avoid interferences with the investigation.

124. Among the items included in the legislative amendment proposal, the IACHR notes that in cases of organized crime, it allows for bringing the arrested in *flagrancia* before the Specialized Public Prosecutor instead of where the crime took place: “With acts that the law lists as organized crime, the specialized Federal Public Prosecutor’s Office, before whom the accused is brought, shall examine the constitutionality and legality of the detention taking into account the circumstances of the detention, the reasonableness of the period of time it took to bring the accused before it.” The IACHR also notices that with respect to reasonable doubt, the draft law introduces a change so that reasonable doubt cannot be used in the absence of facts that justify the existence of a doubt, in light of the evidence introduced in the proceedings. The bill also proposes to establish exceptions to the rule of exclusion of unlawful evidence;<sup>189</sup> hearsay statements of third parties are included,<sup>190</sup> among other things.

125. Several Mexican civil society organizations have voiced concern over the possibility of changes being made to the recent criminal justice system reform. In a press release, they expressed their support for the new criminal justice system and noted that should failures arise, “let an actual and meaningful diagnosis be performed, that assesses the performance of justice operators through indicators from a human rights perspective. This, for the purpose of identifying best and worst practices to help the criminal justice system advance [...]”<sup>191</sup> The IACHR calls upon the Mexican State to review the progress and challenges in the implementation of the criminal justice reform and subsequently address potential changes, should they be necessary, based on an analysis and always from a human rights perspective.

126. Additionally, the IACHR notes that the framework of the 2014 reforms includes the creation of the Office of the Prosecutor General of the Republic (*Fiscalía General de la República*) to replace the PGR. Several civil society organizations and human rights networks issued a public appeal to the Executive and Legislative branches of government to convene a national dialogue and roundtable discussions in order to collaboratively design the new Prosecutor General’s Office.<sup>192</sup> In its observations on the draft version of this report, the State reported that in the National Palace, on October 25, the Economic Research and Teaching

<sup>187</sup> Parliamentary Gazette, year XX, number 4716-VI- February 9, 2017.

<sup>188</sup> IACHR, Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II.163, Doc. 105, July 3, 2017, par. 91.

<sup>189</sup> The text of the bill establishes: “When evidence is obtained indirectly from unlawful means, the Public Prosecutor’s Office may move for it to be admitted based on its degree of connection to the unlawfully obtained information or evidentiary exhibit, the possibility that it would have inevitably been uncovered by other means, or that it originates from independent sources.”

<sup>190</sup> The text of Article 262 BIS reads that: “A hearsay statement from third parties is testimony of the Police which provides information previously gathered from an identified third party under the formal procedures of this Code, during the investigation.”

<sup>191</sup> Release of [#Justicia Sin Pretextos](#), July 2, 2017.

<sup>192</sup> Press Bulletin, [Por una Fiscalía General de la República que Sirva](#), [For an Office of the Prosecutor General of the Republic that works]. October 18, 2016. Specifically, they requested that the following items be addressed: gradual transition between both institutions; design, legal authority and scope of the new Office of the Prosecutor General and its assistant prosecutors; selection process of human capital, development of a clear profile for the head and mechanisms for a professional career service, disciplinary evaluation and oversight, legacy costs, transparency and supervision by citizens, autonomy of technical expert services.

Center (CIDE), the Legal Research Institute of the UNAM, and the National Criminal Sciences Institute (INACIPE) presented the Executive Report of the “Consulta Nacional de Procuración de Justicia” [National Consultation for Access to Justice], to various national figures.<sup>193</sup>

127. At a Public Hearing on the “Situation of Independence and Autonomy of the Administration of Justice System in Mexico,” held in March 2017, the petitioner organizations mentioned the historic opportunity to overhaul the criminal justice model, in light of the 98% impunity rate prevailing in the country and, in this context, stressed the importance of ensuring the autonomy of the Prosecutor General’s Office. They noted that under the transitory provisions set forth in the 2014 constitutional amendment, said autonomy would be cast in doubt should the last attorney general (Procurador General) in office automatically become the first prosecutor general (Fiscal General) for nine years without any selection process being conducted. They emphasized that there cannot be any autonomy if the selection process does not guarantee transparency, citizen participation, disclosure and is not geared toward or does not include tools to identify the merits and qualifications of candidates. The State, in response, reported that the appointment procedure is already written into the 2014 constitutional reform, which strikes a balance through a system of checks and balances included in the framework of the most recent selection procedures. It also noted that in order to prevent automatic transfer of the attorney general of the republic to the position of prosecutor general, the President of the Republic introduced, in November 2016, a proposal to amend transitory Article 16 to institute a different appointment procedure in order to achieve greater transparency in the selection process.<sup>194</sup>

128. Based on publicly available information, in August of the current year, more than 300 organizations, the groups “#VamosporMás” and “#FiscalíaQueSirva,” whose members include civil society organizations, businessmen and women, academicians, human rights researchers and defenders, joined together to introduce a legislative bill in Congress to overhaul the model of the Office of the Prosecutor General of the Republic in order to ensure autonomy, capacity and independence in effectively fighting against impunity.<sup>195</sup> The IACHR takes note of this important initiative and hopes that it achieves the final result of the reforms required to ensure an independent, professional and autonomous Office of the Prosecutor General and Specialized Prosecutor’s Offices, with the capacity to strengthen access to justice and the rule of law.

129. 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 tried in civilian courts, regardless of whether the victim is a civilian or member of the armed forces, the State reported earlier that any grievance against a member of the armed forces could be reviewed or appealed before regular courts through the *amparo* proceeding.<sup>196</sup> The IACHR notes 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 told the Inter-American Court of Human Rights that national courts are the suitable venue to determine under what circumstances an act committed by military personnel against others should be tried in the military or civil jurisdiction. Accordingly, it asked that 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 find that the requirement to bring Article 57 of the Code of Military

<sup>193</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>194</sup> Public Hearing, “Situation of Independence and Autonomy of the Administration of Justice System in Mexico,” March 2017.

<sup>195</sup> Milenio, [Ciudadanos exigen una fiscalía “que sirva”](#), [‘Citizens demand a prosecutor’s office “that works”’], September 14, 2017; El Economista, [Sociedad civil y empresarios exigen una Fiscalía que sirva](#), [‘Civil Society and businessmen demand a Office of the Prosecutor General “that does the job”’], August 29, 2017; El Universal, [Colectivos urgen a crear fiscalía de la República autónoma](#), [‘Groups urge creation of an autonomous office of the prosecutor general of the Republic’], August 29, 2017.

<sup>196</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on November 10, 2016. Nota OEA-02902 of November 17, 2016.

Justice in line with standards, has been met.<sup>197</sup> This stands in contradiction to the decision of the IACHR and the Court on this subject.<sup>198</sup> Therefore, the IACHR urges the Mexican State to heed its recommendation.

130. As regards the General Law on Victims (LGV), on January 3, 2017, amendments to the General Law on Victims approved by the Congress of the Union on December 2016 were published in the Official Gazette of the Federation (DOF). According to the State, the salient aspects of the amendments are: 1) optimizing the process of access to assistance measures; 2) strengthening the areas of the Executive Commission for Victim Service (CEAV), which provide direct assistance to victims; 3) support and assistance in cases where victims of the state and local jurisdiction are not served; 4) the right of victims to gain access to independent technical expert services; 5) a change in the organizational structure of the CEAV; 6) specialization of staff that provides services at the institution; 7) special protection for individuals who have been displaced as a result of a victimizing incident, to be provided for the first time ever in Mexican legislation; 8) representation of civil society organizations, victims' associations and academicians on the Commission itself through a Consultative Assembly; and, 9) strengthening the institution of the legal advisor.<sup>199</sup>

131. In its observations on the draft version of this report, the State pointed out that the amendment to the LGV establishes that the CEAV shall issue the Rules governing the Operations of the Aid, Assistance, and Comprehensive Reparation Fund (ROFAARI). Pursuant thereto, on July 20, 2017, during the First Regular Session of the Governing Board of the CEAV, the ROFAARI were adopted, and then published in the DOF on August 10, 2017.<sup>200</sup> The Law also establishes that the CEAV can help, attend to, assist and cover secondary compensation for victims under ordinary court jurisdiction, without there necessarily having to be a request from the federative entity, when the magnitude of the incidents giving rise to victims so warrants.<sup>201</sup>

132. The State likewise reported that to strengthen the National Register of Victims (RENAVI), and pursuant to Article 88.XII of the LGV, the CEAV is empowered to establish instructions for feeding information into the Register and shall issue guidelines for the transmission of information from the institutions pertaining to the SNAV, including federal authorities, taking care to respect the confidentiality of the information but allowing for monitoring and review of cases that may warrant them. In connection with the above-mentioned provision, on June 21, 2017, the DOF published the "Agreement amending various provisions in the Guidelines for Transmitting Information to the National Register of Victims," with a view to bringing them into line with the amendment to the LGV of January 3, 2017 and with the rules on transparency and access to public information and protection of personal data in the possession of persons bound by those rules.<sup>202</sup>

<sup>197</sup> IA Court of HR, Monitoring of compliance with judgment, Case of Cabrera García and Montiel Flores v. Mexico, September 2, 2016.

<sup>198</sup> In the follow-up report, the Inter-American Court held that "even though Article 57.II.a) of the Code of Military Justice excludes from said jurisdiction the investigation and prosecution of alleged human rights violations presumably committed against civilians, it still includes wording that is not in line with standards because it permits said jurisdiction to retain jurisdiction for the investigation and prosecution of human rights violations when the accused is a member of the armed forces and the victim is also a member of these forces, as well as with respect to crimes in which the accused is a member of the armed forces and the victim of the crime or the holder of the protected legal interest is not a civilian. Both circumstances impede the determination of the "strict connection of the crime of the regular jurisdiction to the objectively assessed military service." IA Court of HR, Monitoring compliance with judgment, Cases of Radilla Pacheco, Fernández Ortega et al, Rosendo Cantú et al v. Mexico, April 17, 2015, par. 20.

<sup>199</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>200</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>201</sup> *Idem*.

<sup>202</sup> *Idem*.

133. The State reported that there are currently 17 State Commissions for Victim Service set up 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.<sup>203</sup> As for harmonization of legislation, it noted that 29 federal entities (states/territories) have local laws on the books on the subject matter. Currently, harmonization of legislation is pending in only three entities: Baja California, Mexico City and Guanajuato.

134. Likewise, it noted that under the above-mentioned reforms approved by Congress, the obligation of states and the Federal District to create a fund for aid, assistance and comprehensive reparation, legal assistance and a victims' register was established, whereby the CEAV and the state-level executive commissions are able, drawing from the Federal Fund or the state funds, as appropriate, to provide aid resources. In order to ensure proper service to victims of human rights violations and their family members, the IACHR reiterates the importance of endowing the CEAV with sufficient human and financial resources.

135. Additionally, in terms of progress in the case investigations of crimes perpetrated during the Dirty War ("Guerra Sucia"),<sup>204</sup> the State reported that of the total of 570 preliminary investigations received from the now defunct Office of the Specialized Prosecutor for the Investigation of Acts which Probably Constitute Federal Crimes Committed Directly or Indirectly by Public Servants against Persons Associated with Social and Political Movements of the Past (FEMOSPP), 242 preliminary investigations are currently ongoing, of which 235 are for the crime of forced disappearance and 7 for other crimes. Likewise, it noted that Non-Exercise of Criminal Proceedings was established for 168 investigations, and that incompetence was ruled in 97. Also, 63 preliminary investigations were joined<sup>205</sup>.

136. Based on all the foregoing considerations, 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, through a thorough diagnostic assessment with a human rights perspective. In the context of the discussions regarding the Office of the Prosecutor General of the Republic (*Fiscalía General de la República*), the IACHR calls on authorities to address the claims and proposals from civil society and experts on the subject matter in terms of operation and design of the office. Likewise, after more than 40 years since the events of the so-called "Dirty War" have taken place, the IACHR urges the State to prioritize progress in the pending investigations in order to ensure the right to the truth in these cases of gross human rights violations.

137. The IACHR calls on the State to amend the Code of Military Justice as instructed by the Inter-American Court and the Commission and to assume responsibility for providing an accounting regarding serious human rights violations committed in the past. Lastly, the IACHR reiterates the importance of ensuring implementation of the General Law on Victims and proper functioning of the CEAV in consultation with civil society organizations and the victims.

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<sup>203</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>204</sup> IACHR, *Situación de los derechos humanos en México*, ['Situation of Human Rights in Mexico'], December 31, 2015, pars. 160-167.

<sup>205</sup> The State reported that out of the total of 570 initial inquiries received from the now defunct FEMOSPP (Office of the Specialized Prosecutor for the Investigation of Acts which Probably Constitute Federal Crimes Committed Directly or Indirectly by Public Servants against Persons Associated with Social and Political Movements of the Past), 328 cases have been decided as follows: in 168 of the preliminary investigations, no criminal action was brought, inasmuch as the agent of the Office of the Federal Public Prosecutor exhausted all avenues of investigation proving that no criminal conduct exists to prosecute or based on the investigation conducted, no evidence of any crime or probable cause of the defendant was exposed, or instead, the statute of limitations has lapsed under the law. In 97 preliminary investigations, it was decided to find lack of jurisdiction, and to forward the case investigation files for prosecution and disposition, as appropriate under the law, to the Offices of the Attorneys General of the Federal Entities and the State Assistant Attorneys Offices of the Attorney General of the Republic. Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.



## F. Particularly Vulnerable Groups

### 1. LGBT Persons

- 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.

138. In its Country Report, the IACHR noted that according to an organization of transgender persons based in Europe, Mexico is ranked in second place worldwide, only behind Brazil, as the country with the highest number of murders of individuals on account of gender identity or gender expression-based prejudice.<sup>206</sup> In 2017, the IACHR was apprised that violence against lesbian, gay, bisexual, trans and intersex persons (hereinafter “LGBTI” persons) has not abated. From 2014 to 2016, 202 murders of LGBTI persons were reported, and just in the first quarter of 2017, there have reportedly been 20 persons murder from this community of people, 13 trans women, 6 homosexual men and one bisexual man.<sup>207</sup> In terms of investigating crimes against LGBTI persons, civil society has reported to the Commission that only victims’ next of kin are allowed to become involved in technical expert investigations, which prevents LGBTI activists from pushing cases forward, when the victim’s family does not appear.<sup>208</sup> Additionally, the International Organization for Migration (IOM) warned that LGBTI migrants in Mexico face major peril of becoming victims of discrimination, extortion, abduction, labor exploitation, human trafficking, sexual and gender violence, as well as contracting and transmitting sexually transmitted infection, such as HIV.<sup>209</sup>

139. The IACHR views with concern that there is no database or adequate official statistics on LGBTI persons in Mexico, especially regarding crimes committed against LGBTI persons deprived of liberty. This lack of information has the effect of rendering LGBTI persons invisible and causes difficulties in addressing human rights violations.<sup>210</sup> The IACHR was also apprised that discrimination, violence and prejudice against LGBTI persons is rooted in Mexican society, and that one out of every three homosexuals reports experiencing workplace discrimination; 35% of homosexuals have been harassed just for being gay and 42% do not believe that they are able to let anyone know about it for fear of retaliation.<sup>211</sup> Civil society submitted information to the Commission suggesting that 49.75% of young LGBTI students claimed to have been victims of bullying on a regular basis.<sup>212</sup> It also noted that 56.5% of detained LGBTI persons claimed that their detention had been prompted by their gender identity or sexual orientation, and that 65% of LGBTI

<sup>206</sup> IACHR, *Situación de los derechos humanos en México*, [‘Situation of Human Rights in Mexico’], December 31, 2015, par. 264. Also see, Milenio, [En México, la orientación sexual es “motivo de muerte](#), [‘In Mexico, sexual orientation is “reason for murder”’], May 20, 2016; Etcétera, [México: el segundo país más homofóbico del mundo](#), [‘Mexico: the second most homophobic country in the world’], May 17, 2016; SIPSE.COM, [México, segundo lugar mundial en crímenes por homofobia](#), [‘Mexico: second place worldwide in homophobia-based crimes’], May 21, 2016

<sup>207</sup> Político, [México sigue viviendo en la homofobia, de acuerdo a cifras](#), [‘Mexico continues to live in homophobia, according to statistics’], May 17, 2017, Arena Pública, [México con leyes que protegen la diversidad sexual, pero una cultura que la rechaza](#), [‘Mexico has laws protecting sexual diversity, but a culture rejecting it’], June 21, 2017.

<sup>208</sup> Letra Eses, [Crímenes de odio y de silencio](#), [‘Crimes of hate and silence’], May 3, 2017.

<sup>209</sup> United Nations Information Center, [Migrantes LGBTI en México, los más vulnerables](#), [‘LGBTI migrants in Mexico, the most vulnerable’], July 27, 2017.

<sup>210</sup> Hearing: Situation of LGBTI Persons in Mexico

<sup>211</sup> Diario Plaza [Juárez, Los colores del orgullo LGBTTTI](#), [‘Juarez, LGBTTTI colors of pride’], June 28, 2017.

<sup>212</sup> Proceso, [El 49.75% de estudiantes de la comunidad LGBTI son víctimas de acoso o “bullying”. revela encuesta](#), [‘49.5% of students from the LGBTI community are victims of bullying, survey reveals’], May 12, 2017

person who were detained stated that they had been subjected to some type of infringement of rights during their detention.<sup>213</sup>

140. At a public hearing before the IACHR, the Mexican State indicated that 32 federal entities have legislation recognizing non-discrimination based on sexual orientation and gender identity and that 26 federal entities have on the books the crime of hate-based discrimination for reasons of sexual orientation, gender identity or body modification.<sup>214</sup> The State reported on the adoption of the “Protocol for Access without Discrimination to the Provision of Medical Care Services for Lesbian, Gay, Bisexual, Transsexual, Transvestite, Transgender and Intersex Persons and Guidelines for Specific Care,” which are documents addressing the particular requirements of the protection for different LGBTI groups in terms of their medical care.<sup>215</sup> Additionally, the Commission learned from the State that the Office of the Attorney General of the Republic was creating a “Strategy for Assistance to the Lesbian, Gay, Bisexual, Trans and Intersex population LBBTI.”<sup>216</sup>

141. The State reported to the IACHR that 11 entities in the country recognize marriage equality in their legislation or, through unconstitutionality motions. Accordingly, the National Anti-Discrimination Council (CONAPRED) issued a resolution on social security addressing the right to obtain widower’s or widow’s pension in same sex marriages. Additionally, the State reported that the same Council is in the process of coordinating studies on the topics of “Living conditions and experiences of discrimination of trans populations in Mexico” and the “Qualitative study to find out about the living conditions of intersex persons in Mexico,” in order to focus diagnostic assessments on the subject matter.<sup>217</sup> In its observations on the draft version of the present report, the State reported that between 2015 and October 2017, 454 complaints of discrimination had been filed. These are broken down by cause, context of the incidents involved, and rights impaired.<sup>218</sup>

142. In terms of health care services, the Secretariat of Health published on June 24, 2017, the Protocol for Access without Discrimination to Medical Care Services of Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) persons and 4 related care guideline manuals.<sup>219</sup>

<sup>213</sup> Information submitted by the petitioners Hearing on the Situation of LGBTI Persons in Mexico. Also see:

Comisión Ejecutiva de Atención a Víctimas y Fundación Arcoiris (2014), [Investigación sobre la atención de personas LGBT en México](#) [‘Investigation into assistance to LGBT persons in Mexico’].

<sup>214</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017. IACHR, Hearing Situation of LGBTI Persons in Mexico, Lima.

International Lesbian, Gay Bisexual, Trans and Intersex Association (ILGA): Carroll, A., and Mendos, L. R., [Homofobia de Estado 2017: Estudio jurídico mundial sobre la orientación sexual en el derecho: criminalización, protección y reconocimiento](#) [‘State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalization, Protection and Recognition’] (Geneva: ILGA, May 2017)

<sup>215</sup> [Protocolo para el Acceso sin Discriminación a la Prestación de Servicios de Atención Médica de las Personas Lésbico, Gay, Bisexual, Transsexual, Travesti, Transgénico e Intersexual y Guías de Atención Específicas](#), [‘Protocol for Access without Discrimination to the Provision of Medical Care Services of Lesbian, Gay, Bisexual, Transsexual, Transvestite, Transgender and Intersex Persons and Specific Care Guidelines’], June 24, 2017

<sup>216</sup> Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017..

<sup>217</sup> Additionally, CONAPRED plans to conduct, in conjunction with the National Statistics and Geography Institute (INEGI), the “National Survey on Discrimination in Mexico” (ENADIS), as well as two complementary surveys on “Discrimination based on Sexual Orientation and Gender Identity” (ENDOSIEG) and on “Discrimination against Intersex Persons,” 2017”. Government of Mexico, Response to the request for information on the status of implementation of the recommendations set forth in the 2015 Country Report, submitted on August 22, 2017.

<sup>218</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>219</sup> Protocol Guide for the Care of Lesbians and Bisexual Women, Protocol Guide for the Care of Gay and Bisexual Men, Protocol Guide for the Care of Transgender Persons and the Recommendation Guide to Medical Care for Intersexuality and Variation in Sexual Differentiation.

143. The State also reported that education outreach campaigns are still being carried out to counteract hate speech and expressions of hatred, as well as to position the values of human diversity and inclusion over discrimination. Additionally, in 2017 Censida, in collaboration with 90 civil society organizations and with a budget of 103 million, will support 123 strategic projects, which will collect the life stories of LGBTI persons, which will be used in the process of training public servants and other connected stakeholders.<sup>220</sup>

144. The IACHR welcomes the efforts of the Mexican State to combat violence against LGBTI persons and in creating legislation and guidelines for the protection of the rights of LGBTI persons. Notwithstanding, Mexico continues to be one of the countries with the highest rates of violence against LGBTI persons and as many other countries, with structural discrimination against this group of people. On this score, the Commission urges the Mexican State to redouble its efforts to collect data and create a database on LGBTI persons, their reality and the acts of violence against this group of people; to combat violence and discrimination in all of the federal entities of the State; and to design mechanisms and public policies with an intersecting approach.

## 2. Women

- 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.
- 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.

145. In its 2015 Mexico Report, the IACHR highlighted the serious situation of violence against women in the country<sup>221</sup> and recommended that comprehensive protection measures be taken, as well as prevention policies and practices to enable the State to provide an effective response to complaints. These are recommendations the Commission has been continually monitoring after they were made.<sup>222</sup> The IACHR

<sup>220</sup> Additionally, CONAPRED offers the digital platform *Conéctate* to train its users on diverse issues in the subject matter. In this regard, from January to July 2017, through the course “Sexual Diversity, Inclusion and Non-Discrimination,” 2,339 people were trained; through the course “Guide to public action against homophobia,” a total of 1,211 people received training; and 1,306 people completed the course on the “Social prevention of violence with an anti-discrimination approach.” The State reported that on March 30, 2017, at the initiative of the Council to Prevent and Eliminate Discrimination of Mexico City (COPRED), the Latin American Network of Rainbow Cities or RLCA for its Spanish language initials (Red Latinoamericana de Ciudades Arcoíris) was created. This network aims to be a means whereby 9 Latin American cities can share their experiences in the area of public policies and legislation created to benefit LGBTI persons in the region. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>221</sup> IACHR, [Situación de Derechos Humanos en México](#), [‘Situation of Human Rights in Mexico’], OEA/Ser.L/V/II. Doc. 44/15, December 31, 2015.

<sup>222</sup> IACHR, [Informe Anual 2016](#), [2016 Annual Report’], April 2017, Chapter V, pg. 977.

expresses its deep concern over the information that it continues to receive about alarming killings and acts of physical, psychological, and sexual violence against women, still taking place in Mexico.<sup>223</sup>

146. Even though Mexico has had a *General Law of Access for Women to a Violence Free Life*<sup>224</sup> since 2007, women continue to be victims of different types of violence persistently in the country.<sup>225</sup> In terms of homicidal violence, according to data from the Offices of Attorney Generals and Public Prosecutor's Offices of the 32 states of the country provided to civil society, 9,581 premeditated violent homicides against women were reported from January 2012 to November 2016. Only 1,887 of these homicides (19%) were classified as femicides.<sup>226</sup>

147. The offense of femicide, classified as a federal crime as of 2012, has been made a specific criminal offense in 31 of the 32 federal entities of the country.<sup>227</sup> In this regard, the Commission takes note of the recommendation of the CNDH to the Congress of the state of Chihuahua to introduce the criminal offense of femicide into its penal code<sup>228</sup> in keeping with the obligation of the Mexican State to ensure the effective exercise of women's and girls' human rights, as well as investigate and impart justice with a gender perspective. As of the present date, there has been no change in legislation. In its observations on the draft version of this report, the State indicated that it has supported standardized definition of the crime of femicide in accordance with the Federal Criminal Code (CPF), which is a major step toward defining gender-based femicide. It said that, of the 32 Federative entities, only 13 are still missing concepts that would bring them fully into line with the CPF. As for the adoption of femicide as a specific criminal offense, Aguascalientes, Campeche, Nuevo León, Oaxaca, Puebla, Tabasco, and Tlaxcala had already adjusted their provisions to match the CPF.<sup>229</sup>

148. On the subject of the legal framework regarding femicide in the country, the Commission underscores that there are still gaps in the law and a lack of unification between the federal entities: even though femicide appears as a specific criminal offense in all of the codes, it is recognized as the crime of homicide of a woman based on her gender status and the codes differ considerably as to the definition of the causes, conditions, aggravating factors, or punishments for the crime of femicide.<sup>230</sup> This lack of harmonization could be rendering the crime of femicide invisible by under-reporting it, hampering the courts in issuing convictions for it and preventing the victims from receiving benefits when cases are recognized as such.<sup>231</sup>

<sup>223</sup> IACHR, Press Release No. 062/17, [CIDH condena asesinatos de mujeres y urge a Estados a intensificar esfuerzos de prevención](#), [IACHR Condemns Murders of Women and Urges States to Intensify Prevention Efforts], May 16, 2017.

<sup>224</sup> Official Gazette of the Federation (Diario Oficial de la Federación), [Ley General de Acceso de las Mujeres a una Vida Libre de Violencia](#), [General Law of Access of Women to a Violence Free Life], February 1, 2007.

<sup>225</sup> IACHR, Press Release No. 067/17, [CIDH repudia asesinato de defensora derechos humanos en Tamaulipas \(México\)](#), [IACHR Repudiates Killing of Human Rights Defender in Tamaulipas (Mexico)], May 24, 2017.

<sup>226</sup> MCCI, [Las muertas que no se ven: el limbo de los feminicidios](#), [Deaths that nobody sees: the limbo of femicides], see section "La Tragedia en Cifras" [Tragedy in figures], April 20, 2017.

<sup>227</sup> CNDH, [Legislación penal de las entidades federativas que tipifican el feminicidio como delito](#), [Criminal Legislation of the federal entities makes femicide a crime], Fourth Program of the Office of the Inspector General for Women's Affairs and of Equality between Women and Men, updated in December 2015.

<sup>228</sup> CNDH, [Llama CNDH al congreso del estado de Chihuahua a tipificar el delito de Femicidio en el Código Penal de esa entidad](#), [CNDH calls on the Congress of the state of Chihuahua to make femicide a specific offense in the Criminal Code of that entity], Press Release DGC/225/17, July 6, 2017.

<sup>229</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>230</sup> Animal Político, [En 12 estados no se investiga como feminicidio el asesinato de una mujer a manos de su pareja](#), [In 12 states, the murder of a woman at the hands of her partner is not investigated as a femicide] May 10, 2017.

<sup>231</sup> Animal Político, [En CDMX menos del 40% de los homicidios de mujeres están reconocidos como feminicidios](#), [In Mexico City fewer than 40% of homicides of women are recognized as femicides], May 9, 2017.

149. Because of the lack of records and reliable national statistics about femicides and other types of violence, the State has reported that with regard to the National Data and Information Bank on Cases of Violence against Women (BANAVIM), on October 12, 2016, a second meeting was held with the commissions that make up the National System, where it was agreed to establish a working group to redesign the BANAVIM, and the work was completed in February 2017.<sup>232</sup> The Commission is closely following the redesign of the BANAVIM so that the State will have an up-to-date, accessible and effective database in place.

150. In terms of prevention, the Commission commends Mexico's efforts in training public officials and for steps it has taken to facilitate women's access to justice, to care and assistance and to reparations for violations. The State noted that the PGR has carried out training activities of authorities in charge of investigating crimes relating to violations of women's rights, mostly targeting agents of the Office of the Federal Public Prosecutor, the Federal Prosecutorial Police and technical expert personnel, as well as administrative personnel, in both central offices and in state offices. From June 2012 to July 2017, a total of 429 training activities were imparted, including courses, seminars, forums, meetings, diploma programs, workshops, among other ones, to a total of 35,010 people.<sup>233</sup>

151. The State reported to the IACHR that the National Commission for the Prevention and Eradication of Violence against Women (CONAVIM) continues to strengthen Women's Justice Centers and the national care and assistance network nationwide. These centers offer psychological care, legal and medical assistance, temporary shelters, a toy library with experts in early childhood development and social and economic empowerment workshops. Currently, 38 Women's Justice Centers are in operation in 26 federal entities, and 10 more are in the process of being built in the states of Baja California, Chiapas, Mexico City, Morelos, Nayarit, Nuevo León, Oaxaca, Quintana Roo, San Luis Potosí, Sinaloa and Sonora. Since the creation of the first Women's Justice Center in 2011 and as of September 2017, more than 400,000 women have been served.<sup>234</sup>

152. Additionally, the Commission notes that several different actions have been taken in the area of prevention and eradication of violence against women and promotion of and respect for women's human rights.<sup>235</sup> The IACHR has been monitoring the declaration of Alerts on Gender Violence against Women (AVGM), provided for under Article 22 of the 2007 General Law of Women's Access to a Life Free of Violence.<sup>236</sup> The State has reported to the Commission that it is continuing to work within the framework of AVGM declarations: as of the present date, 10 requests have been granted for the states of Campeche, Ciudad de Mexico, Puebla, Zacatecas, Quintana Roo, Yucatán, Oaxaca, Durango (2) and Coahuila; while requests have

<sup>232</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

<sup>233</sup> Likewise, the State reported that from October 8 to November 12, 2016, the PGR imparted the "Specialized Course on Gender Perspective and Ethnicity," for Public Prosecutor's Offices, Police Forces, Technical Experts and PGR personnel and, from February to July 2017, eight courses on "Human Rights and Gender Equity" were given, with the attendance of 523 people and 80 class hours of training. Additionally, INMUJERES has conducted regional and local workshops called "Effective application of protection orders in the state, in light of international instruments in the field of women's human rights, the General Law of Women's Access to a Violence Free Life and the respective state laws," whereby 726 public servants of the areas of administration of justice have been trained. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.

<sup>234</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>235</sup> Over 2017, CONAVIM will conduct the campaign "Violence Prevention" for the purpose of generating a culture of safe browsing on social networks to prevent the crime of trafficking in persons committed against young girls and adolescents. Likewise, it will engage in outreach with the campaign "Not all men are the same," which seeks to build a new model of masculinity that fosters respect, equality and gender equity. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Nota OEA-02064, August 22, 2017.



been declared groundless for Querétaro, Puebla, Tabasco, Tlaxcala and Sonora.<sup>237</sup> Even though the alerts are a mechanism designed to protect women in situations of grave risk, AVGM should be supplemented with support and coordination of all levels of government in order to generate the adequate inter-institutional and crosscutting measures necessary to provide a response to violence against women. In its observations on the draft version of this report, the State pointed out that, with respect to the AVGM, there have been requests to align local definitions of the crime of femicide with those established at the federal level. So far, Michoacán, San Luis Potosí, Puebla, Nayarit, and Jalisco have made legislative adjustments to that end.<sup>238</sup>

153. The State also reported the establishment of a “Methodology for monitoring implementation of the proposals contained in the report arising out of the request for declaration of Alerts on Gender Violence against Women (AVGM),” coordinated by working groups with a view to ascertaining, reviewing, and monitoring progress by state governments in states in which said Alerts have been declared. Those working groups periodically advise government and municipal authorities on human rights and a gender perspective, and on designing guidelines that will serve to: i) promote ties to experts and specialized institutions; ii) periodically monitor actual implementation of the changes posited in the methodology; and iii) provide feedback on challenges. So far the methodology has been implemented in Puebla, Tabasco, Veracruz, Guerrero, Tlaxcala, Jalisco, Campeche, Zacatecas, and Yucatán.<sup>239</sup>

154. The Commission continues to be concerned over the prevalence of sexual violence against women in Mexico,<sup>240</sup> especially given the high numbers of complaints for rape and low number of convictions resulting from them.<sup>241</sup> According to preliminary data from the Office of the Attorney General, up to September 2017, 8,692 rape complaints were presented before offices of the Public Prosecutor nationwide in 2017.<sup>242</sup> The context of impunity caused by the lack of justice conveys and reinforces the message that violence against women is acceptable.<sup>243</sup> On this issue, the Commission takes note of the prevention-related activities carried out by the State,<sup>244</sup> as well as the mechanisms put in place for the detection of sexual violence<sup>245</sup> against young and adolescent girls. Additionally, it recognizes the efforts of Mexico in the prevention and eradication of sexual violence against women by the security forces of the State by holding training courses,<sup>246</sup> creating the Substantive Equality Unit of the Office of the Commissioner General of the

<sup>237</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>238</sup> *Idem*.

<sup>239</sup> *Idem*.

<sup>240</sup> IACHR, [Situación de Derechos Humanos en México](#), [‘Situation of Human Rights in Mexico’], OEA/Ser.L/V/II. Doc. 44/15, December 31, 2015.

<sup>241</sup> El País, [La ONU alerta sobre la impunidad de la violencia sexual en México](#), [‘UN issues alert on impunity of sexual violence in Mexico’], April 22, 2016.

<sup>242</sup> Centro Nacional de Información. [Incidencia delictiva 2017](#). [National Information Center. Incidence of offenses 2017]

<sup>243</sup> INMUJERES, [Feminicidio: muertes violentas de mujeres por razones de género](#), [‘Femicide: violent gender-based killings of women’], Bulletin number 7, July 3, 2017.

<sup>244</sup> UNWOMEN, [ONU Mujeres y el Gobierno de la Ciudad de México lanzan campaña contra el acoso sexual](#), [‘UNWOMEN and Government of Mexico City launch campaign against sexual harassment’], March 30, 2017.

<sup>245</sup> This year the *Cartilla de Derechos de las Víctimas de Violencia Sexual Infantil* [‘Primer on the Rights of Victims of Child Sexual Violence’] has continued to be issued, targeting fathers, mothers and educators and providing them with information to detect cases of sexual violence against the children and adolescents under their care. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>246</sup> The Mexican Navy, in collaboration with CNDH, SEGOB and the International Committee of the Red Cross, imparts training courses to personnel of the Mexican Navy, on the subject of human rights and the use of force. Response of the Mexican State to the draft of Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

Federal Police<sup>247</sup> and issuing the “Pronouncement of Zero Tolerance to eradicate Sexual Harassment and Persecution.”<sup>248</sup>

155. With respect to assistance for victims of sexual violence, the Commission welcomes the change in Official Mexican Standard (NOM) *046-SSA2-2005. Family, sexual violence and violence against women* allowing victims of sexual violence, as of 12 years of age, to gain access to voluntary interruption of pregnancy only with prior written consent and under oath to tell the truth.<sup>249</sup> This change is instrumental for young girls and women victims of sexual violence to be able to have timely access to legal, free and safe abortion that ensures their right to integrity, health and life without discrimination.<sup>250</sup>

156. Historically, the IACHR has closely monitored complaints of sexual torture<sup>251</sup> and particularly monitors the capacity of the Mechanism to Follow Up on Cases of Sexual Torture committed against women, so that the cases are documented and, consequently, rulings and recommendations on each individual case can be issued.<sup>252</sup> In this regard, the Commission is closely monitoring progress in the case of Yecenia<sup>253</sup> and in the case of Verónica Razo Casales,<sup>254</sup> whose progress has been slow and limited.<sup>255</sup> On this

<sup>247</sup> In October 2016, the Substantive Equality Unit of the Office of the Commissioner General of the Federal Police was created and several activities have been conducted by it such as advisory services on equality, gender violence and non-discrimination, both in person and on-line. Accordingly, liaisons have been appointed for Substantive Equality between the administrative units of the Federal Police in order to make sure that conduct adheres to full respect for human rights. Electronic and print dissemination and education campaigns have been carried out to help eradicate any type of violence against women and foster women’s empowerment. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>248</sup> In November 2016, the Commissioner General of the Federal Police issued the “Pronouncement of Zero Tolerance to Eradicate Sexual Harassment and Persecution” with a view to prevent and punish these crimes, in accordance with applicable laws. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>249</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>250</sup> See IACHR, [Estándares jurídicos vinculados a la igualdad de género y a los derechos de las mujeres en el sistema interamericano de derechos humanos: desarrollo y aplicación Actualización del 2011-2014](#), [‘Legal standards linked to gender equality and the rights of women in the Inter-American human rights system: development and application update of 2011-2014’], OEA/Ser.L/V/II.143, 2015, Par. 171. IACHR, Press Release No.106/15, [Hay que hacer más para proteger la salud y los derechos sexuales y reproductivos de las mujeres](#), [‘More Needs to be Done to Protect Women’s Sexual and Reproductive Health and Rights’], September 24, 2015. IACHR, Press Release No.133/17, [CIDH saluda la aprobación de la ley de despenalización del aborto en tres causales en Chile](#), [‘IACHR Welcomes Approval of Chilean Law Decriminalizing Abortion on Three Grounds’], September 5, 2017.

<sup>251</sup> IA Court of HR. *Case of Inés Fernández Ortega v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C, No. 215. IA Court of HR. *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.

<sup>252</sup> IACHR, [Informe Anual 2016](#), [‘2016 Annual Report’], April 2017, Chapter V, pg. 981.

<sup>253</sup> Based on the release of the conclusions of the case of Yecenia Armenta Graciano, in December 2016, which seek to push forward the investigation into the crime of torture against members of the police involved in the case, a request has been made to the state of Sinaloa to provide training to members of police investigation units and to agents of the public prosecutor’s office of the Office of the Attorney General of the state of Sinaloa, on human rights, gender equality and prevention of torture, as well as training for medical staff assigned to the Medical department of the Prosecutorial Police and the Directorate of Investigation, Forensic Science and Technical Expert Services of the Office of the Attorney General of the state of Sinaloa, in keeping with the Istanbul Protocol. On March 15, 2017, a meeting was held between the members of the Mechanism and representatives of the government of the state of Sinaloa, Yecenia Armenta and representatives of Centro Pro, in order to hear from Yecenia her requests directly and what actions must be undertaken at the local level to protect her physical integrity and move forward in the investigation into the torture of which she was the victim. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>254</sup> Regarding the case of Verónica Razo Casales, it has been reported that in May 2017, the case Conclusions Document was approved, as well as the respective *Addendum*. Based on this, meetings with authorities involved in this case are being scheduled, in order to lay out a work plan to enable adequate investigation, punishment and reparation for the acts of torture committed against Verónica Razo. Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

<sup>255</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017.

score, the Commission calls on the State to continue to strengthen this mechanism in order to provide justice to women victims of sexual torture.

157. As for adoption of standardized femicide protocols and proper implementation thereof, and following up on the progress reported in 2016,<sup>256</sup> currently 22 of the 32 federal entities have a protocol in place,<sup>257</sup> while the other three are in the process of drafting and publishing their protocols.<sup>258</sup> However, there has been no progress in terms of drafting the investigation protocols with a gender perspective. In 2016, only seven states wrote investigation protocols into their laws<sup>259</sup> and since that time no other state has joined them. Information conveyed by the State confirms that only these same seven states as in the prior year have these protocols in place, with no further progress made in this regard.<sup>260</sup> The IACHR reiterates the importance of implementing a gender-based approach in investigation procedures and the obligations of the Mexican State emanating from the judgment of the Inter-American Court of Human Rights in the case of “Cotton Field” to continue to standardize all protocols, manuals, prosecutorial investigation criteria, technical expert services and administration of justice, used to investigate all crimes related to disappearances, sexual violence and homicides of women, in accordance with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and international standards on the search for disappeared persons, based on a gender perspective.<sup>261</sup>

158. As for the recommendation to adopt public policies aimed at restructuring stereotypes regarding the role of women in society and promote the eradication of socio-cultural patterns of discrimination, the Commission notes the initiatives of the State to incorporate into the communications media a perspective of equality, non-discrimination and non-violence against women and girls<sup>262</sup> and to lead a campaign to think deeply about eradication of stereotypes.<sup>263</sup> The Commission recalls that, among other factors, prevalence of gender role stereotypes contributes to the structural discrimination to which women in Mexico are subjected.

### 3. Children and Adolescents

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

<sup>256</sup> IACHR, [Informe Anual 2016](#), [2016 Annual Report], April 2017, Chapter V, pg. 983.

<sup>257</sup> Communication of the Mexican State. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

<sup>258</sup> These are the states of Aguascalientes, Coahuila and Durango. Communication of the Mexican State. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

<sup>259</sup> These are the federal entities of Colima, the Federal District, Jalisco, Morelos, Oaxaca, Sinaloa and Veracruz. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

<sup>260</sup> Communication of the Mexican State. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

<sup>261</sup> See IA Court of HR, Case of González et al (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations and Costs, November 16, 2009.

<sup>262</sup> In July 2016, the SEGOB and the National Chamber of the Radio and Television Industry (CIRT) signed an agreement “Compact for Gender Equality and Combatting Violence against Women in the Media.” Every year, the SEGOB issues the “General Guidelines for communication campaigns of the offices and entities of the APF” to include annual programs and campaigns, content to promote equality between men and women, as well as eradication of roles and stereotypes that foster any form of discrimination and gender violence. Response of the Mexican State to draft Chapter V of the 2017 Annual Report of the Inter-American Commission on Human Rights, August 22, 2017.

<sup>263</sup> UNWOMEN, [Reflexión sobre discriminación y estereotipos de género](#), [‘Reflection on discrimination and gender stereotypes’], Fifth Meeting of the Group for Reflection to Promote the Policy of Gender Equality and Women’s Empowerment in Mexico, August 25, 2017.

human rights violations and consider the corresponding aggravating factors related to the age of the victim.

159. In the 2015 Mexico Country Report, the IACHR reiterated that the State should adopt measures to prevent violations of rights suffered most intensely 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 adequate implementation of the Comprehensive Protection System set up by the Mexican Government in December 2015.<sup>264</sup>

160. The State reported to the Commission that 32 state Comprehensive Protection Systems for Children and Adolescents and their respective Protection Offices have been established, as well as 1522 (out of 2446) municipal protection systems.<sup>265</sup> Additionally, over 2016 and 2017, several training courses were given to 493 public servants of the Child Protection Offices and State DIF Systems, on differentiated assistance to this migrant population.<sup>266</sup>

161. The State also reported that on December 15, 2016, the Commission to End all Forms of Violence against Children and Adolescents (COMPREVNNA) of the National Comprehensive Child and Adolescent Protection System (SIPINNA) was established, whose purpose it is to coordinate the major initiatives and processes in the area of prevention of and response to violence against this population group, as well as operationalize reparation measures. In August 2017, this anti-violence Commission held its first regular session, where it introduced Mexico's plan of action to prevent and address violence against children and adolescents, fulfilling the commitments undertaken by Mexico in the Global Alliance to end violence against children.<sup>267</sup> As for the "Protocol of Action to Ensure Respect for the Principles and Protection of the Rights of Children and Adolescents in Administrative Proceedings," published on August 10, 2016, the State reported that 2,807 officials from 32 federal offices of the INM have been trained on this instrument.<sup>268</sup>

162. Regarding the situation of children and adolescents, the IACHR received in 2017 reports of the shelter "*Ciudad de los Niños*" ['Children's Town'] in Salamanca, Guanajuato and run by a priest, where instances of sexual violence, mistreatment, forced disappearance and human trafficking are alleged to take place.<sup>269</sup> According to the report of the Center for the Promotion of the Human Rights of Children and Adolescents in Guanajuato, based on testimonies, visits, interviews and newspaper reports, these centers

<sup>264</sup> In its comment on the draft version of this report, the State mentioned the following activities relating to the protection of children and adolescents: Progress toward developing a strategy for implementing the National Law on the Comprehensive Criminal Justice for Adolescents System, for which an inter-agency working group was established in December 2016. The group –made up of the PGR, the National Security Commission (CNS), SEGOB and SIPINNA-- undertook to draw up the "Protocol governing Ministerial Actions in the Comprehensive Criminal Justice for Adolescents System." Progress was also made with establishing Justice for Adolescents subcommissions, which are currently installed in 18 Mexican states. So far this year, the National DIF System (SNDIF) has delivered seven face-to-face training courses, attended by 353 public servants assigned to the Prosecutors' Offices for the Protection of Children and Adolescents and from the DIF systems of federative entities. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>265</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>266</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Note OEA-02064, August 22, 2017.

<sup>267</sup> *Idem*.

<sup>268</sup> *Idem*.

<sup>269</sup> Animal Político. [Menores sufrían violencia y castigos en albergue a cargo de religiosos en Guanajuato: informe](#). ['Children suffer violence and punishment in shelter under religious men in Guanajuato: report']. July 26, 2017; El Universal. [Cierran albergue La Ciudad de los Niños en Guanajuato](#). ['Ciudad de los Niños Shelter closed in Guanajuato']. August 11, 2017; Milenio. [Acusan trata en albergue La Ciudad de los Niños](#). ['Charges of trafficking at Children's City shelter'], July 27, 2017.

were the sites of repeated violations of the rights of children and adolescents, including sexual violence, illegal adoptions, disappearance of adolescents, institutional failures and impunity.<sup>270</sup>

163. In this regard, the Network for the Rights of Children in Mexico (REDIM) demanded the Office of the Attorney General of the Republic to assert jurisdiction in the case of “Ciudad de los Niños” [‘Children’s Town’].<sup>271</sup> On its own, the CNDH also took a stand on this case, announcing it would investigate the “possible violations of the human rights of children and adolescents” at the shelters of Ciudad de los Niños.<sup>272</sup> In its observations on the draft version of this report, the State reported that the Attorney General’s Office in Guanajuato had begun investigating the case, following an anonymous denunciation. It added that, in the highest interests of children, the Office had granted protection measures for two girls, consisting of protection and their assignment to the State Prosecutors’ Office for the Protection of Children and Adolescents. Currently, efforts continue aimed at pursuing actions to throw light on the facts as envisaged in the regulatory framework, assist victims, and protect and respect their rights.<sup>273</sup>

164. Another case of violence, which attracted national and international attention, was the case of the rape and murder of an 11-year-old girl in the municipality of Nezahualcóyotl, state of México.<sup>274</sup> The CNDH and the REDIM condemned this act of violence and demanded an immediate investigation and action.<sup>275</sup> Additionally, the case of torture and captivity of a 5 to 7 year-old boy was made public, who was discovered by authorities after being reported by another boy. The boy was being held in a basement with his hands and feet tied up and with signs of malnutrition and abuse, at the police station of Gabriel A. Madero, in Mexico City. His captors were allegedly his uncles.<sup>276</sup> The REDIM called this case a manifestation of the “normalization of violence against children.”<sup>277</sup> In its observations on the draft version of this report, the State told the IACHR that the Attorney General’s Office in Mexico City had initiated a child abuse investigation which was currently being heard. The State also pointed out that specialized State bodies had provided the boy with medical care and had designed and was implementing a plan to provide him with personalized psychological care and social work services.<sup>278</sup>

<sup>270</sup> NIMA, Centro de Promoción de los Derechos Humanos de Niñas, Niños y Adolescentes en Guanajuato [‘Center for the Promotion of the Human Rights of Children and Adolescents in Guanajuato’]. [Informe sobre “Ciudad de los Niños”](#). [Report on “Ciudad de los Niños (shelter)”. July 2017.

<sup>271</sup> Red por los Derechos de la Infancia en México [‘Network for the Rights of Children in Mexico’] (REDIM). [Boletín Num 21/2017](#). [Bulletin Number 21/2017]. August 17, 2017.

<sup>272</sup> National Human Rights Commission (CNDH). [Comunicado de prensa DGC/238/17](#). [‘Press Release DGC/238/17’], July 19, 2017.

<sup>273</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>274</sup> El País. [Violada y asesinada una niña de 11 años en un transporte público en México](#). [‘11 year old girl raped and murdered on public transportation in Mexico’]. June 13, 2017; Newsweek. [Rape and Murder of 11-Year-Old in Mexico Provokes Days of Protests for Justice](#). June 13, 2017; El Diario NY. [Indignación por el asesinato de la niña Valeria en México](#). [‘Outrage over murder of the child Valeria in Mexico’], June 10, 2017; CNN en Español. [El crimen de Valeria: la niña de 11 años víctima de asesinato y violación en México](#). [‘Valeria crime: 11 year-old girl victim of murder and rape in Mexico’], June 13, 2017; El Universal. [Lo que sabemos hasta ahora del caso de Valeria, la niña asesinada en Neza](#). [‘What we know so far about the case of Valeria, the girl murdered in Neza’]. June 16, 2017; Excelsior. [Mandó a su hija en combi para protegerla: fue asesinada en Neza](#). [‘Daughter sent in a van to protect her; she was murdered in Neza’]. June 11, 2017.

<sup>275</sup> CNDH. [Comunicado de Prensa DGC/190/17](#). [‘Press release DGC/190/17’]. June 11, 2017; REDIM. [Boletín Num. 12/2017](#). June 14, 2017.

<sup>276</sup> El Universal. [Un menor, la clave para el rescate de niño maltratado en GAM](#). [‘A boy, the key to the rescue of a mistreated child in GAM’]. June 29, 2017. Proceso. [Rescatan a Antony, un niño torturado y en cautiverio en la GAM](#). [‘Anthony, a tortured young boy in captivity in the GAM rescued’]. June 28, 2017.

<sup>277</sup> REDIM. [Boletín Num. 16/2017](#). July 1, 2017.

<sup>278</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.



165. According to the most recent UNICEF survey in Mexico, published in 2017, 1,057 homicides of children and adolescents were reported in 2015, which works out to 2.8 homicides per day.<sup>279</sup> Cristian Skoog, a representative of the United Nations Children's Fund (UNICEF), issued an appeal to give high priority to combating violence against children and adolescents in Mexico, because it continues to be a major risk to juveniles.<sup>280</sup>

166. Additionally, the IACHR notes the measure taken by the State to combat school-based violence. Operation 'Safe Backpack' (*Operación Mochila Segura*) is designed to combat delinquency, drug addiction and violence in school settings through inspection of students' belongings by authorities with the prior consent of parents. This measure was put into effect after an adolescent opened fire on his teacher and classmates in Monterrey in January 2017. The measure aims to prevent the carrying of firearms or illegal substances in schools.<sup>281</sup> This measure is regarded by civil society to be a violation of the right to privacy, legal certainty and non-discrimination. Additionally, according to organizations, there is no evidence that it actually prevents school-based violence; they believe it criminalizes the adolescents and does not address the root cause of the problem of violence, impunity and drugs that is affecting the country.<sup>282</sup> The CNDH, separately, demanded respect for the rights of children and adolescents through measures of prevention and eradication of violence at education facilities.<sup>283</sup>

167. As for children and adolescents deprived of liberty, the ruling of the Supreme Court of Justice of the Nation endorsing the pretrial detention of children and adolescents is of concern to the Commission.<sup>284</sup> Civil society and the CNDH have voiced their displeasure, claiming that this ruling is unconstitutional and amounts to a human rights violation, because it is believed to violate the presumption of innocence of children and adolescents.<sup>285</sup> Also of concern to the IACHR is the treatment and living conditions of adolescents documented at prison facilities in Mexico City. According to the Human Rights Commission of the Federal District (CDHDF) in its recommendation 2/2017, 11 cases of young girls repeatedly enduring assaults, discrimination and degrading acts at the Women's Community of the General Directorate of Treatment for Juvenile Delinquents in Mexico City were documented. The CDHDF ascertained that the victims were denied access to their children, were forced to bathe naked in front of the institution's staff and sustained physical punishment, among other things. The CDHDF found that the adolescent girls are victims of the violation of the right to a life free of violence, to an adequate standard of living, to personal integrity, to legal certainty, to access to justice and to life.<sup>286</sup>

<sup>279</sup> UNICEF Mexico. [Informe anual 2016](#). [2016 Annual Report]

<sup>280</sup> La Jornada. [Violencia, riesgo que enfrentan niños y adolescentes en México](#). ['Violence, risk faced by children and adolescents in Mexico']. May 4, 2017. El Universal. [UNICEF urge a erradicar violencia contra niños y adolescentes](#). ['UNICEF calls for eradication of violence against children and adolescents']. September 6, 2017.

<sup>281</sup> Government of Mexico. [Comunicado de prensa 24](#). ['Press Release 24'], January 25, 2017; Excelsior. [Operativo Mochila Segura, una medida vs violencia y drogadicción](#). ['Operation Safe Backpack, a measure against violence and drug addiction']. January 18, 2017.

<sup>282</sup> REDIM. [REDIM reitera llamado a reunión urgente con el Presidente de la República para que desde SIPINNA se defina la política de protección integral](#). ['REDEIM reiterates call to emergency meeting with President of the Republic to define comprehensive protection policy in SIPINNA']. January 2017; REDIM. ["Mochila segura" criminalización de las y los adolescentes... nos regalan miedo para vendernos seguridad](#). ['"Safe Backpack" criminalization of adolescents...gives us fear to sell us security']. January 2017; Animal Político. [Autoridades enfrentan violencia escolar con programas inservibles y que violan derechos](#). ['Authorities confront violence with useless programs and violate rights']. January 20, 2017; El Universal. [Expertos rechazan Mochila Segura](#). ['Experts reject Safe Backpack']. January 27, 2017.

<sup>283</sup> CNDH. [Comunicado de prensa DGC/032/17](#). [Press release]. January 24, 2017.

<sup>284</sup> National Supreme Court of Justice. [Sesión Pública Num. 37 sobre Acción de Inconstitucionalidad 60/2016](#). [Public Session Num. 37 on Unconstitutionality Suit 60/2016']. May 4, 2017.

<sup>285</sup> REDIM. [Boletín Num. 09/2017](#). May 11, 2017; El Universal. [SCIN avala el internamiento preventivo para menores de 18 años](#). ['SCIN endorses preventive detention of 18 year-old juveniles']. May 8, 2017. Excelsior. [Corte revisa prisión e internamiento preventivo para menores](#). ['Court reviews prison sentences and preventive detention for juveniles']. May 4, 2017.

<sup>286</sup> Human Rights Commission of the Federal District of Mexico City. [Recomendación 2/2017](#). ['Recommendation 2/2017'] April 28, 2017.

168. Based on the foregoing considerations, the IACHR reiterates the recommendations of its Country Report. In particular, the need to 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 attendant aggravating factors related to the age of the victim. In this context, it urges the State to adopt the necessary measures to investigate with due diligence the reported acts at Ciudad de los Niños and to ensure the rights of the children and adolescents affected by these reported acts.

#### 4. Indigenous Peoples

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

169. 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.

170. The IACHR is still concerned over the situation of violence against leaders and defenders of indigenous peoples in Mexico. In this regard, the Commission reiterates<sup>287</sup> its concern over the murder on January 15, 2017 of Isidro Baldenegro, a well-known indigenous environmental activist, who fought against illegal logging of old growth forests of the Sierra Madre Occidental in Tarahumara/Raramuri territory, in Chihuahua, Mexico. Isidro Baldenegro won the 2005 Goldman Environmental Award and was identified as a prisoner of conscience by Amnesty International for being arrested and held in custody for 15 months on bogus charges. Isidro Baldenegro was murdered during a visit to his community, where he was no longer residing because of death threats leveled against him. Moreover, Isidro Baldenegro is the fourth activist in the Coloradas de la Virgen community to be murdered in the past year in retaliation for defense of forests and ancestral lands. The Commission also condemns the murder of Juan Ontiveros Ramos, the police commissioner who, following the murder of Isidro Baldenegro, decried the situation of violence in the region to the Human Rights Unit of the Office of the Attorney General of the State and to the Secretariat of the Interior. In its observations on the draft version of this report, the State pointed out that the person allegedly responsible for the death of defender Isidro Baldenegro López had been captured in March 2017 and was currently in pre-trial detention, pending a decision on his legal status by the authorities in Chihuahua. In light of the circumstances, the local Public Prosecutor's Office has organized preventive, security, and surveillance measures to preempt any risk to Mr. Baldenegro's immediate family.<sup>288</sup>

171. The IACHR continues to be concerned as well over the lack of free, prior and informed consultation in Mexico in cases of extractive, exploitation and development projects. The IACHR received information about a recent filing of *amparo* proceedings by indigenous communities in the states of Oaxaca, Veracruz and Puebla, entirely on the grounds of a lack of consultation, or consultation not respecting the

<sup>287</sup> IACHR, [CIDH condena asesinatos a defensoras y defensores de derechos humanos en la región](#), [IACHR condemns murders of human rights defenders in the region]. CP No.011/17, February 7, 2017. Also see: The Guardian, [Second winner of environmental prize killed months after Berta Cáceres death](#), January 18, 2017.

<sup>288</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

principles established in international human rights law, because the communities were not allowed to freely express their points of view; have any bearing on the final decision; or effectively share in the benefits. The IACHR notes that this year the Mexican State was under scrutiny of the United Nations Economic, Social and Cultural Rights Committee, as a result of its 2013 and 2014 energy reforms, about which it failed to consult with the affected indigenous groups.<sup>289</sup>

172. The State reported that in addition to the 150 advisories carried out regarding free, prior and informed consultation, 77 processes have been conducted through an ad hoc protocol, which meets international standards in the field. In its capacity as Technical Body, the National Commission for the Development of Indigenous Peoples (CDI) provides technical and methodological assistance for the implementation of consultations for the development of specific protocols. In this regard, from 2013 to June 2017, 46 consultation processes were instituted, 23 of which concluded with agreements and the creation of follow-up committees on compliance with the agreements reached between the parties; 18 consultation processes are ongoing; and 5 are suspended for different reasons.<sup>290</sup>

173. In terms of availability of translators, the State reported that the number of interpreters and translators appearing in the National Language Interpreters and Translators Registration (PANITLI) has increased from 575 to 663. Likewise, through the CDI, 198 registered indigenous attorneys continue to be trained in the areas of criminal law, agrarian law, election-related litigation and the Inter-American Human Rights System. In addition, it noted that through the Indigenous Rights Program, indigenous language interpreter-translator support is provided for criminal and administrative investigative and trial proceedings for the indigenous populations. From 2013 to October 2017, 5,860 support requests were granted benefiting the indigenous population as it faces the criminal justice and/or administrative court systems.<sup>291</sup> In its observations on the draft version of this report, the State reported that, pursuant to Presidential Instruction No. 219, “Support the program to have indigenous women released from prison,” the CDI had trained bilingual attorneys to provide legal counsel to women and had achieved the release of 468 of them between 2013 and October 2017; to that end, the CDI had appropriated \$6,563,389.60.<sup>292</sup>

174. The IACHR welcomes the progress made by the National Indigenous Congress in announcing its intention to participate in the 2018 presidential election with an indigenous woman from the Nahua people of Tuxpan, Jalisco as an independent candidate.<sup>293</sup> The IACHR also highlights that the newly approved political constitution of the Mexico City included full recognition of indigenous peoples’ rights, by making the

<sup>289</sup> UNOHCHR, [CESCR - International Covenant on Economic, Social and Cultural Rights - 62 Session \(18 Sep 2017 - 06 Oct 2017\)](#), States considered during the session: México.

Proceso, [México, cuestionado por violación a derechos de pueblos indígenas](#), [‘Mexico, questioned for violation of indigenous people’s rights’], February 2017.

<sup>290</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Note OEA-02064, August 22, 2017.

<sup>291</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Note OEA-02064, August 22, 2017. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>292</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>293</sup> Mrs. María de Jesús Patricio Martínez (or Marichuy, as she is known). The New York Times, [Los pueblos indígenas de México eligen a su vocera e irrumpen en el escenario político](#), [‘Indigenous peoples of Mexico elect their spokeswoman and break onto the political scene’], May 28, 2017; Telesur, [Indígenas mexicanos eligen a candidata presidencial para 2018](#), [‘Mexican indigenous people elect presidential candidate for 2018’], May 28, 2017; La Jornada, [María de Jesús Patricio electa candidata indígena presidencial](#), [‘Maria de Jesus Patricio elected indigenous presidential candidate’], May 28, 2017; Univision, [María de Jesús Patricio, la indígena mexicana que buscará la presidencia en 2018](#), [‘Maria de Jesus Patricio, indigenous Mexican woman seeks presidency in 2018’]. May 28, 2017.

rights ensured in the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169 and the American Declaration on the Rights of Indigenous Peoples, of mandatory enforcement.<sup>294</sup>

175. The Commission reiterates the recommendations set forth in this section. In particular, it urges the State to adopt measures for a culturally appropriate approach to be used and to take into account the collective nature of the indigenous communities and peoples, when they are victims of human rights violations. The IACHR shall closely monitor this item.

## 5. Persons Deprived of Liberty

- Correct the excessive use of pretrial detention, and apply it exceptionally, using other precautionary measures that do not deprive of liberty. In this context, guarantee that detained persons are immediately presented before 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.

176. In its first report to follow up on the recommendations of the instant section, the IACHR noted that the National Code of Criminal Procedure (CNPP),<sup>295</sup> in force as of June 2016, establishes provisions to use pretrial detention more sparingly.<sup>296</sup> Notwithstanding, according to information provided by civil society organizations to the IACHR, in August 2017, 38.1% of the prison population - equivalent to 208,689

<sup>294</sup> SERVINDI, [Los derechos indígenas en la constitución de la Ciudad de México](#), [‘Indigenous rights in the constitution of Mexico City’]. March 9, 2017; El Universal, [Constituyente aprueban derechos de pueblos, barrios y comunidades indígenas](#), [‘Constituent Assembly approves indigenous peoples, neighborhoods and communities’]. January 28, 2017; Televisa News, [Constituyente de Ciudad de México aprueba derechos de comunidades indígenas](#), [‘Constituent Assembly approves rights of indigenous communities’]. January 28, 2017; Milenio, [Relatora Especial de la ONY elogia Constitución de CdMx](#), [‘UN Special Rapporteur praises Mexico City Constitution’], April 27, 2017; La Jornada, [Destaca ONU reconocimiento de derechos indígenas](#), [‘UN highlights recognition of indigenous rights’]. January 29, 2017; CDMX, [Constitución de CDMX, primera a nivel mundial en incluir derechos de pueblos indígenas de ONU](#), [‘Mexico City Constitution, first one in world to include UN’s indigenous peoples’ rights’]. April 27, 2017; CDHDF, [CDHDF se suma al reconocimiento de la ONU a la Constitución de la Ciudad de México por incluir los derechos de las comunidades indígenas](#), [‘CDHDF joins UN in recognizing Mexico City Constitution for including rights of indigenous communities’]. April 29, 2017.

<sup>295</sup> [Código Nacional de Procedimiento Penales](#), [‘National Code of Criminal Procedure’]. Mexico, published on March 5, 2014, in effect for all of the nation’s territory as of June 18, 2016, Article 16.

<sup>296</sup> United Nations, Mexico: [ONU acoge con beneplácito la nueva Ley Nacional de Ejecución Penal](#), [‘UN welcomes new National Criminal Enforcement Law’]. August 1, 2016.

persons deprived of liberty - were in pretrial detention. This number demonstrates that this measure is not being applied in an exceptional way. They also expressed concern about the prevalence of high rates of pretrial detention in some states across the country. In this regard, they reported that in the state of Durango, the percentage of people in pretrial detention amounted to 70%; and in the states of Baja California Sur, Jalisco, Chiapas, Oaxaca, and Quintana Roo, the population in pretrial detention reached 50% of the total prison population.<sup>297</sup> According to the National Commission of Security, 4 out of 10 inmates have not been convicted.<sup>298</sup> The State, for its part, reiterated that pretrial detention represents only 19.52% of the precautionary measures imposed by the judges.<sup>299</sup> Also, the IACHR observes that in 2017, as was noted in the section on access to justice, at the National Governors' Conference (CONAGO), reforms were discussed to expand the range of offenses subject to automatic pretrial prevention by operation of law<sup>300</sup> and the Congress introduced draft legislation leaning in this direction.<sup>301</sup>

177. On this score, the representative of the United Nations High Commissioner for Human Rights in Mexico, Jan Jarab, noted that this action would be counterproductive, leading to more corruption, the use of pretrial detention as punishment and fabrication of crime.<sup>302</sup> From other quarters, civil society organizations asserted that the proposed reforms to expand the list of crimes "would represent an improper regression in the area of the protection of the right to personal liberty and a measure infringing human rights, which would strengthen the logic of the concepts of exception set forth in our constitutional and legal system."<sup>303</sup> Likewise, they indicated that cases of offenses that automatically merit pretrial detention, do not allow a periodic review or judicial review, and that they haven't demonstrated the effectiveness to reduce recidivism of these crimes.<sup>304</sup>

178. On this score, the IACHR stresses that pretrial detention is an exceptional measure, whose only legitimate grounds are risk of flight or hindrance of investigations by the accused.<sup>305</sup> Along these lines,

<sup>297</sup> IACHR, [Hearing "Situación de la Prisión Preventiva en México" \[Situation of Pretrial detention in Mexico\], 24 October 2017](#), 165<sup>o</sup> Period of Sessions.

<sup>298</sup> National Commission on Security. [Cuaderno mensual de Información Estadística Penitenciaria Nacional \(Monthly statistics on National Penitentiary\)](#). July 2016.

<sup>299</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico." Note OEA-02064, August 22, 2017, pp. 108.

<sup>300</sup> El Universal. [Busca CONAGO castigar más delitos](#). ['CONAGO seeks to punish more crimes']. July 5, 2017. Excelsior. [Conago va por modificaciones al Sistema Penal Acusatorio](#). ['CONAGO is pushing for changes to the Adversarial Criminal Justice System']. July 4, 2017. Milenio. [Conago alista propuesta para reformar sistema de justicia](#). ['CONAGO readies proposals to overhaul justice system']. July 4, 2017.

<sup>301</sup> Request for Public Hearing on Pretrial Detention in Mexico, regression in the area of human rights. Filed by: Instituto de Justicia Procesal Penal A.C.; el Consejo Cívico de las Instituciones de Coahuila A.C., el Centro de Integración Ciudadana de Saltillo A.C., Documenta A.C., Borde Jurídico A.C, Reinserta A.B.P, el Instituto Mexicano de Derechos Humanos y Democracia A.C., la Red Mesa de Mujeres de Ciudad Juárez A.C., Asilegal A.C., el Instituto Renace A.B.P, Fundación para la Justicia and el Estado Democrático de Derecho and Insyde A.C., August 3, 2017.

<sup>302</sup> El Universal. [Ampliar catálogo de delitos no soluciona Sistema de Justicia, dice Alto Comisionado](#). ['Expanding list of crimes does not solve Justice System, High Commissioner says']. August 10, 2017.

<sup>303</sup> IACHR, [Hearing "Situación de la Prisión Preventiva en México" \[Situation of Pretrial detention in Mexico\], 24 October 2017](#), 165<sup>o</sup> Period of Sessions. Also, Request for Public Hearing on Pretrial Detention in Mexico, regression in the area of human rights. Filed by: el Instituto de Justicia Procesal Penal A.C.; el Consejo Cívico de las Instituciones de Coahuila A.C., el Centro de Integración Ciudadana de Saltillo A.C., Documenta A.C., Borde Jurídico A.C, Reinserta A.B.P, el Instituto Mexicano de Derechos Humanos y Democracia A.C., la Red Mesa de Mujeres de Ciudad Juárez A.C., Asilegal A.C., el Instituto Renace A.B.P, Fundación para la Justicia y el Estado Democrático de Derecho and Insyde A.C., August 3, 2017.

<sup>304</sup> IACHR, [Hearing "Situación de la Prisión Preventiva en México" \[Situation of Pretrial detention in Mexico\], 24 October 2017](#), 165<sup>o</sup> Period of Sessions.

<sup>305</sup> IACHR, [Informe sobre medidas dirigidas a reducir el uso de la prisión preventiva en las Américas](#), ['Report on measures aimed at reducing the use of pretrial detention in the Americas']. OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, par. 87. Also see: IACHR, [Informe sobre el uso de la prisión preventiva en las Américas](#), ['Report on the use of pretrial detention in the Americas'], par. 135. Also see: IA Court of HR. *Case of Barreto Leiva v. Venezuela*. Merits, Reparations and Costs. Judgment of November 17, 2009. Series C No. 206, par. 111. Citing: *Case Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C No. 170, par. 103; and *Case of Servellón García et al v. Honduras*. Merits, Reparations and Costs. Judgment of September 21, 2006. Series C No. 152, par. 90.



laws that provide for the application of precautionary measures based on the type of crime, run afoul of the principle of proportionality enshrined in the American Convention. The IACHR reiterates that in no instance may the law establish that any type of crime can be exempt from the rules established for the termination of pretrial detention or that particular crimes are treated differently from others in terms of release on trial, without a basis in objective and legitimate criteria, for the sole reason that a crime meets a standard such as “social alarm,” “social repercussion,” “dangerousness” or any other such one.<sup>306</sup> In view of the foregoing, the IACHR urges the State to not adopt legislative fixes, that infringe Inter-American standards, and to regulate pretrial detention in accordance with its exceptional nature and the principles of legality, proportionality and necessity.

179. In its Report on the Situation of Human Rights in Mexico, the Commission wrote that in addition to overcrowding, state prison facilities are marred by serious and precarious conditions of confinement. In particular, civil society organizations reported highly corrupt regimes and out-of-control self-government within prison facilities in terms of security and access to basic services, inmate-on-inmate violence, lack of medical care, lack of real opportunities for social reintegration, absence of differentiated treatment, incidents of mistreatment and abuse, among other issues. Additionally, based on the information made available to the IACHR, disciplinary punishment of prison inmates is disproportionate and runs counter to basic standards of human rights guarantees for persons deprived of liberty.

180. With respect to the situation of overcrowding prevailing at prisons in Mexico, the Commission learned that 159 out of 401 prison facilities are overpopulated and the overcrowding in one third of them surpasses 100%.<sup>307</sup> The Mexican State, in turn, noted that Federal Social Readaptation Center No. 17 “CPS Michoacán” has been opened, and can house up to 2,520 persons deprived of liberty and would increase total capacity at all federal prison facilities to 35,958 persons.<sup>308</sup> In its observations on the draft version of this report, the State reported that in October 2017 the federal penitentiary system had room for 36,007 persons deprived of liberty, distributed among the following 20 facilities: 8 Federal Social Rehabilitation Centers; 4 Centers in the Islas Marías Penitentiary Complex; 7 Provision of Service (CPS) Centers, and 1 Federal Psychosocial Rehabilitation Center (CEFEREPEPSI).<sup>309</sup>

181. Regarding other prison conditions in general, the National Survey on the Population Deprived of Liberty (2016) reveals that, at federal facilities operating under Service Providing Contracts (CPS), 68% of inmates have not received any visit over the past year, 27% do not feel safe at the facility and 93% spend more than 19 hours a day in their cell.<sup>310</sup> Similarly, the CNDH reported that there continues to be inadequate education activities, job training or labor activities, or sports activities at these Federal Social Readaptation Centers, and that this is all a risk factor for torture and mistreatment.<sup>311</sup> Likewise, it noted that there are poor health conditions and a lack of medical staff at prison facilities. Based on complaints received

<sup>306</sup> IACHR, *Informe sobre medidas dirigidas a reducir el uso de la prisión preventiva en las Américas*, [‘Report on measures aimed at reducing the use of pretrial detention in the Americas’]. OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, par. 91. Also see: IACHR, *Informe sobre el uso de la prisión preventiva en las Américas*, [‘Report on the use of pretrial detention in the Americas’]. par. 151; IACHR, Report on the Merits No. 86/09, Case 12.553. Merits. Jorge, Jose and Dante Peirano Basso. Uruguay. August 6, 2009, par. 141.

<sup>307</sup> Request for Hearing on prison violence and governance of the Mexican prison system for the 165<sup>th</sup> Session, filed by the organizations Documenta México, Madres y Hermanas de la Plaza Pasteur, Instituto de Derechos Humanos Ignacio Ellacuría SJ, Ciudadanos en Apoyo a los Derechos Humanos A.C., Fundar Centro de Análisis e Investigación, Renace and Instituto de Justicia Procesal Penal – Presunción de Inocencia.

<sup>308</sup> Communication of the Mexican State. Report of the Mexican State on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico.” Note OEA-02064, August 22, 2017, pg. 114.

<sup>309</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>310</sup> National Institute for Statistics and Geography (INEGI). *Encuesta Nacional de Población Privada de Libertad*. [‘National Survey of the Population Deprived of Liberty’]. July 2016. México evalúa. ¡Alto a certificación fraudulenta y privatización de prisiones en México! La grave crisis penitenciaria exige una verdadera política pública. [‘Stop fraudulent certification and privatization of prisons in Mexico! The grave prison crisis demands a true public policy.’]. September 1, 2017.

<sup>311</sup> National Human Rights Commission (CNDH). *Comunicado de prensa DGC/303/17*. [‘Press Release’]. September 15, 2017.

by the CNDH from state facilities, the subject of 76.07% of these complaints is violation of the right to health.<sup>312</sup> Furthermore, in his report on Mexico, the United Nations Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment issued an appeal in response to the refusal of authorities to allow unannounced visits to prisons by human rights organizations.<sup>313</sup>

182. As for the situation of self-government, corruption and violence at Mexican prison facilities, the Commission reiterates its concern, and warns that, consistent with the observations of the CNDH, there are prison facilities where persons deprived of liberty exert authority through informal methods of control, allowing the enjoyment of privileges and special treatment to certain inmates. This is a result of the lack of proper conditions of governance at confinement facilities. In view of this situation, the CNDH recommends a program of continual monitoring to verify security and conditions of governance at prison facilities.<sup>314</sup> Likewise, bribery has been another subject of complaints at prisons. According to a poll conducted by the National Institute for Statistics and Geography, 87.4% of inmates in Mexico have had to pay bribes to guards to make phone calls, receive meals, or things like mattresses or blankets and 36% has had to pay bribes to other inmates, who exercise power at prisons.<sup>315</sup>

183. The IACHR also notes that in 2017, incidents broke out at prison facilities. In this context, the IACHR condemned the deaths of 28 people and at least 3 were wounded at the Social Reintegration Center of Las Cruces, in Acapulco.<sup>316</sup> Based on information available to the public, in the early morning hours on July 6, 2017, at Las Cruces Social Reintegration Center, Acapulco, a riot took place triggered by an ongoing feud between rival groups inside the penitentiary, which started in the module known as “maximum security,” where inmates accused of belonging to organized crime groups are housed. According to official reports, said confrontation led to the loss of the lives of 28 and wounded 3 inmates. Turning to other sources of information, images circulated in the press of at least 5 persons reportedly being decapitated. The IACHR also noted that according to the Office of the Attorney General of the state of Guerrero, from the moment the governor of the state learned of the violent uprising, he instructed the Police and the Office of the Attorney General of the state to conduct an operation to retake control of the prison premises. Hours after the incident, the respective investigations were opened.<sup>317</sup>

184. The Inter-American Commission notes that a situation of prison violence prevails throughout the Mexican State. In this regard, it expresses its concern over the string of repeated incidents that reflect an absence of effective security measures to ensure the right to life and personal integrity of persons deprived of liberty. The IACHR also finds the situation of insecurity and conditions that are a breeding ground for acts of violence between inmates, as common structural patterns characterizing prison issues. The IACHR reiterates that States are guarantors of the fundamental rights of persons deprived of liberty and have the legal duty to take concrete steps to ensure the right to life and personal integrity of prisoners, including ensuring internal security in prison facilities, through effective prevention of entry of weapons and control of the activities of criminal organizations with a presence in jails. Additionally, States have the obligation to investigate *ex officio* and with due diligence all deaths of the persons in its custody. These investigations must not only be aimed at establishing the actual perpetrators responsible for the acts,

<sup>312</sup> United Nations (UN), Follow-up report of the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment – Mexico. A/HRC/34/54/Add.4, February 17, 2017, par. 68.

<sup>313</sup> *Ibidem*, par. 82.

<sup>314</sup> CNDH. [Comunicado de prensa DGC/151/17](#) [‘Press Release’]. May 14, 2017.

<sup>315</sup> INEGI. [Encuesta Nacional de Población Privada de Libertad](#). [‘National Survey of Population Deprived of Liberty’]. July 2016. AP News. [Denuncian epidemia de sobornos en cárceles mexicanas](#). [‘Epidemic of bribery in Mexican jails decried’]. August 2, 2017.

<sup>316</sup> IACHR, [CIDH condena la muerte de 28 personas privadas de libertad en cárcel de Acapulco, México](#), [‘IACHR Condemns Death of 28 Prison Inmates in Acapulco, Mexico’]. July 13, 2017. Also see El Universal. [Sube a 28 el número de muertos por riña en penal de Acapulco](#) [‘Death toll for prison riot in Acapulco rises to 28’]. July 6, 2017; El País. [Una riña en el penal de Acapulco deja 28 muertos](#) [‘A prison feud in Acapulco leaves 28 dead’]. July 7, 2017.

<sup>317</sup> IACHR, [CIDH condena la muerte de 28 personas privadas de libertad en cárcel de Acapulco, México](#), [‘IACHR Condemns Death of 28 Prison Inmates in Acapulco, Mexico’]. July 13, 2017.

but also the potential masterminds and any authorities who through acts or omissions, could be liable. The Commission reiterates as well that it will monitor the investigation that has been conducted.<sup>318</sup>

185. According to public information, other incidents of violence broke out over the reporting period of this report. At the Sentence Execution Center in Ciudad Victoria, in the state of Tamaulipas, 29 inmates escaped through a five meter deep and 40 meter long tunnel, a riot broke out leaving a death toll of 7 persons, three of whom were police officers.<sup>319</sup> Based on publicly available information, the former director of the center and seven guards are under investigation for the incidents.<sup>320</sup> In particular, the IACHR is concerned about the information in the report “Control ... Over the Entire State of Coahuila” of the University of Texas, that indicates that the prison (“*Centro de Reinserción Social*”) in Piedras Negras, located in the state of Coahuila, would be under control of members of the Zetas cartel, with the acquiescence and support of the state. In this regard, the cartel would be using the prison, among others, to carry out its operations related to the sale and distribution of drugs, to hide from the Navy and the Federal Police, and to forcefully recruit adolescents<sup>321</sup>.

186. As for complaints of torture at prison facilities, in his Follow-Up Report, the United Nations Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment cited mistreatment of women deprived of liberty. The reported abuses include physical mistreatment, sexual abuse, charges for privileges, prostitution as a mechanism to gain access to services, lack of gynecological and psychological care and lack of support for access to daycare and education for children remaining with their mothers.<sup>322</sup> On its own, the CNDH addressed the risks of torture in Campeche and Nayarit, based on several factors such as overcrowding, bribery, inmate self-governance, understaffing and the use of municipal jails as prison facilities.<sup>323</sup>

187. Regarding persons living in special at-risk situations, the Commission underscores the importance of providing migrants, indigenous peoples and persons with disabilities deprived of liberty with favorable conditions. On a positive note, the State approved the “Protocol for Action in Cases Involving Indigenous Persons Deprived of Liberty,” which is designed to establish “the necessary means for indigenous persons deprived of liberty to be able to conserve their practices and customs, without undermining their culture or fostering segregation.”<sup>324</sup> In its observations on the draft version of this report, the State indicated that in order to provide favorable conditions for indigenous persons deprived of liberty, a study of the specific needs of those inmates was conducted in CEFERESO No. 15 “CPS Chiapas”, which has the highest percentage of indigenous inmates. As a result of that study, the OADPRS began an awareness campaign to heighten respect for and inclusion of indigenous cultures among the prison population.<sup>325</sup>

<sup>318</sup> *Idem*.

<sup>319</sup> Excelsior, [Investigan balacera y fuga de 29 reos en penal de Ciudad Victoria](#). [‘Shoot out and escape of 29 inmates at prison in Ciudad Victoria investigated’]. June 15, 2017. Agencia EFE. [Suben a 3 policías y 4 reos cifras de muertos en tiroteo en cárcel mexicana](#). [‘Death toll in shooting at Mexican jail rises to 3 policemen and 4 inmates’]. June 7, 2017; El Universal, [Acusan a ex director y custodios por fuga en penal de Tamaulipas](#). [‘Former-Director and Guards indicted over prison escape in Tamaulipas’]. April 20, 2017.

<sup>320</sup> El Universal, [Acusan a ex director y custodios por fuga en penal de Tamaulipas](#). [‘Former-Director and Guards indicted for prison escape in Tamaulipas’]. April 20, 2017.

<sup>321</sup> University of Texas, Human Rights Clinic, [Control ... Over the Entire State of Coahuila: An analysis of testimonies in trials against Zeta members in San Antonio, Austin, and Del Río, Texas](#), November 2017, pp. 26-28 & 46.

<sup>322</sup> UN, Follow-Up Report of the Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment – Mexico. A/HRC/34/54/Add.4, February 17, 2017, par. 84.

<sup>323</sup> CNDH. [Comunicado de prensa DGC/286/17](#). [Press release], September 1, 2017. CNDH. [Comunicado de prensa DGC/295/17](#). [Press release], September 8, 2017.

<sup>324</sup> Communication of the Mexican State. Report of the Mexican State on follow up to recommendations of the Report “Situation of Human Rights in Mexico.” Nota OEA-02064, August 22, 2017, pg. 112.

<sup>325</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

188. With respect to arbitrary detentions based on alleged *in flagrante delicto* arrest situations, Amnesty International's 2017 report "False Suspicions: Arbitrary Detentions by Police in Mexico," contends that claims of catching individuals in the act of committing a crime continue to be improperly used in different cases, by overlooking legal requirements and staging crimes, fabricating and/or planting evidence to be able to conduct arrests. The report concludes that extortion, payments to third parties to arrest someone, politically motivated arrests and planting of evidence in order to not truly investigate a crime are the main reasons for arbitrary arrests in Mexico. Additionally, lack of physical resources and manpower at institutions has an effect on and promotes these practices. According to the report, impunity continues to be cause for concern with 99% of crime committed on Mexican territory remaining in impunity.<sup>326</sup>

189. The IACHR also reiterates its concern over expansion of the model of privately managed prisons and the lack of transparency thereof, as well as the allocation of public funds to support a model that is inconsistent with international standards. According to the information it received, private sector participation in the prison sector is opaque and involves practices linked to corruption. The IACHR notes that the study "Privatization of the Prison System in Mexico," conducted by different civil society organizations, reveals that the same problems persisting in the public system persist in private prisons, such as self-governance by inmates, drug trafficking, prostitution and degrading treatment.<sup>327</sup> In this regard, the Commission reiterates the need for transparency in the standards of accreditation in keeping with those established by the American Correctional Association.<sup>328</sup> According to the US Ambassador in Mexico, in 2017, 28 prison facilities have been accredited, bringing the total of accredited prisons to 70, including federal prisons.<sup>329</sup> In its observations on the draft version of this report, the State reported that service provision contracts were advantageous for enhancing infrastructure need to deal with overcrowding in state and municipal centers accommodating federal jurisdiction inmates. The State pointed out that contracts with private firms helped establish better living conditions for persons deprived of liberty, including opportunities for treatment in prison that would facilitate their reinsertion into society. It also reported that they enhanced the effectiveness and efficiency of the security and surveillance tasks performed by the OADPRS.<sup>330</sup>

190. Based on the foregoing considerations, the IACHR reiterates the recommendations set forth in this section. In particular, the Commission urges the State to adopt specific measures to ensure the lives and personal integrity of inmates; including measures such as ensuring the internal security at prison facilities, through effective prevention of the introduction of weapons, and control over the activity of criminal organizations with a presence in prisons. Additionally, States have the obligation to investigate *ex officio* and with due diligence any death of the persons in its custody. The IACHR also urges the State to not approve legislative fixes, that run counter to Inter-American standards, and to regulate pretrial detention in keeping with its exceptional nature, and with the principles of legality, proportionality and necessity.

<sup>326</sup> Amnesty International. [Falsas Sospechas: Detenciones Arbitrarias por la Policía en México](#). [False Suspicions: Arbitrary Detentions by Police in Mexico. July 2017.

<sup>327</sup> Animal Político. [Cárceles privadas, con los mismos problemas que las públicas: corrupción y drogas](#). [Private jails, with the same problems as public ones: corruption and drugs']. August 24, 2016. Proyecto Justicia. [Privatización del Sistema Penitenciario en México](#). [Privatization of the Prison System in Mexico']. August 26, 2016.

<sup>328</sup> México evalúa. . [¡Alto a certificación fraudulenta y privatización de prisiones en México! La grave crisis penitenciaria exige una verdadera política pública](#). [Stop fraudulent certification of prisons in Mexico! The grave prison crisis demands a true public policy.]. September 1, 2017.

<sup>329</sup> Embassy and Consulates of the United States of America in Mexico. [México avanza en la acreditación internacional de centros penitenciarios: logra plena acreditación de cárceles federales](#). [Mexico moves forward in international accreditation of prison facilities; it achieves full accreditation of federal jails.]. January 23, 2017; *Idem*, [Quince penitenciarias mexicanas reciben reconocimiento por cumplir normas internacionales](#). [Fifteen Mexican prisons receive recognition for meeting international standards']. August 20, 2017.

<sup>330</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

## 6. Migrants and Internal Forced Displacement

- 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.

191. In recent years, the IACHR has been monitoring the serious situation of violence and discrimination affecting migrants in irregular situations and other persons in the context of human mobility in transit, as well as the complex situation in which defenders of migrants’ human rights perform their job.<sup>331</sup> In both its Country Report and its Follow-Up Report, the IACHR emphasized complying with the recommendations set forth in the Report on the Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico. In line with these recommendations, the Mexican State reported on the creation and strengthening of the PGR’s Crimes against Migrants Investigation Unit, the Mechanism of Mexican Foreign Support for Search and Investigation; the creation in 2016 of the protocol for prosecutorial action in the investigation of crimes committed by or against migrants in conditions of vulnerability and persons subject to international protection on national territory; the functioning of 22 Migrant Protection Beta Groups; as well as the establishment of the Working Group for Social Prevention of Violence and Protection of Migrants in Mexico of SEGOB’s Migration Policy Advisory Council.<sup>332</sup>

192. In terms of the measures described above, the IACHR urges the Mexican State to provide said institutions with the political support and technical and financial resources for them to function adequately and to serve as a guarantee of effective access for migrants. The IACHR notes that, from 2014 to 2016, out of a total of 5,824 crimes against migrants in Chiapas, Oaxaca, Tabasco, Sonora, Coahuila and at the federal level, there is evidence of only 49 convictions, which works out to an impunity rate of 99% for crimes against migrants.<sup>333</sup> In this regard, the Commission deems it essential for the draft “General Law against Forced Disappearance and Disappearance committed by Private Individuals” to be approved, in order to have a suitable legal framework in place on the subject of disappearances of migrants.

193. As for the situation human rights defenders, the IACHR received information in 2017 about further harassment of Father Alejandro Solalinde Guerra of the migrant shelter Albergue del Migrante Hermanos en el Camino of Ixtepec (state of Oaxaca)<sup>334</sup> and Fray Tomás González, of Albergue de la 72, Hogar-Refugio para Personas Migrantes in Tenosique (Tabasco),<sup>335</sup> both of whom are protected under

<sup>331</sup> 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, par. 95.

<sup>332</sup> IACHR, [Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México](#). [*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, par. 95.

<sup>333</sup> [Informe alternativo sobre el cumplimiento de México de la Convención Internacional sobre la Protección de los derechos de todos los trabajadores Migratorios y de sus Familiares para el Comité de los Trabajadores Migratorios y de sus Familiares de Naciones Unidas](#), [Alternative report on Mexico’s observance of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families to the United Nations Committee on the Protection of the Rights of All Migrant Workers and Their Families (CMW)]. p. 15.

<sup>334</sup> See, IACHR, Precautionary Measure 250-09, Father *Alejandro Solalinde Guerra and Members of the Shelter Migrante Hermanos en el Camino, Mexico*. April 23, 2010.

<sup>335</sup> See, IACHR, Precautionary Measure 273-11, *Fray Tomás González, Roben Figueroa, the staff of Hogar-Refugio para Personas Migrantes “La 72”, as well as the migrants who are sheltered there*, municipality of Tenosique, state of Tabasco, Mexico. April 19, 2013.



precautionary measures. On this score, the Commission stresses that the State has the obligation to investigate by operation of law any threats and assaults against human rights defenders, as well as to prosecute and punish those physically responsible and masterminds behind these crimes, and to legitimate, protect and support the work of those who provide services to migrants who are victims of crimes and human rights violations.<sup>336</sup>

194. The Commission has also been monitoring with concern the situation of widespread detention of migrants whose migratory situation is irregular. In this regard, it recommended that the Mexican State establish and expand under the law alternative measures to migration detention and international protection.<sup>337</sup> The Commission recognizes as progress that the Mexican State has been implementing alternative measures to detention since July 2016, in conjunction with the National Migration Institute (INM) and the Mexican Commission for Refugee Assistance (COMAR), and in coordination with the United Nations High Commission for Refugees (UNHCR) and civil society organizations. Through this program more than 1,000 persons, who applied for recognition of status as refugees, were able to continue their proceedings, while living outside the migration detention centers.<sup>338</sup> In its observations on the draft version of this report, the State reported that 651 persons benefited in the second half of 2016, as did 1,153 more in 2017, as of the date of this report.<sup>339</sup>

195. On this issue, civil society organizations informed the Commission that beneficiaries of this program do not have access to humanitarian residency cards under the Migration Law, which prevents them from being able to work and having access to rights, unlike persons who apply for asylum from migration stations.<sup>340</sup> The IACHR reiterates its recognition of the Mexican State for implementation of pilot programs of alternative measures to detention and reiterates its recommendation to continue to expand the use of alternatives to detention and for these alternatives to operate under clear guidelines, which keep their use from becoming discretionary or discriminatory. Likewise, the Commission reminds the Mexican State of the importance of ensuring the economic, social and cultural rights of migrants, refugees and other persons in the context of human mobility.

196. Additionally, the IACHR highlights the 87 entry authorizations granted by the National Migration Institute (NMI) to civil society organizations for them to conduct oversight visits at migration stations and temporary shelters, which are mentioned in its report.<sup>341</sup> At the same time, the Commission notes with concern reports from civil society about the inability of persons held at migration stations to have access to legal representatives and to report crimes and human rights violations, along with the constraints placed on the civil society organizations to enter and provide this representation.<sup>342</sup> In its observations on the

<sup>336</sup> IACHR, [Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México](#). [*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, pars. 281 and 282.

<sup>337</sup> *Ibidem*, par. 577.4.

<sup>338</sup> IACHR, 75/17 - [CIDH saluda avances para la protección de personas solicitantes de asilo y refugiadas en México](#). [*IACHR Welcomes Progress on Protection of Asylum Seekers and Refugees in Mexico*]. Washington, D.C., June 13, 2017.

<sup>339</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>340</sup> IACHR, [Audiencia Proceso legal y judicial para el reconocimiento de refugiados, apátridas y beneficiarios de protección complementaria en América](#). [*Hearing: Legal and judicial procedure for the recognition of refugees, stateless persons and beneficiaries of complementary protection in the Americas*], September 6, 2017, 164<sup>th</sup> Session.

<sup>341</sup> Communication of the Mexican State. Third Report of the Mexican State on compliance and follow-up to the recommendations made in the Report of the Inter-American Commission on Human Rights "Situation of Human Rights in Mexico," result of the Mexico visit carried out from September 28 to October 2, 2015.

<sup>342</sup> [Informe alternativo sobre el cumplimiento de México de la Convención Internacional sobre la Protección de los derechos de todos los trabajadores Migratorios y de sus Familiares para el Comité de los Trabajadores Migratorios y de sus Familiares de Naciones Unidas](#), [Alternative report on Mexico's observance of the International Convention on the Protection of the Rights of all Migrant

draft version of this report, the State pointed out that Article 34 of the Agreement under which Rules are issued governing the operations of the Migration Stations and Temporary Shelters of the INM points to the requirements that organizations need to meet to be included in the Directory of Authorized Entry into Migration Stations and Temporary Shelters.<sup>343</sup> The IACHR recalls that it is essential to ensure autonomous and independent monitoring systems, allowing civil society organizations to have access to detention facilities for the purpose of monitoring conditions of detention, which includes ensuring access to all facilities at detention locations; access to information and documentation related to the facilities and the persons deprived of liberty; and the chance to privately and confidentially interview the persons deprived of liberty and staff, as established under Principle XXIV of the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas.<sup>344</sup>

197. Civil society organizations reported to the IACHR their concern that approximately 14,000 persons were turned back from the border in 2016, including cases of Venezuelan, Colombian or Central American nationals, who expressed fear of returning to their country.<sup>345</sup> The organizations also claimed that the practice of turning people away at the border takes place in an absolute communications blackout and with a lack of information. On this issue, the Commission received reports of 1,567 Venezuelan nationals being turned away at airports as of August 2017, the principal grounds for rejection being “inconsistencias in the screening interview.”<sup>346</sup> In its observations on the draft version of this report, the State pointed out that between 2013 and 2016 applications increased by 678%, with almost 12,000 more applications filed this year. In response, from 2013 to October 2017, the Commission for Refugee Assistance (COMAR) recognized the refugee status of 6,473 persons and offered complementary protection to another 1,657.<sup>347</sup>

198. At the hearing on the human rights of asylum seekers and refugees in Mexico, civil society organizations mentioned a 1,000% increase in applications for recognition of refugee status over the period of 2012 to 2016, especially applications from the Northern Triangle countries of Central America. On this issue, the organizations contended that instead of adopting a human rights approach to measures of migration control, a national security approach is favored. The principal issues raised at the hearing were the lack of information, obstacles to gain access to the procedure for recognition of refugee status with guarantees of due process, lack of training and sensitivity of the members of the Mexican Commission for Refugee Assistance (COMAR), lack of an evaluation mechanism of said procedure by COMAR, detention of migrants, as well as a lack of an integration policy for people who have been granted refugee status.<sup>348</sup>

199. The major concerns voiced by civil society organizations regarding the procedures for granting refugee status include the 30 business day period established in the Law on Refugees, Complementary Protection and Political Asylum and the implementation of a system of 20 cards a day to apply for asylum in Mexico City, as well as the common deterrent used by authorities about how an asylum

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Workers and Members of Their Families to the United Nations Committee on the Protection of the Rights of All Migrant Workers and Their Families (CMW)]. p. 15.

<sup>343</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>344</sup> IACHR, 119/17 - [CIDH expresa profunda preocupación por muertes y condiciones de detención en centros de detención migratoria en Estados Unidos](#), [‘IACHR Expresses Deep Concern for Deaths and Detention Conditions at Migrant Centers in the United States’]. Washington, D.C., August 11, 2017.

<sup>345</sup> CIDH, [Audiencia Proceso legal y judicial para el reconocimiento de refugiados, apátridas y beneficiarios de protección complementaria en América](#), [‘Hearing: Legal and judicial procedure for the recognition of refugees, stateless persons and beneficiaries of complementary protection in the Americas’], September 6, 2017, 164<sup>th</sup> Session.

<sup>346</sup> INM, Transparency Management System, Request for information 0411100104017.

<sup>347</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>348</sup> IACHR, [Audiencia Situación de Derechos humanos de personas solicitantes de asilo y refugiadas en México](#) . [Hearing Human Rights Situation of Asylum Seekers and Refugees in Mexico], March 17, 2017, 161<sup>st</sup> Session.

proceeding entails the applicant remaining detained.<sup>349</sup> In its observations on the draft version of this report, the State asks for consideration to be given to the “Specific Cooperation Agreement for Strengthening the Refugee Status Procedure in Mexico,” under which Mexico acceded to the Quality Assessment Initiative (QAI) to review the various stages involved in the procedure for recognizing refugee status.<sup>350</sup>

200. Additionally, the organizations contended that during refugee status proceedings, difficulties arise in accreditation of legal representation and hearings are conducted improperly and in a hostile atmosphere. Likewise, in the examination for granting refugee status, the protection threshold is usually consummated damage in the physical integrity of the applicant, calling credibility into question on the basis of inconsistencies. Furthermore, there is a significant lack of information about countries of origin and status is often denied on the grounds that internal escape has not been exhausted, without stating the location or why this solution is suitable.<sup>351</sup>

201. Furthermore, civil society organizations noted the difficulty of appealing a denial without legal representation, a situation that is impossible to overcome for people who do not speak Spanish because there is nobody to translate or explain the content of the decision to deny status. The situation is even more worrisome for people who are deprived of liberty at migration stations, because they must remain in detention for the duration of the proceedings.<sup>352</sup> Lastly, civil society organizations reported on the difficulty asylum seekers have in receiving a Unique Population Registry Code Number (CURP), a document that is necessary in order to exercise their right to work, health, education, among other things, which is established in Mexican law.<sup>353</sup> The IACHR is concerned about these practices and the potential violation of the right to seek and receive asylum, as well as the right to non-refoulement, as recognized in Articles 22.7 and 22.8 of the American Convention on Human Rights.

202. The Commission notes that the number of asylum applications has increased in the context of systematic detention and deportation of migrants, which rose considerably in number as of the launch of the Southern Border Program in July 2014. Thus, from 2013 to 2014, deportations increased 33.26% and from 2014 to 2015, 68.03%.<sup>354</sup> Accordingly, the organizations participating at the hearing reported a 126% increase in deportations from Mexico of people coming from the Northern triangle of Central America as compared to the rate in 2010, despite the particular needs these individuals usually have. Many of these persons could be granted refugee status in keeping with the classical definition of a refugee from the 1951 Convention or with the expanded definition of Cartagena, both of which are recognized in Article 13 of the Law on Refugees, Complementary Protection and Political Asylum. The failure to identify their protections needs forces these people to return to persistent conditions of violence and insecurity, which prompted them to flee from Central American territory in the first place, thus violating the principle of non-refoulement.<sup>355</sup>

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<sup>349</sup> IACHR, [Audiencia Proceso legal y judicial para el reconocimiento de refugiados, apátridas y beneficiarios de protección complementaria en América](#), [Hearing: Legal and judicial procedure for the recognition of refugees, stateless persons and beneficiaries of complementary protection in the Americas], September 6, 2017, 164<sup>th</sup> Session.

<sup>350</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

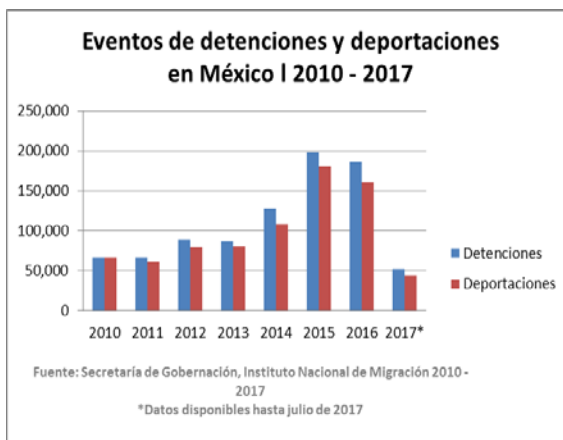
<sup>351</sup> IACHR, [Audiencia Proceso legal y judicial para el reconocimiento de refugiados, apátridas y beneficiarios de protección complementaria en América](#), [Hearing: Legal and judicial procedure for the recognition of refugees, stateless persons and beneficiaries of complementary protection in the Americas], September 6, 2017, 164<sup>th</sup> Session.

<sup>352</sup> *Idem*.

<sup>353</sup> *Idem*.

<sup>354</sup> Migration Policy Unit of the Secretariat of the Interior, [Boletines Estadísticos](#), [Statistical bulletins: 2016, 2015, 2014, 2013].

<sup>355</sup> IACHR, [Audiencia Triángulo Norte Migrantes](#), [Hearing: Northern Triangle Migrants], September 6, 2017, 164<sup>th</sup> Session.



203. Furthermore, based on COMAR statistics, protection has been provided to almost every person of Venezuelan nationality, who has applied for refugee status in 2016 and 2017, many of these persons being granted status under the expanded definition of a refugee as set forth in the Cartagena Declaration on Refugees.<sup>356</sup> In this vein, the Mexican State response shows a willingness to provide protection to this group of persons. The Commission highlights that State policy is in line with the concern voiced by the IACHR with respect to Venezuelan nationals and its appeal to the States in the region to adopt measures to grant humanitarian treatment and international protection responses to people from Venezuela because of the serious humanitarian crisis the country is experiencing.<sup>357</sup>

204. A sizeable increase can also be seen in the number of Permanent Resident cards granted to stateless persons, rising from 10 in 2016 to 61 as of July 2017. The Commission emphasizes the importance of having this type of procedure in place for the effective enjoyment of the rights of stateless persons.

205. As for regularization of migration status and labor rights, the Mexican State reported on implementation of the Temporary Migration Regularization Program, which took effect on January 9, 2017 and has successfully issued 3,027 temporary stay authorizations. Additionally, the State reported on implementation along the southern border of the Visiting Border Worker Card (TVTF) and the Regional Visitor Card (TVR). Since January 2012, 10,673 authorizations have been issued<sup>358</sup>. In its observations on the draft version of this report, the State reported that over the same lapse of time, 62,600 Regional Visitor cards had been issued (TVR).<sup>359</sup> The IACHR finds that this measure is a positive step toward providing a safe and regular means for persons to migrate, as well as decreasing vulnerability and ensuring the realization of rights.

<sup>356</sup> Only two individuals were denied status. See: COMAR, [Transparencia Focalizada](#), [Focused Transparency] Statistics 2013 – 2017.

<sup>357</sup> IACHR, 43/17 - [CIDH expresa su preocupación por situación de personas migrantes venezolanas y llama a Estados de la región a implementar medidas para su protección](#), [‘IACHR Concerned about Situation of Venezuelan Migrants and Calls on the States in the Region to Implement Measures to Protect Them.’] Washington, D.C., January 25, 2017.

<sup>358</sup> Comunicación del Estado mexicano. Tercer Informe del Estado Mexicano sobre el cumplimiento y seguimiento de las recomendaciones contenidas en el informe de la Comisión Interamericana de Derechos Humanos “Situación de los Derechos Humanos en México”, resultado de la visita que realizó a México del 28 de septiembre al 2 de octubre de 2015.

<sup>359</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

206. The IACHR also welcomes the human rights training provided to individuals in the context of human mobility, as was recommended by the Commission.<sup>360</sup> The Mexican State reported on several different training for public servants, including courses such as “Legality and Human Rights,” which was imparted in conjunction with the United Nations High Commission for Refugees (UNHCR), CNDH and the INM; “Migration Phenomenon and access to justice for migrants and the members of their families,” to members of the Office of the Attorney General of the Republic; and training on the Protocol for Action to Ensure Respect for the Principles and Protection of the Rights of Children and Adolescents in Migration Administrative Proceedings, which was published on August 10, 2016.<sup>361</sup> The IACHR urges the Mexican State to continue to provide this type of training, especially to persons who have direct contact with migrants and for these training courses to go hand in hand with measures of supervision and evaluation of results and of application of sanction when agents fail to comply with their mission in violation of the law.<sup>362</sup>

207. Lastly, in the area of internal displacement, the *Internal Displacement Monitoring Center* reported that as of late 2016, there were approximately 311,000 persons displaced by conflict, 23,000 of whom were newly displaced by conflict and 12,000 by natural disaster.<sup>363</sup> In line with these figures, the Commission had noticed violence linked to organized crime constituted one factor prompting thousands of people to feel compelled to internally displace within Mexico in recent years.<sup>364</sup> For its part, as regards forced displacement, the CNDH cited in its special report the lack of a diagnostic assessment tool and scarce official figures.<sup>365</sup> The CNDH also published in March 2017 its Protocol for the Assistance and Protection of the Victims of Internal Forced Displacement in Mexico with a view to follow up on its report and shed light on the existence of this problem in the country.<sup>366</sup>

208. The Commission welcomes the Decree published on January 3, 2017 in the Office Gazette of the Federation amending, adding to and repealing different provisions of the General Law on Victims, wherein explicit recognition of victims of internal displacement is set forth and these victims are, accordingly, entitled to appropriate registration, assistance and reparation, under Article 79 of the Law. Additionally, Article 8 of the law provides that victims of internal displacement shall receive temporary, timely and swift measures of aid, as well as assistance, care and rehabilitation in keeping with their needs, so that the victim is able to overcome difficulties resulting from the victimizing act. These measures explicitly mentioned by the law include the need to receive specialized emergency medical and psychological aid, as well as lodging and food. This measure is, without question, an important advancement for the Mexican State to address the situation of internal displacement.

209. The IACHR notes that even though the above-cited steps represent progress, the inclusion of the victims of internal displacement in the General Law on Victims does not fully provide a response to the needs of displaced persons. The State reported to the Commission that the phenomenon of internal displacement in Mexico is not the result of any of the elements of internal forced displacement and, therefore,

<sup>360</sup> IACHR, [Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México](#). [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, pars. 409.4, 409.11.

<sup>361</sup> Communication of the Mexican State. Third Report of the Mexican State on compliance and follow-up to the recommendations set forth in the Report of the Inter-American Commission on Human Rights “Situation of Human Rights in Mexico,” as a result of the Mexico visit conducted from September 28 to October 2, 2015.

<sup>362</sup> IACHR, [Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México](#). [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, par. 243.

<sup>363</sup> Internal Displacement Monitoring Centre, [Global Report on Internal Displacement](#) 2017, p. 115.

<sup>364</sup> IACHR, [Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México](#). [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, par. 71.

<sup>365</sup> National Human Rights Commission, [Informe Especial Sobre Desplazamiento Forzado Interno \(DFI\) en México](#), [‘Special Report on Internal Forced Displacement in Mexico’]. May 2016, p. 146.

<sup>366</sup> CNDH, [Protocolo para la Atención y Protección de las Víctimas de Desplazamiento Forzado Interno \(DFI\) en México](#), [‘Protocol for Assistance and Protection to Victims of Internal Forced Displacement in Mexico’]. March 2017.



the appropriate assistance must be provided under the concept of a victim of crime and of human rights violations.<sup>367</sup> The State reported that at the state level, two federal entities (Chiapas and Guerrero) have enacted laws on forced internal displacement.<sup>368</sup> In this regard, the Commission recognizes the statement of the CNDH, when it noted “in many countries of the region, such as in Mexico, the phenomenon is rendered highly invisible in different ambits, such as in society itself, public opinion and the State itself, which impedes proper attention, jeopardizes life and causes the suffering of many persons because of a lack of access to basic services a personal safety.”<sup>369</sup>

210. On this score, the IACHR reiterates its recommendation to create a national and official diagnostic assessment tool on internal displacement in Mexico, to make it possible to collect the elements of analysis necessary for the design of a public policy of assistance to the displaced population, as well as the implementation of protocols of assistance that are in line with international standards on the subject matter, in particular, the Guiding Principles on Internal Displacement.

## 7. 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.

211. In its report *Situation of Human Rights in Mexico*, the IACHR established that defenders continue to be the target of serious situations, which jeopardize their human rights. The IACHR noted it had received information about disappearances and assaults on defenders’ lives and personal integrity from both State and non-State agents, practices of harassment and threats, surveillance, wiretaps and interception of communications, as well as challenges in implementing protection mechanisms for human rights defenders and journalists. According to civil society organizations, legal frameworks have been put in place to either directly or indirectly criminalize social protest and the job of defenders. The IACHR underscored the use of broadly, vaguely and ambiguously defined criminal offenses in penal codes, such as “obstruction of public thoroughfares” or assaults on “the nation’s wealth.”<sup>370</sup> Additionally, in its first follow-up report the IACHR noted it had received information about a media campaign against several human rights defenders and organizations accused of fraud and corruption, of defending alleged criminals and of promoting impunity by making false allegations of torture.<sup>371</sup>

212. The IACHR expresses its concern over the fact that this situation of heightened risk to human rights defenders in Mexico remains and a situation of impunity for this violence persists. Despite the progress in some of the pending challenges nationwide, the rate of violence remains alarmingly high, gross human rights violations such as extrajudicial executions, torture and forced disappearances have not let up and human rights defenders are at a higher risk of being the targets of attacks and assaults.<sup>372</sup>

<sup>367</sup> Communication of the Mexican State. Third Report of the Mexican State on compliance and follow-up to the recommendations set forth in the Report of the Inter-American Commission on Human Rights “Situation of Human Rights in Mexico,” as a result of the Mexico visit conducted from September 28 to October 2, 2015.

<sup>368</sup> *Idem*.

<sup>369</sup> CNDH, Mexico’s Declaration on Internal Displacement of August 24, 2017, “Articulando los esfuerzos de la Comunidad Internacional y la Sociedad Civil para la atención de las personas desplazadas internamente y la reducción del desplazamiento forzado interno en el Mundo” [‘Coordinating efforts of the International Community and Civil Society for the assistance of internally displaced persons and the reduction of internal forced displacement in the world’].

<sup>370</sup> IACHR, [Situación de los derechos humanos en México](#). [Situation of Human Rights in Mexico]. OEA/Ser.L/V/II., Doc. 44/15, (2015), pars. 353 and 354.

<sup>371</sup> IACHR. [Informe Anual 2016](#). [2016 Annual Report] par. 204.

<sup>372</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#). [‘End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017’].

213. The Commission expresses its concern over the copious information regarding numerous attacks, threats and killings of human rights defenders and groups facing a higher risk of such violence. The IACHR notes that women human rights defenders are empowered women who defy the conception society attributes to their sex, leaving them continually susceptible to multiple violations of their human rights and more at-risk, as the Inter-American Commission and Court have repeatedly stated.<sup>373</sup> Most women defenders face risks, not only because of their work, but also due to their gender. They may be subject to sexual violence, threats on social media or smear campaigns based on gender stereotypes and also face violence and discrimination in their own families and communities, as their advocacy is often considered as less important or at odds with the role assigned to them by society and culture.<sup>374</sup>

214. On May 24, 2017, the Inter-American Commission condemn the killing of Miriam Elizabeth Rodríguez Martínez in Tamaulipas, who after the disappearance of her daughter in 2012, devoted herself to searching for her and was the impetus behind the Colectivo de Personas Desaparecidas de San Fernando [San Fernando Association of Disappeared Persons]. This killing took place despite the fact that the defender had requested protection measures from several bodies in Tamaulipas. The Commission urged the Mexican State to adopt the necessary measures so that the system for the protection of human rights defenders is consistent with the principles of effectiveness and proper coordination, as well as to take a gender-based perspective into account in order to effectively provide comprehensive protection to women human rights defenders.<sup>375</sup> A group of UN experts also condemned the murder of Miriam Rodríguez Martínez, noting that this is another horrifying example of the violence perpetrated against those who demand truth and justice in Mexico, with this act being even more serious, because of the fact that Mrs. Rodríguez had requested protection from the authorities.<sup>376</sup> In its observations on the draft version of this report, the State pointed out that the Attorney General's Office in Tamaulipas was conducting the investigations and pursuing several different lines. Protection and security measures have also been offered to family members of the defender.<sup>377</sup>

215. The IACHR received information to the effect that on May 2, 2017, defender of the right to the truth Cristina Erandeni Parades Lachino, beneficiary of the Mechanism for the Protection of Human Rights Defenders and Journalists, had allegedly been illegally detained by members of the Secretariat for Public Safety in Torreón Nuevo, Morelia, Michoacán. After being released, the defender reported being tortured.<sup>378</sup> On June 29, 2017, human rights defender Meztli Omixochitl Sarabia Reyna was killed inside the office of her organization in Puebla, México. Meztli Omixochitl Sarabia Reyna was a defender of labor rights, a member of the Unión Popular de Vendedores Ambulantes 28 de Octubre - UPVA [“October 28’ People’s Union of Street Vendors’] and the daughter of human rights defender Rubén Sarabia “Simitrio”, leader and co-founder of the aforementioned organization.<sup>379</sup>

<sup>373</sup> IACHR, Press Release No. 067/17, [CIDH repudia asesinato de defensora de derechos humanos en Tamaulipas](#), [‘IACHR Repudiates Killing of Human Rights Defender in Tamaulipas, Mexico’]. Mexico, May 24, 2017.

<sup>374</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#). [‘End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017’].

<sup>375</sup> IACHR, Press Release No. 067/17, [CIDH repudia asesinato de defensora de derechos humanos en Tamaulipas](#), [‘IACHR Repudiates Killing of Human Rights Defender in Tamaulipas, Mexico’]. Mexico, May 24, 2017.

<sup>376</sup> United Nations, [Comunicado de Prensa, México: expertos de la ONU condenan asesinato de una defensora de DDHH y piden medidas efectivas para combatir la impunidad](#), [Press Release, ‘Mexico: UN Experts Condemn Murder of a Human Rights Defender and Call for Effective Measures to Combat Impunity’], May 19, 2017.

<sup>377</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>378</sup> Front Line Defenders, Llamamiento Urgente, [Detención ilegal de la defensora de derechos humanos Cristina Erandeni Parades Lachino](#), [‘Illegal Detention of Human Rights Defender Cristina Erandeni Parades Lachino’], May 11, 2017.

<sup>379</sup> Front Line Defenders, Llamamiento Urgente, [Asesinato de la defensora de derechos laborales Meztli Omixochitl Sarabia Reyna, de la UPVA 28 de Octubre](#), [‘Murder of Labor Rights Defender Meztli Omixochitl Sarabia Reyna, of the UPVA October 28’], June 30, 2017.

216. Defenders of the human rights of indigenous communities are also part of the high-risk group. According to the statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst following his country visit, those who defend the rights of indigenous communities and the right to land, water and a safe environment face great risks. These risks arise in the context of extractive, energy and infrastructure megaprojects. Community leaders and environmental rights defenders, who oppose large-scale projects face violence at the hands of persons connected to the companies taking part in those projects. According to the comments of the United Nations Rapporteur, this violence usually goes unpunished, inasmuch as it has the tacit or explicit support of local authorities.<sup>380</sup>

217. The IACHR received information about the murder on February 1, 2017 of indigenous people's and environmental rights defender Juan Ontiveros Ramos, of the Rarámuri people,<sup>381</sup> and about constant attacks and intimidation sustained by human rights defenders Lucila Bettina Cruz Velázquez and Rodrigo Flores Peñaloza, both of whom are members of the Asamblea de los Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio (APIIDTT), 'Assembly of Indigenous Peoples of the Isthmus of Tehuantepec in Defense of Land and Territory'.<sup>382</sup>

218. According to the preliminary comments of the United Nations Special Rapporteur on the Situation of Human Rights Defenders, recently defenders of LGBTI rights have also faced a strong public campaign against them, which has increased the climate of fear in which many of these defenders live. The United Nations Rapporteur states that attacks against LGBTI activists are usually related to their promotion of broader recognition of their rights and sexual orientation and gender identity-based prejudices by police offices and prosecutors seem to undermine the effectiveness of investigation of these attacks. Murders of activists are not investigated as potential hate crimes or as possibly related to their work in defense of LGBTI persons' human rights. Moreover, public officials often denigrate the victimized defender in an attempt to reduce the attacks to private issues.<sup>383</sup>

219. Additionally, on July 12, through the Office of the Special Rapporteur for Freedom of Expression, the IACHR voiced its concern over allegations that journalists and human rights defenders in Mexico have been the targets of illegal espionage. According to information disseminated by civil society organizations, from January 2015 to August 2016, 97 attempts to infect the mobile phones of journalists, human rights defenders, lawyers and politicians using malicious software (malware) for spying known as "Pegasus" had been documented. Reportedly, the malware would affect the smartphone, allowing access to files stored in the device, as well as contacts, messages and emails.<sup>384</sup> According to published information, this cell phone breach allegedly affected human rights defenders, including members of the Centro de Derechos

<sup>380</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#). [End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017].

<sup>381</sup> Front Line Defenders, Llamamiento Urgente, [Asesinato del defensor de los derechos de los pueblos indígenas y ambientalista Juan Ontiveros Ramos](#). [Defender of Rights of Indigenous Peoples and Environmentalist Juan Ontiveros Ramos Killed], February 7, 2017. In its observations on the draft version of this report, the State pointed out that the Public Prosecutor's Office in Chihuahua had identified those allegedly responsible for the death of Juan Ontiveros Ramos (January 2017) and had issued warrants for their arrest. The Public Prosecutor's Office has also offered psychological care and social worker assistance to help repair some of the damage done to indirect victims of the murder. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>382</sup> Front Line Defenders, Llamamiento Urgente, [Ataques en curso e intimidación contra las personas defensoras de derechos humanos Rodrigo Flores Peñaloza y Lucila Bettina Cruz Velázquez](#). [Attacks ongoing and intimidation against Human Rights Defenders Rodrigo Flores Peñaloza and Lucila Bettina Cruz Velázquez], April 30, 2017.

<sup>383</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#). [End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017].

<sup>384</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R96/17, [Relatoría Especial manifiesta preocupación ante denuncias sobre espionaje de periodistas y defensores de derechos humanos en México e insta a desarrollar una investigación completa e independiente](#). [Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation]. July 12, 2017.

Humanos Miguel Agustín Pro Juárez (Centro Prodh) and at least one member of the Interdisciplinary Group of Independent Experts (GIEI).<sup>385</sup>

220. On this score, the Office of the Special Rapporteur urges the State to conduct a thorough and independent investigation into the allegations and, where appropriate, prosecute and punish those responsible. In particular, it called on the State to investigate the alleged involvement of government entities in these events and, to that effect, make use of all available legal and institutional mechanisms to provide the investigation with all guarantees of independence and impartiality, in consultation with civil society and those affected.<sup>386</sup> Likewise, a group of United Nations experts also appealed to the Government of Mexico to carry out a transparent, independent and impartial investigation into the allegations of the use of spyware to conduct surveillance on human rights defenders, social activists and journalists.<sup>387</sup> In its observations on the draft version of this report, the State pointed out that the PGR had developed a ministerial investigation plan and had organized a technical support group to continue with the procedures needed to throw light on what had happened.<sup>388</sup> The State told the IACHR that the PGR would pursue every possible line of investigation to ensure that journalists and human rights defenders in Mexico could go about their work freely with all the guarantees that the Law grants to them.

221. The IACHR reiterates its concern over smear campaigns and stigmatization and bigoted discourse against human rights defenders. In his preliminary comments, United Nations Rapporteur Michel Forst noted that human rights defenders who denounce torture have recently faced a string of virulent attacks against them, falsely accusing them of supporting criminals. Smear campaigns, including ones conducted through the national media, have attempted to portray the role of defenders working on torture cases as persons profiting from reparations. Female torture victims have been the targets of sexist defamation and harassment campaigns against them and their family members.<sup>389</sup>

222. The Rapporteur also noted the number of smear or name-calling campaigns against defenders, led by politicians or media. These campaigns may have a strong gender-based component, when aimed at women human rights defenders. They may include insults or depict women as prostitutes or lacking morality.<sup>390</sup>

223. In terms of the criminalization of human rights defenders, the IACHR received reports that on August 25, 2017, the First District Court in Tlaxcala, Mexico upheld arrest warrants issued on May 6, 2014 against human rights defenders Juan Carlos Flores Solís, Adela Villalba Ramos, Eusebio Aguilar Torres and Alejandro Torres Chocolatl, members of the Frente de Pueblos en Defensa del Agua y de la Tierra de Morelos, Puebla y Tlaxcala (FPDATMPT), for allegedly committing crimes of illegal deprivation of liberty with the aggravating factor of violence against a public servant and criminal gang activity. The civil society organizations contend that judicial harassment has been used as a tool by private companies involved in

<sup>385</sup> *Idem*.

<sup>386</sup> *Idem*.

<sup>387</sup> United Nations, [México: expertos de la ONU piden investigación independiente e imparcial sobre el uso de spyware contra defensores de DD HH y periodistas](#), [‘Mexico: UN Experts call for independent and impartial investigation on the use of spyware against HR defenders and journalists’], July 19, 2017.

<sup>388</sup> That group comprises the following institutions, agencies, and well known figures: the International Telecommunication Union (ITU), a United Nations agency specializing in telecommunications; the GSM (mobile operators) Association, based in London, United Kingdom; the Escuela Superior de Ingeniería Mecánica y Eléctrica of the National Polytechnical Institute; and the former President of the Federal Telecommunication Commission, Héctor Osuna Jaime. Also announced was the cooperation of the Canadian Ministry of Justice, in the form of international legal counseling, with interviews with the University of Toronto’s “Citizen Lab.” Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>389</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#), [‘End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017’].

<sup>390</sup> *Idem*.

Proyecto Integral Morelos in order to obstruct the work of human rights defenders in the region and that the arrest warrants were directly tied to legitimate and peaceful activities in defense of environmental rights.<sup>391</sup>

224. The United Nations Rapporteur for Human Rights Defenders has noted that the criminalization is allegedly linked to actions of both federal and state elements, including the police, the Army, the Navy, government authorities and the judiciary. The exploitation of justice by companies and other interested parties, who file the criminal complaints against defenders, a lack of judicial independence, and corruption among government authorities, all contribute to the criminalization of human rights defenders.<sup>392</sup>

225. As for protection of human rights defenders, civil society organizations have contended that the Protection Law is inadequate to cope with the scope of protection-related issues, as well as to address the context of assaults on human rights defenders and journalists the country is experiencing. The organizations claim that additional instruments are needed to help build a comprehensive public protection policy, foster proactive, responsible and coordinated participation of different institutions from all corners of government. While a significant effort has been made to design a mechanism capable of providing a complex response in this area, the organizations contend that it has not been successfully realized.<sup>393</sup>

226. Even though the existence of the National Mechanism has helped to prevent certain violations against human rights defenders, it has not been adequate as a public policy instrument to transform the climate in which human rights defenders operate. In this regard, the United Nations Rapporteur for Human Rights Defenders noted that an approach of unsystematic security measures, instead of a more comprehensive protection approach, has been used. The Mechanism has not sufficiently addressed the root causes at the source of the risk, which not only undermines the effectiveness of its protection measures, but also exposes the National Mechanism to strains on its capacity, due to the high number of cases remaining unresolved.<sup>394</sup> In its observations on the draft version of this report, the State reported that SEGOB, together with the Chamber of Deputies, have been working on developing amendments, modifications, and additions to the Protection Mechanism with a view to strengthening its powers and functions.<sup>395</sup>

227. As for a specific gender-sensitive approach, the Mechanism must include a comprehensive review of the different stereotypes and types of violence that are faced and ensure that properly trained woman personnel are available for risk assessment purposes. Additionally, it must ensure the inclusion of a multicultural and collective approach in conducting risk assessments, by taking protection measures that are relevant and effective to the particular settings of the defenders. As a case in point, rural or remote settings require different approaches from urban ones and protection measures must be tailored to this difference.<sup>396</sup> In its observations on the draft version of this report, the State pointed out that, since July 2015, the Protection Mechanism has had a special tool and methodology for assessing risk with a gender perspective –

<sup>391</sup> Front Line Defenders, Llamamiento Urgente, [Criminalización continua de cuatro personas defensoras de derechos humanos](#), [Continuous criminalization of four human rights defenders], August 31, 2017.

<sup>392</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#), [End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017].

<sup>393</sup> Espacio OSC, [Protección integral para personas defensoras de derechos humanos y periodistas: la deuda del Estado mexicano](#), [Comprehensive protection for human rights defenders and journalists: debt of the Mexican State], April 7, 2017, pg. 12.

<sup>394</sup> For more information about the Mechanism, see section below. United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#), [End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017].

<sup>395</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>396</sup> United Nations, [Informe del final de la misión del Relator Especial de las Naciones Unidas sobre la situación de los defensores de derechos humanos Michel Forst, visita a México, 16 al 24 de enero de 2017](#), [End of Mission Statement by United Nations Special Rapporteur on the Situation of Human Rights Defenders Michel Forst, Mexico visit, January 16-24, 2017].



which is still being fine-tuned – as well as for collective cases of organizations and communities actively engaged in defending human rights.<sup>397</sup>

228. The IACHR reiterates its recommendation that the Mexican State must strengthen the agencies in charge of protection of human rights defenders and journalists, so that their lives and integrity can be properly guaranteed. At the same time, the State is urged to incorporate gender and multicultural perspectives into the design and adoption of protection measures for defenders and journalists at federal and state protection agencies.

## 8. Freedom of Expression

- 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 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.

229. In its report *Situation of Human Rights in Mexico* and its first report to follow up on the recommendations it made, the IACHR expressed its concern over the sharply rising number of assaults of different types and homicides of journalists and media workers in Mexico. As of September 2017, the Office of the Special Rapporteur documented 9 murders of journalists.

230. The murder of journalists and media workers constitutes a form of the most extreme censorship. Notwithstanding, the Rapporteurship has also been able to document and receive formal complaints proving the persistence of other types of aggression against people who exercise their right to freely express themselves in Mexico, such as disappearances, threats, physical assaults, harassment, among other types.

231. As was noted by the IACHR in its report *Situation of Human Rights in Mexico* and in its first report following up on the recommendations, the high rates of impunity for crimes against journalists are highly troubling to the Commission and its Office of the Special Rapporteur. Both the Commission and the Inter-American Court have mentioned the chilling effect that crimes against journalists have on other media professionals, as well as on citizens who seek to report abuses of power and unlawful acts of any nature.<sup>398</sup>

<sup>397</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report "Situation of Human Rights in Mexico" of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>398</sup> IA Court of HR. *Case of Vélez Restrepo and Family Members v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248, par. 148; IACHR. Report No. 136/10. Case 12.658. Luis Gonzalo "Richard" Vélez

This chilling effect can only be avoided, “by swift action of the State to punish all perpetrators, as is its duty under international law and domestic law.”<sup>399</sup>

#### a. Murders and Disappearances

232. On March 2, journalist Cecilio Pineda Birto was murdered in Ciudad Altamirano, state of Guerrero. Unknown men on a motorcycle reportedly fired at the journalist while he was waiting for his vehicle at a car wash. After the attack, the journalist was taken to a clinic where he passed away. According to available information, the journalist had publically been reporting for a number of months that he was the target of constant death threats by organized crime groups and in 2015 he was allegedly the target of an attempt on his life. Pineda Birto was the director of the daily newspaper *La Voz de la Tierra Caliente* and a collaborator of the newspapers *El Universal* of Mexico City and *La Jornada Guerrero*, and would cover local news associated with organized crime. He would also report through the social networks on incidents of corruption and crime in the region of Tierra Caliente in Guerrero state.<sup>400</sup> According to Ricardo Celso Nájera Herrera, head of the Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE), this office has been cooperating with the Office of the Attorney General of Guerrero since the incidents took place. Both offices concurrently opened investigation case files to determine which one would prosecute the case.<sup>401</sup>

233. According to the Federal Mechanism for the Protection of Human Rights Defenders and Journalists, Pineda Birto was at “extraordinary” risk after being the target of an attack and receiving threats because of his work as a journalist. Likewise, it noted that said Mechanism contacted the journalist to offer him protection after a news article was published in September 2015. Based on a release of the Secretariat of the Interior, “the Mechanism determined through an urgent action assessment that because of the seriousness of the case, the suitable protection measure was for Pineda Birto to immediately leave the danger zone and, accordingly, he was offered temporary shelter for him and his family, which he accepted.”<sup>402</sup> The State reported that the case was examined at 4 meetings of the Governing Board of the Mechanism and, after conducting appropriate studies on the ground the proposal for extraction was reiterated. Nonetheless, according to the Mechanism, because the journalist decided to not accept being transferred to the shelter, the case file was closed and the protection measures for him were lifted.<sup>403</sup> In June, the Office of the Attorney

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Restrepo and Family (Colombia). October 23, 2010, par. 136; IACHR, Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico), April 13, 1999, par. 52; IACHR, Report No. 130/99, Case No. 11.740, Victor Manuel Oropeza (Mexico), November 19, 1999, par. 58. Also see, IACHR, *2010 Annual Report*, Report of the Office of the Special Rapporteur 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, par. 716.

<sup>399</sup> IACHR, Report No. 136/10. Case 12.658. Luis Gonzalo “Richard” Vélez Restrepo and Family (Colombia), October 23, 2010, par. 136; IACHR, Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico), April 13, 1999, par. 52; IACHR, Report No. 130/99, Case No. 11.740, Victor Manuel Oropeza (Mexico), November 19, 1999.

<sup>400</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 10, 2017. Press release: [Comunicado de prensa R30/17. Relatoría Especial condena el asesinato del periodista Cecilio Pineda en México](#) [‘Office of the Special Rapporteur Condemns Killing of Journalist Cecilio Pineda in Mexico’]; Artículo 19. August 17, 2017. [Primer semestre de 2017: 1.5 agresiones diarias contra periodistas en México](#) [‘First Half of 2017: 1.5 assaults a day in Ciudad Altamirano, Guerrero’]; Proceso. March 2, 2017. [Ejecutan al periodista Cecilio Pineda en Ciudad Altamirano, Guerrero](#) [‘Journalist Cecilio Pineda executed in Ciudad Altamirano, Guerrero’]; CPJ. Undated. [Cecilio Pineda Birto](#); La Jornada. March 3, 2017. [Asesinan al periodista Cecilio Pineda Birto](#). [‘Journalist Cecilio Pineda Birto murdered’].

<sup>401</sup> “While, the head of FEADLE, stated that [...] in the case of Cecilio Pineda, broadcast journalist from Guerrero, from the time when the incidents transpired, this agency cooperated with the state government and the parallel case files were merged to see who can prosecute the matter.” Chamber of Deputies. April 5, 2017. [Boletín N.º. 3429: Entre 2000 y 2017, se registran 114 homicidios a periodistas; FEADLE ha atraído 48 casos y sólo existen tres sentencias](#) [‘Bulletin No. 3429: From 2000 to 2017, 114 homicides of journalists were documented; FEADLE has asserted jurisdiction over 48 cases and there have only been three convictions’].

<sup>402</sup> Secretariat of the Interior. March 4, 2017. [Lamenta el Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas la muerte de Cecilio Pineda Brito](#). [‘The Mechanism for the Protection of Human Rights Defenders and Journalists laments the death of Cecilio Pineda Brito’].

<sup>403</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 10, 2017. Press release R30/17 [Comunicado de prensa R30/17. Relatoría Especial condena el asesinato del periodista Cecilio Pineda en México](#) [‘Office of the Special Rapporteur Condemns Killing of Journalist Cecilio Pineda in Mexico’]; Secretariat of the Interior. March 4, 2017. [Lamenta el Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas la muerte de Cecilio Pineda Brito](#) [‘The Mechanism for the

General of the Republic (PGR) offered a reward for locating those responsible for the homicide of Pineda Birto.<sup>404</sup> In its observations on the draft version of this report, the State likewise reported that the Mechanism for the Protection of Human Rights Defenders and Journalists and the Executive Commission for Victim Service had asked the CEAV to provide comprehensive support to his family.<sup>405</sup>

234. Journalist Ricardo Monlui Cabrera was murdered on March 19 in Ciudad Yanga, Veracruz. Unknown persons riding on a motorcycle reportedly fired at him, while he was leaving a restaurant where he was eating with his family members. Monlui Cabrera was the director of the newspaper *El Político*, a columnist of the newspapers *El Sol de Córdoba* and *Diario de Xalapa*. He was also the president of the Association of Journalists and Graphic Reporters of Córdoba.<sup>406</sup> The Office of the Attorney General of the State of Veracruz noted in a release posted on the official account of Facebook that “prosecutorial authorities are exhausting all lines of investigation, including the journalistic activities he engaged in as a journalist.”<sup>407</sup> In its observations on the draft version of this report, the State pointed out that the Attorney General’s Office in Veracruz had opened an investigation file and ordered protection measures for the journalist’s home. The CEAV provided Mr. Monlui’s family with medical, psychological, and legal assistance and will also seek to offer them shelter. Likewise, the Protection Mechanism offered protection to family members of the deceased, who stated that they did not require it.<sup>408</sup>

235. Well-known journalist Miroslava Breach Velducea was murdered on March 23, in the city of Chihuahua, Chihuahua. According to available information, an individual fired on the journalist while she was leaving her residence in the presence of one of her children. The journalist died on the way to the hospital. Miroslava Breach had been practicing the profession of journalism since the 1980s, with a special focus on matters associated with human rights, democracy, drug trafficking and corruption. In particular, her work would shed light on the situation of unlawful dispossession of the land that indigenous communities of Chihuahua lived on, women’s rights and, more recently, feuding between cartels and the cartels’ relationships with the political world. Breach was a correspondent for more than 15 years of the national newspaper *La Jornada* and worked for the news agency *El Norte* of Juárez. The governor of the state of Chihuahua condemned the murder. UNWomen, the IACHR Office of the Special Rapporteur for Freedom of Expression and UN-HR expressed their dismay and repudiation for the murder and called on the appropriate authorities to step up actions to protect the exercise of freedom of expression and defense of human rights. They further

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Protection of Human Rights Defenders and Journalists laments the death of Cecilio Pineda Brito’]; *Animal Político*. March 3, 2017. [El periodista Cecilio Pineda es asesinado a tiros en Tierra Caliente de Guerrero](#) [‘Journalist Cecilio Pineda is shot dead in Tierra Caliente, Guerrero’]; *Proceso*. March 2, 2017. [Ejecutan al periodista Cecilio Pineda en Ciudad Altamirano, Guerrero](#) [‘Journalist Cecilio Pineda executed in Ciudad Altamirano, Guerrero’]; *Artículo 19*. August 17, 2017. [Primer semestre de 2017: 1.5 agresiones diarias contra periodistas en México](#) [‘First Half of 2017: 1.5 assaults a day in Ciudad Altamirano, Guerrero’]; *Artículo 19*. March 8, 2017. [Declaraciones de Segob sobre asesinato de Cecilio Pineda exhiben fallas del Mecanismo de Protección](#) [‘Statements of SEGOB on murder of Cecilio Pineda exhibit failures of the Protection Mechanism’]; CPJ. Undated. [Cecilio Pineda Birto](#).

<sup>404</sup> Office of the Attorney General of the Republic. June 13, 2017. [Ofrece PGR recompensa para localizar a los responsables de homicidio y tentativa de homicidio en contra de 6 periodistas](#) [‘PGR offers reward for locating those responsible for the homicide and attempted homicide of 6 journalists’].

<sup>405</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>406</sup> *Artículo 19*. March 19, 2017. [Asesinan a periodista en Veracruz, suman 22 en el estado](#) [‘Journalist murdered in Veracruz, brings total to 22 in state’]; *Animal Político*. April 6, 2017. [Matan al periodista veracruzano Ricardo Monlui Cabrera](#) [‘Journalist from Vera Cruz Ricardo Monlui Cabrera killed’]; CPJ. March 20, 2017. [Asesinan al periodista Ricardo Monlui Cabrera en el estado mexicano de Veracruz](#) [‘Journalist Ricardo Monlui Cabrera murdered in the Mexican state of Veracruz’]; UNESCO. March 21, 2017. [La Directora General condena el asesinato del periodista mexicano Ricardo Monlui Cabrera](#) [‘Director General condemns murder of Mexican journalist Ricardo Monlui Cabrera’]. IACHR. Office of the Special Rapporteur for Freedom of Expression. July 18, 2017. Press Release R47/17 [Comunicado de prensa R47/17. La Relatoría Especial condena el asesinato del periodista Maximino Rodríguez Palacios en México](#) [‘Office of Special Rapporteur Condemns murder of journalist Maximino Rodríguez Palacios in Mexico’].

<sup>407</sup> Office of the Attorney General (FGE) of the State of Veracruz. March 19, 2017. [#ComunicadoOficial: Investiga FGE homicidio de comunicador en #Yanga](#). [‘Official Release: FGE investigates homicide of journalist in #Yanga’].

<sup>408</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

underscored the need for federal and state authorities to redouble joint efforts to bring down rates of impunity in Chihuahua. They stressed that lines of investigation should consider not only journalistic work but also a gender perspective, in view of the specific risks that women journalists face, for the mere fact of being women.<sup>409</sup>

236. According to available information, the governor of the state of Chihuahua reportedly created the “special, multidisciplinary group to run the investigations.”<sup>410</sup> In April, the chief state executive reported that they had “practically all the evidence to capture those responsible and they are reinforcing with greater scientific, legal rigor, the case and chain of custody.”<sup>411</sup> He further stated that there will be arrests because “it is a matter in which the actual perpetrators, accomplices and of course the mastermind have been detected.”<sup>412</sup> In June, the Office of the Attorney General of the Republic (PGR) offered a reward to help locate those responsible for the homicide of Miroslava Breach Velducea.<sup>413</sup> Nonetheless, as of the present date, the alleged culprits have not been located, much less brought to trial. In its observations on the draft version of this report, the State reported that the Attorney General’s Office of the state of Chihuahua had provided psychological and legal assistance to the journalist’s family, while a special procedure was used to include some of Miroslava Breach’s co-workers in the Protection Mechanism.<sup>414</sup>

237. On April 14, journalist Maximino Rodríguez Palacios was murdered in La Paz, state of Baja California Sur. Rodríguez Palacios was shot dead in a burst of gunfire while he was parking his car in the company of his wife (who was unharmed in the attack). The journalist had been working for nearly two years for *Colectivo Pericú*, a news and complaint blog on crime, corruption and other related subjects, in the state of Baja California Sur and had been the target of threats after publishing in April information about an alleged criminal cell known as “Los Colores.”<sup>415</sup>

238. According to a release issued by the Office of the Attorney General of the Republic (PGR), both the Office of the Assistant Attorney General for Regional Control, Criminal Proceedings and Amparo (SCRPPA), at its state office in Baja California Sur, as well as the Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE), opened an investigation into the homicide of the

<sup>409</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 23, 2017. [Comunicado de prensa conjunto R38/17. Organismos internacionales expresan su firme condena por el asesinato de la periodista Miroslava Breach en Chihuahua](#) [Joint press release R38/17. ‘International agencies express their strong condemnation of the murder of journalist Miroslava Breach in Chihuahua’]; BBC. April 3, 2017. [Miroslava Breach investigated organised crime and drug gangs until she was shot dead](#); La Opinión. March 23, 2017. [Miroslava Breach, la periodista asesinada en México cuando llevaba a su hijo a la escuela](#) [‘Miroslava Breach, journalist murdered in Mexico when she was taking her son to school’].

<sup>410</sup> Javier Corral/ YouTube. March 23, 2017. [Posicionamiento íntegro del gobernador Javier Corral jurado por el caso Miroslava Breach](#) [‘Full position of Governor Javier Corral Jurado about the case of Miroslava Breach’]

<sup>411</sup> Informador/Javier Corral/Facebook. April 17, 2017. [Habrá más detenciones en caso de Miroslava Breach: Corral](#) [‘There will be more arrests in the Miroslava Breach case: Javier Corral’]; Aristegui Noticias. April 17, 2017. [Identificados, los autores del homicidio de Miroslava Breach: Javier Corral](#) [‘Perpetrators of homicide of Miroslava Breach identified: Javier Corral’]; Proceso. April 17, 2017. [Identificados, los autores del homicidio de Miroslava Breach: Javier Corral](#) [‘Perpetrators of homicide of Miroslava Breach identified: Javier Corral’].

<sup>412</sup> *Idem*.

<sup>413</sup> Office of the Attorney General of the Republic. June 13, 2017. [Ofrece PGR recompensa para localizar a los responsables de homicidio y tentativa de homicidio en contra de 6 periodistas](#) [‘PGR offers reward to locate those responsible for the homicide and attempted homicide of 6 journalists’].

<sup>414</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>415</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. April 18, 2017. [Comunicado de prensa R47/17. La Relatoría Especial condena el asesinato del periodista Maximino Rodríguez Palacios en México](#) [‘Press Release R47/17. Office of the Special Rapporteur Condemns Murder of Journalist Maximino Rodríguez Palacios in Mexico’]; El País. April 14, 2017. [Matan a otro periodista en México, el cuarto en mes y medio](#) [‘Another journalist in Mexico killed, the fourth in a month and half’]; SDP. April 14, 2017. [Asesinan a Max Rodríguez Palacios, reportero de La Paz](#). [‘Max Rodríguez Palacios, reporter from La Paz, murdered’].

journalist.<sup>416</sup> In June, the PGR reported that three alleged culprits of the homicide of journalist Maximino Rodríguez Palacios had been arrested. It also stated that the homicide of the journalist is reportedly associated with the practice of his profession.<sup>417</sup> That same month, the PGR offered a reward for anyone who helps to locate those responsible for the homicide of Rodríguez Palacios.<sup>418</sup>

239. Well-known journalist and writer Javier Valdez Cárdenas was murdered on May 15 in the city of Culiacán, state of Sinaloa. Unknown individuals fired at the journalist as he was leaving the newsroom of *Ríodoce*, a weekly magazine of which he was the founder and editor. Valdez Cárdenas had a long and storied journalism career and engaged in courageous investigations into drug trafficking and organized crime in his country. UN and IACHR freedom of expression experts expressed their dismay over the killing of the journalist, hailed the commitment made by the President and urged the Mexican government, especially the competent authorities, to investigate the murder of Javier Valdez thoroughly and to identify, prosecute and punish those responsible.<sup>419</sup> The Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) and the Office of the Attorney General of the State of Sinaloa (FGES) are reported to have opened an investigation into the case.<sup>420</sup> In June, the Office of the Attorney General of the Republic (PGR) offered a reward for anyone who aids in locating those responsible for the homicide of Javier Valdez Cárdenas.<sup>421</sup>

240. On September 15, journalists and activists protested before the Office of the Attorney General of Sinaloa (FGES) and demanded justice. The director of *Ríodoce* called into question the investigation efforts of the FGES and FEADLE: “The state Attorney General’s office, which is headed by Juan José Ríos Estavillo, has the obligation to investigate the murder, but failed to do so for a long time. And it failed to do so because the Federal Prosecutor’s Office came in and took over the case and investigation, but did not take on formal responsibility, because it does not want to address the demands for justice.”<sup>422</sup> Since the time of the murder of Javier Valdez, family members and coworkers formally requested that FEADLE and the FGES determine which agency would be in charge of the investigation. Nonetheless, as was reported by the director

<sup>416</sup> *Idem*.

<sup>417</sup> El Universal. June 1, 2017. [Detienen a presuntos asesinos del periodista Max Rodríguez](#) [‘Alleged killers of journalist Max Rodríguez arrested’]; Televisa. June 1, 2017. [Detienen a presuntos homicidas del periodista Max Rodríguez](#) [‘Alleged killers of journalist Max Rodríguez arrested’]; Proceso. June 1, 2017. [Capturan a tres presuntos asesinos del periodista Max Rodríguez](#) [‘Three alleged killers of journalists Max Rodríguez captured’].

<sup>418</sup> Office of the Attorney General of the Republic. June 13, 2017. [Ofrece PGR recompensa para localizar a los responsables de homicidio y tentativa de homicidio en contra de 6 periodistas](#) [‘PGR offers reward for locating those responsible for homicide and attempted homicide of 6 journalists’].

<sup>419</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. May 18, 2017. [Comunicado de prensa conjunto R64/17. Relatores de la ONU y de la CIDH condenan asesinato de periodista en México y llaman a la acción inmediata para poner fin al ciclo de violencia contra periodistas](#) [Joint Press Release R64/17. UN and Inter-American Experts Condemn Reporter’s Killing in Mexico and Call for Immediate Action to End Cycle of Killings of Journalists’] IFEX. May 18, 2017. [La impunidad se extiende: Muere otro periodista más en México por ejercer su profesión](#) [‘Impunity spreads: one more journalist dies for practicing his profession’]; Inter-American Press Association (IAPA). May 15, 2017. [México: SIP expresa severa condena por asesinato de un periodista](#) [‘Mexico: IAPA expresses severe condemnation for murder of a journalist’]; Committee for the Protection of Journalists (CPJ). May 15, 2017. [Asesinan a Javier Valdez Cárdenas, periodista mexicano y ganador del premio del CPI](#) [‘Javier Valdez Cárdenas, Mexican journalist and winner of CPJ award’, murdered’].

<sup>420</sup> La Jornada. May 15, 2017. [Feadle abre investigación sobre asesinato de Javier Valdez](#) [‘FEADLE opens investigation into murder of Javier Valdez’]; El Universal. June 12, 2017. [“Hay avances en investigación de asesinato de periodista Valdez”: vicefiscal](#) [‘Investigation into murder of journalist Valdez progresses: Assistant Attorney General’]; Office of the Attorney General of the Republic. May 22, 2017. [Comunicado 866/17 Conferencia de prensa de Titular de FEADLE y Servicios Periciales en Culiacán, Sinaloa](#) [‘Release 866/17 Press Conference of the head of FEADLE and Technical Expert in Culiacán, Sinaloa’].

<sup>421</sup> Office of the Attorney General of the Republic. June 13, 2017. [Ofrece PGR recompensa para localizar a los responsables de homicidio y tentativa de homicidio en contra de 6 periodistas](#) [‘PGR offers reward for locating those responsible for homicide and attempted homicide of 6 journalists’].

<sup>422</sup> Ríodoce. September 15, 2017. [Cuestionan ‘silencio cómplice’ de fiscalías, a cuatro meses del crimen de Javier Valdez](#) [‘“Complicit silence” of prosecutors questioned, four months after the Javier Valdez crime’]; Proceso. September 15, 2017. [A cuatro meses del homicidio de Javier Valdez, denuncian “silencio cómplice y criminal”](#) [‘Four months after homicide of Javier Valdez, “complicit and criminal silence” denounced’].



of *Ríodoce*, this request went unheeded.<sup>423</sup> In fact, based on information provided to the Office of the Rapporteur, “the chief of the State Attorney General’s office himself [...] has admitted to Javier Valdez’s family members and to senior management of Ríodoce, that the institution he is in charge of is only acting in a supportive role to FEADLE in the investigations, because of the scant resources it has available to do it.”<sup>424</sup>

241. On May 15, journalist Jonathan Rodríguez of the weekly magazine *El Costeño* was murdered in Autlán, Jalisco. Rodríguez was riding in a car with his mother Sonia Córdova, director of information of the same weekly. Córdova survived the attack, but was shot several times. According to available information, a few days prior to the attack, the weekly magazine reported to the Federal Police and the mayor of Autlán the threats and surveillance of which they had been targets.<sup>425</sup>

242. On May 18, a group of armed men abducted journalist Salvador Adame, director of TV station *Canal 6tv* in the municipality of Múgica, Michoacán.<sup>426</sup> The office of the Attorney General of the State of Michoacán (PGJE) reported that the competent authorities had opened the investigation and notified the Office of the Attorney General of the Republic, the Federal Police and the Secretariat of National Defense.<sup>427</sup> On June 14, the PGJE announced that it had found the body of the journalist: “After conducting a sampling and comparison as required by law in these proceedings, by specialists of the Office of Genetics, the DNA evidence made it possible to prove that these remains belong to the person who in life was called Salvador Adame Pardo.”<sup>428</sup> Based on available information, Adame’s family questioned the authenticity of the DNA tests conducted.<sup>429</sup> According to Navidad Adame, daughter of the journalist, the family decided to request the local Attorney General’s Office “to conduct new DNA testing [...] to verify whether the remains located are actually [...] her father’s.” Navidad Adame asserted that the decision had been made by them [to do so] because “there have been inconsistencies and incongruence and a lack of information in the process [conducted by] the Office of the Attorney General of the State.”<sup>430</sup>

<sup>423</sup> In the words of the director: “Three months ago we demanded out loud and in a formal petition for it to be defined; to say which prosecutor’s office would be in charge of the investigations, because we would not want for their responsibility to be diluted. But they did not do it because the Office of the Federal Prosecutor does not want to take over the case. And it does not want to do it because, since the time he was a senator, the Attorney General of the Republic said that ‘historically taking over cases [from other offices] had not served any purpose at all.’” Ríodoce. September 15, 2017. [Questionan ‘silencio cómplice’ de fiscalías, a cuatro meses del crimen de Javier Valdez](#) [“Complicit silence’ of prosecutors questioned, four months after the Javier Valdez crime”]; Proceso. September 15, 2017. [A cuatro meses del homicidio de Javier Valdez, denuncian “silencio cómplice y criminal”](#) [“Four months after homicide Javier Valdez, “complicit and criminal silence” denounced”].

<sup>424</sup> Griselda Inés Triana López and Ismael Bohorquez Perea. September 4, 2017. *Matter: murder of journalist Javier Arturo Cardenas*. Information submitted to the Office of the Special Rapporteur for Freedom of Expression. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>425</sup> Artículo 19. May 18, 2017. [Jonathan Rodríguez, asesinado pese a denunciar amenazas previas contra semanario El Costeño](#) [“Jonathan Rodríguez, murdered despite prior threats against weekly magazine El Costeño”]; Animal Político. May 15, 2017. [Hieren a la subdirectora de un semanario de Jalisco y matan a su hijo](#) [“Assistant director of a weekly magazine wounded and her son killed”]; La Opinión/EFE. May 16, 2017. [Matan a reportero y lesionan a subdirectora de semanario en Autlán, Jalisco](#) [“Weekly magazine in Autlán, Jalisco’s reporter killed and assistant director injured”].

<sup>426</sup> Committee for the Protection of Journalists (CPJ). May 22, 2017. [Secuestran a periodista mexicano en el estado de Michoacán](#) [“Mexican journalist in the state of Michoacán abducted”]; Artículo 19. June 27, 2017. [Gobierno de Michoacán no da certeza en la investigación de la desaparición de Salvador Adame y revictimiza a sus familiares](#) [“Government of Michoacán does not provide certainty in the investigation into the disappearance of Salvador Adame and revictimizes his family members”].

<sup>427</sup> Office of the Attorney General of the State of Michoacán (PGJE). May 22, 2017. [Da PGJE vista a PGR por privación de la libertad en Nueva Italia](#) [“PGJE notifies PGR about deprivation of liberty in Nueva Italia”].

<sup>428</sup> Office of the Attorney General of the State of Michoacán (PGJE). Undated. [Localiza PGJE restos de Salvador Adame](#) [“PGJE locates remains of Salvador Adame”].

<sup>429</sup> Article 19. June 27, 2017. [Gobierno de Michoacán no da certeza en la investigación de la desaparición de Salvador Adame y revictimiza a sus familiares](#) [“Government of Michoacán does not provide certainty in the investigation into the disappearance of Salvador Adame and revictimizes his family members”]; Mileno. June 27, 2017. [Familia duda que cuerpo sea de Salvador Adame](#) [“Family doubts that the body is Salvador Adame’s”]; Mileno/ YouTube. June 27, 2017. [Familia duda que cuerpo sea de Salvador Adame](#) [“Family doubts that the body is Salvador Adame’s”].

<sup>430</sup> IM Medio Noticias/YouTube/Navidad Adame. June 27, 2017. [Familia de Salvador Adame pide nuevas pruebas de ADN ya basta de tanta impunidad](#) [“Family of Salvador Adame asks for new DNA evidence, has had enough impunity”].

243. On July 9, Honduran journalist Edwin Rivera Paz was murdered in Acayucan, state of Veracruz. Rivera Paz had been compelled to leave Honduras out of fear of retaliation after the murder of his colleague, journalist Igor Padilla. Edwin Rivera, a cameraman for the program *Los Verduleros* of Honduran TV channel Hable Como Habla, had filed with Mexican authorities for refugee status. The Mexican Commission for Assistance to Refugees had granted him complementary protection.<sup>431</sup>

244. On August 1, journalist Luciano Rivera, director of the magazine *Dictamen* and reporter for *CNR TV* was murdered in the municipality of Playas de Rosarito, state of Baja California. Five individuals had reportedly entered the bar that the journalist was patronizing and one of them shot him. Rivera had spoken out in published articles he wrote against local police, investigations into acts of violence that were allegedly linked to organized crime and cases associated with public safety of Playa de Rosarito. According to information provided by the State, the same day of the murder, the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) issued an official letter to the agent of the prosecutor's office of Playas de Rosarito requesting authentic copies of the case investigation file and opened an investigation. The local authorities reported that one of the alleged persons involved was arrested. On August 1, the Assistant Attorney General of Baja California, Patricia Ortega, reportedly stated to the local press that there is no indication that the murder of Rivera was connected to his work as a journalist.<sup>432</sup>

245. Journalist Cándido Ríos Vázquez, correspondent of *Diario de Acayucan* and founder of the *La Voz de Hueyapan*, was murdered on August 22, en Covarrubias, state of Veracruz. According to the Office of the Attorney General of the State of Veracruz, the two individuals accompanying Ríos Vázquez were also murdered.<sup>433</sup> According to public information, one of the persons accompanying the journalist was the former police inspector of Acayucan. Ríos Vázquez passed away on the way to the hospital.<sup>434</sup> One day after the murder of Cándido Ríos, the Under Secretary for Human Rights of Interior, Roberto Campa, reportedly announced that: "All evidence points to the attack being linked to another person, not to the journalist. There have been reports in the media of some evidence that indicates that it was an attack against another person and against the escorts of that person."<sup>435</sup> Since July 2013, the journalist was under the protection of the Mechanism for the Protection of Human Rights Defenders and Journalists. Likewise, since 2012, the journalist was a beneficiary of legal assistance from the State Commission for the Protection of Journalists of

<sup>431</sup> Reporters without Borders (RSF). July 12, 2017. [MÉXICO | Asesinado Edwin Rivera Paz, periodista hondureño refugiado en México](#) ['MEXICO: Edwin Rivera Paz, Honduran journalist under refugee status in Mexico murdered']; Aristegui Noticias. July 12, 2017. [Huía de la violencia en Honduras y encontró la muerte en Veracruz](#) ['Fleeing from violence in Honduras, then killed in Veracruz']; Gaceta Mexicana. July 10, 2017. [Asesinan a fotógrafo hondureño en Veracruz](#) ['Honduran Photographer murdered in Veracruz']; El Debate. July 11, 2017. [Exige Honduras esclarecer crimen de Edwin Rivera](#) ['Honduras demands getting to the bottom of Edwin Rivera crime']

<sup>432</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Comunicado de Prensa R120/17. Relatoría Especial condena asesinato del periodista Luciano Rivera en México e insta a investigar relación con su actividad](#) ['Press Release R120/17. Office of the Special Rapporteur condemns murder of journalist Luciano Rivera in Mexico and urges to investigate the link to his professional activity']; Las voces del Mundo. August 1, 2017. [Octavo periodista asesinado en México](#) ['Eighth journalist murdered in Mexico']; El País. August 1, 2017. [Asesinado el octavo periodista mexicano en lo que va de año](#) ['Eighth Mexican journalist murdered so far this year']; Proceso. September 5, 2017. [Libran orden de aprehensión contra presunto asesino del periodista Luciano Rivera](#) ['Arrest warrant issued for alleged murdered of journalist Luciano Rivera'].

<sup>433</sup> Office of the Attorney General of the State of Veracruz (FGE). August 23, 2017. [#FGEinforma: Investiga FGE homicidio en Hueyapan de Ocampo](#) ['FGEreports: FGE investigates homicide in Hueyapan de Ocampo']; AGN Veracruz. August 22, 2017. [Agresión en Juan Díaz Covarrubias deja sin vida a tres personas entre ellos un periodista](#) ['Attack on Juan Diaz Covarrubias takes the life of three including a journalist'].

<sup>434</sup> Committee for the Protection of Journalists (CPJ). August 25, 2017. [Mexican reporter shot and killed in Veracruz state](#); La Jornada. August 23, 2017. [Asesinan en Hueyapan, Veracruz, al periodista Cándido Ríos Vázquez](#) ['Journalist Cándido Ríos Vázquez murdered in Hueyapan, Veracruz']; Plumas Libres. August 22, 2017. [Asesinan a periodista en Hueyapan de Ocampo; Tenía protección del Mecanismos Federal de la SEGOB](#) ['Journalist murdered in Hueyapan de Ocampo; he had protection from Federal Mechanism of SEGOB']; AGN Veracruz. August 22, 2017. [Agresión en Juan Díaz Covarrubias deja sin vida a tres personas entre ellos un periodista](#) ['Assault on Juan Diaz Covarrubias leaves three dead including a journalist'].

<sup>435</sup> Proceso. August 23, 2017. [Cándido Ríos estaba en el Mecanismo de Protección a Periodistas de la Segob; "ataque no era contra él": Campa](#) ['Cándido Ríos was under SEGOB's Journalist Protection Mechanism; "attack was not against him:" Campa']; Reporters Without Borders. August 24, 2017. [Asesinan en Veracruz a un periodista que contaba con protección del gobierno](#) ['A journalist under protection from the government murdered in Veracruz']; El Universal. August 23, 2017. [Ataque no iba dirigido a reportero: Roberto Campa](#) ['Attack not targeted at reporter: Roberto Campa'].

Veracruz, because of the complaint for death threats that he filed against Gaspar Gómez Jiménez, former mayor of Hueyapan de Ocampo. According to publicly known information, on October 26, 2016, Ríos Vázquez forwarded a communication to the Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) and to the Mechanism of Protection denouncing several incidents of assault and threats against him made by Gómez Jiménez. A few days prior to the murder of the journalist, Gómez Jiménez posted a video on social media issuing different threats against the journalist.<sup>436</sup>

246. It is fundamental to the Inter-American Commission for the State of Mexico to fully, effectively and impartially investigate the murders of journalists, get to the bottom of the motives and make 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 this regard, the IACHR reiterates its recommendation 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.”<sup>437</sup>

247. 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.<sup>438</sup> Any deficiency in the logical avenues of investigation affects, above all, identification of the masterminds.<sup>439</sup>

#### **b. Attacks, threats, and intimidation against journalists and communications media.**

248. According to a report of the organization *Artículo 19*, 276 attacks against journalists were reported in the first half of 2017. The organization highlighted that “the most constant attacks from January to June 2017 [were] acts of intimidation (67), threats (60) and physical assaults (56).” Likewise, it noted that, “of the documented threats, 19 were death, 9 physical harm and 3 were made with firearms or explosives. Acts of intimidation with firearms were also reported. In terms of actual physical assaults, there were reports of 43 cases of bodily harm with hands or other body parts, 37 of which were allegedly committed by public officials or members of political parties. Additionally, 2 cases of journalists being rammed by cars were documented”<sup>[440]</sup>.<sup>441</sup> Some of the attacks, threats and intimidation are described below.

<sup>436</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. August 29, 2017. [Comunicado de prensa R129/17. La Relatoría Especial condena el asesinato del periodista Cándido Ríos Vázquez en México e insta a investigar relación con su actividad](#) [The Office of the Special Rapporteur condemns the murder of journalist Cándido Ríos Vázquez in Mexico and urges to investigate the relation to his activity]; La Jornada. August 23, 2017. [Asesinan en Hueyapan, Veracruz, al periodista Cándido Ríos Vázquez](#) [‘Journalist Cándido Ríos Vázquez murdered in Hueyapan, Veracruz’]; Office of the Attorney General of the State of Veracruz (FGE). August 23, 2017. [#FGEInforma: Investiga FGE homicidio en Hueyapan de Ocampo](#) [‘FGE reports: FGE investigating homicide in Hueyapan de Ocampo’]; Committee for the Protection of Journalists (CPJ). August 25, 2017. [Mexican reporter shot and killed in Veracruz state](#); AGN Veracruz. August 24, 2017. [Ex alcalde de Hueyapan de Ocampo había amenazado al periodista Cándido Ríos Vázquez](#) [‘Former mayor of Hueyapan de Ocampo had threatened journalist Cándido Ríos Vázquez’]; State Commission for the Assistance and Protection of Journalists. August 22, 2017. [Pronunciamiento Público respecto al homicidio del periodista Cándido Ríos Vázquez](#) [‘Public statement on the homicide of journalist Cándido Ríos Vázquez’]; Aristegui Noticias. August 25, 2017. [Cándido Ríos, el pregonero de Hueyapan que fue silenciado](#) [‘Cándido Ríos, the towncrier of Hueyapan who was silenced’]

<sup>437</sup> IACHR. [Situación de los derechos humanos en México](#). [Situation of Human Rights in Mexico]. OEA/Ser.L/V/II. Doc. 44/15. December 31, 2015. Paragraph 394.

<sup>438</sup> IACHR, Office of the Special Rapporteur 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 \(Período 1995-2005\)](#), [Special Study on the Status of Investigations into the Murder of Journalists for Reasons that may be Related to their Work in Journalism]. OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

<sup>439</sup> IACHR, Office of the Special Rapporteur 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 \(Período 1995-2005\)](#), [Special Study on the Status of Investigations into the Murder of Journalists for Reasons that may be Related to their Work in Journalism]. OEA/Ser.L/V/II.131. Doc. 35. March 8, 2008, pars. 125-126; IACHR, Office of the Special Rapporteur for Freedom of Expression, [Impunidad, Autocensura y Conflicto Armado Interno: Análisis de la Situación de la Libertad de Expresión en Colombia](#), [Impunity, Self-censorship and Armed Internal Conflict: An Analysis of the State of Freedom of Expression in Colombia]. OEA/Ser.L/V/II Doc.51. August 31, 2005, pars. 65-66.

<sup>440</sup> On August 24, journalist Alejandro Guerrero, of the newspaper *El Sur* was reportedly run over by a vehicle in Iguala, state of Guerrero. Proceso. August 25, 2017. [En otra agresión contra periodistas, un auto embiste a reportero en Guerrero](#) [‘In yet another assault

249. On March 21, journalist and women’s rights activist Verónica Villalvazo, also known as “Frida Guerrero,” was threatened and harassed over her social network accounts. According to available information, Villalvazo was reportedly threatened on several occasions as a result of publicly speaking out about femicides in Mexico.<sup>442</sup> Villalvazo was claimed to have brought a complaint before the Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) for death threats against her. The journalist and activist was outfitted with a panic button as a security measure granted by the Federal Mechanism for the Protection of Human Rights Defenders and Journalists.<sup>443</sup>

250. On March 29, journalist Armando Arrieta, editor in chief of the daily newspaper *La Opinión*, reportedly was the target of an attempt on his life. The journalist was shot as he was arriving in his residence in the city of Poza Rica, state of Veracruz. Arrieta was taken to the local hospital in serious condition. The Office of the Attorney General of the state of Veracruz opened an investigation.<sup>444</sup> Separately, the Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) opened a case investigation file.<sup>445</sup>

251. On May 13, seven journalists were held up and threatened with death by 100 armed individuals in Acaptelahuaya, state of Guerrero. The journalists include: Sergio Ocampo and Jair Cabrera, correspondents of the national circulation daily newspaper *La Jornada*; Alejandro Ortiz, of the news portal *Bajo Palabra*; Jorge Alberto Martínez, of Quadratín Guerrero press agency; Ángel Galeana, correspondent of Grupo *Imagen*; Pablo Pérez, Spanish freelance journalist of *Hispano Post*; and Hans-Máximo Musielik, German freelance photographer and collaborator of ViceNews México. The assailants reportedly stole their work tools, such as computers, cellphones, cameras and one of the vehicles.<sup>446</sup> The Office of the Specialized Prosecutor to Address Crimes against Freedom of Expression (FEADLE) coordinated efforts with the state authorities to open the investigation.<sup>447</sup>

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on journalists, a car rams a reporter in Guerrero’]. *El Universal*. August 28, 2017. [Acusan reporteros de Guerrero alza en agresiones](#) [‘Reporters of Guerrero confirm rise in assaults’].

<sup>441</sup> Article 19. September 7, 2017. Information submitted to the Office of the Special Rapporteur for Freedom of Expression. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression; Artículo 19. August 17, 2017. [Primer semestre de 2017: 1.5 agresiones diarias contra periodistas en México](#) [‘First Half 2017: 1.5 attacks a day against journalists in Mexico’].

<sup>442</sup> Cencos. April 4, 2017. [Hostigan a “Frida Guerrero” por denunciar feminicidio en Ecatepec](#) [‘“Frida Guerrero” harassed for denouncing femicide in Ecatepec’]; Notigodinez. April 5, 2017. [Amenazan de muerte a la periodista ‘Frida Guerrero’ y a su familia por su labor contra el feminicidio](#) [‘Death threat against journalist ‘Frida Guerrero’ and her family for her work against femicide’] Afondo. May 17, 2017. [Amenazan de muerte a la periodista Frida Guerrero por apoyo a víctimas de feminicidios](#) [‘Journalist Frida Guerrero threatened with death because of support to victims of femicides’].

<sup>443</sup> Cimacnoticias. May 16, 2017. [“Frida Guerrero” denuncia hostigamiento ante la FEADLE](#) [‘“Frida Guerrero” denounces harassment to FEADLE’]; Afondo. May 17, 2017. [Amenazan de muerte a la periodista Frida Guerrero por apoyo a víctimas de feminicidios](#) [‘Journalist Frida Guerrero threatened with death because of support to victims of femicides’]; Oaxaca Capital. May 18, 2017. [Frida Guerrero presenta una denuncia ante la Feadle por amenazas de muerte y hostigamientos](#) [‘Frida Guerrero brings complaint with FEADLE for death threats and harassment’].

<sup>444</sup> Office of the Attorney General of the State of Veracruz. March 29, 2017. Official Release: [Comunicado Oficial](#); Committee for the Protection of Journalists (CPJ). March 29, 2017. [Editor de periódico resulta herido en atentado en Veracruz](#) [‘Newspaper editor wounded in attack in Veracruz’]; Animal Político. March 29, 2017. [Atacan en Veracruz al periodista Armando Arrieta: le disparan en la puerta de su casa](#) [‘Journalist Armando Arrieta attacked in Veracruz; shot in the door of his residence’]; *La Jornada*. March 30, 2017. [Muy grave, el periodista Armando Arrieta, tras ser atacado a balazos en Poza Rica](#) [‘Journalist Armand Arrieta, in very serious condition, after being attacked with gunfire in Poza Rica’].

<sup>445</sup> Office of the Attorney General of the Republic. March 29, 2017. [Comunicado 565/17 FEADLE inicia carpeta de investigación por agresión a periodista de Veracruz](#) [‘Release 565/17 FEADLE opens investigation file for attack on journalist in Veracruz’].

<sup>446</sup> Committee for the Protection of Journalists (CPJ). May 22, 2017. [Mexican journalists robbed](#); *La Jornada*. May 14, 2017. [CEDH condena agresión contra siete periodistas en Guerrero](#) [‘CEDH condemns attack on seven journalists in Guerrero’]; Aristegui Noticias. May 14, 2017. [Al menos 100 hombres armados retienen y roban a periodistas en Guerrero \(Video\)](#) [‘At least 100 armed men hold and rob journalists in Guerrero (Video)’].

<sup>447</sup> Aristegui Noticias. May 14, 2017. [Al menos 100 hombres armados retienen y roban a periodistas en Guerrero \(Video\)](#) [‘At least 100 armed men hold and rob journalists in Guerrero (Video)’]; Univisión. May 14, 2017. [La Fiscalía mexicana investiga un ataque a siete periodistas en el sur de México](#) [‘Mexican Prosecutor’s Office investigates attack on seven journalists in southern Mexico’].



252. On May 29, in Playa del Carmen, Quintana Roo, journalist Carlos Barrios of the news portal *Aspectos* was allegedly threatened and part of his ear was cut off with a knife. The assailant reportedly warned Barrios that *Aspectos* must stop publishing information in support of the governor of Quintana Roo.<sup>448</sup> Indigenous journalist and activist Marcela de Jesús Natalia was reportedly attacked on June 3 in Ometepepec, state of Guerrero. Natalia, a journalist in the Guerrero Radio and Television System was reported to have been shot while leaving her radio program studio. The alleged assailant was then apprehended.<sup>449</sup>

253. According to the organization Artículo 19, on election day June 4, 19 attacks on journalists were documented. It claimed that the “principal perpetrators were members of political parties and public officials accused as responsible for 6 of the attacks, each.”<sup>450</sup>

254. On July 13, journalist Lydia Cacho Ribeiro was threatened by an unknown individual in Quintana Roo.<sup>451</sup> On July 19, journalist Luis Rubén López Domínguez, correspondent of the daily newspaper *Tabasco Hoy* was reportedly attacked and threatened. Unknown individuals fired on the journalist’s automobile, which was parked at his place of residence. The assailants left a message demanding that he stop publishing information.<sup>452</sup> That same day, two *narcomantas* (drug blankets), allegedly signed by Los Zetas, appeared in Quintana Roo, threatening with death the journalists Pedro Canché, editor of the news portal *Pedro Canché Noticias*, and Amir Ibrahim, director of the portal *El QuintanaRoo*.<sup>453</sup> On July 21, journalist José Maldonado, founder and editing director of the *Agencia Mexicana de Noticias Noventa Grados*, reportedly was threatened via email. The email warned Maldonado to stop publishing information linked to the activities of public officials of Morelia, state of Michoacán.<sup>454</sup>

255. 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 guidelines related to gender issues.

<sup>448</sup> Committee for the Protection of Journalists (CPJ). June 1, 2017. [Amenazan a periodista y le cortan parte de la oreja en el estado mexicano de Quintana Roo](#) [‘Journalist threatened and part of his ear cut off in state of Quintana Roo’]; Noticaribe. May 30, 2017. [Denuncian ataque a reportero en Playa Del Carmen al que le habrían intentado cortar la oreja como amenaza contra semanario local](#) [‘Attack reported on reporter in Playa del Carmen, whose ear assailants had tried to cut off as threat against local weekly magazine’].

<sup>449</sup> Cencos. June 5, 2017. [Atentan contra la vida de Marcela de Jesús Natalia, locutora y activista del pueblo Ñom’daa](#) [‘Attempt against the life of Marcela de Jesús Natalia, radio figure and activist of the Ñom’daa People’]; SDP Noticias. June 19, 2017. [Cae uno por ataque a la locutora Marcela de Jesús Natalia](#) [‘One person down in attack on radio host Marcela de Jesús Natalia’]; Proceso. June 14, 2017. [Detienen en Oaxaca a presunto agresor de locutora indígena](#) [‘Alleged assailant of indigenous woman radio host arrested in Oaxaca’].

<sup>450</sup> Artículo 19. June 6, 2017. [Suman 19 agresiones contra la prensa durante elecciones](#) [‘Attacks against press during elections total 19’].

<sup>451</sup> Artículo 19. July 25, 2017. [Amenaza contra Lydia Cacho exhibe omisión del Estado en garantizar su seguridad](#) [‘Threat against Lydia Cacho exposes failure of State to ensure safety’]; Pen International. July 26, 2017. [México: PEN Internacional, PEN México y PEN San Miguel de Allende condenan las recientes amenazas contra periodistas](#) [‘Mexico: PEN International, PEN Mexico and PEN San Miguel de Allende condemn recent threats against journalists’].

<sup>452</sup> Reporters Without Borders. July 27, 2017. [Amenazas e intimidaciones, armas de censura masiva en México](#) [‘Threats and intimidation, weapons of mass censorship in Mexico’]; Tabasco Hoy. July 20, 2017. [Atacan a periodista de Tabasco Hoy](#) [‘Tabasco Hoy Journalist attacked’].

<sup>453</sup> Reporters Without Borders. July 27, 2017. [Amenazas e intimidaciones, armas de censura masiva en México](#) [‘Threats and intimidation, weapons of mass censorship in Mexico’]; Noticias Pedro Canché. July 19, 2017. [Grupos políticos imitan al narco y amenazan al director de este portal #NiUnoMas](#) [‘Political groups imitate narcos and threaten director of this portal’]; El Quintana Roo. July 19, 2017. [Nueva amenaza contra el director de ElQuintanaRoo.mx](#) [‘New threat against director of El Quintana Roo’]; Committee for the Protection of Journalists (CPJ). July 21, 2017. [Periodistas reciben amenazas de muerte en el estado de Quintana Roo](#) [‘Journalists receive death threats in state of Quintana Roo’].

<sup>454</sup> Committee for the Protection of Journalists (CPJ). July 26, 2017. [Amenazan a periodista mexicano en el estado de Michoacán](#) [‘Mexican journalist threatened in the state of Michoacán’]; Agencia Noventa Grados. July 21, 2017. [Amenazan de muerte al Director de la Agencia Noventa Grados por publicaciones contra la PGJE de Michoacán](#) [‘Death threat against the Director of Agencia Noventa Grados for publishing articles against the PGJE of Michoacán’].



256. 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 private 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 safe conditions. When it is impossible for these persons to return, States must adopt measures so they can remain in the place of their choice in decent living conditions, with security measures in place, and the economic support necessary to continue their work and preserve their family life.

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

### **c. Impunity**

258. In its report on the *Situation of Human Rights in Mexico* and in its first report to follow up on the recommendations it made, the IACHR recognized the efforts made by the Mexican State to adapt its regulatory framework and its institutions to respond to the challenge of impunity. Nonetheless, it wrote that 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 journalist go unpunished, the wrong message is conveyed and journalists and communicators are left unprotected.

259. 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 to Address 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 jurisdiction<sup>455</sup> 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.”<sup>456</sup> The purpose of said reform was to overcome the legal barrier for FEADLE to assert jurisdiction and be more effective in solving cases that may be related to the practice of journalism. However, in its recommendations the IACHR raised the need to eliminate the practical roadblocks keeping FEADLE from asserting jurisdiction over cases involving crimes committed against journalists and freedom of expression.

260. According to the information provided by the State since the creation of the specialized prosecutor’s office in 2012, “as of July 31, 2017, FEADLE asserted its jurisdictional authority in 48 preliminary investigations opened in different federal entities.” Additionally, it reported that in order to strengthen its activities, FEADLE is implementing Immediate Reaction Cells (CRI from the Spanish acronym

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<sup>455</sup> United Mexican States. Decree amending and adding several provisions of the Federal Code of Criminal Procedure, of the Organic Law of the Judiciary of the Federation, of the Organic Law of the Office of the Attorney General of the Republic and of the Federal Criminal Code. May 3, 2013.

<sup>456</sup> *Idem*.

for *Células de Reacción Inmediata*), made up of agents of the Federal Prosecutorial body, federal police agents and local police personnel.<sup>457</sup>

261. At meeting with the Chamber of Deputies' Special Committee to follow up on assaults on journalists and the media, Sara Irene Herrerías Guerra, Assistant Attorney General for Human Rights, Crime Prevention, and Community Services of the PGR noted that since it was created, FEADLE has asserted its jurisdiction in 48 cases, of which only three convictions have been achieved. Additionally, Brenda Velázquez Valdez, chairwoman of the Special Committee, stated: "with four murders linked to the exercise of freedom of expression in the month of March alone, it is clear that the prevention and prosecution policies of the government of the Republic are ineffective and inefficient." Deputy Exaltación González Ceceña noted that "impunity in finding the actual perpetrators and masterminds of the attacks on journalists, lets call them murders, attacks on physical or material integrity, because they also attack their facilities and they are unresolved cases."<sup>458</sup>

262. On another note, the State reported that on May 17, "the President of the Republic convened a special meeting of the Governors of the federal entities (National Governors Conference, know by the acronym CONAGO) to agree, through urgent actions in the area of protection and justice, a plan to strengthen the National Mechanism for the Protection of Human Rights Defenders and Journalists." At this meeting, the following strategies were agreed to: i) Creation of state units for the Protection of Human Rights Defenders and Journalists with staffed with public servants of the state governments; ii) Mapping of risks and attacks on human rights defenders and journalists in each federal entity; iii) Drawing up a National Protocol of Coordination for the Protection of Human Rights Defenders and Journalists.<sup>459</sup>

263. On June 2, the Secretary of the Interior entered into written agreements with 32 states and the Federal District to reinforce collaboration between the federal and state governments. Likewise, on August 11, CONAGO approved the Coordination Protocol for the Protection of Human Rights Defenders and Journalists. Additionally, the Protocol for Accompaniment of Journalists was drafted defining "the procedure to investigate, assist and protect victims or persons aggrieved by crimes committed against journalists, or that affect, limit or undermine the right to information, freedom of expression or of the press."<sup>460</sup>

264. In addition, the Consultative Council of the Mechanism for the Protection of Human Rights Defenders and Journalists issued a press release stating that, "for all actors with whom [they have] spoken [...] impunity is the fundamental factor that rewards and conceals the crimes committed against the human rights defenders and journalists of the country. Impunity exceeds 90% of cases, according to the authorities themselves. Civil society organizations claim that this figure is even higher. The important thing is that both FEADLE and the prosecutor's offices of all of the entities have shown an inability to address these crimes. Staging of crimes, incompetence and complicity may be some of the factors leading to these results."<sup>461</sup>

265. 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 to the victim's practice of journalism, because that poses an obstacle to criminal prosecution and facilitates impunity of the

<sup>457</sup> United Mexican States. Third report of the Mexican State on implementation and follow-up on the recommendations set forth in the report of the Inter-American Commission on Human Rights "Situation of Human Rights in Mexico," product of the country visit to Mexico conducted from September 28 to October 2, 2015.

<sup>458</sup> Chamber of Deputies. April 5, 2017. [Boletín N° 3429: Entre 2000 y 2017, se registran 114 homicidios a periodistas; FEADLE ha atraído 48 casos y sólo existen tres sentencias](#) [Bulletin No. 3429: From 2000 to 2017, 114 homicides of journalists documented; FEADLE has asserted jurisdiction over 48 cases and there have only been three convictions].

<sup>459</sup> United Mexican States. Third report of the Mexican State on implementation and follow-up on the recommendations set forth in the report of the Inter-American Commission on Human Rights "Situation of Human Rights in Mexico," product of the country visit to Mexico conducted from September 28 to October 2, 2015.

<sup>460</sup> Office of the Attorney General of the Republic. September 4, 2017. [Quinto Informe de Labores de la PGR](#) [Fifth Report of the Work of the PGR].

<sup>461</sup> Alejandra Nuño-Sitio Oficial/Facebook. May 26, 2017. Media Release: [Comunicado de Medios](#); Mexican Institute of Human Rights and Democracy. May 26, 2017. Media Release: [Comunicado de Medios](#).

masterminds behind these crimes.<sup>462</sup> The State's focus on efforts to convict the perpetrators sends the victims a message of apparent pursuit of justice.

266. Based on the foregoing, the IACHR and its Special Rapporteurship reiterate the recommendation that the State retain FEADLE's status as a specialized prosecutor's office and endow it with sufficient financial resources to fulfill its job. 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 hamper or delay investigations. In addition, special investigative protocols should be adopted pursuant to which the hypothesis that a murder or attack is connected to the job of a journalist is completely and sufficiently exhausted. Victims, their families and, when applicable, assisting third parties, should be able to participate in criminal proceedings with full rights, both in the search for the truth and getting to the bottom of the facts and when reparations are sought. Regarding participation by victims, the State reiterated that, "based on the new National Code of Criminal Procedure, the rights of victims have been included as one of its central focuses, FEADLE is obligated to respect and ensure the participation of direct and indirect victims and their representatives."<sup>463</sup>

### Access to Information

267. In its report on the *Situation of Human Rights in Mexico* and in its first report to follow up on the recommendations it made, 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 it received regarding obstacles to ensuring access to information related to human rights violations. In particular, the IACHR and its Office of the Special Rapporteur voiced their concern over the power at the highest level of the Office of the Legal Counsel to the Presidency of the Republic to appeal any decision made by the National Institute for Access to Information to declassify information, if doing so poses risks to national security interests.<sup>464</sup> In addition, during its country visit, the IACHR took note of gradual regression in terms of active transparency and public information policy regarding the deaths of civilians and members of the military in security operations, particularly when there is involvement of the armed forces.<sup>465</sup>

268. On July 12, the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI) approved a declaration of public interest for 15 cases of gross human rights violations, which is included in the *Memory and Truth* project.<sup>466</sup> Commissioner Areli Cano Guadiana is reported to have said that INAI's decision is a "fair response to the expectation of a society that demands to know the truth about what happened in our history" and that the 15 cases cited have common elements "that make it necessary to widely open up to information relating to them. Abuse of power, confrontation and the use of violence; partial and limited versions and manipulation of the facts are aspects that cause serious harm to social coexistence and democratic rule of law and which find an important check in public scrutiny."<sup>467</sup>

<sup>462</sup> IACHR. Report of the Office of the Special Rapporteur for Freedom of Expression. Violence against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators, 2013, par. 169.

<sup>463</sup> United Mexican States. Third report of the Mexican State on implementation and follow-up on the recommendations set forth in the report of the Inter-American Commission on Human Rights "Situation of Human Rights in Mexico," product of the country visit to Mexico conducted from September 28 to October 2, 2015.

<sup>464</sup> Congress of the United Mexican States. General Law of Transparency and Access to Public Government Information, July 2014, Article 157.

<sup>465</sup> IACHR. [Situación de los derechos humanos en México](#). [Situation of Human Rights in Mexico]. OEA/Ser.L/V/II. Doc. 44/15. December 31, 2015 Pars. 499 to 505.

<sup>466</sup> INAI. July 12, 2017. [Minutes of meeting of July 12.] [Acta de la sesión del 12 de julio. Número: ACT-PUB 12/07/2017.6](#)

<sup>467</sup> La Jornada. July 13, 2017. [De interés público, el proyecto Memoria y verdad: Inai](#); ['Of public interest, *Memory and Truth* project: INAI'].

269. In its report to follow up on the recommendations made in its report *Situation of Human Rights in Mexico*, the IACHR welcomed the initiative of the INAI, in conjunction with civil society organizations, to carry out the *Memory and Truth* project. This project, according to information provided by the State, involves a virtual platform devoted to the release of information on cases of alleged human rights violations and possible crimes against humanity. The purpose of this initiative is “to promote guarantees of non-repetition, the right to the truth, facilitate access to information for victims, investigative bodies, judicial bodies and/or guarantors of human rights, courts and any other interested party.” The information available for a search related to the cases of Acteal, Aguas Blancas, Apatzingan, Atenco, Ayotzinapa 2011, Ayotzinapa 2014, Cadereyta, Campo Algodonero, El Halconazo, San Fernando 2010, San Fernando 2011, Guerra Sucia, Tlatelolco and Tlatlaya. In order to make it useful to the public, information was analyzed, categorized, organized by alleged violation and theme.<sup>468</sup>

270. The IACHR reiterates its recommendation to the Mexican State to strengthen regulations of the powers conferred by the Law of Access to Information to the Office of Legal Council to the Presidency to appeal any decision by the National Institute of Access to Information (INAI) to declassify information, on the grounds that it poses a risk to national security. Likewise, it reiterates its recommendation to strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and prosecute cases of human rights violations attributed to security forces; as well as adopt pertinent measures so that security agencies compile, systematize and publish periodically information regarding harm to life and personal integrity as a consequence of the fight against organized crime.<sup>469</sup> In this regard, as the oversight agency, INAI must ensure pursuant to its constitutional and statutory mandate that authorities comply with their obligations of transparency and access to information

## **9. 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.
- 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.

<sup>468</sup> Communication of 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; *Memoria y verdad* Project. Undated. [Acerca del Proyecto](#). [‘About the project’].

<sup>469</sup> In its observations on the draft version of this report, the State reported that in cases of grave human rights violations, Article 5 of the General Law on Transparency and Access to Public Information provides that information relating to grave violations of human rights or crimes against humanity may not be classified as confidential, pursuant to both domestic law and the international treaties to which the Mexican State is party. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

- 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.

271. In the chapter on the Protection Mechanism of its country report, the IACHR emphasized the efforts made by the State to protect persons at risk, in the context of serious 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 regarded 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 resort to the Mechanism to request protection measures, and the considerable number of protected persons, among other actions implemented with the objective of creating bonds of confidence regarding the effectiveness of the Mechanism.<sup>470</sup> 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.

272. In following up on those recommendations, the Inter-American Commission appreciates the efforts made by the state and its commitment to protecting and 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. As of July 2017, the Mechanism has received 5.5% more requests for protection and the number of protected persons has increased 17.7% over request and those protected as of September 2016. In fact, as of July 2017, 95 requests for protection had been received (56 journalists and 39 defenders) and 93 individuals have been added (55 journalists and 38 defenders).<sup>471</sup> It must be noted that, since it was created in 2012, the Mechanism has provided protection measures to a total of 10 media organizations, seven of which were requested in 2017. In addition, since its creation, it has provided protection measures to a total of 831 beneficiaries and currently the measures of 599 beneficiaries are in effect, 374 of which are human rights defenders and 225 are journalists.<sup>472</sup> In its observations on the

<sup>470</sup> IACHR. [“Informe de País: Situación de los derechos humanos en México”](#). [Country Report: Situation of Human Rights in Mexico]. December 31, 2016, paragraphs 431 and following ones.

<sup>471</sup> Secretariat of the Interior. July 2017. [Informe Estadístico Julio 2017: Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas](#) [‘Statistical Report July 2017: Mechanism for the Protection of Human Rights Defenders and Journalists’]; IACHR. 2016 Annual Report. [Capítulo V. Seguimiento de Recomendaciones Formuladas por la CIDH en el Informe sobre Situación de Derechos Humanos en México](#). [Follow-Up on Recommendations made by the IACHR in its Report on the Human Rights Situation in Mexico].

<sup>472</sup> Secretariat of the Interior. July 2017. [Informe Estadístico Julio 2017: Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas](#) [‘Statistical Report July 2017: Mechanism for the Protection of Human Rights Defenders and Journalists’]. Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.



draft version of this report, the State reported that the Mechanism's budget – some 18 million pesos a month – was enough for it to operate and to implement protection measures.<sup>473</sup>

273. On its own, the Consultative Council of the Mechanism for the Protection of Human Rights Defenders and Journalists issued a press release identifying some of the major shortcomings of the Mechanism. In particular, it underscored the importance of increasing staff and establishing a set percentage of the Budget of Expenditures of the Federation, so that adequate funding for the Mechanism is not subject to “political swings.”<sup>474</sup> It also recalled that the Trust of the Federal Mechanism “did not receive one peso from the budget. In fact, the annual contribution to the trust has been drawn downward: in 2013 it was endowed with \$127,500,000 pesos; in 2014, with \$118,000,000 pesos; in 2015, with \$102,000,000 pesos; in 2016, \$88,900,000 pesos; and as of August 2017, no budget has been allocated to the fund. Comparing the contribution in 2013 to that in 2016, we can see a decrease of 31.28%, even though the trend in number of beneficiaries and protection measures adopted is on the rise.”<sup>475</sup>

274. The Consultative Council also cited the need to provide comprehensive care to journalists and media workers, who are forcibly displaced or are extracted from their living situations by the Mechanism for their own safety. In this regard, it's important to spotlight the case of the murder of journalist Cecilio Pineda Birto on March 2 in the state of Guerrero. At the time of his murder, this journalist did not have protection measures in effect from the Mechanism, because the measures were lifted in October 2016. According to the State, all measures were removed, despite the serious risk he was subjected to, because on repeated occasions, the journalist did not accept the refuge offered to him by the Mechanism.<sup>476</sup> In this regard, it is important to reiterate that, in accordance with Inter-American standards on the subject matter, “States have the obligation not only to protect at-risk journalists, but also to guarantee that protection measures adopted are effective and adequate. In this sense, when measures are adopted to protect journalists from the credible threat of damage to their physical integrity, the measures must take into account the needs specific to the profession of the beneficiary, the beneficiary's gender, and other individual circumstances.”<sup>477</sup>

275. According to the organization Artículo 19, as of June of the current year, 18 legislative bills for the protection of journalists have either been reintroduced or introduced in the following States: Baja California Sur, Chihuahua, Durango, state of México, Guanajuato, Guerrero, Hidalgo, Michoacán, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, Sinaloa, Sonora, Tabasco, Tamaulipas, Zacatecas. In the view of this organization, these bills are but “palliatives compared to the grave crisis that Mexico is going through, because without the capacities and political will, only more laws will be generated lacking in effectiveness

<sup>473</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

<sup>474</sup> Alejandra Nuño-Sitio Oficial/Facebook. May 26, 2017. Media Release: [Comunicado de Medios](#); Mexican Institute of Human Rights and Democracy. May 26, 2017. Media Release: [Comunicado de Medios](#).

<sup>475</sup> *Idem*.

<sup>476</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. March 10, 2017. Press Release R30/17: [Comunicado de prensa R30/17. Relatoría Especial condena el asesinato del periodista Cecilio Pineda en México](#) [Office of the Special Rapporteur Condemns Killing of Journalist Cecilio Pineda in Mexico]. Secretariat of the Interior. March 4, 2017. [Lamenta el Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas la muerte de Cecilio Pineda Brito](#) [Mechanism for the Protection of Human Rights Defenders and Journalists regrets the killing of Cecilio Pineda Brito]; Animal Político. March 3, 2017. [El periodista Cecilio Pineda es asesinado a tiros en Tierra Caliente de Guerrero](#) [Journalist Cecilio Pineda is shot to death in Tierra Caliente, Guerrero]; Proceso. March 2, 2017. [Ejecutan al periodista Cecilio Pineda en Ciudad Altamirano, Guerrero](#) [Journalist Cecilio Pineda executed in Ciudad Altamirano, Guerrero]; Artículo 19. August 17, 2017. [Primer semestre de 2017: 1.5 agresiones diarias contra periodistas en México](#) [First Half of 2017: 1.5 attacks a day against journalists in Mexico]; Artículo 19. March 8, 2017. [Declaraciones de Segob sobre asesinato de Cecilio Pineda exhiben fallas del Mecanismo de Protección](#) [Statements of SEGOB about murder of Cecilio Pineda expose failures of the Protection Mechanism]; Committee for the Protection of Journalists (CPJ). Undated. [Cecilio Pineda Birto](#).

<sup>477</sup> IACHR. Report of the Office of the Special Rapporteur for Freedom of Expression. Violence against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators, 2013, par. 72.

and [adding] more bureaucracy.”<sup>478</sup> On this score, the Consultative Council of the Mechanism for the Protection of Human Rights Defenders and Journalists contended: “the creation of state mechanisms will not solve the problem at the local level” and warned about “the difficulties in methodologies and training posed by bringing the Protection Mechanism into operation. That experience must be taken into account before adopting similar bodies in the local arena. [...] Discussions about the relevance of this legislation must go beyond the creation of a mechanism and focus on forms of cooperation and coordination; on the role of the institutions of administration of justice; and on the prevention measures that must be adopted, among other things.”<sup>479</sup>

276. Furthermore, members of civil society have continued to voice their concern over the lack of a strategy to prevent these crimes and to punish those responsible for the attacks that human rights defenders and journalists continue to face. On July 26, 2017, Espacio de Organizaciones de la Sociedad Civil Para la Protección de Personas Defensoras y Periodistas, known as Espacio OSC (‘Space of Civil Society Organizations for the Protection of Defenders and Journalists’) published a report analyzing the obstacles and challenges to Mexican protection policies. In particular, it identified that: i) there is a “lack of capacity to react to a variety of forms of violence that defenders and journalists face (physical assaults, digital assaults, acts of stigmatization or criminalization);” ii) the Protection Mechanism has still not taken a gender-sensitive approach to risk analysis and measures; iii) there is a lack of coordination between the federal entities (states and the DF) and the Protection Mechanism in the implementation of the measures; iv) measures have still not been taken to support an propitious climate for the exercise of freedom of expression and human rights defense; v) “impunity and failure to adequately investigate attacks and murders of defenders and journalists continues to fuel, and even exacerbate the commission of these crimes. The total absence of actions by the Protection Mechanism to guarantee a criminal investigation of attacks reflects that there is no true policy in Mexico that is aimed at preventing the risks and protecting human rights defenders and journalists.”<sup>480</sup> In its observations on the draft version of this report, the State indicated that the Mechanism’s Prevention, Follow-up, and Analysis Unit had issued two early warning of the need to work on the structural causes impairing the security of the persons threatened, in Veracruz and Chihuahua. Those warnings provide for a set of public policies reflected in Contingency Plans which testify to the commitments undertaken by federal authorities and local governments.<sup>481</sup>

<sup>478</sup> Artículo 19. September 7, 2017. Information submitted to the Office of the Special Rapporteur for Freedom of Expression. Available at: Archives of the Office of the Special Rapporteur for Freedom of Expression; Artículo 19. August 17, 2017. [Primer semestre de 2017: 1.5 agresiones diarias contra periodistas en México](#) [‘First Half of 2017: 1.5 attacks a day against journalists in Mexico’].

<sup>479</sup> Alejandra Nuño-Sitio Oficial/Facebook. May 26, 2017. Media Release: [Comunicado de Medios](#); Mexican Institute of Human Rights and Democracy. May 26, 2017. Media Release: [Comunicado de Medios](#).

<sup>480</sup> Artículo 19. July 26, 2017. [La deuda del Estado mexicano: protección integral para personas defensoras de derechos humanos y periodistas](#) [‘The Debt of the Mexican State: comprehensive protection to human rights defenders and journalists’]; Espacio OSC. July 26, 2017. [Protección integral para personas defensoras de derechos humanos y periodistas: la deuda del Estado mexicano](#) [‘Comprehensive Protection for Human Rights Defenders and Journalists: the Debt of the Mexican State’].

<sup>481</sup> Communication of the Mexican State. Report of the Mexican State on the draft of Chapter V on follow-up to the recommendations of the Report “Situation of Human Rights in Mexico” of the Inter-American Commission on Human Rights in response to the Note of October 31, 2017, Note OEA-03018, November 30, 2017.

### III. CONCLUSIONS

1. The Commission reiterates to the Mexican State the recommendations issued in its 2015 Country Report. Despite significant gains 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. In its observations on the draft version of this report, the State reaffirmed its inescapable commitment to promote, protect, and respect all human right, while reiterating its resolve to continue working on tasks still pending.<sup>482</sup>

2. For 2017, the high number of disappearances, murders that are not properly investigated, as well as reports of torture, continue to be of particular concern, as is the situation of insecurity of more vulnerable persons or groups 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.

3. As noted by the Commission, the task ahead for the Mexican State is to close the existing gap between its normative framework and recognition of human rights and the reality facing a high number of inhabitants who seek access to prompt and effective justice.

4. Access to justice represents one of the main challeges for the Mexican State. An efficient and effective justice is crucial in the fight against impunity and constitutes the central element for any human rights violation response.

5. The Commission reaffirms its commitment to working together with the Mexican State to seek out solutions to the problems and challenges identified herein, and to provide support in compliance with its international human rights obligations.

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<sup>482</sup> *Idem*.